

## Response to the Australian Law Reform Commission's Consultation Paper Religious Educational Institutions and Anti-Discrimination Laws

Anglican Schools Australia (ASA) is pleased to provide a submission responding to the Australian Law Reform Commission's Consultation Paper on Religious Educational Institutions and Anti-Discrimination Laws.

Anglican Schools Australia is a peak body for Anglican schools across the nation and is a strong network of the Anglican Church of Australia. The core purpose of ASA is to serve, support and connect Anglican schools in living their Anglican Identity. Inspired by Christ, ASA embraces service, integrity and inclusion.

ASA is run by a Management Committee consisting of a President, President-Elect, Immediate Past President, and members from each State and the Australian Capital Territory. It is run by a small staff led by the Chief Executive Officer. The CEO and staff also work for The Anglican Schools Commission Incorporated (ASC), an Approved System Authority with schools in three states. Both the ASA and ASC offices are headquartered in Perth. Schools pay a membership levy to support ASA's work.

While ASA represents all Anglican schools as a peak body, with advocacy as one of its core activities, ASA cannot comment on behalf of an individual school or system of schools. Both independent and systemic Anglican schools are overseen by individual School Councils or System Boards respectively. Furthermore, Anglican schools across Australia reflect the broad nature of the Anglican Church of Australia, with a diversity of theological, ecclesiological and social views reflected across the 23 different Anglican dioceses in Australia.

### Executive Summary

ASA is in broad agreement with the intent of the proposals put forward in the ALRC Consultation Paper, with general protections and inclusion of students and staff core to our stated values.

In short, ASA supports Propositions A, B and D unreservedly and views these principles as positive reforms to the legislation.

ASA has some concerns with Proposition C. At face value the principle underpinning Proposition C is understood and sound. However, prior to these principles being embedded in legislation, ASA would want to engage in further consultation in relation to both the detail of the legislation and some reassurances to safeguard individual schools, systems and principals when appointing staff.

ASA submits our response to the four general propositions for reform presented in the ALRC Consultation Paper.

### Proposition A

**ASA supports the proposition** that religious educational institutions (in our case Anglican schools) should not be allowed to discriminate against current or prospective students on the grounds of sexual orientation, gender identity, marital or relationships status, or pregnancy, or that a family member or carer has one of those attributes. Anglican schools are bound by a duty of care to our young people and the safety and wellbeing of our students is the top priority of every school.

ASA concurs with the three statements which form part of Proposition A on page 17 of the Consultation Paper.



## Proposition B

**ASA supports the proposition** that religious educational institutions (in our case Anglican schools) should not be able to discriminate against current or prospective staff on the grounds of sex, sexual orientation, gender identity, marital or relationship status, or pregnancy. It is the position of ASA that this does not warrant an exception for religious educational institutions.

ASA concurs with the three statements which form part of Proposition B on page 20 of the Consultation Paper.

## Proposition C

**ASA is not against what appears to be the intention of this proposition, but has concerns about what might best be termed ‘unintended consequences’ arising from legislation along these lines. More dialogue and clarity is required** on the issue of preferencing staff involved in the teaching, observance, or practice of religion on religious grounds. ASA supports this where religious faith is a genuine requirement of the role; however this is difficult to define and may vary from school to school.

The opinion of whether a person’s religious faith is a genuine requirement of the role would differ between schools and school leaders, as well as between and within Anglican dioceses. Some schools would require only their Principal and Chaplain(s), as faith leaders in their school, to be practising Anglicans, with other staff including Religious Education subject teachers only needing to commit to supporting the school’s ethos. Other Anglican schools see a staff member’s faith and religious adherence as being central to their role and therefore a genuine requirement for a majority of staff, especially teachers and those involved in the pastoral care of students.

One example is the teaching of the subject Religious Education in Anglican primary schools which, in a majority of schools across Australia, is taught by the general classroom teacher rather than a specialist teacher. A further example, as it may apply in Anglican secondary (or high) schools, is that most teachers would have a daily Pastoral Care Group (PCG). In some Anglican schools, the PCG teacher is expected to lead a prayer or offer a devotion. In these instances, there is a case to be put for a Principal to preference a staff member on religious grounds as a genuine requirement of the role.

ASA’s main concerns related to Proposition C are the unintended consequences it may cause, rather than the intent itself. Employers should be able to make such preferencing decisions in selecting staff, most especially leadership staff, teachers and pastoral carers, without the concern of potential litigation or challenge on some or all decisions made.

To ensure protection for prospective staff members and safeguards for schools and systems as employers, further clarity and dialogue is required to determine the parameters of Proposition C before ASA could give support.

## Proposition D

**ASA supports the proposition** that religious educational institutions (in our case Anglican schools) should be able to have an ongoing requirement on all staff to respect the religious ethos of the educational institution. This requirement does not impact on a person’s right to religious freedom but helps ensure that the religious ethos of a school (the Anglican Identity of a schools) is honoured and supported by all staff. This is similar to other requirements in current Staff Codes of Conduct.

ASA concurs with the three statements which form part of Proposition D on page 25 of the Consultation Paper.



**Concluding Comment**

Thank you for the opportunity to respond to the Consultation Paper of the Australian Law Reform Commission on this important issue. We would be pleased to continue to work with the ALRC to provide further insight and look forward to the opportunity of further consultation with you.



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Chief Executive Officer



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