



AUSTRALIAN NATIONAL IMAMS COUNCIL



03 March 2023

Religious Educational Institutions and Anti-Discrimination Laws
Australian Law Reform Commission
PO Box 12953, George Street Post Shop
Queensland 4003

Via email: antidiscriminationlaw@alrc.gov.au

Submission on the Consultation Paper on Religious Educational Institutions and Anti-Discrimination Laws

Introduction

The Australian National Imams Council (ANIC) is pleased to make the following submission and is grateful for the extension provided to it to make its submission.

ANIC is an umbrella organisation consisting of over 200 Muslim imams, clerics and Islamic scholars representing each Australian State and Territory. ANIC represents the wider interests of the Australian Muslim community and is recognised by the Federal and State Governments, media and various other community and religious groups as being the central representative body of the Australian Muslim community. It also regularly facilitates collaborative initiatives with other community-based and faith organisations.

ANIC plays a significant role in engaging with the community across Australia at a grassroots level. In particular, through its member imams and clerics, ANIC is able to engage with their respective congregations which attend at the places of worship, including for religious, community, prayer and personal purposes.

ANIC hopes to be able to provide the Commission with the benefit of its feedback and observations relating to the issues being considered by the Commission. ANIC welcomes the opportunity to make this submission on the *Consultation Paper on Religious Educational Institutions and Anti-Discrimination Laws* (**Consultation Paper**) and gives consent for this submission to be published.

Overview of Submission

The Government has expressed its commitment to amend the *Sex Discrimination Act 1984* (Cth) and other Federal anti-discrimination laws and employment laws (as necessary), to ensure that an educational institution conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed:

1. Does not discriminate against a student on the basis of sexual orientation, gender identity, marital or relationship status or pregnancy;
2. Does not discriminate against a member of staff on the basis of sex, sexual orientation, gender identity, marital or relationship status or pregnancy; and
3. Can continue to build a community of faith by giving preference, in good faith, to persons of the same religion as the educational institution in the selection of staff.

At the outset, it is noted that Islamic schools seek to foster an inclusive and diverse community of workers and students. Indeed, there are instances of Islamic schools which have students from other faiths and also staff, including at managerial levels, from different

[REDACTED] submission, there is certainly no intent to suggest or practice or discrimination. Rather, the focus is on [REDACTED] of the applicable laws and exemptions, and enabling

Islamic schools to fulfil the primary purpose of their establishment and the reason why many parents send their children to such schools – *to provide a religious environment and ethos, which is demonstrated and upheld by the teachers and role models with whom the children interact.*

In the above context, ANIC is disappointed with many of the recommendations and proposals contained in the Consultation Paper. In particular, the Consultation Paper does not:

- a. Give an adequate or even equal emphasis to the term of reference which refers to educational institutions being able to continue to build a community of faith by giving preference to persons of the same religion in the selection of staff;
- b. Consider or properly take into account the nature and ethos of religious educational institutions;

- c. Consider or properly take into account the preferences and reasons of parents who elect to send their children to religious educational institutions; and
- d. Consider or properly take into account the practical effect of the recommendations on the existing staff and student practices, policies and requirements within Islamic schools, for instance, in relation to segregated activities and accommodations on the basis of gender.

A number of the proposed recommendations in the Consultation Paper will have a significant impact on Islamic schools in that such schools will be limited in their ability to

ANIC has had the benefit of reviewing the submissions of the Anglican Church Diocese of Sydney dated 23 February 2023 and Executive Council of Australian Jewry dated 24 February 2023 (with which organisations ANIC works closely and has collaborated on a number of initiatives). In the interests of avoiding repetition, ANIC broadly agrees with, and supports, the observations and concerns raised in those submissions.

This submission raises additional matters which are generally stated and apply to a number of [REDACTED] contained in the Consultation Paper.

Australia is a pluralistic society with people from many ethno-religious and cultural backgrounds. In order to accommodate and protect the freedoms of all (including freedom of expression and the right to freedom of religion), it is imperative that the education system continue to provide the choices which it presently offers. Imposing on religious educational institutions secular standards and requirements, and confining religion to certain roles or classes, has the effect of removing the choice and ability of faith communities to foster such communities within the school environment.

An important objection to the proposals is that they fail to address item 3 of the terms of reference:

... to ensure that that an educational institution conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed ... can continue



to build a community of faith by giving preference, in good faith, to persons of the same religion as the educational institution in the selection of staff.

The Consultation Paper appears to be retrogressive in that limits and restrictions are suggested on religious educational institutions whereby they cannot, in effect, give preference to persons of the same religion as the educational institution and/or are denied the benefit of various existing exemptions. This is contrary to existing Commonwealth laws which traditionally allowed for such preferences. Furthermore, it fails to appreciate the significance of the educational philosophy underpinning Islamic (and other religious) schools and, in turn, the direct connection between the educational philosophy underpinning of Islamic schools and their ability to build a community of faith by giving preference, in good faith, to persons of the same religion as the educational institution.

Islamic teachings are not limited to theory or religious classes. Rather, such teachings and principles throughout the ethos and culture of the school. It is required to be highlighted and demonstrated by each teacher and employee within an Islamic school. For this reason, it is critical that teachers and workers in such settings have a level of commitment to the religious

[REDACTED] s to foster and build a faith community depends on the ethos being upheld and reflected by the teachers and workers in the institution. Islamic schools are struggling with the surging enrolments and applications. A significant reason for this position is that many, if not all, parents have a strong preference to send their children to Islamic schools precisely because it has a certain religious ethos and culture at the school which is required to be upheld and demonstrated by its educators. In this context, a proposal or recommendation to limit or confine the requirements relating to certain classes or roles undermines the religious ethos and culture at the school. It also effectively confines and restricts religion to the religious studies classroom and/or teacher.

In this regard, as noted in the *Joint Submission Queensland Human Rights Commission Review Of Queensland's Anti-Discrimination Act*¹, Islam as a faith tradition (as with other

¹ *Joint Submission Queensland Human Rights Commission Review Of Queensland's Anti-Discrimination Act*¹ dated 3 February 2023 by the Centre for Islamic Thought and Education, and Islamic Schools Association of Australia.



faith traditions) provides philosophical and theoretical understandings of what education means, for what purpose, and to what end. Islam in Islamic schools cannot, nor should not, be reduced to an addendum, or the sole locus of religious education. Religion is not something reductively quarantined to one space in an Islamic school, or something located solely in the praxis of religious education teachers. Islamic schools are demonstratively committed to inclusion; aside from super-diversity of their student populations (culturally, ethnically, linguistically, theologically), their teaching and leadership teams are similarly diverse, drawing from educators of shared faith, different faiths, or no faith. Islamic schools' preference for various reasons people who either share the faith or who are willing to support the faith, but also seek to employ educators with an educational philosophy that aligns to that of their school, and who are willing to engage with faith-informed educational praxis, and promote the beliefs, values, culture of their school.

The purpose of faith schools or schools with a religious orientation or affiliation, including Islamic schools, is not only to impart knowledge and prepare students for career pathways, but also to instil religious values and promote (in the case of Islamic schools) Islamic ways of

on to applying a philosophical and theoretical lens to naturally and religiously relevant and responsive. For example, Islamic schools provide religious activities that seek to demonstrate and model to students what a life lived in accordance with the faith looks and feels like in practice. Islamic schools value teachers and students mediating together religious activities and practices and promote faith as the basis for inquiring, speaking, and doing together. Having teachers and other staff at the school who can participate in these activities as a faith community, whether these staff are engaged in religious teaching or not, helps to realise the school's religious purpose, and to develop an understanding by students that religion is not merely an adjunct to core activities, but an integral part of them.

For the above reasons, Islamic schools seek to be able to employ teachers (across the school) who share or are willing to engage in faith-informed practice and uphold the religious beliefs of the school. Islamic schools have also long been free to give preference to employing

teachers who share or who are willing to support the faith and beliefs according to which the school is founded.

The proposed approach foreshadowed in the Consultation Paper will likely have a significant impact on Islamic schools in that such schools may in fact be limited and prevented from fulfilling the primary purpose of their establishment and the reason why many parents send their children to such schools – to provide a religious environment and ethos, which is demonstrated and upheld by the teachers and role models with whom the children interact. They risk compromising the purpose of education in Islamic schools and undermining the ability of Islamic schools to realise their religious purpose and focus on building a faith community.

At a practical level, there are a number of adverse impacts which flow from many of the recommendations and proposals contained in the Consultation Paper.

An important requirement across Islamic schools is segregation and accommodations based on gender – that is, males and females.

[REDACTED] have segregated prayer throughout the day, segregated physical activities and sports and segregated classes.

The Islamic dress code for girls, boys and staff members as well as gender segregation are defining features of Islamic schools' cultures. By imposing the need to accommodate a shifting and unconventional gender identification, it impacts on these requirements.

In larger Islamic schools gender segregation takes place as early as year six and throughout high school. Mixed gender classes often resume in the final stage of the schooling years to prepare students for higher education. In smaller, less resourced schools, students are in mixed classrooms but segregated at certain times, such as during prayers, Personal Development and Health and Physical Education classes and special school functions. Also, Sex Education, a sub strand of PDHPE is taught in segregated classrooms by a practitioner of the same gender. In the case of Islamic schools, these are practices that honour the Islamic ethos of the schools and parental choice to uphold modesty.



Although Propositions A and B appear to accept a practice whereby “a school could continue to segregate students by sex for participation in prayers;” and “ a school could continue to segregate staff by sex for participation in prayers”, the singling out and emphasis on the one religious practice is problematic. Omission of other equally significant religious practices renders them as insignificant.

In Islamic schools, uniform compliance is conditional to both employment and student enrolment. Students, parents, teachers and staff members are required to obey Islamic teachings regarding dress while on school premises. All clothes should be loose fitting, non-transparent and modest. Research shows that when conducted in uniformity and collectively, the morning assembly’s rituals and prayers conducted in congregation, the dress code and the upholding of Islamic etiquettes prompted a sense of togetherness and unity amongst stakeholders. More often than that, the inclusion honours these stakeholders’ heritage but also serves an emancipatory function (Ghamra-oui, 2018, 2020).

From the above, it can be seen that the dress code is also an integral constituent of a teacher’s [REDACTED] ethos of the religious schools.

[REDACTED] are charged with delivering an Islamic education ultimately featuring in an explicit cultural paradigm. Teachers are pressed to align the forms and content of knowledge with a concerted focus on the context in which their students’ education is delivered. Educational practitioners are compelled to be versed with an Islamic worldview of education, contemporary educational approaches, in-depth familiarity with the context and act on behalf of their constituencies. In terms of the curriculum, teachers are tasked with integrating an Islamic worldview.

It is in the above context that ANIC expresses its that various of the proposals and recommendations in the Consultation Paper will operate to effectively undermine the religious ethos and culture at the school. Such an outcome is contrary to a primary reason why many parents send their children to Islamic schools.



An education that is guided by a religious orientation ranks high in parental choice of independent schools. According to ISA (2021), “independent schools do not rely on central bureaucracies or authorities and are accountable to their parent and school communities.” Proposition D undermines parental autonomy. Given that the upsurge of newly established independent schools have come about as a consequence of the imposition of the cultural politics in education, ANIC expects that parents will search for alternative educational possibilities and platforms. The rise in home schooling in Australia affirms this view. As observed by the American educational theorist Michael Apple, home schooling is situated within the larger conservative and authoritarian populist ideological, religious, and social movements that provide much of its impetus.

ANIC will be pleased to address any of the matters raised in this submission if the Commission requires.

Yours sincerely,



Bilal Rauf
Advisor and Spokesperson