

11 May 2023

Department of Employment and Workplace Relations

via email: [wrconsultations@dewr.gov.au](mailto:wrconsultations@dewr.gov.au)

Dear Secretariat

**RE: Workplace Reform Consultations**

We refer to the Department's invitation to provide a written submission in response to the public consultation process on proposed amendments to the *Fair Work Act 2009* (Cth) (FW Act) for introduction later in 2023 to provide stronger protections against discrimination, adverse action and harassment.

**About the Australian Association of Christian Schools (AACS)**

AACS represents over a hundred Christian Schools in every state and territory across Australia, ranging from very small to large; urban to regional; rural and remote. Our schools are characterised as low-fee, non-denominational protestant schools that operate autonomously and are governed by parent associations and school boards. The majority of our schools are open enrolment, serving over 43,000 students and their families from a range of socio-economic, cultural and religious backgrounds.

**The Nature of Christian Schools**

Christian schools were established by parents who wanted their children to be educated in a faith-based teaching and learning environment. Faith shapes all parts of the educational expression and is the foundation upon which the character and ethos of our schools are based. The right of parents to choose a religious school for their children is a human right recognised in international law and covenants to which Australia is a signatory. The 'liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions' enshrined at Article 18(4) of the ICCPR can only be given effect through their choice of a private religious school where such schools are able to model and teach in accordance with their religious beliefs. Christian schools provide this choice to parents. Our parents make a deliberate choice, and a financial sacrifice, to enrol their children in a school where staff are committed to not only teach the tenets of the Christian faith but also model a life of faith in their everyday life.

## Employment Practices of Christian Schools

Christian schools are different from state schools, where religion is not relevant an employee's role, and other independent religious schools that do not insist adherence to religious belief for all staff. For Christian schools, the freedom to employ Christian staff goes to the very heart of why our schools exist. Religion is not simply taught as a stand-alone subject by religious teachers or school chaplains but permeates every aspect of our life and is embedded within all parts of the teaching and learning program. Our teachers are expected to teach all subjects through a Christian worldview as part of a holistic educational model. All participants (both teachers and non-teaching staff) strive to work together to provide an authentic 'community of faith' within which learning takes place.

Given the importance of preserving our faith distinctive, it is essential Christian schools have comprehensive legal protections in both employment and anti-discrimination laws to ensure employees are willing to adhere to the beliefs and values of the Christian faith, both as a matter of personal belief and as evidenced by their life and conduct.

## Religious Freedom Protections

Currently in Australia there is a glaring omission within the Commonwealth legislative framework which does not explicitly protect the human right of religious freedom consistent with international law.<sup>1</sup> Australians are protected from discrimination based on race, sex, age and disability but not on the basis of religion. Some might argue that religion is an individual choice in comparison to other personal attributes which are not. However, for many people their religious beliefs are intrinsically linked with their cultural heritage and social identity. Religion is an inherent, personal attribute and a fundamental part of their identity by virtue of their family and community of origin.

The International Covenant on Civil and Political Rights makes clear that religious organisations and people of faith have the right to act in accordance with the doctrines, beliefs or teachings of their traditions and faith, subject only to limitations that are necessary to protect public safety or the fundamental rights and freedoms of others.

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<sup>1</sup> See Article 18 of the International Covenant on Civil and Political Rights (ICCPR)

The lack of recognition of religious freedom as a fundamental human right in Australia's Commonwealth law creates uncertainty and inconsistency in the protection of this right across the country. AACCS calls upon the Government to ensure religious schools can continue to make employment decisions that are consistent with their doctrines and beliefs.

## Response to Consultation Paper

The Consultation Paper *Updating the Fair Work Act 2009 to provide stronger protections for workers against discrimination* includes commentary regarding the 'Options for reform – Anti-discrimination measures' (page 5) noting the extensive range of laws dealing with discrimination in employment areas across the Commonwealth and state and territory laws. AACCS agrees that this array of laws and overlap 'results in a complex and fragmented scheme that is confusing and difficult for both employers and employees to understand and navigate.'

Without knowing the specific reforms being considered by the Government it is difficult to respond further to the consultation paper, however, given the Australian Law Reform Commission is currently undertaking a review into Religious Educational Institutions and Anti-Discrimination Laws<sup>2</sup> we consider it premature for the Government to introduce amendments to the anti-discrimination framework of the FW Act until this review has handed its final report to Government on 31 December 2023.

We note the Albanese Government made an election commitment to expand the anti-discrimination framework to protect Australians of faith by introducing a religious discrimination bill and we look forward to being involved in further consultations. We would request that any proposed changes to the FW Act be accompanied by extensive public consultation following the Government's response to the final ALRC report.

Yours faithfully

**Vanessa Cheng**  
**Executive Officer**

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<sup>2</sup> <https://www.alrc.gov.au/inquiry/anti-discrimination-laws/>