

QUEENSLAND ACTION GROUP FOR LGBTIQ+ STUDENTS

The Expert Panel on Religious Freedom
C/O Department of the Prime Minister and Cabinet
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RELIGIOUS FREEDOM REVIEW

Thank you for the opportunity to provide a submission to the Religious Freedom Review.

We consent to our submission being published along with the name of our organisation.

The *Queensland Action Group for LGBTIQ+ Students* has the aim that all lesbian, gay, bisexual, transgender, intersex, queer and questioning (LGBTIQ+) students and allies are welcome, safe and supported in reaching their full potential in all education settings in Queensland. Our work also supports teachers and other school staff who are LGBTIQ+.

Our submission will focus on the interface between the freedom of religion and the human rights of LGBTIQ+ students, teachers and staff in schools.

Article 18 of the United Nations Declaration of Human Rights (1948) states that everyone has the right to freedom of thought, conscience and religion.

This organisation respects the objective of the Expert Panel on Religious Freedom to examine and report on whether Australian law (Commonwealth, State and Territory) adequately protects the human right to freedom of religion.

Our concern is to remind the Expert Panel of the human rights of all Australians including LGBTIQ+ people. As it says in Article 1 of the United Nations Declaration of Human Rights (1948): "All human beings are born free and equal in dignity and rights." We wish to highlight where those rights may be violated by present religious freedoms in this country and to ensure any changes to religious freedoms do not impact further on individuals.

We draw the attention of the Expert Panel to Article 20(2) of the International Covenant on Civil and Political Rights (1966): "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law." We argue that some proposed and existing 'freedom of religion' concepts in fact discriminate against LGBTIQ+ people.

In Queensland the Anti-Discrimination Act 1991 prohibits discrimination on the basis of gender identity or sexuality, including discrimination against children and young people in Queensland schools. Despite abundant anti-discrimination legislation across Australia, children and young people of diverse sexual orientation or gender identity continue to be discriminated against in schools in this country. Young children with gender dysphoria are experiencing marginalisation at primary level

(Bartholomaeus, 2017) and LGBTIQ+ students in secondary schools report homo/transphobic language and physical harassment that staff did not respond to with consistency (Ullman, 2015).

The Australian Human Rights Commission (2014) reports that, “80% of homophobic bullying occurs at school, resulting in many LGBTIQ+ young people finding it difficult to concentrate at school, missing classes, and in some cases dropping out of school altogether.” LGBTIQ+ young people suffer higher rates of mental health issues, substance abuse, self-harm and suicidality (Headspace, 2011).

Well-documented discrimination against LGBTIQ+ children and young people and consequential impact on their human rights, support our submission that these issues should be prioritised over ‘freedom of religion’.

In Queensland, Section 25 of the Anti-Discrimination Act 1991 allows religious educational institutions (and other bodies established for religious purposes) to discriminate against an employee (including LGBTIQ+ employees) during the selection process or in the course of the person’s work or in doing something connected with their work.

Discrimination appears to be allowed if it is in accordance with the doctrine of the religion and is necessary to avoid offending the religious sensitivities of people of the religion (referring to Sections 90 and 109 of the Act).

The above exceptions are not tolerable in today’s Australia for the following reasons:

1. Permitting discrimination because it is in accordance with the doctrine of the religion or because it may offend the religious sensitivities of people of the religion is a very broad argument and in no way does it take into consideration the hurt delivered to those discriminated against.
2. Limiting employment opportunities for certain people in society contradicts the general intention of the Queensland Anti-Discrimination Act to promote equality of opportunity for everyone by protecting them from unfair discrimination.
3. Religious schools that receive public funding should treat all their employees respectfully and equally or they should forfeit any taxpayer money.
4. Sacking a person because they reveal their sexuality or gender identity is not acceptable in our modern educated, caring and multi-cultural society.
5. Discrimination against LGBTIQ+ teachers and other staff in schools run by a religious organisation is sending a message to the students in those schools that being LGBTIQ+ is not acceptable. This perpetuates heterosexism, homophobia and transphobia within educational settings and supports the likelihood of absenteeism, self-harm and suicidality among the LGBTIQ+ students.
6. If LGBTIQ+ teachers are not employed in religious schools, it will not assist in delivering The Australian Professional Standards for Teachers (2011), in support of the Melbourne Declaration (2008) which state that teachers should know and understand students and employ inclusive strategies that engage and support all students.

In conclusion, this organisation submits that any legal moves to strengthen religious freedom in this country must be balanced by moves to remove all residual legislation that discriminates against other Australians, including LGBTIQ+ people. All current legislation in Australia, whether Commonwealth, State or Territory, currently discriminating against LGBTIQ+ people, including young people, should be repealed.

Alternatively Australia should consider a Bill of Rights to protect the rights and freedoms of all its citizens and requiring all other legislation, federal, state or territory to be consistent with the Bill of Rights.

References

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