



Submission to the Expert Panel to examine religious freedom protection in Australia (2017/18).

From The Presbyterian Church of Australia in the State of NSW and the ACT.

PO Box 2196, Strawberry Hills, NSW, 2012

Who we are

The Presbyterian Church in Australia in the State of NSW and the ACT (PCNSW) consists of 186 pastoral charges spread through NSW and the ACT. It has about 15,000 people and has congregations from nine different non-English speaking cultures. Beyond its congregational ministries, the PCNSW operates schools, aged care facilities, pre-schools and provides social services and chaplaincy care in a wide range of communities in the state. The Presbyterian Church has been part of NSW society since 1803, and helped to form the Presbyterian Church of Australia in 1901.

This submission has been prepared by the Gospel, Society and Culture Committee of the PCNSW Assembly. For further information contact the convener of the committee, Rev. Dr. John McClean.

Rev. Dr. John McClean
Vice-Principal and Lecturer in Systematic Theology
Christ College
1 Clarence Street
Burwood NSW 2134
Ph: 9744 1977
Email: jmcclean@christcollege.edu.au

1. Relation to other submissions

The PCNSW is a part of the Presbyterian Church of Australia (PCA), as such it endorses the submission made by the PCA and the submission made by Freedom for Faith. This submission underlines two areas of concern which are specially pertinent to the PCNSW.

2. Freedom of individuals, especially in the work place

Issues of freedom of religion cannot be limited to explicitly religious organizations nor to clergy and those who work for religious organizations. Genuine religious freedom must include the freedom of individuals to express their convictions. This includes freedom to observe relevant days, participate in ceremonies and wear clothing and other items which are part of their

religious expression, especially in the work place or in educational institutions. Many of these freedoms are secured in the relevant legislation.

There is less clear freedom in cases where a persons religious convictions have a direct impact on their conduct at work. For instance, many religious believers have a view of the sanctity of human life which precludes them from taking part in terminations of pregnancy or physician assisted dying. Some also have convictions about the supply and use of contraception. Federal and state legislation should recognize and protect freedom of conscience for medical practitioners and others involved in clinical care.

There are similar concerns for teachers, social workers and others who hold to a view of marriage, sexuality and gender based in the teaching of their religion. Such professionals should not be required to endorse views which they hold to be morally wrong. As professionals, they should be expected to report other views and to allow students and clients to assess a range of views. They should also be permitted to indicate their own convictions.

Many government agencies and private sector businesses have adopted 'diversity/acceptance' policies which seem to require employees to not only treat others with respect and to provide good service, but to 'endorse' or 'affirm' ways of life and relationships with which they disagree on the basis of their religious convictions. People are harmed when they not able to gain employment, or are unable to express their views and have to feign convictions which they do not share. This is also harmful to the whole society, since it robs it of full participation of people with religious faith. Employment and anti-discrimination legislation should provide explicit protections in these areas.

2. Employment practices in church agencies

The PCNSW runs eight schools, fifteen retirement villages, nine residential aged care homes, provides in home care for approximately 800 people each week and runs an active youth organisation (PY NSW), a theological college, a children's hospital, and a conference centre. Each of these requires employees who can conduct the activities of the agencies consistent

with and as an expression of the mission of the church. In almost every case, those who work for the agencies should themselves be practicing Christians.

In 2012 the General Assembly of the PCNSW adopted Employment Policy which applies to all “church bodies” such as these agencies. It requires church bodies, when they employ people in positions which involve “influence or responsibility regarding other persons (whether internal or external to the church)” to ensure that those employed have suitable qualifications and “able to provide a credible profession of faith in Christ and belief in the Bible as the only rule of faith and practice and who associate regularly with a protestant congregation in worship”. The policy allows that where this is not possible and the function of the organisation would be not be compromised, an exception may be made. In such a case the employee must “acknowledge the unique religious nature of the environment they are joining with its obligations and sensitivities and to provide an undertaking that they will act consistently with the values of the Church Body at all times.” It also affirms that “No church Body shall be obliged to employ, appoint or retain any person who demonstrates values or acts in a manner inconsistent with the tenets of the Church.”

The General Assembly regards such a policy as necessary to ensure that the agencies of the church continue to provide services which are genuine expressions of the Christian faith. It is generally possible to follow this policy under current legislation. However, the desire to remove this freedom by removing exemption clauses in anti-discrimination legislation is often expressed in public discussion and by some elected representatives. This should be resisted. An appropriate balance would be better achieved by implementing the recommendation that that legislation should have positive statements establishing the right of religious organisations to select staff.

3. Curriculum requirements as applied to religious schools

A religious school cannot achieve its mission by simply having a short period of religious worship and education in its weekly timetable. It must be able to teach the whole curriculum in a way consistent with its religious convictions. With the recent change in the Marriage Act, and growing promotion of radical views of gender and sexuality, it is important that religious schools

are able to continue to teach the views of gender and sexuality which are consistent with their religious foundations.

4. Developments in Anti-discrimination legislation

Both the PCA submission and the Freedom for Faith submission emphasize the way in which anti-discrimination legislation can operate to reduce freedom of religion.

The current thrust of the law in anti-discrimination, when combined with changes such as the marriage law and cultural shifts, could lead to reverse discrimination rather than a balance. In the past discrimination law was to protect perceived disadvantaged groups. Now it seems to be open to use to advantage the position of certain groups against the values of other groups to the extent of not allowing those other groups to practice their values in practical ways. At the very least, religious groups face the prospect of considerable cost in order to defend themselves under anti-discrimination legislation, simply because they are following their religious convictions.