

Information to  
help you  
make a  
submission to  
the Expert  
Panel  
appointed by  
the Prime  
Minister

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## What to say to the Ruddock Review Panel

If you are planning to write a submission to the Ruddock Review here are some of areas of concern you may wish to raise. See <https://pmc.gov.au/domestic-policy/religious-freedom-review> for information about the submission process.

Don't try to cover all of these points. You don't need to write an academic paper, and you should be brief and to the point.

Think about the areas that most concern you and write from your own experiences. If you have faced difficulties or pressure over expressing your faith at work or in a public space, or if you have concerns about having appropriate input into the education of your children, those are all worth reporting. The more directly your concerns are related to legislation and government policy, the more directly relevant they are to the Review.

The review has been asked to consider State legislation as well as Federal, so there is a wide range of concerns you might address.

If you are writing as a Christian, you should state that, and feel free to explain how your approach is shaped by your faith. At the same time, remember that you are presenting a point of view in the public square and you can't presume

that the committee members, or the government members who will receive the report, share the same Christian perspective.

There are some useful guidelines for writing submissions here: [https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Making\\_a\\_submission](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Making_a_submission)

## General points that you might make:

- Freedom of religion is more than freedom to worship; it includes freedom of speech, freedom of conscience, freedom of association (that is to form and join organisations to pursue common goals) and freedom of assembly. These rights are important for all Australians, not only people of faith.
- Freedom of religion should be granted as widely as possible, not only to Christians.
- Freedom of religion does not mean agreement with particular religions, but the recognition that people should be able to hold and live out their religious convictions.
- Freedom of religion should be limited in ways which protect national security, physical safety and property. Little is gained by limiting freedom of religion for the sake of social harmony, since this simply breeds resentment and disharmony. It is far better to allow people to express their faith, or lack of faith,

a fully as possible and to learn to live together while recognising fundamental differences in worldview and ethical commitments.

### **Points about the place of religion in Australian culture and society:**

- Religious people, especially Christians, have made major contributions to Australia, and these have been expressions of their faith, nurtured by participation in active religious communities which had a full place in society.
- The majority of Australians have a religious commitment (at least 60.7% according to the latest census).
- As well as churches and other religious congregations, Australia is served by a wide range of religious schools, aged care facilities, charities and other organisations with religious foundations.
- Thus, allowing religious life to flourish in Australia is a contribution to the common good.

### **Points about Australia's commitment to Freedom of Religion:**

- Section 116 of the Australian Constitution restricts the Federal Parliament from prohibiting the free exercise of any religion, however this has been applied with relatively limited scope by the High Court and does not apply to State Parliaments.
- Australia is a signatory to the International Covenant on Civil and Political Rights (ICCPR) which affirms the need to protect rights which are essential to a free society, including the freedoms of religion, conscience, speech and association. Article 27 of the ICCPR also protects the rights of minorities to enjoy their religion, language and culture.
- Australia has supported the United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981).
- The commitments to freedom of religion which flow from S 116 of the Constitution, the ICCPR and UN Declaration have not been positively expressed in Australian legislation. This could be corrected by recognising the fundamental rights of

associated with freedom of religion; extending to parents' right to educate their children in accordance with their beliefs, the right of religious groups to run faith-based schools and receive Government funding on an equal basis with non-religious schools and protection of faith-based organisations from discriminatory Government funding on religious grounds.

### **Points about support for activities conducted by religious groups:**

- Many of the schools, aged care institutions, hospitals and other charitable activities in Australia are operated by religious groups as an expression of their faith.
- Many of these have been partially supported by government funding, as they provide a service which is valued by the community and would otherwise have to be provided by the government sector.
- There is a real prospect that this funding might be removed if the groups which operate the activities do not subscribe to certain moral views on life, death, marriage and gender. (This has occurred in the UK with the result that organisations either close or lose their religious basis. At present the Canadian government is requiring charities to sign an attestation of support of access to abortion in order to receive funding through the Summer Jobs Program).

### **Concerns about anti-discrimination and anti-vilification legislation:**

- Anti-discrimination legislation threatens to limit the freedom of religious organisations (such as schools and charities) to select staff who share the religious commitments of the organisation, and thus undermine the mission of those organisations as distinctively religious.
- Not all anti-discrimination laws in Australia recognise religious belief as a protected attribute, adding this to Federal anti-discrimination law would provide a better balance of protections and a model for changes in State and Territory laws.
- Anti-vilification legislation has been used already in Australia (in two cases in Tasmania)

in ways which seek to limit legitimate expression of views which have a religious basis. Similar actions could be taken in other jurisdictions. Neither Federal and State legislation should allow court action simply because people find a view or its expression offensive (incitement to hatred and harm should certainly be prohibited).

### **Concerns about freedom for small business operators, professionals and employees:**

- Australian work places are increasingly diverse in their religious make-up, yet employers are often not aware of nor sensitive to the need for employees to exercise their religions, it would be advisable to provide that employers have to make reasonable accommodation of religious belief in the workplace.
- Both in the USA and the UK, small business owners who hold to a traditional view of marriage and do not wish to provide services for same sex marriage celebrations have faced court action. This is now a real prospect in Australia and there are Australian business owners who are exiting the wedding industry for fear of being caught in protracted legal proceedings. Specific legislative protections should be provided for such business operators.
- Professionals such as doctors and teachers should be protected from being required to act contrary to their conscience with regard to moral issues such as the start and end of life; the nature of marriage and sexual relationships; and the nature of gender identity.

### **Areas of concern following the change in the Marriage Act to allow the marriage of same sex couples:**

- There are marriage celebrants who do not hold credentials as “ministers of religion” but who primarily serve religious communities, usually smaller denominations, some of which do not have “ministers”. Despite the declared intention of the legislation, it does not seem that these celebrants will be able to register as “religious marriage celebrants” and so will not have freedom of conscience to determine which couples they will marry. It should be possible for such people to register as “religious marriage celebrants”.
- There are civil celebrants who hold that marriage should be between a man and a woman. These will be a small minority of celebrants. Provision for this group of celebrants to register as “religious marriage celebrants” would provide them protection, with no significant impact on the availability of services to same sex couples wishing to marry.
- The legislation allows religious organisations to determine who may use their facilities. It has been suggested that this provision might not extend to educational institutions and other institutions. Organisations established to promote Christianity such as faith-based schools should be able to determine that chapels and other facilities are used for events which accord with their convictions, and the law should be clarified to confirm that this is the case.

The Gospel, Society and Culture committee aims to provide resources which are faithful to Scripture, relevant to the life and mission of the church, engaged with contemporary Australian culture and informed by careful research. Resource Papers aim to be consistent with the confessional position of the Presbyterian Church of Australia and to reflect positions on social issues expressed by the Assembly of the Presbyterian Church in NSW. They have not been approved by the Assembly and so do not represent the official view of the Presbyterian Church of NSW.

For more information about The Gospel, Society and Culture committee see [www.gsandc.org.au](http://www.gsandc.org.au)

This Resource Paper was prepared by Rev Dr John McClean, Convener of the Committee

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