



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

From the Presbyterian Church of Australia

PO Box 2196, Strawberry Hills, NSW, 2012

## Who we are

The Presbyterian Church in Australia (PCA) consists of over 500 congregations meeting throughout all Australian States and Territories. It is a community of about 30,000 people, with congregations from at least nine different non-English speaking cultures. Beyond its congregational ministries, the PCA operates schools, aged care facilities and pre-schools, and provides social services and chaplaincy care in a wide range of communities throughout the nation. The Presbyterian Church has been part of Australian society since 1803 and formed as the PCA in 1901.

This submission has been prepared by the Church and Nation Committee of the PCA Assembly. The PCA and the Committee give permission for the submission to be published by the Panel.

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## Our Position

The Presbyterian Church of Australia (PCA) urges the Panel to propose recommendations which maximize freedom of religion in Australia, and we draw attention to a variety of current and likely future threats to this freedom. The PCA endorses the report submitted by the organization Freedom for Faith, with one reservation in regard to that submission's proposal for a Religious Freedom Commissioner (see in section 9, below).

Our commitment to a general freedom of religion arises out of our Christian convictions and our desire to pursue the good of Australian society. We note that religion remains a very important – indeed, foundational - element in the cultural life of many Australians. There is, therefore, a demonstrable need to strengthen the protection of freedom of religion in Australia.

We have particular concerns in the following areas (each of which is developed in this submission)

- freedom of parents in the education of their children;
- access to public space by religious groups;
- implications of the introduction of same sex marriage;
- the impact of the Australian Charities and Not-for-profits Commission *Act* 2012 (Cth) and various Anti-discrimination legislation on the function of churches and their agencies, and other independent Christian agencies;
- implications of some provisions anti-vilification legislation.

## 1. Our Christian convictions are the foundation of our position

The Presbyterian Church of Australia makes this submission to the Panel on the basis of our convictions about God, human life, religion and the common good.

Human beings are fundamentally religious and it is in their nature to seek the sense of wonder, mystery and meaning which comes from religion. Although, God has the proper claim on the worship of all people, he allows them freedom to seek and find him. Religious convictions and practices are thus an important part of culture for millions around the world and here in Australia. Although “Christian” nations have sometimes sought to exclude or prohibit other religious views, this is not consistent with a Christian view of God or of humans.

Allowing individuals and communities the freedom to express their religious convictions as fully as possible is an important way of treating them with dignity. Christians should, therefore, be committed to freedom of religion. Admittedly, this may not appear to have always been the case. Nevertheless, Christian convictions, and certainly the convictions of the PCA, support a wide general religious liberty.

Since its formation the PCA has been committed to freedom of religion. This is expressed in the Declaratory Statement adopted by the Church on its formation on July 24, 1901 wherein it states that the Church “disclaims ...intolerant or persecuting principles” and upholds “the liberty of conscience and the right of private judgment”. This statement is an assertion of the Church’s support of freedom of religion in Australia.

The PCA, in line with the Presbyterian tradition in Scotland, has always insisted that the church and state have distinct jurisdictions in which they should co-operate but not compete. Thus Chapter 7 of the Code of the Presbyterian Church of Australia declares:

- i) God has ordained Civil Magistrates to be, under Him, over the people, for His own glory and the public good, that Christians should pray for and honour the civil government and obey lawful commands and be subject to its authority for conscience' sake;
- ii) The Lord Jesus has instituted his Church distinct from the civil authorities “and not subject to them in spiritual affairs”;
- iii) The government of the Church is in the hands of the Church Officers appointed by Christ and “the Civil Magistrate has no lawful right to interfere or to assume to himself any authoritative control over the same”. That is, the church exercises independent authority in matters of the doctrine, worship, discipline and government of the Church.

Thus, the PCA submits to civil government in areas which are in the powers of the state and teaches its members to do the same; it also claims that there are areas of what we believe and how we are to live as Christians in which “we must obey God rather than human beings” (Acts 5:29).

The Christian church is not dependent on the state for its identity or mission. Christianity was formed with an expectation of rejection and even persecution by the society and the state. We follow a Lord who was crucified by Roman authorities at the instigation of the leaders of his own people, and he warned his followers to expect the same fate. Historically, the Church has often co-operated with, and even been established by, the state. This is not, however necessary for the Church. We are very aware that Christian brothers and sisters in many parts of the world enjoy very little liberty, and many face direct and even state-sanctioned persecution. We are inspired by their faithful witness and pray for and seek to support them. We are very thankful for the freedoms we enjoy in Australia, and while we seek the preservation of these freedoms, we do not presume on them, nor require them.

In recent years there has been increased general criticism of religion from Western culture.<sup>1</sup> This has been accentuated in Australia by the Royal Commission into Institutional Child Abuse, which highlighted abuse in religious institutions (among others). Every human activity is prone to corruption and can be turned to terrible evil; religion is no exception. Indeed, a Christian understanding of the world is that such corruption is, sadly, inevitable. Even so, religion remains a proper expression of human existence, and can make a positive contribution to human culture, which is impoverished without it. Despite its potential for distortion, religion still serves the good of humans and their communities. The Christian message of reconciliation with God, through Jesus Christ, is an offer to bring humans to their proper end, which is essential for full human flourishing.

No religion can be constrained to private expressions of belief; all religious conviction will lead to some form of public expression. As Presbyterians in the protestant tradition, we understand each individual Christian to be a member of what Martin Luther called 'the priesthood of all believers'. This understanding leads us to say that every Christian has a sacred duty to live and pursue their work from Christian convictions. The book of James, in the New Testament, teaches that faith that is not expressed in deeds is, in fact, 'dead'. Christianity is not simply a private matter that can be left at the door of the home, or of the church, but a view of the world that shapes public life. Thus, there is in Presbyterian thought no clear sacred/secular divide. Every Christian — whether a cobbler, baker, or politician — should see their work informed by their faith. Further, clergy and “church property” are no

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<sup>1</sup> E.g. J. Harold Ellens, *The Destructive Power of Religion: Violence in Judaism, Christianity and Islam*. (Praeger, 2002); C. Hitchens, *God is Not Great: How Religion Poisons Everything* (Twelve, 2007); C. Nixey, *The Darkening Age: The Christian Destruction of the Classical World* (Macmillan, 2017).

more 'sacred' than any other person or property. The ability to exercise religious convictions in the broad scope of public life is, then, necessary for religious freedom.

This view of religion stands in contrast to that presupposed in any claim that protection of 'religious freedoms' is only necessary for clergy participating in weddings, or for churches determining who may use their facilities. The recent Discussion Paper (Modernisation of the *Anti-Discrimination Act*) released by the Northern Territory Government is an example of this narrow view of religion. The paper proposes that "permitted discrimination" in relation to religious bodies be restricted to

1. the areas of education, training, selection or appointment of certain categories of religious workers; and
2. the conduct of acts done as part of a "religious observance".

Our contention is that protection of genuine religious liberty must be based in a fuller view of religion than that which is expressed in the Northern Territory Discussion Paper.

Publicly practiced faith, where adherents feel free to express their convictions as *individuals* in both public space and the workplace, and also as *communities* gathering in common or public space (such as government owned meeting halls), should be facilitated and encouraged. Australia's secular democracy, as we note in the following section, holds together many different cultures and communities of identity; we have long celebrated Australia as a multi-cultural society. Many of these cultures and identity groups are shaped around shared religious convictions and practices which include private devotion and communal worship, and also extend into public expressions of celebration and service.

In a pluralist setting, the common, civic, good is served by transparency. Freedom to publicly express religious conviction offers transparency by guarding against the withdrawal of groups and individuals into their own private 'sacred' spaces, enclaves, and communities. When legislation assumes that religion is essentially a private matter, people with religious convictions withdraw from public spaces (including the public education system) into less transparent private communities and spaces in order to pursue their identity with integrity and authenticity. Or, at least religious people will tend to conceal their deepest convictions from public scrutiny. This creates a more fragmented population with diminished understanding of others.

Freedom of religion is thus more than freedom to worship and belief; it must include freedom of speech, freedom of conscience, freedom of association and freedom of assembly. These rights are important for individuals, and for communities. Nothing 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, as fully as possible in the expectation that they will learn to live

together while recognising fundamental differences in worldview and ethical commitments. Freedom of religion serves the good of the whole of society.

Christianity, as a missionary faith, welcomes the opportunity to understand and engage with the beliefs and practices of other faiths, and to be able to share its own. Christian communities are called to bless people of all backgrounds and welcomes the chance to do this across faiths. We seek the freedom to pursue our life and mission as fully as possible, and we believe that similar freedom should be available to all religious communities, as well as those of no religious faith.

## 2. Religion in Australia

People of religious faith, and their communities, are an important part of Australian society. Religious people, especially Christians, have made major contributions to Australia, as public expressions of their faith, nurtured by participation in active religious communities which had a full place in society.<sup>2</sup> Most Australians claim to have a religious commitment (at least 60.7% according to the latest census). Although the proportion of those with religious convictions has reduced, the majority of migrants to Australia hold to a religion. Immigration is driving the growth of the Australian population and Australian society is becoming increasingly ethnically and culturally diverse; and hence religiously diverse. The PCA includes people from many ethnic and cultural backgrounds and we seek for Australia to remain a welcoming society. Given the nature of our diversity, Australian society cannot be genuinely welcoming unless we allow and promote the expression of religious life.

As well as churches and other religious congregations, Australia is served by a wide range of schools, aged care facilities, charities and other organisations with religious foundations. Allowing religious life to flourish in Australia is thus a contribution to the common good.

## 3. The need to protect freedom of religion

As the Freedom for Faith report makes clear, Australia has historically granted to its citizens a broad freedom of religion and has largely had a “live and let live” approach to community life. However, in the last decade or so, religious believers and communities have begun to find it more difficult to function in

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<sup>2</sup> R. Williams, *Post-God Nation: How Religion Fell Off The Radar in Australia - And What Might Be Done to Get It Back On* (Sydney: ABC/ Harper Collins, 2015), ch1 &4-5, offers a useful survey of the Christian contribution to Australia.

Australia. In part, this has been a result of a growing criticism of religion in sections of Australian society, which are not directly in the remit of government. Yet, along with this, some legal developments and government policies have contributed to a reduction in freedom of religion.

Anti-discrimination legislation has sometimes been applied in ways which have limited the ability of Christian organizations to recruit staff who shared the convictions of the organization, or to offer services which align with their convictions. In several cases, anti-vilification legislation has been used to limit legitimate expression of Christian views. Churches have been free to offer religious education in state schools, but this has been curtailed in some States. Each of the various cases have their own circumstances, and they do not need to be rehearsed in detail. What is noticeable, and worrying, is the cumulative effect of these developments in making the full public expression of religious faith more difficult.

The recent introduction of same sex marriage has increased concern about freedom of religion. During the debate, advocates of the 'yes' case often expressed the view that religiously motivated views had no place in public debate in Australia. At the same time, concerns about implications for freedom of religion were regularly dismissed during the debate. The immediate implications of the changes to the Marriage Act are well summarized in the Freedom for Faith submission (pp43-57), and we return to some of these in section 6, below.

Our wider concern is that the introduction of same sex marriage will lead to pressure which tends to silence groups which hold to a classic view of marriage. It is not difficult to imagine situations in which such groups will not be able to partner with the government to provide education, aged care, adoption, medical and other services. Trinity Western University (Canada), as a result of its requirement that students uphold traditional sexual morality, was refused accreditation by Law societies in three provinces.<sup>3</sup> We are concerned that educational institutions in Australia could face similar situations. Religious groups in schools and universities may find that they are unable to book rooms for meetings, or even that they are not allowed to operate on campus.<sup>4</sup> In 2016 a long-running dispute between the Sydney University Evangelical Union (SUEU) and the University of Sydney Union (USU) came to a head. USU had, over several years, threatened to de-register SUEU if it did not remove a requirement for

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<sup>3</sup> Bussey, Barry W., Rights Inflation: Attempts to Redefine Marriage and the Freedom of Religion: The Case of Trinity Western University School of Law (May 17, 2017). Regent University Law Review, Vol. 29, No. 197, 2017. Available at SSRN: <https://ssrn.com/abstract=2969788>

<sup>4</sup> <https://www.theguardian.com/education/2017/oct/09/anger-as-oxford-college-bans-christian-group-from-freshers-fair>;

members to sign a faith-based declaration.<sup>5</sup> Compliance with the USU demand would have caused SUEU to lose its identity as an association of students who shared an evangelical Christian faith. While the USU finally dropped its requirement, the incident is an example of ways in which the religious freedom of students in educational institutions can be restricted.

Freedom of religion in Australia has been incrementally reduced. We are glad that it is not presently under intense pressure and, as we have said above, we recognize that Australians enjoy religious freedom which is not available to people in many other nations. There are, however, identifiable risks. In light of these risks, we strongly endorse the Freedom for Faith proposal for federal legislation which would provide positive protection for freedom of religion and belief in Australia. Such broad recognition of the freedom of religion would serve Australian society well.

#### 4. Freedom of parents in education of children

The Freedom for Faith Submission (pp45-50) rightly draws attention to the need to protect the right of parents to raise their children in their religious faith. Education of children is an important aspect of most religious traditions and is certainly part of Christianity. In Presbyterian churches, parents make vows at the baptism of their children that they will raise them as followers of the Lord Jesus. For Presbyterians, this implies raising our children with a whole world-and-life view, not merely church attendance.

The Freedom for Faith Submission points out that the rights of parents to raise their children according to their religious convictions are recognized as Parental rights by Article 18.4 of the ICCPR and Article 5.2 of the UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

To preserve this freedom requires attention to at least three areas:

- i) the capacity of religious communities to establish schools which are able to deliver an education consistent with their tenets;
- ii) access to public schools for representatives of various faiths in order to offer relevant instruction for children from their faith community;

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<sup>5</sup> <https://www.dailytelegraph.com.au/newslocal/city-east/sydney-university-backflips-on-threat-to-deregister-evangelical-christian-group-over-faith-declaration-requirement/news-story/ad5ec528e545a3fe0ec9baa274d4d1a0>

- iii) the preservation of the right for parents to be aware of areas in the curriculum in which instruction given by a teacher might differ from their beliefs, and to withdraw their children from the class at those times.

The PCA endorses suggestions along these lines in the Freedom for Faith submission.

## 5. Availability of public space for religious groups

For many religions, it is important for their communal life to have a public presence. Worship and other events are intended to be open to the public, not held in secret. Thus, access to public space and facilities can be an important contribution to religious freedom. Many religious communities eventually become owners of their facilities, but for new and smaller groups, access to other facilities (such as school auditoriums and classrooms, or community halls) is especially important. These groups can rarely afford to rent meeting spaces at commercial rates.

In relation to this issue, while we recognise the importance of zoning and other regulations for the proper function of a community, it has become increasingly difficult for religious communities to build facilities for religious works and worship; and in some cases, even to hire suitable facilities. We support the right of Muslim communities to construct mosques and prayer centres, along with the right of other religious communities including Christian churches. These should, of course, be compliant with zoning laws, but they should not be refused simply because of community prejudice.

Many new Christian congregations make use of hired facilities in schools or local government buildings. There are some cases when this has proved impossible, not because of practical issues of property management, but because some schools and councils have had a policy that they will not allow churches to use properties for regular worship. In other cases, it has been suggested to groups that they will be refused the right to hire if they teach traditional Christian sexual ethics. We recognise the need for organisations to manage their resources, and for local government authorities to ensure fair access to facilities for all groups. We would, however, advocate that making it easier for religious groups to use such facilities is policy that serves the good of the community, since it allows these groups to hold accessible public meetings.

## 6. Specific concerns arising from the introduction of same sex marriage

We note that the Marriage Act in Australia continues to provide ministers of religion with the freedom to determine which couples they will marry. This is an important provision of the legislation, preserving the freedom of ministers to follow the teaching of their religion. The PCA has repeatedly stated that marriage is only between a man and a woman, and it is not possible for a Presbyterian minister to marry a same sex couple according to the rites of the Presbyterian Church. The Act does not clearly state that this provision over-rides State and Territory legislation. The proposed Patterson Bill did provide for this, and it is our view that the Review Panel should consider further amendments to the Act to include the protections that the Patterson Bill offered.

We note, though that there are marriage celebrants who do not hold credentials as “ministers of religion” but who primarily serve religious communities. These communities are usually smaller religious denominations, some of which do not have “ministers”. While ministers of the PCA do not fall into this category, we are concerned about the impact of the legislation on these other denominations. It does not seem, under the amended Act, that these celebrants will be able to register as “religious marriage celebrants”, and so it appears likely that they will not have freedom of conscience to determine which couples they will marry. Our view is that such people should be able to register as “religious marriage celebrants”, in the way that the Patterson Bill would have provided through the category “traditional marriage celebrant”.

Further, there are a small number of civil celebrants who hold that marriage should be between a man and a woman. Provision for this group of celebrants to register as “religious marriage celebrants” or “traditional marriage celebrants” would provide them protection, with no significant impact on the availability of services to same sex couples wishing to marry.

The Marriage Act 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.

Both in the USA and the UK, small business owners who hold to a traditional view of marriage have faced court action because they did not wish to provide services for same sex marriage celebrations. This is now a real prospect in Australia, and there are already some 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 as in the proposed Paterson Bill.

## 7. The function of churches and their agencies, and independent religious agencies

As noted above, churches and other Christian organisations are a very important part of the non-government sector in Australia. According to a 2015 report, “Faith-based charities make an enormous and arguably under-recognised contribution to Australia’s social infrastructure and social well-being.”<sup>6</sup> Simply counting the charities which include advancement of religion as one of their aims shows that they constitute the largest single category of Australian charities. However, the report notes that “many charities with a religious affiliation did not include religion as one of their purposes or activities” and so the analysis in fact under-reports the extent to which faith-based organisations contribute to Australian society. The ability of church agencies and Christian organisations to continue to enjoy charitable status and provide services is an important aspect of freedom of religion in Australia, and a key contribution to the social good.

Most of these religious agencies operate under the Australian Charities and Not-for-profits Commission Act 2012 (Cth). The ACNC serves to bring accountability and transparency to, and confidence in, the charity and not for profit sector. A large majority of charities and not-for-profits registered by the ACNC are faith-based. Many faith-based entities have “the advancement of religion” as their primary purpose. These entities include those defined as “basic religious charities”, primarily older established denominations. There is a concern that, as a result of the *Royal Commission into Institutional Responses to Child Sexual Abuse*, there may be pressure to no longer permit “the advancement of religion” as the primary objective or purpose of a faith-based charity. There may also be pressure to remove some concessions made by the ACNC to basic religious charities, such as not requiring them to provide audited accounts to the ACNC.

Faith-based groups may be required to establish that they offer other public benefits. It has been assumed in Australia, that the ‘advancement of religion’ is, in itself, a positive contribution to social good.<sup>7</sup> Ridge has argued for something like the current approach, in which it is presumed that the

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<sup>6</sup> Knight, P. A. and D. J. Gilchrist, (2015), *Australia’s Faith-based Charities 2013: A summary of data from the Australian Charities 2013 Report*, for the Australian Charities and Not-for-profits Commission, Melbourne.

<sup>7</sup> See discussion on P. Ridge. “Religious charitable status and public benefit in Australia” *Melbourne University Law Review*, Vol. 35, No. 3, 2011: 1071-1098.

advancement of religion is a public benefit, and faith-based charities are granted charitable status unless there is demonstrated harm to the public from the activities of the group. This approach is consistent with Australia's commitments to freedom of religion and is more cost-effective than a model which requires groups to demonstrate and the state to determine evidence of public benefit.

Many faith-based entities do not have as a primary purpose "the advancement of religion" within the definition of the ACNC.<sup>8</sup> These include entities involved with education and social mission. Many of these entities are PBIs (Public Benevolent Institutions) established by churches to undertake specialised relief ministries. There is concern that PBI's and other faith-based entities that are not recognised by the ACNC as primarily for "the advancement of religion" are at risk of losing their charitable status, and associated taxation concessions and government funding. The imposition of an onerous process to establish the public benefit of faith-based agencies forces them to divert funds given to support frontline services to cover administration costs. The closure of these entities would be a major loss to Australian society

The continued function of faith-based charities and other such agencies depends on them being able to continue to employ staff who are committed to the doctrines and mission of the organisations. It is not sufficient for this to apply only to senior management or to explicitly 'religious' roles (such as a chaplain or religious studies teacher). Many Christians agencies hold that it is important, or at least ideal, for their staff to perform their work from a conscious commitment to, and as an expression of, their Christian calling. The PCA operates several schools and aged care organisations as well as other institutions. While they do not, in every case, require all staff to be professing Christians, it is important for the management to have the freedom to select staff who support the mission of the agency, and to determine that in key roles the person should be a practicing Christian. The leadership of the organisation is in the best position to make such determinations. This freedom is available under 'exemption' clauses in the various pieces of anti-discrimination legislation, though we note that it has been removed by the 'inherent requirement test' in the Victorian Equal Opportunity Act 2010. "Exemptions" vary between the jurisdictions, and Foster observes that "they are often inconsistent with each other, and have an odd and sometimes apparently arbitrary coverage, or lack of coverage."<sup>9</sup> Moreover, they have been interpreted by tribunals in very limited ways and are often subject to criticism.

We have a similar concern about the proposals in the recent Northern Territory Discussion Paper. It suggests that religious institutions should apply to the Anti-Discrimination Commission for "exemption"

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<sup>8</sup> Knight and Gilchrist find 38% of charities with the purpose of advancing religion have other purposes.

<sup>9</sup> N Foster, "Protecting Religious Freedom in Australia Through Legislative Balancing Clauses" Occasional papers on Law and Religion (2017) at: [http://works.bepress.com/neil\\_foster/111/](http://works.bepress.com/neil_foster/111/)

from Anti-Discrimination legislation. This puts the burden on a religious body to establish its character and to justify its request for exemptions. The grounds on which the Commission would grant exemptions are not clear, nor is it clear why the Commission would be equipped to make determinations about the character of a body and the relevance of religious convictions for employment in various roles in that body. The process is likely to involve considerable expense for a religious organization. The Freedom for Faith submission reports similar proposals to remove straight-forward exemptions (pp32-34).

For these reasons we strongly support the recommendation in the Freedom for Faith submission that anti-discrimination legislation should contain clear balancing clauses which grant religious organisations the right to select and dismiss staff in accordance with their teachings. Such provisions should not be viewed as 'exemptions' from a general prohibition against discrimination, but as positive provisions for the right of religious bodies to act on their convictions. Thus, they should be termed 'balancing' provisions, rather than 'exemptions'.

## 8. Anti-vilification provisions

The Freedom for Faith submission raises as a concern the need to preserve the rights of religious bodies to express their beliefs, in the light of the impact of provisions in anti-discrimination legislation which prohibits 'offensive' speech and ridicule or vilification (pp54-55). The Presbyterian Church has no interest in promoting speech or conduct which is truly hateful or incites violence. The Bible teaches us to speak with grace (Colossians 4:6) and to seek to live at peace with all (Romans 12:18).

Problems lie, though, in the real effect of such provisions. A case in point is that of a minister and pastoral worker in the Presbyterian Church of Tasmania who are currently facing action under the Anti-Discrimination Act (1998) in relation to blog posts and public preaching. Each incident involved expressions of traditional Christian sexual morality. This case is being dealt with by the Supreme Court of Tasmania in *Gee and Anor. v The Anti-Discrimination Commissioner and Anor.* Whatever the outcome of the Supreme Court review, it should not be necessary for people to defend legitimate expressions of religious views before tribunals. The process of Equal Opportunity Tasmania, which commenced with a compulsory mediation session, meant that those facing the complaint had no chance to contest its validity prior to being expected to make some apology.

Anti-vilification provisions such as those contained in the Tasmanian law make individuals and organisations cautious about the public expression of their religious and moral views. The fear of facing

action, and the potential for very significant court costs for defence, clearly has the effect of reducing freedom of religion.

The PCA seeks a society marked by harmony. We do not believe that this is best promoted by legislation which allows for subjective interpretation of vilification, or which might be used to limit legitimate expressions of differing points of view. Promotion of the mutual understanding of racial and religious groups in our society is a better way of encouraging social cohesion.

## 9. A Religious Freedom Act and a Religious Freedom Commissioner

The boldest recommendations in the Freedom for Faith submission are for a federal Act which positively secures freedom of religion and belief in Australia, and for a Religious Freedom Commissioner who would focus on religious freedom issues.

The PCA supports the Freedom for Faith recommendations regarding the development of an appropriate Act. This would serve to provide the balancing elements which are at present missing from Australian legislation.

We are somewhat cautious, however, about the proposal for a Religious Freedom Commissioner. The idea of commissioner with the brief to advocate for Religious Freedom has some attraction, and we note that the proposal is not to establish a role with any powers of adjudication. However, we are not convinced that it is appropriate for the government to seek to appoint a person into a role to give “people of faith ... a national voice in the public square”. We note the possibility of the position being used to placate those concerned about freedom of religion, and perhaps even to filter their views for government. On balance, we favour the introduction of a legislative recognition of freedom of religion, without a commissioner.