



Australian Council of Social Service

18 January 2019

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Email: legcon.sen@aph.gov.au

Dear Committee Secretary,

Submission: Senate Legal and Constitutional Affairs Committee Inquiry into the *Sex Discrimination Amendment (Removing Discrimination Against Students) Bill 2018*

The Australian Council of Social Service (ACOSS) is a national advocate for action to reduce poverty and inequality and the peak body for the community services sector in Australia. Our vision is for a fair, inclusive and sustainable Australia where all individuals and communities can participate in and benefit from social and economic life. ACOSS welcomes the opportunity to contribute to the work of the committee in this important area.

ACOSS supports the intent of the bill to prevent discrimination against Lesbian, Gay, Bisexual and Transgender (LGBT) students. However, this bill does not go far enough. In the education context, ACOSS strongly supports the right of students to be educated free from discrimination on the basis of their sexual orientation, gender identity or intersex status, but also supports the rights of teachers, other staff and volunteers to work free from discrimination on the basis of their sexual orientation, gender identity or intersex status in educational settings.

Further, ACOSS supports enshrining the fundamental right to freedom of religion or belief in legislation, ideally in a Human Rights Act. However, this right, like all human rights, is not absolute and must be balanced against other rights. Under current laws, religious organisations receive broad exemptions from anti-discrimination laws in the provision of goods, services and employment. We believe that these exemptions do not strike the right balance between the rights to freedom of religion and the right not to be discriminated against on the basis of sexual orientation, gender identity or intersex status. Instead, we recommend replacing the existing exemptions with more limited exemptions that are confined to strictly permit religious organisations to organise and conduct affairs closely connected to religious worship, observance, practice and teaching.

ACOSS is opposed to the Government Amendments to the bill. These amendments would enable discrimination against LGBT students to continue from bodies established for religious purposes; would introduce new exemptions allowing religious schools to impose conditions, requirements or practices on a student provided they meet certain conditions; enable discriminatory “teaching activity” provided it is in good faith in order to avoid injury to the religious susceptibilities of adherents of that religious or creed; and enable new matters to be taken into account to determine



reasonableness when assessing indirect discrimination. These amendments would frustrate the intent of the bill, and would enable discrimination against students, teachers and other staff and volunteers to continue.

LGBTIQ people have a reasonable expectation that the law will protect them from discrimination on the basis of their sexual orientation, gender identity or intersex status. It is vital that we continue to meet that expectation. We urge you therefore to safeguard the rights of LGBTIQ people in law and policy, including legislating to protect people from discrimination in all aspects of public life.

If the committee has any questions regarding this submission, the ACOSS contact person is Senior Policy and Advocacy Officer John Mikelsons, on (02) 9210 6212 or john@acoss.org.au.

Yours sincerely,

Jacqueline Phillips
Acting CEO