



# Australian Council of Social Service

20 December 2021

Committee Secretary  
Senate Legal and Constitutional Affairs Committee  
Email: [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)

Dear Secretary,

## **Submission: Religious Discrimination Bill 2021**

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 review of this Bill by the Joint Committee.

ACOSS provided a written submission on the second exposure draft. We remain deeply concerned that this Bill, even with revisions made to the previous iteration, continues to privilege religious interests and beliefs over the rights, interests and beliefs of all other people in a way that creates a detrimental impact on the community overall. It takes away rights from people who are currently protected under anti-discrimination laws. ACOSS is particularly concerned about faith-based organisations maintaining special exemptions under the Bill allowing them to discriminate against people who may fairly and reasonably access certain services or seek employment. Additionally, in its current form, the Bill would add a complicated regulatory framework on top of existing anti-discrimination laws, including those administered by the states and territories.

Even with revisions, the Bill retains fundamental problems in its proposed approach to discrimination. ACOSS would like to especially highlight two issues as evidence of our concerns – the exemptions for faith-based organisations from discrimination laws (ss 7 – 8, 40), and statements of belief (s 12). We outline our concerns below.

### **Exemptions for faith-based organisations**

Faith-based organisations including charities and non-commercial bodies will maintain the ability to discriminate against people with different or no religious beliefs in certain service delivery. Faith-based hospitals, aged care facilities, accommodation providers and disability service providers will be able to discriminate against people with different or no religious beliefs in employment. Further, these broad exemptions always privilege faith-based organisations over individuals with different or no religious beliefs even where:

- Religious beliefs or activities have little relevance to the role or service
- Services are government funded such as homelessness or family violence support
- The organisation is large and a major service provider in a local area



- The individual is of the same faith as the organisation, but differs in their interpretation of some doctrine.

Our concerns with these proposed exemptions is elevated by the fact that where state and territory discrimination laws have narrower exemptions for similar organisations, these can be overridden by regulations made by the Commonwealth Attorney General in s 11 of the Bill.

People who access community services include those experiencing low income, poverty, disadvantage, marginalisation and other forms of hardship. The proposed exemptions for faith-based organisations may leave people stranded without adequate assistance, especially in regional, rural and remote communities where there are fewer providers in operation.

We oppose these exemptions based on the breadth of their drafting, the additional discrimination they will bring to particular service users and the flow-on negative impact this will have on poverty and disadvantage levels in Australia.

### **Statements of Belief**

ACOSS remains concerned with the provisions relating to statements of belief (s12). The practical scope of this clause remains extremely broad. The Bill would enter into law a highly subjective threshold for what a statement of belief made in good faith looks like. Statements that are malicious, that harass, threaten, intimidate or vilify, or which encourage serious offences, will not be protected (s12(2)). However, where the line will be drawn between statements made in 'good faith' that are allowed and those which are not is unclear from the drafting. The Bill would leave statements of belief to be variously interpreted by individuals, organisations and even the judicial system through costly litigation.

The Bill protects statements of belief that would otherwise be discriminatory from successful complaint in all areas of public life including employment, education, health, aged care and community services, hospitality and public spaces. This provision will affect everyone, but particularly women, LGBTQI people, people with disability or mental ill health, divorced people, unmarried couples and sole parents.

This provision is particularly dangerous in the employment context. All employers should be permitted to expect that their employees will not offend or condemn people of other faiths, people of no faith, or other people who have been traditionally discriminated against or marginalised (in particular LGBTQI people). This capacity is essential to foster an inclusive workplace culture and prevent harm to employees.

### **Recommendation: do not proceed with the Bill**

After careful consideration and review of the revised proposal, ACOSS believes that this Bill is unnecessary and unjustified and elevates the risks of discriminatory behaviour in the community towards people who already experience disadvantage and marginalisation such as those in the



LGBTQI community, people with disability, and women, especially single mothers. As such, we recommend to the Committee that this Bill not be enacted.

We strongly believe that Australia should design and implement an Australian Charter of Human Rights & Freedoms, providing a complementary framework to anti-discrimination laws that protects our individual and collective freedoms and puts all people on an equal footing. Such a Charter can support the right of all people to live their lives free from discrimination including on the basis of their sexual orientation, gender identity, intersex status and religious belief and provide a framework for the resolution of conflicts between rights where they arise. The Bill in its current form moves Australia further away from these objectives, not closer.

If the Committee has any questions regarding this submission, please contact Rob Sturrock, Senior Advisor Community Services on [robert@acoss.org.au](mailto:robert@acoss.org.au).

Yours sincerely,

**Edwina MacDonald**  
**Acting ACOSS CEO**