



22 March 2024

Anti-Discrimination Act Review
Strategic Policy and Legislation, Justice Policy and Reform
Department of Justice and Attorney-General
GPO Box 149
BRISBANE QLD 4001

Via email: adactreview@justice.qld.gov.au

Anti-Discrimination Bill 2024

Christian Schools Australia (CSA) and the Australian Association of Christian Schools (AACCS) represent over 250 Christian Schools across the country with **29 schools educating over 19,000 students in Queensland**. Our schools operate as independent, locally governed, religious organisations. Some are closely aligned with local churches, while others have their heritage in a group of parents coming together to start a school.

This brief submission is made in response to the release for consultation of the *Anti-Discrimination Bill 2024* ("the Bill"). It is made noting the very short timeframe for a submission and the undue haste to finalise this legislation, despite the extended time taken to develop the Bill itself. This short timeframe arises despite the Department acknowledging that the Bill will 'fundamentally alter the operation of Queensland's discrimination legislation'. We also note our repeated requests over the time since the Government's response on 3 April 2023 to meet and discuss the detail of the proposals.

In addition to the matters raised in our previous submissions to the Queensland Human Rights Commission (QHRC) review, which did encompass some suggested drafting, the release of the Bill has also prompted further concerns which we have noted below. We also express our support for the concerns raised by Dr Alex Deagon, an Associate Professor in the School of Law at QUT, outlined [here](#), and those of Dr Mark Fowler, Principal, Fowler Charity Law, Adjunct Associate Professor, University of Notre Dame, School of Law, Sydney and an External Fellow at the Centre for Public, International and Comparative Law, University of Queensland, summarised [here](#).

Both of these articles raise serious questions that must be addressed in relation to the Bill, and we are calling for a more extensive consultation and inquiry process to ensure that these concerns are properly addressed.

We have outlined below, at a high level, a number of concerns regarding the Bill. More detail on many of these, including in some cases alternative drafting, has been provided in submissions to the QHRC Review and will not be repeated.

- **Preamble** – consistent with the recommendation of the Expert Panel on Religious Freedom Report in 2018 we believe that the Preamble should acknowledge the existence of the whole range of human rights and the need to balance those rights.

- **Clause 7** – once again, consistent with the recommendation of the Expert Panel on Religious Freedom Report in 2018, we recommend that reference be made in interpretative guidance within the Bill to reflect the equal status in international law of all human rights, including freedom of religion. Reference should also be made to the *Siracusa Principles on the Limitation and Derogation Provisions* in the *International Covenant on Civil and Political Rights*.
- **Clause 8** – should be amended to reflect the equal status in international law of all human rights, including freedom of religion.
- **Clause 13** – should be updated and modernised to incorporate a definition of discrimination that excludes legitimate differentiation as recognised in international law.
- **Clause 14** – a higher bar of materiality should be established for a protected attribute to be taken into account as a reason for unfavourable treatment.
- **Clause 15** – in deciding whether a condition, requirement or practice is reasonable, consideration should be given to whether the condition, requirement or practice is seeking to achieve or protect another human right within the definition of the *Human Rights Act 2019*.
- **Clause 19** – should clarify, for the avoidance of doubt, that the ‘positive duty’ does not apply in circumstances where an exemption or exception may apply.
- **Clause 29** – the concerns in relation to this clause are extensively addressed in the articles referenced above.
- **Clause 36** – we consider to be inconsistent with Australia’s obligations under Article 18(4) of the *International Covenant on Civil and Political Rights* to which we are a signatory. It should be amended to better reflect the liberty of parents established under that Article.
- **Clause 62** – there is no basis for the imposition of a test, determined by the Courts, that the actions of a religious body acting in accord with the doctrines, tenets and beliefs, of that body must be ‘reasonable and proportionate in the circumstances’. This is an outrageous overreach into the activities of ecclesiastical bodies and should be removed.
- **Clause 84** – should be deleted. It provides an unacceptable constraint on freedom of speech, setting the test of impermissible conduct far too low, and determined with reference a group reflective of the ‘victim’ rather than broader community standards. The clause also fails to include in the list of permissible activities, those done reasonable and good faith for religious purposes.
- **Clause 85** – should be amended to include in the list of permissible activities, those acts done reasonable and good faith for religious purposes
- **Clause 92** – should be clarified to ensure that information can be sought which may be the basis for a genuine occupational requirement or other exemption or exception.

In the light of these concerns, in addition to the serious concerns raised in the articles referenced above, we reiterate our call for a more extensive consultation and inquiry process to ensure that all the legitimate concerns regarding these extensive changes are properly addressed.