

# SUBMISSION

**TO | Attorney General's Department**

By email: [FoRConsultation@ag.gov.au](mailto:FoRConsultation@ag.gov.au)

**TOPIC | Religious Discrimination Bill -  
Exposure Draft 2019**

**From | Uniting Communities**

**Not for Profit Community Services Organisation**

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## Section 1. Background and context

### About Uniting Communities

Uniting Communities is an inclusive not-for-profit organisation working alongside more than 30,000 South Australians each year as they strive for bright futures and great lives. We value diversity and are committed to providing respectful, accessible services to all.

Uniting Communities seeks to reduce inequality and improve wellbeing for all who are striving to overcome disadvantage – individuals, their families and communities – so that they can realise their potential and live the best lives they can. We do this in a way that is non-judgemental, generous and supportive; that embrace diversity; and that values and promotes fairness, justice and the benefits of strong communities.

Our service delivery, advocacy and community building activities are central to achieving this and are reasons for our decision to make comment about the draft exposure bill.

### Our purpose

#### **Build compassionate communities and great lives.**

People are at the heart of all we do. We will work alongside South Australians as they strive for a bright future and great lives, supporting them to overcome adversity and disadvantage. We will do this in a way that is non-judgemental, generous and supportive; that embraces diversity; and that values and promotes fairness, justice and the benefits of strong communities.

### Our values

#### **Courage**

We stand up for what we believe in; try new things; get uncomfortable; take risks; challenge beliefs and behaviours; and take responsibility for our own behaviours and outcomes

#### **Accountability**

We are honest in all of our interactions; take responsibility for our actions and impact; apply rigour in our processes, practices and standards; and take initiative.

#### **Respect**

We are open and non-judgemental; listen to others; seek to understand; embrace differences and individuality; preserve dignity; and are present.

#### **Growth**

We embrace new ideas and innovation; look for and engage in opportunities; value and invest in learning; fail successfully; and focus on contribution and continuous improvement.

#### **Teamwork**

We go beyond collaboration, sacrificing for others and working across boundaries; fostering trust; sharing knowledge and skills; striving for and celebrating collective success; and being kind and respectful.

Uniting Communities has grown out of the Central Methodist Mission that was established in the Adelaide central business district in 1901, as a Mission of the Methodist Maughan church. We are separately incorporated and accountable to the Synod of the Uniting Church in South Australia and as such are formed by a Christian ideology.

We offer more than 90 services to support the needs of both individuals and our community, across a range of areas. These include mental health and counselling; residential aged care and support for independent living; housing crisis and emergency support; disability services; services for Aboriginal and Torres Strait Island people; financial and legal; drug and alcohol counselling; family relationships; and respite and carer support.

Of particular relevance to this process and issues of discrimination are services that we provide to people with mental health needs, people from indigenous communities, people from non-Anglo cultural background, people from LGBTIQ communities as well as some young people.

These services include:

- **Mental Health Services**  
Uniting Communities offers a range of counselling services to support mental health. We work with people through challenges related to alcohol and other drugs, domestic and family violence, and sexual abuse or sexual assault, as well as peer support for people who identify as LGBTIQ.
- **Aboriginal Community Connect**  
Aboriginal Community Connect provides 'one-stop' support for people needing help with multiple issues. As well as treatments to address substance misuse, the service offers support for problems associated with social isolation; poverty and disadvantage; housing; the effects of other trauma; and physical and mental health
- **Bfriend**  
Bfriend provides support services to people who identify as LGBTIQ
- **Lifeline**  
Our Lifeline Adelaide service is available 24/7 to answer calls from people in crisis, while Standby can support those who have been bereaved by suicide.

Through provision of services and close contact with many people seeking services every day, we are acutely aware of the sometimes catastrophic consequences of discrimination particularly chronic discrimination including harassment, bullying, name-calling, exclusion from services reduced opportunities to participate in society.

It is vital that all involved with debates about discrimination understand the consequences, particularly for people who are in some way vulnerable, of discrimination in its many forms. For example through our Lifeline telephone counselling service we regularly hear from callers who are considering suicide, citing bullying harassment and discrimination is a major factor in their suicidal ideation.

We also observe that overwhelmingly the people who want to discriminate do so from a position of inadequate understanding about the situation of the people against whom they want to discriminate. We also suggest that personal insecurity is another factor in driving

the behaviour of people who choose to discriminate, particularly through bullying and other “put down” behaviours.

Uniting Communities welcomes the opportunity to provide some comments on this exposure draft recognising that there are elements of it that have been the subject of intense public and political debate over recent years.

Aspects of the draft religious discrimination Bill have been the subject of considerable internal debate with this submission reflecting a two-part response. Firstly we consider the implications of the draft bill for the day-to-day functioning of Uniting Communities, Section two of this submission and then in the third section we take a broader public policy perspective to consider some of the more contentious aspects of the bill.

### Background to the Exposure Draft

It is recognised that the debates addressed by the exposure draft are largely ongoing debates across the Australian community and indeed they echo around the world.

Part of the useful background and context for this exposure draft is the review into religious freedom in Australia that was announced in November 2017 by Prime Minister Turnbull. This review made 20 recommendations and we understand that the bill proposed in the exposure draft addresses three of those recommendations namely recommendations 3,15 and 19. The explanatory notes for this exposure draft summarise these three recommendations as follows:

- *Recommendation 3 recommended that Commonwealth, state and territory governments should consider the use of objects, purposes or other interpretative clauses in anti-discrimination legislation to reflect the equal status in international law of all human rights, including freedom of religion.*
- *Recommendation 15 recommended that the Commonwealth enact a Religious Discrimination Act, to render it unlawful to discriminate on the basis of a person’s ‘religious belief or activity’, including on the basis that a person does not hold any religious belief.*
- *Recommendation 19 recommended that the Commission take a leading role in the protection of freedom of religion, including through enhancing engagement, understanding and dialogue.*

We also wish to also highlight the following statement of principle from the explanatory note released with this exposure draft

*5. All Australians, regardless of their religious belief or activity, should be able to participate fully in our society. All people are entitled not to be discriminated against on the basis of their religious belief or activities in public life, and are entitled to the equal and effective protection of the law.*

We consider this statement to be central to the whole of the draft bill, and indeed, the debates behind the bill.

To put this statement another way, for Uniting Communities, the intent of the draft bill is **to protect people from discrimination, not a license to discriminate**

#### Focus of Public Policy

As an initial observation, we state that the foci of any legislation and associated public policy action should be to:

1. Reduce pain and suffering
2. Protect people, particularly people who are vulnerable in some way
3. At worst, do no harm

We also note the sad reality that legislation needs to be enacted for the worst of possible outcomes and cannot assume that good faith will always be shown by all people. So legislation both needs to set standards, promote positive behaviour change and codify nuances that are invariably matters of judgement rather than being readily measurable and with clear levels of universal acceptability.

From observations of public debate, particularly through media, it is evident to us that this draft legislation is really dealing with two main topics, namely questions about Muslim communities and the relationship between differing beliefs and understandings of Islam and Christianity particularly from some quarters of more traditional Australian communities.

The second topic relates to sexual orientation and concerns that a minority of Australians have about people from LGBTIQ (Lesbian, Gay, Bisexual, Transgender, Intersex and Questioning) communities.

## Section 2. Implications for Uniting Communities

As a major employer and service provider in South Australia, there is a suite of existing legislation and arrangements that we are required to uphold to guide our approach to employment of staff, engagement of volunteers and enable us to assist a diversity of clients and their communities.

Current legislation that is relevant to us as a Christian based community service provider includes:

### Summary of Discrimination Law<sup>1</sup>

“The law relating to discrimination in South Australia is a mixture of Commonwealth and State law.

#### Legislation:

The following Acts apply in South Australia

- Equal Opportunity Act 1984 (SA)
- Public Interest Disclosure Act 2018 (SA)
- Racial Vilification Act 1996 (SA)
- Australian Human Rights Commission Act 1986 (Cth)
- Racial Discrimination Act 1975 (Cth)
- Disability Discrimination Act 1992 (Cth)
- Sex Discrimination Act 1984 (Cth)
- Age Discrimination Act 2004 (Cth)
- Fair Work Act 2009 (Cth)

Discrimination law exists to enable everyone to take part equally in public life, regardless of irrelevant personal characteristics. Discrimination law regulates public life, not private life, so, for example, it covers what happens at work, in education or in the supply of goods and services. It does not affect how people conduct their private lives, for instance, who they choose to have as friends. The law says that certain personal characteristics, such as one’s race or age, must be disregarded in public life situations, such as in selecting people for jobs. A person experiences discrimination if a personal characteristic is taken into account in an area of public life where the law prohibits this.

Discrimination law also prohibits other behaviours that stop people taking part equally in public life. These include sexual harassment, victimization, refusing services to people with guide dogs, and discriminatory advertising.”

Existing legislation prohibits the following aspects of discrimination recognising that not all unfair treatment is discrimination, again quoting from the SA “Law Handbook;

“The combined effect of the South Australian and Commonwealth legislation is that, in South Australia, it is unlawful to discriminate on the following grounds:

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<sup>1</sup> <https://lawhandbook.sa.gov.au/ch17s01.php> Legal Service Commission for SA Law Handbook

- age
- disability
- marital or domestic partner status
- identity of spouse or partner
- pregnancy (or potential pregnancy)
- family responsibilities
- association with a child (in provision of goods, services or accommodation)
- breastfeeding
- race
- sex
- sexuality or chosen gender
- religious appearance or dress
- political opinion
- social origin
- on the basis of having disclosed public interest information to a relevant authority (i.e. whistle-blowers) or of having made a complaint of discrimination”

### **Areas of public life covered by discrimination law**

Discrimination is only unlawful in specific areas of public life, not in all situations.

Discrimination is generally unlawful in:

- work, including job selection, promotion, access to training opportunities and other benefits, and dismissal from work
- education, including primary and secondary schooling and tertiary education
- conferral of qualifications
- access to goods and to some services
- accommodation
- sale of land
- membership of clubs and associations

### Direct and indirect discrimination

Discrimination can be direct or indirect. Both kinds are unlawful. Direct discrimination is what most people think of as discrimination, for example, an employer refusing to consider job applications from people of African origin or a landlord refusing to rent to tenants who have children.

Indirect discrimination means that conditions are imposed or rules are made that may, on their surface, may look equal but which, in practice, result in unfavourable treatment of some people. For example, suppose an employer stipulates that applicants for a particular job must have blue eyes. In practice, fewer people of African or Asian origin can meet this requirement, so the requirement could amount to race discrimination. Similarly, a requirement that all workers must be available for night shifts could be indirect discrimination against those who have caring responsibilities and are unable to arrange for a substitute carer to stay overnight in their absence.

Whether indirect discrimination is unlawful will depend on whether the requirement is reasonable. If there is a good reason, for example, why all employees need to be available

for night shifts, then the requirement will not be discrimination, even though it may be harder for carers to meet.”

A key piece of legislation that applies to Uniting Communities, and any other employer is the Equal Opportunity Act 1984, which is “an Act to promote equality of opportunity between the citizens of this State; to prevent certain kinds of discrimination based on sex, race, disability, age or various other grounds; to facilitate the participation of citizens in the economic and social life of the community; and to deal with other related matters.”

This Act provides specific exemptions that are relevant to Uniting Communities:

“85ZM—Religious bodies This Part does not render unlawful discrimination on the ground of marital or domestic partnership status in relation to— (a) the ordination or appointment of priests, ministers of religion or members of a religious order; or (b) the training or education of persons seeking ordination or appointment as priests, ministers of religion or members of a religious order. Equal Opportunity Act 1984—8.9.2016 Part 5B—Prohibition of discrimination on other grounds

Division 6—General exemptions from Part 5B 10 Published under the Legislation Revision and Publication Act 2002 85ZN—Exemption relating to religious appearance or dress. This Part does not apply to discrimination on the ground of religious appearance or dress if the discrimination arises as a consequence of a person refusing to reveal his or her face in circumstances in which the person has been requested to do so for the purpose of verifying the identity of the person, and the request was reasonable in the circumstances.”

There is also a Racial Vilification Act operating in South Australia, racial vilification being an aspect of discrimination. This Act states:

“4—Racial vilification A person must not, by a public act, incite hatred towards, serious contempt for, or severe ridicule of, a person or group of persons on the ground of their race by— (a) threatening physical harm to the person, or members of the group, or to property of the person or members of the group ...”

The current legislative base is comprehensive and has been well tested.

Under these pieces of legislation, Uniting Communities is able to:

1. Specify values that we uphold and appoint people who are willing to work to these values.
2. Establish and maintain targeted support services for specified groups of people including Indigenous people, people with mental health or disability needs, people from LGBTIQ communities
3. Appoint staff with skills, networks and capacity to best serve specified groups of service recipients
4. Appoint theologically trained people as we need
5. Seek to be an “employer of choice,” this includes promoting equity, eg in overcoming gender bias and discrimination, as per enterprise agreement: Consistent



with our commitments, Uniting Communities has agreed to a clause in its *General Staff Enterprise Agreement 2015*, which recognises:

- *employees sometimes face situations of violence or abuse in their personal life that may affect their attendance or performance at work. Therefore, Uniting Communities is committed to providing support to employees that experience family violence.*
- *7.7.2 Domestic crisis refers to family violence including physical, sexual, verbal or emotional abuse by a family or household member. It includes the legal and standard meaning of "domestic violence".*
- *7.7.3 Leave*  
*(a) An employee experiencing domestic crisis will have access to 20 days per year (non-cumulative) consisting of 5 days paid leave and 15 days of unpaid leave for medical appointments, legal proceedings and other activities related to domestic crisis*

Consequently we consider that current State and Commonwealth legislation is adequate and sufficient for any “positive discrimination” that we may wish to apply in order to provide specific services for clearly identified cohorts of vulnerable people. All services provided are based on our organisational values which are a distillation of our Christian heritage and our participation in a society that includes values from a range of religious faiths.

**Uniting Communities does not consider that the proposed Religious Discrimination Bill is necessary, existing legislation is adequate, satisfactory and well tested**

## Section 3. Specific Clauses of the Exposure Draft

In the previous section we concluded that the draft legislation was not necessary. In this section we consider elements of the draft bill that warrant change should the Government make the decision to continue with the draft legislation.

Before making some detailed comments about aspects of the draft bill, we make the following brief observations about prevailing community attitudes.

We draw a link between migrants and religious freedom, because we observe that some religious freedom comments are made with reference to some racial groups, so we think that acceptance of immigrants and acceptance of religious freedom are highly correlated for the general public.

In 2018, the broadcaster, SBS aired a documentary “is Australia Racist?” with respected journalist and media commentator Ray Martin as the presenter. To help inform this program, a methodologically rigorous survey of attitudes was undertaken through University of Western Sydney, some of the conclusions being:

1. 36.4% believe the number of immigrants accepted into Australia is too high or much too high. (we note that the counterfactual is that 63.6% of Australians are either neutral or supportive of immigration)
2. 32% of respondents reported having experienced racism within their workplace. 32% of respondents reported having experience racism within an educational facility.
3. Those who belong to a Language Other Than English (LOTE) background reported the highest rates of workplace racism (54.1%) and racism within various educational institutions (55.8%).
4. Those of LOTE background experienced the highest rates of discrimination in shops/shopping centres (56.9%), on public transport or in the street (58.2%), and online (49.1%).
5. 54.4% of respondents agreed that Australia should help refugees fleeing persecution in their homeland. 43% believe that all boats carrying asylum seekers should be turned back.

Professor Dunn, who conducted the survey also reported: "80 per cent of Australians see cultural diversity as a really positive thing, so that's a great finding and by the same token about the same proportion, 80 per cent, acknowledge there's a problem with racism. And the same proportion again say something should be done about racism. So there's strong community, strong public support for action against racism, the racism which is unfairly distributed across the ethnic groups in our country,"

We suggest that there is a correlation between negative religious discrimination and racism, and so suggest that a vast majority of Australians, probably the order of 80%, are supportive of measures to improve tolerance.

If the draft legislation proceeds, focus must be on protection from persecution for individuals and communities, not a validation of persecution of others on the basis of their

religious (or non-religious) beliefs. The main test of any aspects of the legislation must be that there will be no harm.

### Clauses of particular interest

#### **Clause 8 Discrimination on the ground of religious belief or activity—indirect discrimination**

Considerations relating to reasonableness

*(2) Subject to subsections (3), (5) and (6), whether a condition, requirement or practice is reasonable depends on all the relevant circumstances of the case, including the following:*

*(a) the nature and extent of the disadvantage resulting from the imposition, or propose imposition, of the condition, requirement or practice;*

*(b) the feasibility of overcoming or mitigating the disadvantage;*

*(c) whether the disadvantage is proportionate to the result sought by the person who imposes, or proposes to impose, the condition, requirement or practice;*

*(d) if the condition, requirement or practice is an employer conduct rule—the extent to which the rule would limit the ability of an employee of the employer to have or engage in the employee’s religious belief or activity.*

...

*Conditions that are not reasonable relating to conscientious objections by health practitioners*

(5) For the purposes of paragraph (1)(c), if a law of a State or Territory allows a health practitioner to conscientiously object to providing a health service because of a religious belief or activity held or engaged in by the health practitioner, a health practitioner conduct rule that is not consistent with that law is not reasonable.

Note: A requirement to comply with a health practitioner conduct rule that is not reasonable under this subsection is also not an inherent requirement of work (see subsection 31(7)).

(6) For the purposes of paragraph (1)(c), if subsection (5) does not apply, a health practitioner conduct rule is not reasonable unless compliance with the rule is necessary to avoid an unjustifiable adverse impact on:

(a) the ability of the person imposing, or proposing to impose, the rule to provide the health service; or

(b) the health of any person who would otherwise be provided with the health service by the health practitioner.

Note: A requirement to comply with a health practitioner conduct rule that is not reasonable under this subsection is also not an inherent requirement of work (see subsection 31(7)).

The notion of reasonableness is vexed, however we regard that any action that is likely to cause harm or distress cannot be regarded as reasonable. Employers values need to respect this principle and any employer should be expecting an employee to speak and act consistently with values that reflect relevant existing legislation and prevailing social norms.

We are concerned with the clauses relating to ‘conscientious objection;’ by health practitioners for fear that this could lead to people needing health services being denied such services. For example a member of an LGBTIQ community in a regional location with limited health services could experience denial of assistance due to limited choices of service they need. This would be unacceptable and contrary to the objectives of health practitioners to work to values base compatible with the Hippocratic Oath, one contemporary version being:

*“I will apply, for the benefit of the sick, all measures which are required, avoiding those twin traps of overtreatment and therapeutic nihilism.*

*I will remember that there is art to medicine as well as science, and that warmth, sympathy, and understanding may outweigh the surgeon's knife or the chemist's drug.”<sup>2</sup>*

This well-established standard and commitment to serve is at odds with the notion of ‘conscientious objection’ being a reasonable basis for a health professional to deny assistance.

The notion of ‘conscientious objection’ undermines established rights of employees, as health practitioners in this instance, being free from discrimination. These clauses also risk amplifying a concern that prevailing experience and practice indicates is not material and could lead to more discrimination rather than less.

Uniting Communities recommends that these clauses be removed from any final bill

## **10 Religious bodies may act in accordance with their faith**

- (1) A religious body does not *discriminate* against a person under this Act by engaging, in good faith, in conduct that may reasonably be regarded as being in accordance with the doctrines, tenets, beliefs or teachings of the religion in relation to which the religious body is conducted.
- (2) **Religious body** means:
  - (a) an educational institution that is conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion; or
  - (b) a registered charity that is conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion (other than a registered charity that engages solely or primarily in commercial activities); or
  - (c) any other body that is conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion (other than a body that engages solely or primarily in commercial activities).
- (3) This section applies despite anything else in this Act.

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<sup>2</sup> <https://www.medicinenet.com/script/main/art.asp?articlekey=20909>

Uniting Communities is concerned by the breadth of scope of this clause, giving substantial discretion to large religious organisations. We suggest that the notion of acting “in good faith” may be too broad to minimise risk of harm to people who consider that they are being discriminated against on the basis of religious doctrines.

Of particular concern is the specific inclusion of educational institutions. A student who is coming to understand their sexuality, which may not conform with the prevailing orthodoxy of a school, would be able to be discriminated against by the educational institution under this clause. Such action would most likely be deleterious to the ongoing education and well-being of a student whose sexuality was unknown when enrolling. In this instance the application of a particular interpretation of Christian doctrine could lead to discrimination against a student that was harmful to the well-being of that student - we do not consider this to be acceptable.

Uniting Communities proposes deleting 10 (2), should this bill proceed.

#### **41 Statements of belief do not constitute discrimination etc.**

- (1) A statement of belief does not:
  - (a) constitute discrimination for the purposes of any anti-discrimination law (within the meaning of the *Fair Work Act 2009*); or
  - (b) contravene subsection 17(1) of the *Anti-Discrimination Act 1998* of Tasmania; or
  - (c) contravene a provision of a law prescribed by the regulations for the purposes of this paragraph.
- (2) Subsection (1) does not apply to a statement:
  - (a) that is malicious; or
  - (b) that would, or is likely to, harass, vilify or incite hatred or violence against another person or group of persons; or
  - (c) that is covered by paragraph 27(1)(b).

Note: Paragraph 27(1)(b) covers expressions of religious belief that a reasonable person, having regard to all the circumstances, would conclude counsel, promote, encourage or urge conduct that would constitute a serious offence.

While recognising the reasonableness of the intent of this clause, Uniting Communities is concerned that if enacted the clause provides an unnecessarily high risk of it being used by a minority of people in ways that go beyond the decency that the broad community expects as participation in a democratic society.

We strongly believe that any public statement of belief needs to be made within the prevailing laws of the Commonwealth of Australia or relevant jurisdiction, and made within prevailing community standards.

As an example consider the biblical understanding of usury. Ezekiel 18:13 states “*He lends at interest and takes a profit. Will such a man live? He will not! Because he has done all these detestable things, he is to be put to death; his blood will be on his own head.*”

While it could be argued, using this verse, that a statement of belief is that anybody who charges interest be put to death, this is a completely unreasonable belief to present in contemporary Australia, and is contrary to Australian law.

While this example may be regarded as an extreme case, we think it useful in making the point that this clause could be used to justify public statements that can be claimed to be based on religious belief that it will be beyond the realms of contemporary decency. For example, it could be claimed that statements of belief are used to discriminate against many people within our community including women, so parents, people with disabilities and people from LGBTIQ communities. As such the clause is unhelpful. We do not consider the list of behaviours that are excluded in 41(2) to constitute adequate protection against bullying, insulting and other intimidating behaviour.

It is also of concern to us that clause 41 gives primacy to some 'statements of belief' in this legislation over existing anti-discriminatory legislation. We have said earlier in this submission that we regard existing antidiscrimination legislation to be workable and acceptable. Consequently we do not support this clause overriding existing jurisdictional and Commonwealth legislation.

Should this legislation proceed to further stages in the legislative process, Uniting Communities recommends that all of clause 41 be removed from the Bill.

#### **45 Freedom of Religion Commissioner**

- (1) There is to be a Freedom of Religion Commissioner.
- (2) The Commissioner is to be appointed by the Governor-General by written instrument.  
Note: The Commissioner may be reappointed: see section 33AA of the *Acts Interpretation Act 1901*.
- (3) The Commissioner may be appointed on either a full-time or part-time basis.
- (4) A person is not qualified to be appointed as the Commissioner unless the Minister is satisfied that the person has appropriate qualifications, knowledge or experience.

This clause provides for the establishment "of the statutory office of the Freedom of Religion Commissioner at the Commission, and confers functions on the Commission in relation to discrimination on the grounds of religious belief or activity. These provisions emphasise public awareness and education as critical elements in overcoming discrimination."

Uniting Communities strongly supports a clear and ongoing focus on prevention of discrimination and the conditions that give rise to discrimination. Earlier in this submission we made the following comment:

"We also observe that overwhelmingly the people who want to discriminate do so from a position of inadequate understanding about the situation of the people against whom they want to discriminate. We also suggest that personal insecurity is another factor in driving

the behaviour of people who choose to discriminate, particularly through bullying and other “put down” behaviours.”

A “public health” focus to discrimination with a strong focus on prevention of discrimination is strongly encouraged rather than discrimination and debates about religious, and other freedoms being caught up in arcane legal debates about what constitutes freedom of religion or even what constitutes religion. We believe that the Australian community, in general, has a very clear understanding about what constitutes freedom of religion.

We are however unconvinced about the merits of creating a new Commissioner, with responsibility for freedom of religion, in the human rights commission. We understand that this role already exists as summarised by the following comment from the human rights commission website

“Edward Santow has been Human Rights Commissioner at the Australian Human Rights Commission since August 2016. He leads the Commission’s work on detention and implementing the Optional Protocol to the Convention Against Torture (OPCAT); refugees and migration; human rights issues affecting LGBTI people; counter-terrorism and national security; technology and human rights; freedom of expression; and freedom of religion.”<sup>3</sup>

We suggest that the more efficient approach is to allocate resources that would have been spent on a new Commissioner to boost the educative and prevention functions that already exist within the human rights commission.

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<sup>3</sup> <https://www.humanrights.gov.au/about/commissioners/human-rights-commissioner-mr-edward-santow>

## Section 4. Recommendations

### Recommendation 1

#### First Best Option

**That the Draft Bill does not proceed because existing Commonwealth and Jurisdictional legislation is adequate to deal with religious discrimination matters**

#### Other Recommendations (Second Best Option)

### Recommendation 2

We fully support the stated purpose of the Bill : *All Australians, regardless of their religious belief or activity, should be able to participate fully in our society. All people are entitled not to be discriminated against on the basis of their religious belief or activities in public life, and are entitled to the equal and effective protection of the law.*

### Recommendation 3

Delete subclauses 8(5) and 8(6)

### Recommendation 4

Delete clause 41

### Recommendation 5:

That additional resourcing is allocated for public awareness and education as critical elements in overcoming discrimination, and that these resources are allocated through existing human rights commission functions, specifically the current Commissioner with responsibility for freedom of religion and freedom of expression.