

Resolution of Council

17 February 2020

Item 3.4

Proposed Religious Discrimination Bill

Minute by the Lord Mayor

To Council:

The Commonwealth Government's proposed Religious Discrimination Bill risks grave impacts on City of Sydney residents and may undermine the City's capacity to operate as an inclusive and cohesive organisation.

The Bill ventures well beyond the standard approach to protecting individuals from unlawful discrimination. As Professor George Williams says, it seeks "to provide an unprecedented and quite remarkable set of additional rights to religious organisations that are not provided to other members of the community."

In his view, "the law should be aimed at fostering harmony in the community based upon tolerance and respect for different beliefs. Instead, it threatens to sow division and to embolden people to attack others in personal and hurtful ways under the cloak of religion."

The Australian Discrimination Law Experts Group has described the Bill as "deeply flawed" because it "privileges and prioritises religious belief and activity over other protected attributes, and overrides existing protections for women, LGBTIQ+ people and other vulnerable groups."

The Bill will also have unacceptable impacts on employment, the provision of healthcare and the protection of vulnerable groups. The Australian Medical Association has said it would harm patients' rights to access healthcare, risking patients foregoing medical care for fear of judgment by health care providers.

The Government has released two exposure drafts of its proposed legislation. While making a small number of modest improvements, the second exposure draft continues to privilege “religious rights” over other rights and protect religious speech over other forms of speech but also extends the areas where discrimination may be allowed.

Professor Williams says that this is troubling because it allows people to rely on their religious beliefs to make statements that humiliate or intimidate others in the workplace, in school, on public transport or in any setting. For example, a person could rely upon the Bill to make anti-Semitic taunts on a bus. Equality Australia lists other examples of statements that the Bill would protect:

- a boss saying to their employee ‘I don’t agree with your lifestyle because the Bible says homosexuality is a sin’;
- a disability support worker saying to the parent of a child with autism: ‘I believe prayer can cure your child’s disability’;
- a social worker or counsellor saying encouraging a client to pray for healing for their ‘sexual brokenness’.

These examples point to the Bill’s potential impact on Australia’s workplaces. The Australian Industry Group, which represents the interests of more than 60,000 businesses, set out the extent of this impact in its submission on the first exposure draft of the Bill:

“The RD Bill has the potential to increase conflict and disharmony in Australian workplaces. The potential for the provisions of the proposed legislation to be used to advance and protect extremist opinions or behaviour, of whatever kind, in the name of an undefined religious belief should not be underestimated.

“The Bill limits the ability for employers to regulate, respond and manage instances of inappropriate conduct by an employee that may cause conflict with, or detriment to, co-workers, notwithstanding that such conduct may occur when an employee is not performing work.

“It is also conceivable that an employer’s diversity policy that promotes tolerance and acceptance of religious diversity may conflict with some people’s religious beliefs.

“The provisions of the Bill, as drafted, would seriously impede the ability of employers to maintain appropriate standards of conduct and to protect their employees from harassment and discrimination.”

There is a risk the final Bill could directly impact the City as an employer, as well as our contractors, suppliers and partners.

This could make it difficult for the City to manage employee conduct inconsistent with its values of Courage, Collaboration, Integrity and Respect. It could also create conflicts with the City’s Code of Conduct, which prohibits harassment and discrimination.

The City has a clear obligation to oppose the Religious Discrimination Bill in its present form to protect our residents, visitors and employees from its discriminatory impacts.

Recommendation

It is resolved that:

- (A) Council endorse Equality Australia's Freedom from Discrimination Statement, as shown at Attachment A to the subject Minute, which:
 - (i) calls upon the Morrison Government to remove unbalanced provisions in the proposed Religious Discrimination Bill that threaten safe and inclusive workplaces, schools and services, and privilege individual religious beliefs over the rights of patients; and
 - (ii) supports fair and equal discrimination laws that unite, rather than divide, the community; and
- (B) the Lord Mayor be requested to:
 - (iii) write to Prime Minister, Leader of Opposition, Attorney-General, Shadow Attorney-General, the Leader of the Australian Greens in the Australian Parliament, Centre Alliance Senators and Members and Independent Senators and Members in support of Equality Australia's Freedom from Discrimination Statement and raising concerns about the Religious Discrimination Bill as set out in this Minute;
 - (iv) seek the inclusion of the Religious Discrimination Bill and its potential impacts on the agenda of the Council of Capital City Lord Mayors (CCCLM), requesting that CCCLM also write to the parties listed in (B)(i) in support of Equality Australia's Freedom from Discrimination Statement; and
 - (v) in conjunction with Equality Australia, convene a business leaders' round table to consider what action corporate Australia can take, in particular to resist the threat inclusive, harmonious workplaces presented by the Religious Discrimination Bill.

COUNCILLOR CLOVER MOORE

Lord Mayor

Attachments

Attachment A. Equality Australia Freedom from Discrimination Statement

Moved by the Chair (the Lord Mayor), seconded by Councillor Miller –

That the Minute by the Lord Mayor be endorsed and adopted.

Carried unanimously.

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