

To: The Secretary
Government Administration Committee A
Parliament of Tasmania
By email: assemblygaa@parliament.tas.gov.au

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Inquiry into Discrimination and Bullying in Tasmanian Schools

Submission from Rev Dr Angus McLeay

Introduction

Thank you for the opportunity to make a submission to this inquiry. I bring to the attention of Committee members my recently passed doctoral thesis undertaken at the University of Tasmania, titled 'Seeking Clarity' (attached).¹ This research provides current and comprehensive analysis of how Christian schools in Australia manage discrimination in the employment of LGBT+ staff. This submission addresses the terms of reference set out in the Resolution of the House of Assembly (12 June 2024). This submission is made in my own capacity and not on behalf of the University of Tasmania or any other entity.

Summary of Recommendations

If law reform is considered, it should focus on making a right to non-discrimination more accessible in practice, implement a new positive equality duty and be implemented in conjunction with appropriate educational and stakeholder systems.

My Profile

I am an ordained Anglican minister (Diocese of Melbourne) with expertise in international human rights law, theology, political science and religious and organisational sociology. I have worked in a variety of religious sectors, including parachurch ministries, church agencies, and local churches. I also have experience in commercial enterprises, having established a successful food wholesale business (operating for 20 years). I have consulted on a paid basis to private and public sector bodies including faith-based organisations, government departments and advocacy organisations. My published academic work covers the disciplines of theology, political science, sociology, international human rights law and LGBT+ studies.

¹ My research was supported by an Australian Government Research Training Program (RTP) Scholarship as part of an Australian Research Council Project DP200100395: 'Religious Freedom, LGBT+ Employees, and the Right to Discriminate'. The thesis received Senate approval from the University of Tasmania on 28 March 2025.

About my Research

My doctoral research is a new and highly significant study on how Christian organisations manage the intersection of religious freedom and LGBT+ non-discrimination in employment (pinpoint references in the thesis are noted in brackets, such as 1.3.3-1.3.5). The research draws on 46 interviews with senior leaders of 43 Christian organisations in Australia, including some located in Tasmania (1.6; 4.2-4.3). Of the 43 organisations, 25 were secondary schools.

The nearest similar study was published in 2010 and limited to schools in Victoria (1.3.6). Conducted between 2021 and 2023, interviews with school leaders focused on the nature of the school's employment system as it relates to concerns for the expression of religious freedom and the right of LGBT+ staff to non-discrimination (4.2.3; 4.4.2).

Applying organisational sociology to this data, my study identified systemic features and cultural meanings shaping employment practices in Christian schools, such as kinds of policies, views about LGBT+ employees and how the expression of religious freedom related to LGBT+ people, including staff and students (3.4; 3.6). While my research was a qualitative study, I correlated my findings with other sources, indicating relevance to large swathes of Christian - and perhaps other religious - schools (4.6; 10.2).

Key Findings

A central finding from my study is that existing anti-discrimination law is not significantly impairing the exercise of religious freedom (10.1.1). This applies to all Australian jurisdictions, including Tasmania where exceptions to anti-discrimination duties are more limited than most other jurisdictions (1.7.5; 4.3.4).

A second key finding is that most Christian schools do not condone discrimination against LGBT+ employees; rather most support non-discrimination on religious grounds. Two significant caveats to this finding must be noted:

- A class of Christian school, referred to in the thesis as 'Themelic' (4.3.3), have an employment system that is structured to discriminate against LGBT+ people, most evidently on an indirect basis (8.6; 10.2; 10.2.4).
- Other 'mainstream denominational' Christian schools can experience pressure to be discriminatory towards LGBT+ people from their related institutional church (9.3; 9.6; 10.1.3).
- Notably, the degree of pressure on schools to accept LGBT+ discrimination is linked to how theologically conservative the related institutional church and/or leaders may be (9.3; 9.5.1; 9.5.3).

A third important finding is that the attitudes of school leaders about LGBT+ equality may differ, sometimes sharply, from attitudes among institutional church leaders (6.4; 9.3; 9.6). As a result, evidence to inquiries such as this one is prone to distortion because

conservative church leaders can suppress contrary views, or encourage support, within their related schools (10.3.2; 9.5.2). In the case of some schools, such as the Thematic type, there can be much closer alignment of viewpoints concerning how LGBT+ employees are to be treated (8.5; 5.5).

Implications for this Inquiry

My research suggests that it is vital to recognise the diversity of practices and views among Christian schools in relation to LGBT+ non-discrimination, or more broadly LGBT+ inclusion (Appendix C). For example, Thematic schools have an employment system designed to facilitate indirect discrimination against LGBT+ employees, however they can, and sometimes do, adopt a less discriminatory approach to students (8.5.2).

Diversity is also evident when the desired non-discriminatory approach to LGBT+ staff / students within Christian schools departs from that of affiliated church doctrines or leaders (including the administration, referred to as 'umbrella' bodies, 3.3.2.2). Conservative church leaders are disposed towards promoting less LGBT+ inclusive practices and cultures than many of their affiliated schools prefer (2.3.3; 6.4-6.5; 9.3).

On the other hand, in some areas of Christian schooling, such as the Thematic type, a stronger alignment on approaches to LGBT+ people exists between church and school (5.2; 8.2-8.4). Thematic type Christian schools operate a highly distinctive and similar kind of employment system that should be clearly distinguished from most other Christian schools (10.1.2; Appendix C).

As already highlighted, existing anti-discrimination law is not impairing how schools with more conservative orientations express religious freedom. To the contrary, my research indicates that these schools effectively exercise religious freedom (4.4.3; 5.2) albeit in ways that significantly impair the right to non-discrimination for prospective or current LGBT+ employees (5.4; 10.1.2). Yet, religious freedom *is* under pressure from some conservative church institutions that seek to preserve and strengthen exclusionary practices and views in their schools (9.5.2).

Taken together, these patterns suggest that measures to reduce and eliminate discrimination in Tasmanian schools are under-enforced, inaccessible or otherwise constrained by institutional forces. As my research demonstrates, religious institutional pressures and cultural meanings can reduce the salience and effectiveness of anti-discrimination norms and laws (1.7; 10.1).

Towards Reform: Recommendations

Recommendation 1: The accessibility and enforceability of existing discrimination law should be reviewed. Discrimination law, especially as it intersects with employment law, is highly technical and subject to competing narratives and meanings that may undermine its effectiveness or accessibility in some school sectors (1.7; 2.4.1; 10.1.2).²

Recommendation 2: As there is no evidence that existing anti-discrimination law is impairing religious freedom (10.2.5), I also recommend consideration be given to adding a new *positive* duty of equality to the Anti-Discrimination Act 1998 (Tas) (10.3.3). A potential benefit of such a measure is that it would likely protect religious freedom in many schools which seek to be less discriminatory but are under pressure from religious institutions to permit or promote discrimination (9.5.2).

Recommendation 3: Law reform should not be undertaken on its own because legal measures by themselves are likely to be inadequate and may even produce unintended consequences (3.3.2.3; 8.2). Reform should be accompanied by structures that facilitate stakeholder engagement, with attention on students, parents and staff in religious schools, and measures to promote education about the meaning, accessibility and application of the law. These structures should take account of how religious systems can exert pressure in formal and informal ways while facilitating the expression of diverse views, including conservative viewpoints and needs (10.3.1).

² See also Dominique Allen (2025) 'A complex terrain: navigating workplace discrimination laws', *Adelaide Law Review* 45(3), 590-611.