

# PUBLIC

**THE HOUSE OF ASSEMBLY GOVERNMENT ADMINISTRATION COMMITTEE A  
MET IN COMMITTEE ROOM 1, PARLIAMENT HOUSE, HOBART, ON  
WEDNESDAY, 4 SEPTEMBER 2024**

## **INQUIRY INTO DISCRIMINATION AND BULLYING IN TASMANIAN SCHOOLS**

**The committee met at 10.05 a.m.**

**CHAIR** - Welcome to today's hearing of the Government Administration Committee A's inquiry into discrimination and bullying in Tasmanian schools. I thank you on behalf of the committee for your submission.

I'm just going to swear each of you in individually to this hearing today. It's part of our formal processes we need to do. I'll ask you to begin, Mark, please, by introducing yourself, just your name and title and the organisation that you're representing today.

**Mr WARRINGTON** - Mark Warrington, I represent Blind Citizens Australia, Tasmanian Branch.

**Mr MARK WARRINGTON**, TASMANIA BRANCH COMMITTEE MEMBER, WAS CALLED, BLIND CITIZENS AUSTRALIA MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

**CHAIR** - Duncan. could you outline your title?

**Mr MEERDING** - I am Duncan Meerding, Blind Citizens Australia Tasmania Branch President and committee member.

**CHAIR** - Thank you.

**Mr DUNCAN MEERDING**, BRANCH PRESIDENT AND COMMITTEE MEMBER, BLIND CITIZENS AUSTRALIA MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

**CHAIR** - And Nicole.

**Ms McKILLOP** - I am Nicole McKillop, I'm a Blind Citizens Australia member.

**CHAIR** - Thank you.

**Ms NICOLE McKILLOP**, MEMBER, BLIND CITIZENS AUSTRALIA WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

**CHAIR** - I will introduce you to the members of our committee. I'm Anita Dow and I'm chairing the meeting and I'm from the north west of the state. Online, we have Mark Shelton, member for Lyons in the north of the state. Josh Willie, Labor member for Clark, Miriam Beswick, member for Braddon and Kristie Johnston, member for Clark.

I need to make one other statement on behalf of the committee before we begin and you can provide an opening statement. We recognise that during these hearings we may discuss

highly sensitive matters that have deeply impacted the lives of Tasmanians, so this may be a trigger for individuals listening to participating in these proceedings. I encourage anyone impacted by the content manager during this hearing to contact services and support such as Lifeline Tasmania on 1800 984 434, Kids Helpline on 1800 551 800 or Beyond Blue on 1300 224 636.

Would you like to provide an introductory statement?

**Mr WARRINGTON** - Yes, thank you. On behalf of Blind Citizens Australia, thank you for the opportunity to present here today. Discrimination and bullying permeate through our members and resonate and I really wanted to acknowledge the effort it takes for some of our members to appear here today. It does bring up past injustices, so thank you for this and thank you to our members that have turned up under trying circumstances.

I hope the scope of the inquiry also does reflect on the knock-on effect, with discrimination and bullying happening in school, it doesn't end there once someone finishes school and it permeates into the rest of society. Another hat I wear is representing students at the University of Tasmania, many students carry the burden of discrimination and bullying through into tertiary education and elsewhere in life, so thank you. That concludes my opening statement.

**CHAIR** - Thank you very much. Do either have you would you like to make an opening statement?

**Ms McKILLOP** - I would like to make one in camera later, if that's okay.

**CHAIR** - That's fine. Thank you very much for the submission that you provided and thank you for coming in today. I realise that it does take some length to come in, so you're very welcome in the parliament. We're so pleased that you're able to join us in person today.

I was concerned in your submission that you made reference to the fact that you think there's a lack of access to appropriate educational resources across schools and accommodations. I just wondered if you might elaborate that for people that are sight-impaired across Tasmania?

**Mr MEERDING** - I suppose this is a bit of a hard one because one of the things that came up when we're talking about this submission was some of the things are not exactly something that a lot of people volunteer information very quickly or freely to, especially to a parliamentary committee. One thing I think we'd probably recommend is further investigations in another format, possibly. Like, a longitudinal study would potentially be one avenue which actually really delves deep and does very clear qualitative research with large amounts of resources put towards it.

There have been incidents, for example, where students have not been allowed to use scissors in the Education department in the last sort of 10 or 15 years, to my knowledge. I suppose I also have another hat, as well as being president of Blind Citizens Australia, I'm also a designer-maker of furniture and lighting. I also have done international consultancy about education, including at University College of London, and very much see [inaudible 10.11.48 a.m.] sort of concepts, not just in Australia but overseas. I was very lucky. My teachers at university were very open-minded. Not everyone necessarily has that.

For example, you will have students that don't necessarily have the correct tool sets handed to them when they go to school to be able to train, and wood skills or what have you, because there is, I suppose, the concept of people learning the sighted way of doing things in terms of using things. Also, there being a risk-averse factor with some access to the sharper machinery and things like that because of the liability sort of concepts.

**CHAIR** - What sort of representation as an organisation have you made to the Education department or to faith-based or private schools across Tasmania about your concerns about that? Is that something that you do?

**Mr WARRINGTON** - I would say we are limited, we are unfunded, we are volunteers. We do our best to advance causes where we can but we're generally not in a position to really push the agendas on things because we've got to pay our way and live, and stuff like that.

**Mr MEERDING** - We're selective. At the moment, one of the key campaigns - and I'm not going to talk too much about this - is the right to the secret independent verifiable vote, like every other member of the population. That's taken a lot of our energy and I'm sure the parliament is going to hear more about that later. We've been very heavily involved in that. We've also been very heavily involved in supporting Disability Voices Tasmania in other work as well.

Other areas which I think are interesting here is because part of the reason I mentioned my other role - and so I probably should have discussed this with you before, Mark - quite regularly in terms of the intergenerational concepts, I actually think this is more than just the discrimination, bullying that happens in schools. It's across society. And it's not an overt thing necessarily. But, for example, Blind Citizens members have been quite regularly in the past asked by Education department people to come and give presentations about careers during work hours, and it's quite regularly expected that it's done for free. I'm a sole trader so I'm possibly a bit more vocal about that and because I'm not salaried, if I take an hour out of my work day, it ends up being fairly impactful. That sort of concept, I think, if that's happening at the level of the Education department in the low-vision department, as an attitudinal thing, that therefore means that there's a possible misunderstanding of the value of the blind and disabled people's time. I feel like that potential attitudinal thing, whilst it isn't directly related to the precise group that we're talking about here, there could be interesting conversations moving into the future about careers and what blind and vision-impaired people do because that is also a major issue, the unemployment factor afterwards, in terms of attitudinal things. I'm sure you've seen some of the statistics that we put in our submission.

**CHAIR** - Is your experience that there are certain areas of the state where that's worse, or do you have members right across the state in the regions as well, or do you think that you're able to work closely with regional schools?

**Mr MEERDING** - Our committee is across the state. We have members in the north and the south but by virtue of blindness and vision-impairment, people are generally concentrated - this is a general rule, it's not an exclusive rule. Pardon, those probably aren't the right terms. But, it's a general rule that the majority of our members would be in more metropolitan areas like Devonport, Burnie, Launceston, Hobart.

Other things outside of schools could be - even the public transport system is another tangential area that could be discussed at length, especially in the rural areas - but even, for example, in central Hobart suburbs, some of them don't have buses as regularly as they could and that would impact students getting to and from school if they had blind and vision-impaired parents.

**Mr WILLIE** - The longitudinal study you mentioned is probably beyond the committee's resources, but we could make a recommendation to government that they undertake that. Do you have any advice on the terms of reference and the sorts of things that should be looked at? Obviously, the impact on society from discrimination and bullying in schools, would it have an economic focus, a social focus?

**Mr MEERDING** - I think it should be holistic and not just about looking at the discrimination/bullying happening in schools. I'd say to start looking at employment rates and go backwards because I think that's reflective of a very broad problem.

It also highlights a lot of the issues because, for example, even government departments still have a driver's licence as a requirement or recommended criteria, even for disability-related positions. We had a fairly large conversation about this. I think having that as any sort of criteria is a discriminatory practice because blind and vision-impaired people - all three of us got here today and don't have driver's licences - we have resources to get around as much as anyone else does. There are exceptions like chauffeur drivers for parliamentarians or what have you. We're not asking for that, but we're realistic about that so that's actually -

I know that's very - you asked me a question about this, and I answered you with this. You asked something about education and I'm answering with employment, but I think they're too inextricably linked.

**Mr WILLIE** - Yes, I'm interested in it as the shadow treasurer. Our participation rate is well below the national average. There's obviously a great potential here that's not being realised in the workforce.

**Mr MEERDING** - The national average is not acceptable either. It's a big area and it goes back to that attitudinal stuff we were talking about. I think it's attitude or economic, social, and all the other things as well. You could look at a range of different questions.

I understand what you're saying about it not being within the scope of the parliamentary committee, but some sort of academic think group or what have you could do some in-depth analysis because I think it could be part of an overall issue within. I don't think it should be purely concentrated on the discrimination/bullying in school, but that should be front and centre within it because that is part of the core issue here, and then it sort of stems on to everything else, like the attitudinal barriers in the workplace. That's just an example amongst many.

**Mr WILLIE** - That is why I wanted to explore it with you a little bit. We could make a recommendation to government that there's nothing stopping them from consulting with people about some of these issues. I think it's - yes, thanks for that.

**Mr MEERDING** - Part of the reason we were suggesting that sort of thing is possibly necessary is because coming in and talking to four, five, or six people in a parliamentary setting is intimidating. It would be really interesting to get students who are potentially facing

discrimination, bullying already to come into a fairly intimidating setting like a parliament and then make a presentation as opposed to let's do this at a library or somewhere else that's more neutral ground and less intimidating for somebody that may already be facing other issues which would impact on their confidence.

**Mr WILLIE** - Thank you for coming in, I should have said that from the outset. It's really valuable to hear lived experience and for us to understand. I know it is very daunting coming here. Thank you but it is a good segue to my next question, which is on the education system and whether there's been any improvements perhaps from when you went to school. There's been a complete change in the way students are supported at school. There's an adjustment model now. There's quite a lot more education for teachers. All of them have to do a disability module. There's inclusion policy. Has there been any improvement at all through that time or discrimination and bullying and things still sit alongside any sort of structural change?

**Mr MEERDING** - Is Sara online? Okay, because the difficulty here is finding people that had vision impairments when they went to school. My vision degenerated when I was 18-19. What I can tell you again goes back to employment. My employer's initial response was, 'Let's try and make accommodations'. When it came down to the [inaudible 10.21.51 a.m.], I was fired very quickly. I was casual, had my shifts taken, then they asked me to sign a resignation later and then when I didn't, they didn't give me a reference.

It's very clear there are ways around things for getting rid of people with disability in workplaces when it's too much. The part of the reason I was asking about Sara is because Sara I think would be a good - I had a chat with her beforehand and try to paraphrase and - sorry, it's a secondary - she did have a good experience but it sounded like - this is the case with Gemma as well, with her children - the parents have to advocate. The fact that there's an advocate, it's a bit of a roulette.

I'm sure you might have heard of the post code lottery in terms of people being able to advocate for themselves. People from more educated backgrounds are able to advocate for themselves a bit more and that's especially the case when their parents are involved and that sort of flows on to lots of things.

I can't really give you a direct answer as yes or no, whether it's better. I could talk to you about my own personal experience, I did actually get accommodations because I had slow motor skills. A totally different disability, but it was actually quite good my experience at the Education department.

We are aware that it's good, but there could be improvements. It is probably part of the issues I think we're wanting to look at as much broader than just the individuals in isolation of everything else. That's why we're recommending the longitudinal thing.

**Mr WARRINGTON** - Can I add a little bit of personal perspective? My experience - and I suspect for a lot of people, and you alluded to it, Duncan - is that you're generally not diagnosed with a condition. For me, my mother thought I was deaf as a child, as a baby and then growing up through school. I was never good at sports, never had the eye hand coordination, always, the last to be picked.

I think I turned out all right, but that sort of stuff does resonate so much when Nicole asked me - probably a good 12-18 months ago - would you like to come to a blind cricket thing that filled me with dread, team sports, like cricket. I mean it would be welcoming, but the thought of doing that and being involved in a team like that just filled me with dread. I want to reinforce, put a little bit of personal perspective in there and say that these things do resonate.

**Ms JOHNSTON** - Thank you, it's Kristie here. In your submission you talk about the impact of discrimination and bullying in educational settings, in terms of affecting educational outcomes, social inclusion, emotional wellbeing, and then leading to anxiety, depression and loss of confidence.

Duncan, you talked about - it was a lot of luck and a bit of roulette in terms of the access to appropriate educational resources and often the need for parents to be strong advocates. Could you speak a little bit to the importance of organisations, such as Disability Voices Tasmania, in advocating for a more systemic approach to anti-discrimination measures in schools - and, obviously, they have received a cut in their funding recently - to be able to do that. How important is it for organisations and peak bodies to be able to advocate where people experiencing disability don't have the ability to do that for themselves?

**Mr MEERDING** - Thank you for your question. I think part of the reason for the recommendation of the longitudinal study is that the advocacy sector is severely underfunded and under-supported. It is really important to have an independent advocacy sector that is able to keep government and its entities and different arms to account. When Disability Voices Tasmania was underfunded, the entire sector felt it, because it was a unique advocacy group.

I'm the president of Blind Citizens Australia, I've been on the committee for a number of years now, and I do this as a pro bono voluntary position. To expect advocacy to happen by volunteers will no doubt not give you as good a quality as if you had advocacy done by someone doing it as their full-time gig.

Not having that will impact things like this parliamentary inquiry because you don't have the chance for somebody to sit on the phone and start talking to multiple people. That's what we did a little bit, but we had to say, 'Okay, who do we start going through?'

I would really like to reiterate the importance of something like Disability Voices Tasmania to have funding. It's great because it is a cross-disability advocacy organisation. It's something that would be good to be highlighted as something that would impact inquiries like this.

**Ms JOHNSTON** - That's - without putting words in your mouth - a recommendation you'd like to see from this committee. As you said, I want to draw out that, in informing committees like ours, for instance, how important it is for peak bodies and advocacy groups to be able to do that liaison work with memberships and membership bases to inform committees like this. That's incredibly important.

**Mr MEERDING** - Yes, that is probably a good way of putting it.

**Mrs BESWICK** - My husband and I have been walking through what you guys have walked through, so my questions might be a bit more personal. I am really interested in kids who need accessibility. My husband is trying to learn what accessibility he needs with his

vision impairment and it's not like these things are easy to find out, to be honest. As you were saying, parents need to advocate and they may not even know what they need. Has there been improvement of that with the NDIS? Do you see - hear about stories where it's going well or badly? What can you tell us about how it all sort of pans out?

**Mr WARRINGTON** - Thank you for your question. I note that the NDIS has gone through a significant change. Look, I am down the line a bit, in that I'm well nested into my NDIS plan, but I know what you're talking about. At the start, I thought there's no one that can help me do this and anyone who can wants money for it. The best advice I got was to write down as if every day is the worst day you ever had. That was really good advice and I was able to put a really good submission in, application in. I understand that there are now - I'm not sure what the right word is - leads in the community to assist people with their submissions, but I could follow up with information for you on that.

**Mrs BESWICK** - I think it'd be really interesting. I know there's someone on the north-west coast that reached out to me and said they're really struggling with getting the right accessibility tools within the school.

**Mr WARRINGTON** - Yeah.

**Mr WILLIE** - Different schools have different policies with NDIS access and that's a real issue.

**Mr MEERDING** - I also think the NDIS is good, but it also does take the burden of responsibility away from other areas of government, whether it's done intentionally or not. For example, the NDIS should be a bandaid - not a bandaid, that's not the right word - it should be a help, but it shouldn't be a solution. The solution should be making society more accessible. That's where, for example, if documents online are inaccessible. I use a really basic one where I went for - and while this is on my individual experience, it could go back to blind and vision-impaired students trying to navigate bureaucracy to try and get on the NDIS, or navigate bureaucracy to get on something. But a very simple example is when I went for an Australian passport. I consciously sat down next to someone and tried to do it all with my screen reader. It was all really good until I got to one button that wasn't alt text. It was an essential button but I didn't know what it meant. It just said 'button, button, button'. This is the federal government. If the federal government can't get it right, how are we expecting the private sector to get it right? There's actually others, that's just a really minor example. I could bring up a number of them.

In terms of the NDIS, I think the other key issue is that it has, effectively, corporatised the sector a little bit. What happens is people are looking around for assistance, and I was looking around for assistance when my vision was first going. Now, the first question is almost, 'Have you got a NDIS number?'. It's not, 'What supports do you need?'. And that's not a criticism of the not-for-profits because the not-for-profits have lost block funding. It's sort of like whether there's got to be a transitional or an excess sort of block funding or something, I don't know what. Or a review in that sector.

What also happens is, I know, for example, from talking to one person - I won't disclose their name because of their anonymity. But they were advocating, their child was having interpersonal issues with a support worker within the school environment. There was a rearrangement and that was dealt with between the school and the parent. The next year, or

the next semester or something, that support worker was back again and because there's so much reliance on an individual, they were like, 'Well, can we try and organise something?', but it just wasn't discussed. They'd had an in-depth conversation with the student, who was younger. The student had disclosed the issues and they'd said, 'Yeah, well, absolutely, we're listening to you, we hear you', and then they fix it. Next, they flip it around and put it back to the status quo with that support worker - or teacher's assistant, sorry. As a result, the parent, I think, ended up trying to advocate for that to be resolved and the school was like, 'We just don't have the resources to deal with it. This is the situation'. I think there have been situations where NDIS funding has had to step in to then substitute for the support because of the interpersonal issues that have happened. I don't want to necessarily go into much more depth than that because of the anonymity of the person, but the support was substituted and subsidised by the NDIS. I suppose that's the problem we have in Tasmania in general; the thin market which could be another whole inquiry.

**Mr WILLIE** - Just to bring us back to the terms of reference, would you like to see a more consistent policy across schools with access to the NDIS? I know some schools say, 'Well, we're funded at the school gate to take over and NDIS services stop', and other schools will allow therapists and others to come into the school and do things during school time. Would you like to see greater clarity around that?

**Mr WARRINGTON** - Yes, for sure.

**Mr MEERDING** - Yes. Again, not being too prescriptive because the arrangement that happened before meant that person was able to get the access needs they needed when there wasn't the funding there. The issue is maybe also looking at the fact until a universal access model is dealt with, it's going to cost more money for a disabled person to go through school. That's the reality, it is the reality when we go to university because it's the way that things are structured. There are disabling factors that mean it's harder for someone to go through. Making the disabling factors lessened it's going to be more of an individual model and the onus is trying to make sure there's definitely enough resources in the public and the private sector for the students.

**Mr WILLIE** - Like you said earlier, it can be a lottery then in terms of discrimination, can't it, each person along their journey will suffer discrimination because each circumstance is different.

**Mr MEERDING** - We did have conversations with students from both private and public schools.

**CHAIR** - We're going to move in camera now, so I'm going to stop the broadcast to say we now have a witness who's going to provide in camera evidence to the committee. We did note in your submission about the language and things we use as a way of calling for submissions and this committee was actually advertised on Facebook. We note that and will commit to doing some work on the language we use. It is important feedback.

**The witnesses withdrew**

**The committee suspended at 10.36 a.m.**



## PUBLIC

**The committee resumed at 11.02 a.m.**

**CHAIR** - Thanks so much for coming in. We have a formal process we work here but thank you very much. We appreciate you giving us your time. Welcome to today's hearing of the Government Administration Committee A inquiry into discrimination and bullying in Tasmanian schools. Thank you very much for your submission, we really appreciate it. If you could please state your name and the capacity which you are appearing before the committee.

**Ms BOLT** - My name is Sarah Bolt and I am here as the Anti-Discrimination Commissioner of Tasmania.

**CHAIR** - Thank you. Can I confirm you've received and read the guide that was sent to you by our secretary?

**Ms BOLT** - Yes, I have, thank you.

**CHAIR** - This information is covered by parliamentary privilege, allowing individuals to speak with freedom without fear of being sued or questioned in any court or place outside of parliament. The protection is not accorded to you if statements that may be defamatory are repeated or referred to by you outside the parliamentary proceedings. This hearing is public and the public and media may be present. Should you wish aspects of your evidence to be heard in private you must make this request to the committee at the time.

I am Anita Dow, I'm the Chair of this committee. I'm from the electorate of Braddon in the north west. Online is Mr Mark Shelton, member for Lyons. To my right, Mr Josh Willie, member for Clark and Mrs Miriam Beswick, also a member for Braddon and Ms Kristie Johnston, member for Clark.

Before we invite you to make an opening statement, I will make another statement on behalf of the committee. We recognise that during these hearings we may discuss highly sensitive matters that have deeply impacted the lives of Tasmanians and that this may be a trigger for individuals listening to or participating in these proceedings. I encourage anyone impacted by the content matter during this hearing to contact services and support such as Lifeline Tasmania on 1800 984 434, Kids Helpline on 1800 551 800 or Beyond Blue on 1300 224 636.

**Ms SARAH BOLT**, ANTI-DISCRIMINATION COMMISSIONER, EQUAL OPPORTUNITY TASMANIA, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

**CHAIR** - Thank you very much. Would you like to make an opening statement for our committee?

**Ms BOLT** - Thank you. I thought about it just over the last couple of days and changed my direction in relation to a lot of the media that's come out, certainly on the difficulty of retaining teaching staff and other aspects of the education system. I reflected about what it was like when I was at school, which was some time ago and how the sands have shifted so dramatically. Then I thought about the number of years I've been dealing in the role that I am and that also is significant.

It's really been the last decade where there's been a stark change in the landscape within the school setting, from the very traditional sort of discrimination we might have seen in bullying to much more nuanced and complex issues arising. Particularly, in the increased number of emotional and behavioural disorders that have presented themselves. The landscape for a teacher is so troubling in lots of ways because of the complexities that have arisen. Teachers are trained to be teachers, they're not trained to be psychologists and yet the burden upon them has become increasingly difficult to navigate with some really complex areas that relate to behaviours. Also, the whole changing and emerging and very fluid shift of the LGBTIQ[A]+ plus sort of area within the schools from a very young age.

I think it just complicates things so much and particularly if you look at disability, which is always the major area of complaint that comes to us. That doesn't mean it's a major area of bullying or complaint that happens within the context of a schoolyard. The terms of the disability, the breadth of the definition of disability is so extreme you start to deal with where behaviours come in that are diagnosed behaviours but the minute you find yourself as a teacher, for example, having to deal with something that's very problematic and troubling in a classroom, you run the risk of being seen to be discriminating against somebody on the basis of a disability. That creates a sort of attention for the teachers and the department, the students and then the parents.

That's just an opening observation about the complexity of it, which goes far beyond our submission, which is quite dry, really. A lot of the observational things that we see are not dry, they're highly subjective. A lot of complaints that we have are rejected and sometimes they're rejected on the basis that the impost that the parent puts upon the school is so striking that it's not about a disability, it's about a parent needing respite that the school provides when they're trying to deal with someone who's very difficult to manage at home.

We see a lot more than we actually report on simply because a lot of it might be rejected, if that makes sense. It's a bit of a ramble, but it sort of paints a scene that I hadn't really thought about in as much depth related to this committee than I have recently.

**CHAIR** - Thank you very much, Ms Bolt, it's great to have you with us today. You've talked about the pressure on teachers and, in your submission, you talk about the fact that you would like to do more work in Tasmanian schools. I wonder if you would elaborate to the committee what that might look like, what you're currently doing, and how you could improve on that and add value to anti-discrimination training across schools, whether that be with teachers and students or the school community.

**Ms BOLT** - I think it's both. There's two things. If you have disrespectful behaviours and a culture of disrespect, it's a breeding ground for discrimination and bullying. Part of our training is about the need to respect diversity and difference and all sorts of other things that can lead to sort of bullying behaviours. Also, understanding for children even at a young age that there are parameters around your behaviour which are guided by legislation. It's a bit hard to swallow when you're young, but the fact is it still applies.

It equally applies to parents. To be able to work within the parent network would be helpful because a lot of parents don't quite understand the confines that they have as well, and their behaviours, and the fact that they really need to work closely with the school and the teachers, and that we all have rights and responsibilities under the legislation.

We go into schools - we have a community [engagement] and education officer. Sometimes I've been into certain schools and talk to students around racism and what that might look like. Even things like, being wary of how you use your Facebook page and your mobile phone because it can be that something done in jest may well have a strong impact on somebody else.

The more you can get into that respectful behaviours and the expectation to treat people kindly, the more difficult it is to discriminate against someone or to bully them. That's something that we work on. I've always been a great champion for kindness and respect as two virtues and the more we can push that in the school arena the better, I think.

**CHAIR** - Have you made representation to the Minister for Education and the Minister for Disability Services about wanting to be more involved in Tasmanian schools? I note that you talked about resourcing of your organisation and I wondered what representations you've made. Could you provide us with any more information about that?

**Ms BOLT** - There haven't been any formal representations. I speak to the secretary of Education quite a bit about these things. Like, there's a respectful schools program, but that's an opt-in. To me, it shouldn't be an opt-in, it should be mandatory. Some schools choose to go down that pathway, whereas others don't. That uniformity would be a better way to deal with respectful behaviours - if it was uniform across the whole state

**CHAIR** - Do you understand why that's an opt-in program?

**Ms BOLT** - No. I could only speculate that it would probably be fairly hard to enforce if a particular school didn't want to put the effort and the resources into that.

**CHAIR** - Yes. Thank you.

**Ms JOHNSTON** - This is probably a bit of a Dorothy Dixier, but this committee is tasked to inquire into the legislative framework around discrimination and how that applies in schools in particular. Could you perhaps speak to the principles of the objectives of the *Anti-Discrimination Act* and why that act is so important in an educational setting?

**Ms BOLT** - The whole preface of the *Anti-Discrimination Act* is really about fostering an inclusive and tolerant, kind society where everybody is able to go about their ordinary business and feel safe in the process of doing that. It also covers so many areas of discrimination, across education, health, accommodation - the whole gamut - and has so many different attributes. It also enables a positive discrimination in certain areas, with exceptions, so you can have a balanced playing field for people who may be a little bit more disadvantaged.

It's incredibly subjective, unusually so for legislation, which is often not. The act always - and this is where people trip up with it - the act has very little, in fact, it has no interest in what the intention of the respondent was. It only has an interest in the impact that actions, words, behaviours, policies or procedures have on an individual or a group of individuals.

It is a rights-protection piece of legislation. One of the good things about it is the fact that it is a beneficial piece of legislation; it doesn't have an interest in punitive outcomes. People often don't quite get that. They think it's all about punishing people, whereas it is very

restorative in its nature. The idea is to restore relationships that may have broken down rather than send people to purgatory.

That is completely different to the purpose of the tribunal, which actually hears matters and makes determinations on questions of law. The commissioner only has an administrative function in administering the legislation and dealing with questions of fact, but not making a determination as to a piece of law.

**Ms JOHNSTON** - Thank you. This committee has received a number of pro forma submissions and submissions from organisations, in particular faith-based school organisations, which suggest that there needs to be a change to the *Anti-Discrimination Act*. They speak to a concern about the *Anti-Discrimination Act* limiting freedom of speech and freedom of expression of religion. Can you perhaps expand on whether that's a legitimate concern in your view, the current provisions, and what perhaps a change in legislation might look like in practice?

**Ms BOLT** - It's covered in the submission in relation to section 51, which allows for the exemption around religion, religious beliefs, and employing people. The difficulty is, as was highlighted in there, that there's very little case law about the application of section 51 and how far it should go. We talk about the fact that somebody who might be employed as a groundsman but doesn't have a strong link to a religious faith might be either terminated or not employed because of that. Whereas the act, we would interpret that it should be more narrowly confined to the teachers within a school who are having an impact upon students. Similarly, the example in relation to marital status - living with someone which is not in a religious union being problematic in some instances.

The argument was around the religious discrimination bill. I was pretty opposed to that and made submissions to that effect because it went so far to enable discrimination to happen on the basis of religion. I also think that, to be frank, when there's a change of the current Archbishop, which is happening, there may be a lessening of tensions, depending upon who is appointed to that role because it is a very conservative view that has been taken over the last sort of 20 years. That may soften depending upon the belief of the person who is in that role.

**Ms JOHNSTON** - Can you talk to the committee about the interaction between the different attributes? For instance, if I understand some of the submissions correctly, they're wanting to seek a religious exemption on, as you talk about, the grounds person, for instance, maybe not subscribing to particular religious faith but wanting to apply. That's clearly an attribute on religion and religious belief. If the religious organisation was discriminating on the basis of another attribute, for instance marital status, sexual orientation, all those kinds of things, how do those two or three attributes actually interact in terms of the application of the act? There might not be an easier answer, sorry.

**Ms BOLT** - I don't think there is an easy answer, in the sense if somebody is behaving in a way that goes outside the tenets and the beliefs of that particular organisation, then they would say that they could use the exception to discriminate against that person. That's really putting it as bluntly as it is. That is what has led to a lot of the issues around the LGBTIQ[A]+ students who come out while they're at school. They may have started off at that school as a child with no idea about what their sexual or gender orientation were going to be. Then, as they emerge into a youth or young person, their position changes. That then becomes, you no longer fit within the ethos of this religious institution. They would say this, and then therefore

you could discriminate against this person by either not accepting them, or treating them different, or perhaps, even being a bystander while other people within that school - as has happened to people - subject that person to discriminatory and bullying behaviours.

**Mr WILLIE** - Obviously, we have three different schooling sectors, we have the state system, Catholic and independent schools. I am interested whether you notice any trends in each sector, or any differences in the way they deal with these sorts of issues, how they handle complaints through your office.

**Ms BOLT** - We were just talking about that this morning on these emotional and behavioural disorders. If you were to look at people in disadvantaged areas, financially disadvantaged, they are much less equipped to be able to assist their children in getting the help they need. You will find a lot of people in private schools who have much stronger support mechanisms around them to be able to get the help they need to be able to control certain behaviours, as opposed to children who may be from a disadvantaged family, where the family itself is dysfunctional and the child is trying to navigate that, plus trying to deal with the school system and then starts to play up behaviours. If a behaviour is unchecked, it simply emboldens that behaviour to sometimes become worse.

I think the way teachers and the expectations of the way students treat teachers in a private setting is sometimes more rigid than it might be in some of the public schools. A lot of it depends on the strength of the principal in those situations and also the support that the principal has around them to be able to maintain those expectations of respectful behaviours. Something that would happen at Hutchins might be completely different than something that happens at Jordan River, for example. They are just completely different people. Then you'll get the religious schools. Some are very much more fundamental than others and some are more relaxed in how they treat certain situations. I don't think there is a one case fits all in relation to them. So much of it is either geographical, economical, educational.

**Mr WILLIE** - This is something I came across quite a lot when I was shadow minister for education, where families - and you are probably aware of some of these cases - believed their child was being excluded because of disability, and it was being stated as a different reason. Is there any comment on those sorts of scenarios and whether there are any weaknesses in the act?

**Ms BOLT** - The act is pretty sound in relation to what a disability is, but I think there have been situations - and I go back to how I opened - that parents - and I don't mean this in any way to say all parents - but there have been some parents that will almost label their own child with a disability and then have extraordinary expectations as to what that school should do to make that child thrive. Then, if the child doesn't thrive, the blame gets put on the school for 'not giving my child the opportunities and the individual learning programs that they need'. That all comes down to resourcing as well; whether you've got someone who needs a teacher with them one-on-one for the entire day versus someone who just might need a little bit of extra help.

**Mr WILLIE** - It's all dependent on the individual circumstances?

**Ms BOLT** - It is.

**Mr WILLIE** - There's no systemic issue there?

**Ms BOLT** - The systemic issues, usually because the ones in relation to behavioural and emotional disorders, they're so complex to navigate. The ones that are very clear are where people have the apparent disability that is easily identified, either with mobility issues, sight issues, very easy learning disability like dyslexia or something that can be managed. What happens in those situations is that sometimes the school will say, for a child who's got mobility issues and their classroom is up a set of stairs, the parents may be unhappy about that because it's very difficult for the child to get there. You would look at whether you could either make a relocation of that particular classroom, but if that was impossible, the defence lies in the legislation that it's unjustifiable financial hardship to make those accommodations. The question is always: is there a reasonable accommodation that can be made to enable that child to thrive in the way it should. And if sometimes there simply isn't, then it just isn't.

**CHAIR** - Mr Shelton, do you have a question?

**Mr SHELTON** - Yes, and it goes to your experience over time. I explained to the committee this morning, I've got a little grandson with Down syndrome who went through Bracknell in Prep. The grade 6's looked after him, and a very small cohort of people and assistants around him. It was great. I was always concerned about him moving into high school, about whether he would undergo that positivity again. Thankfully, I can tell you in grade 7, he and his brother, it has been great to this day, so I'm really pleased.

But my question goes to the change of attitude in schools towards the traditional bullying. When we went to school, a little kid was picked on or something and that attitude is out there in the community and within the schools. There's that question: are you seeing it improving from that typical bullying sense? And then if you could comment, my issue at the moment is what's happening on social media and that sort of thing, and how we get that under control as far as the psychological aspects of bullying people that are reading it. Two issues. First, do you see a change, have you seen an improvement typically? And then, where do we go with social media?

**Ms BOLT** - Thank you for the question. As for the latter, I don't know where we go with that because that's the runaway train. Certainly, in relation to bullying and discrimination about very overt disabilities, I think that there is a trending down from that. You don't see it as much. People are much more accommodating for people who have a difference, a visual difference, which used to be, 20 or 30 years ago, that would be the thing that you would pick on. If somebody was Down syndrome, you'd sort of make nasty comments, or if somebody had physical deformities, kids would make fun of them. We don't get that many complaints, really, about that so much. It's much more of the other sort of discrimination about people, that we're starting to see people being treated differently because of the more hidden disabilities. Certainly, social media and Facebook are often the catalyst for that sort of behaviour to really impact upon children that we see. I mean, there's been so many reported cases of young people who have taken their own life because every time they look at Facebook there's something nasty or they feel they've been missing out, if that is the weapon of choice to make people's lives terrible when it comes to just bullying somebody.

I say there is a difference between bullying and discrimination. Bullying is something that can just happen by simply saying, 'I just don't like you', for whatever reason, you know, 'You can't be our friend, I don't want you to be our friend'; whereas the discrimination has to attach to an attribute. They are quite different, and we can't deal with the bullying. Certainly,

often bullying, even someone saying, 'Oh, I just don't like them', if you dig behind that, there's usually an Achilles somewhere: 'I don't like them because there is ...' something that links to an attribute. If that is at all helpful.

**Mr SHELTON** - Thank you.

**CHAIR** - Do you have any other questions, Mr Shelton?

**Mr SHELTON** - No. I'm really interested in what Sarah has to say because she's been involved in this for a significant time and I'm interested in her experiences, basically. Any anecdotal stories you have, Sarah, that you can impart to the committee would be very much appreciated from my point of view.

**Ms BOLT** - Thank you. I could talk all day, so I won't do that.

**Mrs BESWICK** - We've had people coming in and talking to us about universal accessibility and attitudes of society, how to be more inclusive and where the changes are that would make the most difference. What's your view?

**Ms BOLT** - I saw Harper [the guide dog] outside before and Harper is a classic example of where there is a deficit in the legislation. Harper sits firmly and safely in the legislation as it stands, but the increased use of therapeutic animals, animals for a therapeutic purpose, is not covered at all by the legislation. It's something that we have been saying again and again. That is a real area where it's been demonstrated in the court system, for example, the use of therapeutic dogs, reading dogs that they introduce in classrooms and other animals that give comfort to a child is something that a school could simply say, 'You can't bring it in', because it doesn't fit within the legislation. That is one area where a simple amendment to the legislation could make life a lot easier for people, not only within the school arena but generally.

**Ms JOHNSTON** - In your submission, you talk about the Catholic letter that went out recently, *We Are Salt to the Earth*. In it, I think you've taken from the website of the Archdiocese a statement about why the letter was sent out, and it acknowledges in there that the letter covered what they describe as 'well-known Catholic teachings'. Can you talk a bit about how difficult it might be where religious beliefs change over time and how that interacts with the *Anti-Discrimination Act*? The letter itself, as I'm sure you're aware, covered a whole range of views about marital status, sex and gender identity, women's reproductive rights, all those kinds of things. Those are views that have changed for the Catholic Church over time, for some sections of the Catholic Church, not all sections. How difficult is it to apply the *Anti-Discrimination Act* in those particular circumstances, where there's a fluidity in beliefs and values?

**Ms BOLT** - Yeah, I think that it is difficult and there's always such a tension and a clash between any form of very conservative view, regardless of where that comes from. The *Anti-Discrimination Act*, particularly if you do, and in those situations you would, rely on section 51 of the legislation: that it is within the religious teachings and religious beliefs. Conversion therapy is another one where there's a clash of views. As I said, I think the only way I could answer that question is that it will be difficult when you have someone who is at the helm who is very, very conservative. We see it globally how the Catholic Church, through the Vatican, has changed its views over time and it always depends upon the ethos of the person who's at the top.

Our act doesn't really enable us to sort of proactively go in there and do our own motion, investigations into what might be happening in a Catholic school about these things and it does rely on complaints coming in and then it can be dealt with. To be frank, sometimes we've had quite a lot of complaints within the Catholic sector and a lot of those have resolved through the conciliation process, simply because of a different view of understanding that's heard within that conciliatory sense.

**Ms JOHNSTON** - You spoke earlier in your evidence the framework for the act looks at the impact of the discrimination, rather than the intent of the person perhaps performing that discriminatory act. Does that change in terms of the way it might be applied so, that whilst someone can express their views, it's the impact of those views expressed or the act of discrimination that is what the *Anti-Discrimination Act* is concerned about? Does that change in terms of the school setting how people might be experiencing discrimination influences in Catholic schools? The impact of that, as you say, if someone has made a complaint.

**Ms BOLT** - Not really. It is what it is. If somebody feels offended, intimidated, ridiculed, for example and that's a prohibited conduct, then it stands. If someone is directly discriminated against and subjectively for them they have suffered a detriment as a consequence of that, it stands. There really isn't a defence around the fact 'I didn't mean to hurt that person's feeling'.

You have to be reasonable, too, in that sense. I wouldn't accept any complaint just simply on that one basis. If there was a plethora of other things around it. Let's just say, for example, a classic area of concern, particularly, again for teachers, is the change around non-binary pronouns. In that example, if somebody said, 'My pronoun is they' and the teacher referred to them as 'he' and then the next time corrected themselves, that's a completely different circumstance than the teacher who just absolutely is rigid in their view that, 'I will only refer to you as she or he.'

Because it's a very fluid area and people need to have, in my view, the right to get it wrong sometimes and then make it right.

**Ms JOHNSTON** - That speaks to the restorative kind of aspects too.

**Ms BOLT** - Yes.

**Ms JOHNSTON** - We want the better outcome of everyone being respectful and kind rather than the punitive response.

**Ms BOLT** - Absolutely.

**Ms JOHNSTON** - On that response line, you talk in your submission a lot about the fact that a lot of complaints go to conciliation and are dealt with then. The few that don't, often go to the tribunal and sometimes the complainant will withdraw because of the cost associated with that. Can you expand on some of the issues with that? I'm sure it's not confined to the educational setting, but it's obviously impactful there.

**Ms BOLT** - We talk about the model litigant guidelines and also, the other issues around the indemnity, of being granted indemnity. That has been an issue of concern and I have spoken to the then chair of the committee and the latter chair, Ginna Webster, about the granting of



indemnity at such an early stage in the process because it creates an enormous disparity - if you have two employees, one of them is granted indemnity who has the expertise and the whole weight behind them of the Solicitor-General's Office and the other person is floating around in no-man's land. Invariably, it's the teacher who is in that position and the principal who will be granted indemnity.

My argument has been and has always been - I think of the 42 applications for indemnity, 42 of them were granted - at the very early stage, whereas you would think you don't need indemnity when you're in a conciliation process where you are trying to remedy and heal that relationship as opposed to fracture it further. It's premature at that point to have indemnity granted. It would be much easier to restore those relationships if it wasn't.

Then again, often it's a different story when a matter is going to a tribunal and there is a veracity of evidence and the credibility of witnesses and all of those things that are going to be put toward a court. That I think is when the panel should turn its mind to whether indemnity is granted to one person over another.

**Ms JOHNSTON** - In terms of the model litigant, obviously you've provided us with some correspondence on the length of delays that the Education Department has imposed on conciliation and also on hearings. Can you speak to the impact of that on complainants and if there's a deterrent value on pursuing complaints?

**Ms BOLT** - Absolutely. I think the act is very clear. We have six months to send it off to tribunal. We can get extensions. Once a complaint has been accepted, it will be set down for conciliation within six weeks. For both parties, frankly, if you have something that's languishing in the legal department of the education or health or whoever it happens to be - education is not an orphan in all of this - it sits over both the respondent and the complainants like a dark shadow for a long time, where people really just want to have some form of resolution. In one matter, it was 208 days or something to get a response when the conciliation is the next day.

It is stressful. It fractures relationships. It digs people into a deeper hole. People's memories fade. Often people just either want to get back to work or have something to move on to, or to have an apology. It's astounding at how many conciliations the heartbeat that makes it work is the apology. If you're waiting for half a year for someone just to get into the room, that is not satisfactory. I've written to the secretary about that and have had correspondence in return. Hopefully, they will look at it rather than becoming combative in the first instance, simply to say, 'Yes, let's just get together and have a chat'. That's effectively what it is.

**Ms JOHNSTON** - Do you view that as an issue about prioritisation for the Department of Education or is it a matter of simple resourcing that they can't put the resources into providing responses in a timely manner? Or do you think it's more of a cultural issue, that this is not a high priority issue for us?

**Ms BOLT** - I can't answer that, really. It would be pure speculation as to where it sits in the priority. But I would hope that relationships with either parents, students, or staff would be a priority to resolve.

**CHAIR** - In your submission, you list a number of policy level commitments you'd like to see made and I guess as recommendations to this committee. They're on additional

resourcing - which we spoke about before - for your role to undertake specific discrimination and sexual harassment programs in schools. It's about learning about discrimination and prohibited conduct permanently being implemented into the curriculum, starting from primary school, targeted training for teachers relating to discrimination and prohibited conduct, safe and effective official reporting mechanisms for students and improving access to diversity inclusion supports, as well as mental health supports in schools. Did you list those in order of priority, or are you able to elaborate on the importance of any of those further for the committee? What would you like to see implemented in the first instance?

**Ms BOLT** - I think they're all pretty important.

**CHAIR** - They are.

**Ms BOLT** - Some of them may be more of a priority in certain sectors rather than others, but I think I'd give them pretty much equal weight.

**CHAIR** - There's nothing further you'd like to inform the committee about each of those?

**Ms BOLT** - Not particularly. Again, we could talk all day about those things. I think respectful behaviours is the key. I think support for teachers is the key. I think that parents having a much greater accountability around their children and engagement with schools would help. I think people having an understanding of the impact of discrimination and bullying. There are teachers who I am aware of who have been rendered almost incapable of returning to work. People underestimate how debilitating that can be, particularly for someone who's young and enthusiastic and going into what they hope will be their career.

Also, the increased violence in some schools, which I know I've spoken to the secretary about is concerning. I don't know what measures should be put into place to curb that, but I don't think that very bad antisocial behaviour should be allowed to hide behind the broad definition of disability.

**CHAIR** - Thank you. That's a really important point. The last question I was going to ask you was a number of people that have made submissions to this committee have called for a review of the *Anti-Discrimination Act* in Tasmania. Ms Johnston highlighted a few of those before, but you've also mentioned that within your submission to us. I wondered if you'd elaborate on the changes that you'd like to see. You say that if a wholesale review wasn't to be implemented, whether there were amendments that you see should be made. The inclusion of autism dogs and support dogs in legislation was one of those, but are there others that you think are important to highlight on the record for the committee?

**Ms BOLT** - A recent letter that was sent to all the members of parliament included a matrix of 136 recommendations to change. I wouldn't want to rattle through all of those, but some of the ones regarding disability are very clearly about therapeutic devices not being a way to describe a dog or some other form of help. One that's completely irrelevant, but maybe not to this particular hearing, is about the introduction of an attribute for domestic violence to give people protection in that area if they find themselves terminated or other things because of that. There is a plethora of them and some of them relate to the complaint mechanism itself.

Also, to be brought up to speed with some of the other states that deal with almost elder abuse and things which are also incorporated within the human rights act in the ACT in particular.

Right to protection - and that includes for younger people - we're still way behind in some of those things. That's adult safeguarding legislation.

**CHAIR** - You've talked about some other jurisdictions and examples of that and us, and our progress in Tasmania not being great. With those policy initiatives that you've also detailed in your submission, are there other examples from other jurisdictions that you would bring the committee's attention to or provide us some advice around?

**Ms BOLT** - Not that relate purely to this because otherwise I'll take you down a pathway you'll want me to get you out of quickly because it is broad, comparing states to states. Other states are certainly moving ahead and, as we refer to, we're one of the last states to be seriously thinking about having a human rights charter, notwithstanding the fact that it was first put forward nearly 20 years ago.

I think that would bring a lot of changes. If we had a human rights act in Tasmania, then every policy procedure that the education department was to look at in relation to how children were educated, their rights and responsibilities, would be done with a human rights lens. That would take care of a lot of issues around the LGBTI[QA+] thing, the race issues and disability - they would all be encompassed in giving that a much softer approach that would benefit everybody who may otherwise be impacted.

**CHAIR** - Is there anything else that you'd like to leave with the committee before we finish up our hearing today?

**Ms BOLT** - No, just other than to say thank you for it happening. I think it's really timely and it's necessary and anything that makes going to school for teachers and children safe, enjoyable, useful, and purposeful has to be a good thing because too many people are slipping in the cracks because of antisocial behaviours and just getting lost in a slipstream.

**CHAIR** - Thank you very much. We recognise that you're a very busy person and we thank you for not only your very detailed submission, but what you've presented to us today and thank you for the good work that you're doing across Tasmania.

**Ms BOLT** - Thank you for your time.

**CHAIR** - And before you leave us, I need to let you know that you've been protected by parliamentary privilege while you've been presenting to us this morning. Once you leave the table, you need to be aware that that privilege does not attach to comments you might make to anyone, including the media, even if you're repeating what you said to us during your contribution today.

**Ms BOLT** - Thank you.

**The witness withdrew.**

**The committee suspended at 11.46 a.m.**



## PUBLIC

**The committee resumed at 12.00 p.m.**

**CHAIR** - Welcome to today's hearing of the Government Administration Committee A's inquiry into discrimination and bullying in Tasmanian schools. Thank you very much for your submission. If you could, please state your name and the capacity in which you are appearing before the committee.

**Mr BROHEIR** - My name is Christopher Broheir. I'm appearing on behalf of the Australian Christian Lobby.

**CHAIR** - Thank you, Christopher, and can you confirm that you received and read the guide sent to you by the committee secretary?

**Mr BROHEIR** - Yes.

**CHAIR** - This hearing is covered by parliamentary privilege, allowing individuals to speak with freedom without fear of being sued or questioned in any court or place outside of the parliament. This protection is not accorded to statements that may be defamatory, are repeated or referred to by you outside the parliamentary proceedings. This hearing is public, the public and media may be present, should you wish aspects of your evidence to be heard in private you must make this request to the committee at the time.

I need to make one further statement on behalf of the committee, and then I'll invite you to make an opening statement.

The committee recognises that during these hearings we may discuss highly sensitive matters that have deeply impacted the lives of Tasmanians. This may be a trigger for individuals listening to, or participating in, these proceedings. I encourage anyone impacted by the content matter during this hearing to contact services and support such as Lifeline Tasmania on 1800 984 434, Kids Helpline on 1800 551 800 or Beyond Blue on 1300 224 636. Before I invite you to make an opening statement, I'll introduce the other members of our committee.

My name is Anita Dow and I'm the Chair of the committee, I introduced myself to you before. I have Vica Bayley, who is the member for Clark, Ms Kristie Johnston, who's also the member for Clark, Miriam Beswick, who is the member for Braddon alongside me here at the table and Mr Josh Willie who is the member for Clark also. Online, we have Mr Mark Shelton, who is a member for Lyons in the north of the state. We have one apology for our committee today. I would like to invite you now to make an opening statement if you would like.

**Mr BROHEIR** - Thank you, committee. I'd refer the committee respectfully to the Australian Christian Lobby submission, submission number 69.

This committee was convened to look at bullying and discrimination broadly in Tasmanian schools. The Australian Christian Lobby (ACL) does not support and abhors any bullying in schools. However, we have a concern that this committee, given some of the speeches made in parliament, has the potential to incorrectly and improperly target faith-based schooling in Tasmania.

Faith-based schooling is one of the quickest growing sectors of education in Australia and in Tasmania. It provides the best and safest education provision for most students. The

ACER report referred to in the submission of the Christian Schools Australia and the Australian Adventist schools points out that bullying and harassment is less likely in faith-based schools. In that same submission, there's an extensive inquiry into Christian and faith-based schools, and 81 per cent of users of those schools find they provide safe and supportive environments.

This is also supported by the extensive consideration of the *Sex Discrimination Act* amendments by the Australian Law Reform Commission. In paragraph 3.50 of that report, given this was from Equality Opportunity Tasmania, that complaints for faith-based schooling in Tasmania were low and, similarly, there's evidence of that from Queensland.

In some of the speeches there was reference to a speech or a pastoral letter written by Archbishop Porteous discussing, inter alia, the amendments to the *Sex Discrimination Act*, et cetera. Any suggestion that that was bullying or discrimination or harassment is profoundly wrong. It further ignores the fact the learned Archbishop was speaking to a political issue that's protected by the implied freedom of political communication from the Australian Constitution.

Finally, this committee should have due regard to section 46 of the Tasmanian Constitution, which is the only constitution in Australia which contains the fundamental human right of freedom of religion. It was a precursor, actually, because section 46 preceded the International Covenant on Civil and Political Rights (ICCPR). The High Court has said in the case of new faith that the freedom of religion is the paradigm freedom of conscience. When the committee comes to consider this issue, it should consider it broadly. It should consider that human rights are not limited to the right of non-discrimination, but fundamentally incorporate the freedom of thought, conscience and religion. It should look at the evidence that faith-based schools provide the best education and the most supportive education for students. Thank you, committee.

**CHAIR** - Thank you, Christopher. Thanks for your views on this matter and those that were expressed in your submission. You make reference a number of times to speeches made in the parliament. I wanted to draw you back to the terms of reference. Is there anything that you would like to leave with the committee on where the Australian Christian Lobby would like to see policy or legislative changes on bullying and discrimination in schools? That is the heart of what this committee is examining. We've heard from a whole range of people from different backgrounds over the last couple of days. Our intention is to continue to do that, to make sure we hear broadly from across our community about the changes that need to be made across our schools and to support teachers and ancillary staff and students and school communities. Does the ACL have any recommendations or thoughts they would like to leave with the committee on policy changes, really getting back to the terms of reference of this committee?

**Mr BROHEIR** - We would support the recommendation by Christian Schools Australia. They've set out a detailed recommendation for an amendment which recognises the importance of Article 18 in the ICCPR. They spelled that out in the submission. We would support that.

**Ms JOHNSTON** - Thank you, Mr Broheir, for your submission, it's very informative. In the executive summary you state that ACL abhors bullying and supports proper steps towards its eradication. As Ms Dow has articulated, this committee is hearing evidence in relation to discrimination in schools. You'd be aware that the *Anti-Discrimination Act* has a number of attributes which people are not to be discriminated against. Does the ACL have a position on discrimination more broadly and is that something that it also abhors?

**Mr BROHEIR** - Could I ask for some clarification on that question, please? Are you asking what our views are about discrimination across the society? Not just in education, is that what you're asking?

**Ms JOHNSTON** - The *Anti-Discrimination Act* outlines a number of attributes which make it unlawful to discriminate against a person on the basis of those attributes. Is that something the ACL supports in both the education context and more broadly?

**Mr BROHEIR** - The fundamental answer to that question is to go back to the basis of all anti-discrimination acts in Australia, which is the right of non-discrimination in the ICCPR. All legal discussion of human rights flows from the ICCPR and behind it the Universal Declaration of Human Rights. What Australia has done is sought to legislate the right of non-discrimination in anti-discrimination acts. What Australia hasn't done well is to incorporate the other fundamental human rights that are part and parcel of the ICCPR, particularly article 18, the freedom of thought, conscience and religion. Australia, apart from Tasmania, has not done that well. There's no positive action for that human right in Australia. That's one of the issues that's being canvassed in the religious discrimination act discussion, which was in the federal parliament but now has stalled.

When you come to consider the issue of anti-discrimination, you have to consider it against all the other rights: the freedom of thought, conscience, religion; freedom of association, et cetera. Because what we have, human rights aren't like bits and pieces you can pick out from a supermarket. Human rights are one indivisible whole. The way the anti-discrimination acts try to deal with that - not very well, but try - is by building in balancing clauses. For the constituency that we advocate for, the faith-based Christian constituency, there are balancing clauses built into all the anti-discrimination acts which allow faith-based institutions to operate according to their faith and provide a balance to the *Anti-Discrimination Act*, because it is recognised that faith-based institutions have views that may be different from other institutions and that has to be built in. Otherwise, you're not following a fulsome model of human rights. Tasmania is the one exception because we have section 46 of our Constitution, which says that the freedom of thought, freedom of religion is a fundamental right to Tasmanians. That's a background to your question, Ms Johnston.

We would argue for strengthening of the balancing clauses because the current movement is to whittle down those clauses, best seen in the attempt to take out the balancing clause from section 38 of the *Sex Discrimination Act*. That is an attack on human rights.

**Ms JOHNSTON** - Further to that, we heard in your reference beforehand, from the Christian Schools Network yesterday, a proposal for amendment to the Tasmanian *Anti-Discrimination Act*. Can you give me an example of where our current *Anti-Discrimination Act* has caused a barrier to any faith-based school from acting in a certain way?

**Mr BROHEIR** - The classic example is the fact that Archbishop Porteous had to go through something like a two-year process with the Equal Opportunity Commissioner before that complaint was abandoned when he wrote a pastoral letter to his flock in Catholic schools in Tasmania. The fact that that was able to be considered by the Equal Opportunity Commissioner shows that there's some imbalance. In my view, in my submission, that imbalance flows from section 17 of the *Anti-Discrimination Act*, which is the provision that

not just proscribes vilification, but proscribes anti-offence and, in my submission, it goes too far.

The High Court has said that, in discourse in Australia, discourse must be robust and, in that context, I think it's a case of *Coleman v Power*, the High Court was saying that there's no right not to be offended. Offence, reacting to what someone says, is part and parcel of robust human interaction, and it's part and parcel of the expression of the human right of freedom of thought, conscience and religion. Once you start restricting that, you are restricting a fundamental human right.

**Mr BAYLEY** - Thanks for your submission. We heard some evidence yesterday from Sam Watson who, as a young man, was coming out in a Catholic school in the north west of Tasmania. As you describe it, a communication was put out through his school that was talking about the marriage equality debate. He spoke very passionately and articulately about how that made him feel as a young person in a school environment, a young person that's already got a number of different vulnerabilities. He felt less equal than his peers because of that communication.

You've raised it in your submission and you've raised it in your opening statement about Archbishop Porteous's communications to his 'flock' and made the allegation that we have claimed that that is bullying and discrimination. I'm not sure it's exactly the case that we've called that communication itself bullying but we absolutely have called it a misuse of his power, of his position and misuse of the schools' resources and a misuse of access to students. That's made quite evident, I think, by the concern raised by some schools. We know that different Catholic schools dealt with that communication in a variety of different ways. Some tried not to send it home with students and some sent covering letters that articulated a slightly different perspective, or a different context. Do you accept that it's dangerous to use students and the school network to communicate issues of complexity and political nature, to be using students, essentially, as the vehicle for delivering that message?

**Mr BROHEIR** - No.

**Mr BAYLEY** - What would you say to Sam, who felt unequal to his peers because of the message that was being sent home? It's nothing, necessarily, about the message that the Archbishop may put out in the newspaper or preach in his sermon, but he's using a school to disseminate that message. What would you say to Sam about his feelings and his vulnerability at being used as a vehicle to deliver that message?

**Mr BROHEIR** - Well, I haven't read Sam's evidence. I've read his submission and there are a number of factors you have to take into account.

Number one, we are not going to build a perfect world. We have to live in an imperfect world.

Number two, unless you say that people of faith cannot express their identity by speaking out their views, that means that you choose, as legislators, to suppress the deepest identity of a significant number of Tasmanians and say, 'You will keep quiet'. You cannot stop an exchange of ideas. The committee has to [inaudible 12.19.25 p.m.] into this important issue. You can't just say to people, 'You can't speak', because if you do that you are suppressing a human right



and you are doing that in cohort, or in harmony with dictatorial regimes flowing right through the world. It is the dictatorial totalitarian regimes that choose to do that.

**Mr BAYLEY** - I think that's a little bit of overreach, isn't it? No one is saying -

**Mr BROHEIR** - Excuse me, let me finish my answer please and then you can comment. You have asked me a question and I assert the right to answer it fully.

Thirdly, in an imperfect world, if you look at what Sam Watson did, he left that school and he went to a school where he felt supported. Now, the fundamental point that bishop Porteous makes is that if you choose to go to an institution set up by parents with their money, often, or with a significant amount of their money, which exists for a particular purpose - in this case Catholic schools, to propound a Catholic ethos in life. Now if you find you can't live by that situation, you have the perfect right to go somewhere else. Sam Watson exercised that right. He went to Friends and he found he was supported. That is the way we deal with things in an imperfect world which has to cater for everybody. That is what I would say to Sam Watson.

**Mr BAYLEY** - To clarify, if I may, Chair. In an imperfect world - I guess we shouldn't be accepting that bullying and discrimination are part of an imperfect world. I wasn't asserting that the Archbishop shouldn't have the freedom of speech to articulate his views. He's a very powerful and prominent person. He's got plenty of vehicles by which he can distribute those views. I was articulating that using students and the school system to disseminate those views is inappropriate and an abuse of power and it puts those students at risk and makes them feel less equal. That was Sam's experience.

Sam, I would put to you, was very lucky. He's clearly a very articulate, talented and impressive young man. He went from a Catholic school in the north west of the state to an exclusive private school in the south of the state and was a boarder. Clearly, his family had the resources to do that. Clearly, he had the personal capacity to move away from home in order to get the education and the environment he needed. Not everybody in the Catholic school system has those resources, has a family that is able or prepared to do that. There could well be many Sams out there still within the Catholic system who haven't had the capacity to exercise their right to change schools because they don't have the resources and yet suffer the discrimination and the lesser sense of worth as a result of the kind of communications that the Archbishop disseminated.

**Mr BROHEIR** - What's your question?

**Mr BAYLEY** - I was correcting your allegation we are saying that the Archbishop shouldn't articulate his views. We're saying that it shouldn't be through the school. I put to you again, about Sam: what you would say to those Sams that remain in faith-based schools, feeling discriminated against, feeling lesser than their peers because of the views of the Archbishop or others?

**Mr BROHEIR** - I didn't know that the committee had reached a view on this, Mr Bayley, you are saying, 'We are saying', I take it you are asserting - you seem to be asserting that the committee has reached a view before the hearing has concluded. Is that the case?

**Mr BAYLEY** - No, that's not the case.

**CHAIR** - I think there are a number of assumptions being made about the work of the committee. What our task is at the moment, Christopher, is to hear from a broad range of people across our community and their views on this topic. They're certainly hasn't been any view reached by the committee or any recommendations made by the committee. That's something that I wanted to make a point of. You've made reference to speeches in the parliament that were made prior to this committee being established. The work of this committee is that we know we have quite a large membership. We have a couple of our members that aren't here with us today.

Our intent is certainly to hear from a wide range of views. I believe, and Mr Bayley will probably correct me if I'm wrong, but he is talking specifically about his view on things. This committee is certainly looking more widely at things. I think you've made some assumptions in your submission, I see as well, that we've narrowed the scope of this committee's work. That is actually not right either. I wanted to make sure that you were clear about that as well and about what our task as a committee is.

**Mr BROHEIR** - In that case, I'd invite Mr Bayley to rephrase his question and put it in, as Sir Humphrey says, the perpendicular pronoun.

**Mr BAYLEY** - I'm happy to move on.

**CHAIR** - It's time we moved on from this point. Ms Johnston has another contribution.

**Ms JOHNSTON** - I wondered if you could speak to a challenge for your organisation, and I'm assuming it might be a challenge, where you're representing faith-based school and the morals or the values or the beliefs of those faith-based schools vary according to denomination, but also according to schools. To give you a clear example, as Mr Bayley gave beforehand with the dissemination of the Archbishop's most recent letter to schools, some Catholic schools chose not to send that home. Some chose to send it home with a covering letter stating that was not their belief and others simply sent it home. Can you speak to that challenge and the diversity of views that perhaps your members hold?

**Mr BROHEIR** - To clarify, Ms Johnston, I'm not representing Christian schools. That's a cohort that we are particularly interested in. Second, in my submission, what you have outlined seems to be an indication of a system working well, where there is a plurality of views and some Catholic schools chose to say, 'Okay, we won't send that out'.

Some, as you said, chose to send out with the covering letter. Some chose to send it out. That's a system that works well in a pluralistic society. Now, if this committee wants to have a greyer society where everybody speaks the same thing and there's no plurality, then go for it, but do not pretend you are trying to be democratic. Do not pretend you're trying to implement the holistic view of the ICCPR of human rights.

Be open that you are seeking to impose one ideological view on the whole of Tasmania, contrary to the views of most Tasmanians. One gauge of that is the tremendous support for faith-based schooling that came out in the submissions. Overwhelmingly, the submissions are saying faith-based schools are safe places. Now, you can choose to ignore that, but be upfront, do not pretend you're trying to be democratic.

**CHAIR** - I think this is a democratic process and it's set up by the parliament and I would hope that it's a democratic process. I can assure you that it will be a democratic process Christopher.

**Ms JOHNSTON** - Thank you. Does it concern you then that there is a concern that those schools who did not send out a letter or who sent out a covering letter with it would face ramifications from Catholic Education or the Archdiocese? Does that concern you? Because you spoke about the importance of plurality? Does it concern you then there is an attempt to impose a certain view on what is a very broad church within the Catholic Church?

**Mr BROHEIR** - What is the concern, what's the evidence please, that any of those schools are being are being pressured by Catholic Education?

**Ms JOHNSTON** - That's correct, that there was a pressure felt by principals in Catholic Education schools to send out the letter or face repercussions through a professional development process.

**Mr BROHEIR** - What's the evidence of that? Has there been repercussions?

**Ms JOHNSTON** - Where we are in the process of gathering evidence and my understanding from speaking to people in the community is that there is that process, and that will come through. We can't disclose all our submissions we've received in confidence but would that concern you if that had occurred?

**Mr BROHEIR** - Yes, we talk a lot about concerns, but this committee has to work on evidence. The Catholic Education system has been around for a long time. The bishop is perfectly entitled as the Archbishop, as the ultimate head, probably, I'm not sure how the legal system works in in the Catholic realm. Certainly, in the concept of the magisterium that they have, the Archbishop carries the responsibility and therefore the right to speak. Now, if some schools have decided not to do that, they're still operating. I haven't heard and in terms of any public evidence that any principals have been sacked, et cetera.

If in the authority structure of the Catholic Church, accepting that the bishop had the right to send it out and if some schools chose to not to do that, well, they should expect someone to say look, 'You should have sent it out', but it if it didn't happen, it didn't happen. It would seem to me that any sort of disapproval has been very mild because no one's been sacked. You can't, respectfully, expect a system to operate with a certain authority structure, for someone to disobey that structure and then, if they feel some concern, so be it. What you have to work on is the evidence, and the evidence is not here that there has been any repercussions in any serious professional sense on anybody. All you can put to me is a concern. I can't answer that because you haven't put to me any evidence.

**CHAIR** - Thank you, I'm going to ask Mr Shelton, our other member who's online, if he has any questions.

**Mr SHELTON** - I don't have any questions at this time.

**CHAIR** - Thank you. Mrs Beswick did you want to -

**Ms BESWICK** - No, it's alright. I think that's fine.

## **PUBLIC**

**CHAIR** - No-one else? Well, thank you very much for presenting to our committee this morning. Is there anything to end the committee's proceedings that you would like to leave with us? I think you have made some pretty clear points.

**Mr BROHEIR** - No, I thank the committee.

**CHAIR** - Thank you.

**Mr BROHEIR** - Thank you.

**CHAIR** - All right, before you leave us, I just need to let you know that once you leave the live broadcast that you need to be aware that privilege does not attach to the comments that you may make to anyone, including the media, even if you are just repeating what you said to us today in this forum. Thank you very much and yes, thanks for presenting to our committee.

**Mr BROHEIR** - Thank you and God bless you.

**The witness withdrew.**

**The committee adjourned at 12.32 p.m.**