



## Submission - Religious Discrimination Bill

Religious Discrimination Bill – Second Exposure Draft

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Submission type: Non-Profit – Atheist Foundation Of Australia and Sydney Atheists

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The Atheist Foundation of Australia and Sydney Atheists are organisations that represent atheists and other people without religious beliefs across the country.

Our aims include:

- To encourage and to provide a means of expression for informed free-thought on philosophical and social issues.
- To safeguard the rights of all non-religious people.
- To serve as a focal point for the community of non-religious people.

We put forward this submission with the hope that it will lead to a society in which everyone can live harmoniously. In providing this submission, we aim not only to safeguard protections for non-believers but also those who also hold religious beliefs, as these people could just as easily fall foul of the proposed legislation depending on their degree of religiosity.

Overall, the Religious Discrimination Bill appears to be very weak in protecting those who are irreligious or moderately religious. There is also a sense of double standards, in that some religious people and institutions are permitted to hire staff, enrol students, serve or treat clients/customers/patients, and rent properties on the basis of their religious beliefs. Conversely, there is no provision that people of no religion can insist or prefer to hire staff who are secular, give preference to customers or students who are atheist, or refuse to rent out properties to those who are of religious persuasion. Thus, point 20 and point 21 in the explanatory notes are not well served.

Some key specific concerns are raised below.

### Concerns arising from the summary of amendments to the bills since the first exposure draft

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1. Religious bodies are now expressly able to give preference to persons that share their religion (compared with people not of that religion).

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This presents a double standard, as secular or atheist bodies, are not provided with the right to give preference to persons who share their non-beliefs in religion compared to people who are of religious persuasion.

A more extreme body of a particular religion could likewise discriminate against persons who are more moderate in that religion.

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2. The Bill now expressly provides that religious bodies do not discriminate by engaging in conduct to avoid injury to the religious susceptibilities of adherents of their faith.

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The Bill does not expressly provide that non-religious, secular or atheist bodies do not discriminate by engaging in conduct to avoid injury to secular susceptibilities of adherents to



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secular, rational or atheist lifestyles. It presents a double standard – in that there are no protections for bodies and individuals who do not subscribe to the beliefs of religious entities, for example, the LGBTIQ community.

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3. Religious hospitals, aged care facilities and accommodation providers can take faith into account in staffing decisions. This includes giving preference to employees of the same religion as the relevant facility (when compared with people not of that religion).

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There is no provision for secular and atheist hospitals, aged care facilities and accommodation providers to take non-religion into account in staffing decisions and to give preference to employees without religious convictions. If religious hospitals, aged care facilities and accommodation providers receive any taxpayer-funded support, they should not be permitted to give preference to employees of the same particular religious beliefs as the relevant facility. Indeed, regardless of their funding sources, they should not be allowed to perform preferential or discriminatory actions at all.

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4. Religious camps and conference centres will now be able to take faith into account when deciding whether to provide accommodation, in accordance with a publicly available policy. This includes giving preference to people or groups who are of the same faith as the camp or conference centre.

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As with religious hospitals, aged care facilities and accommodation, there is no provision for non-religious camps and conference centres (such as the Sydney International Convention Centre) to take non-faith into account when deciding to provide accommodation and to give preference to people or groups who are secular or atheist. This presents a double standard, as non-religious camps and conference centres would still be obliged to provide accommodation to those belonging to religious groups.

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5. The conscientious objection provisions now expressly make clear that they do not permit discrimination (but relate to rules that apply to health practitioners at work). An objection must be to a procedure, not a person. The list of health professions has been narrowed to medicine, midwifery, nursing, pharmacy and psychology.

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This could have severe and detrimental impacts on individuals who have limited access and choice of health services and health practitioners, such as those living in rural or remote areas. If the health practitioner is the only one in the area and refuses to provide treatment or services on the basis of their religious beliefs, patients could suffer greatly. Apart from the obvious problem if a pharmacist refuses to provide emergency contraception because of their religious beliefs, it is conceivable that a breast cancer survivor could be denied breast reconstruction because the local health practitioner considers it is “God’s will” and that she should learn to live with her altered appearance.

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6. The Bill now makes clear that a court will now need to consider whether a person of the same religion as the religious body or person could reasonably consider the act to be in accordance with the doctrines, tenets, beliefs or teachings of that religion.

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This suggests that the behaviour of a person who professes to be of a certain religion will be protected if they can find someone of authority in that faith to support them. However, the same behaviour from a secular or atheist person would not be acceptable and would be considered discriminatory or illegal. This presents an unacceptable double standard.

The statement regarding a court’s consideration also calls into question the consistency within a religion. If for example, we were to ask ten people of a particular religion what “God” is, or



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what various scriptures meant, or what set of specific beliefs the religious group holds, we would likely receive ten different answers.

### Concerns arising from the explanatory notes of the second exposure draft

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7. Point 5: All Australians, regardless of their religious belief or activity, should be able to participate fully in our society.

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By allowing religious persons or institutions to choose who to employ, serve or enrol on the basis of religious belief, this Bill restricts those with lesser or no religious beliefs or whose lives do not conform with particular religious tenets. It prevents people from participating fully in society.

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8. Point 7: The Bill aims to ensure all people are able to hold and manifest their faith or lack thereof in public without interference or intimidation.

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However, when religious people manifest their faith by protesting outside of clinics that provide abortion services and intimidate patients with pictures of foetuses, or impose their faith on others by publicly preaching or evangelising, this serves to intimidate people who are not of these particular faiths. The Bill does not provide any protection to the latter.

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9. Point 8: This Bill will bring legislative protections for religious belief and activity to the same standard as those already afforded under federal anti-discrimination law to discrimination on the basis of age, disability, sex, sexual orientation, gender identity, intersex status, family responsibilities, marital or relationship status, pregnancy or potential pregnancy, breastfeeding, race, colour, national or ethnic origin, descent or immigrant status.

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Many religions do not accept sexual orientation outside of heterosexuality, gender identity other than cis-gendered identity, or de facto relationship status. This Bill would legally protect individuals who might invoke a religious defence in their denouncements or discrimination against LGBTIQ individuals, women with children who work and individuals in de facto relationships or same-sex marriage. These are some of the most vulnerable people in our society

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10. Point 9: The Bill is intended to promote attitudinal change, to ensure that people are judged on their capacity and ability, rather than on generally unfounded negative stereotypes that some may have about people who hold certain religious beliefs or undertake certain religious activities.

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- a) The bill says nothing about promoting attitudinal change towards those without religious beliefs. Further, there is no protection for those who are recipients of a religious person's negative attitudes towards them. We do not consider it acceptable that a person's negative attitudes based on their religious beliefs towards others should be protected.
- b) The statement at Point 9 would suggest that *some* people *may* have assumptions about others. What are the statistics for this? What assumptions are valid or invalid? Why should a bill appease such undefined terms?



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11. Point 31: That acting 'in good faith' in accordance with religious beliefs or religious tenets is not discriminatory.

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We strongly disagree with this, as it can serve to intimidate people whose lives do not conform to these religious beliefs. We consider that the intention does not matter. To say "I acted in good faith" is not a reasonable defence in discriminating against others. The outcome is that the recipient of these religious declarations or actions is offended and/or intimidated. The outcome is a critical point.

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12. Point 32 states "does not discriminate under this Bill by engaging in reasonable conduct intended to meet a need arising out of a person or group's religious belief or activity ..."

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We disagree that a person does not discriminate by engaging in 'reasonable conduct' intended to meet a need arising out of a person or group's religious belief. This is very broad and could easily allow legally protected discrimination against those who do not subscribe to the person's or group's religious beliefs. Further, a more extreme religious group could well deny or intimidate a less religious group.

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13. Point 33 states that it is unlawful to discriminate on the ground of religious belief or activity in the areas of work, education, access to premises, the provision of goods, services and facilities, accommodation, the disposal of land, sport, membership of clubs, etc.

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However:

- a. There is no protection when a religious group discriminates against others in the same areas. For example, a Christian church refusing to hire out its premises to a Tai Chi or yoga class if they deemed those activities to be heretical.
- b. As stated in the point (4) above under the 'amendments' section, there is a double standard if religious groups are permitted to hire out their facilities and accommodation to those of the same faith, but secular groups cannot give preference to those who are atheist, rationalists or non-believers.

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14. The frequent use of the phrase "in good faith" appears to be a convenient clause whereby an individual can use religious beliefs as an excuse to vilify others.

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There is nothing to stop someone disingenuously professing a religious belief to allow themselves to say insulting, harassing or intimidating things. At point 39 of the explanatory notes, it states: 'This will ensure that the ability of people to simply express their genuine religious beliefs in good faith, without malice is not restricted by the operation of any Australian anti-discrimination law, so long as such statements do not harass, threaten, seriously intimidate or vilify a person or group'. This statement appears to allow constant low-grade vilification that can be highly damaging. An example would be a religious person constantly telling a single mother that she was immoral, or that she would not go to heaven. It opens up to legal dispute contradictory statements. It allows discrimination, and surprisingly, it legislates that the religious can moderately 'intimidate or vilify' persons or groups.

The points raised above highlight just small portions of the Bill that we see as anathema to a tolerant and cohesive and society. Whilst this bill apparently endeavours to empower some forms of some religions, it will also empower any and every current and potential cult. This bill is quite likely to cause new, and possibly extreme sectarianism, the likes of which we have never seen before in this country. Rather than social cohesion, it will enable new tribalism causing virtual ghettos.



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This Religious Discrimination Bill will likely bring about a situation whereby people will come to mix only with like minds. Frighteningly it may reinforce confirmation bias, whereby people of a particular belief system will only hear the same things over and over again, with no meaningful challenge to their thinking.

It may encourage cognitive dissonance whereby people of a particular persuasion will make excuses in their thinking for obvious inconsistencies, inconsistencies within their scriptures, between their scriptures and observations, and inconsistencies between their scriptures and the outside world. Religious isolation will likely lead to social isolation and breed contempt by the isolated, toward others.

The Atheist Foundation of Australia considers that this proposed Bill seeks to empower the more extremes of religion at the expense of those who are moderately religious or those who have no religion.

A fair, equitable, just and secular society would not permit new legislation to be passed which would allow for more injustice, bigotry and discrimination.

As such, we advocate that the Religious Discrimination Bill be withdrawn.

Atheist Foundation of Australia and Sydney Atheists