

QUESTIONS ON NOTICE – Diversity Council Australia

POINTS OF CLARIFICATION:

DCA would like to clarify two important points that were raised in the Hearing:

1. It is important to note that religion is a protected attribute under the *Fair Work Act*. While we agree that there is a gap in NSW law, there are existing protections for religion in federal workplace law.
 2. The submission we presented to the Committee drew on DCA's research and our submissions to the federal government's recent inquiries into freedom of religion bills.
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DCA RESPONSES TO QUESTIONS ON NOTICE

Question from Ms Mihailuk

Ms TANIA MIHAILUK: Are you able to provide the Committee with the details of exactly which religious organisations are currently members of Diversity Council of Australia on notice?

Ms ANNESE: Absolutely.

DCA RESPONSE:

DCA has a wide variety of members from organisations that represent people of faith, and no faith. A full list of DCA's members is available on our website at:

<https://www.dca.org.au/membership/current-dca-members>.

Question from Mr Singh

Mr GURMESH SINGH: *What about the perception of harm? I will give a much better example. A Sikh article of faith is a ceremonial dagger. If an employee working alongside someone who wears a ceremonial dagger felt unsafe should their rights supersede the right of the person to wear their article of faith to work?*

Ms ANNESE: *That is a good question. We actually talk about this. I would like to take that one on notice because I am trying to struggle with the detail. I would like to take that on notice because I know we have reflected on that particular type of scenario but I would like to get back to you.*

DCA RESPONSE:

The Full Report of DCA's *Creating inclusive multi-faith workplaces* provides the following advice to our members about ensuring inclusive practice is applied to workplace uniform considerations.

Content confidential subject to further consideration by the Committee

DCA is a member-based organisation and much of our research is made available to DCA members only. As this report is a DCA member resource, we would request that the Committee not publish this excerpt on their public website.

The publicly available resources are available here:

<https://www.dca.org.au/research/project/creating-inclusive-multi-faith-workplaces>.

Question from The Chair

Ms ANNESE: *Most religious expression will not cause harm, but some can cause harm.*

The CHAIR: *Some can, okay. We have heard evidence from other witnesses over the three hearing days we have had that an expression of their religious tenets and beliefs is inimical to freedom of religion, in their view. I am trying to reconcile those two propositions, to be frank. I hear you say that you would propose a review of the Act. That is not what is before us and we only know what is before us at the moment. There is a bill that proposes to protect religious freedom in all its attributes: not only having those beliefs but the practice of belief. I am trying to reconcile your proposition against what is defined by the bill to be freedom of religion and what other submitters are telling us is an expression of freedom of religion. I do not expect you on a Friday afternoon to have the answer here with you, but would you take on notice the question about how you would propose that this bill or this Committee could go forward? You are agreeing that there should be religious freedom, but you are in some way curtailing or narrowing that in a way that does not sit well with the evidence that we have had from some of the other submitters. I am happy for you to comment on it now, but please take it on notice.*

Ms ANNESE: *Very happy to take that on notice.*

The CHAIR: *I am really curious about how we might strike that balance. In my own personal view, I do not want harm to visit on other people. But I hear very clearly from the evidence that religious practice is very much their identity and the way they practice what they do in the workplace as well as outside the workplace. So you will take that on notice?*

Ms ANNESE: *Yes.*

DCA RESPONSE:

DCA cannot provide legislative drafting advice. However, as set out in our submission, we believe that the principles of inclusion are a useful framework for balancing protections for people of faith and no faith, and protections of other human rights. In our submission we also include this section from our *Creating Inclusive Multi-Faith Workplaces* guide as another useful guide to for the Committee and Parliament.

BALANCING RELIGION WITH OTHER HUMAN RIGHTS AT WORK

A common question we receive at DCA is how to handle situations where someone's religious beliefs, challenge another person's belief or identity, especially if this has an impact on the needs of the business. There are no easy answers, but the principle of inclusion – ensuring that all employees are respected, connected, and able to contribute and progress – can help navigate some of these situations. In practice, aspiring for inclusion means:

1. STARTING WITH MUTUAL RESPECT.

Inclusive organisations are ones where a diversity of employees are respected. When you encounter a situation where it appears that two ideas may be in conflict with each other, a good

point to start from is by ensuring that all employees are treated with respect. In most cases, starting with respect enables there to be a sensible compromise.

2. WELCOMING RELIGIOUS BELIEFS BUT RECOGNISING THAT WORK IS NOT THE PLACE FOR PROSELYTISING – UNLESS YOU ARE EMPLOYED TO DO THIS.

Inclusive workplaces welcome and encourage religious beliefs and expression, but religious expression shouldn't involve proselytising at work (unless that is the actual job).

3. SEPARATING RELIGIOUS BELIEFS FROM RELIGIOUS EXPRESSION.

Many people in Australia have deeply held religious beliefs, but expressing those beliefs in a way that is harmful to other people could breach anti-discrimination laws, and may also not be respectful in a workplace context.

4. RECOGNISING THAT COMMUNITY EXPECTATIONS ARE CONSTANTLY SHIFTING OVER TIME.

At various times in history, religious beliefs were used to justify a range of practices including slavery, prohibitions on interracial marriage, and the criminalisation of homosexuality. But today, thankfully, the views and expectations of the community have since shifted.

Excerpt from DCA's *Creating Inclusive Multi-Faith Workplaces* infographic, available at: https://www.dca.org.au/sites/default/files/multi-faith_infographic_final_accessible.pdf.

Question from The Chair

Ms ANNESE: *DCA's Inclusion@Work Index is the piece of research that I am referring to, because that is where we measure across nine demographic areas the workplace experience of Australians across the labour market every two years.*

The CHAIR: *Could you take me to an endnote that that would all be encompassed in?*

Ms ANNESE: *Yes, I will just get Ms Dunbar to find that.*

Ms DUNBAR: *Number 4.*

The CHAIR: *Great, so that is publicly available?*

Ms ANNESE: *Yes.*

The CHAIR: *Is there anything further that you would like to provide to us for the Committee to consider?*

Ms ANNESE: *DCA has produced multi-faith guidelines for employers on creating cohesive workplaces with people who are religious and non-religious. That could potentially be really useful, because we do talk in that about striking that balance between religion and other human rights.*

The CHAIR: *Okay, I would welcome that if you would like to bring that back on notice.*

DCA RESPONSE:

Some of the DCA research that is relevant to the Committee includes:

- [Creating inclusive multi-faith workplaces](#) provides guidance to Australian organisations about making workplaces inclusive for everyone including how to deal with a range of common faith-related queries, and principles to help balance issues where conflicting rights might intersect.
- [Class at Work](#) which found strong evidence that people from self-identified lower classes experience more exclusion, discrimination and harassment at work than people from higher classes.
- [Intersections at Work](#), a joint project with Pride in Diversity, that looked at the unique workplace experiences experience of culturally diverse LGBTQ workers, including those with faith backgrounds.
- [Inclusion@Work Index 2019-2020](#) surveyed a nationally representative sample of 3,000 Australian workers to find out how inclusive Australian workplaces are for a diversity of employees, how this has changed over time, and what impact inclusion has on performance and wellbeing.

The full list of DCA research is available on our website: <https://www.dca.org.au/research>.

DCA is a member-based organisation and much of our research is made available to DCA members only. However, infographics and synopses are available publicly.

Question from Ms Mihailuk

Ms TANIA MIHAILUK: *If I can just ask you—and, look, you can take this on notice. I would like to know the number of the research studies and papers that you do over the course of a five-year period. How many specifically out of the number that you do that look at the discrimination that an employee of one of your member organisations, for example, might—should they experience some discrimination based on their faith or based on the belief that they are not able to practice their faith or that they feel some vulnerability at their workplace? I do not know if you have conducted that type of research, but I would be keen to know that sort of research. I would also like to know how broad your research is and what sort of parameters you use; so, whether your research is beyond your membership base. Are you conducting phone interviews, private interviews or face to face interviews? Are these voluntary anonymous surveys that people are participating in? Can you provide that sort of detail? I appreciate that you might not be able to respond to that now, but I would like to see that.*

Ms ANNESE: *I am happy to take it on notice because we do quite a lot of research. We probably produce three significant pieces every year that we put out. Not all of them relate to religion because we look at a whole bunch of—*

DCA RESPONSE:

In the last five years DCA has produced 23 independent research reports or D&I guides for members. These have covered a wide variety of topics including culture and faith. The methods that we use to conduct research differ depending on the project goals. Some of the research techniques we have used include: literature reviews, online surveys through survey panels, online surveys distributed by convenience and snowball sampling methods, interviews, focus groups, think tanks, and research pilots.

Question from Ms Mihailuk

Ms TANIA MIHAILUK: *So, how do you reach out to businesses, for example, in Bankstown? Are they surveyed, for example? That is what I am asking you—your methodology there. How do you reach out? Do you do telephone interviews? How do you reach out to the labour market beyond your member organisations?*

Ms ANNESE: *For the Inclusion@Work Index we have a survey that we administer broadly using—I have to get back to you with the exact nature of how that gets administered across the labour market, but we can certainly take that on notice and get back to you. I am very happy to reassure you—*

DCA RESPONSE:

The methodology was developed and implemented on the basis of ongoing consultation with and feedback from the project's Expert Panel. It consisted of the following key steps:

- In-depth review of industry and academic research to investigate how to define and measure workplace inclusion.
- Development of a draft survey of 70 questions with questions focusing on measuring team inclusion, team and individual outcomes, and diversity-related demographics.
- Pilot of draft survey in a large organisation and subsequent statistical analysis of the pilot sample data set to select final 50 survey questions on the basis of their ability to generate findings that were academically rigorous, of practical use to industry/organisations, and covered key inclusion-related themes (i.e. Respected, Connected, Contributing, Progressing) and key demographics (i.e. sociodemographics, job and organisational demographics).
- Administration of 2017 survey by Polity Research to a nationally representative sample of 3,000 Australian workers (through a research-only survey panel).
- Review of 2017 survey to refine for its second iteration. An Expert Panel of leading academics and practitioners was once again consulted to seek feedback and advice, along with the DCA members that had participated in the Inclusion@YourWork member Index in 2017. Consultations focused on testing how helpful and appropriate each of the 2017–2018 survey areas were for measuring inclusion as well as which key demographic areas the survey should include.
- Administration of 2019 survey by Polity Research to a nationally representative sample of 3,000 Australian workers (through an anonymous, research-only survey panel).

You can read the full detailed methodology in the full report:

<https://www.dca.org.au/research/project/inclusionwork-index-2019-2020>.

Question from Mr Latham

The Hon. MARK LATHAM: Okay. Have you looked at the experience of religious people at all?

Ms ANNESE: Yes. We do in our *Inclusion@Work Index*, yes.

The Hon. MARK LATHAM: No, but in your research there about—

Ms ANNESE: *In Out at Work?*

The Hon. MARK LATHAM: Yes.

Ms ANNESE: That was one of the reasons why we wanted to look at the intersection between—in our *Intersections at Work* research that we did this year. Yes, we did look at that.

The Hon. MARK LATHAM: What did that show?

Ms ANNESE: That the experience of LGBTQI+ people is diverse and that not everyone has the same—

The Hon. MARK LATHAM: No, no, no. I thought you said you looked at religious people.

Ms ANNESE: People of religion? Again, I would have to get back to you with what that specific research revealed about religion.

The CHAIR: Mr Latham, are you happy for this question to be taken on notice?

The Hon. MARK LATHAM: If you could table the report, that would be handy.

Ms ANNESE: Yes, we are happy to table the report. But I will say that it is the *Inclusion@Work Index* where we really measured it and in that we noticed that people from minority religions did experience higher than normal levels of exclusion in the workplace.

DCA RESPONSE:

As detailed in our submission, the 2019-20 *Inclusion@Work Index* found that employees from non-Christian backgrounds experience exclusion at significantly higher rates than their Christian and non-religious colleagues.

Employees from non-Christian backgrounds were roughly 30% more likely to be ignored at work, miss out on work opportunities, or be left out of a work social gathering, 40% more likely to have had incorrect assumptions made about their abilities, almost 60% more likely to have felt excluded, and about 50% more likely to have experienced any form of harassment or discrimination than their Christian, or non-religious colleagues.

In the past 12 months at my organisation I have experienced....

