

**Submission
No 36**

EQUALITY LEGISLATION AMENDMENT (LGBTIQA+) BILL 2023

Organisation: Faith NSW and Better Balanced Futures

Date Received: 14 April 2024



WITH:



***For the attention of:
Legislative Assembly Committee on Community Services***

RE: Inquiry into Equality Legislation Amendment (LGBTIQ+) Bill

Thank you for the invitation to provide comment and perspective from the Faith Communities of NSW, in reference to the provisions of this Bill.

Faith NSW, together with Better Balanced Futures (BBF) as research partner, brings together various faith communities of the people of NSW. Our faith leaders work respectfully with one another, and with all levels of government and political leaders, on issues that matter to people of faith. During COVID, BBF was the go-to point for the government and health department to liaise with faith communities – and our strong advocacy played an important, recognised role in providing health and wellbeing to so many, as we wrestled with the pandemic.

Faith NSW and BBF represent our ongoing multi-faith collaboration, engagement, advocacy, and commitment to providing opportunities for faith to flourish in NSW, recognising the invaluable contributions both personal faith, and the faith communities, make to our diverse multicultural society.

NSW is one of the strongest multicultural communities in the world, with census data showing that 60% of NSW people identify with a religion, with many new migrants also sharing a strong faith. We celebrate the rich contribution that multicultural and multifaith communities bring to NSW, coming together and learning to live harmoniously. We are committed to ensuring all people of faith have the freedom to practice that faith, and live safely and securely, in our remarkable home of Australia – creating a more cohesive society that promotes better understanding, respect and acceptance, enriching our strong multicultural NSW.

We represent the broad, diverse, multicultural and multifaith nature of the faith communities in NSW – and we welcome the opportunity to create this submission.

Thank you for your consideration.

***Murray Norman
CEO, Better Balanced Futures
CEO, Faith NSW***



ENDORSEMENT & AGREEMENT WITH FREEDOM FOR FAITH SUBMISSION

Throughout this submission, we make reference to the submission created by The Right Reverend Dr Michael Stead, and Mr Mike Southon, from Freedom For Faith (FFF).

Faith NSW and Better Balanced Futures give our full endorsement and agreement with the contents of the FFF submission.

GENERAL COMMENTS REGARDING OUR POSITION ON THIS BILL

The Faith Communities of NSW are highly concerned by the contents of this Bill, which aims to entrench a controversial gender ideology in NSW law. One of the results of this Bill will be to expose children to controversial gender ideology and remove the caring influence of parents and family upon the decisions of their children. Family and community are a vital element for every faith and culture in Australia. This Bill undermines and disempowers caring parents and families from the ability to have open, honest, and loving conversations with their children, providing guidance around important and life-altering issues. Faith communities in NSW see this as a tragic consequence of the proposed Bill and are vehemently opposed to it.

AN UNSTABLE FOUNDATION

We also refer to the Cass Review final report (1), which calls into question the frequently used medical basis for gender ideology. We see this Bill as irresponsible in its approach, as it increases ease of access for children and young people to gender affirming interventions - when the Cass Review final report questions whether this access should be curtailed. Future generations of Australians, and our young people, need loving guidance from their family, and the very best, cautious advice – not a legislated (and unquestioned) free access to gender affirming interventions that the latest research is now calling into question.

(1) Cass, Hilary 'Independent Review of Gender Identity Services for Children and Young People: Final Report', April 2024. https://cass.independent-review.uk/?page_id=936. ('Cass Report').



UNDERMINING THE ABILITY OF FAITH-BASED SCHOOLS TO RETAIN THEIR RELIGIOUS CHARACTER BASED ON THEIR TENETS OF BELIEF AND CULTURE

The Bill significantly reduces the protections for religious bodies in section 56 of the Anti-Discrimination Act 1977 (NSW), as it requires religious institutions to satisfy a judge that all of their actions (outside of the appointment and training of leaders and those who engage in religious practices) are 'reasonable and proportionate'. This places considerable responsibility onto judges who may have no understanding of faith, or who may be personally opposed to it. Further, judges are not trained experts or theologians for any faith. The various contents of the Bill move the power of deciding important policy issues away from the government to the judiciary. Unelected and unaccountable judges should not, through an unfettered 'reasonable test' have the final say on contentious policy issues.

This Bill, therefore, provides a great deal of uncertainty for all faith communities – their religious institutions, members, staff, and volunteers. The Bill also removes the ability for faith communities to hire, with a view to faith, their administrative staff, reception, support – indeed, any staff other than those whose function is directly related to 'a religious observance or practice'. This removes the ability for faith communities to retain their unique ethos, and staff their organisations and faith communities with people of their own faith, which is absurd. These employment related issues are currently under consultation and consideration in the context of both the proposed Federal Religious Discrimination Act and a review of the NSW Discrimination Act, as well as the Federal Sexual Discrimination Act, and should be reserved for these discussions, and not entrenched in this Bill.

Further, the Bill removes the rights of faith communities to decide, according to their tenets of faith, who they supply fostering and marriage counselling services to, forcing them to provide these services to a same sex couple. We refer to the FFF submission bill here, which outlines inconsistencies of this Bill with both international law and judgement of the NSW Court of Appeal. The same inconsistencies with international law apply in the context of religious schools, as pertaining to both students and employment of staff (further explanation provided in the FFF submission, with numerous untenable case study illustrations).

We also note that by forcing faith communities to act in a manner which is contrary to their faith, that this will have a large impact on their philanthropic efforts – both financial and volunteering of time – which the Federal government has outlined a goal of doubling by the year 2030. Faith communities are a key and active part of philanthropy in our state and nation and forcing them to act and outwork their faith in manner which is contrary to their beliefs will circumvent their ability to provide their full philanthropic benefits to the wider community.



INCOHERENT DEFINITIONS & OMISSIONS

We refer to the FFF submission here, which outlines several instances of inconsistent, incoherent, or illogical terminology within the proposed amendments. We also note the omission of 'heterosexuality' among the definition of sexuality in 49ZF, which would therefore lawfully discriminate against those who are heterosexual.

FURTHER ISSUES:

In the interest of brevity, we present below a reduced list of further problematic issues with the Bill (further elaboration, and issues, are outlined in the FFF submission, which we endorse).

- The Bill drives a wedge between children and parents and privileges the influence of counsellors and doctors over parents, allowing them to override the wishes of parents when it comes to their child's medical care. Even in the case of a blood transfusion, necessary for life, this must be done by court order – not just a medical practitioner.
- The Bill allows capacity for a young person to give informed consent for irreversible medical procedures that will render them sterile.
- The Bill allows for consent to medical treatment to become a leverage issue in family disputes, by allowing treatment to progress if only one parent consents, but the other does not.
- Section 32C of the Bill provides absurd prerequisites for a child under the age of 16 seeking care, requiring that the applicant themselves (the child) evaluate expertise, by considering the counsellor "has suitable qualifications, training, or experience to provide the counselling". This opens up the child for misinformation and guidance by those who are ideology-motivated.
- This Bill is essentially drafted in violation of Article 23(1) of the International Covenant on Civil and Political Rights, which guarantees protection of the family unit by the State, stating: 'The family is the natural and fundamental group unit of society and is entitled to protection by society and the State'.



- The Bill provides problematic implementation of Intimate Body Searches. Whilst we recognise the importance of privacy protection for intersex and transgender persons in such searches, it is problematic in its currently drafted form because it does not allow for the fact that the requested security officer of a different biological sex to the person requiring an intimate search may be prohibited to do so because of their religious beliefs. For example, a female Muslim security officer would be required to conduct an intimate body search for a trans-woman, or a member of a faith community that is not permitted to touch a member of the opposite biological sex may be required to do so.
- The Bill removes some of the criminal offences relating to prostitution, which will undermine the welfare of women in NSW, and allow for solicitation to occur in or near churches and schools and other institutions and businesses. Further, the Bill promotes the occupation of sex worker to be privileged above any other occupation, by adding a new protected attribute of 'sex worker' in the Anti-Discrimination Act 1977.

SUMMARY COMMENTS

The Bill is almost universally problematic, and it is our opinion that it should be withdrawn.

However, further to this, it is important that any areas which relate to, or impact, any of the discrimination areas are not decided, or further complicated, by their inclusion in this Bill. These issues should be reserved for the current discussions and consultation surrounding the proposed Federal legislation, and State legislative review.



WITH:

