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## Religious Freedom Review

### About SARAA

The South Australian Rainbow Advocacy Alliance (SARAA) is pleased to be able to contribute a submission to the Expert Panel on Religious Freedom. SARAA is a not for profit incorporated association, we advocate for the health and human rights of LGBTIQ people in South Australia. We seek to create positive change to policy, legislation and systems affecting the ability of LGBTIQ people to live safe, happy and fulfilling lives in the wider community.

### The context of the review

Following the successful 2017 YES campaign to change the Marriage Law of Australia, the Prime Minister announced the appointment of an Expert Panel to examine whether Australian law adequately protects the human right to freedom of religion. The Panel is to:

- consider the intersections between the enjoyment of the freedom of religion and other human rights
- have regard to any previous or ongoing reviews or inquiries that it considers relevant
- consult as widely as it considers necessary.

It is not without some irony that SARAA makes this submission given that from the outset, freedom of religion is considered a basic human right and yet marriage equality, which had significant support across Australia was not and required a postal survey to become established in law within Australia. The outcome of the postal survey clearly demonstrated the ability of the broader Australian community to differentiate between civil law and religious dogma. It also highlighted the already existing protections for religion within Australia and the Federal Parliament agreed with that belief by voting down any amendments to the Senator Dean Smith Bill.

SARAA notes with concern the appointment of Philip Ruddock as Chair of the Panel. It was Mr Ruddock who was the author of the Howard Governments original change to the Marriage Act, specifically excluding same sex couples from marrying. Mr Ruddock and the Panel are therefore unlikely, in SARAA's opinion, to be unbiased in its deliberations. In addition, SARAA notes that prior to the postal survey there was no call for a review into religious freedom, and that this review is the result of the loss by the No campaign.

## Religious people and expression of religion is not under attack, LGBTIQ+ community is.

The LGBTIQ+ community both here in Australia and abroad have and continue to experience discrimination, vilification and harm as a result of the failure of governments to legislate protections and remove discrimination. Religion from the outset both here in Australia and abroad was not under such attack or discrimination and indeed as highlighted in this submission, governments have established laws that specifically protect religion and religious organisations beyond that which is available to other sections of the community.

## Religious freedom is already protected

It is SARAA's strong contention that there already exist significant protections within Australian Federal and State / Territory laws that provide for the protection of religion and in fact enables various religious organisations the right to discriminate based on religious beliefs:

- The International convention on Civil and Political Rights Article 18:
- Section 116 of the Australian Constitution
- Australian Fair Work Act 2009
- The South Australian Equal Opportunity Act 1984
- Federal Sex Discrimination Act 1984
- The Marriage Act

SARAA believes that in establishing this Expert Panel on Religious Freedom those from the NO Campaign on Marriage Equality who failed to obtain Parliamentary support for amendments to the Senator Dean Smith Bill are now seeking to re-litigate their arguments to enable discrimination on the basis of sexual orientation, gender identity or intersex status via this politically devised opportunistic endeavour.

## The postal survey outcome voted for fairness not more discrimination

The Australian community overwhelmingly voted to support equality and fairness for the LGBTIQ community of Australia, the postal survey was not established as an avenue for further institutionalised discrimination.

## The position of SARAA

SARAA strongly contends:

- while freedom of religion is protected in a range of international, federal and state laws and charters, the exercise of that freedom cannot impinge on the rights of others. This includes creating more avenues of discrimination against the LGBTIQ community
- religious exemptions act as a barrier to vulnerable people, for example, LGBTIQ, unmarried couples, and single parents. These groups already face significant discrimination from religious organisations
- the law already allows religious organisations to discriminate through broad exemptions in federal and state discrimination laws. Religious charities that provide publicly funded welfare and social services can legally turn away LGBTI people, single mothers and others where this refusal is in line with the charity's religious beliefs
- further religious exemptions should not specifically target LGBTIQ people. This would allow for religious organisations or individuals to discriminate not based on religious ideology but solely based on their personal view of sexual and gender diverse populations
- businesses that are providing goods and services in a secular market should not be able to discriminate in carrying out the delivery of goods and services. This impinges on the basic human rights and various other rights of LGBTI people
- freedom of thought, conscience and religion is a fundamental human right and should be protected under law but cannot come at the expense of other rights. Rights need to be recognised and protected within the current legal framework
- the right to freedom of religion needs to be balanced with the right to freedom from religion. Article 18 of ICCPR enshrines the rights for protection to hold and practice religion it stands equally then that society is also entitled to be protected from the impact of religious beliefs and practices and that freedom as a basic human right does not come at the expense of limiting or imposing a set of religious values or doctrines not widely held within the broader Australian community.

## Summary

It is SARAA's position that there is no place in a democratic civil society such as Australia, to extend institutionalised discrimination which already has a significant impact on vulnerable groups. The protection against discrimination for individuals is protected in Australian and international law and this is carefully balanced with freedom for individuals to practice a religious belief. As such we strongly oppose extending any form of discrimination as a result of this review.