



Executive Council
of Australian Jewry Inc.

STATEMENT

14 December 2018

Religious Freedom Review and Federal government response

The Executive Council of Australian Jewry, the peak representative body of the Australian Jewish community, has cautiously welcomed the release of the Religious Freedom Review handed down by the Expert Panel chaired by the Hon Philip Ruddock, and the Australian government's response to it.

“Although we believe that religious freedom in Australia is not, and has never been, under serious threat, as both an ethnic and a faith community we support the government's announced intention ‘to further protect, and better promote and balance, the right to freedom of religion under Australian law and in the public sphere’”, said ECAJ co-CEO, Peter Wertheim. “Much will depend on the governments of the States and Territories acting in co-operation with the Federal government to achieve that goal”.

“There should be little controversy about 15 of the Expert Panel's 20 recommendations which the government has accepted either directly or in principle. These would ensure, for example, that charities do not lose their status simply for advocating a traditional view of marriage; that the government collects, analyses and publishes data about various forms of infringement on religious freedom; and that public education programs are developed about human rights and religion in Australia,” Wertheim said.

According to Wertheim, the proposed introduction of a new Religious Discrimination Act will be more contentious. “It's relatively easy to state the broad principles” he said. “On the one hand the legislation will prohibit discrimination on the basis of a person's religious belief or activity, including on the basis that a person does not hold a religious belief or participate in a religious activity. On the other hand there will be similar exemptions to those in other anti-discrimination legislation, which enable religious institutions to function in accordance with their religious beliefs and principles. In practice, however, some difficult situations may arise in which one or the other principle will have to give way, and where no broad social consensus exists as to which principle ought to prevail. The devil will be in the detail and I expect that many parts of the Bill when it is introduced will attract passionate debate”.

Wertheim said that if the legislation is passed, there is “good sense” to the government's proposal for a stand-alone Religious Freedom Commissioner in the Australian Human

Rights Commission to oversee religious freedom in Australia and handle religious discrimination complaints.

Wertheim said it was understandable that the Panel's recommendations for amending the current exemptions to the Sex Discrimination Act might be referred to the Law Reform Commission. "Legislative changes have often had unintended consequences, and it is prudent to try to minimise the scope for these to occur through the well-established processes of the Commission. This is another area where statements of abstract principle can seem more clear-cut than the way they would be applied in real life situations".

The government has also referred to the Law Reform Commission the Panel's recommendations that religious schools no longer have the right to discriminate against students or employees on the basis of their race, disability, pregnancy or intersex status. "It's hard to see how discrimination on these other grounds can have anything to do with religious freedom", Wertheim said. "I would have expected the government to accept the Panel's two recommendations about these matters".

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