



Tuesday, January 28, 2020

drummond street services is writing regarding the second exposure drafts of a package of legislation on religious freedom released by the government for consultation on 10 December 2019:

- Religious Discrimination Bill 2019
- Religious Discrimination (Consequential Amendments) Bill 2019
- Human Rights Legislation Amendment (Freedom of Religion) Bill 2019

drummond street services is deeply concerned about these proposed reforms. In particular we refer to the impact of these reforms on our clients, their families, children, carers and loved ones who we provide support to every day, as well as our own workforce and the broader community.

Our key concerns about the Exposure Draft of these Bills extend to the Second Exposure Drafts. These include and are not limited to:

- *the issue of conscientious objection in health care*
- *privileging religious objections over discrimination law*

drummond street is a proud employer of a diverse workforce, and we work closely with a range of population cohorts, many of whom belong to faith communities. Given our close working relationships with diverse communities of faith we agree in principle with prohibiting discrimination based on religious belief or non-belief. However, we believe these Bills provide too broad and special protections which will impact negatively on community harmony and resilience. We are also alarmed at experts in religious freedom and constitutional law raising “significant constitutional doubt” about these bill’s provisions ¹.

Our primary view has not shifted since the first exposure draft. This is that drummond street is unable to support the passage of the Religious Freedom Bills through parliament. If these Bills go ahead – we propose:

- significant and thorough modeling to ensure the reforms are at least complimentary to other existing federal discrimination laws protecting race, sex, disability and age
- **the Bill’s proposed content should not** override any existing protections for other groups under state laws
- **the Bills need to be tested** for compatibility with international law to ensure the reforms are supported by the external affairs power in the constitution and provides “equal footing” to freedom of thought, conscience and religion.



About drummond street

Founded in 1887 as the Charity Organisation Society, then Citizen's Welfare Service of Victoria (1947-1996), drummond street services is one of the longest serving welfare organisations in Victoria and was also one of the first welfare services in Australia. drummond street has a proud tradition of independence from church and state and has developed a distinctive and important role in advocating for the health and wellbeing of all Victorian's.

drummond street provides mental health and wellbeing services with a focus on whole-of-family early intervention, prevention and response which embodies our vision of 'Promoting Wellbeing for Life'. Our commitment is to the provision of wellbeing supports early in life, during early onset of poor mental health, across a full spectrum of mental health interventions (and other interventions known to improve mental health), to aid the wellbeing and resilience of individuals, families and children.

Our work aims to:

- Reduce the prevalence of mental health burden
- Address early risks of poor mental health outcomes
- Support families to access assistance, create and maintain positive family and parent-child relationships and home environments
- Support children and young people's emotional wellbeing through pro-social, positive connections with family members, school and the wider community

Our community-based, family and community services are integrated with our mental health clinical therapeutic and support services and delivered through:

- Parenting and Community Support Programs
- Centralised, Whole-of-Family Intake, Information Referral and Brief Support Service
- Family Mental Health and Support Services

drummond street applies a public health approach and a social health determinants lens that underpins all of what we do. Over the past decade we have been at the forefront of developing innovative responses to marginalised populations with complex trauma histories. These populations include children and adults with experiences of intimate partner/ family violence (IPFV) and sexual assault, refugee and humanitarian entrants, whole families where mental illness and comorbidities are present, LGBTIQ+ communities and institutional child sexual abuse victims.



1. This Bill enables exposure to discrimination for large sections of the community

drummond street believe the second draft of these Bills continue to expose a significant number of our clients and their families to the risk of exclusion by health practitioners who may refuse them access to, and care from a wide range of health services. We regularly refer our clients and their families to a broad range of health services for additional support in and around Victoria. We hold concerns about the impact of these proposed legislative changes on the quality and consistency of service delivery from providers or professionals in a range of fields/or settings.

Under these Bills, 'health practitioner' means a person who, under a law of a State or Territory, is registered or licensed to provide a health service provided in the practice of any of the following health professions: medical; midwifery; nursing; pharmacy and psychology. drummond street services are deeply concerned about the ramifications of these Bills and believes they will:

- make it easier to offend, humiliate, intimidate, insult or ridicule population groups, such as women, (including those people who are pregnant or breastfeeding) people with disabilities, people of colour, Aboriginal and Torres Strait islander peoples, LGBTIQ+ communities, including children and young people and those of differing religions.
- enable an environment where whole populations risk being refused appropriate and timely universal health care and other services such as a referral if services are refused to them
- create confusion about the rights of religious people/religious service users where providers of choice exclude them based on:
 - *having beliefs **of a different faith** to that of the person/service user; or beliefs associated with a different denomination of similar/same faith.*
 - ***different views about what constitutes the appropriate expression and beliefs of a faith even where that faith is shared by the service provider and the religious person/service user.***

We fear the consequences for many of our clients will include vilification and/or harassment targeting a person's family form (de-facto couples, divorced and/or single parents, child with single/divorced parents or parents from LGBTIQ+ communities), disability, faith and/or their sex, sexuality, gender identity or even circumstances which make them vulnerable such as struggling with drug and alcohol addiction. These Bills are also counter to universal provisions of education and health care and are counter to both Commonwealth and State government responses to mental health within Australia.

These Bills create additional service barriers for a range of already vulnerable groups

We remain deeply apprehensive about the implementation of these proposed changes as well as the short, medium and long-term impacts on the health and wellbeing of those people at the highest risk of being negatively impacted by them. Of concern is that religious organisations will be allowed to discriminate against others with different beliefs or no belief and refuse the provision of publicly funded services. This makes referral to services less consistent for large portions of our client groups who may rely on multiple welfare agencies to support them through issues such as homelessness, drug and alcohol misuse, family violence among other things.



While many faith-based service providers have adopted broad reaching diversity policies, adherence to the Disability Discrimination Act and even undertaking LGBTIQ training and implementing organisational accreditation – we are concerned that practices will become inconsistent should these Bills become law. It will have wide ranging impacts on us being able to provide services in a timely manner by resulting in longer referral processes. We would need to clarify willingness among individual professionals to provide health interventions or case management support that includes advocating to for the client to access particular services (e.g. family planning or drug and alcohol harm minimisation programs) taking up valuable time.

Additionally, the new draft of these Bills enforces a further restriction on qualifying bodies – such as those that admit doctors and lawyers – instructing they cannot impose rules such as social media codes of conduct restricting statements of belief unless they are an “essential requirement” of the profession. We believe there can be significant damage done where professionals have fewer restrictions on social media for example, are based in small communities and where they provide services of limited availability.

While we acknowledge the second draft of these Bills do not give a right to medical practitioners to discriminate against individuals based on gender or other characteristics it remains that doctors, pharmacists and other limited categories of medical practitioners could refuse to perform certain procedures or dispense certain drugs – such as the morning after pill or PreP – provided they refused to do so for all patients.

drummond street were also very disappointed to see the expansion of services catergorised as ‘religious bodies’ in the second draft of these Bills and permission granted to hospitals, aged care and accommodation providers to hire and fire based on faith. This will further reduce an environment of tolerance for service users, their families and carers. This includes service users of differing faiths, who are LGBTIQ (many of faith), who are single parents, in unmarried couples and others who do not fit within a potentially very narrow expression of faith determined by the governance of the organisation or service. Staff dismissal on a subjective assessment of ‘faith’ will also have negative emotional impacts on clients due to limited contact with people of similar lived experience to them.

We believe a combination of both real and perceived discrimination among marginalized groups will create barriers to them accessing non-judgmental healthcare in sexual health, family planning, fertility, mental health, aged care, accommodation services, gender services, health services broadly speaking, and hospitals. Awareness among already vulnerable clients of any legal right to refuse them a health service based on a health practitioner’s own religious views, will gravely impact many people already facing service barriers and who have experienced histories of discrimination. drummond street believe this will lead to whole populations being reluctant to even seek services where there may be limited options (such as in rural and regional areas, or in the case of a need for specialised services).

Implementation of these Bills still retains impractical inconsistencies for employers

drummond street services is concerned prioritising people with religious views will be at the expense of other staff and clients we work alongside. These Bills make it more difficult for health sector employers and professional bodies to ensure doctors, nurses, midwives, pharmacists, and



psychologists do not refuse treatment to people on religious grounds. These Bills increase 'red tape', particularly, in the context of workforce shortages and higher service delivery costs.

These Bills prohibit rules or conduct imposed by an employer on a health practitioner that would require them to perform services to which they have a religious objection. Psychology is included in the scope of these Bills and we remain concerned about our ability to provide consistent mental health services where we need to work collaboratively with a range of allied and mental health professionals to support highly vulnerable clients.

As a service provider the issues these Bills raise still beg questions within the context of laws pertaining to duty of care and child protection such as:

- what expectations would there be for a health service to alert organisations who refer at-risk or high-risk clients to them that a staff member may conscientiously object to treating a person and their family?
- will health services be required to advertise they have religious members of staff with limitations to providing particular interventions or alternatively that there are no limitations based on staff beliefs?
- how will inquiry relating to a person's limitations to provide a service be ascertained during recruitment?
- how will care be assured for all community members in areas where service supply is small, practitioners limited (such as in suicide prevention and mental health services in rural areas) and in the case of medical emergencies?
- how will government guarantee the availability of secular services?
- how will government ensure the consistent reporting of child abuse by professionals of faith even where this action would contravene the authority of leading figures in religious institutions and possibly deemed an act against faith?

In relation to the last point above, our involvement in the **Royal Commission into Institutional Responses to Child Sexual Abuse** and the subsequent **National Redress Scheme** has taught us (and the community) that a lot more needs to be done to restore trust in the hearts of many victims of severe childhood abuse by religious institutions over decades and decades. We believe these Bills are insensitive and problematic where an extension of rights is afforded to those very institutions who caused historical harm and abuse, including those signed up to the Redress scheme, which enable them to exclude victims.

Furthermore, a significant amount of state and federal funding and grants require collaborative service design and delivery partnerships. Conscientious objection to groups of clients in this context creates inconsistencies in the enactment of service, program and organisational principles, and would require a significant amount of support outside the ordinary parameters of most funding agreements to ensure equitable service provision.

Finally, the benefits of a National Charter of Human Rights has been raised in significant detail and how such a Charter would provide equal protection for the right to freedom of thought, conscience, religion



and belief and other rights, including the right to freedom from discrimination. The Human Rights Law Centre notes the largest ever nationwide consultation on human rights protections in 2009, identified almost 9 out of 10 Australians supported a Charter of Rights. This consultation included an independent panel of experts headed by Father Frank Brennan who recommended that Australia adopt a Charter of Human Rights.

This Charter would provide a framework for when one right can be limited to protect others from harm, where this is reasonable, necessary and proportionate. ⁽ⁱⁱ⁾. drummond street strongly supports the adoption of a National Charter of Rights or comparable protections and believe this would be a far more constructive and unifying exercise.

This package of Bills on Religious Freedoms will further divide and harm communities at a time when there are considerable issues facing this country, including mental health issues (now also as a result of significant traumatic fire events), environmental concerns, fragmentation/ fracturing of communities as well as diminished trust in institutions (including governments and faith-based). We believe these issues should be the focus and priorities of those who represent Australians and whose task it is to provide our universal systems of care and education.

It is for, but not limited to, these reasons drummond street services is unable to support in the strongest terms, the passage of the Religious Freedom Bills through parliament.

Kind regards



Karen Field (Chief Executive Officer)

ⁱ Karp, P., (2019) 'Religious discrimination bill may breach constitution by allowing doctors to refuse treatment', in *The Guardian* (30.9.19) accessed online (https://www.theguardian.com/world/2019/sep/30/religious-discrimination-bill-may-breach-constitution-by-allowing-doctors-to-refuse-treatment?fbclid=IwAR3Ut0qHhJpy6vlmeTclULYOaE-D0Rs8S34nJ2htNXYBZAM342_q9UwJ1dE)

ⁱⁱ Human rights Law Centre website (accessed 21.1.20) <https://www.hrlc.org.au/religious-discrimination-laws-explainer#one>