

03 February 2022

Dear MP/Senator

The rights of children, Citipointe Christian College and the Religious Discrimination Bill

I am writing to you further to my letter of 27 January 2022, concerning the Religious Discrimination Bill 2021.

I expect that you are aware of recent developments at Citipointe Christian College in Brisbane. This has provided a clear illustration of one of the key risks to children in the Religious Discrimination Bill.

As our letter and submission to the recent Parliamentary Inquiries set out, if the Religious Discrimination Bill is passed in its current form, it may provide religious schools with an alternative avenue to discriminate against LGBT students 'under the guise of religious views', rather than on the basis of sexual orientation or gender identity per se.

As we explain below, the Citipointe College case also demonstrates the risks that the Bill poses to the rights of children more generally.

Discrimination under the guise of religious belief

The revised contract of enrolment issued by Citipointe College last week includes a number of concerning clauses. We draw particular attention to clauses 25 and 26 which outlines the school's approach to religious belief around gender identity, including:

- 'I/we agree that, where distinctions are made between male and female (inclusive of, but not limited to, for example, uniforms, presentation, terminology, use of facilities and amenities, participation in sporting events and accommodation) such distinctions will be applied on the basis of the individual's biological sex.' (from clause 25), and
- 'The Parents acknowledge and accept that, should I/we not share the College's commitment to fostering these fundamental doctrinal precepts, this will constitute a serious departure from the religious precepts upon which Citipointe Christian College is based and will afford Citipointe Christian College **the right to exclude a student from College who no longer adheres to the College's doctrinal precepts including those as to biological sex**, which constitute an important tenet of the College's Christian religion' (clause 26, emphasis added).

The school has therefore made clear, most particularly in clause 26, its intention to discriminate against trans and gender diverse students under the guise of discrimination on the basis of religious beliefs, and specific tenets of belief.

Safeguards in Queensland law are missing in the RDB

The Queensland Human Rights Commission has indicated Citipointe's attempt to discriminate is likely to be in breach of the Queensland *Anti-Discrimination Act 1991*. This is because that Act does not provide religious schools with exceptions to discriminate on the basis of sexual orientation or gender identity.

It is also because Queensland's exceptions allowing religious schools to discriminate on the basis of religious belief *only apply at the point of initial enrolment*, and not beyond that point. Therefore, attempts to exclude existing students because they have come out as trans or gender diverse are likely to be in breach of that Act.

We stress the importance of this safeguard to protect LGBT students who discover and ultimately disclose their sexual orientation and/or gender identity while at a religious school.

By ensuring schools cannot discriminate against students after enrolment, the rights of children to learn and grow - without the threat of mistreatment or punishment on the basis of their sexual orientation or gender identity directly, or on the basis of religious beliefs *about* sexual orientation or gender identity – are protected.

Other jurisdictions which currently protect LGBT students against discrimination by religious schools – Tasmania, the ACT and the Northern Territory – have adopted this safeguard (prohibiting discrimination beyond the point of initial enrolment), for these reasons. There is no evidence that this has caused any problems: religious schools continue to operate effectively in those jurisdictions.

Unfortunately, this essential safeguard is *not* included in the Religious Discrimination Bill 2021. Instead, the religious exceptions in clause 7 of the Bill permit religious schools to discriminate on the basis of religious belief *throughout* a student's education. The actions of Citipointe Christian College have demonstrated the serious dangers presented by this approach.

Any amendments to the SDA would be undermined without changes to the RDB

The absence of this safeguard is also particularly relevant for MPs and Senators, such as yourself, who we understand are advocating for amendments to the *Sex Discrimination Act 1984* (Cth) to remove the specific exceptions allowing religious schools to discriminate on the basis of sexual orientation and gender identity under that legislation.

Those amendments will be undermined by passage of the Religious Discrimination Bill in its current form, allowing religious schools to adopt the same approach as Citipointe to discriminate against LGBT students, 'under the guise of religious views'. LGBT students would remain at risk of deeply harmful discrimination.

The rights of children must not be overlooked

We also highlight that prohibiting discrimination beyond the point of enrolment is essential not just because it is a practical safeguard to protect LGBT students. It is essential to support the rights of *all* children and young people who are students at those schools.

While much attention in the debate about the Religious Discrimination Bill has focused on the ability of religious organisations to discriminate, it is troubling that less attention appears to have been given to the rights of children.

As we know, most children do not decide where they go to school. This should be a safe place where they can learn and grow. All children and young people should be free to question, explore and develop their own conscience, faith and beliefs while they are students, without the fear of punishment for doing so.

This must include respecting the rights of children and young people to adopt a faith, no faith, or individual tenets of faith, that may be contrary to their school's.

Children also have a right to freedom of speech and expression. While standards of conduct and behaviour in a school environment may seek to regulate *how* such views can be expressed, students should not live in fear of punishment for expressing them.

The Religious Discrimination Bill 2021 does not respect this fundamental principle. Instead, it grants effectively unlimited legal authority to religious schools to give a student detention for questioning a tenet of faith, or to suspend them for rejecting a tenet of faith. A religious school could even lawfully expel a student in the middle of Year 12, even if they have attended that same school since Year 1, simply because they indicate they no longer share the school's faith.

We do not see how such extraordinary privileges align with what should be the purpose of a Religious Discrimination Bill: to prohibit, rather than promote, discrimination on the basis of religious belief.

Conclusion

We urge that, in addition to calling for amendments to section 38(3) and limitations on section 37(1)(d) of the *Sex Discrimination Act* to protect LGBT students under that legislation, you support amendments to remove the ability of religious schools to discriminate against students on the basis of religious belief beyond the point of enrolment under the Religious Discrimination Bill.

This is not just an essential safeguard for LGBT students, but supports the religious freedom of all children and young people.

Thank you in advance for considering this important issue as part of the Religious Discrimination Bill debate.

Yours sincerely

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