



Victorian Equal Opportunity
& Human Rights Commission

14 February 2018

Hon Philip Ruddock
Chair
Expert Panel on Religious Freedom
C/O Department of the Prime Minister and Cabinet
PO Box 6500
Canberra ACT 2600

By email: religiousfreedom@pmc.gov.au

Dear Mr Ruddock

Religious Freedom Review

Thank you for your email of 6 February 2017 inviting the Victorian Equal Opportunity and Human Rights Commission (**Commission**) to comment on the terms of reference of the Religious Freedom Review, which has been asked to examine and report on whether Australian law (Commonwealth, State and Territory) adequately protects the human right to freedom of religion.

The Commission is Victoria's independent statutory anti-discrimination and human rights authority, established under the Victorian *Equal Opportunity Act 2010* (**EOA**). Together with its role under the EOA, the Commission also has functions under the *Charter of Human Rights and Responsibilities Act 2006* (**Charter**) and the *Racial and Religious Tolerance Act 2001* (**RRTA**).

We contributed data to the Australian Human Rights Commission's (**AHRC**) submission to the Expert Panel about how religious freedom is protected in Victoria. We support that submission, in particular recommendations 4-6 which relate to the implementation of international human rights standards in federal law.

As identified in the AHRC's submission, the EOA, the RRTA and the Charter each play a role in promoting and protecting religious freedom alongside other civil and political rights in Victoria.

Notably, these laws support an individual's right to hold a religious belief and to practice that belief in Victoria. The mechanisms provided under these laws include:

- the inclusion of religion as a protected attribute under the EOA, which makes discrimination on the basis of religious belief or activity unlawful in various aspects of public life, and provides a mechanism to make complaints and resolve disputes about alleged discrimination; and
- the prohibition of religious vilification under the RRTA, and providing civil and criminal mechanisms to resolve allegations of vilification.

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The Charter affirms the importance of respect for human rights in the Victorian community, including freedom of thought, conscience, religion and belief. Section 14 of the Charter recognises the right to adopt a religion or belief, as well as to demonstrate that religion or belief, either individually or as part of a community. Furthermore, a person must not be coerced or restrained in a way that limits his or her freedom to have or adopt a religion or belief in worship, observance, practice or teaching.

The Charter protects and upholds the right to religious freedom and other human rights in three key ways:

- by requiring public authorities, such as Victorian state and local government departments and agencies, and people delivering public functions on behalf of government, to act compatibly with Charter rights;
- by requiring any proposals for new laws to address compatibility with Charter rights, and for compatibility to be assessed by a bipartisan Parliamentary Committee; and
- courts and tribunals must interpret legislation compatibly with human rights, and the Victorian Supreme Court has the power to declare that a law is inconsistent with human rights.

The Charter provides that all rights may be subject to such reasonable limits as can be demonstrably justified in a free and democratic society based on human dignity, equality and freedom and taking into account all relevant factors. In this way, the Charter provides a proportionality test which is an effective framework for considering the reasonable limits that may be placed on human rights, having regard to competing public interests and policy objectives, and the effect on other human rights.

We would be pleased to provide the Panel with further information about the operation of Victoria's laws if it is of assistance. Please contact Gudrun Dewey, Strategic Adviser on (03) 9032 3414, if you require further information.

The Commission consents to this letter being a public document.

Yours sincerely

A handwritten signature in black ink, appearing to read 'C. Dixon', with a long horizontal flourish extending to the right.

Catherine Dixon
Executive Director
Victorian Equal Opportunity and Human Rights Commission