

**AUSTRALIA: Freedom of the press, freedom of expression, freedom of religion or belief, indigenous people, refugees, adequate standard of living**

**Examples of social hostility against persons expressing their views against same sex marriage**

- a) **Australian university student (details known to the writers of the report) suspended for making a classmate feel “unsafe” because he said he would show love to a gay friend but not agree with their lifestyle.**

“Andrew” (pseudonym) is a student at a large Australian university. He is also a Christian. That is what he told a classmate who spoke to him regarding their struggles with anxiety. He offered to pray for them, with their permission, which they granted.

Shortly thereafter, during a conversation to which the same classmate was a party, Andrew was challenged with the question, “What would you do if your friend was gay?” His response included statements to the effect that he would show love to them but would not necessarily agree with what they were doing. Andrew was suspended from the university for at least one semester pending a review and had official disciplinary action recorded on his transcript for allegedly making his classmate feel unsafe. Lawyers affiliated with the Human Rights Law Alliance were able to represent Andrew in his negotiations with the university, ultimately securing a reversal of the decision which enabled Andrew to return to his studies without detriment.

- b) **Complaints against dissemination or preaching of standard Christian doctrine under Tasmania’s very broad provisions prohibiting causing offence or insult.**

In Tasmania, a booklet published in 2015 and outlining the Catholic position on same-sex marriage distributed by Roman Catholic Archbishop Julian Porteous to parents of Catholic school students was held by the Anti-Discrimination Commissioner to be a possible violation of anti-vilification legislation.<sup>2</sup> A complaint was lodged against the Archbishop which issued a statement “Don’t Mess with Marriage”.<sup>3</sup> Under Tasmanian law, a person whose

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<sup>1</sup> Report submitted by: Ethos - the Australian Evangelical Alliance's Centre for Christianity and Society, and the World Evangelical Alliance (WEA)

<sup>2</sup> Dennis Shanahan, 'Catholic bishops called to answer in anti-discrimination test case', The Australian (online), 13 November 2015 <[http://www.theaustralian.com.au/nationalaffairs/state-politics/catholic-bishops-called-to-answer-in-antidiscrimination-test-case/newsstory/b98439693f2f4aal7aca9b46c7bda776?nk=7bd2d275fddd376333435b60d3ac81\\_lc1474942859](http://www.theaustralian.com.au/nationalaffairs/state-politics/catholic-bishops-called-to-answer-in-antidiscrimination-test-case/newsstory/b98439693f2f4aal7aca9b46c7bda776?nk=7bd2d275fddd376333435b60d3ac81_lc1474942859)>. 30 Andrew Drummond, 'Transgender rights activist Martine Delaney drops complaint over Catholic Church's marriage booklet', The Mercury (online), 5 May 2016 <[http://www.themercury.com.au/news/tasmania/transgender-rights-activist-martinedelaney-drops-complaint-over-catholic-churchs-marriage-booklet/newsstory/d8d9079bf932526b27e5f094e57dbe84?nk=7bd2d275fddd376333435b60d3ac81\\_c1474933967](http://www.themercury.com.au/news/tasmania/transgender-rights-activist-martinedelaney-drops-complaint-over-catholic-churchs-marriage-booklet/newsstory/d8d9079bf932526b27e5f094e57dbe84?nk=7bd2d275fddd376333435b60d3ac81_c1474933967)>.

<sup>3</sup>“Anti-discrimination complaint ‘an attempt to silence’ the Church over same-sex marriage, Hobart Archbishop says” ABC News, 26 Sep 2015 <<http://www.abc.net.au/news/2015-09-28/anti-discrimination-complaint-an-attempt-to-silence-the-church/6810276>>.

conduct offends, humiliates or insults someone on the basis of their sexual orientation is subject to penalty regardless of their intention or the reasonableness of their conduct.<sup>4</sup> There is no religious exemption, no prohibition of vilification on religious grounds and no attempt to balance these competing interests or rights. The matter proceeded to a conciliation session but was eventually abandoned many months later by the complainant.<sup>5</sup>

This is not an isolated incident. In Tasmania, complaints are current underway under the same law against Presbyterian Minister Campbell Markham and street preacher David Gee for expressing standard Christian teaching on homosexual relations and on marriage. Orthodox Jews and Muslims share the same teaching.

**c) Sacking for Expressing Religious Views**

“Ryan” was the General Manager of a digital services agency in Victoria which he grew substantially in sales, revenue, staff and operational maturity over a two-year period. The team Ryan recruited under his leadership included members of the LGBTIQ community.

When challenged unexpectedly at work concerning the Safe Schools Coalition, Ryan explained that, while he did not want to see anyone subject to bullying, there were elements of the Safe Schools program that conflicted with his values, including the concepts of gender fluidity and the promotion of sexual diversity. Ryan’s views were not tolerated by some in the workplace and he was summarily terminated from his role for allegedly creating an unsafe workplace through his comments. Ryan was able to achieve a substantial settlement for his termination.<sup>6</sup>

**d) Sacking for saying it’s OK to vote No in Same Sex Marriage plebiscite**

In Canberra an 18 year old named Madeline (surname not given) working for Capital Kids Parties had updated her Facebook profile picture in early September 2017 just before the Same-Sex Marriage plebiscite with a message from the Coalition for Marriage saying "It's OK to VOTE NO". The business owner summarily terminated her employment in a private Facebook message saying that "homophobic views being made public are detrimental to the business and don't align with my personal values or morals as the owner of the business."

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<sup>4</sup> *Anti-Discrimination Act 1998 (Tas)* s 17 – the test is about whether there was a reasonable expectation of offence, humiliation, intimidation, insult or ridicule, not the reasonableness of the conduct.

<sup>5</sup> “Discrimination case against Bishops withdrawn” *Catholic Communications* 6 May 2016  
<[https://www.sydneycatholic.org/news/latest\\_news/2016/201656\\_413.shtml](https://www.sydneycatholic.org/news/latest_news/2016/201656_413.shtml)>

<sup>6</sup> The current anti-discrimination laws in Australia protect same sex oriented Australians from discrimination in every State and Territory and federally (and hence protect supporters of same sex marriage because that is a commonly associated characteristic with same sex orientation.)

But their protection of Australians who hold to traditional marriage is very patchy and incomplete. They do not protect at all Australians who support traditional marriage from a conscientious conviction not based in religious conviction (e.g. many parts of the Chinese community and others from traditional cultures and many indigenous Australians). And federal law, NSW and South Australian (SA) antidiscrimination laws do not protect Australians who support traditional marriage based in religious conviction. (The Fair Work Act anti-discrimination provisions do not protect people in NSW or South Australia from employment discrimination because the FWA is subject to the same limits as the State laws in those two States). And nowhere in Australia do anti-discrimination laws protect small businesses or associations or charities or schools from detriment because they adhere to a belief in favour of traditional marriage. For example the laws do not protect such organisations from governments discriminating against them in the provision of funding or economic benefits or licensing or permits because they support traditional marriage.

She later said publicly that she did so because those five words showed that Madeline was bigoted, homophobic, used hate speech, and was unsuitable to work with children.<sup>7</sup>

e) **Campaigns to have employees sacked or force them to resign from private directorships show gaps in legal protection for religious freedom**

A social media campaign was waged in 2016 when Mark Allarby was a senior executive at Price- Waterhouse, Coopers (PWC). LGBTQI activist Michael Barnett waged a social media campaign to have PWC sack Allarby as out of sync with the company's pro-gay policy unless he resigned his board position, which Allarby did. After Allarby changed employer again, Barnett campaigned in March 2017 to have Allarby dismissed by IBM unless he resigned as a director of another related organisation (the Lachlan Macquarie Institute) that was perceived to not support LGBTQI equality. The basis for the campaign was that Allarby's personal time role was inconsistent with IBM's commitment to workplace diversity (meaning in context LGBTQI+ rights and same sex marriage). Mr Allarby resigned the directorship.

A social media campaign was waged in March 2017 to have Dr Stephen Chavura dismissed by Macquarie University unless he resigned as a director of the same organisation (the Lachlan Macquarie Institute) that Allarby was forced to resign from. Interestingly, while the University did not sack Dr Chavura, he is now teaching at a Catholic institution Campion College, perhaps because he saw the writing on the wall.

f) **Campaign to have a professional deregistered for her views on same sex marriage**

Dr Pansy Lai was the subject of a petition, which gained 5000 signatures, circulated calling for her deregistration as a doctor due to her comments about same-sex marriage and safe schools in a No campaign TV commercial.

g) **Federal public servant disciplined for expressing concern about pressure to march in gay pride parade**

"Chris" served in a Commonwealth government department for a number of years without incident. Chris felt pressure to affirm lifestyles that were contrary to his cultural convictions and heritage. Whilst happy to work with and befriend all people, Chris believed such matters to be ones of private practice and conviction.

After raising concerns about pressure to march in a "pride" parade and a refused request to unsubscribe from a "pride" email newsletter, Chris was not only officially warned once by the departmental discipline unit, but placed under a further investigation for suspected breaches of discipline. Lawyers were able to represent Chris in negotiations with the discipline unit which ultimately saw the investigation dropped and no further action taken.

Concerns remain over the nature of the policies that saw Chris disciplined.

h) **Commercial boycotts of businesses run by religious believers because they expressed or supported the expression of a religious belief**

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<sup>7</sup> <https://www.smh.com.au/politics/federal/im-not-afraid-to-stand-up-for-my-beliefs-teen-party-entertainer-let-go-for-samesex-marriage-view-hits-back-20170920-gyktsv.html>

Coopers Brewing sponsored the Bible Society which produced a video of a civil debate between two politicians for and against same sex marriage. As a result, several commercial hotels boycotted Coopers Brewing and refused to buy their products because views against same sex marriage should not be expressed. Coopers backed down and withdrew its sponsorship of that video.