



# Archbishop of Sydney

13 March 2019

The Hon Bill Shorten MP  
Leader of the Opposition  
Via email: [alistair.webster@aph.gov.au](mailto:alistair.webster@aph.gov.au)

Dear Mr Shorten,

Thank you for meeting with me and Bishop Stead on Monday 29 October 2018. I am grateful for your assurance that Labor is committed to both the removal of discrimination on the basis of LGBTI status and the appropriate protection of religious freedom, and that you did not believe these two goals to be incompatible.

I have previously requested a follow-up meeting with you to discuss possible ways to do this, which included providing draft legislation that I believe satisfies both policy goals, but I understand that your timetable has not permitted us to meet. This issue has since been somewhat overtaken by the report from the Senate Inquiry into the Sex Discrimination Amendment (Removing Discrimination Against Students) Bill 2018.

I am writing to express my concern regarding Labor's position on the proposed amendments. I am pleased to see that the Minority Report of the two Labor Senators (along with the Committee Report) acknowledged that proposed amendments to s.37 are too wide and needs to be revised to limit the scope to religious educational institutions.

However, the implications of other proposed amendments to the Act are far reaching and have the potential to erode the very legal frameworks that safeguard the freedom of religious practice in this country.

The following three issues are of very significant concern:

1. Labor has rejected a proposed amendment that would allow a faith-based school to teach the doctrines of its religion without their facing claims that this is discrimination. The amendment was rejected because "It introduces a blanket exemption for religious teaching, regardless of the content of these teachings and whether they are harmful" (Minority Report para 1.19, citing Lee Carnie). We are very concerned that the Minority Report foreshadows the introduction by Labor of a "reasonableness test", limiting the doctrines that can be taught in faith-based schools to what secular courts deem reasonable.
2. Labor has also rejected proposed amendments that would make it explicit that it is "reasonable" for a faith-based school to operate in accordance with its doctrines, tenets and beliefs. Indeed, denying a faith-based school the right to operate in accordance with its doctrines, tenets and beliefs is itself manifestly unreasonable.

3. Labor has signalled an intention to amend the *Sex Discrimination Act 1984* to remove protections for religious schools in matters of employment. The way in which Labor proposes to do this will have unacceptable consequences for the religious ethos of faith-based schools. To maintain their character, faith-based schools need to be able to employ staff who adhere to, or act in accordance with, the religious beliefs of their faith. This cannot only be limited to “their conduct solely within the school” (MR, 1.36).

Over 60% of Australia’s population currently identify with religious or spiritual views. For those people, the aforementioned issues are of pressing concern. To that end, as Leader of your Party, I would be grateful if you could provide written answers to the following questions. I intend to ask the same questions of other parties, with the intention of sharing the responses widely among faith communities.

Should your party be in government after the next election:

1. Will it introduce legislation that will remove the current exemptions in s.38 of the SDA in relation to both students and teachers?
2. Will it maintain the existing exemptions in s.21(3) that allow single-sex schools to enrol students of the one sex?
3. Is it the policy of your party that a faith-based school should be permitted to enrol and treat a student on the basis of their biological sex rather than their gender identity? For example, use of gendered pronouns, toilet facilities and school uniform.
4. Does it commit to introduce and support legislation that guarantees the right of faith-based schools to teach in accordance with their doctrines, tenets and beliefs? For example, teaching on traditional marriage, gender and sexuality.
5. Does it commit to introduce and support legislation to make it explicit that it is “reasonable” for a faith-based school to set rules and policies, and enforce these rules and policies within its student body and staff, in accordance with its doctrines, tenets and beliefs?
6. Does it commit to a positive protection in legislation that will allow a faith-based school to be able to employ staff who adhere to, or act in accordance with, the religious beliefs of that faith?

I respectfully request that you provide responses to these questions by Monday the 25th of March. I plan to collate your response with responses received from other parties, and use this to inform faith communities on these matters. I look forward to your response and hope that we can work together on these matters to achieve an outcome which is suitable to all involved.

Yours sincerely,

Grace and peace



Glenn N Davies  
Archbishop of Sydney