



MULTICULTURAL
COUNCIL of TASMANIA

Information brief

Proposed changes to discrimination laws – national and Tasmanian

February 2017

Changes to Australia's Racial Discrimination Act

- The *Racial Discrimination Act* (1975) was passed by the Australian national parliament in 1975. The Multicultural Council believes it is a law that promotes high standards and is crucial to maintaining our social cohesion and multicultural nation.
- The Federal Parliament is conducting an inquiry into freedom of speech in Australia. This inquiry will look at:
 - whether parts of the *Racial Discrimination Act* (including sections 18C and 18D) impose unreasonable restrictions upon freedom of speech, and if so, how 18C and 18D should be reformed
 - If changes should be made to how the Australian Human Rights Commission handles complaints of discrimination
- The Multicultural Council believes that Section 18C of the *Racial Discrimination Act* provides important protection against racially motivated attacks, including hate speech, against members of Australia's migrant, refugee and culturally and linguistically diverse communities.
- Section 18C was introduced in 1995, in recognition that racial abuse and harassment have the potential to escalate into racial violence. Only a very small proportion of 18C complaints proceed through to the end of the complaints process (which involves mediation discussions between the two parties). An even a smaller proportion go to the next stage to a court of law. In 2015-16, the Human Rights Commission was asked to investigate more than 80 complaints under the racial hatred provisions of the Act and only one complaint proceeded to court.
- The Federation of Ethnic Communities Council is the national body that represents culturally diverse Australians and the Multicultural Council of Tasmania is concerned about the progressively hostile attitudes toward Muslim Australians and other minority groups. There has been a rise in anti-multiculturalism rallies and racist attacks, which promote feelings of exclusion and fear in the community.
- Weakening the *Racial Discrimination Act* could have far reaching effects including trade and investment from our region. It could be that Section 18C actually needs to be strengthened by including 'religion' to reflect currently high levels of discrimination aimed at some culturally diverse communities.
- The Human Rights Commission's community education work helps people to understand their rights and responsibilities are appropriate to that of other agencies with a compliance role.

The Inquiry's terms of reference potentially leading to negative impressions of Australia's social cohesion, not only among multicultural and faith communities in Australia, but with our regional and global trading partners, our international investors and international students.

Changes to Tasmania's Anti-Discrimination Act

Tasmania's *Anti-Discrimination Act (1998)* became a state law in 1998. In 2016 a Bill was passed in the House of Assembly (the lower house) to change the Anti-Discrimination Act. Before the changes take effect it needs to be passed by the Legislative Council who will hold an Inquiry in 2017 before they approve any changes.

The Anti-Discrimination Commissioner who is responsible for administration of the Act wrote a very critical submission to the government, suggesting these changes in law may create broader concerning consequences. The proposed changes to the law include:

- A person may undertake offensive conduct or say something nasty about another person's race (includes national origin, descent, skin colour, and language). If the victim of the abuse lodges a complaint about the actions, the perpetrator can claim that the reason for their actions was because of 'religious purposes'.
- The changes also allow people to encourage hatred, contempt, serious ridicule vilification if they can prove that the reason for their actions is because of 'religious purposes'.
- The law also proposes changes to the Commissioner's role - currently the role of the Commissioner is to administer a low cost, speedy, relatively informal process to get the two parties of a dispute together to discuss the incident and to try and help the parties resolve and mediate. The proposed changes turn the role into a more legal, complicated and controversial role.
- The changes ask the Commissioner to treat certain cases differently to other cases – that is cases where someone says “I said something racist because of my religious beliefs”. The Commissioner will now at an early stage be required to consider it and dismiss the complaint or not. Whereas it's not currently the role of the Commissioner to make these kind of determinations.
- The changes are unnecessary for free speech as the law already has protections to ensure that if a person expresses views in "good faith", this is allowed. For example a person can say "it's our view"...but can't say "X is fact" (opinion vs statement of fact).
- These changes send a message to the broader community that people are able to say hateful things. This is very poor timing given there is a heightened level of anxiety among some communities in Australia that are being targeted with negative stereotypes.
- These changes would see discrimination complaints treated differently if the person who did attack said they were driven by their religious beliefs. This is unequal treatment under the law - the law is being changed for one group.

There will be a Legislative Council Inquiry in 2017 which will ask for the community's feedback on if these changes are a good idea or not.

For more information about these laws and the proposed changes to them please contact the Multicultural Council of Tasmania on 6285 9906 or office@mcot.org.au