

宗教歧视法案选举调查问卷 – 各大政党的相关回应

迈克尔·斯特德主教 (Bishop Michael Stead) 给所有选区的参选议员发了一份选举调查问卷，以搜集他们对宗教歧视法案和相关问题的看法，例如宗教学校是否拥有权利根据他们的宗教精神去教导与操作等（详情请见下列的 Appendix IV）。以下的简报呈现了各大政党在此选举调查问卷里的回应摘要。各大政党的回应分别以四种颜色标出来显示他们对保护宗教自由的倾向程度 (绿色/良好, 橘色/令人担忧, 红色/不利, 灰色/不确定)。编辑附加的评论将以斜体显示，而回应里的重要细节将以粗体显示。

问题	自由-国家联盟 ¹	工党 ²	绿党
1. 如果你被选上，你是否会在下届国会中投票通过（如 2021 年的宗教歧视法案的立法方案）允许有信仰的人们和组织拥有相同或更好的保护的立法？	是	“我们向你确保若我们在来临的选举中执政，我们会在此事上[意即, 保护澳洲人免于因宗教信仰和活动受到歧视]优先行动”	否，但我会以别的方式支持防止宗教歧视（请详述）： ‘如绿党委员会报告里针对宗教歧视所讨论的 ³ … 此报告推荐“澳洲政府成立一个权利宪章来保护宗教信仰及其他需保护的品 质 。”’
斯特德主教的评论		<i>他们针对宗教歧视所提议的保护多宽或多强是未知的。</i>	

¹ 自由党的联邦主管 Andrew Hirst 先生为联盟政府提供了选举调查问卷的回应，详情请看 Appendix I

² 澳大利亚工党拒绝为此调查问卷提供回应。反之，工党法律事务发言人 Mark Dreyfus 先生为工党提供了一封信来做回应。为了与其他政党比较，这封信的内容被截取来回答简报里的问题。编辑附加的评论将以斜体显示。Dreyfus 先生的信可在这里读取 <https://religiousdiscriminationquestionnaire.au/docs/ALPresponse.pdf>。

³ https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Religiousdiscrimination/Report/section?id=committees%2freportsen%2f024869%2f79122

问题	自由 - 国家联盟	工党	绿党
<p>2. 宗教歧视法案的第七至第九项条款表明，若一个宗教机构基于其宗教信仰倾向雇用和其机构有共同宗教信仰的人选（在某些情况下，可有公开政策表明此事），这并不是歧视的行为。你和你的政党是否会制定这样的有效立法？</p>	<p>是</p>	<p>“艾班尼斯（Albanese）领导的工党政府将会 … 保护老师们在工作中免受歧视，也致力维护宗教学校能够倾向雇用和他们拥有一样宗教信仰的员工的权利。”</p>	<p>我们将制定立法允许宗教机构倾向雇用和其机构有共同宗教信仰的人，倘若法院判定拥有共同宗教信仰是某职位固有的要求。</p>
<p>斯特德主教的评论</p>		<p>此承诺只针对宗教学校。工党并未对其他宗教机构或团体做出任何相关的承诺。</p> <p>维护宗教学校的雇佣权利的承诺只能肯定他们倾向雇用和他们共同信仰的人。如果员工做出了违背宗教学校信仰的活动，这样的保护会和其他歧视律法有怎么样的交流也是未知（例如，维多利亚的工党政府最近立法限制宗教机构和学校雇用和他们信仰一致的人）。</p> <p>这样的承诺保护也只针对‘员工的雇用’，而不是员工的持续就业。这也会负面地影响宗教团体们能够维持宗教精神的能力。</p> <p>工党还没回应是否会承认，当一个宗教团体依照其信仰行动时，这并不是歧视的行为。这是一个重要的法理，可协助阻止法院把宗教自由当作二等或更少的权利，这和国际律法是不一致的。</p>	<p>一个固有要求的检测将给宗教团体们带来巨大的不安定，也会负面地影响他们能够维持宗教精神的能力。</p>
<p>3. 如果你在第 2 题的回答中表明你支持宗教教育机构拥有倾向雇用和其机构有共同宗教信仰的人选的权利，你的政党对宗教歧视法案的实行是否会推翻州立法在此议题上的冲突？</p>	<p>是，根据第十一项条款目前的制定</p>	<p>不予置评</p>	<p>否，我们制定的宗教歧视法案不会推翻州立法在此议题上的冲突。</p> <p>“我们支持权利宪章的成立来保护宗教信仰及其他需保护的品质。”</p>

问题	自由 - 国家联盟	工党	绿党
4. 如果你在第 2 题的回答中表明你支持 所有宗教机构 （例如，教会与回教堂，宗教慈善机构等而不只是宗教教育机构）拥有倾向雇用和其机构有共同宗教信仰的人选的权利，你的政党对宗教歧视法案的实行是否会推翻州立法在此事上对宗教机构的雇用权利的阻扰？	否，我们的宗教歧视法案不会推翻州立法在此议题上的冲突。	不予置评	否，我们并没有打算制定任何宗教歧视法案。
5. 绿党提议废除 1984 年的 性别歧视法案 中第 38（1）与（2）条（关于宗教教育机构员工的法条）。这议题被概括在向澳大利亚法律改革委员会(ALRC)的报告里，因为它涉及身为老师免受歧视的权利以及宗教学校倾向雇用有共同宗教信仰的人选的权利。关于废除性别歧视法案中第 38（1）与（2）条的提议，你持什么看法？	因为无法在其他修正案上达成共识，莫里森 (Morrison) 政府将在下届国会中争取宗教歧视法案为独立的立法对待。	<p>“工党致力尊重澳大利亚法律改革委员会 (ALRC) 的审核过程。若当选，我们将会重启 ALRC 对反种族歧视法案中宗教豁免的框架的审核。”</p> <p><i>德雷福斯 (Mark Dreyfus) 议员于 2022 年 2 月 9 日所发表的新闻稿与这题相关：</i></p> <p>“工党支持老师们免受歧视，也承认宗教学校必须拥有雇用共同宗教信仰的员工的权利。因为这两项权利有复杂的相连，我们相信这件事不能匆忙的在国会上被通过，而必须被澳大利亚法律改革委员会认真的审核。”</p>	我们不会等待澳大利亚法律改革委员会(ALRC)的报告，并在不接受任何修订的情况下会致力废除第 38 条。
斯特德主教的评论		<i>第二题回应里的评论同样适用于这一题的回应。</i>	

问题	自由 - 国家联盟	工党	绿党
<p>6. 宗教学校们担忧轻易废除 1984 年的性别歧视法案中第 38 (3) 条 (关乎学生的发条) 将为学校是否能够依据宗教精神教导或管理学生带来不确定性。这是因为性别歧视法案中的第 21 条中对教育歧视有很广泛的定义。宗教学校们提议, 尚若第 38 (3) 条被废除, 必须要有并行的修正案确保宗教学校们可以教导他们的教义, 并可以有相关政策维持学校的宗教精神。你对性别歧视法案中第 38 (3) 条持什么看法?</p>	<p>因为无法在其他修正案上达成共识, 莫里森 (Morrison) 政府将在下届国会中争取宗教歧视法案为独立的立法对待。</p>	<p>“艾班尼斯 (Albanese) 领导的工党政府将会 ... 保护学生们在任何情况下免受歧视”</p> <p>回应选举调查文件的随文函件中提到: “在致力提供免受宗教歧视的努力中, 工党也承诺确保宗教学校能够依据他们的教义继续教导学生。”</p>	<p>我们打算在不接受任何修订的情况下致力废除第 38 条。</p>
<p>斯特德主教的评论</p>	<p>2022 年 2 月 10 日, 莫里森政府动议了一项阻止宗教学校因学生的性向开除学生的修正案。这修正案不会使宗教学校们对于是否能够有维持学校宗教精神的政策感到不安定。</p>	<p>尽管有了以上 2022 年 2 月 10 日的动议修正, 工党仍然投票在无修正的情况下废除第 38 (3) 条。如果通过, 这将使宗教学校们对于是否能够有维持学校宗教精神的政策感到不安定。</p>	<p>这将使宗教学校们对于是否能够有维持学校宗教精神的政策感到不安定。</p>
<p>7. 你和你的政党是否支持宗教歧视法案中第 12 条所说的, 若有人因信仰或非信仰做出善意的言论, 非恶意挑衅、恐吓或骚扰、威胁或诽谤、或促使人犯罪的言论, 这些都不应该是促成歧视投诉的唯一根据 (但这些言论可面对其他法律制裁, 如有理的员工守则法规, 或诋毁毁谤的法律) ? 更重要的是, 你对第 12 条的保留持什么看法?</p>	<p>我们支持第 12 条所提出的原则, 并会保留此发条的现状。</p>	<p>不予置评</p> <p>在 2022 年 2 月关于宗教歧视法案的国会辩论里, 工党极力想缩小第 12 条的原则范围。</p>	<p>我们不支持给予任何信仰相关言论的明确保护。</p>
<p>斯特德主教的评论</p>		<p>在 2022 年 2 月关于宗教歧视法案的国会辩论中, 工党试图极力缩小第 12 条的范围。如果工党的修正案通过了, 这将意味着, 例如, 塔斯马尼亚天主教大主教波斯特因教导传统的婚姻教义可在州律法里继续被投诉。</p>	

问题	自由 - 国家联盟	工党	绿党
8. 你和你的政党是否支持第 10 条表明的原则，那就是少数宗教社群有权利为其社群提供满足宗教与文化需求？	是，我们会保留第 10 条的现状。	不予置评	是，但我们会通过另一种方式保护他们的权利（请详述）： 如绿党委员报告里关于宗教歧视方案的讨论，我们支持权利宪章的成立来保护宗教信仰及其他需保护的品。
9. 你和你的政党是否会扩展宗教歧视法案来提供免受宗教诋毁的保护，使因他人的宗教信仰公开威胁、恐吓、骚扰或诽谤他人的行为被非法化？	莫里森政府在过去多年和所有利益攸关者深度讨论了宗教歧视法案的内容。这个法案也通过了两个国会委员会的审核。反诋毁的条款并没有在任何国会委员会的审核下通过，也不在这些委员会的推荐里。	“一个艾班尼斯领导的工党政府会…保护各个信仰文化的人免受歧视，包括为反宗教诋毁的保护立法”	是，我们会为反宗教诋毁的保护立法。
斯特德主教的评论	<p>任何反诋毁条款的采用应该通过公众咨询。反诋毁条款可使言论自由得到限制，进而造成不安定。</p> <p>工党动议一条反宗教诋毁的条款作为宗教歧视方案的修正。这并没有通过公众咨询。</p>		

问题	自由 - 国家联盟	工党	绿党
10. 你和你的政党是否支持合理地限制雇主制定员工守则来限制或惩罚员工做出温和的信仰或非信仰言论？你和你的政党是否支持宗教歧视法案中必须拥有一个“适当与适度”的条款表明一名雇主所制定的员工守则必须和其生意达到一定成果有直接关系，而员工守则不能限制员工做出温和的信仰或非信仰言论自由？	宗教歧视方案必为有宗教信仰的人提供在日常生活中免受歧视的保护，包括在工作范围内。莫里森政府将为人一名宗教歧视专员，并承诺会在方案提议通过两年后再通过审查，确保所制定的律法有提供应有的保护，并考虑更详细或更广阔的保护是需要被制定的。	不予置评。	我们支持关于员工守则“适当与适度”的条款，好让员工在工作内外都能够做出信仰或非信仰相关的言论。
11. 你和你的政党是否会在宗教歧视方案里支持提供一个条款要求雇主和教育机构做合理的调整，好让人们能够依照他们的信仰生活工作，除非这些合理的要求会给雇主和教育机构造成不合理的困难？例如，要求犹太或基督复临安息会信徒在他们的安息日（星期六）加班，而雇主能够在无需负担困难的情况下安排其他不需遵循安息日的员工在同时间工作。（这条款与残疾歧视条例里的的相关合理调整将会是一样的。）	我们不支持提供相关条款要求雇主和教育机构为员工和学生做合理的调整。 “宗教歧视方案必为有宗教信仰的人提供在日常生活中免受歧视的保护，包括在工作范围内…”	不予置评。	我们支持提供一个条款要求雇主和教育机构做合理的调整，好让人们能够依照他们的信仰生活工作，除非这些合理的要求会给雇主和教育机构造成不合理的困难。
12. Ruddock 专家报告总结，引用之前澳洲慈善及非营利委员会的推荐，慈善法 2013 应该被修正确保宗教慈善机构不会在表达传统的婚姻观念后失去免税的权利。你和你的政党是否会通过这项保护的立法，包括尊重澳洲慈善机构们需负担的公共利益和公共政策需求？	我们支持慈善法2013的修正案，以确保宗教慈善机构不会在表达传统的婚姻观念后失去免税的权利，包括尊重澳洲慈善机构们需负担的公共利益和公共政策需求。	不予置评。	我们不支持慈善法 2013 的修正案，以确保宗教慈善机构不会在表达传统的婚姻观念后失去免税的权利。

Authorised by
The Right Reverend Dr Michael Stead, Bishop of South Sydney
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Appendix I – Liberal Party’s Response to Election Questionnaire

CCHQ 2022

STRONG ECONOMY. STRONGER FUTURE.

4 May 2022

The Right Reverend Dr Michael Stead
Bishop of South Sydney
Anglican Church Diocese of Sydney
Email: mstead@sydney.anglican.asn.au

Dear Dr Michael Stead

Thank you for the opportunity to provide the views of the Coalition on important issues facing your members. A response to your questions is attached.

The last two years have been tough for our country.

Despite the setbacks, Australia’s economic recovery is leading the world.

Unemployment is at 4%, the equal lowest in 48 years. And the recent Budget included the biggest turnaround in our finances in over 70 years.

There’s much more to be done. To build a stronger future, our plan will:

1. Deliver more jobs and working towards unemployment below 4%.
2. Deliver tax relief for workers and small businesses.
3. Invest in roads, rail, water infrastructure and renewable energy technology.
4. Make record investments in health and other essential services.
5. Invest in stronger defence, security and borders.

This election provides a clear choice, with real consequences for Australia.

The alternative at this election is Anthony Albanese and Labor. Labor would weaken our economy and put Australia’s recovery at risk. Now is not the time to change course.

Thank you for communicating our response to your members.

Yours sincerely,



Andrew Hirst
Federal Director

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www.liberal.org.au [LiberalPartyAustralia](https://www.facebook.com/LiberalPartyAustralia)

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INATIONALS
for Regional Australia

MORRISON GOVERNMENT RESPONSE TO THE ANGLICAN CHURCH DIOCESE OF SYDNEY

- 1. If you are elected, would you vote in favour of legislation that gives the same or better protections for people and organisations of faith as the Religious Discrimination Bill 2021 and its two associated Bills (RDB 2021 legislation package) during the term of the next Parliament?**

Yes.

- 2. The effect of clauses 7-9 of the RDB is that it is not discrimination on the basis of religious belief for a religious body to preference in employment matters people who share the same religious beliefs as the body for all positions (subject in some cases to having a publicly available policy about this). Will you and your party enact legislation with this effect?**

Yes.

- 3. If your answer to question 2 indicates you support the principle that religious educational bodies should be able to give preference in some or all employment matters to people who share the same religious beliefs as the body, would your party's implementation of the RDB override inconsistent state legislation on this issue?**

Yes, in the manner currently set out in clause 11 of the Religious Discrimination Bill which overrides the Victorian law that prevents preferencing by educational bodies and allows other State laws to be overridden if listed by regulation.

- 4. If your answer to question 2 indicates you support the principle that all religious bodies (e.g. churches and mosques, and faith-based charities not just religious educational institutions) should be able to give preference in employment matters to people who share the same religious beliefs as the body, would your party's implementation of the RDB override inconsistent state legislation which prevents any such religious body from giving such preference?**

No, our Religious Discrimination Bill would not override inconsistent state legislation on this issue.

Comment: The Religious Discrimination Bill will provide protection to those of faith against discrimination in their daily life. In addition to the appointment of a Religious Discrimination Commissioner, the Bill proposed by the Morrison Government contemplates a review two years after enactment to ensure the law operates as intended and to consider whether further refinements or greater protections are required.

- 5. The Greens have proposed to repeal s.38(1) and (2) of the Sex Discrimination Act 1984 (concerning employees of religious education institutions). This issue is included in the reference to the Australian Law Reform Commission (ALRC)**

because of the complex interaction between the right of teachers to non-discrimination and the right of religious schools to give preference in employment to people who share the religious beliefs of the school. What is your position in relation to the repeal of s.38(1) and (2) of the SDA?

Comment: As there is no consensus on these other amendments, the Morrison Government will pursue passage of the Religious Discrimination Bill as stand-alone legislation in the next Parliament.

- 6. Faith-based schools are concerned that the proposal simply to repeal s.38(3) of the Sex Discrimination Act 1984 (SDA) (concerning students) will create uncertainty about whether schools can still teach in accordance with doctrine and have policies to maintain the religious ethos of the school. This is because of the very broad definition of discrimination in education in s.21 of the SDA. Religious schools have asked that, if s.38(3) is to be repealed, concurrent amendments ensure that religious schools are able to teach their doctrine and have policies to maintain the religious ethos of the school. What is your position in relation to s.38(3) of the SDA?**

Comment: As there is no consensus on these other amendments, the Morrison Government will pursue passage of the Religious Discrimination Bill as stand-alone legislation in the next Parliament.

- 7. Do you and your party support the principle underlying clause 12 of the RDB that people who make statements of belief or unbelief that are in good faith, without malice, and made without vilifying, threatening, harassing or intimidating others, or inciting the commission of a serious criminal offence should not be subject to discrimination complaints which are based purely on the statements (noting that those people will remain subject to all other legal consequences such as reasonable employer conduct rules and laws against vilification and defamation)? In particular, what is your position on the retention of clause 12?**

We support the principle of clause 12 described above and will retain clause 12 in its current form.

- 8. Do you and your party support the principle expressed in clause 10, which enables minority faith-based communities to cater for the specific religious and cultural needs of that community?**

Yes, we will enact clause 10 in its current form.

- 9. Do you and your party support extending the scope of the RDB to protection against religious vilification, such that it is unlawful to engage in public conduct, on the ground of a person's religious belief or activity, that a reasonable person would consider would threaten, intimidate, harass or vilify that person?**

Comment: The Morrison Government engaged in extensive consultation with stakeholders on the content of the Religious Discrimination Bill over many years. The Bill also went through two separate parliamentary committees. Anti-vilification provisions were not advanced in either of these committees and were not included in the recommendations of the committee.

Freedom to practice our religious beliefs without discrimination is fundamental to who we are and who we must be as a tolerant, multicultural, and multi-faith liberal democracy. The Morrison Government will always work with faith communities to ensure this freedom endures.

- 10. Do you and your party support reasonable limits on the ability of employers to impose conduct rules which restrict or penalise employees for making moderate statements of belief or unbelief? (“Moderate statements” means statements made in good faith, without malice, and without vilifying, threatening, harassing or intimidating others, or inciting the commission of a serious criminal offence)? In particular, do you and your party support a “necessary and proportionate” requirement in the RDB that an employer’s conduct rule must be necessary to achieve a reasonable result concerning the employer’s business or activity and that the rule must impose no greater restriction on an employee’s freedom to make moderate statements of belief or unbelief than is necessary to achieve that result?**

Comment: The Religious Discrimination Bill will provide protection to those of faith against discrimination in their daily life, including in the workplace. In addition to the appointment of a Religious Discrimination Commissioner, the Bill proposed by the Morrison Government contemplates a review two years after enactment to ensure the law operates as intended and to consider whether further refinements or greater protections are required.

- 11. Do you and your party support a provision in a RDB that employers and education providers need to make reasonable adjustments for people to act in conformity with their genuine religious beliefs, unless those reasonable adjustments would create an unjustifiable hardship for the employer or education provider? For example, a Jewish or Seventh Day Adventist person is required to work overtime on their Sabbath (a Saturday) when the employer could, without incurring unjustifiable hardship, roster other staff without a Sabbath observance need to work at that time. (The provision would be the same as the reasonable adjustments provision already in the Disability Discrimination Act.)?**

We do not support a provision requiring employers and education providers to make reasonable adjustments for employees and students.

Comment: The Religious Discrimination Bill will provide protection to those of faith against discrimination in their daily life, including in the workplace. In addition to the appointment of a Religious Discrimination Commissioner, the Bill proposed by the Morrison Government contemplates a review two years after enactment to ensure

the law operates as intended and to consider whether further refinements or greater protections are required.

- 12. The Ruddock Expert Panel concluded, citing the earlier recommendation of the Australian Charities and Not-for-profits Commission, that amendments should be made to the Charities Act 2013 to clarify that faith-based and religious charities will not lose their tax exemption where they hold or express a traditional view of marriage. Will you and your party legislate such a protection, including in respect of both the public benefit and public policy requirements imposed upon Australian charities?**

We support amendments to the Charities Act 2013 to clarify that faith-based and religious charities will not lose their tax exemption where they hold or express a traditional view of marriage, including in respect of both the public benefit and public policy requirements imposed upon Australian charities.

Appendix II – Labor Party’s Response to Election Questionnaire



**Shadow Attorney-General
Shadow Minister for Constitutional Reform
Federal Member for Isaacs**

21 April 2022

The Right Reverend Dr Michael Stead
Bishop of South Sydney
Anglican Church Diocese of Sydney

By email only: mstead@sydney.anglican.asn.au

Dear Reverend Stead

Thank you for your ongoing engagement with me and with the wider Australian Labor Party on the Religious Discrimination Bill 2021, and on the broader issues regarding how best to protect Australians against discrimination on the basis of religious belief and activity. Thank you also for the election questionnaire you are sending to Labor MPs and candidates seeking their individual views on progressing the key protections contained in the Morrison Government’s abandoned legislative package, including their views on a range of specific issues and proposed drafting amendments to future legislation. As the responsible Shadow Minister I am responding on behalf of the federal Labor Party.

Over the last three years Mr Albanese and I have been working closely on how best to expand Commonwealth anti-discrimination laws to deal with the problem of discrimination against people of faith. We have appreciated your engagement throughout this process.

Again, I wish to express my disappointment that the legislation offered by the Morrison-Joyce Government was produced at the last minute, without meaningful consultation with the Australian Labor Party, and failed to deliver on important public and private commitments the Prime Minister made.

As you know, Labor believes all Australians have the right to live their lives free from discrimination, including people of faith. We commit to you that we will act on this as a priority if we form government after the coming election. I reiterate that an Albanese Labor Government will act to:

- prevent discrimination against people of faith, including through the introduction of religious anti-vilification protections;
- protect all students from discrimination on any grounds; and,
- protect teachers from discrimination at work, while maintaining the right of religious schools to preference people of their faith in the selection of staff.

I appreciate that your election questionnaire includes a series of specific issues and proposed solutions. However, we are not in a position to work through detailed policy implementation proposals, or to consult fully upon them with the wider Australian community on the eve of an election. It is my strong view that the Liberal Government approached its Religious Discrimination Bill in a needlessly divisive, secretive and partisan manner, and that it is also unfortunate the Prime Minister made contradictory promises to different people and groups ensuring the bill would not pass the Parliament.

As you know, having behaved in a manner that generated counter-productive controversy and division, the Government then abandoned its own bill, and with that, its election promise to legislate in this important area of reform.

If an Albanese Labor Government is elected, I commit to you that Labor will approach the matters you and others have raised in an inclusive and constructive manner, in consultation with people of faith and religious organisations, including schools, as well as with all Australians interested in this important work to advance the nation. This will continue the open and constructive approach we have embraced over the last three years. Furthermore, if Labor is successful at the forthcoming election, we will be in a position to engage the resources of government to consult widely on the policy detail and drafting of legislative protections against discrimination for people of faith.

Labor is also committed to the Australian Law Reform Commission (ALRC) process. If elected, we would recommence the ALRC's Inquiry into the Framework of Religious Exemptions in Anti-Discrimination Legislation, which the Morrison Government has placed on hold, and would carefully consider what the ALRC recommends in formulating legislation. I know this is also important to you. Some stakeholders have suggested there may be other areas the ALRC should examine in this context, and we remain open to considering a further reference to the ALRC if we win government.

I close by reiterating that Anthony Albanese and Labor see the expansion of our anti-discrimination framework to protect Australians of faith as an opportunity to unite the nation, not divide it. We look forward to working with you to achieve this for people of faith across the country. I would welcome the opportunity to meet with you at an early time of convenience after the election.

I would welcome the opportunity to speak with you further about the matters you have raised, and about Labor's general approach to this important area of legal reform. If you would like to arrange a time to speak with me, please contact my EA, Sally Gallagher (sally.gallagher@aph.gov.au; (03) 9580 4651).

Yours sincerely



Mark Dreyfus QC MP

Appendix III – Greens’ Response to Election Questionnaire

Election Questionnaire Response: Australian Greens

<p>1. If you are elected, would you vote in favour of legislation that gives the same or better protections for people and organisations of faith as the RDB 2021 legislation package during the term of the next Parliament?</p>	<p>No, but I support prohibiting religious discrimination by another means (give details)</p> <p>As set out in the Greens Committee report on the Religious Discrimination bills,⁴ “The Australian Greens want greater international respect for and protection of human rights, and for Australia to ratify and adhere to, both locally and abroad, all human rights conventions. That should include an “Australian bill of rights that incorporates Australia’s international human rights obligations into domestic law. In line with that commitment to human rights, the Australian Greens support legislation that protects the rights of people to hold and practice their religious beliefs. That report recommended that “That the Australian Government develop a Charter of Rights, to protect religious belief amongst other protected attributes.”</p>
<p>2. The effect of clauses 7-9 of the RDB is that it is not discrimination on the basis of religious belief for a religious body to preference in employment matters people who share the same religious beliefs as the body for all positions (subject in some cases to having a publicly available policy about this). Will you and your party enact legislation with this effect?</p>	<p>We will enact legislation that permits religious bodies to preference people who share the same religious beliefs only where sharing those beliefs is an inherent requirement of a position as determined by a tribunal or court</p> <p>As set out in the Greens Committee report on the Religious Discrimination bills, we support the development of a Charter of Rights, that would protect religious belief amongst other protected attributes. The question of employment protections, including protecting workers from being discriminated against on the basis of their religion, should be dealt with as part of that process.</p>
<p>3. If your answer to question 2 indicates you support the principle that religious educational bodies should be able to give preference in some or all employment matters to people who share the same religious beliefs as the body, would your party’s implementation of the RDB override inconsistent state legislation on this issue?</p>	<p>No, our RDB would not override inconsistent state legislation on this issue</p> <p>As set out in the Greens Committee report on the Religious Discrimination bills, we strongly oppose the override of existing state and territory anti-discrimination protections. We support the development of a Charter of Rights, that would protect religious belief amongst other protected attributes.</p>
<p>4. If your answer to question 2 indicates you support the principle that all religious bodies (e.g. churches and mosques, and faith-based charities not just religious educational institutions) should be able to give preference</p>	<p>No, our RDB would not override inconsistent state legislation on this issue</p> <p>As set out in the Greens Committee report on the Religious Discrimination bills, we strongly oppose the override of existing state and territory anti-discrimination protections. We support</p>

⁴https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Religiousdiscrimination/Report/section?id=committees%2freportsen%2f024869%2f79122

<p>in employment matters to people who share the same religious beliefs as the body, would your party's implementation of the RDB override inconsistent state legislation which prevents any such religious body from giving such preference?</p>	<p>the development of a Charter of Rights, that would protect religious belief amongst other protected attributes.</p>
<p>5. The Greens have proposed to repeal s.38(1) and (2) of the <i>Sex Discrimination Act 1984</i> (concerning employees of religious education institutions). This issue is included in the reference to the <i>Australian Law Reform Commission (ALRC)</i> because of the complex interaction between the right of teachers to non-discrimination and the right of religious schools to give preference in employment to people who share the religious beliefs of the school. What is your position in relation to the repeal of s.38(1) and (2) of the <i>SDA</i>?</p>	<p>We will not wait for the ALRC report and will repeal s.38 with no concurrent amendments.</p> <p>In line with the amendments moved in the House of Representatives, we oppose discrimination against students and teachers on the basis of sex, sexual orientation, gender identity, marital or relationship status or pregnancy. We support the development of a Charter of Rights, that would protect religious belief amongst other protected attributes.</p>
<p>6. Faith-based schools are concerned that the proposal simply to repeal s.38(3) of the <i>Sex Discrimination Act 1984 (SDA)</i> (concerning students) will create uncertainty about whether schools can still teach in accordance with doctrine and have policies to maintain the religious ethos of the school. This is because of the very broad definition of discrimination in education in s.21 of the <i>SDA</i>. Religious schools have asked that, if s.38(3) is to be repealed, concurrent amendments ensure that religious schools are able to teach their doctrine and have policies to maintain the religious ethos of the school. What is your position in relation to s.38(3) of the <i>SDA</i>?</p>	<p>We plan to repeal s.38(3), with no concurrent amendments</p> <p>We support the development of a Charter of Rights, that would protect religious belief amongst other protected attributes.</p>
<p>7. Do you and your party support the principle underlying clause 12 of the RDB that people who make statements of belief or unbelief that are in good faith,</p>	<p>We do not support explicit protections for statements of belief</p> <p>As set out in the Greens Committee report on the Religious Discrimination bills, we strongly oppose the override of existing state and territory anti-discrimination protections. We support</p>

<p>without malice, and made without vilifying, threatening, harassing or intimidating others, or inciting the commission of a serious criminal offence should not be subject to discrimination complaints which are based purely on the statements (noting that those people will remain subject to all other legal consequences such as reasonable employer conduct rules and laws against vilification and defamation)? In particular, what is your position on the retention of clause 12?</p>	<p>the development of a Charter of Rights, that would protect religious belief amongst other protected attributes.</p>
<p>8. Do you and your party support the principle expressed in clause 10, which enables minority faith-based communities to cater for the specific religious and cultural needs of that community?</p>	<p>Yes, but we will achieve this in a different way (give details)</p> <p>As set out in the Greens Committee report on the Religious Discrimination bills, we support the development of a Charter of Rights, that would protect religious belief amongst other protected attributes.</p>
<p>9. Do you and your party support extending the scope of the RDB to protection against religious vilification, such that it is unlawful to engage in public conduct, on the ground of a person's religious belief or activity, that a reasonable person would consider would threaten, intimidate, harass or vilify that person?</p>	<p>Yes, we will enact anti-vilification provisions to this effect</p> <p>The Australian Greens supported the amendments moved in the Parliament to prevent vilification.</p>
<p>10. Do you and your party support reasonable limits on the ability of employers to impose conduct rules which restrict or penalise employees for making moderate statements of belief or unbelief? ("Moderate statements" means statements made in good faith, without malice, and without vilifying, threatening, harassing or intimidating others, or inciting the commission of a serious criminal offence)? In particular, do you and your party support a "necessary and proportionate" requirement in the RDB that an employer's conduct rule must be necessary to achieve a reasonable result concerning the employer's business or activity and that the rule must impose no</p>	<p>We support the "necessary and proportionate" requirement for employer conduct rules relating to employee statements of belief and unbelief made both inside and outside of work contexts</p> <p>As set out in the Greens Committee report on the Religious Discrimination bills, we support the development of a Charter of Rights, that would protect religious belief amongst other protected attributes.</p>

<p>greater restriction on an employee's freedom to make moderate statements of belief or unbelief than is necessary to achieve that result?</p>	
<p>11. Do you and your party support a provision in a RDB that employers and education providers need to make <i>reasonable</i> adjustments for people to act in conformity with their genuine religious beliefs, unless those reasonable adjustments would create an unjustifiable hardship for the employer or education provider? For example, a Jewish or Seventh Day Adventist person is required to work overtime on their Sabbath (a Saturday) when the employer could, without incurring unjustifiable hardship, roster other staff without a Sabbath observance need to work at that time. (The provision would be the same as the reasonable adjustments provision already in the <i>Disability Discrimination Act</i>.)</p>	<p>We support a provision requiring employers and education providers to make reasonable adjustments for employees and students to act in conformity with their genuine religious beliefs</p>
<p>12. The Ruddock Expert Panel concluded, citing the earlier recommendation of the Australian Charities and Not-for-profits Commission, that amendments should be made to the <i>Charities Act 2013</i> to clarify that faith-based and religious charities will not lose their tax exemption where they hold or express a traditional view of marriage. Will you and your party legislate such a protection, including in respect of both the public benefit and public policy requirements imposed upon Australian charities?</p>	<p>We do not support amendments to the Charities Act 2013 to clarify that faith-based and religious charities will not lose their tax exemption where they hold or express a traditional view of marriage.</p> <p>The Australian Charities and Not-for-profits Commission noted in its submission on the exposure drafts that such a change wasn't necessary https://www.ag.gov.au/sites/default/files/2020-05/Australian%20Charities%20and%20Not-for-profits%20Commission.pdf</p>

Appendix IV – Election Questionnaire on Religious Freedom Distributed to Political Candidates by Bishop Michael Stead

Below is the attached cover letter and questionnaire sent to election candidates to obtain their views on the Religious Discrimination Bill and related issues, such as the ability of religious schools to teach and operate in accordance with their faith and ethos.

Election Questionnaire: Religious Discrimination Bill and Related Matters

20 April 2022

Dear <CandidateName>

Faith communities in the electorate of <Electorate> are keen to know each election candidate's views about Federal legislative protection against discrimination on the basis of religious belief and activity.

The Religious Discrimination Bill 2021 legislative package was the fruit of extensive consultation with faith groups, and people of faith would like to know whether you support progressing the key protections contained in this legislative package.

The attached questionnaire is being sent to all candidates for the seat of <Electorate>. The responses will be tabulated and the results made publicly available.

Please complete this 12 question survey <at this link> to no later than Wednesday 4 May, 2022.

Signed



The Rt Rev Dr Michael Stead
Bishop of South Sydney
Anglican Diocese of Sydney

On behalf of:



Election Questionnaire – Religious Discrimination Bill and Related Matters (to protect people and organisations against discrimination on the grounds of their religious belief or activity)

On 9 February 2022 the *RDB 2021 legislation package* (consisting of the Religious Discrimination Bill 2021, two associated Bills and Government amendments arising from 2 parliamentary inquiries) was introduced. In the early hours of 10 February the *Religious Discrimination Bill 2021* (RDB) passed in the House of Representatives, 90 votes to 6, with near unanimous support from both the Government and the Opposition. Although the Bill was unable to progress to the Senate for other reasons, faith communities note the overwhelming in-principle support for this Bill to protect Australians against discrimination on the basis of religious belief.

The purpose of this questionnaire is to inform faith communities about election candidates' ongoing commitments to progress this matter after the Federal Election in May 2022.

1. If you are elected, would you vote in favour of legislation that gives the same or better protections for people and organisations of faith as the RDB 2021 legislation package during the term of the next Parliament?
 - Yes, I support the introduction of legislation with the same or better protections than the RDB 2021 legislation package in the first 3 months of the next Parliament
 - Yes, I support the introduction of legislation with the same or better protections than the RDB 2021 legislation package during the term of the next Parliament
 - No, but I support prohibiting religious discrimination by another means (give details)
 - No, I do not support legislative protection from discrimination for faith communities and people of faith

2. The effect of clauses 7-9 of the RDB is that it is **not discrimination** on the basis of religious belief for a religious body to preference in employment matters people who share the same religious beliefs as the body for all positions (subject in some cases to having a publicly available policy about this). Will you and your party enact legislation with this effect?
 - Yes, we will enact clauses 7-9 in their current form
 - Yes, we will enact legislation with similar effect to clauses 7-9 (give details)
 - We will enact legislation permitting preferencing in hiring only (but not after hiring)
 - We will enact legislation that permits religious bodies to preference people who share the same religious beliefs only where sharing those beliefs is an inherent requirement of a position as determined by a tribunal or court
 - We will enact legislation that only permits preferencing by religious bodies that are not publicly funded
 - No, we do not commit to legislative provisions to allow religious bodies to preference in employment matters

3. If your answer to question 2 indicates you support the principle that **religious educational bodies** should be able to give preference in some or all employment matters to people who share the same

religious beliefs as the body, would your party's implementation of the RDB override inconsistent state legislation on this issue?

- Yes, by creating a federal law entitlement for religious educational bodies to preference in employment (in the manner outlined in our response to question 2) which overrides any inconsistent State law without needing to make regulations listing State laws
 - Yes, in the manner currently set out in clause 11 of the RDB and the RDB 2021 legislation package which overrides the Victorian law that prevents preferencing by educational bodies and allows other State laws to be overridden if listed by regulation
 - No, our RDB would not override inconsistent state legislation on this issue
 - No, we do not plan to introduce a *Religious Discrimination Bill* package
4. If your answer to question 2 indicates you support the principle that **all religious bodies** (e.g. churches and mosques, and faith-based charities not just religious educational institutions) should be able to give preference in employment matters to people who share the same religious beliefs as the body, would your party's implementation of the RDB override inconsistent state legislation which prevents any such religious body from giving such preference?
- Yes, by creating a federal law entitlement for religious bodies to preference for all positions (in the manner outlined in our response to question 2) which overrides any inconsistent State law without needing to make regulations listing State laws
 - Yes, in the manner currently set out in clause 11 of the RDB which overrides the Victorian law (which law prevents preferencing by religious bodies and publicly funded charities) and allows other State laws to be overridden if listed by regulation
 - No, our RDB would not override inconsistent state legislation on this issue
 - No, we do not plan to introduce a *Religious Discrimination Bill*
5. The Greens have proposed to repeal s.38(1) and (2) of the *Sex Discrimination Act 1984* (concerning employees of religious education institutions). This issue is included in the reference to the *Australian Law Reform Commission* (ALRC) because of the complex interaction between the right of teachers to non-discrimination and the right of religious schools to give preference in employment to people who share the religious beliefs of the school. What is your position in relation to the repeal of s.38(1) and (2) of the *SDA*?
- We will wait for the ALRC report before making any decision on s.38(1) and (2). However, we commit to ensuring religious schools can continue to give preference in employment decisions to applicants and staff who share the religious beliefs of the school across all employment positions.
 - We will not wait for the ALRC report and will repeal s.38(1) and (2) with concurrent amendments to ensure religious schools can continue to give preference in employment decisions to applicants and staff who share the religious beliefs of the school across all employment positions.
 - We will not wait for the ALRC report and will repeal s.38 with no concurrent amendments.
6. Faith-based schools are concerned that the proposal simply to repeal s.38(3) of the *Sex Discrimination Act 1984* (*SDA*) (concerning students) will create uncertainty about whether schools can still teach in accordance with doctrine and have policies to maintain the religious ethos of the school. This is because of the very broad definition of discrimination in education in s.21 of the *SDA*. Religious

schools have asked that, if s.38(3) is to be repealed, concurrent amendments ensure that religious schools are able to teach their doctrine and have policies to maintain the religious ethos of the school. What is your position in relation to s.38(3) of the *SDA*?

- We will wait for the ALRC report before making any decision on s.38(3), but in any event, commit to ensuring that schools will be able to continue to teach in accordance with their beliefs and to have policies to maintain the religious ethos of the school.
 - We plan to repeal s.38(3), with concurrent amendments to ensure religious schools are able to teach in accordance with their beliefs and to have policies to maintain the religious ethos of the school
 - We plan to repeal s.38(3), with no concurrent amendments.
7. Do you and your party support the principle underlying clause 12 of the RDB that people who make statements of belief or unbelief that are in good faith, without malice, and made without vilifying, threatening, harassing or intimidating others, or inciting the commission of a serious criminal offence should not be subject to discrimination complaints which are based purely on the statements (noting that those people will remain subject to all other legal consequences such as reasonable employer conduct rules and laws against vilification and defamation)? In particular, what is your position on the retention of clause 12?
- We support the principle of clause 12 described above and will retain clause 12 in its current form
 - We support the principle of clause 12 described above and will achieve that in a different way (give details)
 - We will promote an amended clause 12 with scope limited to protection from discrimination complaints under the RDB only
 - We do not support explicit protections for statements of belief
8. Do you and your party support the principle expressed in clause 10, which enables minority faith-based communities to cater for the specific religious and cultural needs of that community?
- Yes, we will enact clause 10 in its current form
 - Yes, but we will achieve this in a different way (give details)
 - No, we do not support explicit provisions for minority faith-based communities to cater for the specific religious and cultural needs
9. Do you and your party support extending the scope of the RDB to protection against religious vilification, such that it is unlawful to engage in public conduct, on the ground of a person's religious belief or activity, that a reasonable person would consider would threaten, intimidate, harass or vilify that person?
- Yes, we will enact anti-vilification provisions to this effect
 - Yes, but we will achieve this in a different way (give details)
 - No, we will not enact anti-vilification provisions
10. Do you and your party support reasonable limits on the ability of employers to impose conduct rules which restrict or penalise employees for making moderate statements of belief or unbelief? ("Moderate statements" means statements made in good faith, without malice, and without vilifying,

threatening, harassing or intimidating others, or inciting the commission of a serious criminal offence)? In particular, do you and your party support a “necessary and proportionate” requirement in the RDB that an employer’s conduct rule must be necessary to achieve a reasonable result concerning the employer’s business or activity and that the rule must impose no greater restriction on an employee’s freedom to make moderate statements of belief or unbelief than is necessary to achieve that result?

- We support the “necessary and proportionate” requirement for employer conduct rules relating to employee statements of belief and unbelief *made both inside and outside of work contexts*
- We support the “necessary and proportionate” requirement for employer conduct rules relating to employee statements *made outside of work contexts* (e.g. in non-work social gatherings and on non-work related social media)
- We support other reasonable limits [please specify below] on the ability of employers to impose conduct rules which restrict or penalise employees for making moderate statements of belief or unbelief.
- We do not support any limits on the ability of employers to impose conduct rules which restrict or penalise employees for making moderate statements of belief or unbelief whether within or outside work contexts.

11. Do you and your party support a provision in a RDB that employers and education providers need to make *reasonable* adjustments for people to act in conformity with their genuine religious beliefs, unless those reasonable adjustments would create an unjustifiable hardship for the employer or education provider? For example, a Jewish or Seventh Day Adventist person is required to work overtime on their Sabbath (a Saturday) when the employer could, without incurring unjustifiable hardship, roster other staff without a Sabbath observance need to work at that time. (The provision would be the same as the reasonable adjustments provision already in the *Disability Discrimination Act*.)

- We support a provision requiring employers and education providers to make *reasonable adjustments* for employees and students to act in conformity with their genuine religious beliefs, unless those reasonable adjustments would create an unjustifiable hardship for the employer or education provider.
- We do not support a provision requiring employers and education providers to make *reasonable adjustments* for employees and students.

12. The Ruddock Expert Panel concluded, citing the earlier recommendation of the Australian Charities and Not-for-profits Commission, that amendments should be made to the *Charities Act 2013* to clarify that faith-based and religious charities will not lose their tax exemption where they hold or express a traditional view of marriage. Will you and your party legislate such protection, including in respect of both the public benefit and public policy requirements imposed upon Australian charities?

- We support amendments to the Charities Act 2013 to clarify that faith-based and religious charities will not lose their tax exemption where they hold or express a traditional view of marriage, including in respect of both the public benefit and public policy requirements imposed upon Australian charities.
- We do not support amendments to the Charities Act 2013 to clarify that faith-based and religious charities will not lose their tax exemption where they hold or express a traditional view of marriage.