



NSW.ACT

# Religion and the provision of services – a submission to HREOC from UnitingCare NSW.ACT

*This submission was prepared by Rev. Dr. Ann Wansbrough  
and approved by the Board of UnitingCare NSW.ACT  
at its meeting on April 28, 2000*

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## The Inquiry

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This submission was prepared for the HREOC inquiry into the "imposition of religious or religious values criteria for employment by members of the Commonwealth's Job Network". We understand that the focus of this inquiry has now changed to the preparation of guidelines for service provision. Since the purpose of this submission is to address issues of general principle, we believe that it is relevant to the new focus. The submission will deal briefly with issues related to clients, and then with issues related to employment.

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## UnitingCare NSW.ACT

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UnitingCare NSW.ACT is the new name of the Board for Social Responsibility of the New South Wales Synod of the Uniting Church in Australia. Under its previous name, it has made a number of submissions to the HREOC in the past, including a submission to the inquiry into Article 18 on freedom of religion and belief. UnitingCare NSW.ACT is responsible on behalf of the Synod for oversight of Uniting Church community services and chaplaincy in New South Wales and the Australian Capital Territory, and for monitoring and commenting on issues of public policy where human rights, social justice or the effectiveness of services are at stake.

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## A. Issues affecting clients

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The Uniting Church in Australia supports the view that all government funded services should be non-discriminatory towards clients on the grounds of religion and belief, whether the services are delivered by the public sector, the business sector, non-religious community sector or religious organisations. Our

policies require that all our community services and educational institutions, whether government funded or not, should meet this criterion.

The test of non-discrimination is not merely the policies of the organisations, but how clients and their communities perceive and experience service delivery.

For example, it is important that services be delivered in buildings that are clearly identifiable as accessible to everyone. This means there needs to be sensitivity in using church buildings. However, some church buildings are used very successfully for some church community services such as drop-ins and soup kitchens, church buildings are used by community groups for a wide range of activities, and there are other factors than religion that may make a building a no-go area. For example, in some communities, Aboriginal people have been excluded or not felt comfortable in some particular buildings. From time to time, some Aboriginal people have expressed to us that they are ill at ease in some types of city offices. To be non-discriminatory against religious groups compared to other providers, contracts should specify that services be provided in buildings that clients will feel comfortable accessing, without regard to religion, culture or class.

It is also important that services be delivered by staff who will treat clients with appropriate sensitivity regarding religious, cultural and family matters (*inter alia*). This means, for example, that it would be inappropriate for any government funded community service to be staffed entirely by "Christians". It also means that it would be inappropriate for a government funded service to be staffed entirely by people with a particular economic or political ideology, who would be unsympathetic to clients with a different world view and

different beliefs and values. Secular ideologies, both those that drive business and those that drive political parties, can be as offensive to people of religious belief (or to people who hold a different ideology) as religious belief can be offensive to people who are without religious belief. For example, a non-religious person is at least as likely as a Christian not to understand why a Muslim would not take a job on the grounds that it was inconsistent with requirements of Islam.

It appears that the majority of Job Network contracts in New South Wales for some key services such as intensive assistance may have gone to religious organisations. In the media, the impression was given that all the contracts had gone to religious organisations and we agree that had this been the case it would be a matter of concern. While it is appropriate for religious organisations to participate in the Job Network, there are serious issues of discrimination when clients of other religious faiths or no faith have no choice but to accept government provided service from Christian organisations. There are two possible solutions to this problem. One is that a ceiling be placed on the percentage of contracts for a particular service that can go to organisations of any particular religion, or from the business sector. The other alternative is to say that where the best tenders are all from organisations of one religion, or one non-religious ideology, the communities affected should be consulted as to whether they believe that acceptance of the tenders is in their best interests and that there are adequate protections in place to ensure the services will be non-discriminatory.

The appropriate framework for government funded services is neither religious nor secular ideologies, but rather an understanding of human rights and human rights based values. These are consistent with the beliefs of the Christian churches and have been ratified by Australian governments as appropriate minimum requirements for government responsibility. It may be appropriate for government contracts to specify some of the criteria of service delivery to ensure that services embody such values. Another mechanism is to ensure an adequate mixture of types of organisations delivering the services, so that clients have a genuine choice.

## **B. Belief as implicit or explicit criteria in employment**

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UnitingCare NSW.ACT recognises that it is inappropriate to impose criteria of religious belief on employees in the Jobs Network. Some of the comments made by Christian organisations to justify the imposition of religious criteria have been inappropriate and offensive to members of other religious groups and aroused concerns among clients of the Job Network. The national Assembly of the Uniting Church has held meetings with representatives of several other religions, and as part of this process Wesley Mission has apologised to those groups for certain statements and past requirements. We understand that at their suggestion, Wesley Mission has also changed its practice so that rather than requiring that applicants hold specifically religious values, such as "Christ is at the centre of all that we do", it now requires that applicants agree that they are able to work within an organisation for which that is a value.

UnitingCare NSW.ACT (under its former name, the Board for Social Responsibility), in its submission to the HREOC inquiry into freedom of religious belief, drew attention to some of the complexities of the questions involved in drawing boundaries as to where religious organisations are entitled to discriminate. The Board asked that there be specific examination of the issue of the rights of religious organisations and their expression of belief through the institutions they run. It is unfortunate that the inquiry continued to focus only on the issue of individuals, and that the question of organisations has not been examined more seriously before the current controversy erupted.

Religious freedom is not about uniformity or about freedom from religion. It is important to recognise that while religious organisations have explicit beliefs, non-religious groups also have belief systems, that is, ideologies, that employees are expected to work within. Those ideologies are often powerful determinants of how secular organisations operate.

We live in an age where the public sector itself is not free of belief discrimination. These requirements can be more

dangerous to the extent that they are not an explicit or documented “tradition”. There are many stories of public servants feeling discriminated against, on ideological grounds, in their employment in the public service, to the detriment of their professional standing and ability to fulfil the role for which they were employed.

It should also be noted that government ideology, ie government’s own belief system, often has a significant impact on the way clients experience services provided through the public sector.

Secular belief systems affect the way business provides services. This is why non-government organisations, including the churches, have questioned privatisation of services.

The inquiry should therefore avoid the assumption that public sector services or services delivered through business are free from discrimination on the grounds of belief.

Some of the issues relating to the issue of belief and the Job Network or other government funded services are less about freedom of religion and more about the whole concept of privatisation. It may be more appropriate to question privatisation as such, and the assumptions that underpin government policies of privatisation, than to challenge the practices of religious groups *per se*. For example, one of the arguments the present federal government has made for privatisation in the form of the Job Network is that it wants a variety of approaches, whereas government services can only offer a uniform service. This approach is open to debate, but once privatisation for the purpose of variety is granted, then it follows that there need to be organisations which are different from each other. It defeats the policy to require that organisations operate exactly as if they were government instrumentalities and as if beliefs and values had no influence on the shape of the services provided.

### **C. Religious values and values based on other belief systems in employment**

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The question of values needs to be divided into two categories – those so-called values that are really religious

beliefs in another guise, such as “Christ is at the centre of all that we do”, and values that derive from belief systems but are pertinent to the organisation’s role and are in the interests of clients.

Where “values” are simply an alternative expression of a requirement of adherence to religious belief, then they should be treated in the same way as religious belief itself. If discrimination on the grounds of religion or belief is inappropriate, then calling it a value does not change its substance or effect.

However, describing beliefs as values is not only a problem in religious organisations. Secular organisations can also use jargon as a means of disguising a requirement for adherence to particular beliefs, eg acceptance of a particular “business culture”.

Having said that, there remain concepts that are genuinely values rather than beliefs – one of the basic tests is whether the content is such that it can be affirmed by people of different religions or beliefs, eg compassion, or sensitivity to clients.

UnitingCare NSW.ACT believes that there are values that should underlie all government provision of services, whether the government, business, community organisations or religious organisations are the actual suppliers of the service. We would welcome articulation of those values both in the inquiry and in contracts, provided that they are required equally of all organisations that provide services, including government itself. Such values and standards of service delivery should be those derived from human rights and have long term validity. For those values to be based on particular political or economic ideologies is as dangerous as for them to be based on religious ideology.

The inquiry also needs to recognise that all well run organisations, whether government, business, community or religious, have their own identity and practice based on beliefs and values and expect their employees to be able to work within their “culture”. Some business organisations have guidebooks setting out their mission statements, values and “culture” for their workers. Religious organisations are equally entitled to require that employees are willing and able to function within the organisational

culture and values. That is, it is important that the inquiry distinguish between values that can enable the organisation to function and enhance the quality of service for clients, and values that damage that quality of service, or mean that the interests of some other group (whether congregations or share-holders) takes precedent over the interests of clients.

#### **D. Government funded services**

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There is an overwhelming argument that where government outsources services it cannot abrogate its responsibilities towards both the clients and employees of such services. Governments should ensure that the form of contracts is consistent with those responsibilities. However, such requirements should apply *in an equivalent fashion* to government itself, to business, and to both non-religious and religious community organisations. If HREOC adopts a simplistic approach on these matters, it will be discriminatory towards religious beliefs and values compared to secular beliefs and values.

However, if the argument is based on government funding, then it should be recognised that there are limits to the argument. In some areas of service provision, government contracts assume that NGOs already exist and already have infrastructure funded in some other way. In effect, some not for profit organisations subsidise their government funded services. It would be inimicable to the viability of such services to require that organisations ignore their own belief systems. Some organisations would argue that this is the case in the Jobs Network, where organisations have had to absorb the cost of the tendering process and some job placement services are not adequately funded.

HREOC will need to consider whether or not this argument is relevant to the Jobs Network at this time. However, even if it is not, ie even if organisations are not subsidising these services, the point will be important if HREOC attempts to articulate general principles that might apply to all government contracts for services. This is particularly important given the present government's concept of social partnership, which assumes contributions from business and from community organisations.

However, in developing any general principles, government funding is not the only issue. Government has traditionally invested in social capital and civil society by funding non-government organisations for a range of activities. The goal of this is to promote civil society and to encourage activities best undertaken by civil society rather than through government agencies that are tied to particular approaches. There is, in other words, a trade-off between flexibility based on autonomy and uniformity based on government control. When government outsources the whole of a service area, the balance needs to be different from when NGOs provide only a small proportion of services. Nevertheless, there needs to be some sense of autonomy and some room for flexibility, or privatisation becomes a mechanism for turning civil society into the arm of government and eliminating genuinely alternative institutions and approaches to service delivery.

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#### **Conclusion**

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*UnitingCare NSW.ACT would support government contracts incorporating the requirement that services being funded be non-discriminatory towards clients on the grounds of religion or belief. It should be worded in a way that protects clients from discrimination on the grounds not only of religion but also of secular ideologies. Such a provision should also make it clear that this is not merely a matter of abstract policy, but must be reflected in matters such as providing the service in buildings that are appropriate to people of all religions and cultures, and that employees delivering the service should reflect the religions and cultures of the clients.*

*As part of its responsibilities towards all citizens, it may be appropriate for government to place a ceiling on the percentage of contracts (based on value, not numbers) that can be awarded to organisations which are identified with any particular religion or secular ideology.*

*UnitingCare NSW.ACT would welcome provisions in government contracts that employment of staff be non-discriminatory with regard to religion or belief, provided such provision applies equally to all belief systems and not merely to those that are overtly religious. However, we do not believe that government funded services can be provided in a values-vacuum. A*

balanced process therefore requires that HROEC articulate the *fundamental values that are relevant* to government provision of services and that it is not discriminatory to require of service providers and their employees. This might be a code of practice or standards for service delivery for all services. Beyond this, there should be some freedom for differences among different organisations, especially in those cases where the intention of privatisation is to allow variety in service provision so that outcomes can be achieved by a variety of approaches.

*In considering general principles, HREOC should treat discrimination on the grounds of secular ideology as being of equal importance with discrimination on the grounds of religious belief.* If it is accepted that business will have mission statements, values and culture and seek employees who are comfortable with these and are able to serve the purposes of the

organisation effectively, then it must also accept that religious organisations will also have mission statements, values and culture and will need to find employees who are comfortable with these and able to serve the purposes of the organisation effectively.

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