

IEU SUBMISSION

The Independent Education Union (IEU) welcomes the opportunity to respond to the Australian Law Reform Commission's (ALRC) consultation paper.

The IEU represents members in non-government education in all states and territories throughout Australia. The union's coverage spans early childhood education, schools and colleges, non-government educational institutions and post-secondary education. At the time this submission was prepared the IEU had 74801 members. The IEU is the only union with coverage of principals, educational leaders and teachers in non-government schools and maintains a density in excess of 54% in respect of these members.

Our response to the ALRC's initial consultation paper is informed by and consistent with the union's anti-discrimination policy developed and endorsed through the union's democratic structures.

Prior to submitting this response the IEU has had the opportunity to read the submission of the ACTU in draft and supports that submission.

1. Subsection 38(3) of the *Sex Discrimination Act 1984* (Cth) should be repealed.

The IEU supports this proposal.

2. Subsections 38(1) and (2) of the *Sex Discrimination Act 1984* (Cth) should be repealed.

The IEU strongly supports this proposal.

The repeal of ss 38(1) and (2) is necessary to meet the Government's commitment, as set out in the terms of reference for the ALRC's inquiry, to end discrimination against employees of faith-based educational institutions.

IEU members have been and continue to be discriminated against in educational institutions because of their sex, sexual orientation, age, marital status, family or carer's responsibilities, pregnancy, religion and political opinion.

The IEU's submissions to the Attorney General's Department concerning the Religious Discrimination Bill 2019, Religious Discrimination (Consequential Amendments) Bill 2019 and the Human Rights Legislation Amendment (Freedom of Religion) Bill 2019 appended examples of many individual instances of such discrimination. The IEU's submission to the Legal and Constitutional Affairs Legislation Committee's inquiry into a similar suite of Bills in 2021 appended further examples.

Discrimination continues in schools. The IEU's branches have already received member complaints of discriminatory action from employers related to the release of the ALRC's consultation paper. Members have received warnings related to distribution of the consultation paper and discussion of its contents at the workplace.

The consequence of the religious educational institution's exemptions from discrimination is that IEU members employed in a significant minority of faith-based schools do not enjoy the same rights at work as other Australian workers. In these workplaces there is a real risk of termination of employment where an employee has an attribute which is at odds with a school's religious teachings.

In 2021 the Victoria/Tasmania branch of the IEU surveyed its members concerning their experience of discrimination. The results of that survey were appended to the IEU's submission to the Legal and Constitutional Affairs Legislation Committee and are appended here as Attachment 1. The fact that 24.3% of members felt that employees at their school could not be confident of being open and honest about factors such as belief, marital/relationship status, parental status, sexual orientation or gender identity and more than 20% had witnessed or experienced discrimination in respect of marital, relationship or parental status is indicative of the urgent need to reform Australia's anti-discrimination laws.

- 3. The *Sex Discrimination Act 1984* (Cth) should be amended to specify that the exception for religious bodies in s 37(1)(d) does not apply to educational institutions.**

The IEU supports this proposal.

- 4. The *Sex Discrimination Act 1984* (Cth) should be amended to specify that the exception for religious bodies in s 23(3)(b) does not apply to accommodation provided by an educational institution.**

The IEU supports this proposal.

- 5. The *Fair Work Act 2009* (Cth) should be amended to specify that the exceptions for religious bodies in ss 153(2)(b), 195(2)(b), 351(2)(c) and 772(1)(f) do not apply to educational institutions except as otherwise provided in the *Sex Discrimination Act 1984* (Cth) and *Age Discrimination Act 2004* (Cth).**

The IEU supports this proposal.

Our submission in respect of proposal 2 insofar as it relates to the harmful consequences of the exemptions for religious institutions in the *Sex Discrimination Act* applies equally to the current operation of the anti-discrimination exemptions in the *Fair Work Act 2009* (Cth) (**FWA**).

The ALRC's proposals leave ss 351(2)(a) and (3) in place. This and the retention of the various "inherent requirements" exceptions will mean that differing protections against discrimination will operate in the FWA to those of the *Sex Discrimination Act 1984* (Cth) (**SDA**). The two Acts should instead operate to provide the same exceptions.

This proposal also maintains the importation of the federal anti-discrimination legislation and the anti-discrimination legislation in each state and territory as the determining factor as to whether an employee can commence proceedings under s 351. It is not clear to us how the Government's key policy objective of preventing discrimination against employees in religious educational institutions can be achieved when federal legislation wholly defers to state legislation. An example of the unintended consequences of the operation of s 351 is that even though it purports to prevent employers from taking adverse action against employees on the basis of their social origin, no employee in Australia can seek a remedy under s351 as discrimination on the basis of social origin is not unlawful in any state or territory.

s 772(1)(f) should be repealed and consequently so should the exception for religious institutions in s 772(2)(b) of the FWA.

- 6. The *Sex Discrimination Act 1984* (Cth) should be amended to extend anti-discrimination protections to prohibit discrimination against students and prospective students on the grounds that a family member or carer of the student has a protected attribute.**

The IEU supports this proposal with amendments.

Paragraph 89 of the consultation paper suggests that there is merit in extending this protection to include, inter alia, employees and the proposal should be amended

accordingly. We also support the ACTU's proposals to widen the scope of the protection to include a wider cohort of student and employee associates.

7. Amend the *Sex Discrimination Act 1984* (Cth) to clarify that the content of the curriculum is not subject to the Act.

The IEU opposes this proposal.

Before finalizing its report to the Government the ALRC should conduct a more detailed investigation into the content of all state and territory curriculum requirements. We disagree with the implicit assumption in this proposal that these curriculum requirements in themselves would provide sufficient certitude that they protect students from harm or discrimination to an extent that the content of the curriculum could be safely excluded from the *Sex Discrimination Act*. Curriculum guidelines will typically only broadly prescribe the parameters of religious education. No state or territory guidelines will prevent a school's religious education curriculum from being centrally or indeed solely focused on teaching students that conduct which is lawful in Australia (eg same-sex unions) is immutably morally wrong and impermissible and that the consequences of engaging in that conduct will be shame, rejection by their religious community and their deity. Such teaching need not involve "*haranguing or berating pupils*".

The consultation paper, in its examples on p55 as to what the implementation of proposal 7 might mean in practice for students and teachers, states that teachers would be able to "*provide objective information about alternative viewpoints if they wished*". Where an employer gives a specific direction as to the content of religious instruction which prohibits the provision of alternative viewpoints it's not clear to us what rights the employee could rely upon to insist that that direction be tempered by the provision of such information.

- 8. The *Fair Work Act 2009* (cth) should be amended such that a term of a modern award or enterprise agreement (as applicable) does not discriminate merely because it gives more favourable treatment on the ground of religion to an employee of an educational institution conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed where:**
- the treatment relates to the selection of employees;
 - participation of the employee in the teaching, observance or practice of religion is a genuine occupational requirement, having regard to the nature and ethos of the institution;

- **the treatment does not constitute discrimination on any other ground prohibited by ss 153(1) or 195(1), respectively; and**
- **the treatment is proportionate in all the circumstances**

The IEU opposes this proposal as currently drafted.

The IEU does not oppose employers in non-government schools being able to preference employees on the ground of religion provided that the right to preference is limited to selection at the point of initial engagement.

We don't oppose this limited right to preference primarily because we acknowledge the difficulties associated with changing existing processes of appointment. Effectively faith-based educational institutions may employ whomever they wish and no bar exists to allowing employers to build communities of faith. As a matter of principle, subject to the protections advocated in this response, we also support the terms of reference of the ALRC inquiry in allowing religious education institutions to build communities of faith.

Unless the proposal were to include a merit-based proviso, common to industrial instruments, that a right of preference could only be exercised where all other considerations as between prospective employees were equal, then it is unlikely that existing employer preferencing at the point of engagement will change. Most employers in non-government schools and particularly larger school systems will include and even prioritise merit as a factor to be taken into account in their policies for selection of employees, however selection decisions in non-government schools are not subject to review and appeal as is the case in government schools. Principals, bursars and other employees entrusted with responsibility for engaging employees can and do select friends, members of their family and members of their faith community in preference to more meritorious applicants. Whether this practice is in the interests of students and the school community is open to question. Employers are not obliged to provide reasons for not employing unsuccessful applicants. Few if any IEU members who complain of discrimination at the point of engagement are as a result enabled to provide any evidence to support the union commencing proceedings to seek a remedy for breach of provisions in anti-discrimination legislation on their behalf.

While some religious leadership positions and, depending on the faith-basis and ethos of the school, some Principal positions, may have as an inherent characteristic the need to be an adherent of the relevant school's faith, that does not in itself provide any justification for extending the right to preference on religious grounds to all selection processes and appointments.

Proposals 8 and 10 detail amendments to legislation which would impose conditions on employers' rights to preference. At paragraphs 57 and 58 in its reasoning accompanying Proposition C, which is the basis of Proposals 8 and 10, the ALRC says, "such preferencing must be justified as reasonable, entailing consideration of proportionality. In the context of religious institutions, such preferencing is generally considered reasonable where a job has explicitly religious or doctrinal content. In these circumstances the religious grounds for

preferencing can be seen as a ‘genuine occupational qualification’ for the role... The use of the word ‘genuine’ requires an objective inquiry into the actual nature of the role in light of the practices of the institution.”

Consultation proposal 8 should either be reframed to ensure that there is a definition of “genuine occupational requirement” which is consistent with the intention of the proposal as set out in paragraphs 57 and 58, particularly the requirement for such a job to include explicitly religious or doctrinal content, or preferably it should impose an inherent requirements test.

The consultation paper references authorities for the proposition that the words “genuine occupational requirement” mean a characteristic that is intrinsic to the role. Prima facie this assertion is open to question. A genuine occupational requirement may, using the ordinary meaning of those words, also be a minor or desired characteristic of a position but not one essential to the satisfactory performance of its core duties. Replacing “genuine occupational requirement” with “an inherent requirement” would assist in assuring the right to preference was much more closely aligned to the ALRC’s reasoning in paragraphs 57 and 58. An inherent requirement test would also be a better measure because the term is already in use in antidiscrimination legislation and is better understood. Specifically, it would be clear that:

- what is required of the position will require an examination of the tasks performed¹
- it is not for the employer to determine the inherent requirements: it is for a court or the Fair Work Commission (FWC)²
- an employer cannot create an inherent requirement by stipulating something that is not essential or by stipulating for qualifications or skills which are disproportionately high when related to the work to be done³
- determining whether a requirement is an inherent requirement may involve a practical examination of whether the position would be essentially the same if that requirement were removed⁴

Any requirement for proportionality should include a requirement that the treatment also be reasonable in all the circumstances. Similarly, any amendment should also make express the employee rights to be considered in any test of proportionality.

Wholly disregarding merit in favour of religion as a single overriding selection criterion in any position other than a religious leader of Principal position will be detrimental to student learning outcomes and welfare.

¹ *Qantas Airways Ltd v Christie* (1998) 193 CLR 280

² *X v The Commonwealth* (1999) 200 CLR 177

³ *Christie* at [34]

⁴ *Christie* at [36]

9. The *Fair Work Act 2009* (Cth) should be amended such that a term of a modern award or enterprise agreement (as applicable) does not discriminate merely because it allows an educational institution conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed to terminate an employee's employment where:
- the termination is necessary to prevent an employee from actively undermining the ethos of the institution;
 - the treatment does not constitute discrimination on any other ground prohibited by ss 153(1) or 195(1), respectively; and
 - the termination is proportionate to the conduct of the employee – including by reference to:
 - the damage caused to the ethos of the educational institution;
 - the genuine occupational requirements of the role, having regard to the nature and ethos of the educational institution;
 - alternative action the employer could instead reasonably take in the circumstances;
 - the consequences of termination for the employee; and
 - the employee's right to privacy

The *Fair Work Act 2009* (Cth) should be further amended such that religion is a permissible ground of termination, despite s 772(1)(f), in the circumstances set out above.

The IEU strongly opposes this proposal.

Paragraph 64 of the consultation paper states "Proposition D is intended to clarify the extent to which the general law duties of loyalty and fidelity to an employer can be imposed in a way that is reasonable and proportionate in the context of regulating the behaviour of staff in religious educational institutions..."

The IEU opposes the proposal for the following reasons:

- It is not necessary to codify the common-law duty of fidelity in non-government schools in order to preserve respect for the religious ethos of those schools
- it is not necessary and it is harmful to create new employer rights to terminate employees which would have the effect of bypassing and completely nullifying the newly created protections for employees under anti-discrimination law proposed by the consultation paper pursuant to its terms of reference; and
- the dismissal test of "actively undermining the ethos of the school" is misconceived, wholly unworkable and impractical and open to abuse

As presented the proposed amendment would, save perhaps any question as to genuineness, accept an individual institution's ethos at face value and as a matter

wholly for the employing authority to determine. There is no link between an institution's ethos and the faith basis of the school. There is instead a presumption that each school's ethos will be consistent with the teachings of that school's religion. In our experience a school's ethos, at least as set out in current enterprise agreements, may in fact not be consistent with the published dogma or teachings of the school's religion. Instead that ethos will be developed by reference to one or a combination of the following: the ideals and beliefs of the school's leadership; the differing ideals and beliefs of representatives of the school's faith community on the school's board or the negotiated outcome of industrial bargaining.

There is no test of reasonableness applied to the content of an ethos in the proposal or a requirement for the dictates of an ethos to be lawful. There is no limitation on an ethos to found it in valid contractual terms or prevent it from being unachievably aspirational. In this context Attachment 2 to this submission is an extract from the *Bethany Christian School Enterprise Agreement 2017* containing the school's ethos. The provisions in the extract appear in the same form in the school's 2020 agreement. Whether or not the terms of this school's ethos were ever seriously intended to give rise to enforceable obligations they would appear, absent any reference to contrition and forgiveness, to present an insuperable hurdle for employees attempting to conform to them.

Identifying a school's ethos may present additional complexities. Many employers either provide minimal policy guidance or seek to incorporate by reference entire religious texts in industrial agreements and contracts. By asserting that the conduct rules for employees are those immutably set down by scripture as interpreted by the school leadership, without actually setting out specific and comprehensible standards, schools aim to exercise a great degree of control over employees. Attachment 3 to this submission is an example of such an ethos.

The IEU is also concerned that the more strongly held or inflexible or complex or unreasonable an institution's ethos the greater the possibility that action by an employee to undermine that ethos may be minimal and/or unwitting. There is no suggestion in the proposal that an employee's undermining action must be deliberate or intentional or have had as its aim, or one of its aims, damage to an educational institution's ethos.

10. The Australian Government should ensure that any future legislation to prohibit discrimination on the basis of religious belief or activity contains exceptions in relation to employment and engagement of contract workers that allow an educational institution conducted in accordance with the doctrines, tenets, beliefs or teachings of a particular religion or creed to:

- **give more favourable treatment to an employee or prospective employee (and contract worker or prospective contract worker) on the ground of religion in relation to selection; and**

- **take action that is reasonably necessary to prevent an employee or contract worker from actively undermining the ethos of the institution;**

consistent with the limitations on such exceptions contained in proposals 8 and 9

The IEU opposes this proposal.

Our response to the first dot point concerning preference is set out under proposal 8.

Our comments in respect of the language of dot point 2 are set out under proposal 9. Proposal 10 would also provide an exception from discrimination legislation that would allow employers to take action against employees that is necessary to prevent them from undermining the ethos of an institution. In the context of the removal of the religious exceptions from the FWA such an exception would give rise to a potentially serious conflict of rights.

Part 3-3 of the FWA gives employees the right to take protected action for the purpose of supporting claims. Section 347 of the Act provides a further protection for employees who take such action from adverse action by an employer that is taken or threatened as a result of an employee exercising their right to take industrial action.

In non-government schools the prescription of and/or content of religious mission statements, ethos and 'lifestyle' clauses in enterprise agreements is a common subject of negotiation and dispute as the clauses invariably include employee conduct rules. IEU members can and do take industrial action to oppose employer claims for such clauses. Members usually do so as they believe that that the proposed employer terms will go beyond the beliefs of the school's faith community and represent an unnecessary intrusion into the personal lives of employees. Such industrial action will frequently include campaign action involving the distribution of materials to parents.

Clearly employees' opposition to an employer's desire to codify its ethos in particular terms may be conceived as undermining that ethos.

Employees working in non-government education should not be the subject of any restriction on their bargaining rights when compared with employees in other industries. The removal of the existing FWA exceptions in ss 195(2)(b), 772(1)(f) and 772(2)(b) should not be offset by the creation of new employer rights to discriminate. The creation of such rights is not necessary to ensure that employers are able to build communities of faith. This proposal also fails to recognize the rights to freedom of expression of employees of faith living and working in an active faith communities. It treats the precepts of their faith as unchangeable and would stymie their participation in debate about the nature and dictates of that faith.

- 11. The *Australian Human Rights Commission Act 1986 (Cth)* should be amended so that religious educational institutions are subject to the Act.**

The IEU supports this proposal.

- 12. The Australian Human Rights Commission should review the ‘Commission Guidelines’ for ‘Temporary exemptions under the *Sex Discrimination Act 1984 (Cth)*’ in light of the legislative changes proposed.**

The IEU supports this proposal.

- 13. The Australian Human Rights Commission, in consultation with the Attorney-General’s Department, should develop detailed guidance to assist educational institution administrators to understand and comply with the *Sex Discrimination Act 1984 (Cth)* and anti-discrimination provisions in the *Fair Work Act 2009 (Cth)* and for the public to understand the relevant protections.**

The IEU supports this proposal.

Such guidance should also be developed for students and employees of educational institutions. There are many schools where IEU members have a justified fear of being discriminated against by their employer if, for example, the fact of their being in a “non-complying relationship” become known to the school authorities. This apprehension is a direct result of having observed the effect of their employer’s discriminatory conduct on their colleagues. It is important that students and employees have access to authoritative and objective advice, with the imprimatur of the federal government, explaining changes to their rights at work resulting from the enactment of the proposed amending legislation.

We also share the ACTU’s concern that any educational campaign not be the cause of any delay between the passing of legislation to give effect to any of the ALRC’s proposals adopted by the government and the date that legislation takes effect.

- 14. Following implementation of Proposals 1 to 11, the Australian Government should consider and consult on further reforms to simplify and strengthen Commonwealth anti-discrimination law, including by addressing inconsistencies arising from reforms proposed in this Inquiry.**

The IEU supports proposal 14.

ATTACHMENT 1

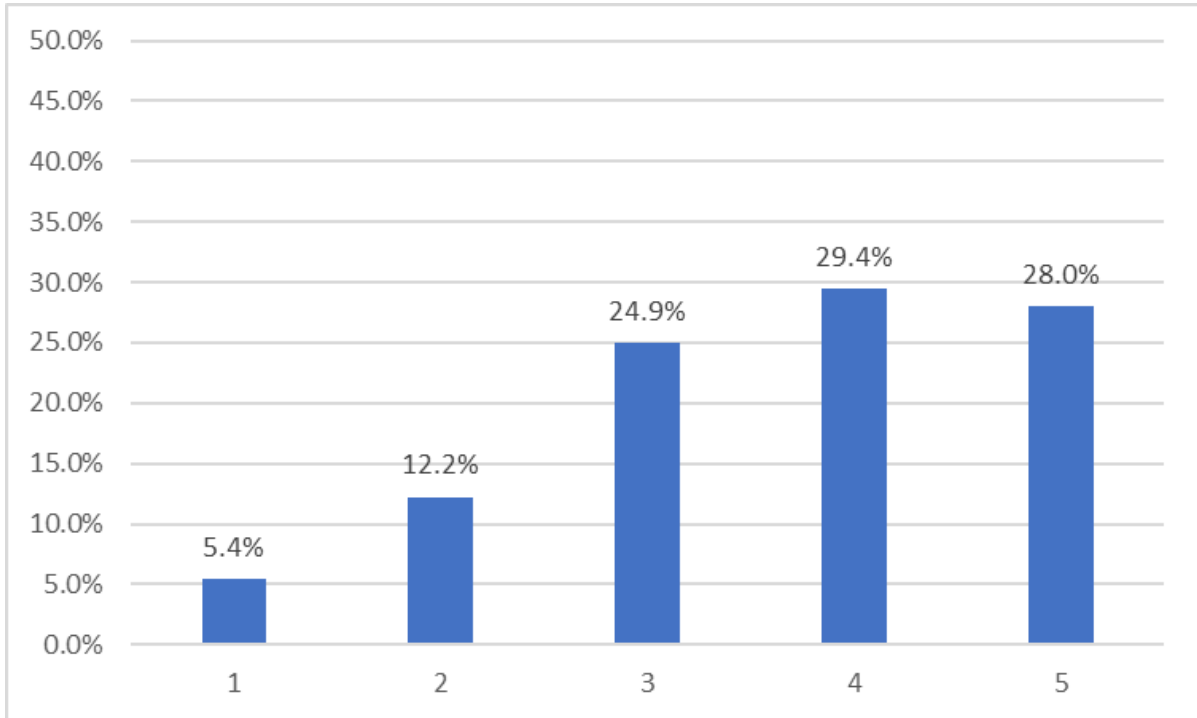
July 2021 Discrimination Survey Results

Contents

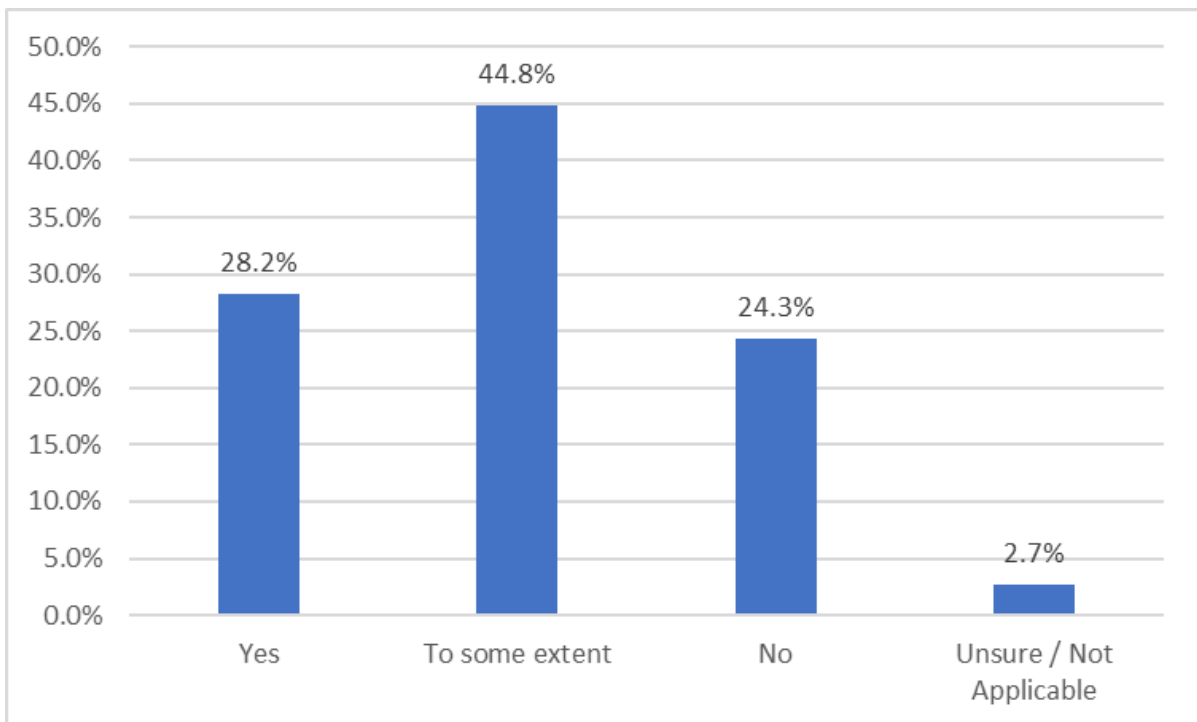
Victoria – Overall.....	12
Tasmania – Overall.....	14
Victoria – School Sectors.....	16
Tasmania – School Sectors.....	19

Victoria – Overall

Question 1: How do you rate your workplace in terms of openness, tolerance and acceptance of diversity? (5 = Most open, tolerant and accepting of diversity) – 1071 Responses

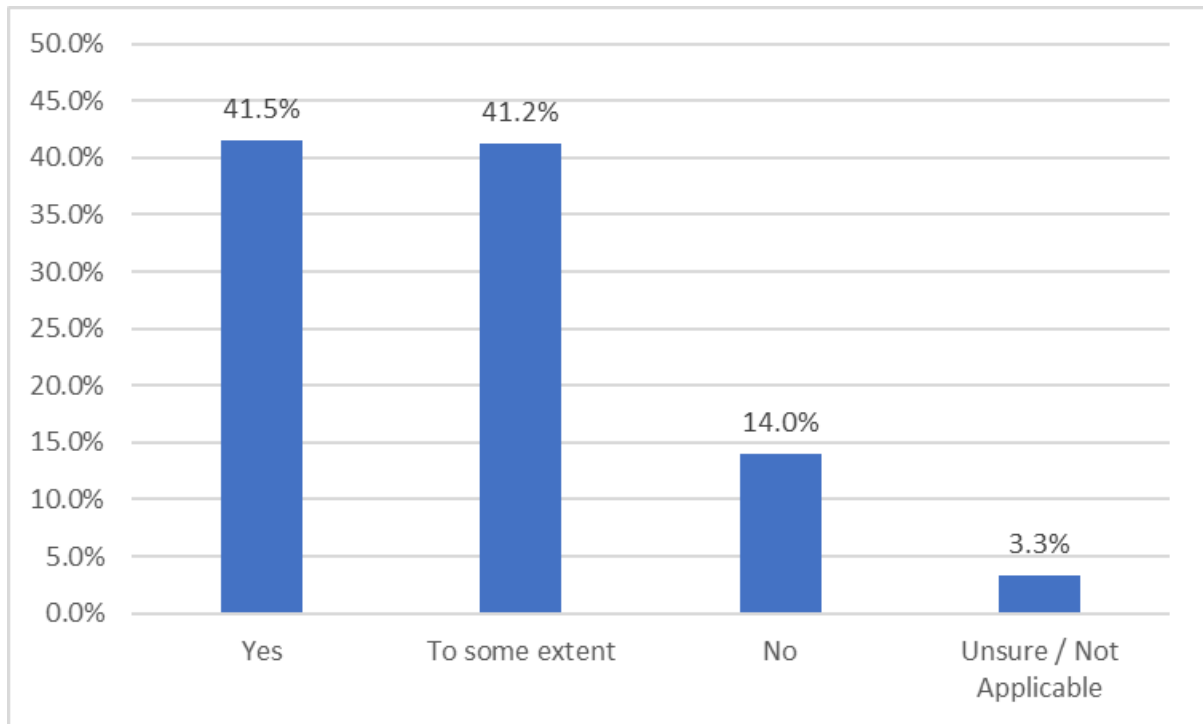


Question 2: Do you feel that staff are confident in being open and honest in the workplace about factors such as belief, marital/relationship status, parental status, sexual orientation or gender identity? – 1070 Responses

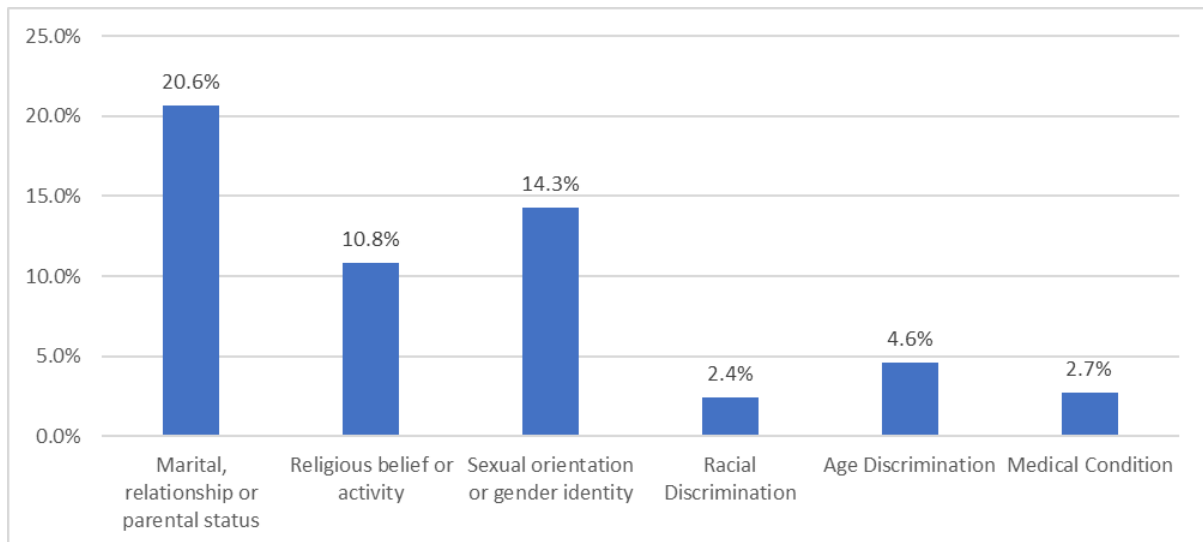


Victoria – Overall

Question 3: Do you feel that diversity amongst the students in your school is supported and celebrated? – 1071 responses.

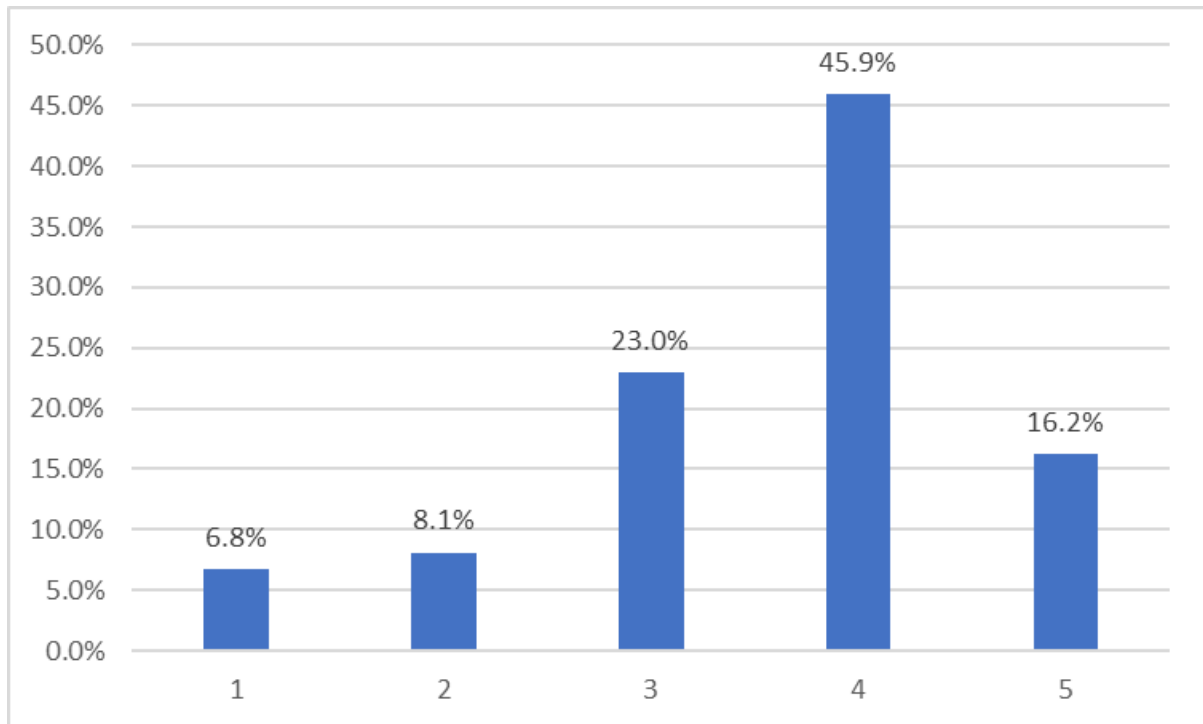


Question 4: Have you witnessed or been subjected to discrimination in your workplace for any of these factors: - 594 responses, percentage based on total of 1071.

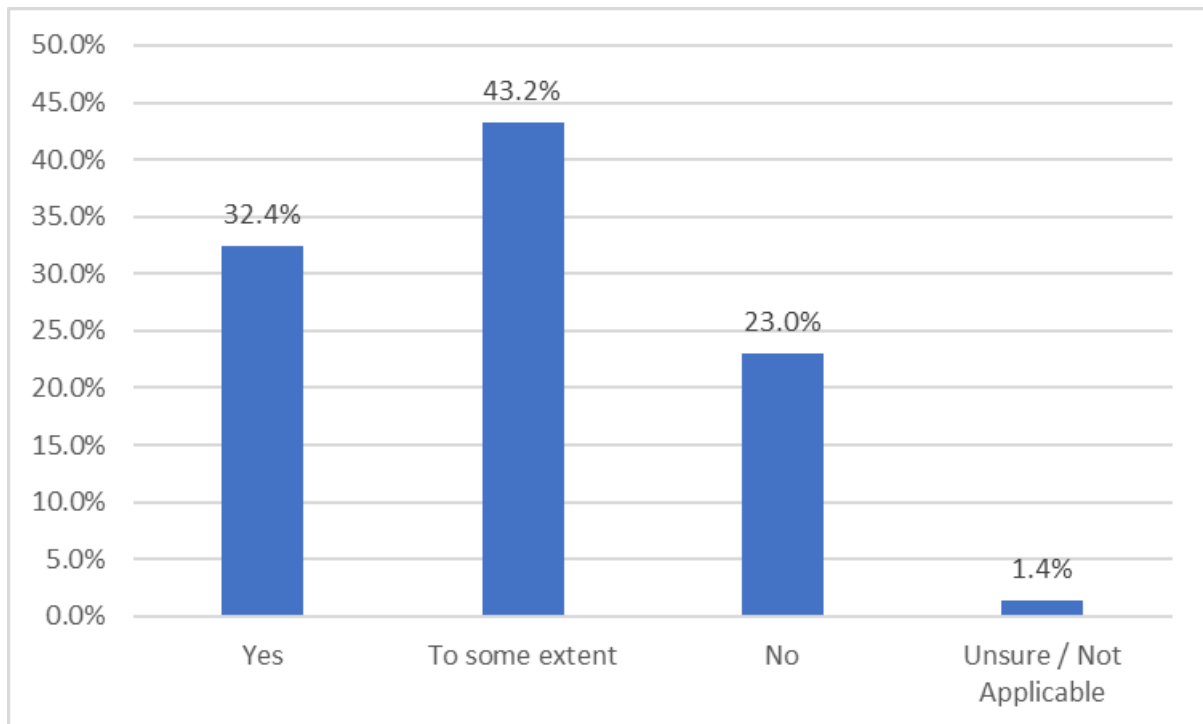


Tasmania – Overall

Question 1: How do you rate your workplace in terms of openness, tolerance and acceptance of diversity? (5 = Most open, tolerant and accepting of diversity) – 74 responses.

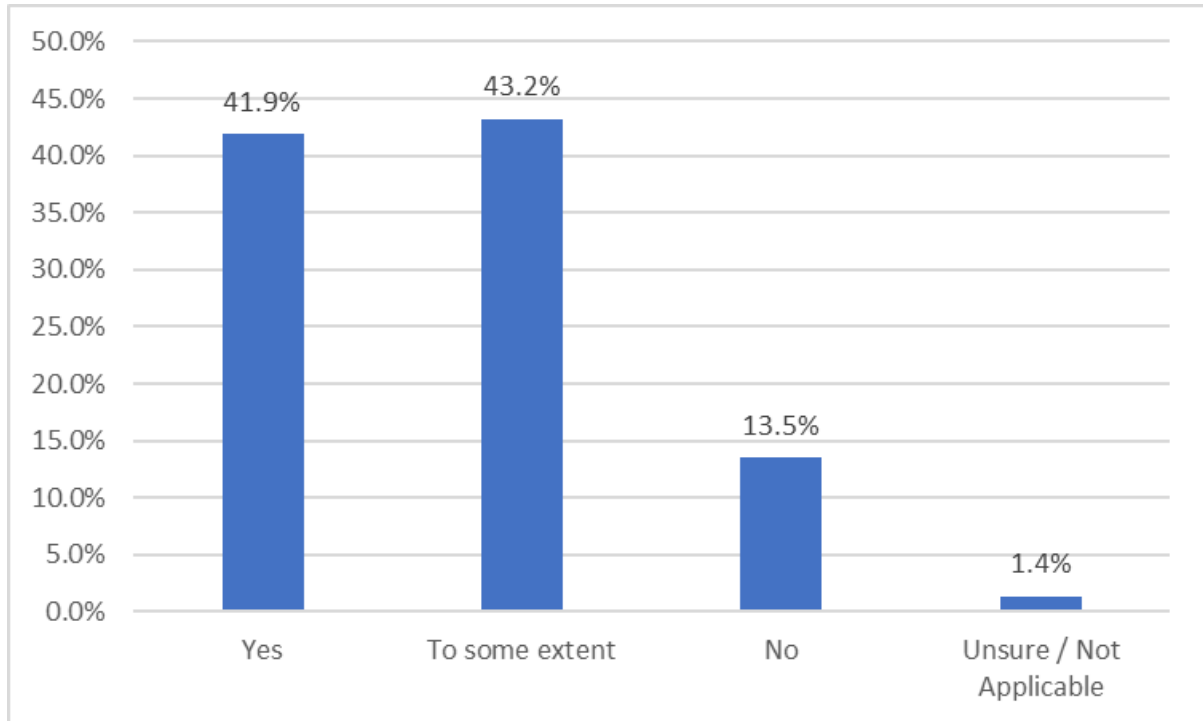


Question 2: Do you feel that staff are confident in being open and honest in the workplace about factors such as belief, marital/relationship status, parental status, sexual orientation or gender identity? – 74 responses.

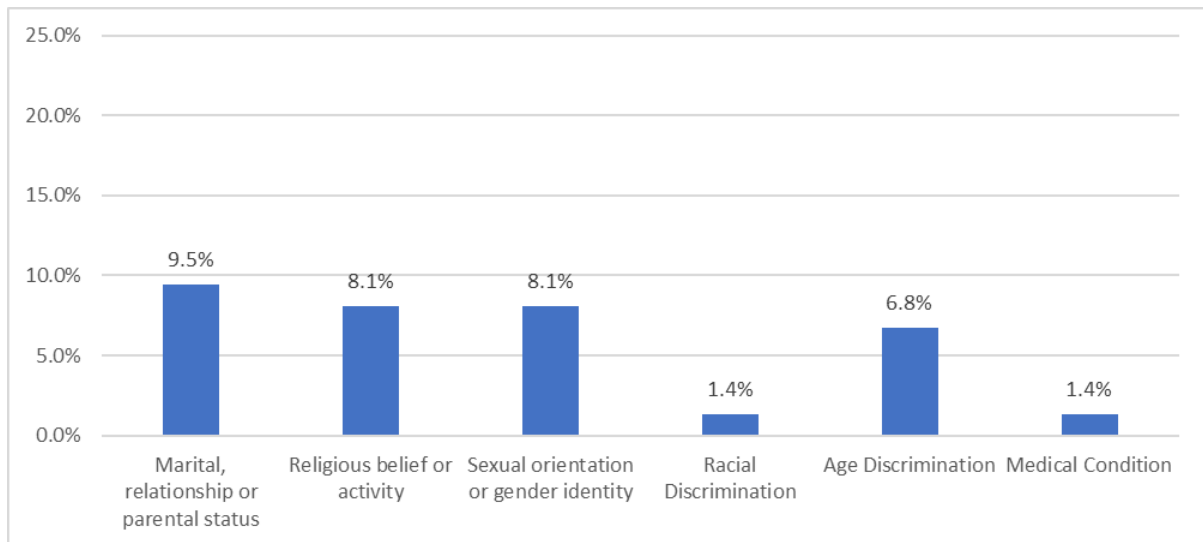


Tasmania – Overall

Question 3: Do you feel that diversity amongst the students in your school is supported and celebrated? 74 responses



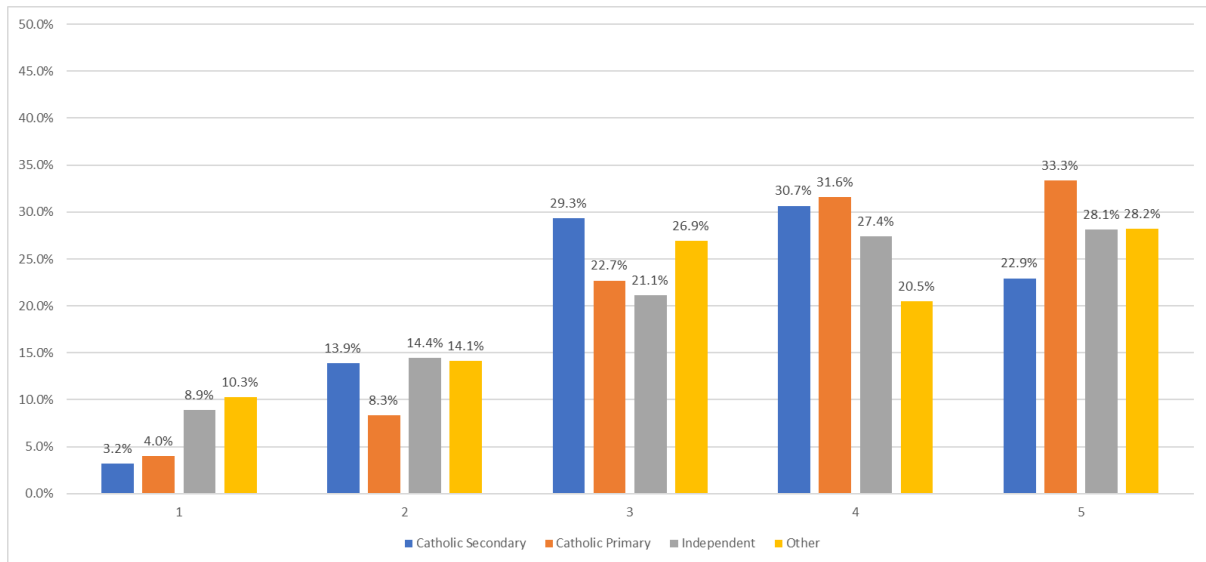
Question 4: Have you witnessed or been subjected to discrimination in your workplace for any of these factors: - 26 responses, percentages based on total of 74



Victoria – School Sectors

Question 1: How do you rate your workplace in terms of openness, tolerance and acceptance of diversity? (5 = Most open, tolerant and accepting of diversity)

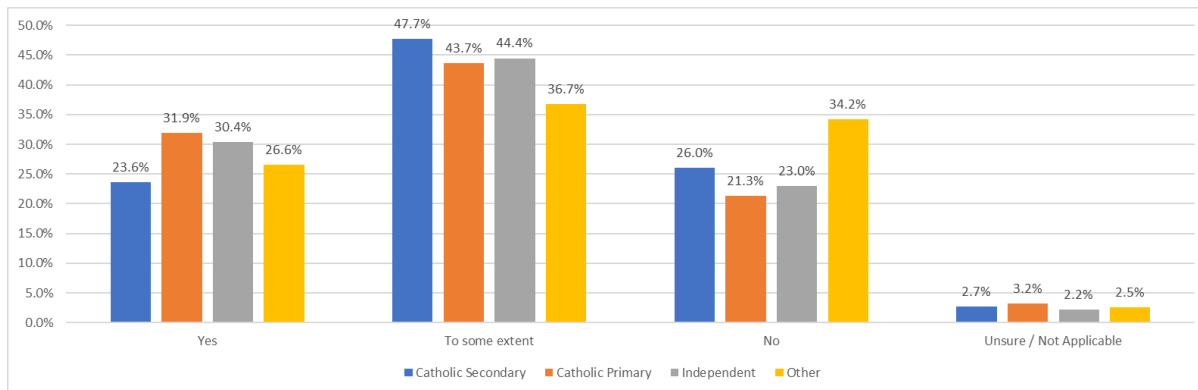
Number of responses: Catholic Secondary-375. Catholic Primary-348. Independent-270. Other-78.
Other includes CPO, P, N, N/A.



Victoria – School Sectors

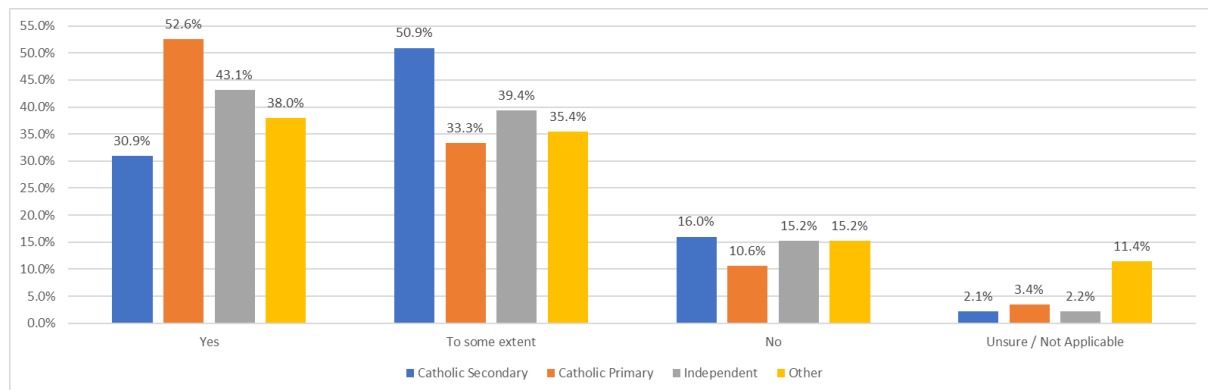
Question 2: Do you feel that staff are confident in being open and honest in the workplace about factors such as belief, marital/relationship status, parental status, sexual orientation or gender identity?

Number of responses: Catholic Secondary-373. Catholic Primary-348. Independent-270. Other-79. Other includes CPO, P, N, N/A.



Question 3: Do you feel that diversity amongst the students in your school is supported and celebrated?

Number of responses: Catholic Secondary-375. Catholic Primary-348. Independent-269. Other-79. Other includes CPO, P, N, N/A.



Victoria – School Sectors

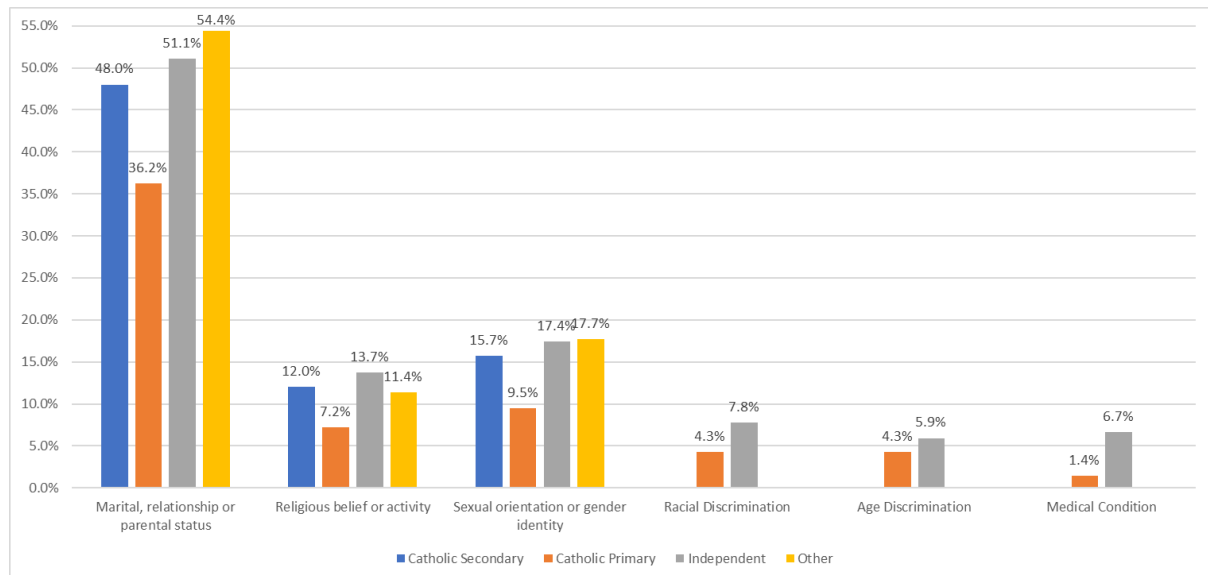
Question 4: Have you witnessed or been subjected to discrimination in your workplace for any of these factors:

Number of responses and totals: Catholic Secondary-326/375. Catholic Primary-219/348.

Independent-277/270. Other-66/79.

Other includes CPO, P, N, N/A.

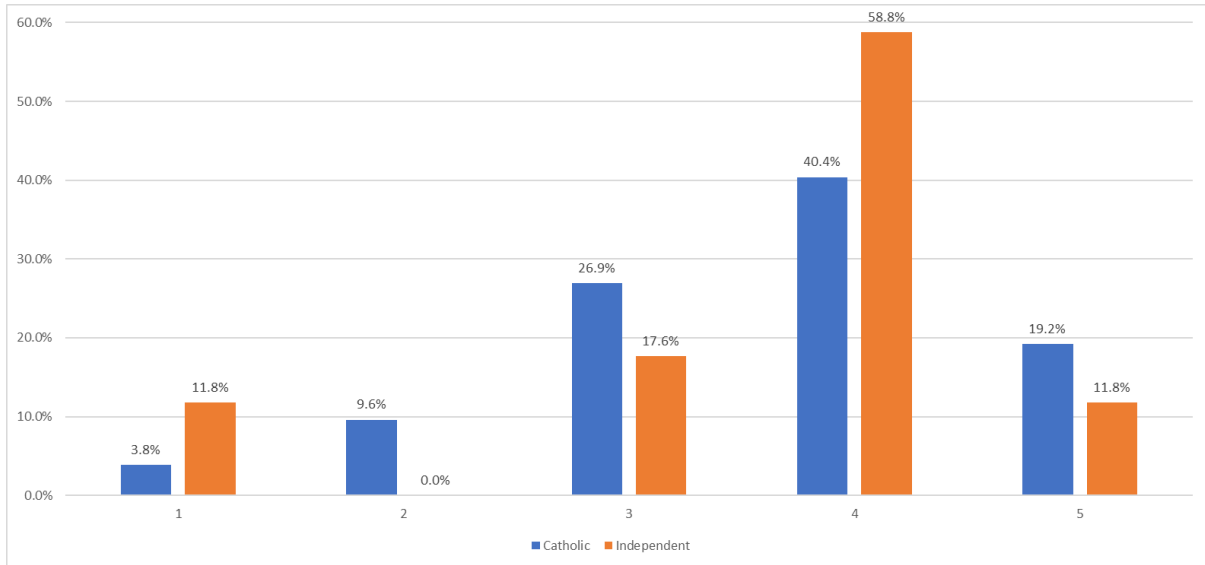
Note that A single respondent could answer across multiple series for this question.



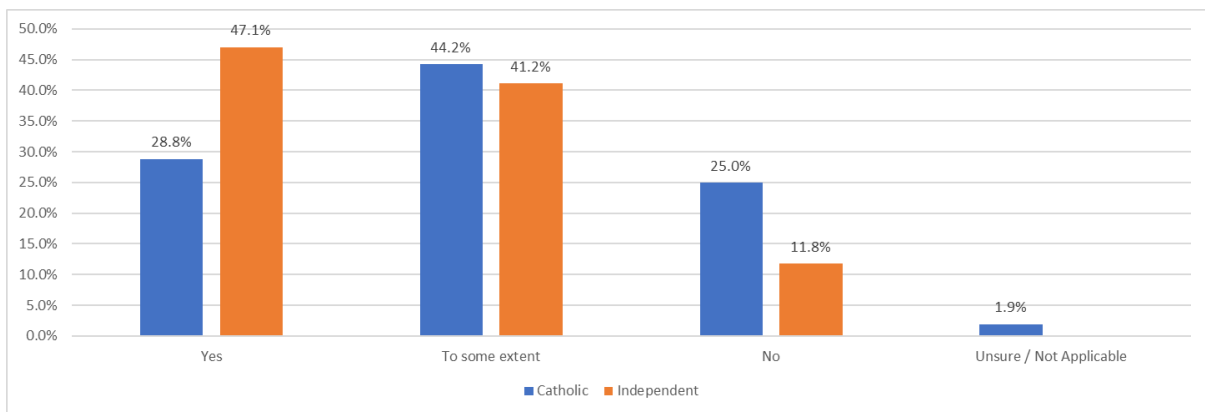
Tasmania – School Sectors

Note that the Tasmania schools' sectors axis values change with each graph

Question 1: How do you rate your workplace in terms of openness, tolerance and acceptance of diversity? (5 = Most open, tolerant and accepting of diversity) – Number of responses: Catholic – 52. Independent – 17.



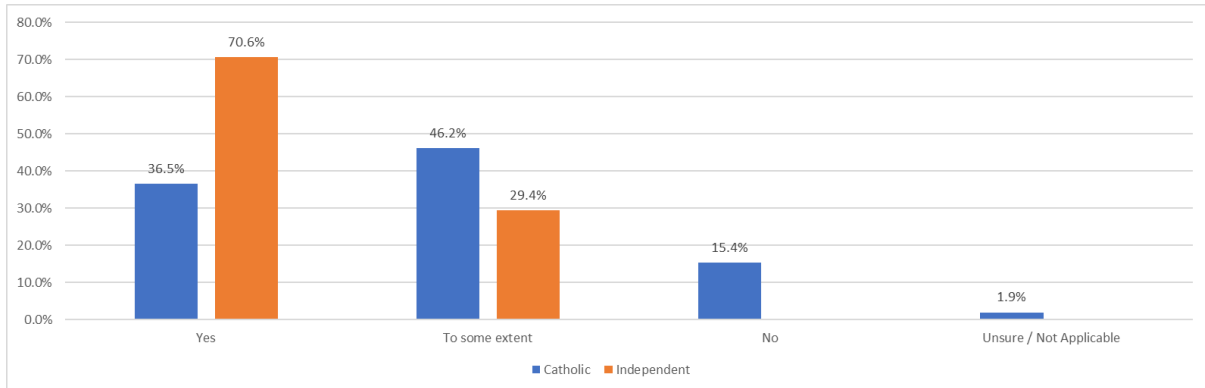
Question 2: Do you feel that staff are confident in being open and honest in the workplace about factors such as belief, marital/relationship status, parental status, sexual orientation or gender identity? Number of responses: Catholic – 52. Independent – 17.



Tasmania – School Sectors

Question 3: Do you feel that diversity amongst the students in your school is supported and celebrated?

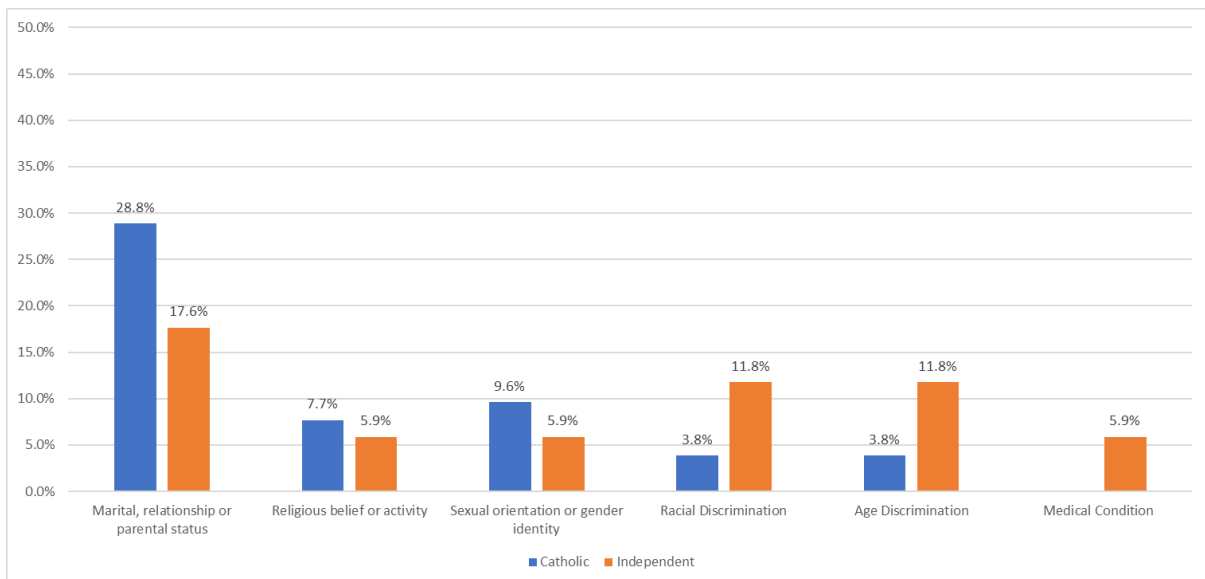
Number of responses: Catholic – 52. Independent – 17.



Question 4: Have you witnessed or been subjected to discrimination in your workplace for any of these factors:

Number of responses and totals: Catholic – 28/52. Independent – 10/17.

Note that A single respondent could answer across multiple series for this question.



ATTACHMENT 2

An extract from the *Bethany Christian School Enterprise Agreement*

Clause 4: School Mission and Ethos

4.1 It is agreed that the staff of Bethany Christian School will exhibit Biblical Christian Values in their performance of their duties and will co-operate with the school in the fulfilment of its Mission Statement, which is: *Excel in Christian Education in partnership with families, providing a Biblical worldview. Train and equip our students with leadership and Godly values to achieve personal excellence. Model grace, justice and generosity.*

4.2 As a Christian learning community, we hold the following Biblical values, and seek to promote these values among our families and students by the teaching and lifestyle of the staff:

- (i) Give first priority in life to the one true God revealed in the Bible as three persons: Father, Son and Holy Spirit (Matthew 4:10; Matthew 22:37; 2 Corinthians 13:14).
- (ii) Not worship material goods, popularity or power (Mark 8:36)
- (iii) Not use language that is blasphemous or unwholesome (Ephesians 4:29)
- (iv) Be just and fair in all dealings with other people. Not to discriminate in relationships against others because of race, beliefs, gender, disability or values (Galatians 3:28)
- (v) Be willing to support families and to provide for families in need and to set apart time for God and relaxation (1 Timothy 5:18b; 1 Timothy 2:2b)
- (vi) Honour parents and those set in authority over us (Ephesians 6:1-3; Colossians 3:22)
- (vii) Respect the sanctity of life in all situations, love others as one-self and avoid action, words or attitudes that will deliberately hurt others. Be quick to forgive where offences have occurred (John 15:13; Matthew 6:12)
- (viii) Respect the sanctity of marriage and a lifelong commitment rejecting divorce as an option to solving marriage difficulties except as allowed by the bible, and ensure that sex occurs only within a monogamous marriage, and that we

abstain from pre-marital sex, extra marital sex, de-facto marriage and homosexual relationships (1 Thessalonians 4:3; Hebrews 13:4, Genesis 2:23; Mark 10:7-9; 1 Corinthians 6:9)

(ix) Respect the property and good name of others and not steal their property or their reputation (Ephesians 4:31-32; Matthew 19:18)

(x) Speak Truthfully and not lie or spread false or distorted information about others (Colossians 3:9)

(xi) Abstain from greed, lust, pornography, gluttony, drunkenness and banned substances (Romans 6:11-14)

(xii) Handle disputes or grievances in a God honouring and Biblical manner (Matthew 7:1-5; James 4:11)

(xiii) Not adhere to teaching or promote any occult belief, values or practices, e.g. astrology, divination, eastern spiritualism, mysticism, New Age beliefs or practices, or any other religious or cultish practices based on the above, and contrary to the Word of God (Deuteronomy 18: 10-12; Galatians 5:19; Revelations 21:8)

4.3 The parties acknowledge that:

(i) It is an inherent, genuine occupational requirement that all staff members of the School must not act in a way that they know, or ought reasonably to know, is contrary to the Biblical beliefs of the School. Nothing in their deliberate conduct shall be incompatible with the intrinsic character of their position.

(ii) Should a staff member act contrary to the lifestyle requirements set out in the clause the matter will be dealt with in accordance with the normal school procedures in relation to performance management.

(iii) If a dispute arises in conjunction with this clause, it shall be dealt with in accordance with clause 6 – Disputes Avoidance and Settlement Procedure.

4.4 It is also agreed that the staff of the School are required to:

- Be in personal Agreement with the Principles of faith of the School;
- Be in good standing and regular attendance in their local church; and

- Attend staff devotions each day from 8.00am – 8:30am

4.5 Should a member of staff cease to have a firm personal belief consistent with the Statement of faith or cease to maintain an active commitment to and involvement with an appropriate Christian Church, the member of staff shall inform the School.

ATTACHMENT 3

Clause 8 of the *Ballarat Christian College Enterprise Agreement 2017*

8 FAITH BASIS OF COLLEGE

Statement of Faith

8.1 It is an inherent genuine occupational requirement and essential condition of employment and continuing employment that an Employee possesses and maintains a firm personal belief consistent with the Statement of Faith of the College, together with an active commitment to, and involvement with, a Christian church holding a doctrinal position consistent with the Statement of Faith. Accordingly, all Employees are expected by the College to possess and maintain throughout the term of this Agreement a firm personal belief consistent with the Statement of Faith of the College, together with an active commitment to and involvement with a Christian church holding a doctrinal position consistent with the Statement of Faith. At the least, such an active commitment requires regular and frequent attendance at the Church's worship services.

8.2 Should an Employee cease to have a firm personal belief consistent with the Statement of Faith or cease to maintain an active commitment to and involvement with an appropriate Christian church the Employee shall inform the College.

8.3 If the situation continues after counselling and an opportunity for restoration, then the College may terminate the Employee's employment.

Lifestyle and Values

The parties acknowledge that:

8.4 The College bases its teachings and beliefs on the Bible, both the Old and New Testaments, which the College regards as the inspired and inerrant Word of God.

8.5 These teachings are expounded in many of the College's public and internal documents, including the Statement of Faith.

8.6 These documents reflect the College's understanding of the lifestyle and values which all Employees of the College, regardless of their role are required (subject to the provisions of the relevant equal opportunity/antidiscrimination legislation) to respect and maintain at all times and are to be understood as source documents, defining the College's doctrines, tenets, beliefs and teachings.

8.7 Without limiting the College's Constitution, Statement of Faith and related documents which may provide more specific information, the College is an institution conducted in accordance with the doctrines, tenets, beliefs or teachings of the Protestant stream of the Christian Faith and the provisions of clause 8 of this Agreement are included in good faith to avoid injury to the essence of the adherents of the Christian Faith.

8.8 It is an inherent genuine occupational requirement and essential condition of employment and continuing employment that all Employees of the College are required to be seen to conduct themselves in the course of, or in connection with their work, in a manner consistent with these teachings and beliefs and in

accordance with the Christian ethos of the College, and any College policy that may be developed from time to time, thus providing a specifically Christian role model and example to all students and families associated with the College.

8.9 It is an inherent, genuine occupational requirement and essential condition of employment and continuing employment that all Employees of the College must not act in a way that they know, or ought reasonably to know, is contrary to the College's Statement of Faith. Nothing in an Employee's deliberate conduct shall be incompatible with the intrinsic character of their position.

8.10 Acting contrary to the lifestyle and values requirements set out in this clause is likely to cause injury to the Christian beliefs of members of the College community who adhere to the College's doctrine, tenets, beliefs and teachings.

8.11 If an Employee acts contrary to the lifestyle and values requirements set out in this clause the matter will be dealt with in accordance with the normal College procedures in relation to conduct and performance management.

8.12 If a dispute arises in connection with this clause it shall be dealt with in accordance with clause 12
