

# **AUSTRALIAN COUNCIL FOR THE DEFENCE OF GOVERNMENT**

## **SCHOOLS**

**Press Release 750**

### **COUNSELLORS IN PUBLIC SCHOOLS:**

#### **A RELIGIOUS MONOPOLY?**

**The role of a guidance officer or school counsellor is an invaluable one.**

**If a child has problems impacting upon their learning in the classroom the classroom teacher is able to send that child, with its particular problems, to a specialist counsellor. The problem is discussed and hopefully sorted OUTSIDE the classroom, in the privacy of the counsellor's office. The child can return to the classroom to concentrate on the lessons in hand, with their privacy intact.**

**Until the rise of the religious right in the Federal Coalition, State Education Departments school counsellors and/or guidance officers were required to have six years teaching experience and extensive training in educational psychology. These well trained employees fulfilled an essential role in a public system open to all children with offence to none.**

**But now, even with such secular training – the major, and sometimes the only requirement for public school counsellors is a religious one.**

Under the ever-increasing influence of its religious right wing, the federal government has granted a virtual monopoly to religious organisations for its school chaplaincy program.

The program – on which hundreds of millions of dollars in taxpayers' money has been spent to date, with a further \$247 million committed over four years in last week's budget – was specifically designed to push religious pastoral carers into Australian schools and exclude those holding secular values.

Despite the opposition the chaplaincy program has encountered from secular civil society, the Coalition is as committed as ever to religious chaplaincy.

In early March, the Fairfax newspapers reported on a major lobbying effort by religious conservatives within the government to not only expand the program but to “make it a permanent indexed commitment”.

A group of more than 30 Coalition members, led by Brisbane MP Luke Howarth, a “youth leader” of the Bracken Ridge Baptist Church, according to his parliamentary biography, signed a petition calling for an increase to \$25,000 in annual funding per school. Our evangelical treasurer, Scott Morrison, did not provide all they wanted in the budget, but did find almost \$250 million, and promised the program would be permanently funded.

**This situation of course, is outrageous and contravenes Section 116 of the Australian Constitution. On administrative, not religious liberty grounds, the scheme has been struck down twice by the High Court – to rise again,- and again- through Section 96 grants to the States tied to the chaplaincy program.**

Critics say only religious people are hired for the roles despite the fact that pastoral care is non-religious. They see legal action as their best bet, but are not putting all their eggs in that basket.

Back in March, a dozen secular organisations jointly wrote to the Australian Human Rights Commission (AHRC), seeking that it investigate the program as an interference in the right of religious freedom.

In reply, AHRC president Rosalind Croucher declined to undertake an investigation “at this time”.

She referred them to the commission’s submission to Philip Ruddock’s review into religious freedom in Australia.

The AHRC submission recommended the government set up an independent watchdog to collect and analyse data on religious discrimination and “restrictions in the ability of a person to educate their children in a manner consistent with their religious belief”.

See <https://www.theguardian.com/australia-news/2018/apr/01/secular-groups-call-for-review-of-blatantly-discriminatory-school-chaplains-program>

**The next legal challenge involves a counsellor Julie Armstrong.** She holds a bachelor of education degree, and a postgraduate diploma in counselling. After gaining the second qualification, she spent 10 months unemployed.

**The problem was with her religious qualifications, or lack of them.**

**There are a few exceptions, and Armstrong is one. She is about to become the plaintiff in a case that will test the legality of the government’s religiously discriminatory policy.**

According to the *Saturday Paper*,

The vital link in the legal chain is Armstrong’s long job search. Having found herself unable to get work through the big religious providers of chaplaincy services, because all their advertisements required that applicants be committed Christians, she eventually found a smaller operator, onPsych, which mostly provides psychological services in Australia but does a sideline providing non-religious chaplaincy.

*“We got involved when the Gillard government changed the program to allow secular workers to be involved,”* says onPsych managing director Martin Grigg. *“I think we had around 25 places.”*

Then the Abbott government reinstated the requirement that chaplains be religiously affiliated. The High Court decision, making states responsible for allocating funds, further complicated matters.

“Suddenly,” says Grigg, “we had seven versions of a camel in the various states.”

Thanks to a chance encounter with a progressive Uniting Church minister, he found a way around the secular ban. The definition of the word chaplain in the guidelines says workers must be “ordained, endorsed or approved” by a religious denomination. His Uniting Church contact was happy to endorse non-religious chaplains, provided they were otherwise qualified for the work. And so Armstrong was able to work in her three Victorian schools.

**The other key connection was between Meredith Doig, president of the Rationalist Society of Australia, and Associate Professor Luke Beck, a Monash University expert in constitutional law, specialising in issues of religious freedom and the relationship between church and state.**

Doig saw a comment piece Beck had written for *The Sydney Morning Herald* in early March this year – prompted by reports of the push by those right-wing Coalition members for greater funding – in which he set out his reasons for believing that the requirement that chaplains have religious affiliation breached anti-discrimination laws.

Beck’s piece finished with the prediction that “someone will eventually go to court and the school chaplains program will probably be ruled illegal for the third, and hopefully final, time”.

Doig went to see him. They discussed a number of legal options before deciding the best one was to take a case to the Victorian Civil and Administrative Tribunal.

*“Luke was very confident that if we found a suitable plaintiff, then a case could be made that both the Victorian Department of Education and the religious bodies that are licensed by the Victorian government to supply and train chaplains are acting unlawfully,”* she says.

*“To have standing, we needed someone who was deleteriously affected by the current state of affairs. We needed a person who could truly sign an affidavit saying they had been put off by the religious requirement contained in job advertisements placed by the Christian organisations, licensed by the Victorian department to recruit for government schools.*

*“We needed someone who was otherwise perfectly qualified to do the work of chaplain.”*

Armstrong, she says, *“fits the bill perfectly”*.

Says Beck: *“Although the word ‘chaplains’ sounds religious, what chaplains do is not supposed to be religious. They’re meant to provide pastoral care. The program guidelines expressly prohibit chaplains from preaching or proselytising.*

*“Yet they require that to be eligible a person has to be religious. Atheists are prohibited and individual schools get to pick which religion they will have.”*

That is defensible in the case of religious schools, Luke Beck argues, but not in public schools. They cannot legally discriminate in hiring a teacher or a cleaner or anyone else based on faith or the lack thereof.

*“In every state there are anti-discrimination laws that say you cannot refuse to hire someone because of their race or gender or religion,” Beck says. “Yet the federal government’s religious requirement is built into the funding for the states, which then gets built into the contract that the school enters into with the labour hire firm.”*

And the job ads, online and elsewhere, placed by those church-affiliated recruiters, “say you must be of a religion”.

*“We won’t be suing the federal government directly,” he says. “We will be suing the organisations committing the religious discrimination by directly advertising the job. And we also will be suing the state education department for facilitating and encouraging that discrimination.*

*“You can’t pay someone to break the law, which is what the Victorian government is now doing. And they can’t say, ‘Well, the federal government is paying us to break the law.’”*

Should they win their VCAT case, Beck says, they will seek orders preventing those religious providers from ever placing ads that breach anti-discrimination laws, and ordering the Victorian government “to never again authorise someone to breach the law”.

The hope is that such a result would force the Victorian government to open up school chaplaincy jobs to anyone with relevant professional qualifications, which would in turn mean they contravened the requirements of the federal funding.

Beck suggests the Victorian case could establish a precedent for similar actions in all states and maybe force the federal government to make its program non-discriminatory.

That would not, however, prevent religious organisations from using the vast funds available under the chaplaincy program to put their people into schools. Even during the years when Labor opened up the scheme to non-religious counsellors, most still came from a religious background. The legal challenge would not allay fears of sly proselytisation either.

<https://www.thesaturdaypaper.com.au/news/politics/2018/05/19/the-final-challenge-religious-chaplains/15266520006255>

**DOGS HAVE OPPOSED THE CHAPLAINCY PROGRAM SINCE ITS INCEPTION.  
THEY WISH THOSE TAKING THIS CASE TO VCAT SUCCESS .**

**LISTEN TO THE DOGS PROGRAM**

**855 ON THE AM DIAL: 12.00 NOON SATURDAYS**

**<http://www.3cr.org.au/dogs>**

