

16 October 2015

Ms Lizzie Blandthorn  
Chair  
Scrutiny of Acts and Regulations Committee  
Parliament House,  
Spring Street  
EAST MELBOURNE VIC 3002

Dear Ms Blandthorn,

In relation to the Adoption Amendment (Adoption by Same-Sex Couples) Bill 2015 (Bill) I would be grateful if the Scrutiny of Acts and Regulations Committee (Committee) would consider the following points concerning the services provided by CatholicCare.

#### **Charter of Human Rights**

For the purposes of this submission to your Committee, the specific concerns of CatholicCare relate to Clause 17 of the Bill which if enacted will make anything done by a religious body that is an approved agency within the meaning of the Adoptions Act 1984 subject to Part 4 of the Equal Opportunity Act 2010

In particular I submit that Clause 17 of the Bill will:

- trespass unduly upon the freedom of thought, conscience, religion and belief contained in Section 14 of the Charter of Human Rights and Responsibilities Act 2006 (Charter);
- infringe the right to freedom of association contained in Section 16 of the Charter;
- by virtue of the above, be incompatible with the rights set out in Sections 14 and 16 of the Charter.

Section 14(1) of the Charter provides that “every person has the right to freedom of thought, conscience, religion and belief, including ... the freedom to demonstrate his or her religion or belief in observance, practice and teaching, either individually or as part of a community, in public or in private”.

Section 14(2) provides that “a person must not be coerced or restrained in a way that limits his or her freedom to have or adopt a religion in ... observance, [or] practice or teaching.”

Section 14(1) of the Charter emphasises being ‘part of a community’ and public demonstration of belief through a variety of forms. Both of these are important in the present case: they underscore that religious freedom is not restricted to individual or private expression – it

recognises the long historical and continuing manifestation of religious belief in works and deeds carried out publicly by religious believers organised in groups and communities. A restriction on a 'religious body' is a restriction on the ability of the religious believers who comprise it to express their belief "as part of a community". In exposing "a religious body that is an approved agency within the meaning of the *Adoption Act 1984*" to the full anti-discrimination provisions of the EO Act, the Bill restrains the religious body (which may be, and is here, an individual) in a way which may limit the individual's freedom to have a religion in observance and practice.

Staff employed by CatholicCare must, in exercising the functions of CatholicCare as an approved agency under the Adoption Act, comply with the law that governs those functions. If the Bill is enacted as presently drafted, CatholicCare staff will be required to act in accordance with the law, no matter their religious beliefs.

CatholicCare is a work of the Archbishop of Melbourne, Archbishop Denis Hart, on behalf of the Archdiocese of Melbourne. As an approved Adoption Agency, CatholicCare provides services to a range of people including children to be adopted; applicants for assessment as adoptive parents; potential adoptive parents; adoptive parents; natural parents; adoptive persons and relatives of adoptive parents, adoptive parents and natural parents all of whom are individuals and persons with rights recognised and protected by the Charter.

In stating that religious freedom is a paramount right, the position of the Church is in harmony not only with the beliefs and values expressed in the Charter but also in the major international statements, Declarations and Covenants, concerning human rights and religious freedom.

### **Family Life**

Central to Catholic mission is a set of reasonable beliefs about the constitution of family life that we believe best serves the community and the development of children. The Church holds that children's development is most effectively served when they experience the love of both a mother and a father in a safe, secure and stable relationship.

For many children and families that situation is not the reality. We recognize that there are those who do not agree with the Catholic position on marriage and family and we accept also that there are many cases where children thrive in family situations that do not conform to the Catholic ideal.

### **Exemption**

While the amendments to the Adoptions Act will create a capacity for same-sex couples to adopt, the amendments to the Equal Opportunity Act require faith groups to act contrary to their reasonably and sincerely held religious beliefs.

Strengthening families and communities

[www.ccam.org.au](http://www.ccam.org.au)

333 Albert Street East Melbourne VIC 3002 | P: 9287 5555 | F: 9287 5599 | ABN 42 795 179 778

In the United Kingdom where similar reforms were made to Adoption regulations but without express exemptions for faith bodies the Catholic Church found that it could no longer remain true to its religious convictions in the provision of an adoption service.

By contrast in New South Wales where an exemption was granted for faith based agencies there has been no major disruption in the services provided by faith based agencies and same-sex couples are able to find support within the broader service system.

### **Adoption Support Services**

While the number of adoptions facilitated by CatholicCare in Victoria may currently be small, the children who are placed have high and complex needs. CatholicCare currently provides extensive post legal placement support for these families. The needs of the children are high and our experience has shown that without extra support and advocacy those placements may fail. CatholicCare is funded through the Department of Health and Human Services to provide 228 hours of support annually but we are on target to provide in excess of 600 hours of support in this current year alone.

### **Adoption Information Service**

In addition CatholicCare provides an Adoption Information Service. This service assists natural mothers who gave up their child for adoption in the past, to return to our service and work through the often considerable grief and loss issues that remain for them. The service often provides information as to the welfare of their child and facilitates contact where possible. The Adoption Information Service also assists children who were adopted in the past to gain information about their natural parents and again to facilitate contact where appropriate.

Since the State Government apology for past adoption practices in October 2012 the Adoption Information Service has opened an average of sixty five new files each year. While the Department of Health and Human Services provides approximately \$100,000 per annum to provide this service CatholicCare has supplemented this by a further \$89,000 in 2013-2014, \$82,000 in 2014-2015 and a budgeted \$92,000 for the current financial year. CatholicCare has been prepared to provide this extra service because of the level of demand and the high degree of human distress that often accompanies such cases.

If the Bill is passed, including the removal of exemptions under the Equal Opportunity Act, and if the experience of CatholicCare is that it cannot operate in adoptions with integrity as a Catholic organisation, it would also be forced to discontinue its work as an adoption agency.

In that case CatholicCare would be required return its adoption records into the custody of the Secretary of the Department of Health and Human Service and so would not only lose its capacity to work with families in facilitating an adoption but would also lose its capacity to provide post placement support and an adoption information service.

Strengthening families and communities

[www.ccam.org.au](http://www.ccam.org.au)

383 Albert Street East Melbourne VIC 3002 | P: 9287 5555 | F: 9287 5599 | ABN 42 795 179 778

This would be quite disruptive to the service system and to the vulnerable people that CatholicCare currently looks after. I am certain that this would not be an intended consequence of the Bill. The maintenance of an exemption would ensure that CatholicCare can continue to provide the high level and quality of care that it currently provides in the area of adoption and related services.

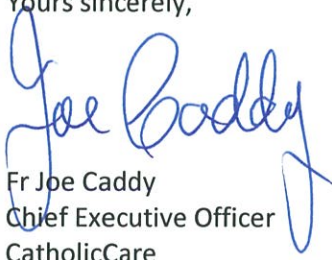
In a pluralist democratic society, fundamental principles of freedom to hold and express particular religious beliefs and freedom of association are of vital importance which underpin society and strengthen social cohesion. At a time when the community is demanding greater religious tolerance, the Parliament by its actions should foster rather than undermine these fundamental principles by its legislative actions.

I request that the Committee consider this submission when providing its report to the Parliament on the Bill.

I am willing and available if required to meet with the Committee to address any questions which the Committee may have.

I thank the Committee for its consideration of this submission.

Yours sincerely,



Fr Joe Caddy  
Chief Executive Officer  
CatholicCare

Strengthening families and communities

[www.ccam.org.au](http://www.ccam.org.au)

383 Albert Street East Melbourne VIC 3002 | P: 9287 5555 | F: 9287 5599 | ABN 42 795 179 778