

Our Ref: BNE3417056

Mr Aaron Harper MP
Chair
Health and Environment Committee

Sent by email only to: HEC@parliament.qld.gov.au

Dear Chair

Re: Question on Notice – Religious worship

I refer to a question taken on notice from Mr Stephen Andrew MP, Member for Mirani, at the recent public hearing on 22 January 2021 inquiring into the Public Health and Other Legislation (Extension of Expiring Provisions) Amendment Bill 2020.

Question:

‘The Government’s inconsistency in applying rules regarding sports stadiums as opposed to church services, do you believe it has acted in contravention of article 18 of the UN Charter or clause 20 of our own Human Rights Act, in respect of Queenslanders’ rights to religious freedoms?’

Response

‘A public entity contravenes its obligations under the *Human Rights Act 2019* if it does not act or make decisions compatibly with human rights or fails to give proper consideration to human rights when making a decision. In making Public Health Directions restricting the number of people who may congregate for religious worship, the Chief Health Officer (CHO) will limit freedom of religion in s 20 of the *Human Rights Act 2019*. Depending on the circumstances, any restriction on the ability to congregate, whether for religious worship, sporting event or other purposes, could also engage the right to equality (s 15) and peaceful assembly and freedom of association (s 22).

The rights in the *Human Rights Act* are not absolute and may be limited. Sections 8 and 13 of the *Human Rights Act* provide that a public entity will act compatibly if any limitations on rights are reasonable. This includes a consideration of the purpose of the limitation and if there are any less restrictive options available to achieve that

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purpose. It is a matter for the courts to determine if a public entity has contravened its obligations under the *Human Rights Act* by unreasonably limiting rights. Nonetheless, a refusal to exempt a particular religious event from a public health direction might give rise to a complaint to the Commission, which we would attempt to resolve through conciliation.

The Queensland Human Rights Commission has previously recommended public health directions be accompanied by a statement of the purpose, need, data, and other factors that were considered in making the direction. Such clarity of purpose would assist in implementation and interpretation of the direction, as well as improving understanding and consistency in decision making. The community would be provided with further clarity as to why the CHO believes congregating in some settings is safer than others. In this example, it may also provide an opportunity for further discussions between the CHO and affected communities about the impact of the direction.'

If you require any further information, please contact Sean Costello, Principal Lawyer, on [REDACTED]

Yours sincerely



Scott McDougall
Queensland Human Rights Commissioner