

EQUAL OPPORTUNITY COMMISSION — JASON TEY

2239. Hon Charles Smith to the Leader of the House representing the Attorney General:

I refer to the case of Western Australian photographer, Jason Tey, who was subject to a sexual orientation discrimination complaint through the Western Australian Equal Opportunity Commission, after he disclosed his Christian beliefs to a same sex couple who wanted him to photograph their children. I note the matter was escalated to the State Administrative Tribunal but subsequently abandoned, and I ask:

- (a) (a) why was the complaint against Mr Tey escalated and not dismissed by the Western Australian Equal Opportunity Commission;
- (b) (b) does the State Government concede that the Tey case represents an infringement upon religious freedom in Western Australia; and
- (c) (c) will the State Government take action to prevent anti-discrimination laws from being further used to harass and coerce Christian service providers?

Hon Sue Ellery replied:

- (a) A complaint was made of sexual orientation discrimination in the provision of goods and services against Mr Tey to the Equal Opportunity Commission. Under the *Equal Opportunity Act 1984* (“the Act”), the Commissioner for Equal Opportunity is obliged to investigate all complaints of unlawful discrimination lodged with the Commission, and attempt to resolve them through conciliation, where possible. If the Commissioner, on the evidence and information available, decides that a complaint lacks substance or is misconceived, the complaint must be dismissed. In this case, the complaint was unable to be resolved through conciliation. The Commissioner, having formed the view that the complaint was arguable and should not be dismissed as lacking in substance or for being misconceived, was then obliged under the Act to refer the complaint to the State Administrative Tribunal, at the request of the complainant.
- (b) The Government does not concede that the Tey case represents an infringement upon religious freedom in Western Australia. In lodging the complaint with the Commission, the complainant was exercising her lawful right to have her allegations of sexual orientation discrimination against Mr Tey investigated and tested. Mr Tey’s freedom of religious belief was not impinged upon in any way. The complaint was directed not at Mr Tey’s freedom of religious belief, but to the manner in which Mr Tey allegedly provided his services to the complainant, which was arguably discriminatory under the Act
- (c) The Government does not accept the Hon Member’s premise that anti-discrimination laws are being used to harass and coerce Christian service providers. The Attorney General is awaiting the Commonwealth Government’s proposed religious discrimination laws prior to considering any legislative amendments at a State level.