



## Safe for Whom? - Religious School Employers, Employees and Discrimination Exemptions: is it possible to protect both?

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The background to this paper is that it is common for exemptions in anti-discrimination legislation for religious bodies to be based on concepts such as “conforms to the doctrines of that religion” or “necessary to avoid injury to the religious susceptibilities of the adherence of that religion” or “discriminates in good faith in order to avoid injury to the susceptibilities of adherents of that religion or creed”.

For nearly 15 years the relevant Qld provision, section 25 of the *Anti-Discrimination Act 1991* (Qld), has been based on concepts much more closely linked to conduct in the workplace. The paper will analyse that provision and its underlying rationale and submit that the respective needs of employers and employees are more appropriately met by such a test. The paper will also consider whether, if there were no religious exemption provision, the gap would (on that rationale) be filled by the employee’s duty of loyalty or fidelity.