

**Rights of Women
Response to the Consultation
'Getting Equal: Proposals to Outlaw Sexual Orientation
Discrimination in the Provision of Goods and Services'**

Background

Rights of Women is an Industrial and Provident Society, which was founded in 1975 to promote the interests of women in relation to the law. Rights of Women works to attain justice and equality by informing, educating and empowering women on their legal rights.¹ As a feminist organisation, providing services to all women, Rights of Women welcomes the opportunity to respond to this consultation.

General Comments

Before addressing the points raised in the consultation, we would like to take this opportunity to highlight our concern at the influence that may be wielded by religious-based lobbies calling for exemptions on the basis of religion. We strongly object to exemptions which would offer any religion protection to discriminate on grounds of sexual orientation or faith if the effect is to disadvantage lesbian, bisexual or transgender women and/or those associated with them.

Homophobia is an extremely serious issue which continues to have a detrimental impact on individuals and society as a whole. It is difficult to claim to be a tolerant society in the face of such continuing discrimination in all areas of life.

Issues Raised in the Consultation

Rights of Women strongly believes that the concepts and substance of the various equality laws must be consistent. It is our strongly-held opinion that direct and indirect discrimination, and victimisation must be within the scope the Regulations. Rights of Women strongly believes that all bodies carrying out public functions, and using public money, should be included within the scope of the Regulations, with the limited exceptions in the consultation paper. To choose any other option is incongruous with the nature of equality and rather than addressing discrimination simply perpetuates it by creating a multi-tiered system of legal protection.

Rights of Women strongly believes that the Sexual Orientation Regulations must apply to goods, facilities and services. It is of the utmost importance that this concept should be the same as for other equality legislation.

¹ We are a membership organisation and our activities include producing publications, organising conferences and training courses and undertaking policy and research work. We run two national confidential legal advice lines for women (provided women lawyers), one general advice line specialising in family law issues, including domestic violence and another on criminal law and procedures in relation to sexual violence. For more information see our website www.rightsofwomen.org.uk

Similar to other equality legislations, the following areas must be covered by the Regulations: premises, private members clubs, schools, religious organisations and charities. In addition the Regulations must apply to discriminatory practice and advertising, instructions to discriminate and the validity of contracts.

In relation to premises, we urge the Government to ensure that this includes the commercial provision of services, such as guest accommodation (e.g. hotels, B&B, guest houses, etc). It is our position that the Regulations should not provide religious-based exemptions to this (and other) areas. Currently, the law prohibits discrimination in the provision of accommodation to those that do not share the provider's religious belief; a provision which allows this on the basis of sexual orientation is clearly not justifiable.

Rights of Women believe it is essential that all schools (including faith schools) fall within the scope of the Regulations. We do not believe that a faith school should be permitted to reject a pupil on the basis of her sexual orientation or that of her parents or family members.

All children have the right to attend school without fear of being subjected to violence, intimidation, harassment or discrimination. The recent Interim Report of the Equality Review highlighted the serious problem of homophobia in schools. All schools have a responsibility to tackle bullying and must, by law, have an anti-bullying policy. Any school (including faith-based) which condemns same-sex relationships as "unnatural", "immoral", or "wrong" cannot genuinely prevent or address homophobic bullying. Any schools commitment to tackling bullying is cannot be taken seriously if homophobic bullying, harassment and discrimination are allowed to continue. In addition, if schools are not included in the Regulations, there is little hope of tackling the culture of homophobia in society in general.

In relation to religious organisations, we believe that there should be no exemption provided for the provision of community or commercial services. The consultation asks whether any exemptions provided to religious organisations should be restricted to activities that are central to the doctrines of the faith. We think that there needs to be more clarity on what exactly is meant by "doctrinal". We believe that it is fundamental that any exemption on this basis must be carefully and narrowly worded. Under no circumstances should exceptions be drafted to enable wider discrimination. Aside from the issue of "doctrinal activities", Rights of Women strongly believes that there are no other activities that should be exempted. Clearly there will be a need for precise guidance on this issue. It is our opinion that in drafting any such guidance the Government should consult with those organisations that have a history of tackling homophobia, including those providing services to lesbian, bisexual and transgender women.

In relation to charities and other service providers, Rights of Women notes that there are many organisations that provide services targeted towards LGBT people. These services are not "special treatment" but seek to encourage individuals who might not access other services for fear of

revealing their sexuality, to take up these services. Rights of Women therefore believe that the provision of LGBT services should not be considered discriminatory under the Regulations. It is essential that the Regulations do not stop the provision of such services. If the Regulations are consistent with other equality laws, it is our understanding that LGBT services will not be affected. However we believe it is important for the Government to make this explicit to avoid any confusion.

Rights of Women therefore believes that the Regulations should contain an exemption for charities. However, as with other areas, the Government must be careful in drafting the Regulations and in providing guidance. This exemption must not be used to justify discrimination. In particular charities (including religious-based organisations) should not be permitted to discriminate in their activities and justify this as a charitable purpose.

In order to ensure consistency and true non-discrimination, the enforcement provisions for the Regulations must be the same as for discrimination on the basis of race and gender (and the forthcoming law on religion and belief).

Lastly, in relation to the Commission on Equality and Human Rights (CEHR), Rights of Women welcomes the inclusion of protection of LBT women, a group which has historically had no statutory body to address discrimination. However we share the view of the general consensus, both among the current equality bodies and those in the voluntary sector, that the Government's proposed annual budget for the CEHR is woefully inadequate.

In addition, we are concerned that the one year gap between the implementation of the Regulations and the launch of the CEHR will create a gap in protection and may lead to confusion among some over what their obligations are under the law. It is therefore vital that the Government issues clear and comprehensive guidance on the Regulations, which draws in the experience and knowledge of those in the voluntary sector.

Conclusion

Rights of Women calls on the Government to ensure that the Sexual Orientation Regulations are carefully drafted to ensure equal protection against discrimination in the provision of goods, facilities and services on grounds of sexual orientation. We strongly urge the Government not to allow religious-based lobbies to undermine this protection. Everybody should have the right to respect and non-discrimination. Anything less, including the creation of different levels of protection, is nothing short of discrimination.

Rights of Women
5th June 2006