



Equality Network

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Equality Network campaigns for lesbian, gay, bisexual and transgender equality in Scotland

28th January 2007

Dear ... MP,

Adoption agencies and the proposed Equality Act (Sexual Orientation) Regulations

I am writing to you on behalf of the Equality Network, a network of lesbian, gay, bisexual and transgender (LGBT) people and groups in Scotland.

There has been much recent publicity for the views of the Roman Catholic Church about the forthcoming Equality Act 2006 regulations on discrimination on grounds of sexual orientation. We wanted to let you know the position of the Equality Network on this issue, which our consultation indicates is widely shared by LGBT communities across Scotland.

In March 2006, the Government published a consultation paper on the proposed regulations. That paper proposed that religious organisations would be exempt from the ban on discrimination on grounds of sexual orientation, where discrimination is based on doctrine, or to avoid conflicting with the strongly held religious convictions of a significant number of the religion's followers. However the exemption would not apply to public services provided by a religious organisation under contract with and on behalf of a public authority – for example care homes or adoption agencies run for, and paid for by, local councils. LGBT organisations widely welcomed these proposals.

The regulations introduced for Northern Ireland on January 1st 2007 implement this proposal exactly, and we hope that the regulations for the rest of the UK, due to come into effect on 6th April, will do the same. This

is not a new issue – it is the implementation of proposals published almost a year ago.

In adoption, it is the welfare of the child that is the paramount consideration. In an important Scottish legal case, *T Petitioner*, ten years ago, a child was adopted by a gay man who was in a long-term relationship. The child was severely disabled, and the adopter, a nurse, had matching skills in caring for disabled children.

The case went to the Inner House of the Court of Session, which granted the adoption on the basis that the man and his partner would provide the best family for the particular child. That was the paramount consideration, not the adopter's sexual orientation.

We believe that the *T Petitioner* case demonstrates that if any adoption agency applies a blanket ban on lesbian, gay and bisexual adopters, that agency will in some cases fail to match the child with the best available adoptive family. That is not in the best interests of the child, and is why we believe that blanket discrimination by Catholic or any other adoption agencies, on sexual orientation or any other grounds, is wrong.

We also believe that it is right that the discrimination regulations should apply equally to all organisations that provide public services paid for with public money (to which we all, whatever our sexual orientation, contribute). We are very concerned at suggestions that exemptions should be made from anti-discrimination law, for bodies providing public services, because of the religious beliefs of stakeholders in those bodies. That would set a very worrying precedent for employers or service providers to claim “conscience” exemptions from laws banning discrimination on gender, sexual orientation, religion, or other grounds.

There has been reporting in some of the Scottish press that the Scottish Executive gave assurances to the Catholic Church in Scotland that the non-discrimination regulations would not apply to their two adoption agencies. The Scottish Executive was not in a position to do that, as anti-discrimination legislation is reserved to Westminster.

The Scottish Executive did say, correctly, during passage last year of the Scottish Parliament’s Adoption and Children (Scotland) Act, that that legislation would not affect the legality of sexual orientation discrimination by adoption agencies, which of course is true as the Act deals only with devolved issues related to adoption. At the time, the Scottish Executive, MSPs, and the Roman Catholic Church were all

aware of the details of the proposals of the UK Government for the sexual orientation discrimination regulations.

We hope that the Government will lay regulations for Scotland, England and Wales which take the same approach as the Northern Ireland regulations. If discrimination is wrong in Northern Ireland it is wrong in the rest of the UK. We very much hope you will support this.

We would be very happy to discuss this further with you if that would be helpful.

With best wishes,

A handwritten signature in black ink, appearing to read 'Tim', with a stylized flourish at the end.

Tim Hopkins
Equality Network