



***“Getting Equal” - Proposals to Outlaw  
Sexual Orientation Discrimination  
In the Provision of Goods and Services***

**A Submission to the DTI Consultation  
From the Catholic Bishops’ Conference of  
England & Wales**

**June 2006**

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**Introduction and summary**

1. Every human being has a right to live a life free from unjust discrimination and harassment.<sup>1</sup> In particular, as the Bishops of England and Wales stated in their recent teaching document **Cherishing Life**<sup>2</sup>: *“The Church utterly condemns all forms of unjust discrimination, violence, harassment or abuse directed against people who are homosexual. Consequently, the Church teaches that homosexual people ‘must be accepted with respect, compassion, and sensitivity’ (Catechism of the Catholic Church 2358). In so far as the homosexual orientation can lead to sexual activity which excludes openness to the generation of new human life and the essential sexual complementarity of man and woman, it is, in this particular and precise sense only, objectively disordered. However, it must be quite clear that a homosexual orientation must never be considered sinful or evil in itself.”*<sup>3</sup>
  
2. The Catholic Church teaches that all men and women are called to a life of chastity. If they choose to marry they are also called to fidelity to each other. Catholic teaching therefore regards as morally wrong genital sexual activity outside marriage. Catholic teaching also makes a distinction between sexual activity and sexual orientation. The civil law in the UK does not appear, however, to make this same crucial distinction between orientation and activity<sup>4</sup>. These proposals, therefore, although couched in the language of ‘sexual orientation’, would effectively outlaw any restrictions which religious organisations or others may make in the provision of goods and services on the basis of the sexual conduct or lifestyle of the recipients of those services. In this crucial respect, the proposals are different from other anti-discrimination regulations on grounds of race or gender where no issue of conduct arises.
  
3. We have serious misgivings about these proposals regarding the provision of goods and services because they do not sufficiently recognise the conflict of

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<sup>1</sup> The Bishops of England and Wales are committed to promoting equality in the Catholic community. This was spelled out in detail in our Diversity and Equality Guidelines (2005). However, those Guidelines also made it clear that the right to equal treatment must be balanced with the right to manifest one’s religion guaranteed by the European Convention on Human Rights and the Human Rights Act 1998

<sup>2</sup> Cherishing Life, Catholic Bishops’ Conference of England and Wales (2003)

<sup>3</sup> Ibid para 111

<sup>4</sup> See R on the application of Amicus and others v Secretary of State for Trade and Industry and others [2004] EWHC 860 (Admin) per Richards J at para 29

rights inherent in them. In particular, we do not believe they strike a reasonable balance between the right of people not to be discriminated against on the basis of their sexual conduct or lifestyle, and the right of religious organisations to be able to act in conformity with their religious beliefs and identity.

4. The possible exceptions envisaged in the proposals concern religious observance and practice that arise from the basic doctrines of a faith. They are too limited. Catholic organisations will by their nature seek to promote and uphold the Church's teaching, and to be guided by it in the way they work as well as worship. For Catholic organisations the goods and services they may provide, and the manner in which this is done, will often be as much a manifestation of doctrinal beliefs as matters of religious observance and practice. A number of examples are given below. These rights are protected by Article 9 of the European Convention of Human Rights, and the importance of safeguarding the rights of religious organisations when a conflict of rights arises is explicitly recognised in Section 13(1) of the Human rights Act 1998.
5. We think there is a fundamental contradiction in current government policy relating to faith communities. On the one hand, both local and national government recognise the contribution of faith communities to the wider society and encourage us to become more active. At the same time, the proposed regulations and other aspects of policy seem designed to make it more difficult for faith communities to become involved in the wider society. The government cannot expect that, in offering welfare and other services, we can lay aside our moral and religious beliefs.
6. Moreover, there appears to be little recognition in the consultation document of the difference between *homophobia* and a conviction, based on religious belief and moral conscience, that homosexual practice is wrong.
7. Alongside the Church of England and many other Churches and religious organisations we urge the Government to reconsider these proposals insofar as they affect religious organisations, and to ensure that sufficient exemptions are provided to enable them to safeguard their legitimate rights and to continue to be able to act with integrity as religious organisations in the provision of goods and services. Catholic parishes, dioceses, schools, organisations and agencies cannot be expected to act or speak in a way that is contrary to Catholic teaching.
8. In what follows, we set out briefly the core teaching of the Church and identify some of the areas where *Sexual Orientation Regulations* might conflict with Catholic doctrine and practice including:

- The local church
- Catholic schools
- Catholic organisations and charities
- Adoption and fostering
- Preparation and support for marriage

The use of premises  
Other Catholic services

9. We conclude with recommendations regarding changes which we believe are needed to the proposals, which we believe should broadly parallel those already contained in Part II of the *Equality Act*.

### **Catholic doctrine on sexuality, marriage and homosexuality**

10. Catholic teaching on sexuality and marriage is part of a much larger body of Catholic social and moral teaching which includes respect for the dignity of the human person, respect for individual conscience and the pastoral care of the Church for all, especially the poorest and most vulnerable. The Church's teaching on sexuality and marriage must be understood in that wider context.
11. An authoritative summary of that teaching, and of the question of homosexuality, is given in the Bishops' of England and Wales recent teaching document *Cherishing Life*. It states:

*"As marriage is such a fundamental form of human relationship, it is vitally important to establish an adequate understanding of its meaning or purpose. The Church has consistently argued that the meaning of marriage is not set by society alone. The essential meaning of marriage is given in God's plan of creation. In the beginning God created human beings 'male and female' (Genesis 1:27). It is from the personal union of man and woman that new life is born and it is within the loving context of such a relationship that a child can be welcomed and nurtured. Marital love involves an essential complementarity of male and female.*

*The Church teaches that sexual intercourse finds its proper place and meaning only in marriage and does not share the assumption common in some circles that every adult person needs to be sexually active. This teaching applies to all, whether married or unmarried, homosexual or heterosexual, engaged, single through choice, widowed or divorced. Everyone needs to develop the virtue of chastity so as to live well in his or her own situation. Moreover, there is more to a person than sexual inclination and more to love than sexual desire. The late Cardinal Hume emphasised the message of the Gospel that all love is from God and that each person is precious in the eyes of God. 'The love which one person can have for and receive from another is a gift of God' (A Note Concerning the Teaching of the Catholic Church Concerning Homosexual People, 1997), paragraph 17). The Church recognises the value of friendship between homosexual people when it is lived chastely in accordance with her moral teaching. What the Church does not countenance is any attempt to express this love in a sexual way.*

*The present state of the law and common public opinion reflect the immemorial belief founded on the natural law that only a relationship between a man and a woman can be a marriage. There may be people, who hold this view out of fear or prejudice, but the position is not itself arbitrary or unfair and it should not be regarded as discriminatory. Furthermore, attempting to create a legal category of 'same-sex marriage' threatens to undermine the meaning and status of marriage. Nonetheless, it may be necessary, as many have argued, to remedy by*

*law unjust situations in which the bonds of friendship are improperly disregarded (for instance, being excluded from appropriate consultation regarding medical care or from funeral arrangements). In such cases the right to justice is founded on the dignity of every human being and citizenship and not on sexual activity or orientation”*<sup>5</sup>

12. The genuine, committed and exclusive love between a man and a woman, grounded in marriage, is the foundation of family life and it promotes the welfare and development of children. For Catholics, marriage takes on a further level of meaning within the context of the Church, as it is one of the seven sacraments. The sacrament strengthens and deepens the relationship and gives it an added dimension.
13. The Church welcomes people into full participation in the Catholic community, whatever their sexual orientation, and condemns unjust discrimination, violence, harassment or abuse directed against people who are homosexual. But homosexual acts, like all sexual acts outside marriage, are morally wrong. However, a homosexual orientation (understood as an inclination or tendency), if integrated into a life of chastity, is neither morally wrong nor sinful.
14. As noted in paragraph 10 above, the Church’s teaching on marriage and sexuality is part of a much larger body of teaching embracing also respect for, human dignity, conscience and pastoral care for all. Drawing out the implications of the Church’s teaching for policies and practices in different situations in Catholic parishes, schools and organisations, will require prudent judgement in the light of all the circumstances.

### **The local church**

15. A parish is a specified community of Catholics, stably established, whose pastoral care under the authority of the diocesan bishop is entrusted to a parish priest as its proper pastor.<sup>6</sup> The local parish church is where Catholics congregate on a weekly and even a daily basis for worship, sacraments, study, fellowship and mutual support. Parishes will typically engage in pastoral outreach and social action to meet needs in the wider community.
16. Whilst parishes should be communities in which all people feel welcomed and supported, there are inevitably restrictions on the full participation of some people, whether Catholics or others. Catholic worship is regulated by the universal law of the church, and in certain cases the law itself will restrict participation in the full sacramental life of the church to those who are in full communion with the church, and whose lives and beliefs are at one with Catholic teaching.
17. Parishioners will use their parish premises (e.g. the parish hall) for their own social events. In many cases they will also allow groups closely associated with the parish or even outside groups to use or hire the premises. It would be

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<sup>5</sup> Cherishing Life paras 112-114

<sup>6</sup> Canon 515§1 Code of Canon Law (1983)

unjust to compel a parish to allow the premises to be used by campaigning groups, or for events, seriously and publicly at odds with Catholic teaching and practice, such as a group or event that was publicly perceived as advocating abortion or promoting gay 'marriage'.

### **Catholic schools**

18. The vision, mission and values as well as the teaching and practice in Catholic schools must be consistent with the teaching of the Catholic Church, and all those involved in a Catholic school (governors, senior staff, teachers, parents and students) must respect this. This was summarised in the Bishops' *Diversity & Equality Guidelines*:

*The task of the Catholic school is to provide an education which combines sound knowledge and skills with an overall personal development rooted in the fundamental truths of the Gospel. The goal of integrating religious truth and values in daily life and learning distinguishes Catholic schools from other institutions.*<sup>7</sup>

19. Catholic teaching includes doctrinal beliefs about the equal dignity of every human person and respect for conscience. Consequently, in Catholic schools:

- All pupils and their parents and guardians are encouraged to participate fully in the life of the school.
- All pupils are offered appropriate pastoral support according to their needs.
- All types of bullying are dealt with firmly.

20. At the same time, Catholic schools must be free to use appropriate means to promote Catholic teaching and values, including those that are pertinent to marriage and sexuality. This will take place across the curriculum and particularly in Religious education and PSHE, as well as in assemblies and in other aspects of school life. Catholic schools should not be required to promote values relating to marriage and human sexuality which are inconsistent with Church teaching.

21. Catholic schools must also be free to refuse the use of school premises to groups which promote views contrary to the teachings and values of the Church. To be unable to do so could bring them into conflict with the Trust deeds under which they operate.

### **Catholic organisations and charities**

22. In offering their services either to Catholics or to the wider society, with or without public funding, Catholic organisations and charities will act in

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<sup>7</sup> Equality and Diversity Guidelines Appendix III page 18

accordance with their Trust deed and their stated charitable purposes. It would be quite unjust, and may well conflict with such Trust deeds, for a Catholic organisations or charity to be required by law to act in a way that is inconsistent with Catholic teaching or would cause offence to a significant number of other Catholics.

### **Adoption and fostering**

23. Catholic voluntary agencies are involved in a variety of work with children and families in England & Wales. They would be directly affected by these proposals and in a separate submission prepared by ***Caritas-social action***, an official agency of the Catholic Bishops' Conference of England and Wales, the serious implications of these proposals as they stand are set out in detail.
24. The ***Caritas-social action*** submission states in its introduction the key concerns the Catholic adoption agencies in England and Wales have:

*“We aim to show that good grounds exist for granting a specific exception in relation to the work of Catholic adoption and fostering agencies. The case we make for exception is based on the Catholic teaching (especially as regards the sacrament of marriage) of our adoption and fostering agencies which entails acceptance criteria which means for instance, that gay and lesbian couples cannot be assessed as prospective adopters. The impact of these Regulations could mean therefore that, in the worst case scenario, without an exception being granted, Catholic adoption and fostering agencies would close. This would open a huge gap in service provision for many of the most vulnerable children in the UK and be at variance with Government policy to find placements for children in care who cannot live with their birth families. It would also entail that there would be less choice in the adoption and fostering sector as a whole for both children and prospective adopters, especially when we consider the ability of the Catholic fostering and adoption sector to tap into resources offered in the diverse Catholic population.”<sup>8</sup>*

### **Preparation and support for marriage**

25. The Catholic community in England & Wales includes a variety of organisations, networks, teams and movements that provide preparation and support for marriage. The following are some examples:
- Most Catholic dioceses in England & Wales have diocesan marriage and family advisers and, associated with them, teams of people who offer marriage preparation to couples intending to marry.
  - Catholic Marriage Encounter and Engaged Encounter are worldwide movements that have a strong base in this England and Wales. Marriage Encounter offers weekends for married couples to deepen and strengthen

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<sup>8</sup> Submission to the DTI consultation from Caritas-social action, 1<sup>st</sup> June 2006 page 2

their marriage. Engaged Encounter offers weekends for couples intending to marry. Though these movements have a strong Catholic ethos, they are open to couples who are not Catholic.

- Marriage Care is an organisation within the Catholic Church in England & Wales that offers marriage preparation and relationship counselling. It has 57 regional centres, 325 trained counsellors and sees 3,500 new clients a year. Approximately one third of its clients are Catholic, one third from other churches and faiths and one third from outside the faith communities. Marriage Care receives some public funding and, while seeking to promote marriage, it offers at least an initial interview, and also counselling to all who come seeking help.

26. These teams, movements, networks and organisations, and many other similar marriage and family life ministries, work within a context of Catholic values and teaching on sexuality and marriage. While they all work to promote marriage, some of their services are offered to all and other services are restricted to married couples, or to a couple who are intending to marry.

### **The use of premises**

27. Anecdotal evidence suggests that issues around the use of premises are not uncommon. Any Catholic organisation which regularly or occasionally allows others the use of its premises might want to refuse groups that are publicly at odds with Catholic teaching. This is true not only of parish halls and schools, but also conference centres, retreat centres, offices of Catholic organisations and other premises.

### **Other Catholic services**

28. There are other services, provided by Catholic bodies which might in very specific cases be restricted by Catholic teaching on human sexuality and marriage. The following are two examples.

- Catholic residential centres which provide retreats and conferences may have some accommodation for married couples and it would be invidious to place on these centres a legal obligation to provide the same accommodation for unmarried and same sex couples.
- The Catholic press should not be required to print or carry advertisements for groups that wish to advocate ideas or behaviour that is clearly contrary to Catholic teaching.

### **Conclusion and recommendations**

29. Every human being has a right to live a life free from unjust discrimination and harassment. Catholic teaching over many centuries, however, makes a fundamental distinction between sexual orientation (understood as an inclination or tendency) and sexual activity. It holds that all men and women are called to a life of chastity, and to fidelity if they choose to marry.



30. No Catholic agency or organisation should be legally required to act in a way that is contrary to Catholic teaching or in a way that implies a disregard of Catholic teaching. Catholic churches, schools, organisations, charities and in some cases enterprises like conference centres or the Catholic press might face specific situations where they would feel obliged to restrict the services they offer.
31. In this submission we have concentrated on some of the particular concerns of the Catholic community. However, clearly the principles underlying what we have submitted would apply, *mutatis mutandis*, to other Christian denominations and other major religions.
32. Accordingly, exceptions are necessary:
- a) to ensure that no religious organisation is legally required to act in a way that is contrary to its religious doctrine and identity, or that implies a disregard of that identity, or to avoid causing offence to a significant number of members of that faith community;
  - b) in relation to Catholic schools, so that the contents of the curriculum, acts of worship or other practices are not required to contradict the teaching of the Church and the religious ethos of the school;
  - c) to enable a religious organisation to be free to refuse the use of its premises to groups whose aims are perceived to be seriously at odds with the teachings of that religion.
33. We urge the Government to consider incorporating into the new *Sexual Orientation Regulations (Goods and Services)* exceptions to cover these which broadly parallel those in Part Two of the *Equality Act*. We would welcome the opportunity to discuss these and related matters with Government.

Archbishop Peter Smith  
Chairman, Department for Christian Responsibility and Citizenship  
Bishops' Conference of England and Wales  
8<sup>th</sup> June 2006