

Introduction

The Bishops' conference of Scotland is pleased to have the opportunity to comment on the proposals to introduce sexual orientation discrimination regulations. In light of the impact that such regulations may have on individuals and organisations in the United Kingdom we are eager to view draft wording of the regulations as soon as these become available. We make our comments in the belief that the views of the Catholic Church are reasonable and acceptable to people of good will. We hope that at this time when there is a sensitivity to the views of minorities and a desire for fair treatment of all persons that the points made below can allow for the creation of regulations which fairly balance the rights of all persons and permit a coexistence of groups who may share different views concerning the issues under examination.

Catholic Principles

It is the belief of the Catholic Church that homosexual persons "must be accepted with respect, compassion and sensitivity. Every sign of unjust discrimination in their regard should be avoided. These persons are called to fulfil God's will in their lives and if they are Christians, to unite to the sacrifice of the Lord's cross, the difficulties they may encounter from their condition."¹

The Church professes a vision of human sexuality ordered to the conjugal love of man and woman joined in marriage.

The marriage covenant, recognisable as a natural social order and, as we believe, established by God, by which a man and a woman unite themselves in an intimate community of life and love, is faithful, exclusive and lifelong. Through their mutual exchange of consent a man and a woman commit themselves to each other and accept the responsibility of bringing children into the world and caring for them. Marriage reflects the attraction that naturally exists between man and woman, as equal yet different, and made for each other. It is only in the union of a man and a woman that the creation of new life is possible.

Only a union of male and female can express the natural sexual complementarity of the human person. This unique complementarity makes possible the conjugal bond that is the core of marriage. The permanent and exclusive commitment of marriage is the necessary setting for the expression of sexual love both to serve the natural transmission of human life and to build up the bond between husband and wife.

Marriage is a fundamental human reality that is reflected, even if sometimes only partially, in all cultures throughout human history. Man and woman united in marriage together with their children form the family. The family creates among its members personal relationships and responsibilities. The family is the basic unit of society and as an institution is prior to any recognition by public authority. Marriage is thus a private relationship with wider public significance.

The well-being of the individual person and of both human and Christian society is closely bound up with the healthy state of conjugal and family life. The marital union also provides the best conditions for raising children: namely, the stable, loving relationship of a mother and father present only in

marriage. Society rightly recognises this relationship as a public institution in its laws because the relationship makes a unique and essential contribution to the good of all.

Sexual relationships which do not conform to this vision of human sexuality, are harmful to individuals and society for a variety of reasons. The Church has a duty to God and in the service of society to uphold this teaching.

It is the belief of the Church and a strongly held Christian view that the nature of the sexual act between individuals of the same sex is essentially disordered and contrary to natural and divine law.

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Discrimination

It is necessary to differentiate between discrimination against any individual and differing treatment of individuals in regard to the facilitation or promotion of activities one believes to be wrong.

For example it would be unfair of a printing company to refuse to carry out photocopying of business papers of a person solely on the basis that he is homosexual. However it is fair to respect the rights of a printer to refuse to produce work that was promoting homosexuality since this would allow the printer to safeguard his moral integrity.

Likewise the provision of accommodation to permit a homosexual liaison could involve the proprietor in direct cooperation with an activity he deemed immoral.

A fundamental principle that has to underpin any proposals for regulation is that the freedom of conscience of individuals must be respected. It is not licit to force an individual to act contrary to his moral belief.

It is a well-established and reasonable moral position to regard homosexual acts and the promotion of the moral equivalence of heterosexual and homosexual relationships as wrong.

The paper lacks an understanding and indeed a tolerance of those who disagree with homosexual behaviour. The document pre-supposes a moral equivalence between homosexual and heterosexual behaviour. This may be the moral beliefs of a sizeable minority in society and indeed that of government agencies. However there is no justification in enforcing this morality on everyone in society.

There is a need therefore to differentiate between homosexual inclination and homosexual activity. The refusal to provide goods and services in general to individuals because they experience same-sex attraction is in general not supportable and steps to counter such injustice is a legitimate task of government.

Refusal to provide goods and services to individuals where this would entail co-operation in advancing, facilitating and approving immoral activity or views, is in conformity with respecting

moral freedom.

A Church should not, for example be compelled to provide a hall to be used by an organisation with aims and values contrary to the beliefs promoted by that Church.

The proposals contained in the consultation document exhibit fatal flaws in regard to the need to differentiate between a person and a person's behaviour as explained above. Indeed it appears to be a vehicle for imposing the moral views of homosexual activists and their advocates on the rest of society.

We therefore believe that considerable changes are needed to make the proposals justifiable.

Schools

Young people need to be treated sensitively and supportively. This applies to all young people and schools are most capable of doing this without sexual orientation regulations. Catholic schools must promote the values of the Catholic faith and foster an environment which reflects that faith and the values professed. Actions by staff or pupils which presents homosexual behaviour as suitable are liable to cause confusion for children exposed to these. The curriculum of Catholic schools clearly must be in conformity with Catholic teaching and as such will entail clear exposition of the Church's teaching on human sexuality. However the proposals described in the consultation document raise the concern that the teaching of the Catholic understanding of human sexuality may be liable to legal challenge because this teaching will necessarily have to differentiate between heterosexual and homosexual behaviour. Problems can be envisaged where a staff member or pupil complains that Christian teaching is 'homophobic' or 'heterosexist' because it teaches that sexual relationships outside of marriage are wrong.

The Catholic Church cannot cooperate in promoting the belief that homosexual lifestyles are an acceptable moral choice. To propose otherwise infringes the religious freedom of those who hold to the tenets of Christianity. It contravenes Article 9 of the European Convention on Human Rights which safeguards a persons right to freedom of religion.

Behaviour which is aimed at promoting homosexual activity would undermine the ethos and coherence of values in a Catholic environment and cannot be supported. Schools will need to be able to deal with situations where this problem arises. For example the impact of teachers as role models for pupils is an important aspect of creating a Catholic ethos and schools must therefore be able to expect that teachers will exhibit a lifestyle in keeping with the views taught in the school.

The Church in Scotland has the legal right to approve staff for teaching in Catholic schools and for determining the content of religious and moral teaching programmes in its schools. These rights have been protected to ensure that an adequate Catholic education can be provided in denominational schools. It is necessary that the proposed regulations respect these rights and permit the continuance of Catholic education.

Civil Partnership

We wish to make the point that civil partnership is not in any way equivalent to marriage, the government has made this assertion until the production of Getting Equal. It may be that the government has chosen to give special treatment to those who wish to register same-sex relationships but the nature of that relationship is incompatible with the role provided by marriage. Civil partnerships, by attempting to mimic marriage, in fact undermine society's understanding of the role of marriage and of the meaning of human sexuality. It is therefore not supportable that society should be forced to recognise civil partnerships as marriage or to bestow the recognition given to married couples on those who have entered civil partnerships.

Activities of Religious Organisations

The teachings of the Church provide the values which inform all the activities in the life of a Christian and of Christian organisations. These values are not set aside once a member steps outside of Church. The regulations must therefore exempt all activities of religious organisations where it is necessary to differentiate between behaviour which is approved and behaviour which is reprovved. In respecting the rights of religious freedom the regulations must permit that organisations are capable of teaching with coherence and of operating in harmony with that teaching.

Adoption and Fostering

A particular activity of Church organisations is found in adoption and fostering services. The activities of Catholic adoption services require the freedom to develop procedures which are in keeping with the values of the organisation and which permit the development of policies and procedures which support the best interests of the children who benefit from the services of these agencies. These procedures include those which cover the assessment of the suitability of family environments for the placement of children. The organisations should not be forced to act contrary to their reasonable beliefs on what constitutes such an environment. The Catholic teaching on this matter is well known and the complementarity provided by the presence of a mother and father cannot be replicated by same-sex couples and therefore cannot be treated in like manner.

Exemptions

The consultation document advocates "a modern Britain whose values are founded on equal opportunities for all, respect and dignity and the worth of each person and mutual respect between individuals and communities." (Getting Equal 2.4). In seeking to support such a vision there is a need for exemptions to be applied on the basis of certain activities but essentially also in regard to recognising a difference between 'sexual orientation' and sexual behaviour.

The case is made in the document for private sector exemption in the context of gay bars, clubs etc (c.f. Getting Equal 3.9). In establishing the principle of exemptions we urge the inclusion of adequate exemptions for faith based organisations and individuals such that their freedom of conscience is

protected.

Such exemptions have been recognised in part 2 of the Equality Bill and are reflected in the exemptions granted to Catholic schools in the Employment Regulations of 2003.

Appendix

We propose the following charter as a suitable basis for respecting the beliefs of all people in society and as a basis for ensuring the dignity of each person is protected.

Charter of Religious Freedom

1. The right to religious freedom is a fundamental human right grounded in the dignity of the individual which recognises the right of the human person to act in accordance with his conscience.
2. Individuals should not be forced to act in a manner contrary to their religious beliefs, nor should they be restrained from acting in accordance with their religious beliefs.
3. Religious bodies have a right to demonstrate and teach the social relevance of their religious beliefs.
4. Religious bodies have a right to manifest their religious beliefs by corporately establishing and maintaining institutions and services and conducting them in accordance with those religious beliefs and values.
5. Because the right to religious freedom is exercised within society, it ought to be subject to certain ordinary laws designed to safeguard justice and civil order.
6. Government does not have a right to command or inhibit acts of religion, which are outside its proper competence or to force people to act contrary to their conscience in a proper exercise of their freedom.