

# Family Education Trust

(Family and Youth Concern)

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## FAMILY EDUCATION TRUST

### RESPONSE TO THE WOMEN & EQUALITY UNIT CONSULTATION PAPER

#### ***Getting Equal: Proposals to Outlaw Sexual Orientation Discrimination on the Provision of Goods and Services***

For over thirty years, Family Education Trust has been conducting research into the causes and consequences of family breakdown. By means of its publications, videos and conferences, and through its media profile, the Trust seeks to stimulate informed public debate on matters affecting the family and the welfare of children and young people, based on reputable research findings.

Family Education Trust is a registered charity and has no religious or political affiliations.

#### **General principles**

- **Opposition to homosexual activity is not incompatible with respect for human dignity**

We support the government's vision for a society where there is 'respect for the dignity and worth of each person'. However, we are concerned that the introduction of wide-reaching regulations such as those proposed, could militate against this objective and prove counter-productive. The regulations have the potential to lead not only to a lack of respect for the dignity of those who hold religious and philosophical convictions that prevent them from in any way condoning or promoting homosexual activity, but also to unnecessary and damaging legal proceedings.

The root of our concern lies in the fact that throughout the consultation document, the government has failed to recognise that there is a clear distinction to be drawn between same-sex *attraction* on the one hand and homosexual *activity* on the other.

The consultation paper implies that moral opposition to homosexual activity represents a failure to respect those who experience same-sex attraction. It does not appear to allow for the fact that it is perfectly possible to show respect for the dignity and worth of individuals who are attracted to another person of the same sex without wishing to give the appearance of condoning, approving or advocating homosexual practices. Indeed, many faith groups, together with others who do not subscribe to any religious faith, take the view that opposition to

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homosexual conduct is consistent with the created order and thus pays greater respect to the dignity and worth of the individual than does approval of homosexual activity.

There is a very real danger that the effect of the government's regulations could be to discriminate against those who believe that homosexual activity is morally wrong. In some cases, it could force people out of business or out of their profession if they refused to act against their consciences.

- **Genuine concerns about the proposed regulations should not be confused with 'homophobia'**

It is easy to dismiss those who reject any part of the proposed regulations as 'homophobic', but to do so marks a failure to appreciate the extent of the deep unease felt by many individuals and groups about the sexual revolution and its impact on health of individuals and society. We are not aware of any society in history that has sought to place same-sex relationships on an equal footing with heterosexual marriage. While 'homophobia' represents an *irrational* fear of homosexuals, the fears that are shared by so many in our society when they see the government embarking on a course without historical precedent are entirely rational and not at all unreasonable.

There are widespread concerns about the social costs that could arise as a result of plotting a course into uncharted waters. It is noticeable that the word 'bisexual' has increasingly crept in alongside 'lesbian and gay' over recent years, giving rise to fears that there may be moves at some point to further redefine the family by giving recognition to civil partnerships or 'marriages' between an individual and two or more partners of both sexes. And if the profession of a 'bisexual orientation' is to entitle an individual to have his/her relationship with both a male and female partner recognised in law, what possible objection could there be to recognising the unions of those who have a 'polygamous orientation'? Once we abandon any absolute standards in connection with sexual relationships, it is difficult to anticipate what our final destination will be.

Those who believe that marriage is a sacred ordinance, ordained by God as the union of one man and one woman for life, are obviously unable to recognise any parity between same-sex relationships and marriage. Such individuals and groups would not want to act in a manner that gave the appearance of condoning sexual relationships between same-sex couples – or indeed, that appeared to condone any sexual relationship outside the context of marriage.

Concerns about the social acceptance of homosexual activity are not limited to the adherents of a religious faith. Many others note the decline in the nation's sexual health that has accompanied the growth in homosexual practice – and of pre- and extra-marital heterosexual relationships – over recent years. Such observers are unable to share the government's optimism that the introduction of the proposed regulations will have 'a positive impact on health'. The evidence overwhelmingly suggests that dissuading people from engaging in homosexual activity – along with any other form of sexual activity outside a lifelong monogamous heterosexual marriage – will bring far more sexual health benefits than an approach that supports and even encourages homosexual practice.

Such concerns do not arise from personal prejudice and bigotry, but rather from a genuine conviction as to what is in the best interests of individuals and society.

- **A heterosexual marriage is not the same thing as a same-sex civil partnership**

Society has historically recognised a clear distinction between heterosexual and homosexual relationships, and still does. This is reflected in the present government's insistence that civil partnerships are quite distinct from marriage, and that the one should not be equated with the other.

In view of this firm and repeated insistence, it is surprising to see the consultation document stating that:

*'It will be made explicit in the regulations that civil partners must not be refused services offered to married couples on the grounds of their sexual orientation.'*<sup>1</sup>

If civil partnerships are not marriage in all but name, but 'a completely new legal relationship, exclusively for same-sex couples, distinct from marriage', there is a strong case for allowing service providers the liberty to draw a clear distinction between the two types of relationship and not be obliged in law to treat them as equal.

### **Q1 Do you agree that the new Sexual Orientation regulations should apply to goods, facilities and services?**

It is important that the regulations should draw a distinction between same-sex *attraction* and homosexual *activity*, as discussed above.

While a person's *orientation* will not of itself present any difficulty to a provider of goods, facilities and services committed to respecting the dignity and worth of each individual, instances where the provision of a service involves condoning, supporting or in any way encouraging homosexual *practice* will prove problematic to providers who are opposed to sexual relationships between members of the same sex.

For example, the sexual *orientation* of a customer will be irrelevant to the shop assistant selling clothing, furniture or food; it will likewise be immaterial to the car mechanic servicing a vehicle, or to the person selling tickets at a sporting or entertainment venue. Indeed, most transactions involve the provision of a service that does not involve the provider in condoning the customer's lifestyle. Therefore no conflict arises, and the provider can supply the requested goods, facilities and services with integrity and without going against his or her conscience.

However, a situation may arise in which a provider receives a request to undertake a service that would involve him or her in condoning or promoting a lifestyle that fundamentally conflicts with his or her beliefs about marriage and family life.

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<sup>1</sup> *Getting Equal: Proposals to Outlaw Sexual Orientation Discrimination on the Provision of Goods and Services*, p67

For example:

- A caterer, photographer, chauffeur, printer etc. with a religious or philosophical objection to homosexual activity may be asked to provide a service for a same-sex couple entering a civil partnership;
- A religious organisation, or a family group without any religious affiliation, may be requested to make its premises available for a reception after a civil partnership ceremony, or for a public meeting hosted by a homosexual rights group;
- The owner of a bed-and-breakfast establishment may be asked to reserve a double room for a same-sex couple.

In each of the above instances, the provision of the service requested involves condoning or supporting a lifestyle that may be at variance with the deeply-held convictions or religious beliefs of the provider concerned. It is therefore important that the regulations should recognise that there is a distinction to be drawn between refusing to provide a service purely on the basis of a person's sexual *orientation*, and refusing to provide a service because to do so would compromise genuine beliefs about sexual *practice* that may or may not be motivated by the tenets of a particular religion.

In a free society that values the dignity and worth of every member of the community and which cherishes diversity and liberty of conscience, it is important that due respect is paid to the sensitivities of those who hold religious and philosophical convictions that prevent them from any involvement in condoning or promoting homosexual activity.

#### **Q4 Do you agree that premises should be covered by the sexual orientation regulations?**

No. An organisation, whether faith-based or otherwise, should remain free to restrict the use of its premises to groups and events in harmony with its ethos and convictions.

A church or other religious body which believes that homosexual activity is wrong, and which stands opposed to the public recognition of same-sex partnerships, should not be obliged to let its premises for a reception to celebrate a civil partnership or for a meeting, conference, exhibition or other event that in any way promotes homosexuality. It should also reserve the right not to sell its premises to a group whose objectives are at variance with its belief system.

The same principle should also apply to premises belonging to an organisation which, like ourselves, has no religious affiliation, but which is committed to the view that sexual relationships belong within the context of a lifelong and committed marriage between one man and one woman.

The views and consciences of the owners and proprietors of premises should be respected on such a sensitive issue.

**Q5 Do you agree that an exemption should be provided for selling or letting of private dwellings as described in this consultation paper?**

Yes. The selling and letting of private dwellings should be exempt from the regulations.

Bed-and-breakfast and guest house establishments should be similarly exempt. The owners of such services should not be forced to provide a double room to a same-sex couple, or to an unmarried heterosexual couple against their consciences. There are some proprietors who wish to function on the basis of Judaeo-Christian moral standards and limit the availability of double rooms to married heterosexual couples. They should not be denied the freedom to operate their businesses in line with their convictions.

It is quite possible that some proprietors would rather close down than act against their consciences. To include bed-and-breakfast establishments within the regulations could have the effect of driving some proprietors out of business.

The consultation document states:

*'same-sex couples can find themselves turned away from hotels, or getting a raw deal from some other service providers, simply because of their sexual orientation'.<sup>2</sup>*

However, it fails to appreciate that the problem some service providers experience is not related to the sexual *orientation* of individuals, but to their sexual *conduct*. The reason why same-sex couples have been refused shared accommodation in widely-reported cases is because proprietors are unable in good conscience to act in a way that compromises their convictions about the fundamental character of marriage and family life.

**Q9 Do you agree that schools should be covered by the sexual orientation regulations?**

As stated above, there is a distinction to be made between homosexual *orientation* and homosexual *activity*.

We would therefore agree that same-sex attraction, of itself, provides no reason for refusing a child admission to a school or for denying him or her any privileges or opportunities. We also agree that bullying should be dealt with consistently irrespective of its motivation, and that the school's disciplinary policy should be consistently applied.

However, teachers and schools should not be required to teach that homosexual activity is on a par with the sexual relationship between a husband and wife. The headteachers and governing bodies of many schools would be uncomfortable with presenting these two very different types of relationship as moral equivalents. Schools should remain free to preserve a distinction between homosexual and heterosexual practices and relationships, and it is important that the consciences of individual teachers should be respected on this sensitive issue.

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<sup>2</sup> *ibid.*, p7.

**Q10 Are there any circumstances in which you consider that schools, or a part of the schools sector, should be exempted from the regulations?**

The school curriculum should be exempt from the regulations. The DfES guidance on Sex and Relationships Education insists that:

*‘Governing bodies and head teachers should consult parents in developing their sex and relationship education policy to ensure that they develop policies which reflect parents’ wishes and the culture of the community they serve.’<sup>3</sup>*

The importance of working in partnership with parents is emphasised at several points in the guidance, as is the need to protect pupils from ‘teaching and materials which are inappropriate, having regard to the age and cultural background of the pupils concerned’. The right of parents to withdraw their children from all or part of sex and relationships education is also reaffirmed.

If the curriculum were to be included within the regulations, it could lead to the promotion of homosexuality across the curriculum, which would run contrary to the spirit of the Sex and Relationship Education guidance with its concern to reflect the wishes of parents. There are already widespread concerns among parents about the way homosexuality is taught in some sex education programmes. Other attempts to present positive images of a homosexual lifestyle, such as the Lesbian, Gay, Bisexual and Transgender History Month have also raised fears among parents that they could confuse their children and encourage sexual experimentation.

**Q12 Do you consider that an exemption should be provided from the regulations for some of the activities of religious organisations?**

Yes, but not only for religious organisations. It is also important to be sensitive to the consciences and convictions of members of non-religious groups who believe that homosexual activity is unhealthy and goes against the natural order. Such groups should not be required to compromise their convictions and should remain free to uphold their ethos in the provision of social and welfare services to the community.

Care homes, for example, should be free to restrict double rooms to heterosexual married couples, and mother and toddler groups should be free to refuse to display literature that equates homosexual relationships with heterosexual marriage, where to do so would go against their convictions and ethos.

Similarly, adoption agencies that are committed to placing children in a family where they will be cared for by a heterosexual married couple where they can enjoy the complementarity of care provided by an adoptive mother and father, should not be denied the freedom to act according to their convictions. Some adoption agencies are firmly opposed to same-sex adoption on the basis that it confines a needy child to a state of permanent fatherlessness or motherlessness. This position should be respected in practice irrespective of whether the adoption agency concerned has a religious basis.

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<sup>3</sup> *Sex and Relationships Education Guidance*, DfEE, 2000, p7.

It is not only *organisations* that require protection in order that they may continue to provide a service in line with their deeply-held convictions. Respect is also due to the consciences and convictions of *individuals* who do not wish in any way to condone or promote homosexual activity – or, indeed, any form of sexual activity outside the context of a lifelong heterosexual marriage.

Examples of areas of potential conflict are mentioned in our response to Question 1 above. In a free society, the liberty to live and conduct business in line with religious and philosophical convictions must be maintained – even if it is sometimes misunderstood and/or causes offence.

**Q13 Do you agree that these exemptions should be restricted to activities that are primarily doctrinal? If there are any other activities that you consider should be covered by an exemption, what are these and why do you consider that the need to be exempted?**

See our response to Question 12.

Exemptions should not be restricted to ‘primarily doctrinal’ activities. It is simply not possible to isolate the ‘doctrine’ of a particular group and to circumscribe its application. Any belief system or ‘worldview’, whether formulated or not – and whether or not it has a religious basis - will inevitably affect every area of thought and life.

An organisation that believes sexual relationships belong within the context of a heterosexual marriage – whether religiously motivated or not – should have the freedom to reflect that view in all of its activities and not be forced to suppress its beliefs.

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