



Amicus response to the Women and Equality Unit
Getting Equal: Proposals to Outlaw Sexual Orientation Discrimination
in the Provision of Goods and Services

Introduction

1. Amicus is the UK's second largest trade union with 1.2 million members across the private and public sectors, Our members work in a range of industries including manufacturing, financial services, print, media, construction, not for profit sectors, local government, education and the NHS.
2. We welcome the proposals to introduce legislation that will outlaw discrimination on the grounds of goods and services. This legislation means that LGB people will be protected from discrimination in goods, facilities and services as on other grounds under discrimination law.

3. Executive Summary

- 3.1 Amicus supports the introduction of legislation that will outlaw sexual orientation discrimination in the provision of goods and services. We were part of the trade union lobby that argued that this legislation should be included in the Equality Bill, as LGB people are entitled to the same protection under the law as other groups in society.
- 3.2 **It is important that the regulations are compatible with other discrimination law. In particular we oppose that schools, or any part of the schools sector, should be exempted from the regulations, including faith schools. LGB students should be entitled to equal treatment and a safe environment in all schools.**
- 3.3 **The Government should use the creation of the CEHR as an opportunity to ensure that all strands of equality have equal status, funding and resources.**
- 3.4 Provisions should be made for advice and services to be provided on the regulations for the year after they come into force until the CEHR is established.

- 3.5 It is vital that the duty to promote equality is extended to all strands of equality, including sexual orientation, and to all sectors of the economy and this should form part of the future single equality act.

4. Response to questions

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

Yes. **It is important that LGB people have the same protection against discrimination as others under discrimination law.** Many LGB people are subjected to discrimination and homophobia and have been without protection in this area. The new legislation should prevent discrimination and provide recourse for those that suffer discrimination on the grounds of their sexual orientation. The new law should also help in changing people's prejudices and attitudes to LGB people.

- Q2 *Should the concept of goods, facilities and services have the same scope as in other equality legislation, in particular Part 2 of the Equality Act 2006?*

Yes. **It is essential that protection against discrimination on the grounds of sexual orientation has the same scope under the law as for other groups in society. Otherwise, a hierarchy of rights develops, which implies that certain groups are not entitled to the same protection as others.**

- Q3 *Do you agree that we should provide an exception from the prohibition on sexual orientation discrimination so that services to meet a specific and justified need can be provided separately to different groups on the basis of their sexual orientation? What specific activities should such an exception apply to?*

Yes, however, only in specific circumstances to address the needs of LGB people or to address disadvantage that a section of the community faces. This would apply to services where LGB people need to be confident that they are able to declare their sexual orientation with other users or a service that provides for their particular needs and examples are outlined in the consultation document, covering certain health provision, advice and counselling services.

- Q4 *Do you agree that premises should be covered by the sexual orientation regulations.*

Yes, as this would provide equal protection as with other discrimination law.

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

Yes, but the exemption needs to be tightly drafted so that owners of small hotels and B&B establishments could not make alterations to their premises or its functioning to avoid complying with the legislation.

- Q6 *Do you agree that private members clubs should be included in the sexual orientation regulations?*
- Q7 *What is your view on our proposal that both private members clubs and associations should be permitted to include having a particular sexual orientation as a membership criterion, but only where this criterion is explicitly connected to the purpose for which the club has been established?*

We agree that private members' clubs should be included in the sexual orientation regulations. It should be permitted that having a particular orientation should be a requirement of membership, particularly as LGB people may require a safe environment to meet others of the same orientation.

- Q8 *Do you agree that the new Sexual Orientation Regulations should apply to public functions as well as goods, facilities and services?*

Yes, in order that the regulations are compatible with other discrimination law.

- Q9 *Do you agree that schools should be covered by the sexual orientation regulations?*
- Q10 *Are there any circumstances in which you consider that schools, or a part of the schools sector, should be exempted from the regulations?*
- Q11 *Are there any areas of activity for schools for which you consider special provision needs to be made?*

Amicus welcomes that the sexual orientation regulations will cover schools, both in the maintained and independent sector. The interim report from the Equalities Review has highlighted that homophobic bullying at schools is a key area of concern which is impacting on the educational opportunities of LGB students and causing some pupils mental health problems. The legislation will support an atmosphere and learning environment of equal respect. **This should apply to all schools without exemptions and there should be no circumstances in which any school, in any sector should be exempt from the regulations.** Religious schools may make arguments that they should be exempt from the regulations on grounds of religious belief, but this needs to be countered because they are likely to have LGB students who should not be denied equal protection under the law. There may be an increase in schools that are run by faith groups with the introduction of trust schools which

makes it even more important that there is no exemption for schools on grounds of faith. This would have the potential to deny LGB students equal treatment and a safe environment in schools.

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

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

Amicus does not believe that any activities of a religious organisation should be exempted from the requirement not to discriminate on the grounds of sexual orientation. If this is allowed under the regulations it would provide LGB with fewer rights than other groups facing disadvantage and discrimination. Religious organisations should not be exempt from aspects of discrimination law that applies to all others in society.

Q14 *Do you agree that an exception should be provided for charities that provide services specifically to people because of/according to their sexual orientation?*

Amicus supports that an exception should be provided for charities that provide service to LGB people. They are an important part of services provided and at present there is still a need for targeted services.

Q15 *Do you agree that the sexual orientation regulations should include direct and indirect discrimination as well as victimisation? Are there any particular considerations or situations that should be taken into account in how such provisions are drafted?*

Yes, Amicus agrees that the sexual orientation regulations should offer the same protection as under other discrimination legislation.

Q16 *Do you agree that discriminatory practice should be included in the scope of the sexual orientation regulations?*

Yes, this is an important provision that would protect and allow recourse to those that suffer discrimination as a result of unwritten policies.

Q17 *Do you agree that discriminatory advertising should be included in the scope of the sexual orientation regulations?*

Q18 *Do you agree that instructions should be covered by the sexual orientation regulations?*

Q19 *Do you agree that the validity of contracts should be covered by the sexual orientation regulations?*

Yes all of the above should be included in the regulations to provide consistency and allow no loopholes for discrimination.

Q20 *Do you agree that the enforcement provisions for the sexual orientation regulations should match those for the other equality enactments?*

We agree with this proposal. The same enforcement provisions should apply as those applied in other discrimination legislation.

Q21 *Do you have any comments on the Government's plans for how the sexual orientation regulations will be enforced and supported by the CEHR?*

The creation of the CEHR should be an opportunity to ensure that all strands of equality have an equal status, funding and resources. It will not be acceptable that a hierarchy of rights should develop. We are concerned that at present there is no provision for statutory advice and services for LGB people and that the CEHR will not be functioning until a year after the new regulations have come into force. The Government must ensure that during this period that sufficient funding is given to provide support and advice for both individuals and organisations to be able to understand the rights and obligations under the legislation. We would propose that the existing agencies provide this interim service and that it should be widely publicised.

Additionally, we would reiterate that the adequate funding and resourcing of the CEHR is of key importance. Currently it is proposed that £70 million will be available and the existing commission has expressed concern that this is not sufficient. **We would ask the Government to reconsider this funding and that it should be increased to the level recommended by the existing agencies.**

We would welcome the opportunity to discuss the issues further.

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