



Trades Union Congress

Rt Hon Ruth Kelly MP
Secretary of State for Communities and Local
Government
Department for Communities and Local
Government
Eland House
Bressenden Place
London SW1E 5DU

date: 16 October 2006
contact: Brendan Barber
direct line: 020 7467 1271
email: ppurton@tuc.org.uk

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| Minister | Meg Munn |
| Subject | WEU |
| Official | Fiona Walker |

Dear Ruth,

Goods and Services protection for LGB and trans people

I write to request a meeting about the promised regulation on sexual orientation discrimination in goods and services. You will understand the urgency of this following press reports over the weekend.

I know you will be aware that the trade union movement has argued forcefully for full legal equality for lesbian, gay, bisexual (and trans) citizens of the UK, and that such equality would not be secured until the same protection against discrimination was available to these communities as is available to all groups. For that reason, we were heavily involved in the lobbying that led the Government to agree to include powers in the Equality Act 2006 to introduce such protection on grounds of sexual orientation by means of regulation. The TUC and many unions responded to the Government consultation on the scope of the proposed regulation, arguing that any exemptions from an obligation to promote understanding of the need for equality - especially but not only in public services such as education - could not be justified, and would be counter-productive.

You will understand our concern when we found that the Government response to the consultation had been delayed, to such an extent that no regulation could be in place at the originally promised date of October 2006. These concerns have been multiplied by the recent stories in the media. Our members are deeply concerned that there might be some retreat from the firm equality position adopted in the Government's original announcements on this subject, a position that was confirmed in the policy adopted by the Labour Party itself in 2005. Such a commitment was also reflected in the argument for the greater part of the proposed regulation presented in the consultation process that ended in June.

As well as protection against goods and services discrimination on grounds of sexual orientation, the TUC has supported the argument for the extension of such protection to

Congress House, Great Russell Street, London WC1B 3LS
telephone: 020 7636 4030 fax: 020 7636 0632

General Secretary: Brendan Barber Deputy General Secretary: Frances O'Grady





grounds of gender identity. We have accepted, with reluctance, that such protection can now only be secured through inclusion in the forthcoming single equality act, and we understand that your department is in discussion with representatives of the trans community. We would like to discuss this process with you as well.

I would welcome the opportunity to address these and related questions, and to hear your own views, in a meeting with you in the near future.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Brendan Barber', written over a horizontal line.

Brendan Barber
General Secretary

Thank you for your letter of 16 October regarding the forthcoming regulations to outlaw discrimination in the provision of goods and services on grounds of sexual orientation.

I would like to reassure you that it is our intention to provide protection from discrimination on the grounds of sexual orientation alongside that provided on grounds of disability, sex, race and religion or belief. We received an unusually large response to the consultation that closed in June this year - nearly 3,000 responses – and, as you say, we did delay publication of the regulations to allow us time to consider the complex issues raised.

We must ensure our proposals are workable and provide effective protection from discrimination. In a diverse society with people from different faiths and none it is essential to get the balance right, providing strong protection from discrimination for gay men, lesbians and bisexual people while ensuring that the right to hold a religious belief is not inappropriately infringed.

You will be aware that I have confirmed in Parliament that we now intend to bring protection from sexual orientation discrimination into force in the areas of goods and services at the next Common Commencement Date in April 2007. We intend to bring the sexual orientation regulations into effect alongside Part 2 of the Equality Act, which will outlaw discrimination on the grounds of religion or belief in the provision of goods, facilities and services.

You also expressed interest in progress towards similar protections from discrimination for transsexual people. We are considering how we do this as part of the Discrimination Law Review on which we will further consult in the New Year.

My office will be in touch shortly to arrange a meeting with you to discuss the best way of achieving workable protections in this complex area.

I apologise for the delay in responding.

This new legislation raises difficult issues about how to reconcile potentially competing rights and freedoms and we have received a large volume of correspondence on this subject. It is exactly because of this complexity that we have taken the time to consult extensively on these measures.

The Sexual Orientation Regulations, together with the Religion and Belief provisions in Part 2 of the Equality Act, 2006, will provide protection for individuals from unfair treatment because of their sexual orientation and religion or belief, in relation to the provision of goods and services, premises, education and public functions. This covers, for example, shops and hotels, the delivery of health and education services and the rental and sale of premises. The Government's aim is to bring these provisions into force alongside each other, in April.

The principles behind these measures are straightforward. It can't be right in a decent, tolerant society that a shopkeeper can refuse to serve a customer or a doctor refuse to provide health care to a patient on the basis of their religion or sexual orientation. Nor is it acceptable for any young person to be bullied at school because of their faith or because they, or their parents, are gay or lesbian.

Both the Prime Minister and the Secretary of State for Communities and Local Government made statements about how these regulations will affect faith based adoption agencies, on 29 January, setting out what I believe to be both a principled and practical way forward. I am enclosing a copy of these with this letter, for your information.

I would like to take this opportunity to clarify a number of myths circulating around the effect of the proposed regulations. For example, the regulations will not force ministers of religion to bless same-sex couples or officiate at civil partnerships. Teachers will not be prevented from talking about particular doctrinal beliefs in relation to family and sexuality or be forced to use certain texts. In reality, schools will continue to be obliged to develop their sex education in consultation with parents. There is nothing in the planned regulations which interfere with the right of religious groups to worship and preach as they see fit. Further information will be contained in the Government response to the 'Getting Equal' consultation, to be published shortly.

As you note, there have been particular concerns and very different views expressed, in relation to religious adoption agencies offering publicly funded services. There are those who have argued for a complete exemption from the regulations and, on the other hand, those who believe that the new legislation should apply from day one.

My aim has always been to ensure that we do not undermine the principles behind these changes at the same time as safeguarding what everyone agrees are valuable services to children.

The Government has found a sensible compromise on this issue: the regulations will apply to religious adoption agencies but they will be given until the end of 2008 to adjust. In the interim, there will be a new statutory duty on agencies to refer gay, lesbian and bi-sexual couples to agencies who are able to assist.

In addition, the Prime Minister has commissioned an ongoing independent assessment of the issues agencies will need to address in the transition period and the impact the regulations have on adoption services. This approach will prevent any disruption to services currently being provided to adoptive parents and children.

PM's statement 29th Jan No place for discrimination in society"

There can be no exemptions for faith-based adoption agencies from the new sexual orientation regulations, Tony Blair has decided.

The Equality Act, due to come into effect in April, outlaws discrimination in the provision of goods, facilities and services on the basis of sexual orientation.

Some agencies had claimed they would close if not given an opt-out from having to place children with homosexual couples, which they say goes against their beliefs.

In a statement released this afternoon, the PM said he had listened to the "strongly-held" views on all sides but that he started from a "firm foundation" that there was no place in society for discrimination.

So gay couples should be able to apply to adopt like any other couple, he said.

There will be a transition period before the regulations come fully into force at the end of 2008 for existing adoption agencies.

PM's statement in full

Over the last few days I have listened to the strongly-held views on all sides on the issue of adoption agencies and the new sexual orientation regulations. I have heard from representatives of gay rights groups and the leaders of the Roman Catholic and Anglican churches as well as Jack McConnell, who has been making sure the Scottish perspective is heard in these discussions.

While views obviously differ, everyone is agreed that, above all, the interests of the child and particularly the most vulnerable children must come first. I believe we have now found a way through that achieves this and which all reasonable people will be able to support.

I start from a very firm foundation: there is no place in our society for discrimination. That is why I support the right of gay couples to apply to adopt like any other couple. And that is why there can be no exemptions for faith-based adoption agencies offering publicly-funded services from regulations which prevent discrimination.

This will be made clear in the regulations that the Government will lay before Parliament shortly. In the interests of children, they will include a transition period before these regulations come fully into force at the end of 2008 for existing adoption agencies. This will be coupled, during this period, with a statutory duty for any adoption agency which does not process applications from same sex couples to refer them to another agency. I have also asked for a regular independent assessment from adoption and child welfare experts on the impact of the sexual orientation regulations on adoption in order to maintain the existing body of expertise.

I am convinced that this is a package which has the interests of children, and particularly the most vulnerable, at its heart. It recognises the hugely valuable role played in adoption by charities and volunteers, including those inspired by religious faith, ensure we do not lose their expertise and services while upholding and extending the Government's record against discrimination in all spheres.

**Secretary of State Ruth
Kelly's statement - 29
January 2007**

"The Prime Minister has made a statement on the arrangements for the sexual orientation regulations which will be implemented in April this year.

"These regulations will provide protection for individuals from unfair treatment because of their sexual orientation, in relation to goods and services. This covers, for example, shops and hotels, the delivery of health and education services and the rental and sale of premises.

"The approach on adoption is a positive breakthrough in eliminating discrimination while recognising the need for a practical approach that ensures the most vulnerable children are found loving homes. This approach should be welcomed by everyone on what has been an extremely complex issue. I have met a broad

range of those with a direct interest in these regulations and each has had passionately held views, expressed with real conviction.

"Two things are clear. First, that everyone wants to ensure that as a Government we tackle discrimination and second, no one wants to lose the excellent adoption expertise that helps some of the most vulnerable children. The package announced today, gives us the opportunity to meet both of those tests.

"The transition arrangements will give adoption agencies time to adapt and address how they work alongside an independent assessment of the process to ensure that the high quality expertise that exists is not lost. There will be no exemptions on adoption.

"During the period up to 2008 we will look to faith based adoption agencies to work with us on how they might adapt their methods of operation to meet the new legal requirements.

"An independent team will be reporting to the Prime Minister on the practicalities of ensuring

that the needs of vulnerable children and their adoptive parents will continue to be met both during the transition period and thereafter. Clearly listening to the experts on child welfare and adoption is vital.

"We have had the debate and heard a range of views - many of them expressed with passion and conviction. As a result we now have a workable solution. Good government is about robust debate and finding solutions that meet our principles in a practical way. This is the right way forward. I hope that all concerned will now work with us to implement the package we have announced today.

"At the end of the day, we all know that there is a wide range of potential adoptive parents out there, including lesbians and gay men who can provide a loving home for children.

"This Government has a proud record on equality and supports a society where every citizen is treated fairly and with respect. Over the last decade, it is this Government which has done more than any other to build a decent and

cohesive society. Today's announcement is a
breakthrough that should be welcomed by
everyone."