

## **Public sector equality duty: extending the requirement to give due regard to the need to promote equality of opportunity to religion or belief**

Engender is a membership organisation working on an anti-sexist agenda in Scotland and Europe to increase women's power and influence and make visible the impact of sexism on women, men and society. We provide a wide range of information and support to individuals, organisations and institutions who seek to achieve equality and justice.

Engender supports the Government's proposal to introduce a single public sector duty extended to cover sexual orientation and age. However, we do have concerns around how the proposed extension to religion or belief would work in terms of the requirement to pay due regard to the need to promote equality of opportunity.

The Equality Duty is a key means of tackling systemic discrimination and will be led by the public sector achieving cultural and social change towards social, economic and political justice and greater inclusion and cohesion. Clearly addressing sectarianism, Anti-Semitism and Islamophobia and other forms of religious intolerance need to be addressed in a secular society, but not through the single equality duty.

Engender holds that discrimination due to a person's religion or belief does not result from same systems of oppression that affect the other 'equality' groups, women, lesbian, gay and bisexual people, transgender people, black and minority ethnic people, disabled people and older people. Indeed religion has often provided the institutional framework for such systemic discrimination, for example against lesbian gay and bisexual people and women.

Women, LGB and T people, black, minority ethnic, disabled and older people are subjected to institutional discrimination and prejudice at a societal level because of who they are, because of their given identity and the value society [on a global scale] gives that identity. Whereas, someone facing discrimination based on their religion or belief is being prejudged because of what they chose to believe, often by members of another religious institution who chose to believe something different. Whilst people may take on a religious identity associated with a particular religious institution, it is not an identity that is given but is rather one that is chosen. Each of the other 'equality' groups are discriminated because a certain set of physical attributes has been historically established as being superior - colour, sex, sexuality, ability and age – and structures, systems, institutions and norms established and maintained to reinforce that. This includes many religious institutions.

Engender believes that the point of the Equality Duty is to ensure that public authorities take account of the different needs of all their constituents and is intended to ensure that certain groups are not overlooked and systemic or institutional disadvantage addressed.

The inclusion of religion and belief creates tensions in processes seeking equality because:

- they often hold sexist and heterosexist beliefs that deny women and LGBT people their rights to be equal
- they each hold their values and beliefs as THE ones and deny others.

Because religion and belief is about personally held beliefs and values and being in association with institutions that support that view of the world, different religious groups in a secular state have to tolerate each other. However, Women, BME people, LGBT people, disabled people, old people do not want to be tolerated, they want to be equal.

The arrival of religion and belief in the equalities field is the result of a muddling of the BME rights agenda with a religious tolerance agenda, due to events such as 9/11 and racialised assumptions about Islam.

It is our understanding that as a secular state people should be free to believe what they like and that any legislation to protect their right to do so should be independent of the equalities legislation which is about a fundamental right to be valued equally human as a women, lesbian, gay man, bisexual person, transgender person, black and or minority ethnic person, old or young person or a disabled person.

Engender believes that the legislation that seeks to address institutional discrimination cannot be used to advance the rights of sexist and heterosexist religious institutions. The equality duty should cover gender [including gender identity], race and ethnicity, sexual orientation, disability and age. Separate legislation should be developed to address religious difference and intolerance. Seeking to bring them together complicates the equalities agenda that requires action against sexism and heterosexism and threatens to derail it.

It is our understanding that there has been no compelling evidence found of material interference with the freedom to manifest religious belief and whilst we fully recognise and support the importance of respecting fundamental rights and freedoms we question how public authorities would balance the competing rights of some religious groups and other groups, particularly women and people who are lesbian, gay or transgender.

Discussions from our 'Women thinking Equality' think-tank in Scotland have uncovered issues around the (im)possibility of putting together a workable definition of what is covered by religion or belief. Such a definition would need to include the whole spectrum of religions and beliefs as well as to include no beliefs. Compliance with a single equality duty would require public authorities to ask what religion or belief a person holds and this would undoubtedly be an invasion of privacy.

Overall, Engender feels that including religion and belief in the single equality duty undermines the aspiration for harmonisation and stabilization of the equalities agenda would impose unnecessary burdens on public authorities to little end.