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QUALITY AND EQUALITY: HUMAN RIGHTS, PUBLIC SERVICES AND RELIGIOUS ORGANISATIONS



EXECUTIVE SUMMARY

Public service reform and religious organisations

Across the board, public services are in the process of extensive and significant reform. The Government is introducing new suppliers of public services and this is being done by placing contracts with private ('second sector') and voluntary ('third sector') organisations. The Government maintains that this will make such services more 'individualised' to the preferences of citizens and so better address the needs of diverse individuals and communities. We make no judgment on the desirability or otherwise of a mixed economy policy in the provision of public services. There is a feature of the Government's present policy, however, which gives rise to significant additional issues of principle and to substantial practical problems. This is its enthusiasm for placing contracts with religious organisations.

What are the problems?

We believe this strategy carries great risks: the risks of deterring take-up of services; of discrimination against employees of no or another religion; of unfairly favourable career prospects for those of the right religion; of discrimination against service users of no or another religion; of discrimination against gays whether employees or service users; of religious harassment; of artificial boosting with public funds the prestige of religious organisations; of uneconomic duplication of services; of divisive effects on the community and so on. These vastly outweigh the asserted but unproven benefit of using religious bodies to deliver services.

Therefore, it is our firm view that no publicly-funded, comprehensive and statutory public service, to which all citizens have an entitlement, should be contracted out to a religious organisation.

What are our proposals for reform?

If religious organisations are to be included in the supply and delivery of such public services, we believe the Government must take steps to address the problems that will inevitably arise. We make a number of proposals to address those problems, which aim to ensure that organisations providing such services:

- **could not discriminate between service users on grounds of 'religion or belief', or on any other grounds;**
- **must respect the human rights of service users;**
- **have equality-based employment policies, so that no one is privileged for a position because of her/his religion or belief, her/his sexual orientation, or on any other irrelevant ground.**

No discrimination in employment

Any organisation providing public services must be prohibited from discriminating against current or potential employees, on grounds of religion or belief, sexual orientation, or any other irrelevant grounds.

Therefore, we propose changes in the law to ensure that no currently employed public sector worker be forced to choose between restricted employment opportunities and going against her/his beliefs, because the service in which s/he works has been contracted out to a religious organisation.

No discrimination in the provision of public services

We believe that all service users, of all faiths and none, should be treated on a fair and equal basis, and should never be discriminated against on grounds of religion or belief, sexual orientation, or any other basis. Services should be provided

in inclusive and secular (that is, neutral) ways and services should not be restricted on the basis of religious doctrines or taboos.

Therefore, we propose legislative changes and contractual stipulations to ensure that no service user be subject to discrimination and all services users have equality of access to all available services.

Public authority status to be confirmed for providers of publicly-funded public services

The limited meaning of 'public authority' established by the courts has left a serious gap in human rights protection for public service users.

Therefore, we propose the Human Rights Act be amended and that, pending that legislation, contracts must include an obligation to comply with the HRA as though the supplier were a 'public authority' and to impose the like obligation on any subcontractors.

No advantage for religious purposes

We consider it unacceptable for taxpayers' money to be used to subsidise religious organisations.

Therefore, we propose that contracts specify public money will be used only for provision of services, and that any funding and assistance from Government is open to secular and religious organisations on an equal and open basis.

'It cannot be right that any provider of public services is permitted by law to discriminate in employment policies or in the manner in which it provides statutory, state funded public services.'

Polly Toynbee, President of the British Humanist Association

'This report shows why we need to amend the Human Rights Act - a groundbreaking piece of legislation by this Government - and other equality legislation to remedy the situation that has been inadvertently created in our public services.

The continuing and necessary programme of reform in our public services makes it ever more urgent to erect stronger legislative barriers to prevent discriminatory behaviour by religious organisations, particularly as we live in a largely secular society.'

Rt. Hon. Lord Warner, former Minister of State, Department of Health

'For too long the ideas set out in this report have not been properly debated. This important report makes clear the need for a number of issues in relation to our public services about human rights, equality and non-discrimination to be talked about fully and openly, and it sets the basis for future debate.'

Baroness Whitaker, Vice President of the British Humanist Association

This report is available from the BHA. Contact Naomi Phillips, naomi@humanism.org.uk, 020 7079 3585