

OFFICE FOR EQUALITY AND OPPORTUNITY: EQUALITY LAW CALL FOR EVIDENCE

Response from Humanists UK, June 2025



ABOUT HUMANISTS UK

At Humanists UK, we want a tolerant world where rational thinking and kindness prevail. We work to support lasting change for a better society, championing ideas for the one life we have. Our work helps people be happier and more fulfilled, and by bringing non-religious people together we help them develop their own views and an understanding of the world around them. Founded in 1896, we are trusted to promote humanism by 150,000 members and supporters and around 120 members of the All-Party Parliamentary Humanist Group. Through our ceremonies, pastoral support, education services, and campaigning work, we advance free thinking and freedom of choice so everyone can live in a fair and equal society.

SUMMARY

This submission relates to the call for evidence section on strengthening protection against combined discrimination, and on the section on ensuring the public sector equality duty is met by all parties exercising public functions.

- LGBT people leaving high-control religious groups (sometimes called 'apostates'), experience combined discrimination based on the protected characteristics of religion or belief, sexual orientation, sex, and/or gender reassignment. A lack of awareness within public bodies about the specific needs of this group can lead to indirect discrimination, as they fail to provide appropriate support.
- The effectiveness of the Public Sector Equality Duty (PSED) is undermined when public functions are outsourced to non-public bodies. This is due to a narrow judicial interpretation of what constitutes a 'public authority' and the significant exemptions the Equality Act 2010 affords to religious organisations when performing public functions.
- Exemptions for religious organisations in the Equality Act create critical gaps in protection on grounds of religion or belief, and on sexual orientation.. They can permit religious organisations with public contracts to discriminate in employment on grounds of religion or belief, compromising service quality. Crucially, service users are explicitly denied protection from harassment related to their sexual orientation or religion or belief when accessing functions of a public nature.

STRENGTHENING PROTECTIONS AGAINST COMBINED DISCRIMINATION

What evidence is there on the prevalence of the following types of discrimination on the basis of a combination of protected characteristics in England, Scotland and Wales?

- **indirect discrimination**
- **harassment**
- **victimisation**
- **discrimination on the basis of a combination of protected characteristics that includes pregnancy and maternity and/or marriage and civil partnership**

Faith to Faithless is a programme of Humanists UK which works to raise awareness of the issues faced by those who leave high-control religious groups (sometimes called 'apostates') and to



provide direct support to those affected. Faith to Faithless provides facilitated peer support groups and social groups, provides a platform for apostate voices to be heard, and raises awareness of the issues they face. We train statutory and support organisations such as the police, social services, and mental health organisations to better understand the issues apostates face, and the policy and practice implications this might have for them.

Deciding to leave a religion often means rejection from family and community. Apostates may end up homeless, isolated, and at risk of abuse. In addition, many high-control religions prevent members from accessing education, or external services, and so individuals don't know where to turn for support.

Those leaving high-control religious groups may be confronted with workplace discrimination or harassment. In communities that have strict rules in favour of keeping separate from 'non-believers', business owners may limit their employees and customers to people within their community. Some apostates report that they risk losing their job and livelihood when they leave that community. In other cases, an apostate may experience workplace harassment from members of their former community, even when the apostate is not employed within the community.

Some Faith to Faithless service users first question their religious upbringing because they are coming to terms with an LGBT identity that conflicts with that upbringing, and subsequently leave that community. Others may be at risk of abuse or being ostracised for not conforming to gender roles and/or for coming out (or being outed) as LGBT.

Some apostates can therefore experience combined discrimination under the protected characteristic of religion or belief (for being non-religious) alongside the protected characteristics of sex, gender reassignment, and/or sexual orientation. On one hand, they are unaware of or unable to access support services because their former community has prevented them from gaining the knowledge and skills required to seek out the support they need. Apostates may also be instilled with a deep-rooted wish not to bring shame on their former community which will prevent them from disclosing relevant information to support services. On the other hand, public bodies – including Job Centres, mental health service providers, social services, or the police – may not have sufficient organisational awareness of the needs of apostates – especially LGBT apostates and/or apostates who do not conform to their community's expectation of gender roles – to be able to offer appropriate support. This can result in indirect discrimination.

ENSURING THE PUBLIC SECTOR EQUALITY DUTY IS MET BY ALL PARTIES EXERCISING PUBLIC FUNCTIONS

What evidence is there about the compliance of non-public bodies with PSED when exercising public functions?

We are particularly interested in:

- **overall compliance by non-public bodies when exercising public functions**
- **evidence as to how compliance or noncompliance has had an effect on outcomes**
- **the barriers and enablers for non-public bodies in complying with PSED**



- **the level of clarity as to when a non-public body is or is not exercising a public function, and so when PSED does or does not apply**
- **the effectiveness of enforcement of PSED in relation to non-public bodies when exercising public functions**
- **additional proportionate steps which could better enable compliance by non-public bodies while promoting value for money**

According to Section 149(2) of the Equality Act, the Public Sector Equality Duty applies to '[a] person who is not a public authority but who exercises public functions... in the exercise of those functions'. According to Section 150(5) of the Equality Act, '[a] public function is a function that is a function of a public nature for the purpose of the Human Rights Act 1998'.

Section 6(3)(b) of the Human Rights Act says that a 'public authority' is 'any person certain of whose functions are functions of a public nature', and Section 6(5) states that 'a person is not a public authority by virtue only of Subsection (3)(b) if the nature of the act is private'.

Only a narrow range of third-party public service providers are deemed to be 'public authorities' by the court, for example in *YL v Birmingham City Council* [2007] UKHL 27 and later by *Sammut & Ors v Next Steps Mental Healthcare Ltd & Anor* [2024] EWHC 2265.

We are particularly concerned that religious organisations are afforded exemptions under the Equality Act 2010, which has implications for the applicability and fulfilment of the PSED if those religious organisations are contracted to fulfil a public function whether or not they fall short of being a 'public authority'.

Schedule 23, Paragraph 2 of the Equality Act provides a number of exemptions for religion or belief organisations in relation to the protected characteristics of religion or belief and of sexual orientation – including in relation to Part 3, which addresses services and public functions.

Paragraph 2(3) states that a religion or belief organisation does not contravene (inter alia) Part 3 in relation to religion or belief or sexual orientation, if it restricts

- membership of the organisation;
- participation in its activities;
- its provision of goods, facilities, or services undertaken;
- the use of premises it owns or controls.

Paragraph 2(10) then says that Paragraph 2 does not permit anything prohibited by Section 29 (the 'provision of services' section of Part 3), in relation to sexual orientation, if it is done (a) on behalf of a public authority; and (b) under the terms of a contract between the organisation and the public authority.'



The explanatory note reiterates this by stating that ‘if an organisation contracts with a public body to carry out an activity on that body’s behalf then it cannot discriminate because of sexual orientation in relation to that activity’.¹

This nonetheless gives rise to two concerns:

- 1) this does not address – for example – the impact on the delivery of a service if candidates can lawfully be selected on grounds of religion or belief, rather than being the best applicant to deliver a publicly funded role; and
- 2) it leads us back to the question of what is considered a ‘public body’ that must uphold PSED? Part 3, Paragraph 31(4) reiterates that for the purpose of Part 3 (which includes Section 29) ‘a public function is a function that is a function of a public nature for the purposes of the Human Rights Act 1998’, and as stated earlier – the courts have interpreted the meaning of ‘public authority’ narrowly.

In addition to these concerns, there are further exemptions listed in Part 3 that give rise to concerns about whether the courts consider an organisation a public authority or not. Part 3, Paragraph 29(6) says that in exercising a public function, a person cannot do anything in the provision of that service that constitutes discrimination, harassment, or victimisation. However, Part 3, Paragraph 29(8) states that for the purposes of (inter alia) Subsection (6), the application of Section 26 (which defines harassment as ‘unwanted conduct related to a relevant protected characteristic’) the protected characteristics of religion or belief and of sexual orientation are not considered ‘relevant’.

This means that in receiving a public service, a service user would be unable to claim harassment if faced with unwanted conduct related to their sexual orientation and/or their religion or belief. They can only claim for direct or indirect discrimination or victimisation should such treatment amount to that.

These concerns have real-world impacts. In April 2011, Richmond Council awarded a contract for counselling services for teenagers to the Catholic Children's Society – replacing Off The Record, a local, inclusive secular charity that had been providing the counselling service for the past 20 years. The Catholic Children's Society had previously given up working with new adopters after the Equality Act (Sexual Orientation) Regulations came into force in 2007, which meant that they would no longer be able to discriminate against gay couples wanting to adopt. This gave rise to concerns about their ability to provide inclusive services on issues like homophobic bullying, as well as contraception and abortion, if employees are required to ‘uphold the Catholic ethos’.²

In the same week, the government withdrew funding from pioneering women’s charity Eaves Housing, instead awarding the contract for services to trafficked women to the Salvation Army. The Salvation Army had previously stated it would be ‘impossible’ for it to be ‘religiously neutral’, and at

¹ Equality Act 2010 Explanatory Notes <https://www.legislation.gov.uk/ukpga/2010/15/notes/division/3/16/40/2>

² Humanists UK, ‘Children’s counselling service handed to anti-gay Catholic group’, 15 April 2011, <https://humanists.uk/2011/04/15/news-790/>.



the time the contract was awarded, it held a position statement condemning homosexual behaviour as 'self-evidently abnormal'.³

Our concerns were not unfounded. In 2018, a Channel 4 News investigation uncovered claims of homophobia and untrained staff at City Hearts, a Sheffield charity subcontracted by the Salvation Army who had been contracted by the Home Office to support victims of modern slavery.⁴
(See:)

This case underscores the challenge of compliance with equality principles when public funds are channelled through non-public bodies. Even where statutory provisions aim to prevent discrimination, issues of oversight, training, and the ethos and actual practices of contracted organisations can lead to outcomes where vulnerable individuals face discrimination and harassment, undermining the effectiveness and integrity of publicly funded services.

Collectively, these examples illustrate the tangible negative effects of the ambiguities surrounding what constitutes a public body with PSED, especially when public functions are outsourced to religious organisations that are allowed to discriminate on grounds of religion or belief, and sexual orientation.

Our 2007 report *Quality and Equality: Human Rights, Public Services and Religious Organisations*, discusses and sets out in detail our position on the contracting out of public services to religious organisations.⁵

For more details, information, and evidence, contact Humanists UK:

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³ Memorandum from The Salvation Army, 15 December 2006, <https://publications.parliament.uk/pa/jt200607/jtselect/jtrights/77/77we09.htm>; Humanists UK, 'Control of vital service for trafficked women handed to evangelical religious group', 12 April 2011, <https://humanists.uk/2011/04/12/news-787/>.

⁴ Exclusive investigation uncovers alleged homophobia and untrained staff at government-funded charity, 14 March 2018 <https://www.channel4.com/news/exclusive-investigation-uncovers-alleged-homophobia-and-untrained-staff-at-government-funded-charity>

⁵ Humanists UK, *Quality and Equality: Human Rights, Public Services and Religious Organisations*, 2007, <https://humanists.uk/wp-content/uploads/BHA-Public-Services-Report-Quality-and-Equality.pdf>.

