

Brussels says churches must lift ban on employing homosexuals

EU decides British government was wrong to allow exemptions under equality law

- [Jamie Doward](#)
- [The Observer](#), Sunday 22 November 2009

The government is being forced by the [European commission](#) to rip up controversial exemptions that allow church bodies to refuse to employ homosexual staff.

It has emerged that the commission wrote to the government last week raising concerns that the UK had incorrectly implemented an EU directive prohibiting discrimination on the grounds of a person's sexual orientation.

The ruling follows a complaint from the National Secular Society, which argued that the opt-outs went further than was permitted under the directive and had created "illegal discrimination against homosexuals".

The commission agreed. A "reasoned opinion" by its lawyers informs the government that its "exceptions to the principle of non-discrimination on the basis of sexual orientation for religious employers are broader than that permitted by the directive".

The highly unusual move means that the government now has no choice but to redraft anti-discrimination laws, which is likely to prompt a furore among church groups.

In anticipation of a possible backlash from the commission, the government has already inserted new clauses into its [equality bill](#). But even if the bill is jettisoned, future governments will be bound by the commission's ruling.

Under the new proposals being drafted by the government, religious organisations will be able to refuse to employ homosexuals only if their job involves actively promoting or practising a [religion](#). A blanket refusal to employ any homosexuals would no longer be possible.

"This ruling is a significant victory for gay equality and a serious setback for religious employers who have been granted exemptions from anti-discrimination [law](#)," said human rights campaigner Peter Tatchell. "It is a big embarrassment for the British government, which has consistently sought to appease religious homophobes by granting them opt-outs from key equality laws. The European commission has ruled these opt-outs are excessive."

The employment directive outlawing discrimination in the workplace was finalised by the European commission in 2000 and became law in the UK in early 2003, following a public consultation exercise. At the time there were accusations that the government had "caved in" to religious groups that mounted a fierce lobbying campaign to be exempted from the new laws.

Under the terms of the exemption, religious groups were allowed to refuse a position to a homosexual employee "so as to avoid conflicting with the strongly held religious convictions of a significant number of the religion's followers".

"In other words, if a significant number of followers of an organised religion didn't like it, there was no protection for a gay employee," said Keith Porteous-Wood, executive director of the National Secular Society. "Now the government must demonstrate its commitment to equality, rather than continuing to jump to the church's tune."

The EU's equal opportunities commissioner, Vladimir Špidla, said: "We call on the UK government to make the necessary changes to its anti-discrimination legislation as soon as possible so as to fully comply with the EU rules."

But religious groups expressed alarm at the move. The Christian charity, Care, said: "If evangelical churches cannot be sure that they can employ practising evangelicals with respect to sexual ethics, how will they be able to continue?"