

PRESS RELEASE

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Research finds that Stonewall Guidance is not in line with the law

London: At least 40 organisations are known to have left the Stonewall Diversity Champions scheme recently, including the Cabinet Office, Ministry of Justice, Ofsted and the Equality and Human Rights Commission. Many more are reviewing their involvement.

Stonewall has defended the scheme which purports to tackle discrimination against lesbian, gay, bisexual and transgender people at work, but has been criticised for ignoring sex discrimination, redefining sexual orientation in terms of gender identity and focusing on “trans inclusion” to the detriment of women’s rights and freedom of belief.

Stonewall says its guidance is in line with equality law, but a new research report by the human rights campaign group Sex Matters finds that Stonewall Guidance directly contradicts the Employment Statutory Code of Practice issued by the Equality and Human Rights Commission (EHRC).

The Sex Matters report “Understanding the Risk of Following Stonewall Advice” compares guidance published by Stonewall with the Employer Statutory Code of Practice.

The Stonewall guidance tells employers that they should let staff chose which toilets and other single-sex facilities they feel most comfortable in depending on their gender identity, which Stonewall defines as including “agender, non-binary or gender fluid”.

Stonewall tells employers that it is harassment to question or challenge anyone about using opposite sex facilities.

The Statutory Code only talks about “different facilities” for people who consider themselves transsexual, and highlights the obligation to meet everybody’s needs for privacy - including those with religious or other beliefs.

Workplace health and safety regulations require single-sex toilets, showers and changing facilities unless they are provided as fully enclosed individual rooms.

Stonewall describe these as “gendered facilities”

Stonewall says that around a quarter of the UK workforce work for employers that are members of the Stonewall scheme.

The charity tells employers that language used in the Equality Act 2010 such as saying “male” and “female” are the two sexes and relate to being a man or a woman are out of date. It encourages employers to use other terms in their equality monitoring.

This is not in line with official advice, and puts employers at risk of data-protection breaches as well as misunderstanding of their responsibilities under the Equality Act.

While Stonewall advocates “acceptance without exception” based on gender identity, the Equality Act specifically allows certain jobs such as a changing room assistant, or rape crisis counsellor to be reserved for people who are the same sex as the users of the service.

Barrister Naomi Cunningham, Chair of Sex Matters said:

Employers that follow Stonewall guidance are at risk of facing discrimination and harassment claims from employees whose rights are ignored by this lobby group. They would be wise to go back to basics and look at the Equality Act and the Statutory Code, rather than committing themselves to following Stonewall’s advice.

Sex Matters has written an open letter to Baroness Kishwer Faulkner chair of the Equality and Human Rights Commission asking them to confirm whether Stonewall’s guidance is consistent with the statutory code.

In a recent court case (**AEA v EHRC**) the EHRC said that guidance suggesting trans-persons must be allowed to access the single sex services of their acquired gender “**is directly inconsistent with the code of practice**” which it says “makes clear that trans-persons can be excluded from a service where that is justified”.

The EHRC told the High Court that it had “taken steps to bring that to the attention of service-providers whose guidance erroneously suggests trans-persons must always be permitted to use the single sex services of their acquired gender irrespective of the needs of, or detriment to, others.”

Maya Forstater, Director of Sex Matters who recently won an Employment Appeal Tribunal case establishing that those who do not believe that gender identity should override sex are protected from discrimination at work, said:

The Equality Act and the official guidance on it shouldn’t be mysterious or hard to follow. It is time that the EHRC and government departments stood up to lobby groups whose guidance encourages bullying and harassment of employees who don’t share their beliefs.

ENDS

EDITORS NOTES

ABOUT SEX MATTERS

Sex Matters is a UK based human rights organisation campaigning to reestablish that sex matters in rules, laws, policies and language.

The Open Letter to the EHRC and the report “Understanding the Risk of Following Stonewall Advice are available at www.sex-matters.org

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