

# Abortion and Conscientious Objection

**T**he abortion and conscientious objection debate was re-ignited this March when a CMF member was denied a general practice rotation because he refused to clerk patients for elective abortions. When asked, Dr Everett Julyan told the interview panel that he would neither prepare patients for nor perform abortions because of his beliefs. He said that two panel members had said later that he had not been appointed *solely* because of his views on abortion.

North Glasgow University Hospitals NHS Trust has admitted that ‘inappropriate questions may have been asked’. Furthermore they stated: ‘There is no policy to stop candidates with conscientious objections from working in our department.’ Still, given the large number of abortions performed there, they felt it ‘wholly reasonable’ to ask a doctor’s views.<sup>1</sup>

Health is a devolved issue in Scotland but abortion policy is reserved to Westminster, mainly as the government fear that changes to the current legislation could lead to women travelling across the border to seek abortions if the laws were different in England and Scotland. In 1994 the NHS Executive issued guidance to all English and Welsh hospital trusts, instructing them not to question candidates about their personal views on abortion. However, for reasons that are still unclear, similar Scottish guidelines were not issued.

The Abortion Act 1967 carries a conscientious objection clause, allowing doctors to refuse to participate in terminations but obliging them to provide emergency treatment when a woman’s life may be jeopardised. However, the BMA’s advice concludes that doctors who feel unable to participate in abortions still have an ethical duty to refer patients to another colleague and that ‘preliminary procedures such as clerking in the patient’ are ‘incidental to the termination’ and are to be considered outside the scope of the clause.<sup>2</sup> This suggests that while doctors are not legally required to authorise or perform abortions, they are obliged to be involved in pre-operative care and referral, regardless of their personal beliefs. However, these recommendations have never been tested in court. They are based mainly on the outcomes of two legal precedents, one of which was the Janaway case, concerning a doctor’s secretary who refused to type a referral letter for an abortion, claiming the protection of the conscience clause. In his summing up of the case, Lord Keith said, ‘The regulations do not appear to contemplate that the signing of the certificate would form part of the treatment for the termination of pregnancy’.<sup>3</sup>

It is increasingly difficult for Christian doctors to enter careers in certain specialties and there is substantial evidence of discrimination. A CMF survey of 1405 doctors revealed that 14% of doctors felt they had been discriminated against because of their abortion views. Four thought they had been refused jobs whilst five members had had to change jobs or even specialties.<sup>4</sup> However, Dr Julyan is believed to be the first to be told that he had been discriminated against. Having been approached by a *Daily Mail* reporter, he eventually agreed to be interviewed in the

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hope of preventing future discrimination against other candidates.

Gordon MacDonald from the Christian charity *CARE* took Dr Julyan’s case to the Scottish Executive and also called for definitive instructions for Scottish Trusts. In response an Executive spokesperson said, ‘We are not aware of the specifics of this case but we will look into anything that is brought to our attention.’ They added that the Executive had no plans to issue any further guidance. Opposition politicians and pro-life groups received these statements angrily, also calling for devolution of abortion policy.<sup>5</sup> A spokesperson for the Conservative party said, ‘It is quite unfair that a young doctor’s prospects should be put at risk because of his ethical and moral judgements. There should be no discrimination in this field’.<sup>6</sup> In a turn around, the Scottish Executive is now consulting the medical profession on whether guidelines similar to those in England and Wales should be issued in Scotland.<sup>7</sup>

Given our society’s increasing acceptance of abortion and corresponding decline in morals, it is inevitable that many of us will face discrimination and perhaps even dismissal or criminal conviction because of our personal beliefs. Whatever the cost, we must hold onto our convictions and biblical principles. God puts human authorities in place and expects us to obey them,<sup>8</sup> but our obedience to him must take precedence. If we believe that abortion is unacceptable, we must obey God first, regardless of what rules and regulations say. Even if we do not take part in the procedure, filling out authorisation forms or clerking patients surely gives tacit approval to the abortion process. To disobey God for fear of losing career, reputation or respect is to make idols of these things.<sup>9</sup>

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## References

- 1 Macdonnell H. Doctor rejected for his conscience. *Scottish Daily Mail* 2000; 7 October
- 2 BMA’s Ethics, Science and Information Division. *Medical Ethics Today: its practice and philosophy*. London: BMA Publications, 1993:107-109
- 3 *Janaway v Salford Health Authority*. [1989] AC, [1988] 3. ER 1079 (HL)
- 4 Burton E, Fergusson A. *Members’ Attitudes to Abortion: a survey of reported views and practice*. London: Christian Medical Fellowship, 1996
- 5 Macdonnell H. Guidelines call after doctor lost out on job over abortion beliefs. *Daily Mail* 2000; 9 October
- 6 Scott K. Doctor’s abortion view cost him job. *Guardian* 2000; 9 October
- 7 Write with your views: Ms Susan Deacon, Minister of Health, The Scottish Executive, St Andrew’s House, Regent Road, Edinburgh EH1 3DG
- 8 Romans 13:1-2
- 9 Deuteronomy 5:7; 1 John 5:21