

EHRC Survey – CMF submission

Section 1 – About your Organization

1. Which of the following best describes the sector that your organisation is in?

Charity/Voluntary sector.

2. Are you responding on behalf of your organisation or as an individual?

On behalf of my organisation.

Organisation: Christian Medical Fellowship

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3. Do you work for an organisation which practices, advances or teaches a religion or belief?

Yes

The Christian Medical Fellowship (CMF) exists to unite and equip Christian doctors, nurses and other healthcare workers. We were formed in 1949 and currently have over 4,500 UK doctors and around 800 UK medical students as members all of whom are Bible-believing Christians.

3a. If yes, please state which religion or belief and which particular religious denomination if relevant.

As our name implies, CMF is a Christian organisation. It exists to help Christian doctors and nurses express their faith in their places of work. CMF is evangelical (Bible-believing) and non-denominational.

4. Which countries does your organisation cover?

We have around 25 staff based mainly in London but also in Scotland. Much of our work depends on the commitment and involvement of our members, working in clinical practice throughout the UK.

We are linked to approximately 80 similar organisations around the world through our membership of the International Christian Medical and Dental Association (ICMDA).

Section 2: Your organisation's concerns about the protection of people with a religion or belief or without a religion or belief.

5. From the following list, please indicate the issues which your organisation is particularly interested in or concerned about (please tick as many as you wish).

Time off work for religion or belief reasons	
Dress codes and wearing of religious symbols	
Opting-out of work duties or conscientious objection	X
Freedom of expression	X
Restrictions on, or refusal of, a service	X
Offering of an inappropriate service	X
Harassment on grounds of religion or belief	X
Victimisation on grounds of religion or belief	
A hostile or unwelcoming environment	X
Definition of 'belief'	
Procurement or funding issues	
Exemptions from equality law	X
Other issue(s) (please specify)	

6. From the list above, which THREE issues is your organisation most interested in or concerned about?

- Opting-out of work duties or conscientious objection
- Freedom of expression
- A hostile or unwelcoming environment

7. Please give more details about why your organisation is particularly interested or concerned about the issues you have highlighted in Q6.

The General Medical Council (GMC) guidance recognises that 'doctors have personal values that affect their day-to-day practice' and asserts that the GMC doesn't wish 'to prevent doctors from practising in line with their beliefs and values' provided that 'they act in accordance with relevant legislation' and 'follow the guidance in *Good Medical Practice*' (www.gmcuk.org/guidance/good_medical_practice.asp).

It acknowledges that 'personal beliefs and cultural practices are central to the lives of doctors and patients.' It also recognises that doctors 'may choose to opt out of providing a particular procedure because of (their) beliefs and values' as long as the legal rights of others are not breached. It also concedes that 'it may... be appropriate to ask a patient about their personal beliefs' and 'to talk about your own personal beliefs' in certain circumstances.

Over the last five to ten years there has been a gradual increase in the number of cases of Christian nurses and doctors approaching us for support, advocacy and advice because they find themselves in situations where the practice of their faith (evangelism and prayer), expression of their beliefs (especially about sexuality and marriage) or exercise of conscience in abstaining from participating in various procedures (abortion, contraception, end of life decisions) is bringing them into conflict with public authorities, employers or colleagues. Some have been the subject of complaints and have appeared before disciplinary committees, tribunals or courts. Others have felt intimidated into silence. Some have been barred from public appointments or felt forced to resign from their jobs. Some have been denied appointments or lost their jobs as a result.

The numbers are currently small and discrimination is not at the level of persecution seen in many countries abroad (threat to life or imprisonment). But there is a growing threat to freedom and conscience as the result of a subtle imposition of a secular world view in Britain's laws, courts, media and institutions which is having an impact on Christians' access to facilities, freedom of speech and evangelism and right to refrain from procedures they regard as unethical. Most of these problems can be resolved locally with advocacy and support but there is in some quarters an unwillingness to accommodate Christians which is leading to cases reaching disciplinary committees, tribunals and courts. There is also evidence of existing law being misunderstood, misinterpreted or wrongly applied by local and professional authorities in codes and guidelines.

There appears to be a growing tendency to exclude representatives of faith communities from committees that are looking at equality issues in the workplace. An example of this is the Royal College of General Practitioners who recently invited Stonewall and BAPIO to assist them in a review of their Equality and Diversity policies but did not include any faith community representation.

Section 3: Your views on the effectiveness of the law

8. What are the most effective features of the current legislative framework and why?

The Employment Equality (Religion and Belief) Regulations 2003 make it unlawful to discriminate against an employee on the grounds of religion or belief, and this is clearly to be welcomed. Equality and diversity guidelines issued by the Department of Health, however, are vague and open to differing interpretations when it comes to implementing the law in the workplace. In some settings Christian doctors and nurses who discuss spiritual matters with patients or colleagues have been threatened with disciplinary proceedings.

Similarly, the Abortion Act 1967 contains a welcome conscience clause that protects doctors who have a moral objection to abortion. However, the Royal College of Obstetricians and Gynaecologists has denied diplomas and fellowships in sexual and reproductive health to those whom they have trained but who object to prescribing contraceptives that act after fertilisation.

We welcome the House of Lords amendment to the Government's suggested injunctions to replace the Anti-social Behaviour Orders, replacing the proposed 'nuisance or annoyance' threshold with the safer and long-standing threshold of causing 'harassment, alarm or distress', an amendment

subsequently accepted by the Government. This is good news for the protection of free speech, the previous wording being too vague and likely to catch people guilty of nothing more than courteously sharing opinions that someone else happens to strongly disagree with and find 'annoying'.

Similarly, we applaud the reform of section 5 of the Public Order Act which means that police will no longer be able to arrest people simply because others might find their words or behaviour 'insulting'.

9. What are the least effective features of the current legislative framework and why?

The conclusion to the Clearing the Ground enquiry (www.eauk.org/current-affairs/publications/clearing-the-ground.cfm, 2012) was that 'Christians in the UK face problems in living out their faith and these problems have been mostly caused and exacerbated by social, cultural and legal changes over the past decade.'

With the rise of the secular humanism and, in particular, the new atheism, there is in British society generally a loss of historically held belief in the existence of a transcendent, communicating God incarnate in Jesus Christ, in biblical authority and in biblical ethics, which is combined with an active agenda to impose an alternative secular world view through our laws, institutions and media. This is leading to an erosion of laws that were based on a biblical worldview and to some loss of Christian freedoms. For Christian doctors the major impact has been felt in the areas of sharing Christian faith (evangelism), expressing beliefs about Christian doctrine or ethics or manifesting Christian behaviour especially in the areas of prayer and/or sexual and life ethics. Conflicts may also arise when Christians are required to perform tasks or to conform in ways which go against their beliefs. Exclusion from consultations, decision-making or advisory roles because of their beliefs is another point of contention.

The main laws implicated are:

1. Employment Equality regulations on religion and belief and sexual orientation (2003)
2. Equality Acts 2006 and 2010
3. The Abortion Act 1967 and Mental Capacity Act 2005 also have some influence through interpretation by official bodies about the scope and application of their provision for conscientious objection.

Guidelines, based on these laws, by the Department of Health, NHS trusts and professional bodies like the BMA also have an impact on how legal policy is interpreted and implemented. Examples of such guidelines include:

1. Religion or belief: a practical guide for the NHS (Department of Health, January 2009)
2. Sexual orientation: a practical guide for the NHS (Department of Health, February 2009)
3. The law and ethics of abortion (BMA, November 2007)
4. Treatment and care towards the end of life: good practice in decision making (GMC, July 2010)

Specific examples of laws that are interpreted in a discriminatory way include:

1. The Employment Equality regulations on religion and belief and sexual orientation (2003) and the Equality Acts 2006 and 2010

a) The requirement for Christian organisations with a Christian ethos to employ people who do not hold to Christian faith

b) The definition of harassment is too broad and too open for misinterpretation or perverse action: “unwanted conduct which takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading or humiliating environment.” In an attempt to prevent expressions of Islamic extremism, the Government is in danger of caricaturing anything that does not reflect its own secular humanist stance as ‘extremist’, including those who hold mainstream Christian beliefs and who express them in sensitive and respectful ways.

2. The Department of Health practical guidelines on ‘religion and belief’ and ‘sexual orientation’ over-interpret the law with respect to evangelism and expression of Christian belief about sexuality and have created an environment where normal Christian behaviour is inappropriately open to censure or discipline. These documents were not made open to full consultation or review when implemented but are being used by NHS employers. Both these documents should be reviewed and opened to consultation.

3. The implementation of the Abortion Act 1967 and Mental Capacity Act 2005 conscientious objection clauses needs to be kept under regular review to ensure that Christians are not being unlawfully discriminated against.

Examples of problematic clauses in Department of Health documents which can be used to discriminate against Christians:

Members of some religions... are expected to preach and to try to convert other people. In a workplace environment this can cause many problems, as non-religious people and those from other religions or beliefs could feel harassed and intimidated by this behaviour... To avoid misunderstandings and complaints on this issue, it should be made clear to everyone from the first day of training and/or employment, and regularly restated, that such behaviour, notwithstanding religious beliefs, could be construed as harassment under the disciplinary and grievance procedures. ([Department of Health, Religion and Belief](#))

Any NHS employer faced with an employee who by virtue of religion or belief refuses to work with or treat a lesbian, gay or bisexual person, or who makes homophobic comments or preaches against being lesbian, gay or bisexual, should refer to its anti-discrimination and bullying and harassment policies and procedures, which should already be in place... If the conduct has the purpose or effect of violating a person’s dignity, or creating an intimidating environment, and it is reasonable for the complainant to take offence, then it is harassment. (People) should not be subjected to discrimination or harassment on any grounds whatsoever. It should be made clear that such behaviour is unlawful and could result in legal proceedings being brought. ([Department of Health, Sexual Orientation](#))

10. Please describe what you think could be done, if anything, to improve the effectiveness of current legislative framework?

The law should provide more protection. In particular, the law should delineate more clearly the nature of 'harassment' and 'incitement'. The freedoms of peaceful assembly and respectful free speech should not fall victim to spurious claims of incitement to hatred or coercive exploitation. Clearly, doctors must not exploit their positions of privilege. However, current NHS guidelines exploit the lack of definition in the law by overly strict interpretations that create an intimidating environment for Christian doctors and nurses, particularly in matters of objection on the grounds of conscience and liberty to share their beliefs with interested patients in a sensitive and appropriate manner.

There are clearly situations where freedoms collide and government or public authorities must decide whose interests will prevail. In a culture where secular humanism and personal autonomy have progressively displaced the Judeo-Christian values on which our laws were founded, it is often the case that preference is given to the non- or anti-Christian lobby. This constitutes a form of discrimination. More even-handed representation, for example on advisory committees and in consultations, would be a helpful step.

Consultation over, and regular review of DOH Guidelines relating in particular to religion and belief, sexual orientation and conscientious objection would reduce the risk that the DOH implements the law in overly strict ways that are discriminatory towards Christians.

11. If you would like a copy of the report, please provide your email address below.

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12. How would you like your responses to be treated?

With my responses linked to the name of my organisation.