

Discrimination Law Review

**A Framework for Fairness: Proposals for a
Single Equality Bill for Great Britain**

A Submission

by the Maranatha Community

September 2007

A. THIS DOCUMENT

This submission has been prepared in response to the Consultation Paper entitled ‘Discrimination Law Review – A Framework for Fairness: proposals for a single Equality Bill for Great Britain’

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B. THE MARANATHA COMMUNITY

The Maranatha Community is a Christian movement with many thousands of members throughout the country, active in all the main churches. Its membership includes a substantial number of people involved in the health and caring professions and in a wide range of voluntary work. Since its formation 27 years ago, it has been deeply involved in work amongst children and young people, people with drug and alcohol problems, the disabled and disadvantaged. It has taken the initiative in a broad range of projects directly contributing to the health of the nation and it also has extensive international experience.

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1. Introduction

- 1.1 We agree with the intentions behind this proposed Bill, insofar as it seeks to prevent discrimination on the basis of race, gender, disability, age, religion/belief, and sexual orientation.
- 1.2 We believe it is wrong for people to be treated unfairly for reasons of their religious belief or sexual orientation. We believe that discrimination – for example at the workplace – on the basis of gender, race and disability is generally unacceptable, and can be addressed by legislation relatively straightforwardly. However, while not condoning discrimination on the basis of religion or sexual orientation, we consider that legislating about discrimination in the field of religion and sexual orientation is likely to be far more complex and problematic.
- 1.3 We are concerned that the proposed legislation would achieve the opposite of its intended aim in the areas of sexual orientation and religion. Introducing legislation in these areas is likely to promote increased tensions between various groups, for example between various religious groups and gay advocacy groups, and between different religions. Thus the vehicle Parliament puts in place to overcome perceived discrimination could become the very instrument causing discrimination in another area.
- 1.4 We recognise a number of encouraging statements in the consultation document. For example, it states clearly that the proposed legislation would *not* require public authorities to promote homosexuality or devalue the importance of marriage, nor does it require local authorities to ban public expressions of the Christian faith, such as Christmas decorations. It is sad that the Government finds it necessary to give these assurances, but it is understandable given some of the practices already adopted by public authorities, not least in relation to grant aid and procurement. These problems often seem to arise from a misconception of current legal duties, although sometimes they appear to be attributable to a deliberate intention to discriminate under the guise of exercising equality towards all comers. We are encouraged by the statements declaring boundaries to the intended application of this proposed Bill, and we urge the Government *not* to drop these or similar statements from the final Bill.

2. Problems with employment

- 2.1 The proposed legislation would require churches and Christian organisations and charities to offer employment to any otherwise eligible applicant, even though they may not be Christian. Within a free society, why should a belief-based organisation be required to employ staff who do not hold the beliefs underlying the organisation? If a religious organisation – indeed any organisation¹ – wants to be effective, there needs to be unity in belief, purpose and worldview.
- 2.2 It is interesting to note that the consultation document recognises this in the section on private clubs and associations:

...we do not consider that it is right for clubs to discriminate on the grounds of religion or belief, for example by excluding someone because they are or are not of a particular religion (except for clubs set up specifically for members who belong to a particular religion or hold a particular belief). We therefore intend to prohibit such discrimination against members, associates, applicants for membership or guests. (Para 12.12; emphasis ours.)

¹ Would the Labour party employ a highly qualified candidate for a senior position within the Party if the candidate happened to be Conservative? According to the proposed legislation, the Labour party would have no choice but to employ him/her, otherwise they would fall foul of the proposed anti-discrimination legislation.

- 2.3 The recent industrial tribunal involving the Bishop of Hereford case underlines the point that churches and Christian organisations or charities are increasingly regulated in whom they can and cannot employ. It is both unsound and grossly unfair to consider a scriptural understanding about homosexuality which excludes a candidate from a particular mission field as “homophobic” when the same understanding also asserts the dignity of all human beings – irrespective of sex, age, race, disability, sexual orientation and religion – and expresses equal love and concern for the well-being of each and every one.

3. Grave effects of procurement procedures

- 3.1 Another means of attempting to create and promote equality, other than directly through legal instruments, is through public sector procurement. It is clear from this Bill that the Government wishes use this means of furthering its intentions. The consultation document states:

Procurement is a function of public authorities. While the legislation on the public sector equality duties does not refer explicitly to procurement, the obligations under the general duties apply to a public authority's functions as a whole. This means that, in carrying out procurement, public authorities need to have due regard to the need to eliminate unlawful discrimination and promote equality as well as continuing to ensure compliance with the legal and policy framework for public sector procurement. (Para 5.92; emphasis ours.)

- 3.2 The significance of this cannot be overstated. According to the consultation document, public procurement is worth an estimated £ 125 billion per annum. The potential weight of using public sector procurement as a means of forcing through the effects of equality legislation is therefore immense.
- 3.3 We are concerned that this will have grave adverse effects, especially on Christian (or other faith-based) charities providing a service for the community, and companies run on religious principles. In view of the known poor faith literacy of many public bodies, it is likely that public bodies will not allow religious groups – or perhaps even companies which are, for example, run by Christians or according to the Christian ethos – to tender successfully for contracts. The concern on the side of the public body might be that if a contract were offered to a Christian charity or a Muslim company, if Christians and Muslims are *perceived* to be discriminating against certain groups such as gay people, the public body would itself be at risk of carrying out procurement in violation of the Equality Act and itself liable to legal challenge.
- 3.4 That these scenarios are by no means scare-mongering is evidenced by the following case studies:
- In November 2006, Gosia Shannon, the organiser of a Family Centre for Eastern European migrants who have settled in London, was told by Haringey Council that unless the Centre agreed to renounce all expression of Christianity from the voluntary services they provided, they would lose the vital funding they received from the local authority. Haringey Council later retracted the threat. (*Daily Telegraph*, 12/12/2006 ‘Sing about Jesus and you’ll lose your grant.’)
 - In May 2005, Norfolk County Council warned a Christian-run shelter for the homeless that it would not receive its £150,000 funding unless it stopped saying grace at meal times and providing Bibles for use by guests. (*Daily Telegraph*, 3/5/2005, ‘Refuge for homeless may lose grant for saying mealtime grace.’)

- 3.5 A very significant amount of positive work, benefiting both individuals and communities, is undertaken very effectively by many Christian organisations in response to many needs, including homelessness, prostitution, debt, drug misuse, etc. This shows that there is a clear readiness among Christians to work alongside lifestyles and worldviews which diverge from their own. It is well known that there are many reasons why secular organisations partner with organisations motivated by Judaeo-Christian values. It would be a tragedy if much of this work was lost on the basis of a definition of “tolerance” in which the Christian position is itself decreasingly tolerated.

4. The dangers of harassment accusations

- 4.1 We are unhappy about the inclusion of harassment in the draft Bill. One of the reasons we are particularly concerned about the proposed harassment clause is that the definition of “harassment” is extremely imprecise. We would prefer to see the European “second leg” in establishing whether or not harassment has occurred introduced into this Bill (para 14.20-22). Otherwise, there is the risk of having claims of “harassment” made on very subjective grounds. The inclusion of “harassment” provisions in the Bill could easily lead to people making malicious claims, thereby increasing tensions between groups whom this Bill notionally seeks to protect. Without intention forming part of criminal offence, the offence becomes an ABSOLUTE offence, which effectively means there is no defence, or very limited defence to a charge.
- 4.2 We are particularly concerned that the proposed Bill does not appear to require a specific intent to harass to be present for harassment to be deemed to have occurred. For example, criminal law differentiates between *actus reus*, the actual act, such as the physical assault on another person, and *mens rea*, the *intention* to assault another person. Clearly, someone might hit someone else by accident, i.e. without any intention to assault them. This would not be considered as a criminal offence of assault, as the intention to cause harm was lacking. However, in the proposed Bill, for a claim of “harassment” to be successful, there is no requirement to prove “*mens rea*”, the *intention* to cause an offence. The issue of “harassment” therefore becomes entirely subjective. We are aware that the Government claims that there will be other safeguards in place, but we are very sceptical about their effectiveness. We consider the proposal to introduce an offence into the criminal law for which there needs to be no intention to cause harm to be a very unsound one. It would set an extremely dangerous precedent.
- 4.3 It is unclear to us why the Government should want to depart from the established definitions of “harassment”, all of which include a reference to *intent*:

Intentional harassment, alarm or distress

(1) *A person is guilty of an offence if, with intent to cause a person harassment, alarm or distress, he—*

(a) *uses threatening, abusive or insulting words or behaviour, or disorderly behaviour, or*

(b) *displays any writing, sign or other visible representation which is threatening, abusive or insulting,*

thereby causing that or another person harassment, alarm or distress.

(Criminal Justice and Public Order Act 1994, para 154, Offence of causing intentional harassment, alarm or distress; emphasis ours.)

and, more recently:

Prohibition of harassment

(1) *A person must not pursue a course of conduct—*

(a) *which amounts to harassment of another, and*

(b) *which he knows or ought to know amounts to harassment of the other.*
(Protection from Harassment Act 1997, para 1; emphasis ours.)

- 4.4 In the absence of any requirement to prove intent, we could easily anticipate that situations such as the following could lead to a grossly unfair claim of harassment:
- An atheist employee might claim to feel “harassed” by his Christian employer displaying a Bible or Christian literature in their office.
 - An atheist employee might claim to feel “harassed” by one of his Christian (or Muslim) colleagues wearing religious symbols such as the Cross or the veil at work. If the employer does not prohibit the display of religious symbols at work, he – even if he does not belong to any religion – might face a claim of harassment for allowing the display of religious symbols at work.
 - If a non-Muslim sees a Muslim employee engaged in Friday prayers somewhere other than a designated prayer room in the workplace, he might claim to feel “harassed” through feeling that he had to avoid that place, or was unable to continue with his work there, until his colleague had finished his prayers.
- 4.5 We most certainly do *not* share the optimism of the Department for Communities and Local Government concerning the harassment provisions, that “*we are sure we can avoid unintended consequences, such as limiting the right to express a legitimate view or hold a different belief*” (p. 161; emphasis ours). We consider this view extremely unrealistic. See Appendix 1, A case study from Australia.
- 4.6 Moreover, we are deeply disturbed to see that the Government apparently wants to dictate which views are and which views are not “legitimate”. It is evident from this assertion that only views that are legitimate in the view of the Government will be considered worthy of protection. This, again, is very dangerous ground to get on to.
- 4.7 The fact that, as the proposals stand, there is no need for a claimant to prove that there has been the intention to cause harassment, opens up opportunities for malicious claims with potentially very serious consequences for someone falsely accused. If “harassment” as set out in this draft Bill becomes a criminal offence, the consequences of being falsely accused and convicted could mean a prison sentence and that criminal record could adversely affect an innocent person’s private life and employment opportunities for many years to come.
- 4.8 In principle, therefore, we do *not* support the extension of an offence of harassment to the areas of religion and sexual orientation, for the reasons mentioned above. However, if the Government does go ahead and extend the harassment provisions, it would be most inappropriate to do so in the area of sexual orientation, and not to do so in the area of religion.

5. The dangers of introducing a new hierarchy of rights

- 5.1 While we acknowledge the need to remove discrimination as far as possible, we are concerned that we are seeing the increasing development of a hierarchy of rights, in which one set of rights may “trump” another set of rights. This can be counter-productive: it could itself generate homophobia. We are particularly concerned to observe that, on the evidence so far (for example in the Sexual Orientation Regulations), religious rights are progressively being given a lower place in the hierarchy than other rights. The freedom to express and follow one’s religion openly is one of the most fundamental human rights, and as such should have one of the highest places in any legally structured hierarchy of rights.
- 5.2 Rt Hon Ruth Kelly, in her foreword to the consultation document writes: “*We need to make sure that we take an ... approach to removing unfair discrimination and promoting equality;*

one that makes it clear that this is not about some people having better rights than others ...” However, if recent developments are anything to go by, then it is likely that indeed, “some people” will have “better rights than others”. Even though, in the most recent census, just over 71% of the population considered themselves to be Christians, there is an increasing perception of anti-Christian sentiment in the UK, and increasing actual discrimination against them (see Appendix 2, Some examples of discrimination against Christians in the UK).

6. The dangers of infringing religious freedom

- 6.1 Those who come from a secular background may consider freedom of religion as “less important” than other rights and freedoms. However, religious freedoms and the associated freedom of expression and action are fundamental building blocks of a civilised society. They are especially important for the functioning of the democratic process. If there are increasing restrictions on freedom of religious expression and practice, either directly as a result of the proposed legislation or as a result of the inevitable accompanying ‘chilling effect’, the result will inevitably be restriction in the expression of thought and opinion and on freedom of speech overall.
- 6.2 The reasonable consideration test emphasises the CLAIMANT’S subjective view, this is an alarming shift in criminal responsibility – to be at risk of incarceration based upon someone else’s subjective view of an act, would lead to entirely new offences being created. The opinion of the claimant could seal the fate of the perpetrator even though there is no intention by the perpetrator or malice in the making of a statement. It is imperative that any criminal offence retains the ‘mens rea’ necessary to commit an imprisonable offence. The Mens Rea is necessarily the PERPETRATOR’S mental element in committing the offence and not the ‘victim’s’ perception. In this instance there is a very great danger of a move towards the establishment of ‘thought police.’
- 6.3 We are increasingly aware of withdrawal of increasing numbers of the population from the democratic process out of fear of saying something that is “politically incorrect”. This has devastating effects on the political and democratic process in this country, and it still further alienates politicians from the electorate. The proposed Bill will further lead us down the road of the process of disengagement with the political process and therefore weaken democracy with the possible result of increased sympathies for extremist groups such as far-right parties.

7. The dangers of using legislation for purposes of social engineering

- 7.1 As part of the Bill, a Commission for Equality and Human Rights (CEHR) will be established soon, probably in October 2007. We understand that this new agency will have far-reaching rights, including the authority to launch its own investigations, regardless of whether a complaint has been made. It will be free to conduct investigations into religious organisations to ascertain whether discrimination has occurred. In 2005, the Chairman of the Lords Select Committee on the Constitution wrote a letter to the Lord Chancellor expressing concerns about this Bill. He wrote:

“1. The Constitution Committee, which I chair, has scrutinised the Equality Bill and has concluded that Part 1 of the Bill raises issues of constitutional principle which I should bring to your attention and on which I should seek clarification of the Government's position...

*2. Nevertheless, given the new Commission's functions in enforcing equality legislation and promoting human rights, there can be no doubt that the Commission will exercise a wide range of powers and duties affecting relations between the State and the individual, and between private persons, public authorities and other corporate entities. **The Committee is not aware of a precedent in Great Britain***

for this very wide collection of functions. While some of these functions are taken over from existing equality legislation, the new Commission will have a very broad duty under clause 3 to exercise its functions "with a view to the creation of a society in which—

- (a) people's ability to achieve their potential is not limited by prejudice or discrimination;*
- (b) there is respect for and protection of each individual's human rights;*
- (c) there is respect for the dignity and worth of each individual;*
- (d) each individual has an equal opportunity to participate in society; and*
- (e) there is mutual respect between communities based on understanding and valuing of diversity and on shared respect for equality and human rights."*

*This is language of a generality and depth that is seldom found in Acts of Parliament, and their interpretation will require the making of far-reaching and sensitive decisions that will turn on the Commission's political, social and cultural perceptions. When made by Parliament or by ministers, such decisions are subject to established forms of democratic accountability. **If these decisions are to be made across a broad field by an autonomous or semi-autonomous Commission, questions arise as to the Commission's accountability.**"*

(<http://www.publications.parliament.uk/pa/ld200506/ldselect/ldconst/30/3007.htm> emphasis ours)

- 7.2 It is very clear that this is a big step towards social engineering, in an attempt to change society, views, values, attitudes and behaviour through a Commission with wide-ranging powers and authorities.
- 7.3 The consultation document reinforces this view:
We want discrimination law which... makes it clear where it is acceptable to treat someone differently on the basis of those characteristics in 21st century Britain; and where it is not acceptable; (p. 12)
- 7.4 We are concerned that increasingly the Government is using legislation as a form of social engineering, telling the electorate what they are allowed to think and what they are not, and what social conduct is acceptable and what is not. This approach is entirely out of keeping with our British concept of being a free nation. Apart from other much more serious effects, it will lead to further public withdrawal from the political process.
- 7.5 Furthermore, whilst some expressions of free speech (from which we would dissociate ourselves entirely) might be repugnant to the majority of decent and reasonable people in this country, it may often be better to allow them than to risk creating "martyrs" through the use of the proposed anti-discrimination legislation as a means to silence those views. Attempting to criminalize extreme political statements that do not constitute incitement to violence is unlikely to resolve the underlying problem. It is more likely to make it worse.

8. Some crucial questions

- 8.1 If recent situations are anything to go by, then it is likely that under the proposed Bill some people will end up with "better rights than others". Let us consider a few case studies. We would be grateful if the Department for Communities and Local Government would explain whether or not these cases would come under the proposed legislation:
- 8.2 **A Muslim gynaecologist may – as a result of her religious beliefs – be opposed to providing fertility treatment to a lesbian couple who want a child.** Would the proposed anti-discrimination measures force her to act against her beliefs and require her to offer this treatment, in order not to "discriminate" against the lesbian couple?
- 8.3 **A Christian minister may be approached by a gay couple who want to "marry" in his church.** As a result of his Christian beliefs the minister refuses to allow them to do so.

Would the minister be subject to the proposed anti-discrimination legislation on this account? If so, what penalties would apply?

- 8.4 **A Christian running his private business displays a Bible and some Christian literature in the office.** The business is not “officially” a religious organisation, which would, according to the proposed regulations (para 14.17) be allowed to display religious symbols. Could a non-Christian employee successfully bring a case of “harassment” against the employer? Or could he do so if the employer simply allowed another employee to wear a Christian cross, Sikh bangle or Muslim headscarf at work? If so, then in our opinion this would infringe on the employer’s or the other employee’s freedom of religion (which includes the freedom to follow, display and propagate one’s belief).
- 8.5 **An orthodox Jewish youth organisation is seeking to appoint a youth worker. One of the applicants is undergoing assessment for a sex change.** In the advert, it is stated that the Jewish organisation wishes to employ someone whose views are sympathetic to the cause of the youth organisation, and that the successful applicant would be expected to respect Jewish traditions. A transsexual male youth worker who is undergoing assessment for a sex change from male to female applies for the position. His appearance is currently that of a man. However, he hopes that through the treatment his appearance will be that of a women in the near future. The Jewish organisation feels that they cannot employ him, because they consider that this will cause confusion and distress to children. Would the Jewish organisation be vulnerable to prosecution under the proposed Bill for refusing to employ him on the basis of their Jewish traditions?
- 8.6 **A non-Muslim customer enters a take-away restaurant operated by a Muslim, and is “exposed” to some Muslim literature.** Near to the copies of the menu are some leaflets about Islam, encouraging the reader to enquire further about Islam. As the Bill proposes to rule out “*harassment in the field of goods, facilities or services and premises*” (Annex B), it is conceivable that this customer could claim to feel “harassed” by the display of religious literature and their invitation. A similar situation could be anticipated if a hotel owner displays Gideon Bibles in his hotel rooms, a shop owner displayed a poster with religious content, or a Christian nursery made a practice of saying grace before meals. Would the people in each of these examples be vulnerable to conviction under the draft Bill?
- 8.7 It is clearly important that any proposed anti-discrimination legislation does not lead to discrimination against the majority by a minority.

9. Conclusions

- 9.1 We do not believe that there is either any need or expressed public demand for the proposed legislation. We note that part of the Government’s case for it is based upon inaccurate information (see Appendix 3).
- 9.2 The consultation document only gives examples of essentially economic discrimination on the basis of sex and race as reasons for the need for this legislation. We agree that there is a case to eradicate this type of discrimination. However, we note with grave concern that that the implications of this Bill will reach much further. For example, we do not believe that the Government has provided evidence that there is sufficiently widespread harassment of homosexuals to warrant legislation on that account.
- 9.3 There is, however, increasing evidence of discrimination against Christians in this country, even though in the most recent census over 71% of the population pronounced themselves to be Christians . We believe that, rather than eradicating discrimination against Christians, this Bill will lead to *increased* discrimination against those who hold religious beliefs, especially

Christians, Muslims and Jews who hold to the accepted mainstream teaching of their respective religions.

- 9.4 There is a real danger that the proposed anti-discrimination legislation may lead to discrimination by a minority against the majority.
 - 9.5 We do not consider that the measures proposed in the draft Bill, especially in relation to harassment, are defined with sufficient precision. The harassment provisions, therefore, can easily lead to abuse of the proposed legislation.
 - 9.6 The construction of a 'hierarchy of rights' in which religious rights have a low place is unsound in principle and would be damaging to the basic structure of a free society and democracy by interfering with the freedom of thought, conscience and opinion.
 - 9.7 If the draft measures were enacted as proposed, they would generate an atmosphere of fear in which people would be afraid to speak the truth or to share opinions freely in case they were prosecuted for a real or malevolently alleged offence which they had no intention of committing.
 - 9.8 The proposals open up the possibility of individuals, companies and organisations which have had no malevolent intent whatsoever being sued for alleged perceived hurt.
 - 9.9 It is incontrovertible that this draft Bill embodies at its heart an attempt to engage in social engineering on a scale unprecedented in the recent history of this nation, and has totally inadequate levels of accountability and control. Such an approach to legislation is alien to our national ethos.
 - 9.10 The proposed legislation, contrary to its aims, is likely to cause division and resentment.
 - 9.11 The proposed legislation would compromise values and beliefs.
 - 9.12 The proposed legislation would adversely affect our cherished freedoms of conscience, speech and belief.
 - 9.13 Finally, the proposed legislation would inevitably lead to complicated and very expensive legal procedures, and also create a costly, heavy and disproportionate bureaucratic burden. The proposed legislation is over prescriptive and arbitrary.
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APPENDIX 1

A case study from Australia

In 2001, The Islamic Council of Victoria sued the Christian group “Catch the Fire” under Victoria’s *Racial and Religious Tolerance Act 2001*, which introduced legislation prohibiting “vilification” of another religion; this is essentially very similar to the proposed “harassment” legislation.

However, rather than achieving its intended aim – to smooth relationships between different religions and to prevent inflammatory speech, this legislation has achieved the opposite of its intended purpose. Amir Butler, who was involved in this lawsuit as executive director of the Australian Muslim Public Affairs Committee, wrote recently:

“As someone who once supported [the introduction of Victoria’s anti-vilification legislation] and is a member of one of the minority groups they purport to protect, I can say with some confidence that these laws have served only to undermine the very religious freedoms they intended to protect. At every major Islamic lecture I have attended since litigation began against Catch the Fire Ministries, there have been small groups of evangelical Christians - armed with notepads and pens - jotting down any comment that might later be used as evidence in the present case or presumably future cases. The organisations being targeted by these evangelical Christians are neither involved in nor supported the legal action by the Islamic Council, and yet must now suffer the consequences of having their publications and public utterances subjected to a ridiculous level of scrutiny and analysis. The hope being, I assume, that some elements of the Christian community might exact revenge on the Muslim community by way of their own vexatious legal actions.

The problem is that as long as religions articulate a sense of what is right, they cannot avoid also defining - whether explicitly or implicitly - what is wrong. If we love God, then it requires us to hate idolatry. If we believe there is such a thing as goodness, then we must also recognise the presence of evil. If we believe our religion is the only way to Heaven, then we must also affirm that all other paths lead to Hell. If we believe our religion is true, then it requires us to believe others are false. Yet, this is exactly what this law serves to outlaw and curtail: the right of believers of one faith to passionately argue against or warn against the beliefs of another.

It is obvious that criticism of one’s religion is likely to offend but just as Muslims should be entitled to aggressively criticise other faiths, likewise those same faiths should be afforded the right to voice their concerns about Islam. The idea that such speech - regardless of how wrong-headed or offensive it might appear - must be banned to protect these religious communities is a furphy²: discrimination on the basis of religion was already outlawed; incitement to commit violence was already illegal; and slander was already covered by existing legal instruments.

*All these anti-vilification laws have achieved is to provide a legalistic weapon by which religious groups can silence their ideological opponents, rather than engaging in debate and discussion. In doing so, people who otherwise might have been ignored as on the fringes of reality will be made martyrs, and their ideas given an airing far beyond anything they might have hoped for. And at the same time as extremist ideas are strengthened and given legitimacy by attempts to silence them, the position in our society of the religions themselves is weakened and undermined. Who, after all, would give credence to a religion that appears so fragile it can only exist if protected by a bodyguard of lawyers?” (Amir Butler in *The Age*, 4 June 2004)*

² ‘**furphy** Australian slang A false report or rumour; an absurd story. (NSOED 1993.)

APPENDIX 2

Some examples of discrimination against Christians in the UK

- In October 2006 a Christian employee of British Airways was banned from wearing a tiny cross which was deemed to be offensive, even though women wearing the Muslim hijab were allowed to work at check-ins and Sikhs are allowed to wear turbans and wear a traditional bangle. Jack Straw described the situation as "wholly inexplicable" (BBC News Online 23 Nov 06 "Cross ban 'inexplicable' - Straw"). Dr John Sentamu, Archbishop of York, described BA's uniform policy as "flawed" (BBC News Online, 21/11/2006, 'Archbishop attacks BA cross rules'). On 19th January 2007, BA dropped its ban on wearing a cross openly, and the Christian employee, on unpaid leave for 4 months, was allowed to return to her job. (BBC News Online, 19/1/2007, 'BA drops ban on wearing crosses')
- Lydia Playfoot, a pupil at Millais School in Horsham, was forbidden by the school to wear a small silver ring inscribed with a scriptural quotation, although Muslims in the school are allowed to express their faith by wearing the headscarf and Sikh girls have been allowed to wear a bangle signifying their faith. (BBC News Online 22/6/2007 "Purity" ring case in High Court')
- At Easter in 2003, numerous local authorities placed an outright ban on serving hot cross buns in schools, for fear of offending non-Christians. The councils include Tower Hamlets, who said "we are moving away from a religious theme for Easter and will not be doing hot cross buns"; Liverpool, who claimed that the symbol of the cross had the "potential to offend"; York, Wolverhampton and Wakefield, where Easter menus will be based upon 'information technology'. The Muslim Council of Britain called the decision "very, very bizarre" and warned that "actions like this can only create a backlash and it is not very thoughtful... We are quite capable of articulating our own concerns and if we find something offensive, we will say so". (Daily Telegraph 15/03/2003)
- In November 2006, Gosia Shannon, organiser of a Family Centre for Eastern European migrants who have settled in London, was told last month by Haringey Council that unless the Centre agreed to renounce all expression of Christianity from the voluntary services they provided, they would lose the vital funding they received from the local authority. Haringey Council later retracted the threat. (Daily Telegraph, 12/12/2006 'Sing about Jesus and you'll lose your grant')
- In May 2005 Norfolk County Council warned a Christian-run shelter for the homeless that it would not receive its £150,000 funding unless it stopped saying grace at meal times and proving Bibles for use by guests.
- The Barnabas House Refuge set up more than a decade ago by Kings Lynn Baptist Church has been told by Norfolk County Council that prayers, bibles placed in rooms and advertising for Christian events are "inappropriate". It has also been told that it must relax its strict rule on any alcohol or drugs. Funded from the Government's 'Supporting People Programme' the charity relies on a grant from the Council and a trustee said "It is absurd and it discriminates against us. They want us to run a secular project and it is not a secular project. There is no one we push into Christianity". A Council spokesman took it upon himself to say "While meal time grace is not a major issue, it has been pointed out that this may be inappropriate given the backgrounds of service users". Last month an uproar forced the Education Authority to delay guidelines that would have banished mention of the Holy Ghost from classrooms in case children found it "spooky". Suggesting the communion bread and wine represented the body and blood of Christ was also due to go because it gave the impression that Christians were cannibals. (Daily Telegraph 03/05/05, Pressure on Christian centre for the homeless; Daily Telegraph, 3/5/2005, 'Refuge for homeless may lose grant for saying mealtime grace')
- In March 2005 Perth Royal Infirmary was told by the NHS Trust to remove the Communion Table from its Chapel because it could offend non-Christians. Public outcry made them reverse the decision. (Daily Telegraph 3/3/2005 'Hospital removes Christian artefacts')
- The Inland Revenue banned a collection for a children's charity which sends Christmas gifts in shoeboxes with accompanying Bible stories "because it offends the Government's diversity policy". (Daily Mail, 9/11/2005, Tax Office exposed as Christmas killjoys')
- Exeter University: In 2006, after receiving one complaint (in 50 years), Exeter University Student Guild forced Exeter's Christian Union to change its name to the 'Evangelical' Christian Union, froze its bank accounts and banned them from using Guild premises. In July 2007, Mark Shaw QC, the independent adjudicator appointed by Exeter University strongly criticised the Constitution of Exeter CU because it restricted the membership to Christians, despite the fact its meetings were open to everyone – of all faiths and none. He held it discriminatory that the CU should be run by Christians and held that the Guild policies in forcing the CU to be led by members open to other faiths was "laudable". Under this adjudication, it should therefore be possible for a Muslim to lead Exeter's Christian Union. The whole adjudication process was discriminatory against the Christian Union. The University tried to impose a leading lawyer with strong connections to the National Union of Students on the CU as adjudicator. Following complaints, the University brought in another barrister, this time a QC, Mark Shaw insisting that the process should be 'legal' rather than informal as is usually the case. Out of primarily public funds, the university and Guild had access to leading firms of solicitors and barristers (including QCs) whilst the CU were denied all such assistance. Mr Shaw decided that the process should deal with substantive and procedural issues of law. He also stated that the CU should be prepared to pay the costs of the university and Guild which could have been more than

£50,000. When the CU complained at the legalised process, asked for an informal process without lawyers and that they should not be subject to costs, Mr Shaw refused. Any criticism of this process by the CU resulted in a sharp response from Mr Shaw, together with claims that the CU was uncooperative. Only when the CU refused to continue with a process that could bankrupt them, was there a guarantee of no costs. (*Exeter University Christian Union Press Release, 17/7/2007*)

- Edinburgh University: The Christian Union has been banned from teaching the “PURE” course on University faculties. This course advocates sexual purity, and teaches that sex is only appropriate within the context of a marriage. Gay rights groups claim that the course is homophobic because it states Biblical truth on homosexual practice. The University authorities have agreed with this view stating that the viewpoints contained in the PURE course are contrary to its Equality and Diversity Policy and have banned the course from the University premises.
- Birmingham University: In 2005 the Christian Union was disaffiliated from the Students Union at Birmingham University because of its Statement of Belief. The students there are still seeking a resolution with the University authorities.
- In March, 2007, Andrew McClintock, a Justice of the Peace since 1988 lost his case to have his freedom of religion recognised whilst practicing as a magistrate. Mr McClintock was forced to preside over cases involving the adoption of children by same-sex couples, despite the fact that it contravened his religious beliefs, and that he had applied to be screened from such cases from the Chairman of the Family Panel (*Lawyers Christian Fellowship Press Release, 2/3/07, 'Christian Magistrate loses freedom of conscience case'*)
- In July 2007, two youth clubs serving a needy estate in Flixton, Manchester, were denied public funding for the sole reason that they were run by local churches.

APPENDIX 3

The prevalence of homosexual activity

The consultation document perpetuates the common error of significantly overestimating the prevalence of homosexuality. It is claimed inaccurately that 5-7% of the population is lesbian, gay or bisexual (para 5.64). This is not backed up by reputable research from the UK and from abroad.

- Commonly, a figure is quoted that 10% or more of the population are homosexual. This figure is based upon the 'research' by Alfred Kinsey (*Sexual Behavior in the Human Male*; 1948). However, this 'research' has been largely discredited. For example, Kinsey was using unrepresentative samples for his surveys. Half of his probands were either sex offenders or prison inmates, but he also included male prostitutes and hundreds of gay activists in his sample (*Judith Reisman, Kinsey, Sex and Fraud. Huntington House, 1990*). It is therefore not surprising that he arrives at too high a figure of the prevalence of homosexuality in the population. There are also significant methodological problems with his 'research'. Dr Gebhard, who was the second director of the Kinsey Institute after Kinsey himself, using the same data published by Kinsey, estimated the incidence of female homosexuality at 1.5% or less and male homosexuality at 4% (*Gebhard P. Incidence of overt homosexuality in the US and Western Europe. In JM Livingood, ed. National Institute of Mental Health Task Force on Homosexuality: Final report and background papers. Washington DC 1972. pp 22-29*).
- Surveys from many countries show clearly that homosexual orientation or behaviour is found in only about 1-3% of the population. In probably the largest survey of sexual behaviour in Britain, interviews were carried out among over 11,000 men and women aged 16-44. Only 2.6% of the population had homosexual sex once or more in the past five years. Since this survey was carried out among the age bracket of the population which is most sexually active, the prevalence of homosexual behaviour among the entire UK population will be even lower than the 2.6% found in this survey. This figure has increased from 1990, when only 0.8% of women and 1.5% of men reported homosexual sex over the past five years. (*Johnson AM, et al. Sexual behaviour in Britain: partnerships, practices, and HIV risk behaviours. Lancet 2001; 358: 1835-4.*)
- In a US study, 2.1% of men and 1.5% of women reported having one or more same-sex partners over the past five years. (*Gilman SE. Am J Public Health. 2001; 91: 933-9*)
- Another US study estimated the prevalence of the adult lesbian population to be 1.87% (*Aaron DJ et al. J Epidemiol Community Health. 2003; 57 :207-9*). Another US survey found 2.2% of males between the age of 17 and 39 had a same-sex partner (*Cochran SD. Lifetime prevalence of suicide symptoms and affective disorders among men reporting same-sex sexual partners: results from NHANES III. Am J Public Health. 2000; 90: 573-8*).
- In a Dutch study 2.8% of men and 1.4% women had had same-sex partners (*Sandfort TG et al. Arch Gen Psychiatry. 2001; 58: 85-91*).
- In a New Zealand study, 2.8% of young adults were classified as homosexual or bisexual (*Fergusson DM et al. Arch Gen Psychiatry. 1999; 56: 876-80*).
- In a Swiss study among adolescents, 1.4% of girls and 1.7% of boys described themselves as predominantly homosexual or bisexual. 1.5% of girls and 2.5% of boys reported same sex behaviour (*Narring F. et al. Prevalence and dimensions of sexual orientation in Swiss adolescents: a cross-sectional survey of 16 to 20-year-old students. Acta Paediatr. 2003; 92: 233-9*). Even lower figures are found in census data comprising the entire population. (Most of the above surveys were done among adolescents or younger adults, who are more likely to have had homosexual experiences, therefore the prevalence within the population is even lower than the above figures.)
- According to census data, in Canada, only 1.3% of men and 0.7% of women considered themselves to be homosexual (www.statcan.ca/Daily/English/040615/d040615b.htm).
- One of the most detailed UK studies showed only 0.4% males and just 0.1% of females to be exclusively homosexual in practice. (*Welling K, Field J et al, Sexual Behaviour in Britain; The National Survey of Sexual Attitudes and Lifestyles; Penguin 1994:183, 253*)
- Research carried out on behalf of the Department of Health in the Omnibus Survey in 1997 revealed that only 1% of men practise exclusively homosexual sex. (*Office for National Statistics quoted Hansard 27.11.97*)
- A survey in the United Kingdom sponsored by the Wellcome Trust reported 1.4% of males having had a homosexual partner in the previous year. The report stated its findings "were consistent with those from other recent studies in Europe and the United States". A British survey in 1990-1991 (among 19,000 men) found that 1.1% had had homosexual partners in the previous year. (*Johnson A.M. et al, Sexual Lifestyles & HIV risk; Nature; 360, Dec. 3rd 1992*)
- An official survey of sexual behaviour showed that 98.5% of adults were exclusively heterosexual. Less than 1% had been exclusively homosexual since the age of 18 years. (*US Government General Social Survey by Prof. Tom Smith, University of Chicago 1989*)