

Extracts from laws which support the freedom of university Christian Unions.

The law relating to Christian Unions

The Education (No. 2) Act 1986 (England & Wales only)

Section 43

“(1) Every individual and body of persons concerned in the government of any establishment to which this section applies shall take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for members, students and employees of the establishment and for visiting speakers.

(2) The duty imposed by subsection (1) above includes (in particular) the duty to ensure, so far as is reasonably practicable, that the use of any premises of the establishment is not denied to any individual or body of persons on any ground connected with--

- (a) the beliefs or views of that individual or of any member of that body; or
- (b) the policy or objectives of that body.”

Employment Equality (Religion or Belief) Regulations 2003 (Great Britain)

Regulation 20

“Institutions of further and higher education

(1) It is unlawful, in relation to an educational establishment to which this regulation applies, for the governing body of that establishment to discriminate against a person--

- (a) in the terms on which it offers to admit him to the establishment as a student;
- (b) by refusing or deliberately not accepting an application for his admission to the establishment as a student; or
- (c) where he is a student of the establishment--
 - (i) in the way it affords him access to any benefits,
 - (ii) by refusing or deliberately not affording him access to them, or
 - (iii) by excluding him from the establishment or subjecting him to any other detriment.

(2) It is unlawful, in relation to an educational establishment to which this regulation applies, for the governing body of that establishment to subject to harassment a person who is a student at the establishment, or who has applied for admission to the establishment as a student.”

The Equality Act 2006 (Great Britain)

Section 45

“Discrimination

(1) A person (“A”) discriminates against another (“B”) for the purposes of this Part if on grounds of the religion or belief of B or of any other person except A (whether or not it is also A’s religion or belief) A treats B less favourably than he treats or would treat others (in cases where there is no material difference in the relevant circumstances).”

Section 46

“Goods, facilities and services

(1) It is unlawful for a person (“A”) concerned with the provision to the public or a section of the public of goods, facilities or services to discriminate against a person (“B”) who seeks to obtain or use those goods, facilities or services...”

Guidance from the Committee of Vice-Chancellors (UK)

Extremism and intolerance on campus (1998)

“...unions must exhibit conspicuous fairness and tolerance in relation to the societies that may be established, however offensive may be the particular aims or policies of that group. Provided that they act within the law and do not encroach upon the rights of others or seek to silence others, they have every right to exist and function.”¹

“The requirement as to fairness and democracy has implications for the conduct of business by the union. For example, it should not be permissible for a resolution to be tabled and debated at a union meeting which sought to limit the right of a group of students to exist and function within the union solely on account of its views or policies. ...It is the responsibility of governing bodies to ensure that unions have appropriate rules and procedures to this end and should themselves become involved if such a rule or procedure were breached...”²

“...we urge all university governing bodies and students’ unions to examine their constitutions and codes of practice to ensure that their rules and procedures are apt, that they cannot be misused or abused, and that all groups of students which are conducting themselves properly and lawfully enjoy the full protection of the institution.”³

"We think it may be reasonable for some clubs or societies to have restricted eligibility, say on religious or nationality grounds. Otherwise, it would be open to a group hostile to the club or society to join and take it over in a way that would be quite wrong."⁴

The Human Rights Act 1998 (UK)

Section 13

"(1) If a court's determination of any question arising under this Act might affect the exercise by a religious organisation (itself or of its members collectively) of the Convention right to freedom of thought, conscience and religion, it must have particular regard to the importance of that right."

European Convention on Human Rights (incorporated by the Human Rights Act)

Article 9

"Freedom of thought, conscience and religion"

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others."

Article 10

"Freedom of expression"

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

*Redmond-Bate v Director of Public Prosecutions:*⁵

"Free speech includes not only the inoffensive but the irritating, the contentious, the eccentric, the heretical, the unwelcome and the provocative provided it does not tend to provoke violence. Freedom only to speak inoffensively is not worth having." (Lord Justice Sedley)

Article 11

"Freedom of assembly and association"

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State."

*Hasan v Bulgaria:*⁶

"Where the organisation of the religious community is at issue, Article 9 of the Convention must be interpreted in the light of Article 11, which safeguards associative life against unjustified State interference. Seen in this perspective, the believers' right to freedom of religion encompasses the expectation that the community will be allowed to function peacefully, free from arbitrary State intervention. Indeed, the autonomous existence of religious communities is indispensable for pluralism in a democratic society and is thus an issue at the very heart of the protection which Article 9 affords."

*Kokkinakis v Greece:*⁷

"...freedom of thought, conscience and religion is one of the foundations of a 'democratic society'... It is... one of the most vital elements that go to make up the identity of believers and of their conception of life... The pluralism indissociable from a democratic society, which has been dearly won over the centuries, depends on it. While religious freedom is primarily a matter of individual conscience, it also implies, [among other things], freedom to 'manifest [one's] religion'. Bearing witness in words and deeds is bound up with the existence of religious convictions."

¹ Committee of Vice-Chancellors and Principals of the Universities of the United Kingdom (CVCP, now Universities UK) (1998) *Extremism and Intolerance on Campus*. CVCP London, para. 12.3

² *Loc cit.*, para. 12.4

³ *Loc cit.*, para. 12.6

⁴ *Loc cit.*, para. 12.8

⁵ *Redmond-Bate v Director of Public Prosecutions* [1999] EWHC Admin 732 (23rd July 1999) Case no: CO/188/99 Queen's Bench Division (Divisional Court) para. 20

⁶ *Hasan and Chaush v Bulgaria* [2000] ECHR, (Application no. 30985/96), para. 62

⁷ *Kokkinakis v Greece* (1994) 17 EHRR 397, at page 418