

Religious Harassment and the Equality Bill

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What does the Equality Bill do?

There are many provisions in the Bill. We are particularly concerned about the provision on 'religious harassment'. This outlaws harassment on the grounds of religion by any public authority (such as local councils, police, health authorities, prisons, etc.). The aim of this provision is to prohibit religious harassment by a state body against an individual. It does not cover religious harassment between individuals.

The Bill does not cover religious harassment in employment. This is already covered by separate legislation: the Employment Equality (Religion or Belief) Regulations 2003 (see Regulation 5).

So what is the problem?

The Protection from Harassment Act 1997 is a good law that protects all individuals from harassment – whatever the cause of the harassment. However, the harassment provisions in the Equality Bill are designed to stop people's religious beliefs being offended because of the actions of a public body. The Bill's definition of harassment is much looser than the definition in the 1997 Act. The Equality Bill defines harassment as "violating a person's dignity" or "creating an intimidating, hostile, degrading, humiliating or offensive environment" for a person.

Given this wider definition, it will be easier for individuals to claim they have been 'harassed' on grounds of religion. For example, an atheist patient in a hospital could claim an 'offensive environment' has been created for him by the presence of a Gideon Bible in his bedside locker. Clearly no one would defend genuine harassment, but religion is a controversial subject where it is easy for people to take offence.

Just the possibility of these kinds of claims will make some public authorities very nervous about any public manifestation of the Christian faith by the authority or on its premises. Some public authorities will take it upon themselves to end any association with religion. There have already been numerous examples of this. A university banned Christian prayers at graduation ceremonies. An NHS trust was told to remove a communion table from a hospital chapel. A public crematorium took the cross off its wall. All this was done in the name of 'equality'. This situation will be made much worse if the religious harassment provisions in the Equality Bill become law.

In the state of Victoria, Australia, a convicted paedophile who is a self-proclaimed witch brought a case recently under a similar law. He claimed to have had his "religious beliefs" vilified by the Salvation Army working within his prison. They ran an Alpha course which included a criticism of the occult. Although the judge in Australia threw out his claim, similar accusations could be made under the Equality Bill, which would apply within prisons. The 'witch' could claim he has been subjected to 'harassment' for his occult 'religious beliefs'.

Another problem is that the Government wants to widen the definition of a 'public authority'. Currently churches are not deemed to be public authorities for any of their activities. Christian organisations are only deemed to be public authorities where they act as part of a statutory role (for example, a Christian adoption agency or a church school). The Government has floated the idea that any organisation that carries out public functions in the place of a public authority may be treated as a public authority for the purposes of carrying out that function. Or, if any organisation receives public money for a particular function (for example, a Christian homeless shelter) they may be treated as a public authority for the purposes of carrying out that function.

Earlier this year a Christian homeless shelter that received funding from a local authority was told its funding was to be withdrawn unless it stopped saying grace at mealtimes and making Bibles available. Local authority officials seem to believe that this creates an intimidating environment for non-Christians.

If it becomes the case that churches and Christian organisations are treated as a 'public authority' for certain functions, they will be brought within the scope of the religious harassment provisions of the Equality Bill. So, for example, there could be a harassment case over the way in which a service of marriage was conducted.

In short, the religious harassment provisions of the Equality Bill are a threat to religious liberty. They are likely to cause the removal of public manifestations of the Christian faith in public buildings. This could include the removal of Bibles from hospital bedsides, taking down crosses from public crematoria, or hindering Christian evangelism in prisons. In the future a church or Christian organisation may be treated as a 'public authority' when it performs a particular function. If this happens, its liberty to manifest the Christian faith and be open about its faith could be seriously threatened.

What do lawyers say?

Neil Addison is a criminal law barrister who has co-written the standard legal textbook on harassment law. He has provided a written legal opinion which states: "I question whether there is any need whatsoever for [the religious harassment provisions]. Within the workplace it is clearly sensible that there should be a consistent definition of Harassment...However that does not mean that there is any necessity for the same, very wide ranging, definition of Harassment to be used outside the workplace or as the basis upon which applications can be made for Injunctions."