

RESPONSE OF FOUR CHURCHES TO SINGLE EQUALITY BILL (UK)

Responses from the following Churches	
PCI (Presbyterian Church in Ireland)	Catholic Church in Ireland
Church of Ireland	Methodist Church in Ireland

TO THE OFM/DFM
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During 2004, representatives of our four Churches have been working together and meeting regularly with officials from OFK/DFM in connection with a variety of measures in the fields of equality and human rights. The four Churches welcome the opportunity to make a submission in relation to the proposed Single Equality Bill.

WELCOME FOR AIMS OF SINGLE EQUALITY BILL

The Churches warmly welcome the proposal to bring together all existing equality legislation with the related exemptions within one Bill as they foresee that this will promote an even handed approach to the treatment of equality issues and will enhance the profile of equality issues within the social, economic and political environment of Northern Ireland.

DETAILS (Response booklet - pp1-8)

All of the churches involved in this response are all Ireland bodies representing Christian communities of several million people. In terms of the descriptor category requested for this submission, they describe themselves as religious organisations. Traditionally clergy are not included as employees. Many roles within the churches are carried out by voluntary staff. There are, in addition, several hundred people employed across the churches as part-time and full-time staff. Again, not all of these are employed by the incorporated bodies of the churches, many are employed at a local level by individual worship communities. The Churches are interested in all aspects of equality.

RECOMMENDATION 1:**Inclusion of a preface to the bill to establish the philosophical context of equality**

The first recommendation that the four Churches would make to the legislators is that a philosophical model is expressed as a preface to the Bill setting out the broad context of equality within the democratic model of our society.

The four Churches view equality among human beings as a fundamental requirement and an expression of our understanding that all people are equal before God.

All human beings develop attitudes, behaviours and cultural expressions related to the beliefs they espouse. Our society is composed of an increasing number of groups espousing a diversity of belief systems.

For the four Churches, this suggests two types of challenge:

- Society must ensure that all its members receive equal treatment and access to social, political and economic resources.
- Individuals and groups within society must understand and deliver on their obligations to one another in order to make equality a dynamic expression of the common good.

Rights to equality are therefore balanced with obligations to one another at the level of the individual and group within society.

The Churches would like to see such a Preface embrace the following broad philosophical considerations:

- Acknowledgement of diversity as a normal and positive feature of society;
- Support for the rights of the individual;
- Support for the rights of communities;
- Acknowledgement of tensions between individual and community rights, as well as between individuals and between communities;
- Development of the concept of social capital and statement of the need to balance responsibilities with rights in order to maintain and develop social capital.

Development of the concept of Social Capital

- The essence of the theory of Social Capital is concerned with reciprocity, trust and the will and capacity to cross boundaries and respond to the stranger. The philosopher Francis Fukuyama in his book *The Great Disruption (London 2000)* observed that whereas a culture of individualism may encourage innovation and contribute to the growth of the market, when it extends into the area of social norms, it attacks virtually all forms of authority and weakens the bonds that hold families, neighbourhoods

and even nations together. An ethos of personal and group responsibility and a culture of respectful reciprocity not only promote the enjoyment of human rights and privileges, they also promote human happiness, economic vitality and social cohesion. These things lie at the heart of the Christian tradition. The Christian Gospel speaks often of our personal and corporate responsibility towards one another and wider society.

RECOMMENDATION 2: (SECTION 3 -GROUNDS)

Inclusion of an explicit acknowledgement that religious belief and lifestyle are inextricably related alongside the inclusion of the exceptions.

The churches support the continued inclusion within the proposed Single Equality Bill of existing exemptions for faith organisations on the grounds of religious discrimination in employment. We believe these must extend to include exemptions from legal challenges on lifestyles which would contravene the doctrine and ethos of the organisations concerned.

This wider lifestyle issue is also pertinent to many churches in relation to renting out premises or providing facilities to the public.

Article 4.1 of the Framework Directive expressly refers to 'context' as an important element in any situation:

"Notwithstanding Article 2(1) and (2) Member States may provide that a difference of treatment which is based on a characteristic related to any of the grounds referred to in Article 1 shall not constitute discrimination where, by reason of the nature of the particular occupational activities concerned **or the context in which they are carried out**, such a characteristic constitutes a genuine and determining occupational requirement, provided that the objective is legitimate and the requirement is proportionate."

Furthermore, the International Convention on Human Rights establishes freedom of religion as an inalienable right to which every human being is entitled. With this in mind, an underlying principle which we feel should guide the development of the proposed Single Equality Bill is the right of religious communities to ensure that the identity and ethos of their institutions is protected as part of their more general right to freedom of religion and to a specific religious identity, both personal and collective in a diverse and authentically pluralist society.

Equality through community institutions

As representatives of faith communities, the four Churches draw attention to the wide diversity of community institutions that faith communities have developed and support – many with the objective of supplying non-economic social support

services that contribute to the greater good of all society, and do not merely benefit their own worship communities. Among these are schools, youth clubs, hostels, retreat and conference centres, parish and community centres and various social support groups for mothers, children and young people, those suffering deprivation or abuse, the vulnerable and those struggling with addiction, together with counselling services as well as projects intended to encourage reconciliation, parenting skills, life-skills etc. While some of these, such as faith-based schools, exist within the framework of state provision, albeit with exemptions for employment under equality legislation, others exist almost invisibly as a web of support surrounding the state provision of social services.

In many instances, it is these and similar infrastructure provided by other voluntary sector groups that gives the social dynamic to enable the equal access guaranteed by legislation and now to be brought together in the proposed Single Equality Bill.

These community structures, which enhance the individual's ability to avail of the equal opportunity provided in law, also require protection under equality legislation in order to continue to exist.

Equality cannot be limited to the equality of opportunity of the individual alone. Communities organised on philosophical, religious, cultural or linguistic grounds have the right to organise around, protect and give expression to their fundamental beliefs both as individuals and communities in order to make their contribution to the Social Capital of the community. The point needs firmly to be made and widely to be understood that religious faith involves much more than mere intellectual assent to a set of spiritual propositions. Lifestyle, i.e. the lived expression of the values and ethical norms of the religious faith in question, is the appropriate outworking of faith and indivisible from it.

It is for this reason we argue strongly for the retention of those exceptions to equality legislation which already exists to serve this purpose and to express our determined opposition to any legislation which undermines the right of religious organisations to organise in a manner consistent with their ethos. This applies not only to their right to protect their ethos in relation to employment, but also in relation to the role of religious bodies in the provision of and access to goods and services.

GROUNDINGS - SPECIFIC ISSUES (Section 3)

Among the additional specific issues we would wish to respond to are the following:

With reference to 3.8 in Response booklet**Socio-economic status**

The four Churches see the inclusion of socio economic status as an ideal within the grounds of the proposed legislation, but believe that it will prove too complex to implement. The Churches suggest that this item be not included in the Bill, but be considered for inclusion at a future point when a review is undertaken.

Past convictions

The four Churches believe that relaxing the regulations relating to past convictions will directly conflict with other legislation increasing levels of protection for children and vulnerable adults. Our recommendation is that this should be considered instead under the review of legislation relating to rehabilitation of offenders.

Other status

The four Churches feel that it would be preferable to allow new legislation dealing with existing equality issues to bed down and to ensure that mechanisms for implementation and monitoring are established and working effectively, and have been successfully reviewed, before extending the scope to include "other status". The Churches would also urge Government to consult widely on the introduction of new grounds in order to ensure a balanced development of rights and social obligation in Northern Ireland.

Victims

The four Churches all found the concept of victims difficult to include in their understanding of the aims of the Single Equality Bill. All felt that the ideal situation is for victims of civil, conflict-related or domestic violence to be enabled to move on quickly from the position where they feel victimised. If someone has been permanently disabled, then we understand that legislation dealing with discrimination against the disabled should be able to answer their needs. Victims are the result of an abnormal society. If society is to normalise, then why is victim-hood to be enshrined in long term legislation? It risks turning victim-hood into a culture. We also feel that existing legislation dealing with domestic and child abuse will be diluted by including it in the SEB.

SECTION 4 (SCOPE)

4.1 The churches tended toward Option C

4.2 The churches felt that this option enables positive movements toward extension by incremental stages ensuring workability and giving time to build goodwill towards the legislation and time for organisations, particularly in the voluntary sector to develop mechanisms for compliance. In addition, it is considered important to cross reference new requirements with the review of Charities legislation with particular reference to limits set on the percentage of income that can be applied to administrative functions.

4.6 Volunteers

The four Churches urge drafters to consult further with the voluntary sector regarding the development of a proper definition of what categories of volunteering should be included. Many volunteers and organisations that depend on volunteerism are deeply concerned that their social contribution will become burdensome as a result of additional bureaucracy and that both bureaucracy and the potential extension of quasi employment rights to volunteers will become a major disincentive to engagement. It is part of our religious obligation and cultural tradition to give selflessly and without counting the cost and also to give anonymously and discreetly – the transformation to state monitoring of the voluntary sector would require some degree of shift in cultural values.

SECTION 6.1 EXCEPTIONS

The Churches preferred Option b

6.2 Because it provides for continuity on existing exceptions, which, unless there is evidence to the contrary, reflect social values and sensitivities.

See also Section on Equality through community institutions above and other points raised in the response to GROUNDS – Section 3.

SECTION 9: EQUALITY COMMISSION – FUNCTION & POWERS

The churches agreed it was sensible to have one body.

There is, however, a sense that to have this one body responsible for advice and promotion on the one hand, and for prosecution on the other results in unnecessary tension.

There is a clear need to widen the use of conciliation and mediation mechanisms for resolving equality issues. This is particularly helpful in steering society

towards equality in the provision of goods, services and facilities and is more likely to gain social consensus.

SECTION 10 COURTS & TRIBUNALS

In terms of implementation, the churches seek greater use of alternative dispute resolution mechanisms to resolve issues arising out of Fair Employment rules and that these would be extended to challenges arising from the provision of goods, services and facilities. (Ref: S10.1)

OTHER ISSUES

Office holders

The inclusion of office holders and the application of terms such as 'occupation' tends to bring clergy within the scope of equality legislation that previously applied to employees in a more traditional understanding of the term. At the core of this issue is the need to balance any extension of rights with some reference in the legislation to the obligations that must appropriately balance these.

SECTION 7 - GOODS FACILITIES & SERVICES

The Churches all expressed concern over the future of their social support agencies, where these may be required to satisfy the same requirements as those placed on state agencies. In the past, the social partnership model has enabled government to use social partnership agencies to deliver services equally across the community, through agencies that were ethos based or representative of specific cultural or interest groups. With reference to our suggestion that a preface should be drafted that reflects the philosophical basis of the legislation, we would point out that the social partnership model reflects a particular view of society incorporating and using the dynamics of diversity to ensure equitable access to services.