

Care home suffers under 'equality' laws

How traditional Christian beliefs cost
an elderly care home a £13,000 grant



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CHRISTIAN INFLUENCE IN A SECULAR WORLD

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One-page summary

- Pilgrim Homes is a 200-year-old Christian charity set up by William Wilberforce and others which provides residential care for elderly Christians, meeting their spiritual as well as physical needs.
- It runs ten homes in the UK. Under the Christian ethos of the homes, all residents must be personally committed to the Protestant Christian faith.
- Pilgrim Homes runs a home in Brighton. The home's current residents are aged in their 80s and 90s and include retired missionaries and a retired church minister.
- The home in Brighton received a £13,000 grant from the local council, used to support a warden.
- In 2007 Brighton Council demanded that Pilgrim Homes:
 - a) question elderly residents every three months about their sexual orientation
 - b) use images of LGBT couples in its promotional literature
 - c) publicise LGBT events to elderly residents
 - d) force staff to attend a Stonewall presentation on LGBT issues.
- Brighton Council claimed the demands were due to sexual orientation regulations made under the Equality Act 2006.
- Pilgrim Homes notified the Council that the home would not comply with its demands because to do so would unduly distress the elderly residents and undermine the home's Christian ethos.
- The Council pulled the £13,000 grant and accused the home of "institutionalised homophobia" using the 'Macpherson' definition of institutional discrimination.
- Between June 2007 and December 2008 Pilgrim Homes made strenuous attempts to resolve the matter but the Council's stance did not change. The trustees felt they were left with no other option than to take legal action against the Council.
- Brighton Council settled out of court. The Council agreed to restore the funding, to withdraw its demands and to withdraw its accusation of institutionalised homophobia.
- The legal fees for Pilgrim Homes' legal action amounted to £21,000. The Council made no contribution toward costs.

The sexual orientation regulations have created a climate of confusion and the legislation must be amended to protect the rights of conscience, freedom of expression and freedom of association for religious organisations.

Introduction

Christians are concerned that the Government's new Equality Bill will lead to an increase in cases where the 'rights' of one group cause the freedoms of another to be infringed.

The way in which the elderly Christian residents of the Pilgrim Homes care home in Brighton were treated by their local authority is a clear example of how this is already happening under existing legislation.

Brighton and Hove City Council withdrew important funding from the charity-run home for elderly Christians after managers refused to ask their residents about their sexual orientation, show staff a presentation by a homosexual lobby group and include pictures of same-sex couples in their brochures.

Pilgrim Homes' managers said that to comply with these demands would unduly distress their residents and undermine the home's Christian ethos – all Pilgrim Homes' residents are Protestant Christians who agree with its doctrinal basis. However, the Council said it was acting in compliance with the Equality Act 2006, and refused to back down over the issue until the threat of court action was made public in the national press.

Key concerns raised by the Pilgrim Homes case include:

- The lack of regard shown by the Council for the beliefs of the home's elderly Christian residents;
- That despite being a public authority, the Council chose to promote the rights of one group of individuals at the expense of another;
- The fact that protections for religious groups in the 2006 Equality Act held no sway with the Council until the case became public.

In a climate where local authorities are already over-interpreting existing equality legislation in this way, it is understandable that

Christians are concerned about the consequences of changing, enhancing or expanding the scope of these laws.

The force of the Government's equality agenda is most felt in the public sector, and this means it tends to cause problems for Christians in caring professions. Many of these professions have their roots in the Christian caring tradition, and much would be lost if Christians were to be forced out of such work.

Background

Pilgrim Homes was established by a group of Christians in 1807 to meet the needs of Christian believers aged 60 or over. The organisation says: "The spiritual welfare of elderly Christians is as much our concern as their physical and mental well-being." It requires applicants to be Protestant Christians who can sign up to its doctrinal basis.¹

The charity runs a home in Brighton providing residential care, offering "the sort of help a caring relative would give if they were able". This care, the charity says, "is given in a family setting, with a distinctive Christian ethos".²

Sheltered housing is also available in Brighton, so elderly Christians can live independently in flats or bungalows but still receive care and support from the main home.³

There are 17 residents at the Brighton home aged in their 80s and 90s, and one is 100 years old. They include retired church ministers and missionaries.

Under the Government's 'Supporting People' scheme Pilgrim Homes receives £13,000 per year to fund a warden for this sheltered housing. It was this funding that was pulled when the home was accused of 'institutionalised discrimination'.

What were the Council's demands?

Asking residents' sexual orientation

The Council said that in order to receive the Supporting People grant, Pilgrim Homes had to provide regular statistics on its residents to ensure their needs were being met. The Council wanted the managers at the Brighton home to provide them with quarterly statistics on the sexual orientation of each of their residents.

Staff would therefore be required to go to each resident every three months and ask if they were heterosexual, gay, lesbian, bisexual or 'unsure'.

Promoting homosexuality

The Council also said Pilgrim Homes should be making sure it presented homosexuality in a positive light, and wanted it to include photographs of same-sex couples in its literature. It also said the home should openly communicate its acceptance of same-sex relationships through explicit mention in policy documentation relating to both staff and residents.

Why did the home refuse?

Understandably, both the home's Christian employees and its residents were distressed by the idea of such intrusive questioning on a regular basis, and the requirement that they promote a lifestyle contrary to their Christian beliefs about sexual ethics.

In 2007 a High Court judge, Mr Justice Weatherup, said that the belief that the "practice of homosexuality is sinful" is an "orthodox Christian belief", "a long established part of the belief system of the world's major religions" and "not a belief that is unworthy of recognition".⁴

In its 2007 submission to the Government's consultation on 'A Framework for Fairness', The Christian Institute explained:

“Evangelical Christians believe that the Bible clearly teaches that the only context for sexual activity is within lifelong monogamous marriage, meaning that fornication, adultery and homosexual practice are wrong (“the relevant belief”).

“The Christian holding this belief is obliged to act in specific ways when faced with a choice to accept, endorse or encourage practice which he believes is wrong or do otherwise. So acting is a manifestation of religious belief.”

The submission added: “It should be emphasised that Christians holding the relevant belief are not opposed to lesbians, gays and bisexuals as people – nor do they have any desire to be so considered or perceived. All Christians are under a moral duty to love them, and all their neighbours, which rules out any personal hatred or unloving conduct towards them. Nonetheless, Christians with the relevant belief believe that homosexual practice is wrong and are compelled by belief in Scripture to hold to that view.”⁵

The practice, and therefore the promotion, of homosexuality is incompatible with the home’s Christian ethos. Its doctrinal basis, which all residents must sign, affirms the Old and New Testament Scriptures as the rule of faith and practice. Since the Bible teaches that marriage is the union of one man and one woman for life, to the exclusion of all others, the home could not espouse, condone or promote any lifestyle contradicting this principle.

‘Institutionalised homophobia’

Managers at the Brighton home explained to the Council that to comply with its demands would unduly distress residents. They insisted they do not discriminate against homosexual people, but could not promote activity that went against Christian teaching.

However, the Council rejected these explanations. Officials said the home was failing to meet the equality requirements of its quality assessment framework, and argued that discrimination could occur if

it was assumed that “everyone has the same needs”.

The Council cited the sexual orientation regulations brought in by the 2006 Equality Act, which makes discrimination on grounds of sexual orientation in the provision of goods, facilities or services unlawful.⁶ Pilgrim Homes maintained it was not doing this and had every right to protect its ethos.⁷

The Council said that without having regular statistics on the sexual orientation of the residents benefiting from the Supporting People funding, it could not be sure that no individuals were being discriminated against on grounds of their sexual orientation.

It also said that the repeated failure by the home to provide an explicit welcome to homosexuals constituted institutionalised discrimination and homophobia.

Council officials were at pains to confirm that their definition of this phrase was taken from the 1999 Macpherson Inquiry into the murder of Stephen Lawrence, which concluded that the Metropolitan Police was ‘institutionally racist’. They said common usage now applied the phrase to any kind of consistent discrimination against a particular group. The Council then withdrew the full £13,000 grant.

How was the situation resolved?

Pilgrim Homes sought to appeal the Council’s decision using internal procedures. However, after these avenues were exhausted, the Council still refused to restore the funding. The charity then wrote to the Council informing them that in providing the grant it was providing a public good, facility or service, and therefore its actions amounted to religious discrimination under the Equality Act 2006. Pilgrim Homes asked the Council to consent to mediation, but the Council refused.

However, the situation was made public by the media at the end of 2008 after court papers were lodged, and the Council subsequently decided to back down. It agreed that the home could limit enquiries about the sexual orientation of residents to one question when a person

applied to the home. It also agreed that the home did not have to include 'positive images' of homosexuality in its promotional literature. The Council also restored the Supporting People funding in its entirety and withdrew the allegation of institutionalised homophobia.

Although the Council in this case eventually backed down, the charity's appeal for its ethos to be respected held no sway until the threat of legal action by the home was picked up by the media. The legal fees for Pilgrim Homes' legal action amounted to £21,000. The Council made no contribution toward costs. The outcome of the case shows that Christians already have to go to unreasonable lengths to have their side heard.

How could the new Equality Bill create more situations like this?

The new Equality Bill will be used to introduce a single Public Sector Equality Duty – a requirement for all public bodies to actively promote equality in a number of areas. The areas of race, gender and disability are already covered separately by existing equality duties. In the streamlining of equality law intended by the Bill, the areas of sexual orientation, age and religion are also to be included in the new combined equality duty.⁸

In the case of Pilgrim Homes, the Council cited the 2006 Equality Act to justify their demands. They said that since they were giving Pilgrim Homes funding, they needed to know that no one receiving their services was being discriminated against on the grounds of their sexual orientation. This one-size-fits-all approach was taken with no deference to the nature of the home or the individual needs of its residents.

If this could take place without equality duties applying to sexual orientation, far worse situations may arise if public bodies – and those they fund – are required actively to promote equality on the grounds of sexual orientation.

The notion of promoting equality is an ambiguous one. In one recent case, a nurse was suspended because her NHS employers said her offer to pray for a patient constituted a lack of commitment to the promotion of equality and diversity.⁹ Does this mean that for organisations like Pilgrim Homes, simply being of Christian character could be interpreted as failing to carry out equality duties, let alone refusing to promote a lifestyle or practice that is contrary to its Christian ethos? If this is the case, an equality duty could effectively constitute a blanket exclusion of all Christian organisations from receiving public funding.

What is at stake?

There can be no doubt that historically Christian charities have provided services that are of profound value to society and continue to do so today. The quality of these services is intrinsically linked to the Christian beliefs of those providing them. Yet there is an increasing tendency for public authorities to seek to harness these services while at the same time attempting to dilute the Christian ethos which motivates and underpins the organisations providing them.

As in the case of Pilgrim Homes, this can arise from the over-zealous application of existing equality legislation. It is likely that with the introduction of further equality law, Christian organisations will face further problems.

As well as receiving public funding, many of these groups rely on the donations of Christian supporters. These supporters will not be able to continue giving if the organisations are forced to promote something which conflicts with Christian teaching. Yet if the organisations do not renounce their ethos, they could lose Government funding. Therefore whichever way they go, the new equality duty could have the effect of significantly diminishing the effectiveness of these important groups.

The belief that sexual activity outside marriage is morally wrong and cannot be condoned is a longstanding tenet of the Christian faith.

The elderly Christians at the Brighton Pilgrim Home were, in effect, being fined by the Council for holding this view. In the Council's eyes, their beliefs were so objectionable that it justified pulling funding used to support a warden.

Therefore the changes proposed in the forthcoming Equality Bill must be very carefully considered with respect to the effect they could have on Christians.

Brighton Council believed that the sexual orientation regulations introduced under the Equality Act 2006 justified their actions against Pilgrim Homes. There is clearly a problem with how the regulations are working in practice.

The regulations need to be amended so that they do not suppress the rights of conscience, the rights of freedom of expression and the rights of freedom of association for religious organisations.

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- ⁴ *The Christian Institute & Ors, Re Application for Judicial Review* [2007] NIQB 66, para. 50
- ⁵ *Response of The Christian Institute to 'A Framework for Fairness'*, see http://www.christian.org.uk/issues/2007/dlr/response_sept07.pdf as at 17 March 2009
- ⁶ Equality Act (Sexual Orientation) Regulations 2007, Section 4
- ⁷ Pilgrim Homes argued that it provided places in its Brighton home for people who experienced same-sex attraction and accepted Christian teaching not to engage in any sex outside marriage.
- ⁸ *Framework for a Fairer Future – The Equality Bill*, Equalities Office, June 2008, page 9
- ⁹ *The Independent*, 6 February 2009

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