

Latest news of significant individual cases

The following are summaries of the story so far in some of the significant recently-resolved or still unresolved cases involving Christians responding to a wide range of legal, police or disciplinary action against them. Seeking a remedy by means of litigation can be a lengthy process – sometimes taking several years for a closure to be reached. The Christian agency handling these cases is indicated in brackets at the end of each item.

Ashers Baking Company

Following the disappointing judgment of the Court of Appeal in Belfast in October 2016, Ashers have been seeking to secure an appeal hearing before the United Kingdom Supreme Court. Finally, in May, the Supreme Court decided it will list a hearing to consider appeal arguments and decide whether to hear the appeal in full. Any full appeal, if granted, would take place immediately.

The Supreme Court will also hear arguments from the Attorney General for Northern Ireland, John Larkin QC, who is party to the case and who has argued in relation to the validity of the laws that were used against the bakery.

This case arose from the bakery's refusal in May 2014 to ice a cake bearing the slogan 'support gay marriage', which was ordered for a political event. The case raises wider concerns about compelled speech and freedom of thought, conscience and religion. The Christian Institute has funded Ashers' case and supported the McArthur family throughout. (*The Christian Institute*)

Named Person scheme

The Scottish Government recently published a Bill to amend the Children and Young People (Scotland) Act 2014, the legislation which sets up a statutory scheme for a state appointed 'named person' for every child and young person in Scotland. Under the scheme, the named person has a duty to promote the child or young person's 'wellbeing' (which is defined very loosely).

Although further changes to the Bill are necessary, not least in relation to new data protection laws coming into effect in the UK in 2018, it is welcome that the Bill will repeal the information sharing provisions in the 2014 Act which were struck down by the UK Supreme Court in the case of *The Christian Institute and others v The Lord Advocate (2016)*.

The new Bill will remove the *duty* on named persons and public authorities to share personal information about children, young people and their families, instead requiring any data sharing to be conducted in line with the principles of consent or necessity set out in the UK's Data Protection Act 1998. Under the Bill, a new legally binding Code of Practice will be issued to professionals. The code should contain safeguards with a view to ensuring that any information sharing is carried out in a proportionate manner.

The Policy Memorandum published alongside the new Bill makes clear that children, young people and their parents can accept or reject advice, information, support and help offered by a named person and that this freedom of choice must be made clear to them. This reflects the view of the Supreme Court that there must be no compulsion and that the voluntary nature of the service should be made clear to ensure that the scheme is operated in a manner compatible with the right to a private and family life. (*The Christian Institute*)

General Pharmaceutical Council

Over recent months the Christian Institute's solicitors have been exchanging pre-action legal correspondence with the General Pharmaceutical Council ('GPhC'). The Institute has been threatening to mount a judicial review in the courts to challenge the GPhC's changes to their professional standards for pharmacists. The new standards, which were consulted on earlier this year and came into effect in May, removed the reference to pharmacists being able to refer customers to other service providers in cases where a pharmacist's values or beliefs prevent them dispensing or providing a service. The old reference to referral to other provides was replaced with a duty to ensure 'person-centred care is not compromised'.

At the same time, the GPhC also consulted on professional guidance to sit alongside the change to the professional standards. The draft guidance left uncertainty as to whether it would still be acceptable for pharmacists to refer on to other providers. This change had multiple implications for Christian pharmacists, including in relation to the right not to supply abortifacients such as the Morning After Pill.

The GPhC subsequently revised its proposed professional guidance after concerns were raised by a number of Christian groups, including The Christian Institute, and after the Institute instructed a QC and engaged in legal correspondence with the GPhC prior to issuing a claim for judicial review.

Helpfully, the final guidance published by the GPhC recognises the 'positive' role of religion in providing pharmacy care and explicitly states that 'Pharmacy professionals have the right to practise in line with their religion, personal values or beliefs' whilst making sure that care is not compromised. In this context, the guidance makes clear that referral to other service providers may be an acceptable option. Although the final guidance is not perfect, it explicitly mentions the place of conscience and should provide a framework for reasonable accommodation in the pharmacy context. (*The Christian Institute*)

Street preachers

Mike Overd & Mike Stockwell

On 29 June, two street preachers were acquitted of public order offences, after previously being convicted at Bristol Magistrates' Court in February.

Mike Overd, Mike Stockwell and two other men had taken it in turns to preach at a Bristol shopping centre on 6 July. The crowd was loud and aggressive towards the preachers, heckling, shouting and swearing at them. There was also some considerable debate between members of the crowd and the men, which usually centred on the differences between Christianity and Islam.

They had been ordered to pay £2016 each following their conviction in the Magistrates' Court, yet with the help of the Christian Legal Centre, the conviction has been overturned and the fine removed. The ruling represents a clear victory for freedom of speech and particularly the freedom of Christians to preach the good news of the gospel. (*Christian Legal Centre*)

Andrew Frost

A street preacher who was charged under the Public Order Act 1986, after entering a discussion with two passers-by about homosexuality, was acquitted on 5 July at Nottingham Magistrate's Court.

Andrew Frost was preaching out on the streets of Nottingham city centre in March this year. He preached on the consequences of sin, quoting Luke 13:1-5 and Matthew 15:19. As he preached, two men in a homosexual relationship walked by, holding hands. The three men entered into a conversation.

Rory Green, a friend of Mr Frost who was preaching alongside him at the time, reported that the two men began to shout abusive comments at Mr Frost. Mr Frost continued to preach from Scripture and told the men that they needed to repent of their sin. The two men left, but approximately 15 minutes later a woman approached Mr Frost and accused him of abusing the men. One of the men then returned and called the police.

The two men claimed that Andrew verbally abused them and directed several lewd comments at them, all of which Mr Frost denies. Mr Frost is motivated by the love of God, and explains that each time he is approached by people in same-sex relationships, he reassures them of his love for them. With the help of the Christian Legal Centre, Mr Frost has now been acquitted. (*Christian Legal Centre*)

Ongoing cases

Religious Freedom at Work and in Education

Victoria Wastenev, a former senior NHS occupational therapist, was disciplined for giving a Christian book to a Muslim colleague and for praying for her. She was suspended by the NHS Trust for almost nine months and eventually found guilty of three 'offences' by an internal disciplinary panel: inviting her Muslim colleague to church-organised events, praying with her (despite having permission to do so) and giving her a Christian book.

An Employment Tribunal ruled that the Trust was justified in disciplining Victoria for sharing her faith with her colleague, despite seeing evidence that Victoria's colleague appreciated and reciprocated her friendship.

Victoria appealed the Employment Tribunal's decision to the Employment Appeal Tribunal. They too decided against her, holding that the treatment of which she complained was because of, and related to, her inappropriate actions, rather than any legitimate manifestation of her belief.

Victoria was granted an oral hearing at the Court of Appeal in May, though this was subsequently vacated and a new date arranged on 27 July. (*Christian Legal Centre*)

Barry Trayhorn was forced to resign from his job at a sex offenders' prison after Bible verses that he quoted during a Christian chapel service provoked a hostile response from prisoners and prison management.

Whilst leading worship at a chapel service in May 2014, Barry spoke about the wonder of God's forgiveness for those who repent, quoting 1 Corinthians 6:9-11 from memory. The verses mention a number of sins, including adultery, homosexual practice, greed and drunkenness. The prisoners were at the service of their own volition, and were free to leave at any point.

Four days after the service, a complaint was made. Barry was immediately barred from helping with chapel services. He was later told that his comments during the service were *homophobic* and breached national prison policy and he was issued with a final warning. Barry complained to the Employment Tribunal that he had been constructively dismissed and that he had been discriminated against because of his Christian faith.

The prison defended its decision to discipline Barry because it said prisoners needed to be protected from offensive statements and Barry's comments may have resulted in bullying towards homosexual prisoners, even though no evidence for this was presented to the Employment Tribunal.

The Employment Tribunal held that Barry had not been discriminated against by the prison by sharing his Christian faith. This decision has very disturbing implications for the freedom to maintain gospel witness in prisons.

Barry successfully applied for permission to appeal the Employment Tribunal's decision to the Employment Appeal Tribunal. The hearing took place in April, with the verdict due soon. (*Christian Legal Centre*)

Richard Page commenced work as a magistrate in Kent where he served for 15 years. During this time, he became a well-respected member of the Family Panel.

In July 2014, while presiding over an adoption case involving a same sex couple, Richard expressed the view that a child is best raised by a mother and a father during a closed-door consultation with colleagues. Having heard all the evidence, he decided that his legal duty to act in the best interests of the child meant that he could not agree with placing the child with a same-sex couple.

His colleagues complained about him and, following an investigation by the local Justice of the Peace Advisory Panel, the case was referred to the Lord Chancellor and the Lord Chief Justice. They told Richard that his Christian beliefs about family life were discriminatory against same-sex couples. He was publicly reprimanded and barred from sitting as a Magistrate until he had undergone equality training.

In March 2016, Mr Page appeared for a few seconds on BBC Breakfast News and said that *'my responsibility as a Magistrate as I saw it, was to do what I considered best for the child, and my feeling was therefore that it would be better if it was a man and woman who were the adoptive parents'*. Richard was removed from the Magistracy by the Lord Chancellor and Lord Chief Justice for the comments he made during the BBC interview which were held to have brought the magistracy into disrepute which constituted serious misconduct.

Mr Page has lodged a claim at the Employment Tribunal, claiming discrimination on grounds of his Christian faith. A preliminary hearing for Mr Page has been scheduled for September 2017, with a full hearing due in December 2017.

In a separate matter, but one which is related to Richard's decision in the adoption case, the NHS Trust where Richard used to be a non-executive director, suspended him pending investigation into his comments. They later decided that it was not in the interests of the health service for him to continue serving as a non-executive director. This is a further example of the way in which Christians are being forced out of public life for holding Bible-based beliefs.

At a preliminary hearing at the Employment Tribunal in January 2017, the judge described Richard Page's case as *'crying out to be heard'*. A full hearing has thus been scheduled from 1– 4 August, and Christian Concern and the Christian Legal Centre are continuing to support Mr Page. (*Christian Legal Centre*)

Felix Ngole was studying at the University of Sheffield on an MA Social Work course. In a Facebook discussion about Kim Davis' case, the marriage registrar who refused to register same sex weddings, Felix posted bible verses and comments to demonstrate the Bible's teaching on sexual ethics and marriage. An anonymous complaint was made about Felix's comments and Felix was investigated by the University.

Felix was removed from the course because his comments may have caused offence and his subsequent appeal was dismissed. The University's decision prevents him from pursuing his desired profession as a social worker and highlights their very concerning position that only certain views about sexual ethics are acceptable.

Felix challenged the University's decision by submitting a complaint to the Office of the Independent Adjudicator which was rejected.

With the support of the Christian Legal Centre, he then appeared in the High Court in late April to seek permission for a judicial review of the decision to expel him from his University. Felix was granted such permission, and his case is expected to be heard in full in Autumn 2017. (*Christian Legal Centre*)

Right to Life (Assisted Suicide)

Nikki and Merv Kenward, who campaign against euthanasia and assisted suicide, have been seeking to challenge the decision of the Director of Public Prosecutions to change the policy on the prosecution of healthcare professionals who assist patients in committing suicide.

In October 2014, the DPP amended the policy, making the prosecution of healthcare professionals in assisted suicide cases less likely.

In response, the Kenwards sought to challenge the decision, arguing that the DPP acted outside of her powers by liberalising the policy and that this would endanger many vulnerable people. However, in December 2015 the High Court ruled that the DPP had acted lawfully and thus the Kenwards' application was refused.

The Kenwards appealed to the Court of Appeal for permission to appeal the High Court's decision. This application was initially refused, though the Kenwards were granted permission for an oral hearing which took place at the Court of Appeal in January 2017.

Lord Justices Longmore and Kitchin heard the Kenwards' appeal application, but unfortunately refused permission for the appeal to go ahead. A costs order was made against the Kenwards, though the Christian Legal Centre are planning to file an ECHR application on the grounds of discrimination. (*Christian Legal Centre*)

Right to Life (Abortion)

Aisling Hubert began private prosecutions against two doctors who were caught offering sex-selective abortion for baby girls. The CPS had already investigated the case, but decided against prosecution because, whilst there was sufficient evidence, it would 'not be in the public interest'. However, Aisling's attempt to bring the doctors to justice was again halted by the CPS when they intervened and stopped the private prosecutions. As a result, costs orders were made against Aisling, in favour of the doctors. She then faced a further costs order after unsuccessfully challenging the CPS's decision to stop the private prosecutions. The costs orders against her totalled more than £40,000.

Aisling attended court on 17 January 2017 to challenge the costs orders made in favour of the doctors. After the judge ruled that the costs could not be amended, a settlement was reached regarding the amount Aisling had to pay. She now has until mid August to pay the agreed amount (which cannot be disclosed because of the doctors' wish for confidentiality).

While we are very disappointed with the result, the case has achieved much in terms of exposing unlawful abortion procedures and the failures of the CPS to afford justice to the most vulnerable in our society.

The Christian Legal Centre are continuing to support Aisling, and will challenge the costs order in an application to the European Court of Human Rights. (*Christian Legal Centre*)

Family

In November 2015, *Marius and Ruth Bodnariu* had their five young children snatched from their care and scattered across three different households, three hours away from their family home.

Upon a minor complaint being made by the school headmaster that one of the daughters mentioned she had been spanked, Norwegian child and family services began an investigation that was mired in prejudice from its very beginning.

Based solely on the testimony of children elicited through unchecked questioning, which the principle investigator recognised was likely to be untruthful, they were snatched from their parents. After being removed, the children were systematically interrogated for hours without recourse to legal counsel or any other safeguarding supervision to ensure their testimony was not achieved through manipulative questioning. The coercive nature of the investigations led to Naomi exclaiming during her testimony: 'I don't know what else to make up'.

Despite all medical and psychological assessments showing that the children were not subjected to violence or abuse, it took nearly a year for the family to be reunited. Desperate to provide solace to their traumatised children during this period, Marius and Ruth were forced to sign agreements stating that they would not speak their native language whilst communicating with their children. Any conversations would be terminated upon this agreement being breached.

The unnecessarily delayed reunification, coupled with coercive investigations, did serious harm to the interests of the Bodnariu's five children. Iona suffered extensive emotional, psychological and physical harm from being separated from his parents for a prolonged period, and baby Ezekiel was subjected to multiple x-rays, despite there never being any evidence of abuse. Following the trauma, Marius and Ruth moved to Romania, having left their comfortable and prestigious jobs and their family home, to dedicate time to the healing of their family.

Christian Legal Centre is providing close support to the Bodnariu family, and has filed a claim to the European Court of Human Rights about the way that the family was treated.

The European Court of Human Rights has not decided whether to admit their application. (*Christian Legal Centre*)

Transgenderism

'Bethany'

A Christian family fear, that unless they allow their 14-year-old daughter 'Bethany' to change her name to 'Gary', (names changed) she might be taken into foster care. The family are locked in a battle with social services concerning their daughter, who, within a few months of returning to school after being home educated, started to dress as a boy and decided that she wanted to be called Gary.

The parents were originally told that their refusal to allow the name change is tantamount to 'neglect'. Although social services have now moved away from that position, they are still very much involved in monitoring the situation.

The Christian Legal Centre continues to work with the family and seek the best professional support for Bethany. Enquiries are being made to find a suitable psychologist for Bethany. (*Christian Legal Centre*)

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