

Extracts from Sexual Orientation Regulations (Northern Ireland) Update for EA Board & Council, December 2006

1.0 The purpose of this briefing note is to update Board and Council members on the Sexual Orientation Regulations, Northern Ireland (SORNI), as well as to indicate the outcome of critical meetings and discussions we have had since I reported on some of the key issues involved in the progress of the Sexual orientation Regulations as part of The Equality Act 2006. The regulations are due to come into operation in Northern Ireland on 1st January 2007. This briefing note should be read in conjunction with the paper produced by Stephen Cave (circulated with the minutes) on *Presenting Christ Credibly in the Public Square* and the EANI consultation paper.

1.1 At the last meeting members were appraised of the following:

- i. The context and challenges of the SORNI;
- ii. The round table meeting hosted by the EA with key partners to discuss some of the legal and practical implications of SORNI and the GB SORs;
- iii. The approach taken to SORNI by EANI and some of the perceived differences between this position and that of other Christian groups, especially the Christian Institute;
- iv. The Judicial Review of SORNI launched by the Christian Institute; and
- v. The proposed meeting to explore the concerns of those running Christian conference centres and similar services.

1.2 Since the Board meeting there have been three key developments in respect of the last three points above.

2.0 The Judicial Review

2.1 In pursuance of the Judicial Review on behalf of the Christian Institute, the legal advice prepared by James Dingemans QC falls under three claims. Firstly, that the Regulations were made "without proper consultation of interested parties". Secondly, that there are "material parts of the Regulations which infringe rights guaranteed by article 9 of the European Convention of Human Rights which has statutory force in Northern Ireland, namely, that everyone has " *the right to freedom of thought, conscience and religion; this right includes ...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.*" (Article 9 ECHR). Thirdly, that the Regulations do not create equality in respect of discrimination on the grounds of religious belief, which was stated as an intended aim in the consultation paper.

2.2 On Thursday 21 December the High Court (as anticipated) declined to suspend the Regulations, pending the outcome of the Judicial Review. The substantive hearing is scheduled for 1 and 2 March 2007. There will, of course, be a debate on the Regulations

in the Lords on 9 January 2007. It is improbable that the prayer to "annul" the Regulations will succeed in the debate.

3.0 Meeting to discuss the concerns of those running Christian Conference Centres

3.1 Expressing the concerns of Christian business, especially those who run conference centres, the following represent key issues explored along with financial support for the Judicial Review:

1. That any CCI member engaged in any trading [commercial activity beyond their Christian client group] will either have to compromise or stop their commercial work or risk prosecution
2. That local authorities may put pressure on schools not to visit Christian establishments who do not compromise because, by allowing their schools to visit such centres, they may be open to creating the potential for harassment - i.e. permitting their students to enter a "hostile environment" - a potential death knell for seriously targeted schools Christian ministry.
3. If a Christian Centre opens its doors to anyone other than those who hold their doctrinal position then the regulations will apply.

4.0 EANI position on SORNI, work with OFMDFM, partnerships and public perceptions

4.1 Through the public affairs work of EANI, Stephen Cave and Karen Jardine have sought to highlight some of the concerns of churches and religious organizations in respect of SORNI. By working with OFMDFM we have been able to raise a number of issues not previously considered by officials, leading to a number of exemptions for faith groups and individual conscience. This dialogue and approach of engaging with government has been recognized in the Northern Ireland Office as well as with officials in Ruth Kelly's department (DCLG).

4.2 Indeed, (and this can be sighted as an example of *either* critical and constructive engagement with the government, *or* as a criticism of working too closely with the government) in the Northern Ireland Grand Committee debate on 12 December Mr David Hanson (Minister of State for NI) states that the government have listened to those who raised concerns about the extent of religious exemptions (out of 373 responses to the consultation only 3 expressed outright opposition to the Regulations) and cites the Evangelical Alliance:

"We have had a very full consultation on these matters, and he will know that several points have been raised. The Government have listened to these points; indeed, the Evangelical Alliance has publicly acknowledged that the Office of the First Minister and Deputy First Minister, which I currently represent, has drafted

an exemption that ensures that the alliance's core doctrinal beliefs are not underestimated, but taken into account."

4.3. Of course, there are differences in public perceptions and positions on SORNI; at least four spring to mind: (i) there are those who want the Regulations annulled; (ii) there are those who want more assurance from Government arising out of particular examples and concerns that the "harassment" provisions will not nullify the religious exemptions while accepting the basic thrust of the Regulations ; (iii) there are those who fear that the insertion of the "harassment provisions" in SORNI without expressed consultation on this particular issue will be a dress rehearsal for its insertion back into the GB Regulation in the spring of 2007; and (iv) there are those who have worked with OFMDFM to ensure religious exemptions for the Northern context and are mindful of the need to have on-going dialogue with DCLG to seek assurances that the "harassment provisions" are not inserted back into the GB Regulations in the spring and that the legitimate concerns of Christians are heard and taken on board. The last position reflects the one we are adopting.

4.4 Senior Church leaders (Presbyterian, Roman Catholic, Church of Ireland and Methodist denominations) met David Hanson on 19 December to discuss the Regulations. In their joint press release of 20 December they state: *"We welcomed assurances that the regulations would not impinge on the doctrines and practices of our various denominations, including the right of teachers to present Christian doctrine and morals in schools. We also noted the various exceptions within the regulations for religious organizations."* However, there were concerns about the shortness of the consultation period and the extent to which all circumstances would be covered by the regulations.

5.0 Meeting with Ruth Kelly's Office and plans for early January

5.1 On Wednesday Joel, Charis and I went to see Ruth Kelly's special adviser, Rachel O'Brien to discuss SORNI and the public policy work of the Evangelical Alliance. This was a very productive meeting. Our position in Northern Ireland was noted and commended as being "measured" and "constructive". Joel outlined ways in which we wanted to work with government as "critical" partners in the public sphere. The concerns in respect of conference centres were discussed. We were assured that the Government were not planning to put the "harassment provisions" into GB SORs in the spring, and that the anticipated Discrimination Law Review (reporting around spring 2007) would clarify a number of equalities issues and principles.

5.2 Two other key meetings were had in the same week by Ruth Kelly's office with the Lawyers' Christian Fellowship and representatives from Black Christian leaders; and we are in dialogue with both groups. I have been in close dialogue with Rachel O'Brien since our meeting on Wednesday. There was a genuine commitment on the part of the officials to maintain a working relationship with the EA; there was also an undertaking to put in

writing answers to the issues raised in early January. Once we have these, we will make them available to our partners and wider constituency.

5.2 In light of the debate to be had in the Commons and the Lords in January, we are planning to convene a meeting/telephone conference with key partners before and after the debate to discuss the outcome of the debate, the range of suggested actions and "next steps", along with a follow-up meeting with Ruth Kelly's department. A letter from the General Director will summarise our position and perspective for wider circulation, education and discussion.

Dr R. David Muir, 24 December 2006