

Religion and Belief Discrimination and Equality in England and Wales

A Decade of Continuity and Change

A Research Informed Policy Brief 2013



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A *Summary Findings* document for the project together with more information about the project and its outputs than can be included in this Policy Brief can be found on the project website: <http://www.derby.ac.uk/religion-and-society>. The project has also developed an annotated bibliography covering the project themes during period 2000-2010. Copies will be accessible from Autumn 2013 on the project website and from University of Derby Online Research Archive, which can be found at: <http://derby.openrepository.com/derby>. The project can also be contacted by email to the Principal Investigator, Professor Paul Weller, at p.g.weller@derby.ac.uk.

To simplify the presentation and discussion, results from the 2010-12 project's survey (that took place in the 2010-11) and fieldwork (that took place in 2011) will be referred to as 'the survey completed in 2011' and 'the fieldwork completed in 2011', or sometimes in summary together as 'the 2011 research'. The results of the previous 1999-2001 project survey (that took place in 2000) and fieldwork (that took place in 1999-2000) will be referred to 'the survey completed in 2000' and 'the fieldwork completed in 2000', or sometimes in summary together as 'the 2000 research'.

1. Introduction

The past decade has seen considerable policy change in relation to matters of religion and belief, discrimination and equality in Britain, but also some continuity. The continuity has been mainly in terms of Britain's obligations under international law, and especially in relation to freedom of religion or belief. The changes have included a greater emphasis on equality in both law and policies. They have also been contextual in the light of what our project has called the 'social policy shock' of the 7/7 London bombings and their impact on the discourses, policies and practices of 'multiculturalism', including the emergence of 'preventing violent extremism' initiatives to counter the threat of religiously-justified terror.

This Policy Brief identifies research findings and key signposts for future directions in policy, law and practice identified from analysis of, and reflection on, the findings of the "Religion and Belief, Discrimination and Equality in England and Wales: Theory, Policy and Practice (2000-2010) Research Project" that was conducted during 2010-12. The objectives of the research can be found in an appendix to this document. The research was conducted by means of a questionnaire survey of religious organizations; fieldwork including focus groups with people understanding themselves as 'non-religious', conducted in Blackburn, Cardiff, Leicester, the London Borough of Newham, and Norwich; a systematic review of relevant legal cases and of other relevant research evidence from 2000-2010;¹ and Knowledge Exchange Workshops held in Cardiff, Derby, London, Manchester and Oxford in which over 200 practitioners from the public, private, voluntary and community, religion or belief, and legal sectors participated, engaging with the interim results of the research and contributing to what became the final project findings.

The research also built upon the results of a research project on "Religious Discrimination in England and Wales", commissioned by the Home Office and conducted in 1999-2001, enabling longitudinal comparison of results over a decade. In the published report of the 2001 research it was stated that: "*For policy to be effective, it needs to be grounded in the experiences and worldview of those most likely to be affected.*"² Thus, this Policy Brief is informed by the key findings of the 2010-2012 project, and can also be found in the project's **Summary Findings** document which can be accessed from the project's website at: <http://www.derby.ac.uk/religion-and-society>. More detail on the project's findings will be published in a book written by the researchers: Paul Weller; Kingsley Purdam; Nazila Ghanea and Sariya Cheruvallil-Contractor (November, 2013), *Religion and Belief, Discrimination and Equality: Britain in Global Contexts*, London, New Delhi, New York and Sydney: Bloomsbury.

The Policy Brief is composed of five main parts. First, we introduce the findings of the project's research, which highlight what are the key issues in religion or belief, discrimination and equality that need to be tackled. Second, we outline what has been the broad policy context for religion and belief, discrimination and equality over the past decade or so. Third, an analytical framework is presented that the project has used to inform our understanding of, and recommended response to, the distinctive and overlapping characteristics of different kinds of unfair treatment on the basis of religion or belief. Fourth, the perspectives of our research respondents and participants on specific ways of tackling unfair treatment on the grounds of religion or belief are highlighted. Finally we provide some signposting for future developments of policy, law and practice in contemporary Britain.

2. Findings

2.1 Context for Research Findings (Spring 2013)

- Religion and belief are important aspects of people's lives, informing how they see and live in the world, both as individuals and as part of wider groups. Issues around discrimination and equality on the grounds of religion or belief (including non-religious beliefs) are sensitive and sometimes highly contested.
- These issues involve matters of individual freedom of conscience and collective organization and expression in public life. This can be most evident in the interface with the responsibilities of employers and service providers, but it also cuts across many other aspects of everyday life including education, health care, housing, social and other services and the media.
- Aspects of religion and belief also involve relationships within and between religion or belief groups and between these groups and the wider society, including debates about the nature of a secular society.
- Religion and belief also exist alongside, and are interlinked with, other aspects of people's identity, many of which have achieved legal recognition as 'protected characteristics', such as gender, age, ethnicity, disability and sexual orientation. Conflicts between such aspects of identity can result in claims and counter claims about whether and how different aspects of identity should, or can be, balanced.

2.2 Key findings: continuity and change: 2001-2011

- A decade ago in England, Wales and Scotland unfair treatment on the basis of religion or belief had little scope for domestic legal redress. Since then, equality legislation such as the *Employment Equality (Religion or Belief) Regulations, 2003*, the *Incitement to Racial and Religious Hatred Act, 2006*, and the *Equality Acts, 2006 and 2010* came into force. These laws are designed to protect the holders of religious and non-religious beliefs from unfair treatment.
- Unfair treatment on the basis of religion or belief is when an individual or group is treated less favourably than another individual or group either of a different religion or belief, or of no religion or belief. It can include, for example, a failure to provide services that are sensitive to people's needs based on religion, unequal treatment in employment, media stereotyping as well as verbal and physical abuse.
- The findings of the 2011 survey suggest that there is evidence that over the past decade there has, in general, been a reduction in the reported experience of unfair treatment on the basis of religion or belief.
- The findings of the 2011 fieldwork also suggest that the introduction of new laws has been associated with changes of policy and practice, particularly in the public sector. For example, Pagan organizations, in particular, have cited human rights law as having opened up the possibility of more equitable participation in aspects of public life.
- However, both the survey and the fieldwork results continue to highlight substantial levels of reporting of unfair treatment on the basis of religion or belief in important areas of people's lives. The survey findings indicate that, in most areas and across most religious groups, the experience of unfair treatment is more often reported to be occasional than frequent.
- The experience of unfair treatment (including within employment from managers and colleagues) is generally reported to be more to do with the attitudes and behaviour of individuals than with the policies or practices of organizations.
- Certain religious groups continue to report experience of higher levels of unfair treatment than others - in particular Muslim, Pagan and New Religious Movement organizations. Jewish organizations continue to report significant experience of antisemitism including stereotyping and targeted attacks on Jewish property.
- High profile controversies and legal cases reflect continued experience of what is felt to be unfair treatment with regard to employer dress codes in relation particularly to Muslim women using head

coverings and to Christians wearing crosses. In schools such issues affect pupils as well as teachers. In comparison with a decade ago, there is some indicative evidence of what might be more widely spread difficulties for Sikhs in the wearing of 'the 5Ks' of their religion.

- It is clear that the relationship between the perception and reporting of unfair treatment on the basis of religion or belief and the legal determination of it remains complex and open to contested interpretations. The introduction of new laws has not been a panacea. Moreover, the fieldwork findings suggest that many people who identify with a religion are only very generally aware of their new legal rights.
- At the same time, many 'non-religious' focus group participants had a sense that, despite a broadening of the meaning of 'belief' in recent case law, these laws do not work equally for them, especially in the areas of education and of governance where religious, and especially Christian, bodies play significant institutional roles.

2.3 Unfair treatment in various areas of life

- Findings from the survey indicate a general reduction in the incidence of reported unfair treatment since 2001. This is especially so in the areas of criminal justice and employment. However, fieldwork research evidence points to continuing unfair treatment in relation to immigration controls.
- Evidence from interviews with research participants in the fieldwork suggests that where there is an awareness of them, legal changes have contributed to a sense of improvement among religion or belief groups in terms of their being consulted on a more inclusive basis in relation, especially, to public sector policies and practices. Examples of this include liaison between the police and religion or belief groups. At the same time, during the fieldwork, a number of concerns were expressed about both some of the concepts and also aspects of the implementation of Prevent initiatives that have been intended to counter violent extremism. In particular, this included both the apparent 'targeting' of Muslim groups as 'the problem' but also the amount of funding devoted to projects engaging with Muslims as compared with other religious groups.
- Education (and especially Religious Education) was identified as having become more inclusive of diversities of religion or belief (including humanist views). These developments were especially linked with the work of Standing Advisory Councils on Religious Education (SACREs), despite the fact that some SACREs still do not accommodate non-religious participants. However, Knowledge Exchange Workshop participants expressed concern that such gains could be undermined by policy developments around Academies and Free Schools in which Religious Education was not given an integral place.
- Participants in the fieldwork research reported that, overall, relations between different religious groups have improved since 2001. The survey results also show a reduction in reporting of unfair treatment from other religious groups since 2001. However levels of reported unfair treatment from other religious groups were substantial and religious organizations were more likely to identify other religious groups as being a source of unfair treatment compared to 'non-religious' groups.
- At the same time some political groups, including right wing groups, were frequently cited by religious organizations in both the survey and the fieldwork as a source of hostility and insecurity.

2.4 Similar reported patterns of unfair treatment (2001-2011)

- Education, employment and the media remain key areas of people's lives in which they continue to report experience of unfair treatment. Although there has been an overall reduction in the reported experience of unfair treatment in education and employment, evidence relating to the media suggests considerable continuity. However, as in 2001, experience of unfair treatment is more strongly identified with national rather than local media. But the fieldwork findings suggest that the 'new media' is seen as bringing both benefits and new types of unfair treatment.
- As in 2001, more experience of unfair treatment was reported in relation to employment in the private sector than the public sector.

- Overall, even where there have been positive policy developments in organizations, there remain issues of consistency in translating policy into practice. Individual prejudicial attitudes can still create impacts that go beyond the individual, both internally within organisations and in their delivery of goods and services.
- There is continuing complexity around the intersections between religion or belief and ethnicity in relation to claims of unfair treatment, with evidence that ‘visible’ religion or belief minorities continue to experience patterns of unfair treatment through a combination of factors that can also involve gender and/or sexual orientation as well as ethnicity.

2.5 New forms of reported unfair treatment

- New forms of unfair treatment are being reported – particularly, but not only, by Christians. For example, both the project’s survey and fieldwork research evidence point to a greater reported incidence of Christian employees concerned about employer policies and practices in relation to Sunday working.
- A number of Christian respondents also articulated a sense of the marginalization of Christianity compared to its historic position in society and spoke of what they felt was a now comparatively fairer, even preferential treatment of other religion or belief groups compared to Christians.
- At the same time, the project’s focus groups highlighted the degree to which ‘non-religious’ people feel that Christianity and religion in general is privileged in ways that are structurally embedded in the society and can result in unfair treatment for others, especially in education and governance.
- In both the fieldwork and survey evidence it was clear that people from a number of other religious groups (including especially, but not only Sikhs) were being misidentified as Muslims and thus becoming the target for unfair treatment and a particular hostility that was clearly intended to be directed towards Islam and Muslims. This highlights not only the unfair treatment Muslims have been encountering but also how this can affect other groups.

3. Understanding Unfair Treatment: An Analytical Spectrum

3.1 Introducing the analytical spectrum of unfair treatment

- Through the comparisons that it has been able to draw over a period of ten years the project has collected unique and valuable evidence. In addition we have created an analytical spectrum to aid a properly nuanced understanding of unfair treatment on the basis of religion or belief. It is also hoped that this can act as a 'bridge' between the descriptive findings of our research project; the identification of possible measures for tackling such unfair treatment; and our evaluation of the implications of our findings in terms of identifying signposts for future law, policy and practice.
- The analytical spectrum provides a practical tool that can inform those who hold responsibility for the internal life and external service provision of organizations (including religious organizations) in the decisions that they make concerning how, in their sphere of responsibility, to tackle unfair treatment on the basis of religion or belief. For civil servants and politicians the way in which the spectrum distinguishes between different kinds of unfair treatment can inform a both more grounded and more nuanced approach to developing appropriate legal, social and policy instruments.
- In the approach of our analytical spectrum 'religion or belief discrimination' is perhaps best understood as shorthand terminology for 'discrimination on the basis of religion or belief'. It describes those attitudes, actions, circumstances and dynamics in which, in relation to factors concerned with religion or belief, an individual or group is treated less favourably than another individual or group either of a different religion or belief, or of no religion or belief.
- As explained in the report of the 2000 research, "*The questionnaire deliberately referred to 'unfair treatment' in order to be as inclusive as possible and to capture any sort of grievance*"³ and both the 2000 and 2011 research framed data collection with reference to this broader concept. Implicit in the notion of 'unfair treatment' is the opposite notion of 'fairness'. Although the research's formal title refers to 'equality', the 2011 research conceptualizes this not in terms of an abstract position of mathematical equality, but by referring to the perhaps more modest and achievable aim of 'equity'.
- The analytical spectrum was originally developed during the 2000 research, but it has been further developed and modified in the light of the findings of the 2011 research. There are seven dimensions to the spectrum as outlined below:

i **'Religion or belief naivety'**

A lack of basic religion or belief literacy that sometimes leads to actions that can be seen as and/or result in unfair treatment. It may not have any apparent directly negative impact on the lives of individuals or groups other than (the effects of which should not itself be underestimated) perpetuating a status quo where not enough is known about these religions.

We have adopted the terminology of 'religion or belief naivety' in preference to that of 'religion or belief ignorance' because what is identified here is not a more settled state of 'ignorance' in relation to which some individuals/ organizations do not wish to be challenged or to change their attitudes or behaviour, or policies and practices. Rather, 'religion or belief naivety' can also encompass the effects that occur even where there is an intention to be inclusive.

Thus the key aspect of 'religion or belief naivety' is to be seen not in the intentions of those whose actions might be characterized in this way, but rather in the effects that this naivety can have on others. Some of these effects can be similar to those of 'religion or belief prejudice'.

ii **'Religion or belief prejudice'**

This involves the stereotyping of particular religion or belief groups through attitudes that can wound or hurt individuals and form a basis for exclusionary unfair treatment, harassment or victimisation.

While this shares some of the features of 'religion or belief naivety', it has become a more settled/entrenched attitude of mind, emotion and will and involves at least some stereotyping of the religion or belief 'other' often, but not always, associated with a negative evaluation of them.

As something fundamentally attitudinal, 'religion or belief prejudice' may not necessarily result in unfair or discriminatory actions. But, as with attitudinal prejudice related to other 'protected characteristics' of people's identity, prejudice on the grounds of religion or belief can translate into behaviours that clearly constitute direct discrimination. Thus while 'religion and belief prejudice' may, like 'religion or belief naivety' involve a lack of information, it also entails the presence of misinformation that is demeaning, that inferiorizes the religion or belief 'other' and that sets up barriers.

In principle, 'religion or belief prejudice' can be found in relation to all religion or belief groups, including that which is generated within, and applied from, one group to another. It is often, but not always, rooted in the historical inheritance of conflictual relationships that have developed over many centuries involving the overlap of religion, belief, politics and warfare. When 'religion or belief' prejudice informs actions that, for their recipients can start to become intimidatory, it begins to shade over into 'religion or belief' hatred.

iii **'Religion or belief hatred'**

This can occur when prejudice intensifies into a settled attitude of mind, emotion and will that can spill over into intimidatory and/or violent behaviour towards the religion or belief 'other'. In other words, it is related to the legally recognized offence of harassment on the grounds of religion. This can be very serious, threatening and destabilising in its consequences for individuals and groups. In its more severe forms it can have a specific meaning within legal frameworks as defined by the *Racial and Religious Hatred Act, 2006*.

The historical roots of some of 'religion or belief' hatred can be located in aspects of the historical relationships between religion, power and law. At one extreme, this can feed into the kind of active persecution of 'the other' on grounds of religion or belief that is manifested in political projects of 'religious cleansing'. But in much less dramatic and destructive ways, other forms of the relationship between religion or belief, power and law can lead to a reduction of the social space available to the religion or belief 'other', as in the phenomenon of 'religion or belief disadvantage'.

iv **'Religion and belief disadvantage'**

This occurs when a particular group or groups of people considered in relation to their religion or belief do not have the same rights of presence and access available to another tradition within their religion, another religion or belief group or groups. This is a more structural instance of unfair treatment that affects groups and organizations as much as individuals.

In this it differs from the more individual forms of unfair treatment, although the way it operates may also be associated with aspects, for example, of 'religion or belief prejudice'. However, even if it is not informed by such prejudice, it is very real in its structural effects. In at least some measure, such 'religion or belief disadvantage' can be experienced by all minority religion or belief groups in relation to the relative position (and sometimes privileges) of majority groups.

Such disadvantage can occur as a result either of historical factors and/or from specific constitutional, legal and social relationships that underpin a number of privileged alignments between a particular religion or belief group or groups, the state, the law and various social institutions. It can, to some extent, be understood by analogy with socio-economic disadvantage in relation to access to employment, housing, education and other similar factors.

v **'Religion or belief direct discrimination'**

This involves the deliberate exclusion of individuals from opportunities or services. This aspect of the analytical spectrum overlaps with the legally defined meaning of 'direct discrimination' which, in England, Wales and Scotland is set out by the Equality and Human Rights Commission (EHRC) as being: "*the less favourable treatment because of a person's protected characteristic.*"⁴ As we have outlined this might also include: age, disability, gender reassignment, pregnancy and maternity, race, gender or sexual orientation.

vi **‘Religion or belief indirect discrimination’**

Alongside ‘religion or belief direct discrimination’, unintended and indirect discrimination can extend beyond individual instances affecting single persons to impact upon the experience and opportunities of whole groups. It can therefore be at least as significant, and perhaps even more so in its effects, than ‘religion or belief direct discrimination’.

‘Religion or belief indirect discrimination’ occurs where effects of historical decisions, contemporary structures or patterns of behaviour have not been reconsidered in the light of current religion or belief plurality and results in unintentional discrimination. The EHRC describes this as: *"when a provision, criterion or practice is applied in a way that creates disproportionate disadvantage for a person with a protected characteristic as compared to those who do not share that characteristic, and is not a proportionate means of achieving a legitimate aim."*⁵

Such discrimination can therefore be understood in terms of the exclusionary effects of historical decisions, contemporary structures or patterns of behaviour and organization that may not be informed by attitudes of ‘religion or belief prejudice’, although they may be related to aspects of ‘religion or belief disadvantage’. Where such historic patterns have not been explicitly reconsidered in the light of the implications of contemporary religious plurality, they can unintentionally result in discrimination against people of various religion or belief groups. Examples of this can include culturally exclusive requirements and provisions in terms of diet, clothing, religious festivals and a range of other matters.

vii **‘Religion or belief institutional discrimination’**

This can develop when unfair treatment becomes endemic and structurally embedded in organizations leading to a collective failure to provide equitable treatment.

Because this is a form of unfair treatment on the grounds of religion or belief that is structurally embedded, its key characteristic is that it can include many of the other aspects of our analytical spectrum.

We now turn to considering how the analytical spectrum can be used to aid our thinking and approach to tackling unfair treatment on the basis of religion or belief including that which occurs between religion and belief groups and in relation to other ‘protected characteristics’ of people’s identities.

4 Solutions: Tackling Unfair Treatment on Grounds of Religion or Belief

4.1 Using the analytical spectrum to understand and tackle unfair treatment

- The spectrum applies generically across the reported experience of all religion or belief groups. It can also integrate with an understanding of society and an approach to policy, law and practice which recognizes that this unfair treatment can be experienced by all parts of what we articulate as a ‘three dimensional’ policy context with its Christian, secular and religiously plural dimensions.
- At the same time, the flexibility of the spectrum allows for the recognition that, in specific circumstances, different parts of the spectrum may be more relevant to the experience of one or other part of the ‘three dimensional’ policy context and/or specific sub-groups within this. Because of this, when taking forward such measures in detail, the development of specific measures to tackle unfair treatment will need careful calibration with the policy context; with the kind of unfair treatment being reported; and with the religion or belief identity of those experiencing it. For this Policy Brief we give some preliminary indications of what this might entail.
- Initially we examine the views of research participants on specific measures for tackling unfair treatment from both the survey of religious organizations and the fieldwork with religious and non-religious groups and individuals across five locales. In the concluding section we go on to present the broader framework that we commend for applying to consideration of all specific future initiatives in law, policy and practice that have a bearing upon religion and belief, discrimination and equality.

4.2 Tackling unfair treatment: research participant and respondent views

In both the 2000 and 2011 research, questionnaire respondents and fieldwork participants were asked about the most appropriate ways of tackling unfair treatment. As the table shows, across the decade there is consistent support for education and training based policy measures to combat unfair treatment on the basis of religion.

Table 1: Measures to combat unfair treatment on the basis of religion	Survey 2000		Survey 2011	
	Responses	%	Responses	%
Measures (Respondents were asked to tick up to three)				
Other	24	1%	11	1%
Take no new action	27	2%	26	2%
Changes in the law/introduce new law	152	9%	79	6%
Voluntary codes of practice	190	11%	99	8%
Policy reviews in each service area to promote equal treatment	254	15%	182	15%
Better training of staff	318	19%	263	21%
Public education programmes	359	21%	280	23%
More teaching of comparative religion in schools	370	22%	297	24%
TOTAL	1694	100%	1237	100%

- Strong support for educational measures, including inter-faith initiatives was also identified by participants in the fieldwork interviews as well as from the focus groups with people who saw themselves as ‘non-religious’.
- As in 2000 there is limited appetite among survey respondents in general for further new laws or for changes to existing law. Also, as among fieldwork participants, school education and public education remained the preferred ways to tackle unfair treatment on the basis of religion or belief, and in the fieldwork research (including by some ‘non-religious’ participants in the focus groups) inter-faith initiatives were seen as important.

We now consider in more detail the different aspects of the preferred measures to do with education, the law and inter-faith relations

4.3 Public education and increasing the awareness of law

“Legislation is never going to change people’s attitudes, that has to come from somewhere else in them, it is a question of awareness and provision of knowledge of course. If they actually know what something is then they are no longer afraid of it, or no longer feel as if they have to attack something.” (Male, Bahá’í fieldwork participant)

- 4.3.1 Respondents strongly supported the role of formal education and in-house training in tackling unfair treatment. In the fieldwork participants noted that much had already been achieved in this regard such as that Religious Education syllabi were more inclusive, including information about most religions as well as non-religious perspectives.
- 4.3.2 Participants in the fieldwork recommended that, in the future, the educative approaches already begun needed to be enhanced and rolled out more consistently across the country, including in rural areas.
- 4.3.3 Linking back to the spectrum of unfair treatment it is clear that measures of this kind are particularly appropriate for tackling ‘religion or belief naïveity’ but can also play a part in addressing other kinds of unfair treatment.
- 4.3.4 In relation to broader public education, opportunities can be created to take a more developmental approach using participative adult education methodologies. Such approaches can take full account of the complex identities (often including several of the ‘protected characteristics’) and integrity of those who freely agree to participate in the learning process. Within such approaches, ‘safe spaces’ can be created to facilitate the kind of dialogical and transformational learning that enables engagement with sensitive issues on the basis of mutual respect among participants.
- 4.3.5 At the same time, while generally being aware that discrimination is illegal, religion and belief groups in the fieldwork completed in 2011 were themselves not always aware of what constitutes discrimination under existing law, nor of the procedures for reporting it. This suggests the need for further public education and development of awareness also about the laws themselves, including among the law’s intended beneficiaries, while recognizing that the interpretation and application of these new laws is still being established.
- 4.3.6 An area of difficulty in understanding, interpreting and applying existing laws concerns the dividing line between criticism robustly or sharply expressed and the expression of ‘religion and belief hatred’ through the use of ‘hate speech’. For reducing unfair treatment of this kind, part of the solution includes better clarification to the general public about what ‘hate crime’ consists of, along with the creation of increased awareness of the frameworks within which such unfair treatment can be reported.

More broadly, training which increases understanding and awareness of equality and human rights law is likely also to form part of any successful strategy to try to address the phenomenon of ‘religion or belief institutional discrimination’ which, according to our analytical spectrum, can develop when unfair treatment becomes endemic and structurally embedded in organizations leading to a collective failure to provide equitable treatment.

While legal and perhaps internal disciplinary measures may also be needed to tackle such institutional discrimination, from the parallel experience of institutional racism identified in the MacPherson report⁶ into the Metropolitan Police, it is likely that in-house education and training will need to play a substantial role.

4.4 Role of the law

“Education and awareness is a way of possibly starting to redress the issue, but certainly will not eliminate it, in fact nothing will eliminate it but at least there has to be some recourse in law to give some protection. At least the community will feel confident that it is there, if everything fails legislation is there.” (Male, Muslim fieldwork participant)

- 4.4.1 The survey completed in 2011 also collected the views of respondents on the impact of new equality and human rights legislation introduced since the 1999-2001 research in reducing unfair treatment in relation to religion or belief. Overall, the 2011 research evidence has shown that new laws have not been a panacea in terms of eliminating reported experience of unfair treatment on the basis of religion. At the same time, the fact that discrimination is illegal and gives individuals opportunity to seek recourse in law has acted as a stimulus to quite widespread changes in policy and to some change in practice. Only a small proportion (between 9% and 15%) of respondents thought the new equality and human rights laws were unhelpful though around a quarter of all respondents from religious organizations indicated that, for their religion in general, these laws have been 'neither helpful nor unhelpful'.
- 4.4.2 Respondents were also asked about the impact of equality laws and policies across the eight 'protected characteristics', and specifically in terms of the helpfulness to how their own religious organization works. Respondents viewing equality laws for protected characteristics as 'unhelpful' ranged from: 3% in relation to 'age' and up to 26% in relation to 'marriage or civil partnership'.
- 4.4.3 The project's questionnaire survey also included a question about the extent to which religious organizations should be exempt from equalities legislation, which a majority favour on matters of gender, sexual orientation and religion or belief, especially (but not only) when concerned with religious organizations themselves. The survey evidence also points to some strongly divided opinions among religious organizations on marriage/civil partnership and sexual orientation exemptions, as well as to some support for exemptions from equalities legislation in relation to age and disability. This highlights one of the tensions in the current equality legislation which accords religious organizations some specific exemptions of a kind not accorded to other kinds of organizations or areas of life.
- 4.4.4 'Religion or belief direct discrimination', 'religion or belief indirect discrimination' and 'religion or belief hatred' all overlap with legal understandings of discrimination and related legal mechanisms. So, although dialogue, training and education continue to be important in reducing societal inequalities, the law (and its interpretation and application) will remain important.

4.5 Inter-faith and inter-community dialogue

"The first process is learning about the different faiths and learning, and from learning you get understanding, and from that understanding you can actually respond to the needs of the different faith communities and by that you will actually make better community cohesion.... creating dialogue, it is always the best starting place to create better community cohesion." (Young, male Sikh voluntary sector worker)

- 4.5.1 The final grouping of measures identified (by fieldwork participants) for tackling unfair treatment emerged strongly out of the fieldwork completed in 2011. It revolves around support for inter-faith and inter-community dialogue activities and the sense that, in some cases, 'religion or belief prejudice' like 'religion or belief naivety' may be resolvable through dialogue as well as through education.
- 4.5.2 In relation to more structural issues, it is possible that more institutional forms of inter-religious and inter-community dialogue can make a contribution towards moving away from 'religion or belief disadvantage'.
- 4.5.3 However, as noted by the respondents to, and participants in our research, even mechanisms for dialogue themselves can reproduce aspects of 'religion or belief disadvantage'. Thus examples exist of well-established bodies for inter-religious dialogue such as the Inter Faith Network for the UK⁷ that have been able to facilitate real engagement, both between religious organizations and institutions themselves, and also with Government departments and agencies. Yet at the same time, there are those (and especially Pagans) who express concern that their organizations are not able fully to participate in such organizations on the same basis as those from other religions.

On a European level, there has been the recent development of an embryonic initiative called ENORB (European Network on Religion or Belief).⁸ Its approach already goes beyond that of the Inter Faith Network for the UK due to its explicit aim to include not only with religious organizations, but also with those of with a non-religious philosophical and ethical orientation.

4.6 Reflection on emerging challenges in education, law and dialogue

- Our research suggests that as priority measures for tackling unfair treatment on the grounds of religion or belief, training and education must also include clarification and discussion of the new laws and the challenges and complexities to which they have given rise. This is especially so with regard to the kind of contestations which have emerged around the intersectionalities within people's everyday lives and experiences and other (sometimes conflictual) relationships between the different 'protected characteristics,' and particularly in the relationships between religion or belief, gender and sexual orientation.
- Domestic and international jurisprudence reflect wider and still ongoing debates about how best to achieve the law's objective to prohibit discrimination and support equality for all in ways that do not disadvantage people whose identity may be more closely related to one or more of the 'protected characteristics' relative to those whose identity may be more closely related to a different 'protected characteristic'.
- Fieldwork participants often cited specific high profile legal cases as being indicative of wider social trends. Emblematic of this contestability and complexity have been the high profile legal cases of what eventually became *Eweida and Others (Chaplin, Ladele and McFarlane) v. the United Kingdom* which were heard in the European Court of Human Rights (ECtHR) in 2012 following a series of domestic tribunals and appeals, leading to a judgement in early 2013. The case of Eweida concerned the wearing of religious symbols at work, while those of Ladele and McFarlane concerned conscientious objections on religious grounds of an employee in relation to conducting civil partnership ceremonies.
- Legal judgements from the ECtHR, although important in providing standards for the interpretation and application of European law are unlikely of themselves finally to resolve these issues. It is also unlikely that they can be resolved by other policy instruments alone unless at least accompanied by training and educational measures. These can, in principle, engage individuals and promote change in ways that law and social policy instruments usually cannot achieve on their own. This is especially the case in the context of a broadly democratic social and political framework as distinct from one that seeks to inform policy and law without regard to public consent. Following these cases, the UK's EHRC has issued helpful guidance on understanding these judgements and their implications for employers, which are intended to provide better guidelines in the uncertainties around the tensions and clashes that have emerged and continue in mediating between various 'protected characteristics'.⁹

4.7 Religion or belief other and 'protected characteristics'

- Training, public and school education and inter-faith/inter-community dialogue measures for tackling unfair treatment on the grounds of religion or belief need to take account of the wider equality framework and overlapping aspects of identity. Since religion and belief organizations themselves form a substantial part of the wider civil society and public life, one priority for broader than formal educational measures includes education within religion or belief groups and organizations.
- Findings from the survey suggest that respondents had at least an ambivalence and also some resistance to the law being seen as an appropriate instrument for enforcing equalities policies in relation to the internal life of religious groups and organizations. The findings also suggest some further differentiation within this in relation, in particular, to the 'protected characteristic' of sexual orientation. This therefore suggests that, when concerned with embedding the equality framework in society, within the overall broad public education measures there may be a special need for some specific work to take place within religious groups and organizations, and especially around the relationships between the equalities and human rights adhering to religion or belief itself, and the equalities and human rights that adhere to other 'protected characteristics'.
- The legal scholar Bob Hepple has argued that, "*there must be no hierarchy of equality. The same rule should be applied to all strands unless there is convincing justification for an exception. To a large extent, the Act achieves this aim.*"¹⁰ Therefore in relation to the internal life and organization of religion or belief groups, it could be said that the *Equality Act, 2010* only partially 'achieves its aim'. In specified and circumscribed ways, Parliament has determined that when the rights adhering to the 'protected characteristic' of religion or belief intersect with those relating to sexual orientation and gender, 'there is convincing justification for an exception' for religion or belief groups.

- Thus in advancing an ultimate social policy goal and equality principle the state is exercising a reticence in using the instrument of the equalities law to create the social change that might bring about greater equity. This is informed by a recognition of the limited autonomy within which, on the basis of their human right to manifest religious freedom, religious groups are allowed some scope to determine their own internal rules and practices. However, neither religion or belief groups nor groups constituted in other ways should be or are immune from the possibility of change. But especially where potentially competing beliefs and values are concerned, it is important to try to create safe educational and dialogical spaces within which (particularly) individuals can personally meet one another in the integrity of their complex identities.
- In the context of such structured opportunities, tried and tested adult education and diversity education pedagogies can facilitate a transformational learning that lead to change in attitudes in ways that can bring about social benefits. The creation of such opportunities is not easily achieved, nor can such learning be achieved through a 'quick fix' approach to the development of a religion and belief competence to overcome religion or belief naivety and prejudice. Rather, the secure development of religion or belief literacy for religious and non-religious groups in interaction with other equality and diversity learning¹¹ needs time and space, both of which are not easy in the context of economic crisis and downturn.
- However, concrete examples of this exist, such as the European Religious Diversity and Anti-Discrimination Training programme developed by Belieforama which has been developed with both religious and non-religious input. This has been used for adult training and education among both religious groups and (especially) in mixed religious and non-religious groups in which over 2,000 people have engaged. Belieforama demonstrates an approach to policy implementation that does not rely on the direct force of the law alone but can work with the impetus for social change generated by law and social policy; respond in ways that create opportunities for transformational learning; and in turn contribute to further policy development.¹²

5. Signposts for Future Law, Policy and Practice

5.1 Recent policy emphases: views of research respondents and participants

- The research completed in 2011 straddled a change in the UK governing political parties from over a decade of New Labour government to those of the current Conservative-Liberal Coalition and also the impact of the global economic crisis, the rolling back of the welfare state, public spending cuts and the politics of austerity.
- In the survey of religious organizations completed in 2011, respondents were asked about a range of government policy initiatives related to religion or belief and how helpful they felt them to be to the participation of people from religious groups in the wider British society. Among recent government policy emphases for assisting the participation in society of people and organizations of various religious groups, the emphases on 'citizenship', 'community cohesion' and 'multiculturalism' were seen as being the most helpful for creating a context in which unfair treatment on the grounds of religion or belief might be reduced. Relative to these, the idea of 'Britishness' was not seen as so helpful.
- In the fieldwork completed in 2011, participants noted how historic policy foci on race and ethnic relations had now been broadened to include also religion or belief. At the same time, a small number of fieldwork participants reported concerns about government funding going only to 'certain groups' and not others. However, on the whole, religious and non-religious participants in the fieldwork commented about the positive impacts of the broader initiatives in support of what participants referred to as 'cohesion', echoing key government language introduced following the 2001 disturbances in the former northern English mill towns.
- At the same time, as highlighted in contributions to the project's Knowledge Exchange Workshops, due to the current economic downturn, funding sources for specific work on religion or belief that had been invested in over recent years were now being cut and a number of community initiatives reported having had funds reduced or completely withdrawn. Many fieldwork interviewees also felt that they were unsure as to whether or not their work could be sustained. Together with economic imperatives a rationale for this was being articulated in terms of the 'mainstreaming' of these matters within broader equalities and human rights approaches. In the light of this, we turn now to what we believe it is important to take into account when shaping all policy, law and practice relevant to these areas.

5.2 'Three dimensional' policy-making: embedding a new approach

- *'Effective policy needs to be in part grounded in the experiences and perspectives of those who are affected by it'* (Weller et al. 2001). In order to move forward it is important to take account of the religion and belief context of England and Wales in Britain. By a 'three dimensional' approach we mean one that enables a connection to be made between the Christian, secular and religiously plural dimensions of the religion and belief landscape in which policy, law and practice seek to operate, and an approach to policy-making that is informed by these three dimensions taken together, each of which individually reflects and embodies important social forces.
- In tackling unfair treatment, as has been seen from what has been reported of the perspectives of research respondents and participants, rather than attempting to add to or change the law, the primary need now is to build on the impetus that law has given to recognising the impact of these issues in society including for religious groups themselves. And as has also been previously discussed, the way in which best to do this is by educational measures within the formal education system; in broad public education; and in training connected with specific roles and responsibilities within religion or belief groups themselves and in the wider society.
- That such initiatives should be inclusive of religion or belief groups themselves as well as of organizations, sectors and institutions in the wider society is an integral part of the argument presented for a 'three dimensional' policy approach.

- The ‘three dimensional’ policy approach that we advocate is also informed by the approach taken in our analytical spectrum which is designed to be equally applicable to understanding unfair treatment on the basis of religion or belief as experienced by religion or belief groups from the wider society; as perpetrated by religion or belief groups in relation to the wider society; and as experienced between and/or within religion or belief groups.

The three dimensions of the policy context are:

5.3 The ‘Christian dimension’

- 5.3.1 From evidence in the UK Census and other survey data it is clear that, in headline terms, the population in England and Wales and Britain can be described as ‘less Christian’ now than ten years ago. From our research, Christian voices appear increasingly to be identifying a sense of marginalization in comparison with their previous social position. Along with this, is a growing sense that people of other than Christian religious traditions might now be being perceived as being treated more fairly, in some cases extending to a quite sharp sense of unfair treatment, which is even occasionally articulated in the more active and extreme language of ‘persecution’.
- 5.3.2 At the same time, it is also important to understand that the reported experience and structural position of different Christian groups is internally differentiated. Catholic and Free Church Christians have been more removed from this kind of relationship with the state and until the late nineteenth century were, in many ways, excluded from full participation in the wider structures and institutions of society.
- 5.3.3 As the legal scholar St. John Robilliard argued in a succinct way: *“The early story of the struggle for religious liberty is one of sects establishing an identity of their own, with their members being freed from the obligation of supporting a faith they did not hold. From the struggle for existence we pass to the struggle for equality, in many important fields, with the Established Church.”*¹³
- 5.3.4 In relative terms this historic differentiation continues today, albeit that the development of ecumenical relations has taken on some features of a kind of ‘extended establishment’. Nevertheless similar experiences remain for those sectors of the Christian community associated with the ‘new church’ movement and with churches of migrant origin (and especially the development of predominantly black-led Churches among people of African and African-Caribbean heritage) all of which are important to bear in mind for a rounded assessment of the ‘Christian dimension’.
- 5.3.5 Not least because of the growth of these sectors of Christianity it is important not to overstate the argument in relation to the ‘less Christian’ context. This is because, even within a clear pattern of overall decline, in both absolute and proportionate terms the Census results show that it remains the case that both large numbers and a high proportion of the population of England and Wales continue to self-identify in some way with Christianity.
- 5.3.6 Moreover, Christianity continues to have a social presence and significance that goes beyond the actual numbers of those who identify with it. Especially in its established forms, it is still extensively woven into much of the fabric of the historical, artistic, cultural, legal and other aspects of the heritage of the UK and its constituent parts. An intimate relationship of this kind does not exist in the same or even a similar way between the public institutions and the culture of England and Wales and Britain and any other religion.

5.4 The ‘secular dimension’

- 5.4.1 In the nineteenth and during much of the twentieth century in England and Wales, the growth of what now forms the second dimension of the ‘three dimensional’ policy approach was more in evidence than the third dimension of increasing religious plurality. Indeed, for much of the twentieth century, the overall relationships between religion, state and society, and the experience of individuals and groups of people of religion or belief within that was usually articulated in binary terms as ‘Christian’ and ‘secular’.
- 5.4.2 Just as it is important not to underplay the continuing social significance of the ‘Christian dimension’ it is equally important not to underplay the historical and contemporary evidence for clear trends in

the growth of the 'secular' including in the place of explicitly 'non-religious' perspectives among the population. In this, the 2011 Census data that shows a substantial rise in England and Wales of the proportion of the population identifying (while recognising the difficulty of the terminology) as in some way 'non-religious' underlines the importance also of taking proper account of this dimension.¹⁴

5.4.3 As with data relating to Christian affiliation and practice, the numbers and proportions of those who explicitly self-identify as 'non-religious' in terms of particular ethical and philosophical positions (such as atheist, humanist and so on) are smaller than the numbers and percentages of those who take a more 'secular' view of the relationship between religion, state and society but do not have such specific positions that have been categorised in any detail, and may also include people with broadly religious, spiritual and/or ethical perspectives.

5.4.4 In addition, the 11 September 2001 attacks in the USA and 7 July 2005 bombings in the UK have led to the development of public anxieties and concerns about the perceived influence of religious 'extremism' associated with these atrocities.

5.5 The 'religion or belief diversity dimension'

5.5.1 The latter decades of the twentieth century in Britain have also seen the emergence of an important 'third dimension' of the religion and belief landscape that is important to understand both in its own right, and for the way it will modify previous 'two dimensional' assumptions concerning policy, law and practice.

5.5.2 People from within minority religious traditions have become a growing proportion of the population of England and Wales following the migrations of the post-Second World War period. In its impact on wider public life, the process has been gradual, but has accelerated in the last two to three decades.

5.5.3 In the UK, in contrast to some other European countries, this was facilitated by the majority of those in minority religious groups having been also citizens of the UK and therefore having a legal and material position from which they could seek an appropriately equitable position in society.

5.5.4 During the 1970s and early 1980s the majority of social scientists, policy makers and politicians paid comparatively limited attention to the religious characteristics of migrants, and the politics of identity and diversity were cast primarily in terms of 'race' and 'ethnicity', although with prescient insight, in 1977 the Church of England Bishop, John Taylor argued that, "*The existence of religious minorities presents us with both problems and opportunities which are distinct from those that arise in the presence of racial and cultural minorities, and should not be lost sight of or evaded.*"¹⁴

5.5.5 Applying to contemporary religious minorities what St. Robilliard said about the Free Church groups in English history, in the 1960s and early 1970s, the early part of the "*struggle for existence*" of predominantly migrant groups necessarily focused on their need to meet the basic needs of finding a place to live and work in order to be able to send financial remittances in support of families back home. In due course, the "*struggle for existence*" developed on the basis of establishing a religious identity of their own, which then started to become a "*struggle for equality*".

To fail to take sufficient account of one or the other of the 'three dimensions' that we advocate as being important for balanced policy-making is likely to lead to the pursuit of policies, laws and practices that will fail to connect with a broad enough base in society to secure the kind of consent that, in a democratic polity, is necessary for policy, law and practice to be constructive in their effects. In contrast, the absence of such consent could at the least compromise the intended aims of policy, law and practice, while at the worst it might even create potentially destructive although unintended outcomes.

5.6 Ways forward: signposts for the future

- In summary, with reference both to the context and the content of the research evidence, it is important to develop not only specific policy instruments designed to tackle unfair treatment and discrimination on the grounds of religion or belief but also to identify a more general frame of reference for policy in relation to which specifically proposed measures can be evaluated. In other words, this frame of reference is offered so that those with responsibility for policy development at all levels and in all sectors of society can

conduct policy-making and evaluate the appropriateness of individual initiatives towards a fairer and more inclusive society using an approach that is capable of mediating between continuity and change because it can effectively engage with both the religious and non-religious parts of society.

- A 'three dimensional' policy approach can facilitate this, when combined with educational and dialogue measures for tackling unfair treatment on the basis of religion or belief. The emergence of the 'three dimensional' religion and belief policy context means that the calls and initiatives among Christian conservatives for Christianity to remain as central as it once was to policy, law and practice are, in practice, unlikely to be effective.
- Such calls do not take account of the realities of a growing 'non-religious' and 'secular' dimension, or of the increasing religious plurality in England and Wales. In seeking to turn back the clock, those advocating such an approach may, in fact, run the risk of exacerbating tensions and conflicts between religion and belief groups and between the religious and the non-religious, ironically to the possible further religion or belief disadvantage also of Christians.
- But it also means that strident campaigns to force through secular (and often at least perceived by some religious people as ideologically 'secularist') measures to be given priority relative to the religious components of the identity of individuals and groups are unlikely to find a broad enough acceptance in the population. This is because of both the numbers of those who continue in some way to identify with a religion and because of the significance of religion for many of those, and especially so among some of the minority religious traditions.
- By contrast, an understanding of the 'secular' that could command broad consent and be of importance in any 'three dimensional' policy framework for the future, would be one in which no single religion; nor religion in general; nor what might be termed an ideological 'secularism' (in which religion is excluded or marginalized from public life) is privileged. Rather, it would be one that is focused on achieving a socially and politically agreed set of institutional arrangements that can facilitate and command the most inclusive consent and participation possible from across the diversity of society.
- In addition, from the perspective of religion and belief plurality, any attempt mathematically to try in an abstract way to 'equalize' all religious traditions in the public sphere will run into the different historical and social position of Christianity, while attempts to form a 'united front' of religions against the secular will more likely flounder given that the emergence of inter-faith co-operation, though significant, remains relatively fragile compared to the socially embedded Christian tradition.
- As expressive of democratic responsibility and accountability there remains a key role for governments to develop policy, law and practice in a way that achieves input and consent from those governed. In this connection, we believe that the 'analytical spectrum of unfair treatment' and the 'three dimensional' approach to policy-making we have identified are of both theoretical importance and practical use.
- The rights for all (religious and non-religious) to question and to live according to one's freely chosen conscience rather as a requirement embodied in law and/or social convention did not come about without historic struggles and these represent important social gains. Thus when considering discrimination on the grounds of religion or belief as well as the possible measures for tackling it and for promoting equality, that policy, law and practice a balanced concern for the rights of atheists, humanists and agnostics as well as for those of religious believers and practitioners of various kinds remains vital.
- Pragmatically, too, if Christians, people of other religious traditions and the 'non-religious' wish to have their concerns and perspectives taken seriously as part of an agenda to create a fully inclusive plural society, then the importance of understanding and tackling discrimination and unfair treatment on the grounds of religion or belief wherever it appears and by whoever it is committed is a foundational principle for equality and equitable practice.
- These principles are particularly important in an era of economic crisis and growing competition for resources when fear of religious, ethnic and other groups can all too easily be generated, either from within or outside of these groups in order to set them competitively against each other. The generation of such fears can have potentially disastrous consequences for inter-community, inter-religious and inter-cultural relations of the kind that have developed in the wider international context and which have also impacted on relations between various religion or belief groups, with consequences both for and from foreign policy, and within Britain itself.

- It is therefore as a contribution towards the realization of these principles in the future development of policy, law and practice in this area in Britain that the research, analyses and recommendations of our research of this Policy Brief are offered. Through the comparisons that it has been able to draw from a period of ten years, our research completed in 2011 has arrived at unique evidence. It is our conviction that the evidence and analysis that we have presented here provides the kind of insight on which policy-makers and practitioners and the wider religious and non-religious population can draw for the next decade and beyond.

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Appendix: Research Objectives

Uniquely, the project has been able to compare and analyse results from research questions asked both a decade ago and now. These included:

- to assess the evidence of religious discrimination in England and Wales, both actual and perceived;
- to describe the patterns shown by this evidence, including: its overall scale, its main victims, its main perpetrators, and the main ways in which the discrimination manifests;
- to indicate the extent to which religious discrimination overlaps with racial discrimination; and
- to identify the broad range of policy options available for dealing with religious discrimination.

The project also asked about the extent to which reported experience of unfair treatment might have changed, including groups most affected. By focusing on reported unfair treatment it gathered evidence of a wider kind than only legally determined instances of religion or belief discrimination. The project has also kept in mind the policy changes over the decade in the light of events such as the 7 July 2005 bombings, and the introduction of new laws relating to religion and belief.

The project considered the implications of the evidence gathered for the further development of theory, policy and practice with regard to issues of discrimination and equality measures that are concerned with religion or belief. Finally, it considered awareness and use of the law, including the extent to which provision for religious 'exemptions' from equalities legislation might have contributed to unfair treatment among both religion and belief groups and/or in relation to other groups and aspects of identity such as gender, ethnicity and sexual orientation.



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