



All Party Parliamentary Pro-Life Group

A Report into **Freedom of Conscience in Abortion Provision**

July 2016

A full copy of this report can be accessed at: www.conscienceinquiry.uk

For Inquiry submissions, please contact the [Office of Fiona Bruce MP](#).

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'...no person shall be under any duty, whether by contract or by any statutory or other legal requirement, to participate in any treatment authorised by this Act to which he has a conscientious objection:

Provided that in any legal proceedings the burden of proof of conscientious objection shall rest on the person claiming to rely on it.'

Abortion Act 1967; Section 4 (1) (The Conscience Clause)



All Party Parliamentary Pro-Life Group

Inquiry Members:

Fiona Bruce MP, Chair

Lord David Alton of Liverpool

Maria Caulfield MP

Mary Glendon MP

Rob Ffello MP

Laurence Robertson MP

Jim Shannon MP

Derek Thomas MP

Aim of the All Party Parliamentary Group:

'To provide a forum for discussion of pro-life issues including abortion, euthanasia, and research upon the human embryo.'

Acknowledgements:

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Executive Summary

Concern regarding the practical application of freedom of conscience in abortion provision in the *Abortion Act 1967* has become increasingly prevalent in recent years. This Inquiry, run by the All Party Parliamentary Pro-Life Group (the APPG), therefore seeks to address this issue and issued a call for written evidence which was open for four weeks, from 14th June to 11th July. An Oral Evidence Session was held in Parliament with three witnesses, and a number of separate interviews were also conducted. In total, 150 witnesses contributed to the Inquiry, of whom nearly a third were current or former healthcare professionals or healthcare bodies.

The APPG acknowledges that legislatures, healthcare professionals, academics and individuals from across UK society hold differing views on the morality of abortion. However all the witnesses who submitted evidence to the Inquiry – whatever their wide-ranging perspectives on this subject – were united around the importance of conscience as a key part of what it means to live as a free and fulfilled individual in a diverse and democratic society. For the healthcare professional (as for many others), the question is about how one balances freedom of conscience on an issue such as abortion with the professional duty of healthcare bodies to provide access to abortion services for patients under the circumstances provided for by the Abortion Act?

The APPG takes the view that conscience is crucial in any relationship between a doctor and her patient, preventing the doctor from becoming simply a state agent with the consequent abuse that can result, albeit generally in worse contexts. The APPG therefore believes it is vital not only to allow, but also to accommodate and encourage moral and ethical thinking amongst healthcare professionals.

The APPG heard many examples of good practice relating to conscientious objection in abortion provision. However, the APPG also heard a substantial body of evidence which suggests that there is increasing pressure on healthcare practitioners with such a conscientious objection to participate in abortions, both directly and indirectly, regardless of their moral and ethical views. In particular, the APPG heard of increasing legal and professional pressure to refer patients, inadequate training at medical schools on the subject of conscientious objection, and limited career progression opportunities, both real and perceived, particularly in the field of Obstetrics and Gynaecology. Evidence received by the APPG indicated that fair and proper application of the Conscience Clause depends too much upon the attitude and discretion of healthworkers' individual managers or teaching staff. Evidence from the British Medical Association to the Inquiry confirms that *'some doctors have complained of being harassed and discriminated against because of their conscientious objection to abortion.'*¹

The APPG therefore concludes that the current variable application of the Conscience Clause does not provide the full, legally-required protection for healthcare professionals which was Parliament's intention when it passed this legislation in 1967. This report therefore makes several practical recommendations to strengthen provision of the protection which Parliament intended for healthcare professionals with a conscientious objection to abortion.

This Inquiry also recommends the concept of 'Reasonable Accommodation' is incorporated into legislation in this country; and that this would provide a way to ensure that healthcare professionals with a conscientious objection to abortion can be fully engaged in their chosen professional sphere, while still ensuring that this does not prevent women from accessing abortion services in accordance with the provisions of the *Abortion Act 1967*.

¹ British Medical Association, Written Evidence

Recommendations

Recommendation 1: A cross-party Parliamentary Commission consisting of MPs with differing views on pro-life issues should be established to bring together lawyers, academics, campaigners and practitioners from different fields to examine the role of conscience in the context of 'British Values' and any new 'British Bill of Rights'.

Recommendation 2: The Government should commission a full review into the training given to students in ethical and moral matters relating to medicine, with special attention given to ensuring that all students are given full information without pressure about their right to conscientiously object.

Recommendation 3: The General Medical Council should maintain their current guidelines regarding referrals, thereby ensuring that no doctor who has a conscientious objection to abortion should be required to refer a patient to another practitioner.

Recommendation 4: All professional healthcare bodies should adopt the wording of the current GMC guidelines to help facilitate consistency, thereby ensuring that no healthcare professional who has a conscientious objection to abortion is required to refer a patient to another practitioner.

Recommendation 5: The Royal College of Obstetricians and Gynaecologists is requested to publish a statement in response to this Inquiry to clarify their view on career progression for healthcare professionals who conscientiously object to abortion.

Recommendation 6: Government and NHS governing bodies should ensure that an appropriate appeal system for those who believe they have been discriminated against because of their conscientious objection is set up.

Recommendation 7: Medical guidelines such as those published by the General Medical Council should offer guidance to managers and other healthcare professionals who do not have a conscientious objection to any medical procedure, stating how those with a conscientious objection to a procedure should be fairly and respectfully treated. Guidelines should also propose solutions for how employers can effectively accommodate practitioners with a conscientious objection.

Recommendation 8: The Government should consider the feasibility of extending conscientious objection to indirect participation in abortion by authorising trials in several hospital departments and clinics across the country.

Recommendation 9: That consideration be given to the introduction of the principle of 'Reasonable Accommodation' into legislation in this country, in the form of an amendment to the Equality Act 2010.

Scope and Methodology

1. This Inquiry, run by the All Party Parliamentary Pro-Life Group, considers how Section 4 of the Abortion Act 1967 is applied in practice and whether it still provides the protection intended by Parliament: that healthcare professionals with a conscientious objection to abortion should be able to opt-out of participation in the abortion process without fear of censure or unfair treatment. A call for written evidence was issued, which was open for four weeks, from 14th June to 11th July. An Oral Evidence Session was held in Parliament with three witnesses. A number of separate interviews were also conducted. In total, 150 witnesses contributed to the Inquiry, of whom nearly a third were current or former healthcare professionals or healthcare bodies.
2. The APPG accepts that there is a substantial difference in how people view the morality of abortion. Pro-life campaigners hold that, as a new and unique human being comes into existence at fertilisation, abortion is the taking of another human life and is therefore morally wrong. Pro-choice campaigners argue *'Women, like all other people, have a right to exclusive decision-making capacity regarding the use of their bodies.'*² In between these two stances lie a variety of moral and philosophical positions about when it is morally acceptable to provide an abortion: some pro-life campaigners may hold that in the exceptional circumstances of rape or incest an abortion may be permissible while some pro-choice advocates will believe women should not have the right to abort her pregnancy because the unborn child is a girl.
3. The APPG submits that regardless of one's view on the substantive issue of abortion, the extent to which freedom of conscience is allowed in healthcare, and indeed in wider employment, is a key question with which any pluralistic, democratic society must contend. While this Inquiry is limited in scope to an examination of current protection for healthcare professionals with a conscientious objection to abortion, it takes place within a much wider context to which insufficient Parliamentary time and thought is currently devoted.
4. This report will begin by placing the specific question of conscientious objection to abortion within the wider context of freedom of conscience in healthcare. It will then examine the current law surrounding conscience, and then examine evidence submitted to the Inquiry about the situation on the ground. The report will end by exploring possible ways forward to strengthen and support freedom of conscience in the UK.

² Shahvisi, Oral Evidence

The Role of Conscience in Healthcare

The Importance of Conscience

5. All the witnesses who submitted evidence to this Inquiry stressed the importance of conscience, regardless of their beliefs on the substantive issue of abortion. Dr Arianne Shahvisi, lecturer in Medical Ethics and Humanities for the Medical School at the University of Sussex and a pro-choice advocate, said *'a person's very serious conscience cannot be fobbed off'* and further that *'moral views will lead to moral distress if their holder is made to facilitate something which she believes to be deeply wrong'*.³ She compared her own strong convictions on issues such as racism and ethical buying to the strength of conviction which may be felt by a pro-life advocate, demonstrating how conscience affects all areas of life.
6. Similarly Professor John Wyatt, Emeritus Professor of Neonatal Paediatrics at University College London, emphasised in his written evidence the wider role of conscience. He writes: *'It is often assumed that the role of the conscience in medicine is relevant only to a few specialised and limited areas such as abortion or contraception. But in fact the concept of the conscience goes to the heart of what it means to be act in a moral way, to act with integrity... The word 'integrity' is used in medicine to mean 'intact', 'functional' or 'healthy'. Orthopaedic surgeons talk about the integrity of a joint, for example. So to have moral integrity is to be morally intact, to be internally healthy.'*⁴
7. Many witnesses who submitted written evidence also expressed their own sense of the importance of conscience. Some examples include:
 - *'Every action we take is a moral action for which we must take responsibility.... We must never be coerced into doing things which are contrary to the action we need to take to become the persons we aspire to be.'*⁵
 - *'As soon as the system bullies a carer to compromise their personal integrity, their peace of mind, their creativity, their morale and hence their level of compassion and care drops significantly.'*⁶
8. The APPG takes the view alongside all the witnesses that conscience plays a crucial part in the dignity and morality of each individual. Any downplaying of conscience in public life is to the great detriment of both society and individuals.
9. The APPG also takes the view that the importance of conscience is a key component behind many of the 'British Values' promoted by the Government: democracy, individual liberty, mutual respect and tolerance are more firmly underpinned by a clear understanding of the role of conscience.

Conscience in Healthcare

10. However, there was divergence amongst the witnesses regarding how healthcare professionals should act, even once the importance of conscience had been established as common ground.

³ Shahvisi, Oral Evidence

⁴ Wyatt, Written Evidence

⁵ Jarmu, Written Evidence

⁶ Caroe, Written Evidence

11. Dr Shahvisi in her Oral Evidence argued that people with a conscientious objection to any medical procedure, including abortion, should not enter specialities or professions where they might be expected to participate in such a procedure. They should, in her view, seek another career route. This is firstly because *'in disclosing a moral reservation, doctors risk producing moral distress in the patient or even of deterring the patient from proceeding with the abortion. The disclosure of a moral reservation by a powerful and respected person to a vulnerable person, against the backdrop of a society in which abortion is still stigmatised, seems deeply problematic.'* Dr Shahvisi also argued that the Conscience Clause is essentially meaningless as *'Conscientious objectors must ensure that the patient reaches a willing provider without significant delay. Conscientious objectors therefore necessarily become part of the bureaucracy of abortion provision, even if they are not part of its direct implementation... If a person finds abortion objectionable, they should not pursue employment in which their only options are to be at one or two removes from abortion provision'*.⁷ Although Dr Shahvisi's primary argument related to doctors, she agreed that it would also extend to other healthcare professionals. This would presumably exclude those with a conscientious objection to abortion from training in such fields as General Practice, Obstetrics and Gynaecology, nursing, and midwifery. Should assisted suicide ever be legalised in the UK, a whole host of other medical fields would also be excluded for the pro-life individual.
12. Bioethicists Iain Brassington, who submitted written evidence to the Inquiry, also argued that *'if a medic chooses to work in reproductive medicine, Obs & Gynae, and so on, it seems reasonable that s/he should be prepared to carry out elective abortions [i.e. an abortion which is not 'medically necessary']'*. He argues that *'we can admit that something is important without having to accept that it is overridingly important. Thus freedom of conscience – whatever that might mean in practice – might be one of the things that we should take into consideration in policy, but it doesn't follow that it should come up trumps'*. Mr Brassington believes that freedom of conscience in abortion provision is 'trumped' because *'to stand on conscience may also discriminate against women who live in certain areas'*, may *'derail a woman's access to something to which she is entitled by statute'*, and is also *'deeply uncollegiate'* because it shifts the responsibility to another doctor.⁸
13. This view is also supported in the work of various academics. Julian Savulescu, for example, director of the Oxford Uehiro Centre for Practical Ethics, argued in an article published in the British Medical Journal that *'A doctor's conscience has little place in the delivery of medical care'*. While he allows that it may be possible for an argument to be made which permits doctors to abstain from providing abortions if the objectors are few in number and there are many others prepared to perform these (interestingly, opening the door to at least the discussion of the concept of reasonable accommodation, referred to later in this report), the tenor of his article plays down the role of conscience. *'Doctors' values crept into clinical decisions'*, he argues, which has now been overturned by *'greater patient participation in decision making and the importance given to respecting patients' autonomy'*. Mr Savulescu believes that *'conscientious objection introduces inequity and inefficiency'* that is *'unjustifiable'*.⁹

⁷ Shahvisi, Oral Evidence

⁸ Brassington, Written Evidence

⁹ Saluvesci, 'Conscientious Objection in Medicine', BMJ, 2006 Feb 4; 332(7536): 294-297

14. This view is contrary to current professional guidelines from the General Medical Council, the British Medical Association, the Royal College of General Practitioners and the Royal College of Midwives.¹⁰
15. It is also contrary to the view of BPAS, Britain's largest abortion provider. Ann Furedi, CEO of BPAS, writes in her written submission *'Some will see the ending of life in utero as literally murder, or its moral equivalent. We believe it is right and proper for professionals with these beliefs to be able to opt out of providing abortion services in circumstances where there is no threat to the women's life... It is our view that it is our organisation's responsibility to provide a full abortion service to the legal limit. It is not the responsibility of individual doctors.'*¹¹
16. In contrast, other witnesses argued that healthcare professionals must be encouraged to act as independent moral agents and not simply expected to function as agents of the state. Several pointed to the past abuse of healthcare by the state as evidence that healthcare can be misused, and argued that encouraging healthcare professionals to engage their moral reasoning in treatment is a safeguard against abuse.
17. Professor Wyatt, for example, pointed to the many of the evils that have been committed by doctors and healthcare professionals in the past century, whether scientific experimentation by totalitarian regimes or the current practice in China of organ harvesting [the forced removal of organs for transplant]: *'Over the last century there have been many startling and egregious cases in which the core moral commitments of medicine have been corrupted and violated because of state coercion exercised on physicians. Examples include the role of physicians in Nazi Germany, the coercion of psychiatrists in the Soviet Union and the alleged removal of transplant organs from prisoners in China.*
- 'It is naïve to think that medical practice in Western countries could never become morally corrupted. It is an essential safeguard for the moral health of medicine that legal and regulatory systems are maintained which protect the rights of doctors to refuse to take part in practices which violate their most profound moral convictions. In addition the right of conscientious objection protects the integrity of those who hold minority beliefs from discrimination or coercion by the majority.'*¹²
18. Other witnesses expressed similar ideas.
- One doctor wrote *'The GMC [General Medical Council] persistently treats the desire to practise with a conscience in a negative light rather than an ethical obligation to be encouraged. Subsequent to so many scandals in NHS care such as Mid Staffordshire it is all the more striking that they have not rectified their position. In my view such scandals arise because of the same underlying reason that affects conscientious doctors: the culture of (well founded) fear inhibits mature ethical behaviour.'*¹³
 - Toni Saad, a medical student, argued in his written statement that freedom of conscience *'is vitally important, for without it the physician is deprived of agency. The*

¹⁰ See British Medical Association, Written Evidence; Royal College of Midwives Written Evidence; Royal College of GPs, Written Evidence; and GMC guidelines at http://www.gmc-uk.org/static/documents/content/GMP_.pdf, Paragraph 52

¹¹ Furedi, Written Evidence

¹² Wyatt, Written Evidence

¹³ Anon 32, Written Evidence

existence of medicine as a profession is jeopardised when individual physicians are considered to be mere components of government machinery. A doctor who has reflected on the ends of his own craft might well come to the conclusion that he must not be forced to participate in that which positively goes against these ends... It should concern doctors greatly that the basic liberty of conscientious objection pertaining to abortion should even be up for consideration. It should be a basic presupposition of those who wish to live in a free society, and maintain professions which are not commandeered by the State as they were by the Nazis during WW2'.¹⁴

- As Dr Stephen Brennan argues in his written evidence, *'Freedom of Conscience is crucial to good medical practice, without it we can quickly be swept along with the latest developments/opinions which are not always right.'*¹⁵

19. The reality of the dangers that can come about when doctors are seen purely as agents of the state was clearly shown in the testimony of the surgeon Dr Enver Tohti, who qualified as a medical practitioner in China and kindly agreed to speak to the APPG. Dr Tohti has given evidence in Parliament and across the UK regarding the practice of organ harvesting from political prisoners in China. He has recounted his experience of being required by a senior doctor to take organs from a prisoner immediately after he had been shot, but was still alive. Dr Tohti described how he felt like a *'robot'* when doing so. He also described the practice of infanticide which doctors and nurses in China were regularly performing when he left that country in 1999 on occasions where a woman was having a second child. *'We only know that whatever our boss tells us to do, that is the right thing to do'* he said. *'That makes the situation worse because doctors, they don't feel guilty and nurses, they don't feel guilty.'* Dr Tohti believed that many healthcare professionals did not object to such practices because they did not know any differently. Strikingly, if they did object, *'they would lose their job'*.

20. For many healthcare professionals, their desire to be involved in healthcare are driven by strong beliefs that inform their conscience, regardless of their view on abortion.

- Ann Furedi, CEO of BPAS which performs over 65,000 abortions each year, wrote *'Most of us who work for bpas would say that we perform our work because we are conscience driven to provide women with the opportunity to make their own decisions and life choices.'*¹⁶
- Similarly, Raymond Chester, a registered General Nurse who opts out of participating in abortions, wrote *'I think it [freedom of conscience] is of the utmost importance as my conscience was one reason why I came into nursing.'*¹⁷

21. The APPG holds that it would be to the great detriment of the healthcare profession if pro-life doctors in the UK were unable to train in the full range of healthcare for which they have a vocation. The APPG notes that holding deep moral convictions about the nature of personhood may often be the motivation for a successful and caring career in healthcare, as noted in Paragraph 18 both by those who are pro-life and by those who are pro-choice. This Inquiry also notes the huge contribution to healthcare in the UK which pro-life professionals have made: Dame Cicely Saunders, for example, a key player in the birth of the hospice movement, had a

¹⁴ Saad, Written Evidence

¹⁵ Brennan, Written Evidence

¹⁶ British Pregnancy Advisory Service, Written Evidence

¹⁷ Chester, Written Evidence

deep conviction of the value of life from conception until natural death. Limiting involvement from such people would be a huge loss to the individual and also, crucially, to society.

22. The APPG also is struck by Dr Tohti's evidence, which makes clear what evils are possible when healthcare professionals are expected simply to follow the commands of their superiors or the state without allowing their conscience to inform their work. His evidence also demonstrated that what one culture views as normal practice, another culture may completely reject. One safeguard against the misuse of medical procedures by the state and against any unethical shifts in cultural norms is the freedom for healthcare professionals to allow their conscience and moral reasoning to inform the work which they do each day, even when that runs counter to the view of their superiors, the state or others in the culture.

Patient Care

23. The right to conscientious objection in the specific case of abortion must be balanced with patient care and the professional duty of healthcare bodies to provide access to abortion services for patients under the circumstances provided for by the Abortion Act.
24. The Royal College of Midwives expressed support for the right to conscientiously object in its written evidence, and also stated that *'while an individual doctor's objection to active participation in abortion must be respected, women must be able to access services.'*¹⁸ This is in line with medical guidelines from the General Medical Council and other Royal Colleges.
25. The Mission and Public Affairs Council of the Church of England stressed the importance of compassion for the patient: *'The Church of England combines strong opposition to abortion with a recognition that there can be strictly limited conditions under which it may be morally preferable to any available alternative. Equally, the mother of an unborn child needs all possible understanding and help, being treated with compassion at all times.'*¹⁹
26. Other witnesses agreed, particularly those who were healthcare professionals. Practitioners emphasised the importance of treating patients with compassion and dignity.
- Dr Mahesh Perera, a Consultant Gynaecologist, wrote *'I do also think it is important that no woman should be disadvantaged by my views. So I do feel it is my duty to refer her to some one else rather than refuse her request. I also feel it is important that if and when complications occur there should be the paramount importance of giving immediate life saving treatment to these women by all health care professionals.'*²⁰
 - One GP, who wished to remain anonymous, wrote that freedom of conscience *'shouldn't discriminate against the patient who would like an abortion: all due respect should be given.'*²¹
 - A midwife who wished to remain anonymous wrote *'It is however imperative that all health professionals treat women with respect regardless of their choice.'*²²

¹⁸ Royal College of Midwives, Written Evidence

¹⁹ Mission and Public Affairs Council of the Church of England, Written Evidence

²⁰ Perera, Written Evidence

²¹ Anon 36, Written Evidence

²² Anon 13, Written Evidence

- Dr Mark Reed, a GP, wrote *'Doctors who conscientiously object should compassionately care for mothers who are considering this route.'*²³
27. The APPG believes that all expectant women, like everyone, should be treated with dignity and respect, regardless of the choices which they make. The APPG also notes that women who are seeking an abortion may be particularly vulnerable and should therefore be treated with additional compassion. The APPG is pleased that professional guidelines such as those by the General Medical Council offer clear guidance about how and when healthcare professionals should explain their conscientious objection to abortion.
28. The APPG takes the view that it is not appropriate for healthcare professionals to express their conscientious objection in a way that implies judgement or condemnation to any woman seeking an abortion. Healthcare professionals with a conscientious objection to abortion must talk to patients seeking an abortion with dignity and respect.
29. The APPG further notes that doctors are legally permitted to perform abortions specifically and only under the provisions laid out in the *Abortion Act 1967*; otherwise, abortion remains illegal in this country.

Impact on the Colleagues of Healthcare Professionals who conscientiously object

30. The APPG heard evidence of the fact that the right of healthcare professionals to exercise conscientious objection may impact on the work of non-objecting colleagues.
- The Royal College of General Practitioners wrote in its written evidence that *'The College is keen to stress that it does support the Conscience Clause: however, it is possible that where GPs or other general practice staff do not wish to conduct certain treatments that this will result in strain on other individuals, or in other local practices. It is essential that in order to prevent this, current workforce issues in general practice are addressed.'*²⁴
 - One recently retired senior midwife, whose responsibilities included rota duties, wrote *'As to off duty, as one is unable to flag a midwife who will not care for a family having a termination, for what ever reason, electronic off duty becomes very difficult to achieve, and to prevent a whole shift being composed of staff, who are exercising their right to decline to care. The burden then falls unfairly on those midwives, who believe as I do that it is not my choice to pick and choose which woman has my care.'*²⁵
 - One GP said *'Colleagues, while usually supportive, at times simply said it was not fair as they did not like abortion either and they had to do additional work as a result of my objection.'*²⁶
 - Another wrote *'At work there is an underlying feeling that you are a slacker and don't like the 'dirty work' because of the truth be known most healthcare professionals don't actually like participating in abortions.'*²⁷
 - Professor Wyatt too warned that *'There have been anecdotal reports of cases when doctors have claimed the right of conscientious objection, when their real motivation was laziness, or to avoid burdensome or boring duties. Conscientious objection may cause*

²³ Reed, Written Evidence

²⁴ Royal College of General Practitioners, Written Evidence

²⁵ Anon 30, Written Evidence

²⁶ Anon 33, Written Evidence

²⁷ Anon 6, Written Evidence

inefficiencies and delays in medical services and doctors have a duty to ensure that their actions do not create avoidable problems for their patients and colleagues.'

31. Several witnesses expressed in their written evidence that diversity amongst the medical workforce can provide patients with more choice.

- One witness wrote, who herself has had an abortion, wrote *'I suggest the prime purpose of freedom of conscience is to ensure the relevant professions can properly serve all patients. Medics generally, and obstetricians and gynaecologists in particular, need to reflect the diversity of views and approaches within society, particularly on this most sensitive issue.'*
- Dr Anne Williams, a GP, wrote that her partners were especially pleased to offer her a job despite her conscientious objection to abortion because *'they thought that my knowledge of Natural Family Planning would add to the choice offered to the patients... Some patients have fed back to me that they do feel confidence in me precisely because I practise by following my conscience.'*²⁸
- Dr Ian Jessiman wrote that if there is no diversity in views about abortion amongst medical professionals, *'This can mean that patients, of a particularly religious or ethnic minority may not be able to find a doctor who is sympathetic to their views.'*²⁹
- Dr Angela Bennet, also a GP, wrote *'a lady who I'd seen regarding an abortion who got referred for it by a colleague, felt depressed about the abortion and came to see me regarding this because she knew I hadn't been involved in it. We developed a very good therapeutic relationship and she was able to come to terms with what she'd done.'*³⁰
- Dr Manesh Perera, a Consultant Gynaecologist, wrote *'There are women who would like to be seen by gynaecologists who hold these views [i.e. have a conscientious objection to abortion] so it [i.e. preventing pro-life doctors from working in certain areas] does restrict choice.'*³¹

32. The Group has not seen any evidence in this Inquiry to suggest that women in the UK are being prevented from accessing abortions due to the right of healthcare professionals to conscientious objection. Nor has it seen any evidence to suggest that this would be the case should the right to conscientiously object be universally applied fairly and properly in accordance with the Conscience Clause of the 1967 Act.

33. The APPG is aware that in exercising their right to conscientious objection there will be some impact on colleagues, but, following the Equality Act and associated legislation and regulations, people in the workplace have become increasingly used to accommodating others, for example those with disabilities, and to doing so with understanding and respect. The APPG takes the view that it should not therefore be unduly challenging to do so in the application of the Conscience Clause – a Section which has stood in legislation for nearly fifty years, during which time society has become more, not less, accommodating of difference and diversity.

²⁸ Williams, Written Evidence

²⁹ Jessiman, Written Evidence

³⁰ Bennett, Written Evidence

³¹ Perera, Written Evidence

34. The APPG does however encourage healthcare professionals who exercise this right to do everything they can to ensure that the impact on colleagues of doing so is minimised, by, for example, informing managers and colleagues of their objection at the earliest possible point. Similarly, conscientious objection must not be used as way of avoiding work or awkward situations. Any such behaviour undermines the position of others who practice their conscientious objection in line with medical guidelines.
35. The APPG takes the view that difference in this regard is too often seen as an inconvenience rather than an opportunity, and that just as those exercising conscientious objection must do so respectfully, so too they and their views should be treated with equal respect. Diversity in any workplace is generally held to be beneficial to all involved. The APPG holds that diversity in moral opinions about abortion is no different, and should be respected and celebrated rather than being seen as a problem to be overcome.

Recommendation 1: A cross-party Parliamentary Commission consisting of Parliamentarians with differing views on abortion, euthanasia, assisted reproduction and embryo research should be established to bring together practitioners, lawyers, campaigners and academics from different fields to examine the role of conscience in 'British Values' and any new 'British Bill of Rights'.

The Law Governing Freedom of Conscience in Abortion Provision

36. This section summarises British legislative and case law surrounding freedom of conscience in abortion provision.
37. Section 4 (1) of the Abortion Act 1967 states that *'no person shall be under any duty, whether by contract or by any statutory duty or other legal requirement, to participate in any treatment authorised by this Act to which he has a conscientious objection: Provided that in any legal proceedings the burden of proof of conscientious objection shall rest on the person claiming to rely on it'* (known as 'the Conscience Clause'). This Section is currently the main piece of legislation governing the right of healthcare professionals to opt out of participating in abortions.

The Conscience Clause in Parliament

38. This Clause was first introduced at the Committee Stage of the Bill's passage through the House of Commons. The Clause was subject to further discussion during the Report Stage debate in the House of Commons. Concern was expressed throughout this stage that *'increasing pressures could be brought to bear on doctors and hospital staff to perform an operation which might well be against their consciences'* as a result of the Act.³²
39. However reassurance was given that no doctor would have to go against his or her conscience, often based on the fact that the Bill was permissive rather than directive.
- David Steel MP, who brought forward the Private Member's Bill, reassured colleagues, when speaking in the House of Commons during the debate on the Bill, saying *'The Bill imposes no obligation on anyone to participate in an operation'* and similarly that *'The Clause also gives nurses and hospital employees a clear right to opt out.'*³³
 - The Ministry of Health Commons Committee Notes stated *'The case for a conscience clause of some kind would be stronger if the Bill placed a duty on doctors to terminate pregnancy in certain circumstances. The Bill does not, however, do this... the Bill simply extends the grounds on which an abortion may be performed.'*³⁴
 - In a letter to MPs written by Vera Houghton, Chair of the Abortion Reform Association, Ms Houghton wrote *'This Bill is entirely permissive'* and therefore *'no doctor will be required to act against either his medical judgement or his religious beliefs'*.³⁵
40. The Royal College of Nurses, the Royal College of Midwives and the Association of Hospital Matrons all, at the time, asked for a clearly drafted Conscience Clause in order to safeguard the position of nurses. This was both to protect nurses in situations when their consciences might conflict with the duties they were called upon to perform and to protect against any deterrent effect that the Bill might have had on nursing recruitment.

³² Wylie, Official Report 13th July 1967 vol 750 Cols 1313-85

³³ David Steel, Official Report 13th July 1967 Col 1318.

³⁴ Medical Termination of Pregnancy Bill Commons Committee Notes on New Clause 3 produced by the Ministry of Health

³⁵ Letter to Members of Parliament from Vera Houghton, Chairman, Abortion Law Reform Association, dated 30 November 1966

41. The APPG is not aware of any discussion in the course of this Act's passage through Parliament regarding the extent to which a practitioner should be allowed to opt out. This has been determined through subsequent case law.

The Conscience Clause in Case Law

42. There have been relatively few court cases regarding the interpretation of the Conscience Clause. The two most relevant cases are *R v Salford Area Health Authority, Ex p Janaway [1989] AC 537* and *Greater Glasgow Health Board v Doogan and another [2014] UKSC 68*. The judgments in both cases interpreted the word 'participate' in a narrow sense – applying it only to those who take part directly in the abortion.
43. In *Janaway [1989]*, secretary Mrs Janaway objected to typing letters referring patients to a consultation for a possible abortion. The House of Lords ruled that 'any treatment authorised by this Act' applies only to the process of treatment in hospital for the termination of pregnancy and 'participating' meant actually taking part in that process. It did not have the extended meaning given by the criminal law.³⁶
44. In the more recent case, the Supreme Court in *Greater Glasgow Health Board v Doogan and another [2014]* held that two midwives who worked in the labour ward at the Southern General Hospital, Glasgow, as Labour Ward Co-ordinators, were not covered by the Conscience Clause. Lady Hale, the Vice President of the Supreme Court, who gave the only detailed judgment and with whom the other Supreme Court Justices agreed, held that Parliament, in passing the *Abortion Act 1967*, must have intended that the word 'participate' should have a narrow meaning and not cover what she termed '*the host of ancillary, administrative and managerial tasks*' that might be associated with an abortion service. Lady Hale stated '*Participate*' in my view means taking part in a 'hands-on' capacity', partly because '*In my view, the narrow meaning is more likely to have been in the contemplation of Parliament when the Act was passed.*'³⁷
45. In this, she disagreed with the Inner House of the Court of Session in Scotland in the case *Doogan and another v NHS Greater Glasgow and Clyde Health Board [2013] CSIH 36*. Here the midwives had won their case as this court had held that '*the petitioners' entitlement to conscientious objection... includes the entitlement to refuse to delegate, supervise and/or support staff*' given that '*many people have strong moral and religious convictions, and the right of conscientious objection is given out of respect for these convictions and not for any other reason... It is consistent with the reasoning which allowed such an objection in the first place that it should extend to any involvement in the process of treatment, the object of which is to terminate a pregnancy.*'³⁸ However the subsequent Supreme Court ruling overturned this decision.

³⁶ Quoted in *Greater Glasgow Health Board v Doogan and another [2014] UKSC 68*, judgment by Lady Hale published 17 December 2014 (accessed online at https://www.supremecourt.uk/decided-cases/docs/UKSC_2013_0124_Judgment.pdf on 13 July 2016), Paragraph 11

³⁷ *Greater Glasgow Health Board v Doogan and another [2014] UKSC 68*, judgment by Lady Hale published 17 December 2014 (accessed online at https://www.supremecourt.uk/decided-cases/docs/UKSC_2013_0124_Judgment.pdf on 13 July 2016), Paragraph 38

³⁸ *Doogan and Another v NHS Greater Glasgow and Clyde Health Board [2013] CSIH 36*, Opinion of the Court delivered by Lady Dorrian on 24 April 2013 (accessed online at <http://www.bailii.org/scot/cases/ScotCS/2013/2013CSIH36.html> on 13 July 2016), Paragraph 38

The Experience of Healthcare Professionals regarding Freedom of Conscience in Abortion Provision

Implementation of the Conscience Clause in practice

46. The Inquiry received many accounts of good practice of the exercise of the Conscience Clause from the oral and written evidence of the witnesses.

- Ann Furedi, CEO of BPAS, wrote *'At bpas, some doctors feel unable to carry out, or be trained to carry out abortions beyond a particular gestation. Their view is respected and they are able to treat those clients that they feel they can treat.'*³⁹
- Bev Hanson, who works as a Deputy Operating Theatre Manager having worked as a nurse for 40 years, explained at the Oral Evidence Session that *'I exercise my right to conscientious objection and so am never placed on the lists for abortions.'* She explained that *'We are in an environment where it [i.e conscientious objection] is accepted and made known.'*⁴⁰
- Another theatre nurse wrote *'As a Theatre Nurse I have always been respected for my views and allowed to opt-out of participating in any abortion procedure. I have always voiced my opinion to uphold the sanctity of human life from conception until natural death.'*⁴¹
- A midwife wrote *'This [i.e. my conscientious objection] was always respected and we did not experience any negativity from peers or staff... I have not heard of anyone in my organisation having an issue with conscientious objection.'*⁴²
- A GP wrote *'At one GP practice I worked at the partners were very sympathetic and if I saw a patient who was requesting a termination I was able to offer the patient an appointment with one of the partners within 24 hours.'*⁴³

47. The APPG is encouraged to hear of many excellent examples of healthcare professionals exercising their right to conscientious objection by following the GMC guidelines – being upfront with colleagues and compassionate with patients. The APPG is also pleased to hear of many examples of practitioners with no conscientious objection to abortion provision who treat those with a different view with respect and make reasonable accommodations for their views.

48. There were however many concerning examples submitted to the Inquiry of increasing pressure being put on healthcare professionals with a conscientious objection to abortion. These can be broadly categorised into the following sections: training and education; referrals; career progression; and the extent to which practitioners must 'participate'. This report will deal with each in turn.

³⁹ British Pregnancy Advisory Service, Written Evidence

⁴⁰ Hanson, Oral Evidence

⁴¹ Anon 11, Written Evidence

⁴² Anon 13, Written Evidence

⁴³ Anon 6, Written Evidence

Training and education

49. Several witnesses expressed their view that medical training gives inadequate emphasis to moral reasoning and does not leave all students clearly informed of their rights and responsibilities with regard to a conscientious objection to abortion.

- Professor Wyatt wrote *'Medical education, both undergraduate and postgraduate, is often deficient in the area of teaching and discussion on the fundamental moral principles of medical practice. The teaching of medical ethics in medical schools is often focused on procedural and legal issues, rather than foundational moral principles. There is a need to educate doctors and other health practitioners on the moral foundations of medicine, the risks of state coercion and manipulation, and the importance of the conscience and the right of conscientious objection.'*⁴⁴
- Dr Dermot Kearney wrote *'in recent years I have taken upon myself the responsibility to inform all newly qualified doctors (Foundation Year 1) in my hospital of their rights in relation to conscientious objection during their induction lectures. I had become aware that the majority of them had never heard of conscientious objection and that they had not received any instruction on this issue during their medical training.'*⁴⁵
- One current medical student wrote *'When I was on my placement for obstetrics and gynaecology the issue [i.e. conscientious objection] got mentioned by one of the consultants in clinic, but he didn't go into much detail with it... it is definitely mentioned within our ethics and law syllabus but since this syllabus is very large already it ends up being a rather small topic.'*⁴⁶

50. The Royal College of General Practitioners, in its written submission to the Inquiry, wrote of how important it is to *'highlight the existence of the Conscience Clause'*, writing *'the RCGP curriculum highlights the Conscience Clause to ensure that those completing general practice training are aware that they do not have to participate in any treatment which they have objections against.'*

'We understand that medical schools in the UK have the Conscience Clause on their curriculum and hope that as a result all trainee doctors are made aware of their option to opt out of providing certain treatments. However, despite the presence of the GMC Promoting Excellence document to ensure that ethical, legal and moral frameworks are clearly laid out to all undergraduate students, we are aware that each curriculum is independently set and as a result there may be variation in the level at which trainees are made aware of the Conscience Clause.'

51. One witness suggested that, as well as informing medical students about their rights to conscientious objection, training should also include *'adequate training of Doctors focussing on developing effective communication skills in relaying a conscientious objection... without pomp or judgement, showing empathy and compassion'*.⁴⁷

52. Evidence was also submitted to the Inquiry regarding the pressure on student medics to participate in abortions.

- Dr Bruno Bubna-Kasteliz, a retired physician and Clinical Tutor and Undergraduate Co-ordinator for many years, wrote that *'I was told by junior doctors and medical students*

⁴⁴ Wyatt, Written Evidence

⁴⁵ Kearney, Written Evidence

⁴⁶ Anon 31, Written Evidence

⁴⁷ Nelson, Written Evidence

*of attempts to mete out ridicule or harassment if they spoke up about not wishing to witness or assist in abortions.*⁴⁸

- Recently qualified Dr Vivian Nebo wrote *'I was faced with a patient during my GP rotation last year who asked for help getting an abortion and I felt as though I had no freedom at all in the matter.'*⁴⁹ The GP tutor was very supportive and took over the session.
- Bev Hanson spoke of her own experience as a newly qualified nurse, feeling *'under a lot of pressure'*. As she progressed in this career this grew much easier. She said *'it has got easier, but this might be because I have become more senior'*.⁵⁰

53. While this Inquiry has not been able to conduct an in-depth study into the training of medical students in different medical schools in the UK, it is concerned that insufficient time is given to moral and ethical questions. It is also concerned that students are not receiving adequate training from medical schools regarding their right to conscientious objection or training on how to exercise this right responsibly. The APPG notes that, as commented on by the Royal College of General Practitioners, this training can vary across different schools. Both doctors and patients must be treated with dignity and respect, and in-depth training for students in all medical schools would help to achieve this.

54. The APPG also notes particular reports of pressure on medical students and junior doctors mentioned above. Senior practitioners hold particular responsibility for ensuring that those under them are treated with respect and dignity, and for setting an example for other students to emulate.

55. The APPG is pleased that the Royal College of General Practitioners has expressed the importance of highlighting the Conscience Clause to future and current GPs, and commends the fact that full training on the right to conscientious objection is included in the RCGP curriculum.

Recommendation 2: The Government should commission a full review into the training given to students in ethical and moral matters relating to medicine, with special attention given to ensuring that all students are given full information about their right to conscientious objection without pressure from lecturers.

Referrals

56. The General Medical Council guidelines, published 25 March 2013, states that *'You must explain to patients if you have a conscientious objection to a particular procedure. You must tell them about their right to see another doctor and make sure they have enough information to exercise that right. In providing this information you must not imply or express disapproval of the patient's lifestyle, choices or beliefs. If it is not practical for a patient to arrange to see another doctor, you must make sure that arrangements are made for another suitably qualified colleague to take over your role.'* This does not suggest that doctors need to refer patients seeking an abortion to other

⁴⁸ Bubna-Kasteliz, Written Evidence

⁴⁹ Nebo, Written Evidence

⁵⁰ Hanson, Written Evidence

doctors, but that they should ensure that the patient has enough information to ensure that she can access another doctor herself. Should the patient be unable to do this, the doctor must *'make sure that arrangements are made – without delay – for another suitably qualified colleague to advise, treat or refer the patient'*, making *'reasonable adjustments'* if the patient has a disability as a requirement of the Equality Act 2010.⁵¹

57. Despite this guidance, there is increasing pressure to suggest that doctors with a conscientious objection to abortion refer patients directly to another doctor, for example through a broad interpretation of the relevant legislation. Lady Hale, in her judgment on *Doogan* [2014] states that *'It is a feature of conscience clauses generally within the health care profession that the conscientious objector be under an obligation to refer the case to a professional who does not share that objection. This is a necessary corollary of the professional's duty of care towards the patient.'*⁵²
58. Professor David Jones, writing on behalf of the Anscombe Bioethics Centre and the Catholic Bishops, writes of Lady Hale's statement *'Note that these obiter dicta appeal to practice 'within the healthcare profession' not to legal principles or authorities.'*⁵³
59. Professional guidelines are therefore particularly important. The British Medical Association, in professional guidance submitted to the Inquiry, wrote *'The BMA believes that a doctor's conscientious objection must be made clear to the patient as soon as possible, and patients must be able to see another doctor as appropriate. Referrals in these circumstances need not always be a formal procedure. However, it is not sufficient to simply tell the patient to seek a view elsewhere.'*⁵⁴ The guidance does not seem to offer more information about what information is sufficient.
60. In contrast, a new statement on abortion from the Royal College of Midwives, following the statement by Lady Hale, suggests that that onward referral to another competent practitioner be made mandatory.⁵⁵ In line with this position, the evidence from the Royal College of Midwives submitted to the Inquiry states *'a practitioner who refuses to perform a procedure must refer the woman to a doctor who can meet her needs.'*⁵⁶ The Nursing and Midwifery Council also make referral to another competent practitioner mandatory.⁵⁷
61. Some witnesses, however, expressed concern about the legality of imposing a duty to refer.
- *'The Conscience Project'* in their written submission noted the example of *'the review of a euthanasia bill by the House of Lords Select Committee on Assisted Dying for the Terminally Ill (2004-2005). The original bill included a requirement that objecting physicians refer patients for euthanasia. Numerous submissions protested this*

⁵¹ Available online, http://www.gmc-uk.org/static/documents/content/GMP_.pdf, paragraph 52

⁵² *Greater Glasgow Health Board v Doogan and another* [2014] UKSC 68, judgment by Lady Hale published 17 December 2014 (accessed online at https://www.supremecourt.uk/decided-cases/docs/UKSC_2013_0124_Judgment.pdf on 13 July 2016), Paragraph 40

⁵³ Anscombe Bioethics Centre, Written Evidence

⁵⁴ British Medical Association, Written Evidence

⁵⁵ Christian Medical Fellowship, Written Evidence

⁵⁶ Royal College of Midwives, Written Evidence

⁵⁷ Christian Medical Fellowship, Written Evidence

provision because it made objecting physicians a moral party to the procedure, the same reason given by many objecting physicians who refuse to refer for abortion. The [House of Lords and House of Commons] Joint Committee on Human Rights concluded that the demand was probably a violation of the European Convention on Human Rights.⁵⁸

- The Christian Medical Fellowship referenced the New Zealand court case *Hallagan and Anor v Medical Council Of Nz Hc Wn Civ-2010-485-222 [2010]*, where the court ruled that medical practitioners in New Zealand do not have an obligation to refer.⁵⁹

62. Some healthcare professionals also described pressure from colleagues to do referrals.

- Dr David Crick, who produced ‘Guidance in the Management of Unplanned Pregnancy’ for GPs in Hull when he was Executive Vice-Chair of West Hull Primary Care Trust, wrote *‘I have had over the years a number of Christian doctors contact me to say that they were pressurised into completing and signing referral forms, or of being forced to make referrals and being told they cannot opt out.’⁶⁰*
- A GP who wished to remain anonymous wrote *‘I have had two instances where I have been blackmailed by consultants who have gone ahead and carried out abortions without the paperwork being completed and I have been asked to sign the form to prevent them from being struck off, and if I didn’t...!’* She added *‘One practice I worked at I was told that I would have to complete the paperwork or else I will make the patient suffer’⁶¹*
- Another GP wrote *‘GPs are often under pressure to refer (and hence be implicated in the process) due to the lack of time availability of colleagues.’⁶²*

63. Opinion differs amongst doctors who conscientiously object to abortion as to whether or not they are able in good conscience to refer the patient to another doctor. However, evidence submitted to this Inquiry suggests that, for some pro-life doctors, having to refer patients directly to another doctor who they know will sign for or perform an abortion may cross a red line.

- Dr Angela Bennett, whose GP practice is *‘very supportive’* of her conscientious objection, writes *‘If I were forced to refer, I would still conscientiously object, even if it meant losing my licence to practise... There is absolutely no way or reason I would ever refer or perform a termination, including RU486. Were I forced to I would rather leave the medical profession.’⁶³*
- Dr Christopher Wayte, another GP, wrote *‘I am not required to sign documentation by my local hospital regarding abortion referrals. This is a fundamental principle which must be preserved.’⁶⁴*
- Other GPs also mentioned not having to refer patients as a key part of the protection of their conscience.⁶⁵

⁵⁸ The Conscience Project, Written Evidence

⁵⁹ Christian Medical Fellowship, Written Evidence

⁶⁰ Crick, Written Evidence

⁶¹ Anon 6, Written Evidence

⁶² Mobey, Written Evidence

⁶³ Bennett, Written Evidence

⁶⁴ Wayte, Written Evidence

⁶⁵ Doran, Written Evidence; Canning, Written Evidence; Anon 8, Written Evidence

64. Evidence submitted by the Royal College of General Practitioners did not specifically mention its views on referral. However, it did stress on several occasions the importance of freedom of conscience, writing *'at a time when general practice is facing a recruitment crisis it is paramount that we make working in general practice as attractive as possible and highlight the existence of the Conscience Clause'*.⁶⁶
65. The APPG notes with considerable concern that there is increasing pressure for doctors to provide referrals for patients seeking an abortion, both within the legal system and on the ground. The APPG holds that no doctor should be required to refer a patient to another doctor, but that the current system ensures the correct balance between the legal rights of women and freedom of conscience for the doctor. The APPG believes that forcing doctors to refer patients for abortions would, for many pro-life doctors, be viewed as a necessary causal link and therefore assume moral complicity in the abortion.
66. The APPG disagrees with Lady Hale's interpretation of the doctor's duty to refer a patient, noting that this differs from the professional guidance from the General Medical Council. The APPG calls upon the General Medical Council to maintain its current guidance regarding referrals when they are next updated in 2018, which represents an appropriate balance between competing rights. The APPG is concerned that imposing a duty to refer would lead to some GPs leaving the profession, or junior doctors being discouraged from joining. As mentioned by the Royal College of General Practitioners, this is of great practical importance at a time when general practice is facing a recruitment crisis.
67. The APPG also holds that all professional guidelines should take the current GMC guidelines as their basis. It is vital that the issue of referral is reflected uniformly in the guidelines issued to healthcare professionals whatever their roles: streamlined guidance will help clarify this issue and lead to less pressure from colleagues and employers on practitioners with a conscientious objection to abortion.

Recommendation 3: The GMC should maintain their current guidelines regarding referrals, thereby ensuring that no doctor who has a conscientious objection to abortion should be required to refer a patient to another practitioner.

Recommendation 4: All professional healthcare bodies should adopt the wording of the current GMC guidelines, thereby ensuring that no healthcare professional who has a conscientious objection to abortion is required to refer a patient to another practitioner.

Career and Progression

68. Due in large part to this increasing pressure, a considerable number of healthcare professionals who submitted written evidence to the Inquiry believed that a career in Obstetrics and Gynaecology was out of the question for those who have a conscientious objection to abortion. Those who expressed these concerns believed that those with a conscientious objection to

⁶⁶ Royal College of General Practitioners, Written Evidence

abortion would be prevented from becoming a consultant as a result of these views. Some examples include:

- Dr John Pilling wrote that *'It is regrettable that for some specialities, notably O&G, it is virtually impossible to become a consultant without agreeing to perform abortions. Should you express an objection prior to interview it is unlikely that you would be offered the job. Should you take the role and then declare a conscientious objection it would be very difficult to maintain felicitous working relationships with colleagues.'*⁶⁷
- Dr Stephan Brennan wrote similarly that *'The pressure to comply with abortion requests and facilitate the procedure has been enormous over the past few decades, since the 1967 Act. Many excellent doctors have been put off from pursuing a career in Obs & Gynae as a result, and this has been to great detriment to the Speciality.... Most of my friends/colleagues, with similarly informed consciences, felt that a career in Obs & Gynae was out of the question... I have had junior colleagues come to me to discuss their problems with medical ethical dilemmas, and the commonest was in regard to abortion. Usually the problem could only be resolved by them changing career path.'*⁶⁸
- Dr Anthony Cole, a retired paediatrician, Vice Chairman of the Catholic Union of Great Britain and Chairman of the Catholic Union Parliamentary Committee, wrote that *'There are very few trainees with a conscientious objection to performing an abortion in Obstetrics and Gynaecology and consequentially in the consultant grade. They are simply not appointed to training posts. That is not due to lack of interest in the speciality but the near impossibility of being accepted... I have known of colleagues who could not obtain consultant posts and others who have changed their speciality to say, surgery.'*⁶⁹
- Dr Dermot Kearney wrote of *'the very small numbers (almost non-existent) of doctors with conscientious objections to abortion provision entering into training in Obstetricians & Gynaecology. In particular, as a practising Catholic doctor, I am aware of many young doctors who would have liked to have considered this very important area of healthcare as a career, but were frightened to do so as they were certain that they would be prevented from advancing their careers if they were not prepared to participate in abortion services.'* He gives as one example the young doctor training in community Obstetrics and Gynaecology, mentioned above, who was forced to change speciality after encountering very hostile attitudes amongst senior colleagues when they found out she was not prepared to participate in abortions.⁷⁰
- Sarah Mason, a medical student, wrote *'I was recently talking to my friend who is a nurse who has left her job over this issue. She was told that in order to work in Obstetrics and Gynaecology she would have to participate in mid-trimester abortions. On stating that she had a moral objection to this, she was offered counselling and time off to consider the issue – with a view to her changing her mind. When she explained that her moral standing was not going to change, it was thought best that she work in another department.'*

⁶⁷ Pilling, Written Evidence

⁶⁸ Brennan, Written Evidence

⁶⁹ Cole, Written Evidence

⁷⁰ Kearney, Written Evidence

69. The Inquiry received evidence from two Consultant Gynaecologists with a conscientious objection to abortion. Both expressed positive views of working in the field.
- One wrote *'I have been able to work in Obstetrics and Gynaecology and train in the speciality holding my views. It has not been easy but I have always felt the law protected me and hope it would continue'*.⁷¹
70. It was also brought to the attention of the Inquiry that on 11 February 2014, the Faculty of Sexual and Reproductive Healthcare (FSRH), a branch of the Royal College of Obstetricians and Gynaecologists (RCOG), released updated guidelines on conscientious objection which said *'Doctors who hold moral or religious reservations about any contraceptive methods will be unable to fulfil the syllabus for the Membership of the Faculty of Sexual and Reproductive Healthcare (MFSRH) or specialty training. This will render them ineligible for the award of the examination or completion of training certificates.'*⁷²
71. The APPG is not aware of any statement by RCOG explaining, justifying, or refuting this position, other than by saying that the exclusion was long-standing.⁷³ The APPG notes this stance with the gravest concern, and considers it contrary to the spirit of the Conscience Clause.
72. The APPG notes with disappointment RCOG's refusal to engage with this Inquiry. RCOG declined to send a witness to give oral evidence when invited, without giving a reason, and did not submit written evidence. The fact that RCOG has not been willing to engage in discussion and debate regarding the very grave concerns highlighted by this Inquiry does not encourage the APPG members to conclude that healthcare professionals working in Obstetrics or Gynaecology can expect the full engagement of their professional association when seeking to exercise their right to conscientiously object and when seeking to secure the legal protection which the Conscience Clause affords. The APPG would of course welcome RCOG's reassurance on this point.
73. The APPG is also very concerned about the exclusion of healthcare professionals on the grounds of conscience from Membership of the Faculty of Sexual and Reproductive Healthcare. Although the *Abortion Act 1967* does not refer to abortifacient contraception, the APPG takes the view that this exclusion goes against the spirit of this legislation, as well as contravening European equality legislation.
74. The APPG further notes from evidence it received that healthcare professionals believe that exclusion of practitioners with a conscientious objection to abortion is already taking place particularly in the field of Obstetrics and Gynaecology – undoubtedly to the detriment of patients and the profession at large. Unfortunately, as the Royal College of Obstetricians and Gynaecologists did not provide evidence to this Inquiry, the APPG was unable to ascertain whether RCOG considers a culture of exclusion from senior posts in this field, as described to the Inquiry, exists and whether this is acceptable to RCOG. As this culture of exclusion appears to be

⁷¹ Perera, Written Evidence

⁷² ADF, Written Evidence

⁷³ 'Doctors who oppose morning-after pill on conscience grounds face qualifications bar', John Bingham, *The Daily Telegraph*, 29th April 2014 (accessed online, 13th April 2016, <http://www.telegraph.co.uk/news/health/news/10794194/Doctors-who-oppose-morning-after-pill-on-conscience-grounds-face-qualifications-bar.html?rmEd=bologna>)

a common perception amongst practitioners with a conscientious objection to abortion, it is vital that the RCOG clarify their view on career progression for conscientious objectors to abortion.

Recommendation 5: The Royal College of Obstetricians and Gynaecologists should publish a statement in response to this Inquiry to clarify their view on career opportunities and progression for healthcare professionals who conscientiously object to abortion.

75. The Inquiry also received reports of healthcare professionals being restricted in their career choices in other specialities.

- One health visitor, who wished to remain anonymous, submitted evidence that explained *'I would not choose to go into School Nursing because of issues of conscience this might raise in relation to abortion/use of the morning after pill.'*⁷⁴
- Another witness described how his nurse daughter *'has chosen to work with elderly patients to avoid any compromising situations'*.⁷⁵
- Another, formerly a GP, wrote *'The Hippocratic Oath is all about preserving life not ending it. That's why I went into medicine & it's one of the reasons I've now left – the pressure out on you for abortion can be huge.'*⁷⁶

76. Other witnesses spoke of experiences of direct discrimination.

- Dr Michael Jarmulowicz wrote this of applying for a post in histopathology: *'I was told by my consultant when I did not get a senior registrar post, that the reason was my pro-life views were known about which went against me in the post-interview panel. I would not have known about this if I hadn't been told by a person on that panel.'*⁷⁷
- Mark Reed, a GP, wrote that he has experienced or knows of *'Career pressure not to participate. Threats not to give references. Threats not to give jobs or training posts.'*⁷⁸

77. The British Medical Association in their written submission to the Inquiry acknowledged the existence of complaints of doctors being harassed and discriminated against because of their conscientious objection to abortion: *'The BMA supports the right of doctors to have a conscientious objection to termination of pregnancy and believes that such doctors should not be marginalised. Some doctors have complained of being harassed and discriminated against because of their conscientious objection to abortion. Equally, there have been reports of doctors who do carry out abortions being subject to harassment and abuse. The BMA abhors any instances of harassment or discrimination of doctors on the basis of their views on abortion and would encourage any members experiencing such behaviour to contact a BMA employment advisor for support and advice.'*⁷⁹

⁷⁴ Davies, Written Evidence

⁷⁵ Jenner, Written Evidence

⁷⁶ Anon 8 Written Evidence

⁷⁷ Jarmulowicz, Written Evidence

⁷⁸ Reed, Written Evidence

⁷⁹ British Medical Association, Written Evidence

78. The Church of England in their official submission to the Inquiry wrote *'Exercising the right to freedom of conscience must not be a bar, formally or informally, to employment or promotion, nor ought it to result in any unfavourable treatment or harassment within the workplace.'*⁸⁰
79. The APPG is also concerned about frequent reports of direct discrimination in other fields of medicine. Methods for combatting this are discussed in the final section of the report.
80. The APPG welcomes the British Medical Association's positive contribution to the Inquiry, which confirms the finding of this Inquiry that some doctors face harassment and discrimination because of their conscientious objection to abortion. The APPG commends the BMA for having employment advisors who can aid doctors who face this issue. The APPG further notes that the BMA evidence refers to reports of doctors who do carry out abortions being abused. The APPG condemns all abuse and harassment towards healthcare professionals.

Recommendation 6: Government and NHS governing bodies should ensure that an appropriate appeal system for those who believe they have been discriminated against because of their conscientious objection is set up.

Reasons for increasing pressure

81. Different explanations were given as to why the pressure to participate in abortions has increased in recent years.
- Dr Adele Pilkington, Consultant in Occupational Medicine, suggested *'This is based on the increasing availability of methods of medical and not just surgical abortion, and by pressure from those who seek to further reduce the UK abortion limits, and a trend towards liberalisation of legislation.'*⁸¹
 - A recently retired Head of a British Medical School and experienced gynaecologist wrote *'there is increasing pressure which makes it difficult for those with conscientious objections in the working of the Abortion Act. This principally in my experience comes from the increasing pressure on NHS services. To turn down a request for an abortion means you are obliged to offer the woman a second opinion and the pressure on outpatient clinic appointments means that puts additional pressure on a creaking system - no matter how understanding your colleagues might be to your views.'*⁸²
 - Dr Amy Nelson, a GP Registrar who expresses broad support for the way the Conscience Clause is currently working, similarly writes that *'Difficulties can arise when staffing levels are low and patients undergoing abortions are on the ward.'*
 - Another GP wrote *'Because of the pressure of appointments it can be difficult to redirect a patient sitting before you who would like a termination arranged as soon as possible.'*⁸³

⁸⁰ Mission and Public Affairs Council of the Church of England, Written Evidence

⁸¹ Pilkington, Written Evidence

⁸² Anon 37, Written Evidence

⁸³ Anon 18, Written Evidence

82. The difference between good and poor practice appears often to come down to the attitude of individual members, whether colleagues or supervising staff. This is perhaps most evident in the evidence given by Bev Hanson at the Oral Evidence Session, who described how *'agency workers who tend to travel all over the country always seem very nervous when they ask me if they can avoid those lists [i.e. abortion lists] and are visibly relieved when I support them with this objection'*. Ms Hanson's own experience was very positive because of her *'sympathetic manager'* and *'We are in an environment where it [i.e. conscientious objection] is accepted and made known'* but *'if the management changed that could all change'*.⁸⁴ The mixed experience of other witnesses fitted with this analysis.

- The Christian Medical Fellowship, a faith-based group of healthcare professionals with over 4000 British doctor members and around 1000 medical student members, wrote *'Many of our members have found when they raise this matter sensitively with supervisors that reasonable accommodation is made for them, both in general practice and hospital practice... It often comes down to the attitude of the individual supervisor and their knowledge and interpretation of the law.'*
- Dr Dermot Kearney wrote that good practice *'seems to be very variable and dependent upon certain individuals who are more prepared to be open-minded and to accept that some doctors and other healthcare professionals might have deeply held religious and/or conscientious objections to abortion different to [sic] their own beliefs and to their personal lack of objection to abortion.'*⁸⁵
- Another doctor wrote that good or poor practice *'is totally reliant on the individual circumstances, including workload and the attitude of hospital consultants.'*⁸⁶

83. The Christian Institute notes that *'It is correct that the Equality Act 2010 provides a measure of protection against discrimination on grounds of religion or belief. However, a potential claim for religion or belief discrimination cannot provide medical staff with the necessary reassurance that their conscientious objection will be accommodated.'*⁸⁷

84. The Inquiry received many examples of both good and bad practice relating to conscientious objection in abortion provision. There are clearly many hospitals and clinics where the right of healthcare professionals to conscientiously object to participating in abortions is respected. Reasonable accommodation is already being made by some managers to allow healthcare professionals to maintain a high level of patient care while also exercising their right to freedom of conscience in this contentious area. However, there are also multiple examples of situations where healthcare professionals feel pressured, harassed or at considerable disadvantage in their career prospects because of their conscientious objection to abortion.

85. The APPG finds it concerning that the treatment of healthcare professionals with a conscientious objection to abortion appears largely dependent on the attitude of the colleagues and supervising staff. Given the importance of this issue, the APPG takes the view that this variance is unacceptable and requires clarification. The APPG calls on professional bodies such as the General Medical Council to publish guidelines for professionals who do *not* have a conscientious

⁸⁴ Hanson, Oral Evidence

⁸⁵ Kearney, Written Evidence

⁸⁶ Anon 12, Written Evidence

⁸⁷ The Christian Institute, Written Evidence

objection to abortion, stating that no colleague should be harassed or discriminated against because of their view on abortion.

Recommendation 7: Medical guidelines such as those published by the GMC should offer guidance to managers and other healthcare professionals who do not have a conscientious objection to abortion. This guidance should state that those with a conscientious objection to abortion should be treated with respect, should not be pressured, and should not be discriminated against in career progression. Guidelines should also suggest solutions for how employers can effectively accommodate practitioners with a conscientious objection.

86. The APPG therefore concludes this section by noting that there is widespread and increasing pressure on healthcare professionals to participate in abortions. The APPG holds that this is, in large part, due to inadequate observance of the current legislation, even in some instances involving a disregard of the Conscience Clause.
87. This means that, in practice, there is inadequate accommodation for healthcare professionals with a conscientious objection to abortion, contrary to the protection which the 1967 Act is intended to provide. In particular, the treatment of such individuals is far too dependent on the individual attitudes and discretion of their personal line managers or colleagues.
88. Pressure to refer patients directly to other practitioners is increasing and the APPG is greatly concerned about the effect that this is having on healthcare professionals for whom referring a patient directly to another professional goes against their conscience.
89. The APPG is gravely concerned that at a time of skills and staffing shortages in certain specialisms, capable and gifted healthcare professionals are being deterred from entering certain fields, accessing promotion, or developing particular specialisms on account of their conscientious objection to abortion.

The Way Forward

The Problem of Participation

90. There was a strong feeling throughout the Oral Evidence Session that the Conscience Clause is being increasingly disregarded, especially following the narrow definition given to the word 'participate' in Lady Hale's judgment in the *Doogan* (2014) case (see paragraph 33-34 of the Judgment)⁸⁸.

- Barrister John Duddington said *'The present law gives virtually no protection to healthcare professionals, whether doctors or other, who have a conscientious objection to taking part in abortions... This is primarily because the Supreme Court in Greater Glasgow Health Board v Doogan and another (2014) gave a narrow meaning to the term 'participate'.'*
- Dr Shahvisi agreed that *'The 'compromise' offered by the conscience clause is no such thing for those who are required to assume complicity in what they consider to be 'murder'.* Dr Shahvisi the answer to this problem is *'If a person finds abortion objectionable, they should not pursue employment in which their only options are to be at one or two removes from abortion provision.'*
- Dr Mary Neal, Senior Lecturer in Law at the University of Strathclyde, wrote in her written submission that *'whatever other purpose a conscience provision may serve (as part of a political compromise, for example), its most direct and explicit purpose is to protect individuals from sharing in moral responsibility for what they perceive as wrongdoing. Unless it is interpreted in a way that achieves this, its purpose is frustrated... If we have no difficulty in holding individuals morally responsible when their indirect/hands off involvement was an activity which is universally agreed to be evil, we can extrapolate to cases where the morality of the activity is controversial or in doubt and acknowledge that those who participate indirectly in these activities also share responsibility for the outcome (praise or blame, depending on one's view). We should not expect someone who believes abortion to be seriously morally wrong to be willing to participate in it in any capacity, and conscience provisions should be drafted and interpreted so as to protect health care practitioners against any such expectations.'*⁸⁹

91. Many healthcare professionals with a conscientious objection agreed that indirect participation in an abortion would mean complicity in the act itself:

- Bev Hanson, in her Oral Evidence, described how she was given the opportunity for a promotion, which would include in the role the responsibility for allocating nurses to roles in theatre. She said *'I spoke to my manager who was very sympathetic, but under the Conscience Clause I couldn't opt out of this, so in the end I didn't take the job.'*⁹⁰
- One submission of written evidence to the Inquiry said *'We can be complicit in a persons' actions and so bear moral responsibility. Supervision of others is such a case,*

⁸⁸ *Greater Glasgow Health Board v Doogan and another* [2014] UKSC 68, judgment by Lady Hale published 17 December 2014 (accessed online at https://www.supremecourt.uk/decided-cases/docs/UKSC_2013_0124_Judgment.pdf on 13 July 2016)

⁸⁹ Neal, Written Evidence

⁹⁰ Hanson, Oral Evidence

*and more specifically if you are supervising and something is not right you need to intervene and if necessary take over and so become directly involved.*⁹¹

- A nursing student who wished to remain anonymous wrote *'All doctors/nurses should have the choice to not be involved directly or indirectly in abortions as it is still a controversial topic and is difficult for many on religious, moral, or personal grounds.'*⁹²
- Ian Jessiman, a retired GP, wrote *'It seemed to be required in that case that the person claiming conscientious objection should be involved in a 'hands on' way in the physical procedure and that a doctor who signed the prescription for the drugs to start the process was not 'protected' as a participant in the abortion. It is hard to see how anyone could be more closely involved than this but legally they are not seen as really taking part!'*⁹³
- Dr Andrea Stevens wrote *'I want the freedom to choose how much I am involved in the provision of abortion, according to my faith beliefs and not to be regarded negatively in any way if I have ensured a patient's wishes and views are respected and accommodated.'*⁹⁴

92. Evidence from the President of the Catholic Medical Association noted that the Council of Europe's Parliamentary Assembly adopted Resolution 1763 in 2010 which affirms the right of conscientious objection in a medical context. It provides that *'no person, hospital or institution shall be coerced, held liable or discriminated against in any manner because of a refusal to perform, accommodate, assist or submit to an abortion.'*⁹⁵ While this is a non-binding resolution, it suggests a wider meaning to participation in abortion provision than is currently being applied in this country.

93. Many practitioners who submitted written evidence view the case of *Greater Glasgow Health Board v Doogan and another* (2014) as a key point in the discussion around the adequacy of protection for healthcare professionals. Many used the case of these midwives as evidence that healthcare professionals with a conscientious objection to abortion are not given adequate protection, or saw the case as a cause for concern.

- A retired medical practitioner wrote that the midwives' *'freedom of conscience was violated and it also set a precedent for other healthcare workers who have a conscientious objection to abortion.'*⁹⁶
- Dr Kearney wrote that Lady Hale *'failed to see and understand that co-operation with abortion includes any involvement whatsoever that facilitates the final act of abortion... This unfortunate decision now has implications for all healthcare professionals and has essentially removed the protection to object to participation in abortion.'*⁹⁷

⁹¹ Jarmulowicz, Written Evidence

⁹² Anon 15, Written Evidence

⁹³ Jessiman, Written Evidence,

⁹⁴ Stevens, Written Evidence

⁹⁵ Howard, Written Evidence

⁹⁶ Anon 16, Written Evidence

⁹⁷ Kearney, Written Evidence

94. The 'Protection of Conscience Project' wrote that *'freedom of conscience for healthcare providers and access to services by patients are not mutually exclusive goals. Both can be achieved by dialogue, prudent planning, and the exercise of tolerance, imagination and political will.'*⁹⁸
95. Ann Furedi, CEO of BPAS, disagrees, writing *'we believe that those who believe that their participation in abortion is wrong, should not seek to use this to intentionally disrupt the service. Thus we think it unreasonable to claim an assault on conscience to be asked to perform administrative or ancillary functions in general hospitals where abortions take place.'*⁹⁹
96. The APPG shares the view of Dr Shahvisi and others that the above interpretation of the Conscience Clause offers inadequate protection for those with strong conscientious objections to abortion. Being *'one or two removes from the abortion provision'* but nonetheless providing a necessary causal link to the provision of abortion is insufficient protection for those who hold a moral conviction that life begins at conception.
97. The APPG notes that practitioners who do not wish to participate directly in abortions are a minority group, and that those who do not wish to participate even indirectly will be a smaller group still, given the divergence of opinions amongst the witnesses. However, the APPG holds that, given the importance of the role of conscience in healthcare outlined in the first section of this report, it is vital that the right to conscientious objection as provided for in the *Abortion Act 1967* is upheld for those who consider indirect involvement in the abortion process as unconscionable for them as direct participation.
98. The APPG suggests that in some settings, an interpretation of the relevant legislation to include indirect involvement could be trialled. Whilst this may impact on the work of colleagues at the participating hospital or clinic, such trials may evidence that reasonable accommodation can be made for this and be accepted by colleague; such trials may also evidence that this interpretation can be applied without affecting quality of patient care. The APPG suggests that this could be trialled in several departments and hospitals across the country, in order to assess possible uptake and feasibility.
99. The APPG agrees with medical guidance and those witnesses who hold that in the event of a medical emergency, healthcare professionals should do all in their power to prevent further harm regardless of their conscientious objection.

Recommendation 8: The Government should consider the feasibility of extending conscientious objection to indirect participation in abortion by authorising trials in several hospital departments and clinics across the country.

⁹⁸ Protection of Conscience Project, Written Evidence

⁹⁹ BPAS, Written Evidence

Legislative Action for Strengthening Freedom of Conscience - options

Amend the wording of the Conscience Clause in the Abortion Act 1967

100. Professor David Jones, writing on behalf of the Anscombe Bioethics Centre and the Catholic Bishops, did not recommend seeking an amendment to the *Abortion Act 1967*. However if this does arise, Professor Jones suggests that *'it should explicitly state that doctors who object are not required to identify a doctor who does not object, nor are they required to refer a patient to a doctor who does not object'* and *'it should define 'participation' in actions authorised by the Act so that this explicitly includes all that the criminal law would include as participation, with overt mention of 'ancillary, administrative and managerial roles'*.
101. Barrister John Duddington, an employment barrister specialising in the place of religion in public life, who gave oral evidence to the Inquiry, also did not recommend seeking to amend the Abortion Act in this respect.
102. The 'Protection of Conscience Project', which submitted written evidence, wrote that conscience clauses for specific legislation *'must be replicated in different statutes, regulations or policies for every morally contested procedure. This piecemeal method is awkward, difficult to keep current with technological developments, and, having a narrow focus, may neglect general principles that ought to inform sound legislation and policy-making.'*¹⁰⁰
103. While the Christian Medical Fellowship does not wholeheartedly recommend seeking a change to s.4 of the *Abortion Act 1967*, they note in their written evidence that *'the word 'treatment' in the Abortion Act's conscience clause has invited different legal interpretations of what constitutes actual treatment. In contrast, the Human Fertilisation and Embryology Act 1990 Conscience Clause (S38) offers broader protection by using the word 'activity'.* It reads *'No person who has a conscientious objection to participating in any activity governed by this Act shall be under any duty, however arising, to do so.'* The Christian Medical Fellowship therefore recommend that *'consideration be given to clarifying it's [i.e. the Conscience Clause of the Abortion Act 1967] by changing the word 'treatment' to 'activity'.*¹⁰¹ Other written evidence also supported this suggestion.¹⁰²

Advocate for greater use of Article 9 of the European Convention of Human Rights: Freedom of Thought, Conscience and Religion

104. Article 9 of the European Convention of Human Rights states: *'Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and 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.'*
105. The Christian Institute wrote in their written submission that *'We believe that Article 9 of the ECHR could be very helpful in protecting freedom of conscience in the future, if UK courts choose to engage properly with this right.'* However at the moment *'we are concerned that the courts, when given the chance, have already omitted to engage properly with human rights law. In*

¹⁰⁰ Protection of Conscience Project, Written Evidence

¹⁰¹ Christian Medical Fellowship, Written Evidence

¹⁰² Eg Life, Written Evidence

*particular the courts have failed to examine whether the current reading of the conscience clause of in Section 4 of the Abortion Act is compatible with the right to conscience enshrined in Article 9 of the ECHR’.*¹⁰³

106. Mr Duddington stated that of the approximately 1500 cases which have been brought before the European Court of Human Rights under this Article, only a handful are related to conscience, with the rest protecting freedom of religion. However, in his evidence to the Inquiry he advised that seeking to apply Article 9 to the Conscience Clause would be of limited use, since it would give insufficient protection for people who, for non-religious reasons, have a moral objection to participating in all or some abortions.

Legislate for Reasonable Accommodation in legislation in this country

107. Reasonable accommodation would mean protection of freedom of conscience, within certain ‘reasonable’ boundaries. For example, the Canadian Human Rights Act allows for similar exceptions, provided that *‘accommodation of the needs of an individual or a class of individuals affected would not impose undue hardship on the person who would have to accommodate those needs, considering health, safety and cost.’*¹⁰⁴
108. Mr Duddington notes that this proposal has been given some support by Lady Hale, who ruled on the *Doogan* case, who asked *‘would it not be a great deal simpler if we required the providers of employment, goods and services to make reasonable accommodation for the religious beliefs of others?’*¹⁰⁵ She expanded on this idea in a lecture she gave at Yale University: *‘Instead of all the technicalities which EU Law has produced, would it not be a great deal simpler if we required the providers of employment, goods and services to make reasonable accommodation for the religious beliefs of others? We can get this out of the ECHR approach but not out of our anti-discrimination law (although it is well established there in relation to disability)’.*¹⁰⁶
109. Legislation allowing for reasonable accommodation is established in the legal system in Canada. Barrister Peter Smith outlined the Canadian model helpfully in his written evidence, as follows:

‘In outline, once a religious belief has been identified, as in English law it must be recognised as sincere and must be the basis of the discrimination complained of (this is true also of complaints made on conscientious but non-religious grounds). Employers are obliged to protect their employees’ religious rights without undue interference in those rights. Any discriminatory measure is subject to a now standard test. The employer must show, on the balance of probabilities,

(1) that the employer adopted the standard for a purpose rationally connected to the performance of the job;

¹⁰³ The Christian Institute, Written Evidence

¹⁰⁴ Canadian Human Rights Act (1985) s.15(2) <http://laws-lois.justice.gc.ca/eng/acts/h-6/page-2.html>

¹⁰⁵ In a lecture entitled ‘Religion and Sexual Orientation’ delivered at Yale Law School on 7 March 2014 and available on the website of the Supreme Court at <http://supremecourt.uk/news/speeches.html>.

¹⁰⁶ Ibid

(2) that the employer adopted the particular standard in an honest and good faith belief that it was necessary to the fulfilment of that legitimate work-related purpose; and

(3) that the standard is reasonably necessary to the accomplishment of that legitimate work-related purpose.

The key to the Canadian model is that to show that the standard is reasonably necessary, it must be demonstrated that it is impossible to accommodate individual employees sharing the characteristics of the claimant without imposing undue hardship upon the employer.

There are a number of factors that the tribunal must consider (e.g. financial cost, any disruption of a collective agreement, morale problems for other employees, the inter-changeability of workforce and facilities, the size of the employer, and safety).¹⁰⁷

Barrister David McIlroy submitted a paper to the Inquiry explaining the principle of reasonable accommodation.¹⁰⁸

110. Mr Duddington suggested that the proposed mechanism for bringing this into legislation in this country would be an amendment to the Equality Act 2010. He submitted a draft amendment for consideration.¹⁰⁹
111. The Christian Medical Fellowship wrote that reasonable accommodation is already being made on a case by case basis for many of their members. *“Many of our members have found when they raise this matter sensitively with supervisors that reasonable accommodation is made for them, both in general practice and hospital practice. This involves being excused from seeing patients with abortion requests, having to refer for authorisation of abortion, doing preoperative anaesthetic checks (clerking patients) and prescribing and administering abortifacient drugs. Almost invariably other staff can be found who will carry out these duties but the onus should not be on the health professional exercising CO to find them.”*
112. The APPG is pleased to note that the principle of reasonable accommodation is already being observed in many hospitals on a case-by-case basis. However, as this is often down to the individual supervisor, the APPG restates that in many instances many applications of the Conscience Clause are inadequate.
113. The APPG makes a number of recommendations in this report with a view to ensuring that the Conscience Clause is properly and fairly observed in practice as Parliament originally intended in 1967 to protect freedom of conscience for healthcare practitioners.
114. However, the APPG further considers that the proposal to introduce reasonable accommodation would not only strengthen protection for healthcare practitioners, but would strengthen our society by acknowledging the rich traditions of diversity and difference from which individuals come. The APPG takes the view that applying the principle of reasonable accommodation would acknowledge the importance of individual conscience – so vital in the lives of so many healthcare professionals.

¹⁰⁷ Smith, Written Evidence, from ‘Religion and Sexual Orientation: The Clash of Equality Rights’ (Comparative and Administrative Law Conference, 7 March 2014), www.supremecourt.uk/docs/speech-140307.pdf

¹⁰⁸ McIlroy, Written Evidence

¹⁰⁹ See Appendix 1

Recommendation 9: ‘Reasonable Accommodation’ should be introduced into legislation in this country, in the form of an amendment to the Equality Act 2010.

115. The APPG notes with interest that on 13th July 2016, the US Congress passed the *Conscience Protection Act*, which provides legal protection for doctors, nurses, hospitals and all healthcare providers who choose not to provide abortions as part of their healthcare practice and provision. Strengthening the law to provide for the exercise of conscience by healthcare practitioners by introducing the principle of reasonable accommodation in legislation in this country would be a similarly positive step. The recent case in Belgium where judges fined a nursing home for refusing to allow the euthanasia of a lung cancer sufferer on its premises, stating ‘it had no right to refuse euthanasia on the basis of conscientious objection’, underlines the need to vigilantly protect the Conscience Clause both in legislation and in application. Hence the importance of this Inquiry and the recommendations in this report.

116. **The Abortion Act 1967 provided in Section 4(1) – the Conscience Clause – a clear right for all healthcare professionals who wish to do so to opt out of involvement in the abortion process. Today, almost fifty years later, when respect for difference and diversity in our society has substantially increased, doctors and other healthcare practitioners should feel as confident as ever, if not more so, about exercising this legal right. There should be no question of healthcare professionals being, as the British Medical Association has described it in evidence to this Inquiry, harassed and discriminated against. There should be no question of their being denied career choices or progression; nor of the exercise of the right to opt out being dependent upon the views and attitudes of individual managers; nor of there being a lack of clear teaching to medical students of their legal rights in this regard. The All-Party Parliamentary Pro-Life Group hopes that as a result of this Inquiry and report, healthcare professionals’ ability, and indeed resolve, to rely on this right will be strengthened and appropriately defended at all times by their professional bodies.**

Recommendations

Recommendation 1: A cross-party Parliamentary Commission consisting of MPs with differing views on pro-life issues should be established to bring together lawyers, academics, campaigners and practitioners from different fields to examine the role of conscience in the context of 'British Values' and any new 'British Bill of Rights'.

Recommendation 2: The Government should commission a full review into the training given to students in ethical and moral matters relating to medicine, with special attention given to ensuring that all students are given full information without pressure about their right to conscientiously object.

Recommendation 3: The General Medical Council should maintain their current guidelines regarding referrals, thereby ensuring that no doctor who has a conscientious objection to abortion should be required to refer a patient to another practitioner.

Recommendation 4: All professional healthcare bodies should adopt the wording of the current GMC guidelines to help facilitate consistency, thereby ensuring that no healthcare professional who has a conscientious objection to abortion is required to refer a patient to another practitioner.

Recommendation 5: The Royal College of Obstetricians and Gynaecologists is requested to publish a statement in response to this Inquiry to clarify their view on career progression for healthcare professionals who conscientiously object to abortion.

Recommendation 6: Government and NHS governing bodies should ensure that an appropriate appeal system for those who believe they have been discriminated against because of their conscientious objection is set up.

Recommendation 7: Medical guidelines such as those published by the General Medical Council should offer guidance to managers and other healthcare professionals who do not have a conscientious objection to any medical procedure, stating how those with a conscientious objection to a procedure should be fairly and respectfully treated. Guidelines should also propose solutions for how employers can effectively accommodate practitioners with a conscientious objection.

Recommendation 8: The Government should consider the feasibility of extending conscientious objection to indirect participation in abortion by authorising trials in several hospital departments and clinics across the country.

Recommendation 9: That consideration be given to the introduction of the principle of 'Reasonable Accommodation' into legislation in this country, in the form of an amendment to the Equality Act 2010.