

**RE: Call for Evidence: The Government's Response to Covid-19: Human Rights
Implication of long lockdown**

Date: 11 January 2021

Submitted to: Human Rights (Joint Committee)

Introduction

1. Christian Legal Centre (CLC) is a leading legal advocacy group in the UK dedicated to protecting religious liberty. We acted as counsel of record for several applicants in the seminal case of *Ewedia and Others v. the United Kingdom*, and have participated in many of the precedent setting cases involving freedom of thought, conscience, and religion in the UK. CLC supported 122 church leaders in England and Wales in initiating a judicial review challenging the coronavirus restrictions limiting freedom of worship in those jurisdictions. Our cases are frequently covered by British print and broadcast media.

2. We make this submission to address the following issue in the Committee's call for evidence:
 - *The impact of lockdown on freedom of religion and belief, and in particular on collective worship. Have interferences with the freedom of religion and belief been proportionate?*

Background

3. The English Regulations were made on 3 November and came into force on 5 November 2020. The comprehensive ban on communal worship lasted until 2 December 2020. Since then there have been various types of restrictions lasting until the present time (January 2021). Similar restrictions were in place in Wales. We are thankful that the ongoing Judicial Review, initiated by CLC, has encouraged Westminster to resist closing English churches completely. At the time of writing a total ban on church opening has been announced in Scotland which may be resisted in the courts.

4. Article 9 of the European Convention on Human Rights (ECHR) protects freedom of religious expression and freedom of worship vis a vis the Human Rights Act 1998. It

dictates that any interference with freedom of religion or belief must be necessary in a democratic society and narrowly tailored to serving one of the enumerated legitimate aims in the second paragraph of Article 9. *Case of Kokkinakis v Greece*, application no. 14307/88, judgment of 25 May 1993, para. 47.

5. One of the most unwavering and established principles found in the jurisprudence of the European Court of Human Rights is the doctrine of church autonomy. In the seminal case of *Metropolitan Church of Bessarabia v Moldova*, the Court held that: “*the right of believers to freedom of religion, which includes the right to manifest one’s religion in community with others, encompasses the expectation that believers will be allowed to associate freely, without arbitrary state intervention.*” ECHR, *Metropolitan Church of Bessarabia v. Moldova*, no. 45701/99, ECHR Reports 2001-XII, 13 December 2001, § 118.
6. The Court has concluded that a public authority may not interfere with the internal workings of a church or religious organization and may not impose rigid conditions on the practice or functioning of religious beliefs. *See*: ECHR, *Serif v. Greece*, No. 38178/97, Reports 1999-IX, 14 December 1999, §§ 51-53. So strong is this principle that it has been upheld three times by the Grand Chamber of the European Court of Human Rights. ECHR, *Hasan and Chaush v. Bulgaria* [GC], No. 30985/96, Reports 2000-XI, 26 October 2000, § 82; ECHR, *Case of Fernandez Martinez v. Spain* [GC], No. 56030/07, Judgment of 12 June 2014; ECHR, *Case of Sindicatul “Pastorul Cel Bun” v. Romania* [GC], No. 2330/09, Judgment of 9 July 2013.

The regulations were not proportionate

7. In this context, we submit that the regulations in England and Wales were not proportionate. We argue that they violate the UK’s obligations under the ECHR by imposing criminal sanctions on churches, their congregations, and other people of faith. This interference particularly affects rights to manifest their beliefs in communal worship teaching, practice, and observance.
8. Further we suggest that restrictions have not been proportionate in that they have breached Article 8 regarding the prohibition of baptism services with its attendant

effect on family life. We believe that the earlier prohibition on marriage similarly breached both Articles 8 and 12 of ECHR.

Incidences of police interference with convention rights

9. CLC is aware of churches having been raided by police in Cardiff, Milton Keynes, North London and most recently in Brighton. Some of these incidences have attracted interest from national media.
10. In the case of the Cardiff church, New Hope Community Church, Llanrumney South Wales, police attended in force, dressed in riot gear, and equipped with tasers.
11. In October 2020, a pre-action letter was sent to South Wales Police regarding this incident, stating that forced closure of churches by the police is an extreme interference with Article 9 rights and only justifiable by the most compelling scientific evidence of a resulting benefit to public health.
12. In mid-November 2020, the church in Milton Keynes, Kingdom Faith Ministries International, was holding a legal broadcast service when they were interrupted by a police raid.
13. The church had planned their men's conference months prior to the announced lockdown 2.0. In response to the Prime Minister's announcement of a second lockdown, they decided to make the conference an online event, broadcast live from their building.
14. The broadcast required the worship team, videographers, and sound engineers to ensure a professional event. The plan was for the worship team to lead some introductory worship, thereafter the pastor would introduce the speaker, Pastor Ade Omooba MBE, Chairman of Christian Concern and a leading church figure, to address the online audience.
15. On Friday 20th November, police interrupted the service under the erroneous impression that the church was having a party with a live band. Despite being

presented with evidence of the ongoing, online, service they insisted on entering the building.

16. The police were asked not to disrupt the broadcast. They ignored the request, insisted there were too many people in the building, and demanded the service cease immediately. They compelled the musicians and singers to leave and subsequently told the video and sound engineers they too should leave.
17. The whole service was conducted entirely legitimately and at no time were there more than the minimum number of people required to facilitate the broadcast.
18. Despite the pastor showing police officers a copy of the relevant regulations, they refused to read them, indicating that they were not interested. They simply had orders to close the church and require everyone to leave.
19. Eight further police officers entered the church to clear the building. Again, the pastor attempted to show the sergeant the relevant guidelines on broadcast services and once again was ignored.
20. Police interference lasted 45 minutes, ruining the online broadcast. Subsequently, the Pastor was visited at home and told he would be charged with breaking the Coronavirus regulations

Street Preachers

21. Joshua Sutcliffe was given a fixed penalty notice by Police for leaving his home in April 2020, to preach with a friend who accompanied him to video the preach from a safe distance of 5 – 10 metres.
22. The Police advised Mr Sutcliffe that preaching was not a reasonable excuse for being out of doors, despite Mr Sutcliffe explaining that it constituted ‘work’ for the purposes of the regulations, albeit unpaid.

23. Accordingly, the Regulations have affected the Article 9 and Article 10 (Freedom of expression), rights of street preachers.

Effects on church life

24. Throughout the epidemic CLC has advised 100+ churches on how to safely, and legally, operate during the various stages of lockdown. Church leaders report they have found the regulations confusing and contradictory.

25. The rapidly changing rules, many enforceable with draconian and ever-increasing levels of fines, has left leaders focused on avoiding legal sanctions. This has necessarily drawn attention away from the primary concern viz, the care of the congregations. This is especially sad at a time when loneliness and isolation have exacerbated mental health issues among certain sectors of society.

Conclusion

26. The manner in which freedom of worship and religious exercise have been limited suggests constitutional overreach and fails to properly balance the rights and needs of churches and believers with the health and safety of others. The wholesale manner in which churches were closed during the first lockdown was not a narrowly tailored means of achieving public health. It seems that no balance of interests was undertaken in making the decision to close churches.

27. In England, it was possible to purchase alcohol, go to a bicycle shop, secure a loan, or go to a dry cleaner, yet church attendance was punishable by fine or forced physical removal.

28. While the government has addressed these issues to some extent, we remain concerned about the chilling effect the heavy-handed treatment of churches has had on freedom of religion or belief.

29. Perhaps as dangerous as coronavirus is the threat of addiction relapse, suicide or mental illness arising from the crippling isolation and pervasive fear caused by the

response to the virus. The public benefit of functioning churches is invaluable to vulnerable people, as well as to believers around the country whose lives are anchored by their faith and participation in their church community.