

Guideline Leaflet L09A: Equality law and recruitment – can we justify employing a Christian?

This leaflet is designed to help churches to understand the provisions of the Equality Act 2010, particularly in relation to using the organised religion exceptions to confirm and support the Christian ethos of your church. This is the first in a series of five leaflets addressing different aspects of these provisions.

This Guideline Leaflet is regularly reviewed and updated. To ensure that you are using the most up to date version, please download the leaflet from the BUGB website at www.baptist.org.uk/resources

The date on which the leaflet was last updated can be found on the download page.

These notes are offered as guidelines by the Legal and Operations Team to provide information for Baptist churches.

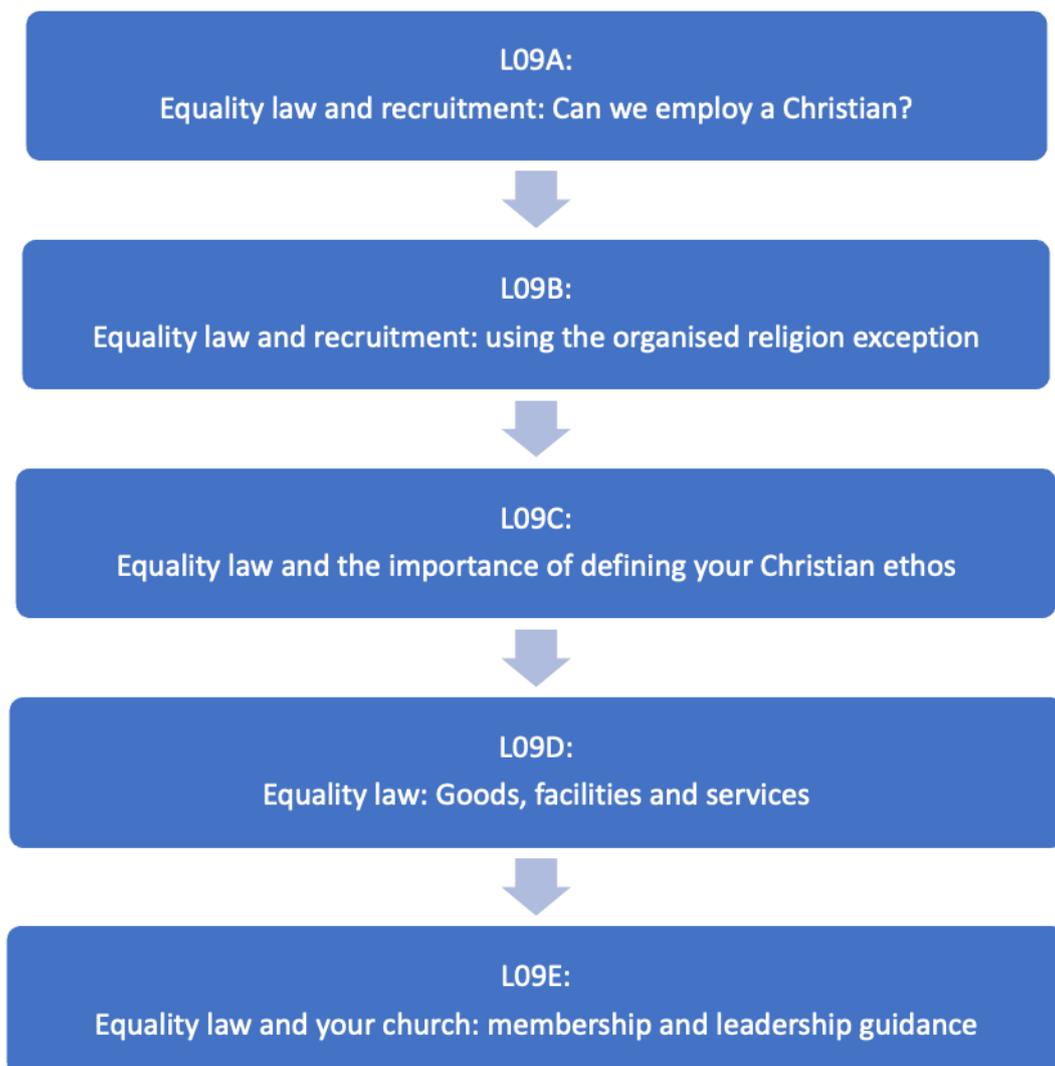
The legal services undertaken by the Legal & Operations Team of the Baptist Union of Great Britain are carried out and/or supervised by a Solicitor who is authorised and regulated by the Solicitors Regulation Authority. Regulatory Information is available here: [L17 Legal and Operations Team – Regulatory Information](#)

These notes can never be a substitute for detailed professional advice if there are serious and specific problems, but we hope you will find them helpful.

THE L09 LEAFLET SERIES

This series of leaflets provide guidance to churches on how to consider and make use of the religious exception provisions laid out in the Equality Act 2010. We recognise that there are circumstances where a church will want to specifically employ a Christian, to clearly state the church’s position in relation to some issues of ethics and values, and to make sure that it acts fairly and legally in relation to employment of staff and the provision of services. All of these issues are dealt with in this series of guideline leaflets.

The diagram below shows the full set of leaflets in this series. This leaflet is **L09A: Equality Law and Recruitment – Can we justify employing a Christian?**



INTRODUCTION – PURPOSE OF THIS GUIDANCE

We have created this guidance to help your church understand and apply the provisions of the Equality Act 2010 relating to discrimination because of religion or belief when recruiting. For the purpose of this guidance, references to 'your church' shall include Christian missional projects and pioneering ministries and initiatives.

This guidance covers the issues that will arise when your church wishes to recruit a Christian to the role. It focuses on the occupational requirements (OR) available to an organisation with an ethos based on religion or belief. This is important because the Equality Act makes discrimination because of religion or belief unlawful. However, when a church advertises for a Christian or chooses to employ a person because he/she is a Christian, discriminating because of religion or belief is exactly what the employer is doing.

Thankfully, the Equality Act 2010 provides some flexibility to allow churches and other faiths to maintain their ethos based on their faith. Therefore, discrimination can be acceptable within the law, in our case in favour of Christians, but only where you can show that your organisation has an OR which justifies why the role should be carried out by a Christian. If using an OR, you will also need to consider how you apply it and ensure that its application is proportionate, i.e. your church must have a legitimate aim and your application of the OR must go no further than necessary to achieve it. In other words, although churches will be able to advertise for, recruit and employ Christians, this will only be lawful if they can demonstrate in each case the specific requirements which relate to their role, relate it to their Christian ethos and show that it is proportionate to their aim.

This leaflet will help you to:

- understand what the law actually says;
- justify why you want to recruit a Christian into a particular post;
- operate equal opportunities as a Christian employer;
- understand the importance of identifying and describing the distinctive ethos of your church and signpost you to another leaflet in this series to assist with doing this;
- apply your Christian ethos to operational processes like advertising and selecting for the role; and
- work through the practical steps you need to take so that you can operate correctly within the law and put your organisation in the best place to withstand legal challenge.

1. OVERVIEW OF EQUALITY LAW IN EMPLOYMENT AND RECRUITMENT

1.1 What do we need to know?

Religion or Belief is one of 9 “protected characteristics” set out in the Equality Act 2010, the others being:

- age,
- disability,
- gender reassignment,
- marriage and civil partnership,
- pregnancy and maternity,
- race,
- sex; and
- sexual orientation.

“Religion” means any religion, and a reference to religion includes a reference to someone having a lack of religion. The law defines “Belief” as any religious or philosophical belief and a reference to a belief includes a reference to lack of belief. This would include people with no belief in the Christian faith ¹. The law protects a wide range of individuals within the field of employment, occupation and vocational training against religious or belief discrimination, harassment and victimisation. It protects both job applicants and those in employment under a contract of employment, a contract of apprenticeship or a contract personally to do work. Essentially, this means that employees, workers and a wide category of individuals who are self-employed, provided that they are “in employment” and that their contract obliges them to perform the work personally are protected against discrimination.

1.2 What types of discrimination are there?

The law provides that it is unlawful for an employer to discriminate directly or indirectly, or to harass or victimise staff because of their religion or belief (or lack of religion or belief). Taking each of these in turn:

<i>Type</i>	<i>Example</i>
Discriminate directly by treating a job applicant or employee less favourably than others because of religion or belief.	If your church rejects a job applicant because they are not a Christian or do not like Christianity, even though they are the best candidate for the job, this will be direct religious discrimination. Direct discrimination cannot be justified but as an employer you might be able to rely upon an exception, perhaps by pointing to an occupational requirement to avoid

¹ Section 10 of the Equality Act 2010

	liability.
<p>Discriminate indirectly by applying a provision, criterion or practice (this is often referred to as a PCP) such as a rule or policy to everybody.</p> <p>On the face of it, it looks like you are treating everyone equally but it particularly disadvantages job applicants or employees of a particular religion or belief as well as a particular person in that group without the employer being able to objectively justify this.</p>	<p>The concept of a PCP is broad, it would include recruitment criteria, employment policies such as a requirement not to wear jewellery or to cover your head, informal practices and even one off decisions. A PCP may appear neutral, in other words, it applies to everyone regardless of religion or belief but it has the effect of disadvantaging employees or job applicants of a particular religion or belief. A rule or policy that has an indirectly discriminatory effect is not unlawful if your church can objectively justify it.</p> <p>To objectively justify a PCP, an employer needs to show that it has a legitimate aim (i.e. a real organisational need) and it will need to be able to show that the PCP is a proportionate means of achieving that aim. This means that it is reasonably necessary in order to achieve that aim and there are no less discriminatory means available. Should this end up at an employment tribunal, the Tribunal will perform a balancing act between your needs as an employer and the discriminatory effects of the PCP.</p>
<p>Subject a job applicant or employee to harassment related to religion or belief. Harassment occurs where an employer or employee engages in unwanted conduct relating to religion or belief (or lack of a religion or belief) which has the purpose or effect of violating another person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person. Harassment can be both intentional and unintentional.</p>	<p>The Act makes two types of harassment related to religion or belief unlawful.</p> <p>The first is when somebody intends to harass another employee. For example, a member of staff has set up a weekly interfaith group for all employees and regularly criticises all members of staff who decide not to attend, warning them of the consequences of not having any particular religion or belief.</p> <p>The second is when the unwanted conduct is not intended to harass others but has that effect. This means that it is not necessarily a defence to a harassment claim to say that the harasser 'did not mean it'. The Act itself sets out the relevant factors in deciding whether conduct has a harassing effect. These are the perception of the person being harassed, the other circumstances of the case and whether it is reasonable for the conduct to have that effect. This means that not all conduct considered as harassment by an employee will be unlawful.</p> <p>For example, an employee who is a strong believer in man-made climate change is offended by comments</p>

	made by a colleague disputing the reality of man-made climate change during a discussion. The colleague does not intend to harass him but the employee claims that the comments create an intimidating, hostile, degrading, humiliating or offensive environment for him.
<p>Victimise a job applicant or employee because they have made or intend to make a religion or belief discrimination complaint. Victimisation in the workplace occurs when someone suffers a detriment as a result of having complained about discrimination or because they helped someone else with a discrimination claim.</p>	An employee complains that her church employer has discriminated against her because she has no religion or belief. At a later date, the employee is turned down for promotion because, although she has the necessary skills and experience, she is seen as a troublemaker. If the employee can show she has been turned down because of her earlier complaint about discrimination, this would amount to victimisation.

1.3 *What can we rely on if being a Christian is crucial for a job?*

Organisations which have an ethos based on religion or belief can rely on an occupational requirement (OR) for employees to be of a particular religion (in our case Christian) where, having regard to the ethos and the nature and context of that work:

- It is an OR;
- The employer has a good organisational reason (i.e. a legitimate aim) and the application of the OR is a proportionate means of achieving that legitimate aim / good organisational reason;
- The person to whom the OR is applied does not meet it (or the employer has reasonable grounds for not being satisfied that the person meets it).

For it to be an OR, both of the following must also apply:

- the protected characteristic is essential for and relates to the main tasks of the job
- the employer can prove it has a good business reason ('objective justification')

Such an employer would then be able to justify discrimination in respect of recruitment, access to promotion, transfer or training, or even dismissal.

1.4 *What Occupational Requirements (OR) are relevant to religion or belief?*

Those ORs relevant to religion or belief are:-

- (a) General Occupational Requirement. This is available where considering the nature or context of the work, being of a particular religion or belief, i.e. in our case a Christian, is a requirement for the work.²
- (b) Organised Religion Exception. This can apply where the employment is for the purposes of an organised religion. Your church might apply an OR
- o that the employee be of a particular sex;
 - o that the employee not be a transsexual person, married or a civil partner;
 - o that the employee not be married to or the civil partner of, a person who has a living former spouse or civil partner, relating to circumstances in which a marriage or civil partnership came to an end;
 - o or related to sexual orientation³

if you can show that the OR is required in order:

- to comply with the doctrines of the religion; or
- to avoid conflicting with the strongly held religious convictions of a significant number of the religion followers.

- (c) Employers with a Religious Ethos. An employer with an ethos based on religion or belief may, in certain circumstances, show that being of a particular religion or belief is an OR.⁴ For your church to apply this requirement successfully, being a Christian must be a requirement for that work. If a Christian project, then it will need to be able to evidence that it has an ethos based on religion or belief by referring to appropriate documents such as its founding constitution.

1.5 *Employment policies and practices*

Churches need to be aware that the occupational requirement, even if properly justified, does not give an employer the right to treat employees differently once appointed in relation to:

- Application of church policies and procedures
- Eligibility for pension scheme membership or contribution levels
- Eligibility for any other staff benefits
- The application of the church's capability, disciplinary or grievance procedures

The occupational requirements can only be used to defend a claim of unlawful discrimination for claims relating to:

- Recruitment

² Paragraph 1, Schedule 9 Equality Act 2010

³ Paragraph 2, Schedule 9 Equality Act 2010

⁴ Paragraph 3, Schedule 9 Equality Act 2010

- Access to promotion, transfer or training
- Dismissal

There is considerable overlap between the General Occupational Requirement and the Religious ethos exception. This guidance will explain how these ORs may be of assistance to your organisation.

The organised religion exception is addressed in Leaflet LO9B Equality Law and Recruitment: the organised religion exception.

2. CAN WE JUSTIFY EMPLOYING A CHRISTIAN FOR A ROLE?

2.1. How do we identify which posts need Christians and why?

The law says that if your church wishes to advertise for, select, employ or promote a Christian, it will need to be able to justify the requirement in order to defend successfully and preferably pre-empt any challenges or claims for discrimination on the grounds of religion or belief.

This means that your church will need to determine and decide upon the occupational requirement (OR) for a particular post to be filled by a Christian. This guidance advises against adopting a blanket policy that all employees must be Christians. Instead, if your church is considering applying an OR, it should look at each job role individually both in terms of the duties of the job and the context it is carried out before deciding whether there is an OR that the employee in that particular role be a Christian.

2.2. How do we identify an Occupational Requirement?

The starting point is to describe the whole job, not just the tasks of the job which only a Christian can do. The employer must be able to show that being a Christian is a central requirement of the job and not just one of many relevant factors.

We recommend that you do this by using the job description templates and examples in our [Guide to Safer Recruitment](#). This document guides you to describe the job you want doing and then to identify the criteria – the skills/knowledge and experience – you are looking for in the person. To ensure that you get the right person you will need to do this exercise before you start your recruitment process.

Next identify those tasks of the job which can only be done by a Christian. When writing up the tasks of the job which give rise to the OR in the job description and person specification (please refer to the template mentioned above) it is essential that:

- a central feature of the job must reflect the OR.
- there are clear links between the Christian purpose and ethos of your church, described in the church/project context section, and the job as stated in this description.
- the OR is clearly featured in the list of the main tasks of the job description.

- the knowledge/skills/experience required to carry out the OR, and so reflect the ethos, are clearly stated in the person specification.
- If you cannot identify specific tasks that only a Christian can carry out, consider whether there is anything else about the context of the work that would require a Christian and record these 'contextual' requirements. One example might be if the job involves a demonstration and explanation of practical discipleship. A church sets up a social action project to support disadvantaged people in the local community with gardening and painting tasks etc. The employee is required to organise and carry out these tasks and mobilise other volunteers such as youth groups who come and take part in these activities. While it does not require a Christian to paint a fence or do some gardening, the context is key because the employee would be required to talk with the youth group volunteers about the Biblical emphasis on supporting those who are poor as an example of practical discipleship and explain the purpose and reason for doing these tasks.

In summary an OR is

- Central to the job
- Reflected in the duties of the job description or in the context in which the job is carried out
- Linked to the personal requirements for the job
- Related to the ethos of your church
- Individual to each job

2.3. What if only a small part of the job needs someone to be a Christian?

Consider whether there are alternatives to applying an OR. For example, if only a small part of the job needs someone to be a Christian, then consider whether it is possible to redistribute work or re-organise roles in such a way as to avoid applying an OR that the person be a Christian to a particular post.

Employers can reasonably expect their staff to keep to the organisational values and culture and should bear in mind that people may be able to maintain those values and culture without actually belonging to the particular religion or belief.

2.4. Why does there need to be a clear link between the requirements of the job and the need to maintain our church's ethos?

You need to be clear about the link between the requirements of the job and the need to maintain your church's ethos because in the event that an employment tribunal claim is brought against you for religion or belief discrimination, the burden of proof will be on your church to show the OR you have chosen to rely on and justify its use. This means that you would have to prove that there was a proportionate requirement to be of a particular faith in that post.

Further guidance on reviewing and/or drafting your organisation's Christian ethos statement can be found in Leaflet L09C: Equality law and the importance of defining your Christian ethos.

2.5. What if there is no OR for the role to be done by a Christian but our church has a preference for the role to be done by a Christian?

Unfortunately, if you do not establish an OR and you go on to make being a Christian a requirement for the role, either in your advertising or in your selection process, it will expose your church to challenge and a potential claim for discrimination on the grounds of religion or belief. Your church will not be in a position to defend the claim if it cannot identify a religion or belief OR justify its use.

2.6. Can we require applicants for non-OR roles to nevertheless be "sympathetic" to our church's Christian ethos?

When determining whether a role can properly carry an OR requirement for the job holder to be a Christian, consideration needs to be given whether there could instead be a lesser requirement e.g. that the job holder is understanding of the organisation's ethos. It follows that it is open to an organisation to require its non-OR job holders, at the very least, to not do anything that would undermine the ethos of the organisation. This is consistent with the duty implied into every contract of employment that the employee will serve their employer faithfully and to promote, and not disrupt, the employer's interests.

What it means to be "sympathetic" is, of course, open to interpretation. Where a requirement to be "sympathetic" in practice means subscribing to, or otherwise holding views that are in keeping with, the organisation's ethos then that risks stepping over the line into requiring the post-holder to actually hold particular beliefs. That would, in turn, open your church up to claims of discrimination without the benefit of being able to rely on an OR defence. To be "sympathetic" should instead focus on the individual having an understanding of the organisation's ethos and a willingness to work within an environment that seeks to promote that ethos.

2.7. Practical examples of Occupational Requirements used in churches and Christian projects

This guidance sets out some common examples of how the religion and belief occupational Requirement (OR) might be used.⁵ This is not a comprehensive list and there is no guarantee that all of these examples could be successfully defended. This is not legal advice. The validity of any OR depends entirely on the extent to which you can demonstrate, through the clarity of your Christian purpose and expression of your ethos, the requirement for the post to be held by a Christian.

2.8. Baptist Minister or lead person of your Christian project

The OR to demonstrate that the role of the Baptist Minister requires a Christian would be easy to establish. Similarly, your Christian project may wish to restrict applicants for the post of head of its organisation to those people who adhere to the Christian faith. This is because to represent the views of that organisation accurately, it is felt that the person in charge of that

⁵ Paragraphs 1 and 3, Schedule 9 Equality Act 2010

organisation (as with your Baptist minister) must have an in depth understanding of the Christian religion's doctrines. In addition, it will consist of the need for the person in this role to lead and represent the Christian mission and purpose including preaching, teaching, discipling and counselling. It is worth noting that Baptist ministers are not employees but office holders. However, the same ORs apply to ministers of religion as office holders. Baptist ministers are addressed again in the next chapter on the organised religion OR.

However, the tasks which give rise to ORs for other posts, are perhaps not so clear. The purpose of the following three examples is to help you think through whether posts in your church carry ORs and if so how to describe them. No two jobs are the same but as a general principle remember that to be an OR, a job or task must always help the church/project achieve its Christian mission and purpose and be Christian in its ethos.

2.9. Youth worker

Your church wishes to recruit a Youth worker to work both with the young people of the church and on outreach projects in the local community.

The main purpose of the role is to help young people attached to the church to grow in their faith and to help others who are not yet involved in the church begin to explore and understand their spirituality.

The role is made up of the following aspects:

- To operate the young people's drop-in centre in the church rooms on 2 nights a week, encouraging all young people to attend
- To undertake some administration e.g. rotas, bookings for the church rooms.

The OR for the job therefore is the need to relate the Christian faith, in a variety of contexts, to young people both in and outside of the church.

It is very important that the OR is reflected in the job purpose and the job description as well as the person specification and expressed along the following lines:

Job Purpose:	Help young people to relate to and develop in their Christian faith.
Task(s) in the job description	Lead projects in the community and run the drop-in centre in the church rooms as part of the church's outreach e.g. holiday clubs, fun days etc
Person specification	To be able to relate to young people with different needs and to explain the Christian faith in ways which encourage, interest and stimulate growth

However, if when considering the job purpose and tasks, the Youth worker is employed only to arrange sporting or social activities and not to teach about the Christian faith (we acknowledge

that this may be unlikely in a church context but possible in the context of a Christian project) then your church would struggle to justify an OR that the Youth worker be a Christian.

2.10. Church Administrator

The church has a number of activities, led by volunteers, which run from its premises – a mother/toddler group, a community support group etc. There is only one church Minister and it has been decided that support is required to off-load some of the admin work.

The support role involves general administration and coordination of church support– room bookings, clerical duties and some diary management for the Minister, telephone/email enquiries etc.

At one level it is possible to conclude that the job could be carried out by a Christian or a non-Christian – it could easily be argued that at a functional level an employee of any faith or no faith at all could do this work.

However, the church wishes to recruit a Christian because in many situations the person filling it would be entirely responsible for the representation of the church. This would require the postholder being able to make an appropriate response to any caller at any time, perhaps without reference to another person immediately.

The OR for this job therefore is the need to be the interface between the church and the outside world, able to represent a church view, make a Christian response and reflect Christian values.

It is very important that the OR is reflected in the job purpose and job description as well as the person specification and expressed along the following lines:

Job Purpose:	This job is responsible for representing the church in the absence of the Minister
Task(s) in the job description	Dealing with church issues on behalf of the Minister, making decisions where appropriate
Person specification	Experience in dealing with church matters and pastoral/relational skills are essential

Please note that if you are recruiting someone for a more junior admin role without a requirement to coordinate church activities or represent the church, it is unlikely that an OR could be used.

2.11. Church Café Supervisor

Your church wishes to set up a church café. It is situated in an area where there are few meeting places and where there are a wide range of social needs. It will be open through the day and for part of the evening for young people. The church is a small church, not many volunteers, and so to develop this operation effectively it has been decided to employ a part time worker to supervise and run the church café.

The tasks of running a church café could be carried out by a non-Christian as well as a Christian but the church wants to recruit a Christian because the church café is a key part of their outreach to the community.

While it might be clear what the church wants the person to do in order to supervise and run the church café, it needs to be clear what makes this church café a Christian church café. If this is not clear, the church/Christian project will find it difficult to identify the OR (the requirement for a Christian) in the job description and person specification.

The distinctively Christian characteristic of the church café is its fundamental purpose – it is there to serve coffee to those who drop in but, in doing so, its wider purpose is to be a tangible expression of the Kingdom of God and its values such as love, hospitality, compassion, mercy, forgiveness and so on. The distinctively Christian aspect of this church café is the motivation with which the whole operation is put together and carried out.

The OR for the job is the need to represent and live out the Christian purpose of the church café in the day-to-day operation – to reach out in love, and show practical support for people in the community and to be willing to share one’s faith in pastoral situations, expressed along the following lines:

Job Purpose:	This job is a way of expressing God’s love to the world by modelling Christian values in all its dealing with people
Task(s) in the job description	To welcome all those who drop in, showing Christian hospitality and taking the opportunity to share faith where appropriate
Person specification	Ability to relate to different types of people, experience of dealing with the needs of the young and disadvantaged, exercising Christian faith

3. HOW DO WE REFLECT THIS IN OUR RECRUITMENT POLICY?

3.1 If you have not yet had the chance to put a safer recruitment policy in place for your church, we would encourage you to do so. You can find help with this in our [Guide to Safer Recruitment](#) which sets out good practice in recruitment and selection processes for churches.

4. RECRUITMENT: WHAT PRACTICAL STEPS DO WE NEED TO TAKE?

Once you have determined your OR for a post your church need to take the steps set out below in relation to recruitment. For a model recruitment process flow chart which summarises the steps below, please go to our [Guide to Safer Recruitment](#).

4.1. *Job description/person specification*

The job description should make clear why it is necessary to employ a Christian in the particular post by reference to the particular duties that require this.

Where the job in question does not appear to have obvious spiritual content, your church should ensure that it can explain why the context of the employment is such that the job must be held by a Christian.

Some example job description templates that may be helpful can be found in our Guide to Safer Recruitment.

4.2. Review your supporting documentation

In order to support the OR assessment process, your church should review its supporting documentation, namely, its Ethos Statement and Justification Statement (which are explained further below) to check they currently provide a clear and definitive explanation of your Christian ethos why and how this ethos therefore impacts on its recruitment and selection process.

In addition, any Baptist church that adheres to the Baptist Union's (BUGB) Declaration of Principle contained in its constitution and wishing to claim an OR based on religion or belief should ensure that applicants are required to sign up to and continue to accept the BUGB Declaration of Principle or other similar appropriate document such as a statement of faith or other doctrinal statement and/or a similar document that defines the beliefs you expect someone working under an occupational requirement to hold.

It would also be prudent for each church to adopt their own code of conduct dealing with any sex, sexual orientation or gender re-assignment issues in order to demonstrate to its employees the behaviour expected in roles where you claim an organised religion OR. An example of this can be found at www.baptist.org.uk/resources/L08, which could be adapted if required. For Baptist ministers, the Ministerial Recognition Rules are also relevant.

4.3. Christian Ethos statement

Does your Ethos statement identify sufficiently what your church believes and, in turn what difference that belief makes both internally within the organisation and externally? On the basis that beliefs drive behaviours, the Ethos Statement should focus on what behaviours your church requires and, therefore, how this justifies that requirement for staff to hold comparable beliefs. More information on how to draft a Christian Ethos statement and some sample Christian ethos/belief statements can be found in *L09C Equality law and the importance of defining your Christian ethos*.

4.4. Justification Statement

Consider placing references to roles requiring an OR in a Justification Statement. Make it clear which roles, having regard to the nature of the role and the context in which it is being carried out, will carry an OR for the job holder to be a Christian. This guidance recommends that it is made clear that ORs will be kept under regular review, in particular whenever a role becomes vacant or is newly created.

It is also recommended that the Justification Statement summarises how your church will assess whether it is satisfied that an applicant meets the OR.

If your church have some non-OR posts, this guidance recommends that the Ethos Statement makes clear the values that all employees and volunteers are expected to demonstrate in

keeping with its ethos. A sample justification statement that could be inserted into a recruitment policy can be found in our [Guide to Safer Recruitment](#).

4.5. *Equal opportunities policy*

Ensure that your church has one in place. As Christian employers, while we subscribe to equal opportunities, we cannot say in our equal opportunities policy that we do not discriminate on any grounds. That's because we do discriminate lawfully on the grounds of religion but rely on an exception in the legislation to be able to do this. We therefore need to make statement in our Equal Opportunities policy that, in the light of our Christian purpose and ethos, we reserve the right to recruit Christians where there is an occupational requirement (OR) to do so. It would then be helpful to indicate which posts this applies to, either by attaching a list or referring to one held elsewhere, for example in a Justification Statement mentioned above although it will be essential that this is kept under review.

An example Equal Opportunities policy that could be adapted can be found in our guideline leaflet L08 Employment - www.baptist.org.uk/resources/L08.

4.6. *Advertising*

Where you are claiming an OR that a post should be filled by a Christian, that should be stated in your advertising.

Advertisements for OR roles should make clear that the role is subject to the requirement for the post-holder to be a Christian who shares your church's ethos and basis of faith. Whilst it is unlikely to be practical for the advertisement itself to set out the basis for that requirement, it is recommended that any summary of key responsibilities focus as far as possible on those elements of the role that justify it carrying an OR.

A link to access the Ethos Statement and any document setting out the basis of your faith such as the Declaration of Principle or a copy of those documents, should be included in the application pack.

Consider summarising in advertisements for non-OR (as well as OR) roles for your church, not just that it is a Christian charity (if relevant) or church, but also that it has a Christian ethos so that applicants are clear at the outset about the environment within which the post holder will work. A link to, or copy of, the Ethos Statement should be included within the application pack.

4.7. *Assessing whether the applicant meets the requirement that they are a Christian – application process and interview questions*

Those leaders involved in recruitment to OR positions for your church will need to decide what they will look for to determine whether each applicant meets the requirement that they are a Christian.

It will be very important for your church to accurately and carefully record the basis upon which it is concluded that it is or isn't satisfied that the requirement to be a Christian is met.

Your church is entitled, as an employer, to require certain actions, church attendance, expressed attitudes, demonstrated commitments and/or references from for example, church leaders, in order to be reasonably satisfied that the recruit satisfies the OR to be a Christian.

Provided your church can demonstrate that it has 'reasonable grounds for not being satisfied that the person' is a Christian, this would be sufficient to refuse an applicant an OR role provided it can justify the OR in the first place. You do not have to come to a positive judgement that someone is not a Christian. This guidance recommends that a list of agreed relevant grounds that would ordinarily satisfy your church that the applicant is a Christian should be developed and agreed. Examples include:

- Reference from a church leader that they believe the applicant is a Christian. It should be made explicit on the application form that any offer of employment for an OR role is subject to an acceptable reference from a church leader;
- A willingness to sign an agreed statement to adhere to the Declaration of Principle, and your church's own statement of faith. You could consider including this within the OR application form;
- A willingness and ability to articulate their Christian experience;
- A commitment to seek to live their life in a way that would help your church to achieve its purpose.
- If your church is not satisfied that an applicant meets the requirement to be a Christian and therefore wishes to reject their application it is recommended that the rejection letter refers to your church not being "satisfied that [the applicant] meets the requirement".

4.8. Assessing whether the applicant meets the organised religion exception

The organised religion exception is a requirement that the applicant is of a specific sex, sexual orientation, not married or a civil partner, not be married to or the civil partner of a person who has a living former spouse or civil partner and not be transsexual.

Where your church has discerned that it is necessary to discriminate, for example, on the grounds of sexual orientation or gender identity, you do not necessarily need to be setting that out in your advert or job description. However, through your interview process you would need to be satisfied that a candidate complied with your requirements. This could potentially be done by exploring the applicant's theology and how they would teach others in relation to questions regarding sexual orientation and/or gender reassignment.

4.9. Interview questions for non-OR roles

It is recommended that the interview questions concerning your church's Christian ethos for non-OR roles are focused on whether the applicant recognises that your church subscribes to an Ethos Statement and understands it; whether they are willing to carry out their role within an environment that seeks to promote that ethos and also whether the individual is and able to commit to promoting the organisation (if relevant), within that context.

How we can help

The Baptist Union of Great Britain is available to help churches in membership of the Union with issues raised in these guidelines through the relevant departments at Baptist House on 01235 517700. Legal questions should be directed to the Legal & Operations Team or HR Team either by referring to the website, www.baptist.org.uk, where a comprehensive range of leaflets is available or contact the offices on 01235 517700, fax 01235 517715 or email L09@baptist.org.uk. For formal legal advice the Union's solicitors are ready to offer their professional services. Please contact Anthony Collins Solicitors, 134 Edmund Street, Birmingham, B3 2ES on katherine.sinclair@anthonycollins.com.

This is one of a series of Guideline Leaflets that are offered as a resource for Baptist ministers and churches. They have been prepared by Anthony Collins Solicitors on behalf of the Legal and Operations Team and are, of necessity, intended only to give very general advice in relation to the topics covered. These guidelines should not be relied upon as a substitute for obtaining specific and more detailed advice in relation to a particular matter.

You can access all of the L09 leaflet series using this link: www.baptist.org.uk/resources/L09.

The staff in the Legal and Operations Team at Baptist House will be very pleased to answer your queries and help in any way possible. HR advice is also available for churches. It helps us to respond as efficiently as possible to the many churches in trust with us if you write to us and set out your enquiry as simply as possible.

Contact Address and Registered Office:

Baptist Union of Great Britain, Baptist House, PO Box 44,

129 Broadway, Didcot OX11 8RT

Tel: 01235 517700 Fax: 01235 517715 Email: legal.ops@baptist.org.uk

Website: www.baptist.org.uk Registered CIO with Charity Number: 1181392

Date reviewed: July 2023

Date of issue: July 2023