

University of Southampton

Faculty of Social Sciences

Southampton Law School

Equality of Access to Pastoral Care for Non-Religious Prisoners

Katie Barbara May Hunt LLB LLM

ORCID: 0000-0002-7352-0838



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Abstract

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This thesis presents the outcomes of my doctoral research into non-religious prisoners' access to pastoral care. The findings are based on an extensive literature review, analysis of antidiscrimination law, and the evidence given by over 20 participants. Using bereavement support and the experience of grief without God as a test case, it finds that people with non-religious beliefs, who make up almost a third of the prison population, are treated less favourably than religious prisoners and are particularly disadvantaged by universal prison policy, specifically the multi-faith chaplaincy intended to serve prisoners of all faiths and none. The incarceration experience complicates the grief process at every stage, but little support is available, and the primary source of pastoral care is the chaplaincy. My research indicates that many non-faith offenders feel uncomfortable engaging with religious services and so do not receive the help that they need. A lack of secular alternatives means that these inmates may experience poorer outcomes. Informed by a close reading of the sections on direct discrimination, indirect discrimination and the public sector equality duty in the Equality Act 2010, this thesis suggests that Her Majesty's Prison and Probation Service may be operating unlawfully, and proposes reforms to reduce inequalities.

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Research Thesis: Declaration of Authorship

Print name: *Katie Hunt*

Title of thesis: *Equality of Access to Pastoral Care for Non-Religious Prisoners*

I declare that this thesis and the work presented in it is my own and has been generated by me as the result of my own original research.

I confirm that:

1. This work was done wholly or mainly while in candidature for a research degree at this University;
2. Where any part of this thesis has previously been submitted for a degree or any other qualification at this University or any other institution, this has been clearly stated;
3. Where I have consulted the published work of others, this is always clearly attributed;
4. Where I have quoted from the work of others, the source is always given. With the exception of such quotations, this thesis is entirely my own work;
5. I have acknowledged all main sources of help;
6. Where the thesis is based on work done by myself jointly with others, I have made clear exactly what was done by others and what I have contributed myself;
7. Parts of this work have been published as: Hunt, K. & Read, S. (2018) 'Grief, Chaplaincy and the Non-Religious Prisoner', in Read, S., Santatzoglou, S. & Wrigley, A. (Eds.) *Loss, Dying and Bereavement in the Criminal Justice System*. London: Routledge

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Most of all, I am indebted - in this, as in all things - to Kathy Haynes. Mum, completing this PhD has been the second greatest privilege of my life; the first has been sharing that life with you.

CHAPTER 1: INTRODUCTION & METHODOLOGY

I. Overview

My doctoral project was a qualitative, empirical study of pastoral care provision in prison and non-religious prisoners' unequal access to support. This thesis presents original evidence on the multi-faith prison chaplaincy and the extent to which the Prison Service and its current pastoral care arrangements recognise and meet the needs of prisoners with non-religious beliefs. I use the Equality Act 2010 and relevant case law as an analytic framework to consider whether this equality amounts to discrimination on the ground of lack of religious belief.

This document is organised as follows. Here in Chapter One I have set out the aims and design of my PhD research, that is, what I studied and how. I have described my journey towards my research question and located the issue within in its social, legal and criminological context.

In Chapter Two, I draw extensively from the literature on experiences of loss and mourning in prison and the complex challenges confronting grieving offenders. I employ two models of bereavement to demonstrate the ways in which imprisonment hinders the grieving process at every stage, presenting unique pastoral care needs. I query the suitability of religious chaplaincy for non-religious prisoners.

Chapter Three describes the existing mechanisms for prisoners' pastoral care. It charts the evolution of prison chaplaincy and the suitability of the modern alternatives offered in some institutions. Problems of chaplaincy accessibility apply here too, as it is via the chaplaincy that most of these services are reached.

In Chapter Four I introduce the Non-Religious Pastoral Support Network (NRPSN) and consider my research participants' arguments for the addition of a secular pastoral carer to chaplaincy teams.

Conversely, Chapter Five sets out the objections and counter arguments to non-religious pastoral care presented by chaplains and some criminal justice professionals during my research interviews.

Chapter Six presents the systemic barriers and practical obstacles to non-religious support that have emerged from my research and reveals a problem of reduced access to chaplaincy and pastoral care for non-religious prisoners.

Chapter Seven analyses this tension in the context of antidiscrimination law. It sets out the Equality 2010 provisions on direct discrimination, indirect discrimination and the public sector equality duty and applies them to the inequalities indicated in my data. I ask whether the arrangements for pastoral care put the Prison Service in breach of its equality obligations by providing unequally for non-religious prisoners.

Finally, Chapter Eight draws together the previous chapters in its conclusion that Her Majesty's Prison and Probation Service (HMPPS) is operating in breach of the Equality Act 2010, and that its present practices may be unlawful. This requires the Prison Service to make urgent changes. Here I discuss reforms that may help "to level the playing field", as Lady Hale put it¹, and reduce the disparities that my empirical work has uncovered, so that all prisoners have equal access to pastoral care.

Background

In the summer of 2015, I was working as a Law Tutor at Keele University when I accepted a research assistantship with the Palliative & End of Life Care Research Group. The project was an interdisciplinary collaboration between the Schools of Law, Criminology and Nursing (Read, S., Santatzoglou, S., Corcoran, M., Lillie, AK. & Wrigley, A., 2015). It explored death, dying and loss in the criminal justice system and asked what mechanisms exist to help offenders navigate the end of life, be it their own or someone else's. As I transcribed our empirical data, I noticed that three

¹ *Homer v Chief Constable of West Yorkshire Police* [2012] UKSC 15 at 17

healthcare and counselling professionals working in English prisons had touched briefly on the same concerning point. They reported that pastoral care and support groups are provided through the prison chaplaincy, but that some offenders were put off by the need to engage with religious services, and therefore did not receive the help that they needed. Their comments are reproduced below:

Participant #1, Prison bereavement counsellor: "Some people can be put off by a member of the chaplaincy because they don't have any religious beliefs, you know, they might not even go there and know that this [bereavement counselling] exists."

Participant #6, Prison bereavement counsellor: "There's also an issue because the chaplaincy is where we get most of our referrals. There is an aversion to the chaplaincy for some prisoners because, you know, it's religious. [...] We're completely diverse, but they don't see that because to access our service they have to go in the chapel."

Participant #16, Prison nurse: "If somebody wasn't religious, they just completely did not want to engage with that kind of support. So, if they said, 'I'm not religious, I'm not really interested', then they wouldn't engage or even access the support group."

This observation was not relevant to our research at the time, but I felt that it was important. A preliminary literature review revealed no academic work on how, if at all, the experience of working through grief was different for non-religious prisoners. I found that the same concern had been articulated publicly by Frances Crook, Chief Executive of the Howard League for Penal Reform (2010). She told BBC Radio 4:

Traditionally we've always had Church of England priests in the prisons providing some kind of support service. My concern is that this is only for a minority of prisoners, of whatever faith they are, because actually more than half of prisoners have answered a survey saying they don't have a religion. All prisoners are very vulnerable, all prisoners are often frightened and in need of support and help, but the people who don't have a faith can't get that support because there is no comprehensive service offering moral support to them.

By this point, a clear research problem had emerged. It appeared that there was an issue, visible to practitioners but absent from the literature, of non-religious people feeling uncomfortable accessing and using services from religious providers.

Most of us have access to a variety of sources of community, kinship and support and are free to choose the services and spaces that are right for us. What does this mean for people in closed settings whose choice and autonomy are very limited?² Outside of prison, one might turn to family and friends for strength, but access to these support networks is greatly reduced by incarceration. A year later, I began my doctoral study to explore these and other questions in detail.

Aims and Research Question

This thesis sought to investigate non-religious prisoners' access to pastoral care, particularly in the context of bereavement. It explores the ways in which non-religious people experience, and are supported through, loss while in custody. From a legal perspective, I query whether non-religious people have equal access to support in English prisons, compared to non-religious people, and – if not – whether the inequality amounts to discrimination. Grounding its analysis in the Equality Act 2010

² Raz writes that "One is autonomous only if one lives in an environment rich with possibilities." (Raz, J. (1994) *Ethics in the Public Domain: Essays in the Morality of Law and Politics*. Oxford: Oxford University Press)

and associated case law, this thesis applies the provisions relating to direct discrimination, indirect discrimination and the public sector equality duty to the findings of a comprehensive literature review and original empirical data.

I am using the pastoral needs presented by bereavement as a test case through which to explore care provision, but the research has broader implications beyond bereavement, and this is something I revisit in my concluding chapter. Ultimately, I ask to what extent Her Majesty's Prison and Probation Service (hereafter HMPPS or the Prison Service), as a public body, fulfils its statutory equality duties in the support it provides to non-faith offenders. The research question is as follows:

'How far does the Prison Service comply with the Equality Act 2010 in its provision of pastoral care for bereaved non-religious prisoners?'

The research assesses whether the Equality Act 2010 and the Prison Service Instructions on 'Faith and Pastoral Care for Prisoners' (Ministry of Justice, 2016) are being implemented effectively in terms of avoiding direct or indirect discrimination against prisoners of no faith. Official reports in this area indicate that few institutions are reaching the standards required in the legislation (Aday and Wahidin, 2016). To answer the research question, I am considering four subsidiary questions:

- (1) What mechanisms exist to support bereaved prisoners in England?
- (2) How effectively do the mechanisms in (1) meet the pastoral needs of prisoners of no faith?
- (3) How far does (2) satisfy the Prison Service's equality obligations?
- (4) What reforms would help prisons to achieve (2), and reduce conflicts in (3)?

In this thesis, I answer these through a combination of empirical research, legal analysis of the relevant legislation and case law and its application, and a critical reading of the existing academic literature.

Context

Prisoners suffer bereavement at a much higher rate than the general population and are likely to have suffered a “catalogue of losses” (Vaswani, 2015) both prior to and as part of their sentence (Maschi, Gibson, Zgoba, & Morgen, 2011). Bereavements and other traumas, including imprisonment, typically trigger a grief response which, if it is not acknowledged and supported, can lead to disenfranchised grief (Doka, 1989). This can have severe mental and physical health consequences and impact on reoffending risk (Wilson, 2010). The prison environment is not conducive to healthy mourning, and the literature set out below shows how the experience of incarceration hinders the grief process at every stage. The high rate of loss combined with the adverse conditions of prison life present a pressing need for effective pastoral care. It will be seen that overstretched staff and dwindling budgets mean that, in most institutions, little to no bereavement support is provided and, even where counselling services are offered, they are typically provided through the chaplaincy. The multi-faith prison chaplaincy emerges as, at best, the gateway to and, at worst, the sole source of formal emotional or psychosocial support for offenders.

Many people turn to faith for meaning and moral strength in times of crisis, and faith communities are a valuable source of friendship, company and a feeling of belonging. In prison, religion serves as an important buffer against the fear of death, fostering optimism, humanity, and a sense of security at a time when those feelings are scarce (Aday and Wahidin, 2016). Religious practice in prison has been found to reduce high-risk behaviours and improve one’s sense of wellbeing (Maruna, Wilson and Curran, 2006). This may explain why Liebling found high rates of conversion in prison: “prisoners were disproportionately drawn to faith-based systems of meaning [...] where other sources of meaning, belonging, friendship, recognition and trust were curtailed” (2011: 539). Similarly, Lane (2015) believes that faith and prayer are

important for prison survival, sustaining inmates, lessening the sense of isolation and freeing them from what she terms ‘imprisoned grief’. This was reflected in my study:

It's interesting that a lot of the lads will say, “Oh, I've never thought about faith before. Can I get involved in an Alpha course?”, “Can I come along to chapel someday?”, “Can I have a chat to you about something?” Sometimes just coming to prison makes them think, ‘Is there more to life than what I see now?’

– Participant 12, prison chaplain

Personal faith is clearly a crucial coping mechanism for many people in prison, but one that is, by definition, unavailable to the non-religious. A non-religious person is someone who does not consider themselves to belong to a religion, may not believe in a god and - in the prison context - usually (but not always) registers as having ‘nil’ religion on admission. This project examines whether the position of the chaplaincy - a religious facility - as the main or only way of reaching the counselling and pastoral support services intended for all inmates is appropriate, considering the increasingly multi-faith, or even secular, inmate population.

Chaplaincy staff in my research estimated that only a third of the prison population actively practise a faith, and there can be no denying that today’s prisons are occupied by a great many people who do not regularly attend religious services (Todd and Tipton, 2011). Offender population statistics from 30 June 2019 show that less than half of all prisoners are Christian, and less than one in six identify as Anglican (Ministry of Justice, 2019). Far from representing a majority of the inmate population, Anglicanism is not even the dominant Christian denomination; a higher number of prisoners identify as Roman Catholic. After Christians, the next largest category is the non-religious, who make up almost a third (30%) of the prison population – greater than all non-Christian religious groups combined - yet have limited options to seek support from a person with the same world view.

If you look at the number of non-religious prisoners compared to faith groups, we're one of the biggest. We're almost on a par with Christian prisoners. There are more non-religious prisoners than there are Muslim prisoners, Catholic prisoners, Buddhist prisoners, etc., yet we don't have the same provision.

– Participant 9, probation officer and NRPSN member

Although the prison population is not representative of the general population, some groups being dramatically over- or under-represented, this decline in religiosity mirrors the steady secularisation of society as a whole, through sequential waves of immigration and a wide scale rejection of formal religious observance (Crompton and Hewson, 2016). The general population is less religious than the prison population:

Certainly, within a custodial setting, the levels of, if you like, religious practice are higher than in the general population.

– Participant 10, then Chaplain-General of Prisons³

Less than a fifth of the British public say they are members of the Church of England, and less than 2% attend its services on any given week (Copson, 2017). Over the past few decades, there has been substantial growth in the proportion of people describing themselves as non-religious. NatCen's British Social Attitudes survey (2016) found that just over half of Britons (53%) are non-religious, with faith membership at an all-time low.

Religion had got the whole pastoral scene fairly well sewn up before we as non-religious people started to say, "Well, hang on a minute, you know, there's got

³ Shortly after this conversation, Rev Kavanagh retired. It remains to be seen what steps his successor, James Ridge (appointed in October 2018) will take towards parity.

to be some sort of recognition of the fact that the majority of people are not religious." - Participant 14, NRPSN member

Today, the overwhelming majority of young Britons, more than at any other time in history, identify as nonreligious, with 70% of 16-29-year olds reporting no religious affiliation (Bullivant, 2018). Woodhead (2016) found that non-religion is 'sticky' in a way that Christianity is not; the younger you are, the more likely you are to be non-religious, whereas, the older you are, the more likely you are to be a Christian. In that sense, Christianity is literally dying out, while non-religion is expanding. Moreover, for every one person brought up with no religion who has become a Christian, 26 people brought up as Christians now identify as non-religious (Bullivant 2017). The 'census effect' - whereby many non-believers who were raised according to a certain faith or have religious parents are inclined to indicate religious affiliation on official documents - suggests a further, hidden secularisation.

While some non-religious prisoners do use the chaplaincy services and have positive experiences with them, a significant number reportedly feel uneasy having to engage with religious people and places in order to receive counselling (Humanists UK, 2016) and do not see their beliefs and values reflected in chaplaincy teams (Potter, 1999). A lack of secular alternatives in most institutions suggests that offenders who reject the chaplaincy are therefore unlikely to receive the help they need at the time when they most need it. It is a central premise of my argument that people with non-religious beliefs should have the same opportunities to access like-minded pastoral care as people with religious beliefs and that people with non-religious beliefs should have the same opportunities to provide that care. We will see that this is not the case.

The present provisions are potentially problematic under the Equality Act 2010. The Equality Act is a landmark statute that revises and consolidates a large body of law and policy into a single overarching framework for discrimination. It creates both positive and negative duties aimed at advancing formal equality (equal treatment)

and substantive equality (equal opportunity)⁴. Direct discrimination is concerned with formal equality and occurs when people are treated less favourably because of a protected characteristic (s.13), whereas indirect discrimination arises when everybody is treated in the same way, but this has a disproportionate impact on people with a protected characteristic (s.19). These two types of discrimination are mutually exclusive, the former pertaining to unequal treatment and the latter to equal treatment that operates unequally. In my analysis, they are applied in tandem to two distinct aspects of prison pastoral care.

Although the multi-faith chaplaincy aims to cater to “prisoners of all faiths and none” (Ministry of Justice, 2016), it is an inherently religious institution dominated by the Church of England, whose power and privilege is reinforced in both prison policy and legislation. While chaplaincies welcome all inmates, regardless of belief, I will argue that this facility is not suitable for everyone, and creates hierarchies of access in which some prisoners feel better accommodated than others (Crompton and Hewson, 2016). A variety of valuable services are provided by, or accessed through, the prison chaplaincy, with the result that those who do not engage with it may experience poorer outcomes. This appears to present a disadvantage to those of no faith, contrary to the prohibition of indirect discrimination by s.19 Equality Act 2010. At the same time, while Prison Service guidelines guarantee those of minority faiths the opportunity to receive belief-appropriate pastoral support from someone of their world view, there is no equivalent provision for those of no faith. Non-religious prisoners are therefore the only group who are not entitled to visits from a likeminded pastoral carer. This arguably constitutes less favourable treatment of those of no belief, contrary to the prohibition of direct discrimination by s.13 Equality Act 2010. As well as direct and indirect discrimination, the public sector equality duty at s.149 of the Equality Act 2010 - which requires public bodies to have due regard to the need to

⁴ *R (on the application of E) v Governing Body of JFS* [2009] UKSC 15, per Lady Hale at 56-7

achieve certain equality aims in their decision-making processes - is also engaged, and its application is discussed in the thesis.

Original Contribution

This study expands on prior work on bereavement and religious diversity in prison. Although the research cited above has explored the accommodation of minority faiths and multicultural populations in prison, and prisoners' experiences of grief, very little academic attention is paid to those of no faith, who make up the majority of the general population (NatCen, 2016) and the second largest denomination after Christians in prison (Ministry of Justice, 2019). The absence of secular voices from the literature is revealing in itself, their under-representation in scholarship and policy mirroring their under-representation both as users and providers of chaplaincy and institutional pastoral care (Humanists UK, 2016). I foreground these voices in my work to fill this gap in the literature. Further, as our response to death is so closely linked to our religious and philosophical beliefs and world view, the paucity of research into 'grief without God' in this context is an important underrepresentation that my project seeks to redress.

How realistic is the aim, set out in Ministry of Justice guidelines, for prison chaplaincies to be equally supportive "to prisoners of all faiths and none" (2016: 19)? This question is by no means novel. In the 1990s, academics James Beckford and Sophie Gilliat-Ray (then Gilliat) asked the "fundamental question of whether all prisoners have an equal opportunity to receive pastoral and religious care which is appropriate to their religious identity" (1998: 25).⁵ Although they uncovered inequality and disadvantage, their analysis was limited to discrepancies between faith groups rather than between the religious and non-religious. This is a timely issue. For example, Savage has recently published *Non-Religious Pastoral Care: A Practical Guide*

⁵ Note that the word 'appropriate' is used there, as here, to mean consistent with the service user's beliefs.

(2019), which includes a section on prisons and touches on many of the issues raised in this thesis. Where my work goes beyond that of previous researchers like Beckford and Gilliat (1998) and Savage (2019) is in its framing of non-religious prisoners' access to pastoral care as a problem for antidiscrimination law.

Indications of inequality in the Prison Service are particularly troubling, as public bodies have additional equality duties and, being state institutions funded by the taxpayer, must be held to a high standard. Furthermore, those primarily affected by inconsistent practices in prisons are the prisoners themselves, who are one of the most vulnerable groups in society and whose wellbeing has significant implications for over-stretched public services and the safety of communities (Prison Reform Trust, 2017). This prompts us to think about the duties owed by the Prison Service to those in its charge from a liberal democratic perspective.

The originality of the work therefore lies in: first, its foregrounding of the non-religious as a protected and sometimes disadvantaged group; and, second, its analysis of inequalities in access to prison pastoral care as potentially amounting to a breach of statutory equality duties.

This PhD aims to address gaps in the research literature, develop criminological knowledge of the lived experience of - and the support provided for – bereavement behind bars, enhance understanding of the practical implementation of the Equality Act 2010, and the steps that public services can take to reduce unequal treatment or disparate impact at the point of use, and generate new evidence that can be used to inform the future delivery of equality laws and prison policy.

II. Methodology

Research Design

My work comprises two components: legal analysis of relevant statutory tests and how they apply to HMPPS policy; and empirical study to gain insights into the views and experiences of prison pastoral care providers. To understand the support services that are available to offenders and the extent to which they are suitable for non-religious people, I visited prisons, observed the everyday operation of prison chaplaincy, spoke with service users, and interviewed a small but diverse group of prison pastoral support providers and other criminal justice professionals.

This project employed established qualitative research methods to explore prison pastoral care provision. The experiences of participants in a project of this nature are not easily quantifiable; a qualitative approach is a preferred means of collecting data because it enables us to look beyond metrics of service provision and uptake and understand the human experiences behind statistics. By responding to open questions, my interviewees revealed their perceptions of pastoral care services in their own words and had the space to introduce anecdotes and tangential thoughts, with complexities and subtleties that quantitative research can easily miss. My research design was necessarily flexible, as “when we are studying an organisation, we are depending on the whims of gatekeepers” (Silverman, 2005: 125). Because of the tightly controlled setting, my methodology depended on the access that I was granted to those who live and work in prisons.

The thesis also draws from legal judgments, government reports, and academic publications. The literature review established the evidence base around the ways that bereavement and loss are experienced and supported in the criminal justice system⁶.

⁶ My doctoral research is limited to the prison setting, but there are three times as many people on probation as in there are in prisons; these individuals are part of the criminal justice system too but tend to be neglected in research. This presents an interesting avenue for further study.

A cohesive body of research was identified and gathered from library use and searches of online databases, including EBSCO, Westlaw, CINAHL and HeinOnline, with combinations of search terms ‘bereavement’, ‘loss’, ‘grief’, ‘offenders’, ‘prison’, ‘chaplaincy’, ‘pastoral’, ‘non-religious’, ‘secular’, etc. I analysed relevant aspects of the Equality Act 2010 on religion, direct and indirect discrimination, and the public sector equality duty to evaluate the Prison Service’s compliance with the statutory duties.

Conditions and experiences vary greatly between prisons depending on security category, and the treatment of young and/or female offenders is often very different from the world of the adult male prison (Jewkes, Bennett and Crewe, 2016). Indeed, the variety of prison establishments is so wide that it almost defies any attempt to make general statements about them (Beckford and Gilliat, 1998). I interviewed a chaplain at a category C sex offenders’ institution who had previously worked at a nearby category B city jail and commented that the two prisons were “like heaven and hell” (Participant 13, prison chaplain). Even in the same prison, circumstances can alter as funding and management change, and this leads to inconsistencies in policy and practice. For consistency, I limited the scope of my fieldwork to English prisons holding adult males.

My original data were collected through research interviews, field observations and focus groups. Interviews and focus groups were audio recorded to allow me to return to my data in its original form as many times as I wished. The comments of my participants informed much of this thesis and appear as quotes throughout. Evidence from interview transcripts is supplemented with reference to field notes and chaplaincy leaflets where available. This enabled me to use visual and other data that would be unavailable to me if I relied on audio recordings alone.

Although I received ethical permission from Her Majesty’s Prisons and Probation Service (HMPPS) National Research Committee to interview current prisoners, in the end I did not do so. Being granted access in theory was one thing, but finding prison governors who were receptive to my research and willing to facilitate field work in their institutions within the data collection time frame was quite another. Even then,

as one of my interviewees pointed out, "just because we've got a decent relationship with a governor doesn't mean it's going to be plain sailing in there" (Participant 3, NRPSN member). Instead, I visited prisons to explore the chaplaincy, meet offenders and talk informally with them about their service use, but only interviewed staff and volunteers. Offenders were informed that I was a prison researcher and agreed orally to talk to me for the purpose of my research but were not interviewed and did not sign consent forms. My ethical approval authorised me to include the perspectives of prisoners in this work, and I refer occasionally to conversations with inmates I encountered during prison visits. This method also reduces the risk to the researcher - in my case a young woman with no previous experience of the prison environment – by avoiding prolonged unsupervised contact with offenders, and limits the emotional toll of researching traumatic themes (Lumsden and Winter, 2014)

My data collection was primarily composed of individual interviews, bookended by two focus groups. I conducted an initial focus group in March 2017, individual interviews between September 2017 and September 2018, and a further focus group in October 2018.

The work began with a pilot study, a focus group with members of the Non-Religious Pastoral Support Network (NRPSN) to investigate pastoral care provision for non-religious offenders, with an emphasis on bereavement support. This provided context and structure for my fieldwork. The focus group was conducted at the end of a continuing professional development event for NRPSN members on 'Facilitating Groups with Offenders'. Rather than arrive for the close of the session, with the blessing of the facilitator, I attended the full day and joined in with the training exercises. My reasons for this were threefold: to avoid the disruption of an afternoon arrival; to benefit personally from the training, and to 'break the ice' with my participants before our conversation. I tried to speak to everybody individually during breaks, so that participants had an opportunity to meet me and ask questions.

It is worth thinking critically about the motivations both of those who are eager to participate in research and those who are not. As grateful as I was to be invited to

conduct a focus group less than six months into my research, I was curious about why this group were so ready to take part. It became clear that the keenest participants, non-religious pastoral carers, were also the most marginalised within their institutions and perhaps had an axe to grind. This was mirrored by the reluctance, even disapproval, that I encountered from the potential participants who were the most religious and the most established in their institutions, who seemed to close ranks. In short, the people most welcoming of me and my research were those who had an interest in exposing a perceived problem; the people who were most secretive were those who had an interest in avoiding scrutiny and protecting the *status quo*. Unfortunately, it is the latter group who decide how much to facilitate my research and what access to grant me. These individuals are gatekeepers in the truest sense and literally hold the keys to the offenders and prison staff I sought to interview. This too is testimony to the power structures that are at play in the English prison and the religious hierarchy that persists in chaplaincy, dividing staff as well as offenders.

By listening to the first-hand accounts of non-religious pastoral carers who work in prisons, I discovered how few mechanisms exist to support the bereaved, and how ill-suited these services are to meet non-faith prisoners' needs. Of course, these comments were unsurprising given the humanist identities and secular activism of the participants. I was therefore keen to include perspectives that challenged these ideas. It was important for academic integrity and research validity that I also consulted religious pastoral carers (chaplains).

I conducted two focus groups and 13 interviews with 21 participants, comprising 10 NRPSN members, eight chaplains, three criminal justice professionals and three support charity volunteers. These numbers total 24, not 21, because three of the participants have dual identities that informed their contribution (one is an NRPSN member and probation officer, one was a chaplain and now works for the Ministry of Justice, and one worked part-time as both a prison bereavement counsellor and a magistrate and youth offending professional) and spoke about their experiences from both perspectives. Between them, they had experience of 10 different prisons. Mitchell

(1983) argues that the strength of qualitative research depends more on the quality of the analysis than on the quantity of the data, and Silverman (2005) has said that, for qualitative work, a smaller sample may even be an advantage. In this way, a modest data set allows for an in-depth analysis and can indicate far larger phenomena.

Participants were invited to contribute in the way that was most convenient for them. I conducted interviews in person, on the telephone, by Skype and through email. My flexibility was appreciated by my interviewees, who had different availability and access needs - several had busy full-time jobs, a few were elderly, and one breastfed during our conversation. The interviews were semi-structured conversations using open-ended questions. This allowed me to follow new leads, whilst still enabling direction and control. Although some questions were the same across the board, for the most part, the discussions were allowed to progress naturally, depending on the answers provided. Given their experience as pastoral carers, this relaxed style was familiar and comfortable for my participants. Interviewees received the prompts in different orders to avoid bias through a leading line of questioning.

I took advantage of existing contacts to identify and reach out to wider networks to include chaplaincy team members, correctional staff and prison counsellors or pastoral carers. I employed a snowball sampling method, asking each interviewee to recommend a person that would be useful to approach next. In all cases, my interviewees were either approached by me directly or named by another participant. The recommended individuals were not friends who would be likely to repeat the same ideas, but people selected for their ability to offer a different perspective. The diversity of their stories is testament to this.

English prison chaplaincy is a small and close-knit community ("We all know each other!" – Participant 15, prison chaplain), and the group of people providing or interested in non-religious pastoral care is smaller still. Common themes and shared views emerged quickly, and it was not long before I began hearing the names of previous participants from other people. I am therefore satisfied that my data is a fair

representation of the world of pastoral care in the English prison and the views of those who work within it.

On the final day of my data collection, I ran into technical difficulties. I conducted and recorded a group interview with Christian and pagan chaplains while visiting a prison. Due to a malfunction with the recording device, the audio file was corrupted and the data of three participants was sadly lost. Although my research is still informed by their perspectives, I have unfortunately been unable to transcribe their contributions or quote them in the thesis.

Of course, empirical research is not limited to interactions with participants. A researcher's encounters and treatment in the field are a type of data too, especially in a total institution such as a prison. I used a field journal to record impressions while visiting prisons, experiences during the research process and incidental conversations.

Two of my chaplain interviewees invited me to their prisons on field visits. By chance, both of these were sex offender institutions. As a result, all of my first-hand observations of chaplaincy life and interactions with prisoners came from (male) sex offender prisons, lending an unexpected angle to my work, although most of my interviewees worked in mainstream prisons. While sex offenders are a subset of offenders generally, one chaplain described the sex offender population as broader than the prison population as a whole. In her experience in mainstream prisons, she had found the men to largely be of a similar age, education and background, with their offending behaviour almost a demographic trait but, as she told me on our way to the prison, "sex offending does not discriminate" (Participant 13), and the prisoners she meets in her current work represent a cross section of society and come from all walks of life. I understood what she meant when I arrived at the chaplaincy. There was such diversity in social skills, class, appearance and behaviour that I was unable to tell the prisoners from the staff; some had weathered faces, defensive body language and lewd tattoos, while others wore smart shirts and had PhDs.

One important way in which the sex offender population differs from the wider prison population or the general population is their age. Recent vigilance in

prosecuting historic sex offences and the long sentences that these convictions typically attract mean that "sex offender jails are full of the elderly" (Participant 15, prison chaplain). A recent Freedom of Information request revealed that 43% of individuals listed on the Sex Offenders Register are aged 45 or above (Metropolitan Police Service, 2017). This is relevant because data on religious affiliation has consistently shown that the older you are, the more likely you are to be religious (Woodhead, 2016). This implies that the quantity of non-faith prisoners (and, therefore, the need for secular care) will be lower in sex offender prisons.

In sex offender jails, I think 75% of our guys do declare a faith, which is very unusual. - Participant 15, prison chaplain

I had hoped to access chaplaincy logs of the religious registrations of service users and compare this with internal and national offender population statistics to explore proportionate representation and engagement of faith groups. Unfortunately, this information is not recorded.

Who has actually ever sat down and looked at prison population, taken a statement of, I don't know, 10% of prisons or something, and looked at who identifies with what, who comes in and, when they're in there, who uses chaplaincy services and how do they use it? Because then we can start perhaps dispelling some of the ideas that 'we're here for all faiths and none'.

- Participant 3, NRPSN member

Instead, one chaplain was able to show me a breakdown of the institution's current population by religion and the records of those prisoners being monitored under the ACCT procedures for self-harm and suicide prevention, which do include religious status. Prison Service Instruction (PSI) 05/2016, Faith and Pastoral Care for Prisoners, requires "that prisoners on an open ACCT (Assessment, Care in Custody, Teamwork)

are seen at least weekly" (Ministry of Justice, 2016: 1.3). The representation of different religions in the ACCT paperwork was broadly proportionate to the numbers of each faith group in the prison (Appendix 4). I observed a surprising degree of religious diversity; many faiths were represented, with those of no religion comprising around half. Even non-faith prisoners will still therefore come into contact with chaplaincy in this way, but involvement with ACCT procedures is not a matter of choice for the offender and is unrelated to voluntary chaplaincy engagement.

Participant 4, an NRPSN member, contacted me the day after our conversation with two documents, the programme for a recent "massive celebration" commemorating the anniversary of her prison that had taken place in a cathedral⁷, and the chaplaincy leaflet (Appendix 1) issued to new arrivals. Here was evidence of the way in which chaplaincy and pastoral care services are presented to would-be users. I collected similar leaflets on my fieldwork visits to two other prisons (Appendices 2 and 3).

All interviews were recorded, with the participants' consent, then transcribed and anonymised. Instead of names, participants are numbered in the chronological order of their contributions and identified by job role. Two participants waived their anonymity and chose to be named; I am grateful for the contributions of 'Participant 5', Simon O'Donoghue, the Head of Pastoral Support at Humanists UK, and 'Participant 10', Rev Michael Kavanagh, then Chaplain-General of Prisons and former chaplain at HMP Full Sutton.

In the interests of confidentiality, I did all my own transcription. Preparing transcripts is itself an important research activity, as the close, repeated listening that it requires often reveals previously unnoticed details. The transcripts were thematically analysed by a coding process, "that well-established style of work, whereby the data are inspected for categories and instances. It is an approach that disaggregates the text (notes or transcripts) into a series of fragments, which are then

⁷ "The actual service was incredibly non-inclusive. [...] It paid lip service only to other religions and, of course, non-religious people felt completely excluded. Ok, so it was in a church, but why was it in a church? Because that's what you do." - Participant 4, NRPSN member

regrouped under a series of thematic headings" (Atkinson, 1992: 455). I began with a set of likely themes derived from the literature review and expanded according to the important or recurring ideas raised in the transcripts. After grouping the data together into categories, I examined how these elements are linked together, what new issues emerge, how my participants engage with them, and what this tells us about the research topic. This enables researchers to identify and describe both implicit and explicit themes within the data, and to compare ideas from what might appear at first glance to be very different conversations. I used the computer-assisted qualitative data analysis software QSR NVivo 11 to do this.

When I began interviewing chaplains and Non-Religious Pastoral Support Network members, I worried about the polarisation of my data. I had expected some differences of opinion, and that a closing of ranks by the established group and an exaggeration of grievances by the marginalised group would lead to some contradictions, but I was not prepared for the degree of divergence. I heard the same two opposing perspectives repeated, to the extent that on the morning of each interview, I could predict with reasonably accuracy what my interviewee would tell me based on the group to which they belonged. Almost without exception, chaplains described a functional, if overstretched, Anglican-led multi-faith service that valued and supported all offenders equally, while NRPSN members reported unmet needs, narrowmindedness, systemic barriers to care provision and structural inequalities. Where non-religious pastoral carers said explicitly that they believed there was a breach of the Equality Act 2010, chaplains saw not only no discrimination but no difference in treatment that could give rise to a complaint from non-religious prisoners. It was as if my interviewees occupied different worlds.

Struggling to reconcile these very different depictions, and mindful of possible variations between prisons, I began to seek out participants from the same institutions. I was able to identify two prisons in which non-religious pastoral care was provided and both the chaplain and the NRPSN were willing to be interviewed separately, and hoped that two people working in the same department of the same prison at the same

time could not differ greatly in their experience of it. The clashing perspectives continued but were not irreconcilable. Eventually, I came to understand this difference of opinion as further evidence of the cross purposes at which these colleagues operate. The Anglican Managing Chaplains, because of their privileged positions in their institutions were often unable to see the disadvantage and exclusion that was the daily reality of the NRPSN members and (in the latter's opinion) the prisoners they represented. This shows how the different beliefs and traditions that an individual relies upon can shape their outlooks, yielding conflicting views of the same phenomenon. With this perspective, my work is an excavation of how the groups' differing histories, experiences and cultures will of course inform their subjective understanding of a shared reality.

In reaching my conclusions, I drew preliminary findings from my data analysis and tried to disprove them. I measured the value of my conclusions not by my ability to present them convincingly but by my failure to rebut them. I consider their limitations in my interpretation, acknowledging evidence for and against my arguments. Even if they are sufficiently robust, it is acknowledged that research conclusions can only ever be provisional, subject to further studies that may affirm or refute them. My interpretations were further tested by presenting draft papers at conferences and inviting the questions, feedback and criticisms of academic audiences.

As I have noted above, qualitative researchers should think critically about the readiness of some interviewees to take part. Individuals who feel disempowered or disgruntled may be more likely to respond to a call for participants in order to air a grievance and record their unsatisfactory position and may tell 'horror stories' of perceived mistreatment. Prisoners are one such disempowered group, and this was one reason why I did not solicit their formal contributions. I also chose not to use a call for participants. I sought out participants whom I expected to have a range of different experiences and varying (sometimes conflicting) opinions, in the interests of validity. By contrasting their contributions, I was able to build a more representative data set to generate a holistic impression of prison chaplaincy. Even so, I can only hope

to take a snapshot of practices in certain prisons at certain times and compare the information provided by the different groups to draw broader conclusions.

Ethical Considerations

This project received ethical approval from both the HMPPS National Research Committee, and Southampton University Ethics Committee. To ensure that my work is ethically and methodologically sound, I have ensured valid informed consent and protected participant confidentiality. All participants were given an information sheet detailing the purpose of the study, the way their submissions will be used, and my contact details should they have any further thoughts or wish to withdraw from the research. They had the opportunity to discuss the research and any concerns with me before agreeing to take part. I stressed that their participation was entirely voluntary, that they could decline to answer individual questions or withdraw from the study at any time, that they would not incur any benefits or losses as a result of participation or non-participation, and that their contributions would be anonymised. I provided helpline phone numbers for Mind and the Samaritans on the information sheet and retained the contact details of these organisations as tools for my own self-care. Copies of the information sheet and consent form are supplied at Appendices 5-6.

In the focus groups, participants were necessarily known to each other and were privy to each other's comments. Participants were encouraged to email me separately or participate in a one-on-one interview if they had further comments that they wanted to make privately. The participants also signed consent forms, agreeing not to share the contributions of others with anybody else outside the room. In individual interviews, the participants had no way of knowing the identities of other participants, or what was said in other conversations.

To avoid leading questions, I shared my proposed interview prompts and questions with two ethics approval committees in advance of my fieldwork. After

light revision, the University of Southampton and Prison Service research committees both approved my materials for use with staff and offenders.

Finally, transcriptions are themselves a safeguard against bias, as low inference descriptors that record verbatim accounts rather than a researchers' reconstructions.

Bereavement as a Case Study

The traumas that are common among prisoners and present complex pastoral care needs (Maschi et al, 2011) are likely to shape prisoners' attitudes towards accessing these services; a person requiring support with drug addiction will have a different perspective to an individual who seeks counselling following sexual abuse, for example. Furthermore, some of these life events carry a stigma that may mean sufferers are viewed unsympathetically by criminal justice professionals, healthcare workers and the public (Vaswani, 2015).

This research uses bereavement as a test case through which to evaluate non-religious prisoners' access to care that is appropriate to both their support needs and their personal beliefs. It concentrates on, but is not limited to, bereavement for three reasons. First, despite the high rate at which it is experienced in prisons, there are very few programmes and services targeted towards helping inmates with grief, compared to, say, rehabilitation programmes for addiction, domestic violence, or offending behaviour. Second, death and grief are great levellers; bereavement does not discriminate, and its universality means that the pain of losing a loved one is likely to be recognised without judgement⁸ and to be familiar and relatable to prison staff as well as other inmates. The third reason why bereavement support is a useful lens through which to examine belief-appropriate pastoral care is the close relationship

⁸ An exception is homicide, where the offender is bereaved by his own hand, and sympathy and compassion are often lacking ("Many of them had killed either their partner or their child or another member of their family and they were in this really strange situation where they've caused the death intentionally, but they're then grieving, and a lot of them didn't feel like they should be allowed to grieve." – Participant 9, probation officer and NRPSN member). This area is little studied and presents a possible avenue for future work.

between a person's religious views and their ideas about the meaning of death and what, if anything, follows it:

If you believe there's something after death, that has a huge impact on the way that you deal with death. - Participant 15, prison chaplain

Many religious people subscribe to the idea of an afterlife and believe that the deceased go to heaven or hell, or are reincarnated. Some trust that our loved ones live on in spirit, watching over or even talking to the living. These suggestions could be very provoking to, and are certainly unlikely to comfort, a non-religious person. For most non-religious people, dying means the end of the individual, who - after death, as before birth - does not exist in any sense. This inevitably colours their attitudes to death, making the loss more final, more complete, and often more painful.

The connection between grief and belief also means that the adequacy of bereavement support has important implications for equality law. The different ways in which religious groups respond to death may mean that some world views are inadvertently better accommodated than others by universal prison policy. According to Islamic traditions, for example, burial should take place as soon as possible after a death. There might not be time to notify the offender and arrange temporary release for funeral attendance, with the result that Muslim offenders may be less likely to be able to participate in death rituals than offenders from Judeo-Christian traditions⁹.

For the purposes of this research, 'bereavement' means the loss of a loved one through death, and the feelings of mourning that follow. Bereaved prisoners are those whose close relative, friend or partner passed away during or shortly before the offender's custodial sentence, leading to a profound sense of loss.

⁹ This is of growing importance as the number of Muslim prisoners continues to rise. Between 2002 and 2014, whereas the overall prison population increased by 20%, the Muslim prison population increased by 122% (Shaw, D. 'Why the surge in Muslim prisoners?' *BBC News*, 11 March 2015). This is vastly disproportionate to the 60% increase in the number of Muslims in the general population over that period.

Just about every single person in that prison has had a bereavement in one sense or another and is probably still suffering the effects, but bereavement is taken in a fairly narrow sense in that it's someone who has had a family member die recently. - Participant 4, NRPSN member

Who is a close relative was left to the participants to determine and is not limited to the narrow category used by the Prison Service when considering temporary release for funeral attendance (Ministry of Justice, 2005). The following chapter describes the experience and challenges of bereavement behind bars in detail.

CHAPTER 2: BEREAVEMENT IN PRISON

I. Introduction

Death does not occur in a vacuum, but in a social framework that can greatly influence the way a mourner experiences and processes their loss (Lillie, Corcoran, Hunt, Wrigley and Read, 2018). Over the past century, we have significantly expanded our understanding of the way people respond to the death of a loved one, but the loss is not always considered in context (Rees, 1997). This chapter examines bereavement in the social setting of the English prison, and the cultural setting of religious non-belief. It begins by exposing the reality of grief in prison, and the scale of the bereavement problem in the criminal justice system. It employs J. William Worden's 'tasks of mourning' (2009) and Margaret Stroebe and Henk Schut's 'dual process model' (1999) to show how the prison environment obstructs and disrupts the grief process. The chapter discusses the consequences of disenfranchised grief in prison, both for offenders themselves and their communities, demonstrating the need for sound pastoral care for people who are bereaved behind bars, beyond the obligations imposed by Parliament through the Equality Act 2010, which I cover in Chapter Seven.

The contemporary English prison is an extraordinarily demanding environment in which to live and work, and the plethora of practical, emotional and social challenges facing prisoners is well documented (see, for example, Prison Reform Trust, 2017). Overcrowding, underfunding and staff reductions leave institutions ill equipped to meet the complex mental and physical health needs of the people they confine. Offenders confront a multitude of obstacles that limit them in every way, from higher aspirations of personal growth and fulfilment to the most basic human necessities of hygiene, safety and nourishment. My interviewees were unanimous in their view that the high-stimulus environment of the normal prison exacerbates mental illness.

It is a psychologically desperate place to be [...] If you have minor psych problems, you'll have bigger ones. – Participant 7, NRPSN member

Prison is an environment of enduring loss (Hendry, 2009). Beyond the privation of liberty by which incarceration is defined, a custodial sentence often entails the forfeitures of: privacy and autonomy, personal security, purposeful activity, heterosexual contact, material possessions, livelihood, future prospects, life years, self-esteem, dignity and reputation, physical and mental health, and even happiness. These losses intersect, with civic loss – the revocation of civil rights by a government, typically as a consequence of a criminal conviction - consistently perceived as compounding the experience of bereavement (Lillie, Corcoran, Read, Santatzoglou, Wrigley and Hunt, 2016). Prisoners are deprived, in short, of what it is to be human:

These places can be corrosive of your humanity.

- Participant 15, prison chaplain

In addition to the hardships specific to the carceral environment, which Gresham Sykes (1958) famously called ‘the pains of imprisonment’, a growing body of evidence demonstrates that, even before they enter a prison, offenders are likely to have experienced distressing life events that may be a catalyst for their criminal behaviour.

These are, you know, a population that are predominantly young men, and yet the amount of sorrow they've had in their lives, you know. Prayers in memory of children that have died and that, and even parents and that, they've died at a relatively young age. It's quite tragic. So, it is a big need to address and, if I'm honest, we're a bit overwhelmed by all that. - Participant 11, prison chaplain

Histories of addiction, childhood neglect or abuse, serious illness or injury, domestic violence, mental health problems, forced prostitution, homelessness,

unemployment and poverty are all far more common among people with convictions than others, and impact on offending behaviour (Maschi et al, 2011). Many inmates carry with them the burden of multiple losses throughout their journey to prison and experience them even more acutely whilst inside (Vaswani, 2015).

The bereaved are vastly overrepresented in the criminal justice system. Research in this area has consistently shown that offenders suffer bereavements at significantly higher rates than the general population and are more likely to have endured especially traumatic (e.g. suicide, homicide and sudden death) or multiple losses, often early in life (Hester and Taylor, 2011; Maschi et al, 2011).

It's a rare day that I don't have some kind of dealing with bereavement, whether it's breaking bad news or taking someone to chapel to light a candle for someone they've lost, or just sitting and talking with them.

– Participant 12, prison chaplain

The figures vary, but a study of inmates at Holloway Prison found that 82% of prisoners had experienced the death of someone close in the previous five years (Northern Ireland Prison Service, 2005), while around 90% of 16-20-year olds at the Young Offender Institution in bereavement scholar Nina Vaswani's research had suffered at least one bereavement (2014).

II. The Tasks of Mourning

The death of someone we love is one of the most challenging periods of any individual's life, but it is much harder for prisoners, whose ability to cope is compromised by their incarceration. Many researchers who study bereavement behind bars align their findings to Worden's 'tasks of mourning' model (Ferszt, 2002; Hendry, 2009; Hester and Taylor, 2011; Olson and McEwen, 2004; Potter, 1999;

Masterton, 2014; Vaswani, 2014). Worden posits that, “after one sustains a loss, there are certain ‘tasks of mourning’ that must be accomplished for the process of mourning to be completed” (2009: 10). They are: to accept the reality of the loss; to work through the pain of grief; to adjust to an environment in which the deceased is missing; and to emotionally relocate the deceased and move on with life. Each of these is made more difficult for those whose loss occurs during a custodial sentence.

The first task is to recognise the reality of the loss. The disadvantages that prisoners experience here arise even before the death occurs, as their incarceration means that they cannot share in the care before death, the farewells and the professional and family support available during the last weeks of a person’s life (Lane, 2015). In prison, this anticipatory grief begins early; Vaswani explains how “the distance that prison creates between the young men and their loved ones meant that young men were forced to contemplate losses before they had even happened” (2014: 348). For various reasons, prisoners are frequently restricted from contacting their dying relatives in the community (Lillie et al, 2018). Acceptance may be difficult, especially when there has been no opportunity to say goodbye, as in cases of sudden death. Without this, the shock of the loss is heightened, raising the possibility of a more complex grief process (Ferszt, 2002; Schetky, 1998).

Clients who have been unable to visit their loved one prior to death or attend the funeral feel disconnected, sometimes unable to accept that it has actually happened. - Participant 18, prison bereavement counsellor

When a loved one dies, even if the death is expected, there is often a sense that it has not happened. Typically, a prison chaplain will pass on the news of the death in private, but at times, the news may be delivered by an officer unknown to the offender or in an open environment (Masterton, 2014). This communication can affect the person adversely for years to come, with survivors often remembering exactly what was said (Jervis, 2018). The prisoner will normally want to establish more details of

the death and be with their family, but the compromise must be telephone calls (Potter, 1999), during which they may receive only limited details (Ferszt, 2002). The recently bereaved are likely to want a lot of communication with their friends and family, so policy changes allowing for more frequent and more private visits and phone calls might improve inmates' experiences with grief and loss. This could help them to feel involved with the shared grieving experience and reassured about how others are coping, as well as getting support for themselves.

Mourning usually begins with a sense of numbness and disbelief; while the numbness is short-lived, the denial can last many months (Rees, 1997). The reality of the death may not fully 'sink in' until the individual has attended the chapel of rest or the funeral, important rituals for gaining a sense of closure (Doka, 1989).

Going to the funeral or bedside of somebody that you truly love and are truly connected to is hugely helpful. – Participant 15, prison chaplain

Details about the funeral, including its proximity to the location of the offence and the likely presence of the victim or their family, or - in the case of child sex offenders - any children, have a bearing on whether the prisoner will be permitted to attend. Sadly, participation is not always possible for those whose liberty is limited by the criminal justice system, especially if they are sex offenders, because "their victim may be a member of the family, or the police don't want them in the area or all sorts of different reasons. In some of the busier prisons, they don't go because there are no staff to take them, and that's always a tragedy" (Participant 15, prison chaplain).

Staff at one prison I visited told me that, although there are many stages to an application for day release, they are processed quickly, and approval can even be granted on the same day if urgent, so that it is rare that a prisoner will be unable to attend because of paperwork delays. Instead, requests are likely to be declined because the relationship between the deceased and the prisoner does not meet Ministry of Justice criteria. Section 4.54 of Prison Service Instruction 13/2015 on

Release on Temporary Licence (Ministry of Justice, 2015) allows prisoners “to visit close relatives who are terminally ill or to attend funerals of close relatives”, but not other loved ones. A close relative is defined as the prisoner’s spouse, parent, child, sibling, fiancé(e) or someone who has been *in loco parentis* to a prisoner, or to whom they have been *in loco parentis*. A prisoner who was in the room at the time of this conversation commented that being prevented from attending the funeral of someone special who did not meet the criteria is “a double kick in the teeth”, and a staff member acknowledged that this rejection often manifests in behaviour. Determining eligibility by familial relationship rather than strength of attachment bond overlooks the fact that prisoners may have extended family networks that have played important roles in their upbringing, and close emotional ties to others.

Researchers have identified the shame felt by individuals who had to attend the funeral service in handcuffs with a prison escort, which was seen as deeply embarrassing and disrespectful (Ferszt, 2002; Schetky, 1998; Vaswani, 2014). It is also common for prisoners to be excluded from the service by their families, with the result that they may not know even know where the gravesite is (Lane, 2015). The protracted application process and newly tightened rules, coupled with mounting pressures on staff time and security concerns, mean that day release for a goodbye visit or funeral attendance is rarely granted in time, if at all (Prison Reform Trust and Clinks, 2016).

Historically, if there was a funeral, very often offenders would be given a day release and they would go with two officers and they would attend the funeral. They wouldn’t go to the reception afterwards, but they would attend the church service or the crematorium or the burial, whichever it was. They would be in handcuffs which, in itself, is not ideal for them, but at least they were able to be there. [...] Prisons now are saying, “We can’t afford for two officers to be out all day just to take somebody to a funeral”, so that has virtually stopped now. I can’t remember the last time we had a client who had attended a funeral whilst in prison. – Participant 17, counsellor and criminal justice professional

Being unable to attend the funeral or pay respects at the chapel of rest can be a major hurdle in coming to terms with the finality of the loss, and denies bereaved prisoners a socially acceptable outlet for their grief (Potter, 1999). To avoid this, chaplains will often simulate a funeral from the prison chapel so that offenders can still feel that they have participated.

If they can't get out for the funeral of a loved one, we always try and have them up, if they wish, to chapel, and we light a candle for their loved ones as close to the time of the funeral as possible, so they can spiritually and emotionally and psychologically feel connected to their family who are gathering at the church or crem. – Participant 11, prison chaplain

Worden's second task is for the survivor to mourn. The loss needs to be repeatedly thought through, even 'pained through' for equilibrium to be re-established. The inability to attend the funeral has an impact here too, as rituals offer opportunities for shared remembering with family and friends (Vaswani, 2015). Mourning is a healthy response to the death of a loved one, and survivors must have the opportunity to grieve, but several factors make this difficult in prison, including lack of privacy, lack of support, fear of reprisals, and hegemonic masculinity.

For a lot of offenders, there's been no opportunity to talk about bereavement, either recent or past and, of course, once they're in an HMP situation, it's all about saving face, it's all about bravado, not showing any signs of weakness.

– Participant 17, bereavement counsellor and criminal justice professional

Two of the defining features of prison life are the permanence of control and routine, and the invasion of personal space. It is therefore difficult to complete the task of mourning when one rarely has a moment to oneself. The lack of privacy and the

incessant rules that govern daily life arise frequently in the literature as restrictions on inmates' ability to process their feelings of anger or sorrow (Ferszt, 2002; Vaswani, 2014). Some prisoners yearn for a private place where they can be alone with their thoughts, while others find the atmosphere too constricting to be able to reflect upon issues of loss at all (Harner, Hentz and Evangelista, 2011).

Paradoxically related to the lack of privacy is loneliness; prisoners are never by themselves but very often lonely (Lane, 2015; Wilson, 2011). Although inmates have constant company, they are typically socially isolated, whereas it is generally accepted that people are more able to endure bereavement when traditional social networks are available (Duwe and Johnson, 2016). Confinement stops the bereaved from spending time with their family and friends or employing distraction techniques, both of which are important coping strategies (Vaswani, 2014; Wilson, 2010). Separation from the usual sources of support cause challenges for offenders, as feelings of grief can intensify when the mourner feels alone with them (Masterton, 2014; Ferszt, 2002).

Further to the want of privacy and support, offenders may deliberately suppress their feelings for fear of reprisals (Ferszt, 2002). Tearfulness, panic attacks and angry outbursts are all common responses to bereavement, particularly for prisoners and other disenfranchised grievers (see below), but difficult to express in secure environments without incurring negative consequences (Worden, 2009; Doka, 2002).

I've had half of the jail in this chapel in floods of tears. I'm more worried about the guys who don't open up, and bottle it up, because when they bottle it up it just comes out in all sorts of awful ways. – Participant 12, prison chaplain

Emotional displays can be interpreted by prison officers either as a disciplinary problem, which can result in punishment, a longer sentence, or transfer to a more secure setting, or as a manifestation of mental illness, which can lead to the inmate being medicated or put on suicide watch (Harner, Hentz and Evangelista, 2011; Schetky, 1998). Lane (2015) saw first-hand that those who reacted violently were much

more likely to be segregated for 23 hours a day, reducing the harm to others but exacerbating their own troubles. Rationalised by staff on safeguarding grounds, these measures are felt by inmates to be punitive and controlling, an additional mortification at an already painful time (Masterton, 2014). Some prisoners therefore opt, where possible, to conceal the news of a death from staff to avoid attracting unwanted attention (Schetky, 1998; Wilson, 2010).

Another disincentive to healthy grieving is peer pressure. The need to mask vulnerability in prison is keenly felt by both sexes (Harner, Hentz and Evangelista, 2011), but this is one way in which the experience of the grieving offender is gendered, as the expectation to appear tough is particularly intense for men and boys.

Female prisoners are more likely to talk things through with other prisoners. But, in a male prison, where it's very much a dog-eat-dog environment, they're unlikely to be inclined to do that. Also, a lot of the backgrounds that they've come from, they've not grown up with the sort of emotional maturity to be able to feel comfortable talking. Many blokes aren't, a lot of times, and I speak as a bloke! – Participant 11, prison chaplain

Prison masculinity is a well-trodden avenue of criminology scholarship (see, for example, Crewe, 2014), and it is widely understood that male offenders are subject to a strict social code that includes “not losing control; not crying openly; not being afraid, dependent, insecure, anxious or passive; not expressing loneliness or sadness; not touching other men and not showing weakness” (Hendry, 2009). As Toch puts it, “the coping strategy *par excellence* is to assume the status of the Manly Man” (1975: 146). The ‘macho’ prison culture therefore prevents the bereaved from working through their loss or confiding in others.

Colette Barry (2017) describes how this inhibits all members of the prison community from accessing support, as officers also suppress their emotions in front of colleagues and inmates. This means that they too are at risk of disenfranchised grief

when maintaining professionalism following a death in prison and are very wary of reaching out or being seen to need help. Although services like chaplaincy are for everyone, staff reported feeling that they were not ‘meant to’ use them themselves; Barry’s participants worried that using pastoral care after a traumatic experience would reduce both their status amongst colleagues and their promotion prospects.

Grief, if it is expressed at all in prison, is likely to be conveyed through maladaptive behaviour. In a fraught, all-male environment where “vulnerability is exploited brutally and ruthlessly” (Participant 11, prison chaplain), staff and inmates alike must conform to a very narrow, and very toxic, idea of how to be a man, or risk becoming a target for others (Crewe, 2014). The research literature indicates that bereaved male prisoners do not seek help even when they are in severe emotional distress or at crisis point (Vaswani, 2014).

For some, what Freud (1917) calls ‘grief work’ is deemed too difficult to focus on while in prison, and offenders may deliberately avoid confronting their losses to protect themselves from further hurt¹⁰. Stevenson and McCutchen describe how bereaved offenders often “deny their emotions because by denying them they believe they can avoid painful emotional episodes” (2006: 109), with the result that these feelings become internalised. This coping strategy may be a useful means of self-preservation, but failure to grieve can be very damaging in the long term (Vaswani, 2014; Wilson, 2010).

To survive in prison, there’s this perception that you need to be seen by all the other prisoners as quite tough and not somebody to mess with. Even within the staff group, there is to some extent still this need to not show the cracks. [...] As a probation officer, I know that, if men were encouraged by society to ask

¹⁰ An exception is therapeutic prison, where group therapy, working through pain and talking about difficult emotions and experiences are important elements of the regime. Emotional literacy is typically much higher in these settings. (Brown, J., Miller, S., Northey, S. & O'Neill, D. (2014). *What Works in Therapeutic Prisons: Evaluating Psychological Change in Dovegate Therapeutic Community*. Basingstoke: Palgrave Macmillan.)

for that kind of help and have a cry now and again, the prison would probably be half-empty. – Participant 9, probation officer and NRPSN member

Worden's third task is for the individual to become accustomed to life without their loved one. In any bereavement, it is seldom clear at first exactly what is lost; it takes time realise what life is like without the deceased and adapt not just to the loss of the person but, often, to new responsibilities and a changed sense of self (Worden, 2009). Naturally, a person who is removed from the life and family he has known will struggle to accept the new order of things. In many cases, it will not be until the individual reintegrates into his home life that he fully appreciates his loss (Hendry 2009; Schetky 1998). For prisoners, this grieving process is "frozen in time" (Harner, Hentz and Evangelista, 2011: 458), "suspended" (Ferszt, 2002: 249) until release.

Stevenson and McCutchen (2016) draw a parallel between responses to grief and to incarceration, highlighting the similarities between the feelings experienced by mourners and inmates. For Lane, too, "the experience of feeling stuck within a grieving process [...] resonated very obviously with the feeling of being stuck within the prison system" (2015: 79). Doka (2002) explicitly identifies imprisonment as a potential source of disenfranchised grief. The grieving prisoner is in this sense doubly bereaved, first by his imprisonment – "a kind of bereavement for oneself" (Jewkes, 2005: 370) - and then by the loss of a loved one.

The idea of suspended grief is particularly relevant to the fourth and final task of mourning, in which the bereaved reinvests in other relationships while keeping the memory of the deceased alive. Prison structures inhibit the offender's ability first to commemorate and find an enduring connection to the dead, and then to move on. Incarceration prevents inmates from visiting graves and reminiscing with family and friends, rites taken for granted on the outside, but some offenders are still able to mark anniversaries in their own way in prison. Vaswani (2014) found that those who took the approach of consciously remembering their loved one seemed more adjusted.

The biggest loss that they experience, of course, is being incarcerated, you know, their loss of freedom, so we do get an awful lot of them just angry about being locked up [...] and very often that's how we determine when we've actually gotten to the end of our working time with a client, when they're talking less and less about the bereavement and more and more about, you know, the regime here or the officer who's giving him a hard time, or whatever it happens to be. – Participant 17, counsellor and criminal justice professional

Those who experience bereavement in the criminal justice system may struggle to invest in relationships, as there is limited opportunity for contact with family or pursuing new friendships (Vaswani, 2014; Hendry, 2009; Schetky, 1998). Relational ties to those outside are very important, but maintaining them in prison is stressful and inmates may feel that they cannot talk about the deceased with family for fear of upsetting them (Wilson, 2011). The formation of new relationships is another beneficial step that is often suspended until release (Potter, 1999). Previous researchers have found inmates to be wary of developing friendships in prison (Hendry, 2009; Lane, 2015) and to have difficulty offloading to one another (Wilson, 2010). Some feel that to become emotionally attached will only cause more pain, as they fear that their vulnerability will be exploited (Ferszt, 2002), or that they will have to endure a second loss upon the transfer, release or death of the new friend (Schetky, 1998). The prisoners I met at a sex offender institution said that they found the prospect of release scary because they would lose the valuable friendships that they had built in prison with people who knew what they had done and cared about them without judgement. Psychiatrist Diane Schetky explains that “when there is no opportunity to invest in new relationships, inmates may cling to their lost ones” (1998: 384).

III. The Dual Process Model

Contemporary researchers have begun to challenge established grief theories, and new models are emerging. Grief experts like Rees (1997) and Worden (2009) have stressed that healing from bereavement does not occur as a straight, linear path towards restored happiness. An alternative to the conventional phasal model was put forward by Dutch academics Stroebe and Schut and is briefly discussed here both as a contrast to Worden's framework and to demonstrate a further impediment imposed by incarceration. According to the dual process model, the bereaved individual oscillates between traditional grief work, which Stroebe and Schut (1999) term 'loss-oriented activities', and practical tasks or distractions, described as 'restoration-oriented activities'. The alteration can happen over minutes (as in the fluctuation between emotional and pragmatic responses in the immediate aftermath of a death), days, or months. Whereas Worden recommended that mourners allow themselves to experience the pain of grief, Stroebe and Schut "argue the additional necessity to take time off from the pain of grief" (1999: 215). The phasal and oscillatory models are by no means incompatible. Perhaps a more holistic perspective, informed by both theories, presents the richest understanding; a broadly linear progression through different stages of healing but, within each stage, frequent alternations between mourning and distraction, grieving and getting on.

The central claim of the dual process model is dosage; "the grieving individual at times confronts, at other times avoids, the different tasks of grieving" (1999: 197). There is a healthy 'to and fro' between loss-oriented activities like crying, thinking about the deceased and going over events on the one hand, and restoration-oriented activities like taking part in hobbies, work productivity and domestic responsibilities on the other. Oscillation is necessary for optimal adjustment; spending too much time either state is deemed detrimental to both mental and physical well-being (Vaswani, 2014). So, when grievers tend to distract themselves and keep busy, they should be

encouraged instead to reflect on their loss and express their feelings, and vice versa. The important difference is that the tasks of mourning model pertains to the individual's emotional journey, whereas the dual process model is a more performative approach, relating to the behavioural manifestations of that pain and healing. This perhaps makes it a more suitable lens through which to view prisoners' grief, as their behaviour is more easily monitored and altered than their mental states.

A lot of them can't control their own emotions, they can't control anything, really, in their lives. - Participant 14, NRPSN member

How successfully can this model be followed in prison? Inmates are at the mercy of the system and their lives are determined by the decisions of others in a closely controlled environment, with few opportunities for restorative activities. This severely limits the freedom to balance one's time between reflection and distraction, and a prisoner may not have access to, or may refuse, suitable support (Wilson, 2011). Failure to find a balanced response can complicate grief.

IV. Unresolved or Disenfranchised Grief

When the normal process is suppressed or delayed, atypical grief reactions arise (Rees, 1997). 'Unresolved grief' is a category of intense, protracted grief that occurs when a person does not complete the mourning process in a healthy way. It is possible to have incomplete healing from a bereavement just as one might have incomplete healing from a wound (Worden, 2009). The individual often feels stuck in their grief, struggles to come to terms with or fully mourn their loss, and may never find closure. The risk of this is higher for those in the criminal justice system due to their predisposition to vulnerability, the barriers to grieving and the ongoing exposure to life stressors in a prison environment. Subsequently, Schetky believes "unresolved

grief is almost the norm in prison populations but is likely to be masked by other behaviours, particularly disruptive ones" (1998: 390).

Similar to unresolved grief is the more specific idea of disenfranchised grief. Whereas unresolved grief could follow any loss, 'disenfranchised grief' is defined by Kenneth Doka as "grief that persons experience when they incur a loss that is not or cannot be openly acknowledged, publicly mourned or socially supported" (1989: 4). It is grief that falls outside of the grieving rules (Doka, 2002). Healthcare professionals have described how relatives in prison are overlooked because they are not routinely included in the bereavement support mechanisms of hospitals and hospices (Lillie et al, 2018). As marginalised and vulnerable people who are often excluded from rituals, separated from social networks and unable to mourn openly, prisoners are disenfranchised grievers whose loss is typically invisible or ignored (Doka, 1989).

In prison, they're completely disenfranchised, they can't express that grief.

Often, they're not allowed to go to funerals as well, so they can't get through that process. So, often they've got all these issues stacked up.

– Participant 12, prison chaplain

This intensifies bereavement and adds to the challenges that confront a prisoner upon release. Normal grief symptoms become acute and persistent and begin to interfere with functioning. This can have serious health consequences which present all the characteristics of a disease (Rees, 1997). Symptoms include sleep disorders, raised blood pressure, heart problems, depression, post-traumatic stress disorder and suicidal ideation (Harner, Hentz and Evangelista, 2011; Schetky, 1998), and these patterns can become so fixed that any chance of recovery is remote (Rees, 1997). The task, then, is to learn how to identify bereavement and facilitate the normal healing process to reduce the chance of disenfranchised grief.

V. Conclusion

Dealing with loss is never easy, particularly if one is part of a group where loss is often overlooked and involvement in grief work is minimal. Every prisoner has a right to grieve, but the complexities of incarceration pose a challenge for criminal justice professionals as they strive to meet the needs of offenders without comprising order and security. We have seen how imprisonment frustrates the grieving process and often dramatically reduces the offender's chances of resolving his losses in a healthy way. The disruptions outlined above have significant implications for successful reintegration back into the community (Vaswani, 2015). If these losses are not addressed, they can manifest as offending behaviours (Leach et al, 2008), with wide-reaching implications.

Much like grief work itself, it appears that the most important change towards more effective bereavement support in the criminal justice system must come from within. This is no criticism of criminal justice professionals, as responding to the loss of a loved one is difficult under the best circumstances, let alone in the 'macho' prison environment. Harner et al (2011) appreciate that "people in general, regardless of the setting, might be uneasy discussing death with someone grieving. We suspect this discussion must be especially conflicting for correctional officers, because they must balance their institutional responsibilities with their desire to help ease another human being's suffering." Nevertheless, research shows that grieving prisoners perceive some staff as feeling awkward or having limited skills to work empathically (Wilson, 2010). There is significant interest in bereavement across the criminal justice system, but support remains fragmented, as the 'management' of bereavement is treated as secondary to security concerns (Lillie, 2018).

The literature has revealed a clear need for a change in prison culture, especially in the approach of prison staff. The Equality Act 2010 is a valuable springboard for

making these changes, and this supports the rational for measuring prison practices against the legislative framework

Bereavement is not a mental illness or a behavioural problem to be treated or managed. A profound emotional response to the loss of someone we care about is a natural manifestation of love. The more we have valued and been valued by the deceased, and the greater our former happiness together, the more we suffer the loss. In other words, grief is the price we pay for love, and worth paying.

This chapter has described in detail the experience of bereavement in prison, and the need for offenders to be supported through the grieving process during their sentence. To locate this problem within its wider policy context, the more that is understood about the experiences of mourning offenders, the stronger the position for facilitating the grieving process during their sentence, so that fewer offenders are released from prison with mental health needs. The diversity and the gravity of the challenges confronting bereaved prisoners is readily apparent, but the solutions to these obstacles are less clear. Empirical research has exposed a disturbing lack of effective bereavement interventions (Hester and Taylor, 2011), as well as a shortage of time, knowledge, and resources among prison staff to meet the demands of grieving offenders. Many of the authors in this area make proposals for reform, and their ideas fall largely into three categories: staff training, counselling; and support groups. There is an urgent need to implement resources to support prisoners through the grief process (Hendry, 2009), both for their own benefit and as a matter of public health and safety. The following chapter explores the mechanisms that are currently in place to address prisoners' grief and other pastoral needs and evaluates how effectively these services support the multicultural prison population.

CHAPTER 3: PRISON PASTORAL CARE

I. Introduction

Pastoral care is often required in circumstances where people experience loss. This can include a loss of freedom, a loss of identity, a loss of hope, or the loss of a loved one. In this chapter, I ask how well-equipped prisons are to provide that support, and the adequacy of existing mechanisms to meet the needs of non-religious prisoners. As the multi-faith chaplaincy emerges as the primary - and, in some cases, the only - formal source of help for bereaved prisoners, this chapter considers why a religious (or at least 'religionised') service may be unsuitable for some. It is argued that the importance of effective pastoral care in the criminal justice system puts pressure on the Prison Service to do more to support those whom the chaplaincy cannot reach.

Despite its religious origins, the term 'pastoral care' is used here in the secular sense, to refer to professional emotional and moral guidance provided at difficult times to promote wellbeing, including but not limited to religious ministry. It can involve chaplaincy, counselling, personal support such as the kind offered in learning institutions and workplaces, and informal advice and listening services. Throughout this thesis, there are references to 'appropriate' or 'belief-specific' pastoral services. Here, 'appropriate' care for a non-religious prisoner is secular support that is not delivered through a religious service, such as chaplaincy, as this can be off-putting for those of no faith (Potter, 1999). 'Belief-specific care', in this instance, is support delivered by and for non-religious people, which enables the service user to speak to somebody of the same world view.

II. The Importance of Pastoral Care for Prisoners

There are some positive aspects to the stability and containment of the prison environment. Existing research mentions the way in which a custodial sentence, by giving offenders space and time out from their daily lives, creates the possibility for introspection and healing, and a chance to address any personal issues before their return to society (Vaswani, 2014). For example, Wilson (2010) found that offenders were more likely to seek bereavement counselling in prison than in the community. With apologies to Sykes, we might call these the ‘gains of imprisonment’, which could include rehabilitation from substance use, safety from toxic relationships on the outside, and enhanced access to healthcare, education and training opportunities. The secure setting can therefore be an opportunity to introduce vulnerable people to a range of services that can continue to offer support on their release.

There are many reasons why comprehensive mental, emotional and psychosocial (hereafter ‘pastoral’) support is important in prisons, particularly in the case of bereavement, the most fundamental of which is the argument from humanity. Although an offender may, through his criminal conduct, forfeit his right to freedom, he does not forfeit his right to a healthy, supported grieving process, or mental and physical wellbeing. Olson and McEwen speculate that prisoners “are not considered to be ‘entitled’ to grieve, because they are being punished for breaking society’s laws. Even the basic privilege to mourn a lost loved one may be taken away from them” (2004: 226). As psychiatrists Holmes and Rahe (1967) famously determined, bereavement and imprisonment are two of the most stressful experiences a person can suffer, and where they coincide, they create an acute, complex pain that requires a compassionate institutional response. When grieving offenders attempt to cope with combined stressors, the provision of programmes and services in prison constitutes an important intervention tool (Ferszt et al, 2009).

As people who have acted contrary to law and public interest and wilfully harmed others, prisoners tend to occupy a very low position on the social ladder. They are not typically valued members of society, and it appears that their grief may not be of great interest to others (Olson & McEwen, 2004). Researchers in this area often express concern at attitudes towards offenders' care and wellbeing, both within the prison and amongst the public. For instance, Hendry remarks that "prisons are most often viewed as places for punishment, while the goals of health and healing are neglected" (2009: 275). Prisoners are a transient population, and most will eventually return to the wider community, taking their health and social problems with them (Hendry, 2009). It should therefore be remembered that studies in this area have revealed a strong link between unresolved or disenfranchised grief and recidivism.

Trauma of this kind has repeatedly been shown to impede an ex-offender's transition back into their community, and have an impact on reoffending rates (Vaswani, 2014; Harner, Hentz and Evangelista, 2011; Wilson, 2010; Hendry, 2009). Cumulative losses and complex grief reactions are commonly cited as factors in criminal behaviour (Lane, 2015; Maschi et al, 2011; Leach et al, 2008). In my own research, participants from all groups commented on the link between bereavement and offending behaviour:

Patterns of behaviour can be affected by bereavement. [...] If somebody's angry, there's a reason why they're angry, so let's get to the underlying reason why somebody needs anger management in the first place, and it very often could be that they've experienced a bereavement, they haven't been allowed to grieve, they haven't been allowed to express themselves. [...] How many people who have reoffended have received bereavement support?

– Participant 17, bereavement counsellor and criminal justice professional

It is worth pointing out that the relationship is not necessarily causal, so we should be cautious about concluding that unresolved grief is criminogenic. It may simply be

that the factors associated with offending – e.g. poverty, addiction, family conflict, low education, poor housing, community violence - are also associated with premature death (Vaswani, 2014), leading to high rates of both bereavement and crime in the same demographics. There is, in any case, a clear correlation between unresolved grief and criminality that highlights the need to support prisoners during their sentences.

Many of them say to me, “Oh, it was when my Auntie Dot died” or “When my mum died, that was when my life started going downhill.” [...] Many of them have got such poor coping mechanisms for what they're dealing with, because they've used drink and drugs to deal with their bereavement, and so they've ended up in jail and then they have even less coping mechanisms, and so it often comes out in violence or anger or aggression. [...] If you interrupt that cycle, I think it can be massively positive. – Participant 12, prison chaplain

Providing robust bereavement support in prison is a vital goal, not just as an instrumentalist attempt to reduce reoffending, but also as a necessary part of humane confinement, to ease the pain of those who mourn. When the state fails to provide adequate treatment, offenders will face the additional difficulty of unresolved grief when they return to society. Facilitating the grieving process prior to release “might enable a prisoner returning to the community to feel reconciled and more able to allow their life to continue” (Participant 18, prison bereavement counsellor), so that offenders are less likely to suffer mental health problems and engage in harmful behaviour when their sentence finishes (Vaswani, 2014), potentially benefiting the individual, his family, and his community (Thomas and Zaitzow, 2006; Wilson, 2010).

You definitely can see a change. One client who we'd been working with long-term was a serial self-harmer and had been for years and years and years and - touch wood - last time we had supervision, this gentleman had not been self-harming for... I think we were into the tenth month since he'd been having

support from our organisation. [...] Just touching base with our volunteer once a month - that's all he's down to now, once every four weeks - that's preventing him from self-harming. So, that's something that's measurable, isn't it?

– Participant 17, bereavement counsellor and criminal justice professional

Indeed, visits from community volunteers have been shown to significantly reduce offending (Duwe and Johnson, 2016), and Stevenson and McCutchen argue that “helping a man deal with his grief may well be the key to helping him maintain a job and begin to build a future” (2006: 114). Providing effective bereavement support ahead of release can help to ease this transitional process. Prison pastoral care is therefore not merely an issue for those in criminal justice professions, but a matter of public policy that affects us all. The Equality Act is a useful framework here too, as an individually legally enforceable right can provide a valuable impetus for reform and support public authorities in fulfilling their statutory duties.

Some prison staff and probation officers undertake bereavement training as an aspect of their professional development, but generally this work is assigned to social or healthcare workers or handed on to the voluntary sector (Corcoran, 2018). Potter (1999) identifies that “in practice, officers and other support staff may not recognise a bereaved prisoner’s needs because they have a limited understanding of the grieving process and its length, or because they may have few counselling skills to help them respond and heavy workloads which limit the time available to do so.” This resonated with my interviewees:

As a probation officer, my job was to address their offending behaviour. It wasn’t really my job to talk to them about things that were bothering them. [...] I did speak to them about it, because, in my view, if something’s upsetting somebody then that’s not going to help them. But, technically, you’re meant to concentrate on the things that are linked to their offending behaviour, and

especially now that resources are even more stretched, people are going to have less time. – Participant 9, probation officer and NRPSN member

Bereavement work is therefore largely undertaken by mental health nurses and chaplains, both of whom seem inappropriate in different ways: first, bereavement is not a mental illness ("there are plenty of bereaved people who don't develop depression and anxiety and kind of fall through the net" - Participant 9, probation officer and NRPSN member), and, second, chaplains are not therapists or counsellors.

I've never been trained formally in bereavement counselling. Given the incidence of mental health needs is high in the prison population, I certainly wouldn't want to start dabbling in something that I'm not trained to do.

- Participant 11, prison chaplain

In the vast majority of institutions, no formal bereavement support is provided. The Bradley Review (2009) has highlighted a need for enhanced care in this area, and the necessity of improving mental health care generally in the criminal justice system. The Review called for improved communication and signposting to services to reduce offending and improve the wellbeing of offenders with mental health problems. This shortage of bereavement support from internal sources creates an increased risk of poor outcomes for those who mourn in prison (Vaswani, 2014; Wilson, 2010).

III. Chaplaincy

In theory, and to some extent in practice, every prisoner has access to chaplaincy... - Participant 4, NRPSN member

What little help is available for those dealing with grief and loss tends to be offered only through the chaplaincy. A multi-faith chaplaincy is established in every prison in England and Wales, by statute; s.7(1) Prison Act 1952 requires that "every prison shall have [...] a chaplain". Each chaplaincy has a team of staff dedicated to providing religious guidance and pastoral care to offenders and colleagues alike.

The Chaplain General stands at the head of the Prison Service Chaplaincy and advises the Secretary of State on all religious matters affecting prisons and prisoners. At the time of my data collection, the Chaplain General was Rev Mike Kavanagh, whom I interviewed for this research, and who agreed to be named in the thesis. He has since been succeeded by Rev James Ridge.

The prevailing model of prison chaplaincy in England and Wales is Christian, and specifically Anglican. This too is reflected in legislation; s.7(4) Prison Act 1952 requires that "the chaplain and any assistant chaplain shall be a clergyman of the Church of England". Anglican chaplaincy has been a part of the prison system since its inception. In the Victorian era, Church of England priests played a large role in attempts to reform the criminal justice system, and Justices of the Peace began to appoint chaplains to serve their local prisons. Those chosen were always Anglican, and it was not until the second half of the nineteenth century that the law provided for prisoners who were not members of the Church of England. The Prison Ministers Act 1863 empowered magistrates to pay other clergymen to minister to prisoners of their denomination on a sessional basis. This Protestant privilege was reinforced by the Prison Act 1865, which stipulated that each prison "must appoint a chaplain, being a clergyman of the established church".

Chaplains have always held considerable power and influence in English prisons. The Church of England has benefited from powers, privileges and advantages that no other religious organisation has enjoyed in the country's history since the late sixteenth century (Beckford and Gilliat, 1998). The chaplaincy was at the heart of Victorian prison life, and Priestly writes that the daily summons to communion was "experienced by prisoners as unmistakably disciplinary [...] part of one's

punishment" (1985: 91). In the early twentieth century, the ethos of the chaplaincy moved away from discipline and "religious morality" (Participant 17, prison bereavement counsellor and criminal justice professional) and towards education, rehabilitation and moral support. Worship was no longer compulsory, and the chapels in newer prisons altered in size and function, becoming smaller, multi-purpose spaces for private reflection, meetings and even entertainment. My chaplain interviewees were very conscious of the evolution of their profession.

Going back to the eighteenth century when chaplains were first put into prison, OK, there was a correctional role, [...] prisoners are] preached at to reform them and that and, you know, improve their moral character and all sorts. So, there was that. But, if you read, it was also to check on their wellbeing, their welfare, so that's always been part and parcel of it. - Participant 11, prison chaplain

Increasing religious diversity has been an important catalyst for change, and the pressures faced by institutional religion have had an impact in prisons (Gilliat-Ray, 2005). At first, pastoral care was exclusively provided by Anglican Christians; this was then extended to other Christian denominations and, more recently, to other religions with the development of a multi-faith chaplaincy service. (Savage, 2019). Section 10 of the Prison Act 1952 permitted, for the first time, the appointment of non-Christian chaplains, at the Secretary of State's discretion. This has resulted in fairly rapid and significant changes to the composition and function of pastoral care services.

If you were to go back 10-15 years in prison ministry, you would have seen something that was much more visibly kind of... probably Anglican, certainly Christian, and beginning to be Muslim. And then, separate from Chaplaincy, there were Religious Consultative Services, which were for the numerically smaller communities. And, under my predecessor, William Noblett, Chaplaincy and Religious Consultative Services were brought together, so that

we now have a multi-faith chaplaincy team in all our jails, with a lead chaplain who wouldn't necessarily be Anglican. [...] In a relatively small space of time, we've seen an enormous shift towards inclusive chaplaincy.

- Mike Kavanagh, Chaplain-General of Prisons

Today, imams, rabbis and ministers of other faiths have an active presence in many institutions, although they are always appointed in addition to – and never instead of - the Anglican chaplain. Only Anglican chaplains have a legislative mandate, and they alone are legally bound to fulfil the statutory functions of injunction and discharge interviews and daily visits to prisoners who are unwell or in solitary confinement. We might query the constitutionality of the entrenchment of Protestantism in the law; if privilege and inequality do exist in today's prison system, we need not look far for its source. Indeed, it is precisely because of the bias in favour of the Church of England and the embedding of potentially discriminatory practices that it has been necessary to pass equality legislation protecting people belonging to another faith or no faith.

Given the obvious power imbalance, I am not the first researcher to raise the possibility that the unequal arrangements for pastoral care provision in the English prison contradict antidiscrimination law. Twenty years ago, Beckford and Gilliat remarked: "We believe that religious care should be available to all prisoners equally regardless of their particular faith [...] If the provision is not perceived to be even-handed, accusations may be made about discrimination [...] The fact that responsibility for administering the provision of religion to prisoners rests mainly with the clergy of the Church of England gives rise to difficult questions about the equal opportunities for non-Christians" (1998: 7). As Copson writes, "In every state with an established church, there is discrimination of some sort, and even where they have begun to treat religious people equally, they often continue discrimination against the non-religious" (2017: 75). These authors highlighted discriminatory practices but did not frame the disparity specifically in terms of anti-discrimination law. The Equality Act 2010 therefore opens up the possibility of a legal challenge and

sheds new light on historic and continuing religious inequalities in prison. This was a view shared by some respondents, who perceived the situation in these terms.

I would call it discrimination, inequality, a lack of understanding of diversity, a lack of respect for the fact that [the prisoner has their] own needs and wants as someone who's non-religious. – Participant 3, NRPSN member

The criminal justice professionals I interviewed and the Ministry of Justice literature I read in preparation for my data collection all indicated that the need for belief-specific pastoral support, beyond Christian ministry, has been well understood and positively promoted as good practice within HMPPS for over a decade. However, this understanding has not yet been extended to non-religious prisoners, who are either unable to access appropriate pastoral support services or are only offered purportedly neutral, generic chaplaincy provided by religious chaplains. Whereas Beckford and Gilliat concerned themselves only with the accommodation of prisoners of minority faith¹¹, this thesis argues that it is time to take the final step, from a multi-faith chaplaincy to a fully inclusive service that embraces non-religious pastoral care.

All prisons, public and private, adhere to official prison policies, which can be found in the Prison Service Instructions (PSIs). One such document, PSI 05/2016 Faith and Pastoral Care for Prisoners (Ministry of Justice, 2016), sets out the responsibilities of prison chaplaincy staff. These guidelines direct how prisons should operate to meet the religious and pastoral needs of “prisoners of all faiths and none” (para. 21(5)) – note that this term explicitly includes non-religious offenders) and give chaplains a specific concern for the bereaved and for a prisoner’s family (para. 17). The detailed provisions demonstrate a commitment on behalf of the Prison Service to respect the religious and philosophical beliefs of prisoners, facilitate the practice and expression of those views, and provide assistance at times of grief and loss.

¹¹ Savage notes that only 9% of the prison population were members of other faiths at that time, yet “the 27% who were non-religious were largely ignored by Beckford, Gilliat and the chaplaincy service” (2019: 11).

Currently, these guidelines are not fully inclusive of the non-religious. The PSI does feature a section on humanism among its profiles of different faiths, but while including information on humanism as a recognised belief is helpful, humanism is covered as though it were a religion when it is not, and there is no content on non-religious belief. It is important to recognise that while humanism *is* a non-religious outlook, it is not the same as atheism, secularism or other non-religious positions. My non-religious interviewees were confident that very few people who indicate in official data that they are of No Religion would describe themselves as humanists. To make provision for humanists therefore neglects the many people who do not belong to a faith or believe in god, and do not think of themselves as humanists, but still have pastoral care needs like anyone else.

The guidelines provide for belief-specific pastoral care to every group except those of no faith, who are expected to use the ‘multi-faith’ chaplaincy. Bereavement scholar Margaret Potter points out that “although there will be a chaplaincy team within the prison, prisoners may not use this source of help because it is not compatible with their beliefs and value systems” (1999: 22). This thesis presents evidence that non-religious prisoners are unlikely to avail themselves of chaplaincy services and rarely have access to a belief-appropriate (which, in this case, means secular) alternative, leaving them underserved compared to all religious groups. Some institutions do provide support mechanisms beyond chaplaincy, but the availability and suitability of these services is very inconsistent, as we will see.

IV. Alternative Services

Charting pastoral care provision in prison is complex, as the services that are available to supplement chaplaincy will vary significantly between institutions, and even between prisoners at the same institution. Grief counsellor Marion Wilson has shown how “each prison addresses bereavement issues differently according to: the

type of sentence committed; date of bereavement; manner of death; relationship of the prisoner to the deceased; level of security risk; level of chaplaincy involvement; category of prison; historic management of the establishment; economic restrictions; and particular culture of the prison in relation to death" (2010: 11). Thus, two cell mates will not have the same experience of pastoral care, or even access to the same services, when confronting a bereavement.

Institutions may offer counselling, whether formally through in-house therapists and external support services, or informally through the visits of lay volunteers from the community. Healthcare teams and other members of prison staff are in theory available to support inmates day-to-day, but, while prisons offer a range of services to help with mental and behavioural problems, there is no programme specifically addressing bereavement (Wilson, 2011). Worden observes that "the empirical reality is that people seek [mental health professionals] out for grieving. This may be in part because of the secularisation of the age. Earlier, people would have looked to religious leaders and religious institutions for help with their grief, but because so many people no longer belong to formal religious organisations, they often turn to the mental health worker" (2009: 4). Throughout the literature, one-on-one counselling or talk-based pastoral care consistently emerged as the most effective means of supporting offenders through a healthy grieving process.

In many cases, this is the first time that they have had an opportunity to talk to anyone about their experiences and feelings. It is humbling. I know some clients are able to stop self-harming and are proud to be able to develop other coping strategies. - Participant 18, prison bereavement counsellor

Prison counsellor Alison Soulsby believes that "the use of external counselling support within prisons can provide an important conduit to release the pressures prisoners face when confronting issues of bereavement in what can be an otherwise hostile and unsupportive environment" (2018: 115). For some offenders, the

opportunity can make an enormous difference. Unfortunately, various obstacles including limited resources, the poor availability of trained staff, the strict prison schedule and the fact that some inmates are only serving short sentences can make counselling difficult to deliver in practice.

We did have people getting referred via the mental health team to Mind, and the Mind counsellor used to come in. [...] From what I heard they did an amazing job, like, the lads who did bereavement support with them said it was excellent. But there was only one of them, so only one or two or three people out of 900 could access that. - Participant 12, prison chaplain

During my prison fieldwork, I asked residents about their experiences of seeking support. I spoke to one prisoner whose wife had died after he was released on licence. He drank heavily to cope with his grief and was swiftly recalled to prison. He had sought counselling to help him manage his bereavement but had been rebuffed. At his institution, although counselling is provided by the prison, the service is so oversubscribed that only people serving indeterminate or life sentences are 'eligible' to use it. Another prisoner added that being unable to receive counselling did not just impact on the bereavement process but made it harder to progress with one's sentence plan and had an impact on parole prospects. This gentleman had been advised to arrange his own counselling by contacting external agencies. It is hard to imagine that many prisoners are empowered to do this, and it seems unreasonable to put the onus on prisoners to secure their own pastoral care.

There is a counselling service in the prison which they can be referred to, but they have quite strict kind of boundaries on who they can help because otherwise, obviously, they would be a very popular service.

- Participant 13, prison chaplain

Where one-on-one counselling would not be viable, bereavement support groups are popular, cost-effective, and beneficial in creating emotional connections to others which often feel sadly lacking in the prison setting (Vaswani, 2014). Support groups enable inmates to help each other process bereavement and loss as it occurs, and are useful in building verbal skills, confidence and self-awareness and improving relationships between offenders, often decreasing conflict on the wing (Schetky, 1998). In the bereavement context, talking through difficult experiences and listening to the stories of others is known to play an important role in processing grief and other trauma (Vaswani, 2014).

The feedback I've been getting is that it increases their confidence, because they're talking in a group setting, and it increases their self-esteem, and for prisoners that's really important.

- Participant 9, probation officer and NRPSN member

Some studies have attributed the shortcomings in prison pastoral care to the underfunding of public services as part of the austerity agenda. American researchers Grant Duwe and Byron R. Johnson describe how “economic woes have led to significant cuts in correctional budgets, and as safe and secure custody is generally the paramount concern for correctional authorities, treatment programs tend to be among the first areas to be eliminated” (2016: 281). Practitioners have reported the disappearance of care from prison landings following stringent cuts to staff levels, as well as to pay and conditions (Liebling & Ludlow, 2016). The result is that inmates are typically released back into their communities with limited support (Harner, Hentz and Evangelista, 2011).

These recent financial pressures have led to an increasing reliance on volunteers, from both outside and inside the prison community, to visit offenders. One external agency is Cruse Bereavement Care, the leading national bereavement charity. A network of trained volunteers provides free, confidential services to people dealing

with loss, and has a presence in dozens of prisons across England, Wales and Northern Ireland (Wilson, 2010).

At one point, Cruse Bereavement Care counsellors came in. As I understand it, they're not going in anymore because the contract hadn't been renewed, although that was a few months ago that I had that conversation with [the Managing Chaplain...] I thought it was a real shame because people were finding that helpful. But you'd have to put your name down for that and wait until they came in, whereas, with the chaplaincy, they're there all the time.

- Participant 9, probation officer and NRPSN member

Few prisons offer any grief support for inmates, although several outside groups do seek to make such services available (Stevenson and McCutchen, 2006). I visited a prison that had a "long-standing arrangement" (Participant 15, prison chaplain) with a local loss support charity offering four sessions a week of free bereavement counselling for inmates, and another that received volunteers from an Older Prisoners' Activities and Learning project, "and one of the things they did is run a bereavement and loss course" (Participant 13, prison chaplain). Volunteers are an attractive option to prison management for obvious reasons but, rather than being approached by the institutions, are normally left to take the initiative themselves.

It's often the efforts of an individual person rather the chaplaincy saying, "Here's a need, this is what we're going to do." There's no proactive work going on at all. I think they'd say they just haven't got time, but it's not just that, it's also an approach, it's also an attitude. - Participant 4, NRPSN member

Visits play an important role in the prevention of reoffending (Ramsbotham, 2003), and prisons also benefit from the input of the National Association of Official Prison Visitors (NAOPV), the official prison visitors' scheme.

NAOPV is simply a group of people who commit to visiting prisoners who request a visit. So, it might be that they don't have any family support, they don't have any visitors. Or it might be that they've got visitors, but they'd like someone else as well, and so a prisoner can apply for an Official Prison Visitor and they will come in once a month or whatever and meet with them.

– Participant 10, then Chaplain-General of Prisons

The contribution of visitors is highly valued; for former Chief Inspector of Prisons, David Ramsbotham, "no praise can be too high for the work of the voluntary National Association of Prison Visitors [...] The importance of the contact to a prisoner, often maintained after release, is unsung but incalculable and deserves better support" (2003: 154). Duwe and Johnson (2016) found not only that prison visitation was associated with fewer disciplinary reports, but that the more visits an individual received, the lower their risk of reoffending. Describing the positive impact that visits can have on prisoner wellbeing and behaviour, they reported "that the mentoring relationship brought a level of support and social connectedness that otherwise was missing [...] The results are generally consistent with prior research on the importance of pro-social support in reducing recidivism risk" (2016: 284, 299).

Visiting prison can be a daunting prospect, as I discovered myself; the imposing façade, barbed wire and rigorous security checks on arrival create a striking and hostile first impression, even before one encounters any offenders. Unsurprisingly, some types of establishment are better served by the NAOPV than others.

There was an ageing population within the prison visitors, and then when it became a sex offenders' prison, some of those elderly ladies were like, "Hmm, I'm not going in anymore." I know that they did struggle for a time to recruit people. Whether they've overcome that, I don't know.

– Participant 17, bereavement counsellor and criminal justice professional

Some non-religious pastoral carers, like Participant 4 below, considered that official prison visitors were in a far better position than they were, given that their role within the prison service was more supported and not contested by chaplaincy:

P4: Sometimes I think I'd actually be better off being an OPV.

KH: Why's that?

P4: Much less stress, I wouldn't be worrying about what my role is, I'd be allocated prisoners, I wouldn't have to go out and find them, as long as I came in and saw those prisoners that I'd been asked to see, that would be the end of it, that would be all I would have to do. And you do build up a relationship with people if you see them more often.

Volunteers play a huge role in pastoral care. Although the volunteer status poses problems, on which more later, there are some advantages to the informality of the role. First, volunteers have much more discretion as to how they spend their days. Second, the fact that they are not paid or employed is itself a benefit when it comes to building relationships; prisoners tend to prefer independent volunteers to personnel linked to the prison because they feel that volunteers are neutral figures who give their time because they care (Clinks, 2016).

One of the important things is to be seen in there as an unpaid volunteer giving up my time [...] Not everyone is as ready to sit down and spend, you know, it could be 30 seconds at the door or 30 minutes in a side room [...] With a volunteer you've got this joy of a) this is interesting, b) it's good for you. Yeah, we'll carry on, you know, we can flex the day. - Participant 7, NRPSN member

Another charity initiative is the Listener scheme. Samaritans works with prison staff to select and train inmates to provide emotional support to other prisoners, with the aim of reducing suicide and self-harm. Listeners have been operating since 1991 and are now a respected presence in almost every prison in the country, although “it doesn’t add up to anything like enough” (Participant 7, NRPSN member). Inmates are in a good position to support fellow offenders, as they not only have much easier access to the prisoner than family, officers and care professionals, they also have a first-hand understanding of the pains of imprisonment. Obvious advantages of peer-support are that it is in-house, free, secular and often mutually beneficial. I met a Listener who told me that his work supporting others had been therapeutic; as he put it, he gets “help by helping”.

Prisoner-led support is far from perfect, however. It may be, for example, that a prisoner who has been a victim of rape or child abuse asks to talk to somebody about their experiences and is sent a Listener who has committed the same crime themselves. Because it is face-to-face and organised by staff, it cannot be anonymous or entirely confidential, and the endemic lack of trust in prisons (“It takes a lot for prisoners to trust each other” - Participant 9, probation officer and NRPSN member) can make it difficult to open up to another prisoner.

They wouldn’t tell another inmate what was going on because “they may be trained but you can’t trust them”. So, there was always this underlying current that “I’m not going to tell anybody in here what’s going on.”

– Participant 17, bereavement counsellor and criminal justice professional

In addition, there are power imbalances within the prison population that can make inmates feel suspicious of Listeners and other peer support services. Their caution may be well-founded.

I've spoken to many prisoners who have spoken to a Listener, and that Listener has then gone and told everybody else on the wing what they've spoken about. [...] Most of the Listeners are pretty good, but you do get a few occasions when that happens. I came across that quite a bit. And, of course, it only takes that to happen once and people lose trust in the system.

- Participant 9, probation officer and NRPSN member

Criminologist Kate Gooch (2018) raises the further problem that many of those who volunteer are not altruistic mentors but powerful prison "Business Men" who manipulate their way to the top of the Incentives and Earned Privileges hierarchy to enjoy more home comforts and give the impression of being model prisoners. These men are in the minority, but it is clear that the Listeners scheme is not always conducive to free communication, healing, and feelings of safety and trust.

I met prisoners who act as functional skills mentors. They told me that even these relationships are to a degree pastoral, producing psychosocial benefits for both parties. Another prisoner-run service is Mental Health Advocacy and Peer Support. MHAPS Navigators, as they are called, are mental health 'buddies' who, according to their website, "having learned from our own experience of mental illness or addictions, now provide services and support to assist others as they seek to improve their quality of life" (www.mentalhealthadvocacypeersupport.org).

It's to help people find their way through. Yeah, that's pretty good but, again, there's lots of guys that don't feel comfortable about doing that. [...] The last thing they'd want to be doing is opening up their vulnerability to another prisoner, however well-trained they may be. You know, they'd have to be very trusting of other people - which prisoners often aren't, for understandable reasons - or in deep crisis or whatever. When I raised it as an ACCT assessor, most of the times the guys would say, "Yeah, I know, but I would never call on, you know, another prisoner to talk to." - Participant 11, prison chaplain

As laudable as these projects are, their effectiveness is therefore limited. All of the above services – counselling, bereavement groups, peer support, prison visitors – are potential sources of pastoral care for those who choose not to see a chaplain. Unfortunately, they all have one important feature in common that seriously undermines their suitability as a secular alternative: “referral is via the prison’s chaplaincy department” (Participant 18, prison bereavement counsellor).

Very often, the chaplaincy team will be the mechanism by which Cruse come into jail. [...] In some jails, the counselling service – again, like the Cruse service – is managed through chaplaincy, but it’s a non-religious provision, it doesn’t carry a faith badge, it’s just that it’s got to be managed somewhere. Chaplaincy manages the National Association of Official Prison Visitors...

– Participant 10, then Chaplain-General of Prisons

Several of my interviewees identified this as a significant obstacle, and the disquiet was not limited to members of the Non-Religious Pastoral Support Network. The management by a religious institution of facilities intended for everyone was perceived across the board to impede not just prisoners’ access to the services, but even their knowledge that they exist at all.

I’d say 98% of our referrals come through the chaplain, that’s generally the first port of call [...] and we’ve often wondered whether that puts people off.

– Participant 17, bereavement counsellor and criminal justice professional

People who do not identify with any religion have historically lacked pastoral care alternatives in settings where chaplaincy is provided (Faith Action, 2018), specifically prisons, hospitals and hospices, universities and the military. People who do not wish for religious pastoral care may nonetheless have spiritual identities and strong

personal beliefs and need distinctive secular support, but until recently, that need has not been met (Copson, 2018).

Whatever non-denominational supplements to chaplaincy may be in place, such as Cruse Bereavement Care or Samaritans-trained listeners, the only pastoral care that is specifically targeted to the non-religious (as a counterpart to chaplaincy, which is inherently religious) is the Non-Religious Pastoral Support Network (NRPSN), a group of trained and accredited volunteers operating in prisons, hospitals and hospices, who “aim to achieve access for every non-religious person in institutional settings to emotional, moral, pastoral, and spiritual support from like-minded carers” (NRPSN, 2017). Those who work in prisons will also have completed ‘Starting Out’, the HMPPS two-day course that helps to contextualise pastoral carers’ existing skills to ensure they are comfortable within the constraints of security and the prison routine (Savage, 2019). The help that they give can include breaking the news of a death, facilitating group work, providing company and conversation, or offering a sympathetic ear to a person in need. In short, they provide the sort of support to non-religious people that might be provided to religious people by chaplains.

The Network began in 2016 with a pilot group at HMP Winchester, working with prisoners who identified as having ‘nil’ religion on admission through discussion groups and bereavement support. The project was well received by both offenders and prison management and is now a permanent aspect of pastoral care at Winchester and expanding into other institutions across the country. Today, there are over 300 members operating in prisons, hospitals and the military, both in a voluntary capacity and in paid positions within NHS Chaplaincy and Pastoral Support Teams.

The value of the work in facilitating rehabilitation is potentially significant, but the impact that members can make is limited. Their help is provided informally, without payment, and at the initiative of the members themselves rather than the prisons they serve, whereas religious chaplains are salaried, full-time staff members with a legislative mandate. To me, this vast difference in standing speaks volumes about the Prison Service’s approach to religious equality. Many members volunteer alongside

busy work lives and other commitments and are not able - or, in some cases, permitted - to come in for more than a few hours a week. Volunteers are not usually told who the non-religious prisoners in their establishments are, and their presence is rarely advertised to would-be service users. As it stands, this help is not sufficient to support the 30% of the prison population who identify as non-religious (Ministry of Justice, 2019), and this demographic is not accommodated, funded or even recognised in the same way as other groups.

V. Religious Literacy

A major barrier to non-religious prisoners accessing non-religious care, even where provided, has been poor religious literacy and unhelpful perceptions of which people can be chaplains. This is by no means limited to prisoners themselves, but includes prison management and chaplaincy staff, some of whom found it difficult to recognise non-religious views as moral positions in their own right. Non-Religious Pastoral Support Network members reported that “for some people, it is a struggle, and that in itself felt like one area of contention to get through even before you get access to people, to have some validity” (Participant 3, NRPSN member).

If you said, “[Participant 14] is a humanist chaplain”, I think a lot of them would say, “What’s a humanist?” To be fair, if you said ‘atheist’, I think some of them would have no idea what that means. I think ‘non-religious’ they can get their heads around. But a lot of them have no idea what those terms mean, and I’m not being unkind to them. Sometimes they get misregistered when they come in, and we’ll check it and we say, “Oh, you’re down as atheist” and they say, “What’s one of them?” – Participant 12, prison chaplain

This was my experience too. During a field visit, I spoke to a prisoner who described himself as agnostic but added, “I am sure that there is no God.” When I remarked that this sounded like atheism, he said, “I thought that meant anti-religion. I’ve got nothing against it.” Confusion around distinctions between an absence of religious belief, a positive attachment to non-religious belief, metaphysical questions of atheism, and ethical questions of humanism leads to ambiguities in the way that prisoners’ beliefs are recorded and makes it harder for them to access secular support.

Curiously, humanism has become conflated with both religion and non-religion. This is not helped by the fact that non-religious pastoral care, where it is provided at all, is exclusively provided by the NRPSN, which was developed by Humanists UK. Their website (<http://nrpsn.org.uk/about/>) is clear that “membership of the NRPSN is not limited to humanists and is open to all those who hold a non-religious belief system that is consistent with a democratic society”.¹² The NRPSN provides support to all people who identify as having a non-religious belief system. In prison, it represents all prisoners who are registered as being of ‘no religion’, or as holding a specific non-religious worldview, such as – but not limited to – humanism.

Whilst all humanists are non-religious, not all non-religious people are humanists. The difference between humanists and people of no religion - sometimes dismissively called ‘nones’ or ‘nils’ in prison - is often relied upon by chaplains when restricting the activity, or justifying the absence, of a non-religious pastoral carer in their team. The typical rationalisation is that “not all the non-religious people are irreligious” (Participant 12, prison chaplain), and that it would therefore be inappropriate for an NRPSN member to approach them, or to assume that their care needs are not met by religious chaplaincy staff.

¹² For example, one NRPSN member that I spoke to described himself as a secular Buddhist.

They can't register as Humanist¹³ and they probably don't know about it anyway. So, they sometimes register, as everybody does, as C of E, or they will put Atheist, or they'll just say Nil / No Religion. [...] The nils, the people who say No, are not to be regarded as humanists, they are to be dealt with by the chaplaincy - in other words, by the C of E - because they might be C of E.

– Participant 16, NRPSN member

The more I interviewed chaplains, the more I suspected that the uncertainty around what 'nil' means was used to justify treating those who did not specifically report a secular world view as "floating voters" (Participant 12, prison chaplain), and not non-religious. Poor religious literacy among the prison population meant that there were many such people, and I was troubled by the readiness to categorise those who had declared themselves to be of no religion as still somehow "spiritual" (Participant 10, then Chaplain-General of Prisons) and therefore the proper client of the chaplain.

People have a really mixed understanding of what religion is in there, and I think that's what gets taken advantage of. It's almost as if, as long as you vaguely believe in something, then we can keep saving your soul.

– Participant 3, NRPSN member

It should not be assumed that so-called 'nils', having freely chosen to identify as being of 'No religion' upon registration, hold unexpressed religious views that can be served through an exclusively religious chaplaincy service.

The comment by prison chaplain Participant 12 that "not all the non-religious people are irreligious" leads us to an important point about the diversity of non-

¹³ It should be noted that this is no longer the case. The Chaplain-General of Prisons advised me of "a change in the way in which the prison and probation registration works, which gives us a window to actually have humanists included. It should come in reasonably quickly, and that will be better because it will allow people to, you know, be explicit about what they want to say about themselves."

religious belief. The ‘non-religious’ demographic is not a homogeneous community with exactly the same beliefs; nor is any other religious group. Vickers expands on this: “even within well-established religions with clear lines of authority, there are dissident voices, such as Catholics calling for the ordination of women, and competing voices even within the accepted hierarchy such as those on both sides of the debate in the Church of England on the ordination of women bishops. There are similar divides between those with no religion, some of whom happily tolerate religion in the public sphere, but do not wish to participate, others of whom lobby strongly for a secular public space” (2011a: 144). The negative term ‘non-religious’, which frames a moral position as an absence of something rather than a positive stance, is unfortunate but necessary, as similar positive words like ‘secular’ or ‘humanist’ are not antonyms of ‘religious’ but have specific, different meanings.

You can register as Atheist, but I think that always feels uncomfortable to me in the sense that it’s about what you’re not, whereas I think Humanist is about saying what you are, about explicitly engaging from an ethical and value-based position, even if it isn’t a theistic one.

– Participant 10, then Chaplain-General of Prisons

Importantly, ‘atheist’, ‘humanist’ and ‘non-religious’ are not synonymous. So, what is humanism? It is not, as one participant thought, an alternative to feminism that decentres women (“I assumed a group of humanists would be all men” - Participant 2, prison charity worker). Humanism is a rationalist, secular outlook that values critical thinking, evidence and public interest over dogma and superstition. It emphasises the rights and autonomy of human beings rather than religious teachings, gods or the supernatural. Humanists do not believe in God or follow scripture, but make ethical decisions based on reason, empathy and the common good. I met a prisoner who asked me about my own beliefs. He hadn’t heard the word ‘humanism’ (“It sounds like one of the new cults like Scientology or something”), but when I

summarised it in these terms, he said that that was how he felt. This mirrored the experience of Participant 14, a non-religious pastoral carer:

The general public don't know what humanism is. I would say that 50% of people you meet, if you tell them how you perceive life and your views, they'll say, "Oh, that's what I think!" But if you say, "I'm a humanist", they'll go, "What's that then?" So, in prison, it's even less likely.

- Participant 14, NRPSN member

A person may identify as atheist (does not believe in God) or agnostic (believes that we cannot know whether God exists), they may believe in a god but not be religious, or have no fixed opinion or interest relating to religion at all. Nevertheless, several interviewees used these terms interchangeably. If these distinctions were confusing to professional chaplains, qualified in theology, it is not surprising that few prisoners identify as humanist or atheist rather than simply 'No Religion'.

I found in my study that, where the distinction between humanism and non-religion more generally *is* recognised, occasionally the opposite mistake is made, so that humanism is treated as a kind of non-theistic religion:

Is humanism a faith? I suppose that's an interesting question in and of itself, and you could say that it is, in a sense. It's a coherent structure of belief, certainly. [...] It's a faith in there not being a god, I suppose, put it that way.

– Participant 12, prison chaplain

The Prison Service Instructions 'Faith and Pastoral Care for Prisoners' (Ministry of Justice, 2016) provide information on different world views and how to meet the needs of those who subscribe to them. We have seen that "humanism is recognised as a belief system within the Prison Service Instructions" (Participant 9, probation officer and NRPSN member), although non-religious belief in general is not.

Each tradition has what's called – it's slightly complicated, just allow the language – a 'Faith Advisor', an authorising body. [...] For the non-religious in the prison, Humanists UK are the endorsing authority.

- Mike Kavanagh, Chaplain General of Prisons

The contact listed as the 'Belief Advisor' for information on how to provide appropriate support to those who are not members of a religious group is the Chief Executive of Humanists UK, who is currently Andrew Copson. This has the unfortunate effect of making Humanists UK the spokespeople for anyone non-religious: "We don't represent every non-religious person in the country!" (Participant 4, NRPSN member). Ironically, it was the mistaken view that humanism is a faith that contributed to the initial establishment of non-religious pastoral carers in prisons.

It just so happened that two prisoners had registered themselves as humanist when they went in, and the Prison Service have got a duty to provide a chaplain of each prisoner's belief group. [...] Humanism is recognised as a belief system within the Prison Instruction so, yeah, it kind of all went from there, really.

– Participant 9, probation officer and NRPSN member

Faith of any kind is, by definition, a commitment to belief contrary to evidence and reason (Grayling, 2007). As an empirical philosophy, humanism is precisely the opposite of a faith. Participant 9 works as both a non-religious pastoral carer and a probation officer and speculated that a prisoner who records a specific non-religious belief system, such as humanism, might be viewed as belonging to a minor religious group, rather than non-religious. In this case, it is likely that they would have a right to visits from a humanist pastoral carer, in accordance with the Prison Service Instructions, whereas a prisoner who records 'no religion' would not necessarily have the same access to someone of their world view (discussed further in Chapter Six).

VI. Conclusion

Comprehensive pastoral care services are a vital part of the criminal justice system, but their provision is inconsistent, inadequate and often religionised. While every prisoner may stand to benefit from the support that is provided by, or accessible through, chaplaincy, this religious nature of this facility can be discouraging to individuals with non-religious beliefs. Help may be provided by charities or fellow prisoners, but these are a poor substitute for an established chaplaincy. The result for many prisoners is that the contribution of organisations like the NRPSN – if they are present at all - is the only available support that is appropriate to their beliefs.

Given the difference that help of this kind can make, particularly in reducing destructive behaviour and facilitating the processes of reintegration and desistance, I argue that the Prison Service cannot afford to exclude such a large and fast-growing section of its vulnerable population, and has a duty to provide services that all inmates feel able to access. Counselling and pastoral care that facilitates an offender's bereavement and addresses their mental health needs prior to release is likely to have a beneficial impact that extends beyond the individuals themselves to the prison culture, the offenders' families, and their communities.

At the close of this chapter I introduced the Non-Religious Pastoral Support Network as a secular alternative to chaplaincy. Their members, sometimes called 'humanist chaplains', participated in this research through interviews and focus groups to shed light on the treatment of non-religious chaplaincy staff and services users in prison, and the barriers to delivering equality of access to pastoral care across all belief groups. I explore these findings in the following chapter.

CHAPTER 4: THE CASE FOR NON-RELIGIOUS PASTORAL CARE

I. Introduction

Despite their differences, my research uncovered common goals amongst all pastoral carers, religious and non-religious: the support of prisoners in need and, in our context, specifically help with bereavement. This chapter explores further reasons why non-religious pastoral care provision is important and sets out the arguments for the addition of a secular pastoral carer to chaplaincy teams.

Copson writes that "Most people in the UK today do not have a religious identity; most people do not have religious beliefs; most people do not engage in any sort of religious practice. But of course, we have beliefs, we have an approach to life, we have the same need as every human being to make sense of what is happening to us and to connect with like-minded people." (2019: xii). My interviewees raised the point repeatedly. Although "questions of morality, value and purpose are common to all of us, not just the religious" (Participant 5, Head of Pastoral Support at Humanists UK), NRPSN members and some prisoners identified an apparent attitude among prison management and chaplaincy staff whereby "those without a religion are not regarded as having any spiritual or pastoral needs" (Participant 3, NRPSN member).

For many people, ticking the 'No Religion' box can be a positive statement, a clear declaration that being non-religious is a part of their identity (Savage, 2019). For example, when Voas and Ling (2010) surveyed religion in Britain, 26% of their respondents described themselves as 'very or extremely non-religious' compared with only 7% of respondents describing themselves as 'very or extremely religious'.

The lack of specific provision perpetuates the perception of the non-religious as people without beliefs, rather than people *with* beliefs that are non-religious. This is compounded by the crude categorisation of people of no faith as 'nils' or 'nones'

("We're zero" - Participant 3, NRPSN member), both within the prison justice system and beyond (see, for example, Woodhead, 2016). Though a convenient shorthand for atheists, secularists and others who do not belong to a faith group, this "quite offensive" (Participant 3, NRPSN member) language does not respect the ethos of the Equality Act 2010 and is dismissive of people whose views on life, faith and morality may be every bit as considered and affirming as the most devout religionist, and may not fairly be reduced to 'nil'. It can be damaging for prisoners, many of whom already feel great disempowerment and low self-esteem, and was perceived as disrespectful and dehumanising by my non-religious respondents.

Their intention is to provide for all faiths and none, but already you're in a negative because you're a 'none' and in prison you actually get called a 'nil' because they're obsessed with whether or not you have a religion [...] So, they do talk about 'the nils' without even realising that that might be quite insulting.

- Participant 3, NRPSN member

Why does it matter if non-religious people have less engagement with chaplaincy? Typically, of course, an atheist would have no need to visit a prayer room, but problems arise when these spaces provide valuable secular services that non-believers cannot access elsewhere. P17 is a bereavement counsellor who works in prisons:

P17: Whether there's an opportunity for them to actually even know about our service other than going through the chaplaincy would be a really interesting question [...] We are a secular organisation; we are available to all religions and none. So, I think that's something. But they would only know that once they've accessed the service. There would be no way of knowing that beforehand.

KH: So, it's quite hard to know who you aren't reaching.

P17: Exactly. You don't know what you don't know.

Outside prison, there are many secular sources of support, but few if any alternatives are available in a closed setting. These were evaluated in the previous chapter. Chaplaincies in total institutions, like prisons, do not function in the same way as churches in the community, as they offer users a good deal more than just ministry, like the chance to enjoy safe company or be alone with one's thoughts in a special place in the prison ("It's a space that people use not just for services and stuff but just to come and sit quietly sometimes" - Participant 13, prison chaplain). It is not just that religious guidance is less accessible to those of minority faith or no faith; important personal, pastoral and rehabilitative benefits are also less accessible to those who do not engage with the chaplaincy.

II. Benefits of Chaplaincy Engagement

Because of the large number of offenders who are not religious but who, in many prisons, have no other source of pastoral support, it is not surprising that researchers have identified a change in the ways that chaplaincies and other sacred spaces are used and viewed in public institutions. Gilliat-Ray explains: "From a time when Chapel attendance was part of the disciplinary mechanism of the institution, the religious spaces in today's prisons have a multiplicity of meanings for inmates. For example, they are places where inmates might find the privacy for tears, or counselling with the chaplain [...] or to simply 'escape' from their cell" (2005: 290).

Indeed, it is difficult to overstate the contribution that a good chaplaincy can make to prisoner welfare and to the atmosphere of the establishment itself, under the right circumstances. Chaplains also resolve practical problems, liaise on the prisoner's behalf with prison staff and family on the outside, signpost to counselling facilities, support prisoners and staff through personal challenges, offer company and

conversation and, perhaps most importantly of all, provide some breathing space in an oasis of safety and calm away from the commotion of the wings.

It's about offering listening and just a space of warmth, really, and friendliness and care and, you know, it's not always easy to get hold of that in a prison.

– Participant 13, prison chaplain

All participants identified benefits of chaplaincy that a prisoner who does not engage with the service is necessarily less likely to receive. These included: "an opportunity for people to get out of their cell" (Participant 3, NRPSN member), "being able to talk to somebody" (Participant 6, NRPSN member), "somewhere to clear their heads" (Participant 11, prison chaplain), "comfy chairs and that sort of thing, access to tea and coffee" (Participant 15, prison chaplain), "all sorts of choirs" (Participant 16, NRPSN member) and "a safe place to be" (Participant 17, bereavement counsellor and criminal justice professional). The opportunity for constructive activity can be enormously valuable. During his tenure as HM Chief Inspector of Prisons, Nick Hardwick speculated that a significant aggravating factor of mental illness in prison was that there was "too much of nothing happening" (2017), echoing his predecessor Sir David Ramsbotham's dismay that "prisoners spent all day locked up in their cells doing nothing" (2003: 2). During my fieldwork, I sat in on the last 10 minutes of a pagan group meeting. At the end of the session, I asked, "Why are you here?" and the group chorused "Time out of our cells!" They were being flippant, but it was clearly true for some. Others spoke movingly of how they have found their faith in jail, the strength it had given them, and the benefits of group membership.

Chaplains, non-religious pastoral carers and prison bereavement counsellors all felt that chaplaincy is "a good position to be in, because it's a very impartial position" (Participant 14, NRPSN member), and that chaplains were viewed by prisoners as "neutral - not against them, but I wouldn't quite use the word 'friend'" (Participant 7, NRPSN member). Prisoners told me that they were wary of approaching wing staff.

One young man said that, were he to tell a prison officer he was feeling down, the response would be one of risk aversion, and he would end up in a ‘safer cell’ on an ACCT¹⁴ with regular observations and “that would only make you feel worse”. Young-Junior (2003) advises “a special watch over the inmate for a certain period of time, especially if there is a history of attempted suicide”. This suggestion is no doubt well intentioned, but reflects precisely those attitudes that led prisoners in many studies (Masterton, 2014; Harner *et al*, 2011; Wilson, 2010; Ferszt, 2002; Schetky, 1998), including my own, to suppress their emotions, to the detriment of their own mental health. Hendry urges that the freedom to express feelings and thoughts openly without the fear of penalties requires a review of risk assessment, specifically so that grieving prisoners are not treated in this way (Hendry, 2009).

I asked the pagan group whether they would speak to staff outside of chaplaincy about their concerns. They also responded in the negative but for a different reason: “People would take it the wrong way if they saw you talking to them. They’d think you were up to something, so you’d have to tell them what it was.” This was keenly felt by Participant 9 who had worked both as a probation officer and a non-religious chaplain: “people open up to you more as a chaplain because, as a probation officer, you’re part of the system, whereas as a chaplain you’re not so much”.

Staff in the chapel are different to the officers on the wing, just by the very nature of what they do, so they’re not going to be dismissed and told, “We haven’t got time for this.” Somebody will listen to them. At the end of it, they may say, “We can’t do anything”, but I think they see it as a bit of an open door where they could go and chat to somebody if they needed to.

– Participant 17, bereavement counsellor and criminal justice professional

¹⁴ The Assessment, Care in Custody, Teamwork monitoring procedure for self-harm and suicide prevention.

One non-religious pastoral carer saw how much the opportunity to socialise in a relaxed atmosphere was valued by prisoners with non-religious beliefs through her own experiences of facilitating a secular social group.

There was a core that came regularly and over a long period actually, and they expressed the fact that they found it refreshing, that they looked forward to it, and they wrote cards to me at various times with very nice expressions, especially, of course, when I left. But, yes, over the whole time that I was there, I was aware that what I did was very much appreciated by the prisoners.

- Participant 16, NRPSN member

One key benefit, for our purposes, of engaging with chaplaincy is bereavement support. In fact, Savage found that the reasons why people ask to see a chaplain are “mainly bereavement, relationship issues, stress, and depression rather than what they would describe as spiritual or religious issues” (2019: 123).

They'll use it when they need to for personal problems of bereavement or illness in their family or things like that when they need to, because the channels of what happens go through the chaplaincy for those kinds of things.

- Participant 16, NRPSN member

Chaplains are involved at every stage of a bereavement in prison. This begins as soon as the prison is informed of the death: “the chaplain tends to be the person giving that news to people that there’s been a death in the family or someone seriously ill” (Participant 15, prison chaplain). The manner in which the individual is informed of the death has a powerful influence on subsequent processing and the ability to grieve (Hendry, 2009; Ferszt, 2002). That such sensitive news is communicated by the chaplain is likely to be much more comfortable for Christian prisoners, who have an existing relationship with the chaplaincy, than for the non-religious. Ros Lane (2015),

a prison chaplain herself, observed that offenders felt vulnerable from the moment of hearing the news from a stranger rather than from a family member. Researchers have recommended that the news of a death be delivered to a prisoner either by or in the presence of a close friend or family member, to reduce the chance of a complicated grief response (Harner, Hentz and Evangelista, 2011; Young-Junior, 2003).

It also falls to the chaplaincy to organise the paperwork for a temporary release to attend the funeral: “we will be the people that process those applications initially before they go off to other departments” (Participant 13, prison chaplain). If funeral attendance is not possible, prisoners are invited to remember the deceased from the prison at the time that the service is taking place in the community. This, too, is provided by the chaplaincy, although not necessarily to everybody (“well, if they’re religious then we will” – Participant 15, prison chaplain). Chaplains are well positioned to support prisoners as pastoral carers and confidants, but service user perceptions about what chaplains are can act as a barrier to reaching out in this way.

That involved going to the chapel and lighting a candle and saying a prayer and having some quiet time in the chapel at the time of the funeral, which for some people was helpful because they just wanted to do something, but the feedback I was getting was that it wasn’t really that relevant for them.

– Participant 9, probation officer and NRPSN member

One chaplain spoke slightly coldly on this point, and her ‘surprise’ that non-religious prisoners should mark a death in this way indicated an expectation that non-religious people would not generally engage with chaplaincy, and, therein, an acceptance that they would not experience the many comforts a chaplaincy can offer:

A surprising number of people who are registered Nil want to come to chapel to say prayers or light a candle. [...] If we got paid for every candle we lit, we’d do well! – Participant 15, prison chaplain

Longer term, the chaplaincy is the primary, and sometimes the only, formal source of bereavement support for offenders. Meeting with a chaplain presents an opportunity to “have a bit of a vent or a rant or have a bit of a cry or whatever you need to do to start processing” (Participant 12, prison chaplain). For those who feel uncomfortable using chaplaincy services and have no alternatives available, as is often the case, this vital care is likely to be missed. This should be a serious concern for prison governors and Her Majesty’s Prison and Probation Service more generally.

I’m not saying uniformed officers are not good at it, but I’d like to think we’re trained at a higher level of compassion than other members of staff. [...] I always try and make it clear I’m not a bereavement counsellor but we can offer pastoral support, and sometimes they just need somebody to come and talk to, to give them a cup of tea, perhaps a biscuit, and a damn good listening to. Sometimes they need more than that, and we can, you know, signpost them on to our colleague who is a trained counsellor. – Participant 11, prison chaplain

Prison chaplain Helen Dearnley summarises that “effective chaplaincy seeks to discern and respond to the humanity of each individual prisoner, when many of them do not recognise their own human value, in an environment that by its very nature removes the basic human rights of physical freedom and close personal relationships” (2015: 242). The chaplaincy is not just a community centre or place of worship, then, but an important space for peace, reflection and compassion, all of which can help prisoners understand the impact of their crimes and look towards the future.

It may sound cynical, but the evidence suggests that chaplains often struggle with “the inability to assess whether prisoners are accessing chaplaincy because of genuine spiritual interest or to benefit their sentence and position in the system” (Faith Action, 2018: 48). Interviewees recognised that chaplaincy engagement in general, and participation in religious programmes in particular, can improve prisoners’ status in

prison through the Incentives and Earned Privileges scheme, and even their parole prospects. The concern is not that religiosity *per se* increases the likelihood of release ("you get people who say they've found God whilst being in prison, and that used to hold some sway with the Parole Board but it doesn't anymore, hopefully" - Participant 9, probation officer and NRPSN member), but that rehabilitative courses and through-the-gate care are frequently offered by religious groups, and so more accessible to religious people.

When it comes to discussions about parole or whatever it is, if there's a link to a support network, yeah, then they're more likely to get released, not because it's religious or something but just because it's a support network there. But people who are not religious need to have the same access to support networks, so that they're not treated differently because they happen to be non-religious.

- Participant 6, NRPSN member

For example, the Sycamore Tree programme is a restorative justice course offered by Prison Fellowship, whose "mission is to show Christ's love to prisoners" (<https://prisonfellowship.org.uk/about/how-we-work/>). This valuable six-week course teaches offenders about victim awareness, personal responsibility and the impact of crime on a community, with a view to helping them lead good lives upon release. Unfortunately, the fact that it is provided by a religious group may prevent non-religious people from benefiting from it.

My Lead Chaplain always said, "But it's open to everyone, it's not Christian" and you think, 'Well, actually, all the imagery is Christian.' That's a whole course about restorative justice, to an extent. So, people who enter into that and complete that course, I'm sure it helps with their probation, you know, because they can tick that they've done that course. And, even if it is open to everyone, most people aren't going to think about it or access it because it comes through

chaplaincy and through the Christian faith. [...] So, what are people supposed to do? Are they supposed to participate when they haven't got a belief because it might help them towards a speedier exit? - Participant 3, NRPSN member

The advantages of religious engagement can last even after release, as "a big problem as regards humanism is that there's no chance of a follow-up when prisoners leave" (Participant 16, NRPSN member). Non-religious pastoral carers regretted that they were not able to offer continuity of support or through-the-gate care in the way that religious groups do.

The religions – let's face it – have an advantage over us because they have an infrastructure within and without the prison, and it's often in the form of the help that they get outside, because a lot of the charities that help prisoners once they're out are religion-based. I can't say to a prisoner, 'Well, when you get out, you're going to get X, Y, Z support from us.' – Participant 4, NRPSN member

This was not just a question of ongoing care, but was considered to make a significant difference to rehabilitation. Chaplains and NRPSN members alike suggested that "one of the things that keeps people healthy and well and also stops them offending is being part of a positive community" (Participant 10, then Chaplain-General of Prisons). The argument was that if people of faith have more chance of belonging to a supportive community after release, through religious groups and communal worship, they are more likely to reintegrate successfully into society. There is some evidence that religion is related to positive resettlement outcomes; Jensen and Gibbons (2002) found that religiosity plays a prominent role in prisoners' ability to lead productive lives after prison. This suggests that the need for pastoral care among non-religious prisoners is not just equal to but greater than the need among prisoners of faith, in order to close the perceived gap in rehabilitative prospects.

A lot of people you find who've engaged with religion providers then go to church on the outside and things and can see that they're part of that and feel accepted back into society. I think that's a very positive thing that religion providers can offer and, because there isn't that non-religious version of that, then there's a raw deal taking place and people aren't getting support in the same ways as their religious counterparts.

– Participant 5, Head of Pastoral Support at Humanists UK

It is understood, then, that there are many advantages to getting involved with the chaplaincy service during a custodial sentence, that these are by no means limited to religious ministry, and that they can benefit any prisoner, regardless of his beliefs. I submit that chaplains cannot, and should not, be all things to all prisoners. The fact that non-Christian and especially non-religious people are less likely to engage with these services means that these groups are less likely to derive those benefits; religious non-Christians are at a disadvantage to Christians, and non-religious people are at a disadvantage to religious people. This presents a need for enhanced pastoral care services for these groups. This thesis is concerned with the group who are the least represented in chaplaincy literature and the least likely to benefit from its care services, the non-religious. For Participant 4, a non-religious pastoral carer, falling outside of the religious groups makes a significant difference:

KH: Do non-religious prisoners participate, then, in chaplaincy life and in the services – religious and secular – that chaplaincy provides?

P4: No. No. No, because everything is defined by your religion.

Non-Religious Pastoral Support Network (NRPSN) interviewees identified several reasons why a non-religious pastoral carer is an essential addition to chaplaincy

teams. These related to choice, empathy, perceived neutrality and prisoners' apparent views of chaplaincy.

III. The Value of Variety

It's about choice as much as anything. [...] Having a non-religious alternative there means that they might be getting extra support that they would never have had before. - Participant 5, Head of Pastoral Support at Humanists UK

The importance of having a range of options was raised by both religious and non-religious interviewees, but interpreted differently by each group. NRPSN members were concerned that many prisoners say that chaplaincy does not feel appropriate, and were keen to present an alternative in order to respond to needs that would otherwise go unmet, because "it's really important that people have an option to have that support" (Participant 9, probation officer and NRPSN member). It was persuasively articulated that the religious nature of chaplaincy was a disincentive for some and that a secular option would open up pastoral care to greater numbers of vulnerable people. This was the simplest and perhaps the most compelling argument.

What's been available up until now is only support from the religious chaplaincy team and whilst, for some people, the belief system of the individual providing the support might be irrelevant and it might be more about the individual, for some people it *is* a barrier for them accessing support. And so, by offering a range of individuals as part of that pastoral care team, it means that more people can be reached because those barriers have been taken down.

- Participant 5, Head of Pastoral Support at Humanists UK

NRPSN members, then, were interested in remedying the current situation in

which every group except one has the option of a belief-appropriate alternative to traditional chaplaincy. For chaplains, however, choice was important because variety per se was considered positive, and where they supported the inclusion of an NRPSN member in their team, it was only because “there is value in a range of people providing [chaplaincy], which is very much how I see the role of non-religious pastoral carers” (Participant 10, then Chaplain-General of Prisons). Tellingly, diversity was viewed as an end rather than a means.

We could cope without a secular chaplain, but I think that probably goes for any chaplain, actually. I think you can manage without them, but I think you're missing something if you don't have everything in the mix.

– Participant 12, prison chaplain

Her Majesty's Prison and Probation Service has - until recently, at least - has encouraged and supported accredited humanist pastoral carers providing specific and generic care in prisons. In 2015, the then Chaplain-General wrote: “It can be especially valuable where humanists are part of the chaplaincy team. Including them can help some prisoners who sense of themselves may not involve a higher power but rather a renewed sense of faith in human potential to do good” (Kavanagh, 2015: 265). Here, the Prison Service publicly recognised that non-religious pastoral carers can offer something that traditional chaplains cannot. Inclusive employment not only provides opportunities for people to provide and receive non-religious pastoral care, it also enables institutions to recruit the best talent from a far greater pool of candidates.

IV. The Importance of Empathy

Related to choice was the repeated view that “pastoral care works on empathy and trust, and if you're talking to somebody who you think has got totally different values

to you, you can't do it" (Participant 6, NRPSN member). Arrival into prison can bring a period of reflection and stock-taking; and we should not underestimate the importance, in times of crisis, of being able to talk about our problems with somebody who we feel shares our world view and is able to empathise with us. It was encouraging to see Rev Mike Kavanagh argue that there was a need for secular pastoral care in prisons for this very reason, and that a religious chaplain may not be best placed to help a non-religious person. Several of my NRPSN participants praised him for his positive attitude towards secular support ("He's very pro what we do" (Participant 4, NRPSN member).

There are people who want to engage explicitly with a world view that is non-theistic, and I think it's really important that we have people on chaplaincy teams who have worked through issues around meaning and purpose and so on, and don't do so with a theistic frame of reference. [...] People at that liminal space of coming into custody and then going out can talk with people who are looking at the world in a similar way to help them to develop some new strength and purpose. And if someone is happy to receive support and care from someone who believes in God, that's different from actually engaging in issues of meaning and purpose, because my world will be different from theirs.

– Participant 10, then Chaplain-General of Prisons

Attempting to provide pastoral care in circumstances where the service user and care provider have very different world views may be not just ineffectual but damaging in the context of bereavement, due to the connection between one's response to a bereavement and one's beliefs about what - if anything - happens after death, as outlined in the first chapter. To try and to offer hope based on beliefs of a soul or heaven would be wholly inappropriate; indeed it could be very upsetting. Even where the bereaved person is not atheist or humanist, religious interventions can be detrimental to the grieving process by undermining the finality of the loss and so

impeding the first task of mourning, acceptance.

When I'm dead, I'm dead, yeah? And there are other people like me, yeah? And at those times you want to talk to somebody who thinks the same thing. Talking to somebody who, you know, thinks that your grandfather is still a soul out there when you don't is really quite difficult. - Participant 6, NRPSN member

Religious chaplaincy teams do excellent work in providing high-quality care to members of their respective faiths. It seems uncontroversial to further recognise, as Savage does, that, "just as a person with Islamic beliefs may want to receive like-minded care from a Muslim carer, or a person with Catholic beliefs may want to receive like-minded care from a Catholic priest, so a person with non-religious beliefs may want to receive care from a like-minded non-religious pastoral carer." (2019: 27). For NRPSN members, "where we come in, as non-religious chaplains, is really just giving people that choice to be able to talk to somebody more on their wavelength" (Participant 9, probation officer and NRPSN member). In the 80% of prisons that do not work with the NRPSN, this opportunity is unavailable.

The primary reason why variety and the prospect of empathy are so vital for non-religious people is that, for some service users, chaplaincy is inherently religious and therefore unsuitable for them. This has nothing to do with the character or abilities of the care providers themselves and is borne entirely of prisoners' (or other service users') perceptions of chaplaincy.

Some of them had had previous bad experiences of religious people and, whether rightly or wrongly, they sort of carried that with them inside and that has kind of put them off talking to the religious chaplains.

– Participant 9, probation officer and NRPSN member

For these individuals, even the best religious chaplain in the world would not be appropriate. This has been a difficult message to communicate to chaplains, who sometimes interpret it as a slight, but person-centred care means accepting that "it's about them, not you" (Participant 7, NRPSN member).

It doesn't matter what the team thinks, it's the perception of the person receiving the pastoral support, and that's what constantly gets overlooked.

– Participant 5, Head of Pastoral Support at Humanists UK

We must recognise that chaplains, even when providing non-religious care, do not operate in a vacuum; "inevitably roles have agendas associated with them" (Savage, 2019: 71), and their faith backgrounds and identity as religious professionals create a specific context to the work that they do. It is impossible for chaplaincy to dissociate itself from religion. As one interviewee put it, "chaplaincy has currency" (Participant 10, then Chaplain-General of Prisons), a weight that one cannot shed, and this can have negative effects as well as positive. Some interviewees put this more bluntly.

People aren't accessing your support because it isn't appropriate for them. You might believe that you can offer them the best support possible, but what they see is you wearing a veil, you carrying a Bible under your arm, and they want to speak to someone who has a similar world view. So, no, you can't do what they want, even though you believe you can. – Participant 3, NRPSN member

Be it to do with previous bad experiences, their own prejudice, or fear of prejudice from the chaplain, there are some prisoners whose own perceptions prevent them from accessing care, and this group is not limited to those who register as 'Nil religion'. This presents a need for a non-religious chaplain (though this may sound like an oxymoron, on which more later) on every team, to ensure that no prisoner feels alienated from vital support ("If the non-religious chaplain hadn't been there, he may

not have asked for the help that he needed” – Participant 9, probation officer and NRPSN member). Some chaplains who have NRPSN colleagues are glad to be able to offer this to those prisoners who feel that traditional chaplaincy is not for them.

Sometimes, seeing someone with a faith is not going to be helpful for that person. Even if we say we’re not here to press religion on them, that is going to be a barrier. So, sending someone like [Participant 14] who can say, “Look, I’m not a religious person, I’m a humanist, coming from that perspective”, then for some people that is just what they need. – Participant 12, prison chaplain

V. 'Praying on the Vulnerable': Proselytism and Harm

Finally, some NRPSN members were of the opinion that the availability of non-religious pastoral care is important because religious pastoral care could be detrimental, for a variety of reasons, some of which were more compelling than others. It was felt, first, that “the idea that God can forgive me” (Participant 3, NRPSN member) was detrimental to prisoners’ accountability, second, that prisoners should be protected from chaplains’ evangelism because “they cannot help it” (Participant 16, NRPSN member) and, most controversially, that religion was damaging *per se*, with “very sinister” (Participant 2, prison charity worker) and “infantilising” (Participant 3, NRPSN member) elements that were unsuitable for vulnerable people and might “input further harm” (Participant 2, prison charity worker).

A particularly interesting argument was that the forgiveness and redemption offered by religion “takes away the individual’s autonomy” (Participant 3, NRPSN member), absolves the prisoner of the need to take responsibility for his actions and denies him the chance for personal development.

You go to God for forgiveness, you don't actually work out where you take your responsibility [...] It can be, with those who have "found" religion in prison, that there is no ground work beneath that. It is because there is this idea that some supreme being has exonerated me of my offences and, therefore, the blame a bit. – Participant 3, NRPSN member

As a probation officer, Participant 9 aims to have precisely the opposite effect and help offenders to recognise their culpability and the wrongness of their actions, describes how counter-productive the influences of some chaplains can be.

I had one guy who killed his wife and he was religious, and that was part of the appeal for him, I think, to speak to the religious chaplains, because he was Christian and, of course, Christianity offers forgiveness. [...] One of the religious chaplains had said to him that his wife probably forgave him for what he'd done to her. And that did not fit at all with what I was trying to do with him, as his probation officer, in thinking about how she was affected at the time when he was killing her, and the effect that it's had on his children. [...] The chaplain probably, in all likelihood, was trying to help him and comfort him, you know, whereas, actually, when it comes to addressing somebody's offending behaviour and reducing the likelihood of them doing it again, and protecting the public, which is what the Prison Service's mandate is, it's not helpful at all. – Participant 9, probation officer and NRPSN member

Another recurring concern was that a religious chaplain or pastoral carer might take advantage of their literally "captive audience" (Participant 7, NRPSN member) to introduce religion by offering prayer or talking about God. Proselytism is taken seriously, and my own data and the Prison Service Instructions both indicate that it is unlikely that a staff member would try to steer a conversation in a religious direction unless the individual expressed the desire for it.

If it comes up in conversation, we will go on to that kind of track. But we're very clear that we're not there to proselytise. Actually, it's in our contract. [...] I would never seek to impose that on anyone because I think that's just counter-productive and it ruins the pastoral care that you could give.

– Participant 12, prison chaplain

However, it is important to recognise that there may be significant gaps between theory and practice, or a minority of chaplains who do behave in this way. Some non-religious pastoral carers doubt that the care provided by chaplains is as neutral as they claim ("I'm not sure that everybody is necessarily toeing the same line." - Participant 4, NRPSN member). For some, the presence of a chaplain acting in their professional capacity inevitably introduces religion and colours the interaction regardless of what is said ("The sight of a dog collar sends real sort of alarm bells off, 'keep them away from me!'" - Participant 14, NRPSN member). Perhaps the fear of manipulation or bias has some basis. One chaplain appeared to contradict herself on this point. Compare these two quotes from an interview with Participant 15, a Managing Chaplain:

P15: I think the unspoken rule of thumb is that faith is not part of the conversation unless the person requiring the help wants it to be.

[...]

P15: [Participant 16] was more interested in the group discussion and stimulating enquiry, and possibly promoting disbelief. I don't know, and I didn't engage with her on that because I'm promoting belief, so that's fine. [...] Occasionally, if I feel that the person is saying they've got no faith but at this point in time, they would quite like it if there was something after death even

though they don't really believe there is, I would say something like, "I hope you don't mind if I pray for you tonight."

Although this is only one interview, the move from "faith is not part of the conversation" to "I'm promoting belief" should give us pause, and seems to support NRPSN interviewees' suggestions of evangelism. It is worth remembering that this perception that chaplains are indeed "promoting belief", whether accurate or not, is shared by some non-religious prisoners, presents a genuine barrier to many people in need of pastoral care, and should be respected and addressed where possible.

Finally, some interviewees worried about the effect of religious influences on susceptible and desperate prisoners:

People are incredibly vulnerable in prison, and I think religion can be used quite opportunistically by religious chaplains. 'Let me come and save you. Let me help you.' And whether people are feeling guilty or want some answers, it's a place to turn to. And maybe they'll all say, "Well, that's exactly what it should be", but I think there's a preying on the vulnerable, without trying to, you know, play on words with 'praying'. [...] There's a lot of 'doing to' rather than actualisation of someone figuring out what is going to be good for them.

– Participant 3, NRPSN member

The participant who was most vocal on this point was not a member of the Non-Religious Support Network or Humanists UK, but a charity worker who supports imprisoned domestic violence victims and perpetrators. Her "perspective is from what I've observed in the prisons and in the transfer from prison to community", and she had perceived an upsetting parallel, in that "domestic abuse is about dominance, control, manipulation, coercion, and so is religion a lot of the time" (Participant 2, prison charity worker). She explained:

The reason that I'm an advocate for secular pastoral care is because of my perception of the damage that's done by organised religious pastoral care. That's not to say there aren't some absolutely amazing religious chaplains and pastors supporting people in the community or that there's always an agenda, but the end result often is that people feel pressured, even if that's not intentional or overt, and that's what I really think is critical to avoid for people who are vulnerable. – Participant 2, prison charity worker

VI. Conclusion

Even absent an engagement with legal frameworks and what public sector duties require the Prison Service to provide, my participants made passionate arguments for the need for a separate, secular service to supplement chaplaincy. These appeals were primarily grounded in the importance of choice, the equal right of non-religious people to receive support that is in line with their beliefs - as their religious peers do - and the value of a 'neutral' service detached from religious influences. Humanists UK explain: "We all see the value in having someone to speak to when times are tough, and there is a recognition that chaplaincy teams have always offered an invaluable service to people of no declared faith in times of crisis. However, there may well be times when a Christian prisoner may prefer to talk to a like-minded Christian Chaplain, or a Muslim prisoner to talk to a like-minded Muslim imam. In just the same way a non-religious prisoner may prefer to talk to a like-minded non-religious pastoral carer" (2016: 1). If, as Thomas and Zaitzow argue, the person best suited to support an offender is "the minister or pastor of that particular faith" (2006: 251), it surely follows that the best person to assist an atheist, secularist or humanist prisoner cannot be a religious minister.

By our volunteers being in establishments, we're demonstrating that people do want to talk to us, that we do have a role to play, and that we can provide an important service and complement what the chaplaincy do already.

- Participant 9, probation officer and NRPSN member

The final and, for some chaplains, the most (or only) reason to appoint a secular team member was that non-religious pastoral care supports the aims of traditional chaplaincy ("It's an extension of what multi-faith chaplaincy has already begun to do" - Participant 10, then Chaplain-General of Prisons), and volunteers can share the work and lighten the loads of chaplains. In some teams, however, the diversification might create more work for chaplains, not less. Participant 15 recently revisited a prisoner that her colleague had seen "in order to check how the prisoner was doing, whether he'd understood what he'd been told, because my colleague's English is very good, but it's very accented. All of those things play into how comforted a person feels [...] so, we just belted and braced it, really". She added:

I don't think that my colleagues from other faiths do it in the same way. I would also say - and, in this regard, I'm very glad it's anonymous - that the chaplains from other cultures/faiths are not as good at pastoral care as the mainstream Christian chaplains, Catholic and Protestant, because that's in part of our training anyway. [...] They have less practice and their social lives are not also with the type of people that are... that we know, you know.

- Participant 15, prison chaplain

Non-religious pastoral carers seek not to replace religious chaplains but to work alongside them to increase the overall package of care available and enhance the choice of prisoners. As one chaplain put it, "we are all working towards the same goal even if our perspectives are different" (Participant 12, prison chaplain).

CHAPTER 5: THE CASE AGAINST NON-RELIGIOUS PASTORAL CARE

I. Introduction

Whereas the previous chapter explored my non-religious interviewees' arguments in favour of secular support, this chapter identifies chaplains' objections to including non-religious pastoral carers in their teams. These include tensions – or outright contestations – about appropriate interpretations of key terms and guidelines, and approaches to meeting those goals. Chaplains who did not respond warmly to the prospect of non-religious pastoral carers in their teams framed their objections as fundamental questions of who, what, how, and why. Whom would a non-religious pastoral carer serve? What would secular support look like? How could a person chaplaincy work if they did not have a faith? Why is non-religious care needed when chaplains cater to people of all faiths and none? Others implied that they were amenable to the idea in theory, but that funding was an insurmountable obstacle to employing and paying non-religious people on the same terms as their religious colleagues. Let us consider these five issues in turn.

II. Who Is Non-Religious?

I think now that question's slowly being asked. Who are the people they would minister to, if you can use that word? – Participant 12, prison chaplain

First, there is no consensus as to which prisoners are non-religious. According to the Prison Service's most recent statistics, almost a third (30%) of prisoners record no religion on admission (Ministry of Justice, 2019), but what does this mean? These

questions are not as straightforward as they seem, and there is little consensus, even among religious representatives.

I would question whether a third of the population are non-religious. I accept that a third might say they're 'nil'. 'Nil' is simply 'I'm not declaring what my faith or belief system is', it doesn't mean that you're non-religious.

- Participant 10, then Chaplain-General of Prisons

Recording the numbers of religious people is inexact and problematic and the systems used are bound to lead to underestimates. This is partly because the measurement of people's religion or belief also depends on the question asked. I asked Participant 13, a prison chaplain, about the wording:

KH: So, what would you ask them?

P13: "What's your religion?" "Have you got a religion?" "Do you want to be registered as any of the religions?"

In the example above, the first question presumes that the respondent is religious and is likely to lead to an overestimate of religious belief, the second question is neutral (except insofar as it is asked by a chaplain), and the third question is about registering information and may invite negative responses from those who have a faith but choose not to record it, leading to an underestimate of religious belief. When I mentioned this, the participant replied, "I couldn't absolutely guarantee that every single person gets asked in that way. We do try and tease out what they say, but if people are in a hurry, they might not be doing that" (Participant 13, prison chaplain). Clearly, there is a high risk of inconsistency and inaccuracy in the way that these data are recorded, even by the same person in the same prison, and the statistics are best

taken with a pinch of salt: "it's a useful indicator, but it's not set in stone" (Participant 12, prison chaplain).

Chaplains were mindful that, although the questions and the terminology could certainly be more specific, one's entry into prison is not the time for this conversation:

Is the term 'No Religion' just a bit too vague? Do we need to be more specific when people come in? And, actually, when people come into prison, they're not often in a place where they really want to talk about the ins and outs of, like, 'Are you a secular humanist or are you more of an agnostic?'

– Participant 12, prison chaplain

During admissions, prisoners are asked orally by a chaplain about their beliefs, which creates the potential for conscious or unconscious bias; the prisoner may be influenced in his answer by the presence of a religious figure, and the chaplain may knowingly or unknowingly misrepresent his response on the record. Beckford and Gilliat commented "that the chaplain is in a strong position to influence prisoners and thereby to influence the 'official' statistics of prisoners' religious identity. It follows, according to this thinking, that the Anglican chaplain is capable of determining the extent to which Visiting Ministers' services will be required" (1998: 103).

Another challenge for correctly recording religious identity is the inclination towards "tribalism" (Participant 11, prison chaplain). The social identity theory developed by Tajfel and Turner (1986) posits that people have several levels of 'self' corresponding to widening circles of group membership – the personal, the familial, the tribal and the national – and simultaneously inhabit multiple social identities derived from perceived membership of different groups. Several participants commented on the tendency of many prisoners to "say 'Oh, I'm Church of England' because they're English or they were christened as a baby or something" (Participant 12, prison chaplain).

I'm pretty convinced with a lot of them it's more to do with the 'tribe' they belong to, 'tribe' in inverted commas. It's to do with identity, not religious practice. – Participant 11, prison chaplain

This is not unique to Christianity ("That's the same for a lot of Sikhs or Hindus or Muslims who will say Muslim because it's part of their culture rather than anything that they actually believe" – Participant 15, prison chaplain) but does create an inflated sense of the relevance of Anglicanism, and religion generally, to the prison population.

We've got 238 people registered as Church of England, but we don't get all of those people at chapel on a Sunday morning. – Participant 13, prison chaplain

Religious and non-religious participants alike remarked that some prisoners knowingly falsified their religious identity in order to avoid anticipated discrimination or because of the "perks to putting down a religion" (Participant 7, NRPSN member). It was suggested that, where religious affiliation is high, "that's because privileges come with it" (Participant 3, NRPSN member). For example, "people who are not religious don't have opportunities to take time out of their cell unless they're fabricating a belief, which some people are, because it's the only way they're going to have that extra time (Participant 3, NRPSN member).

If you were cynical, you'd say, "Well, an hour out in the chapel is better than an hour being banged up in your cells." So, you know, there's little breaks in the monotony of things as well. – Participant 14, NRPSN member

The right to practise a religion is respected in prisons, so religious affiliation is useful in "getting officially out of work" (Participant 15, prison chaplain). Because of the establishment of the Church of England, Sunday services are open to all inmates regardless of affiliation and do not coincide with work shifts, so those who register as

belonging to any other faith benefit from additional time off for worship during normal working hours.

I've got guys who are really Christian, but because they find the Buddhist meditation time helpful, and they can come to the Christian service because it's a Sunday, and they don't have to be at work doing paid work that the prison pays them to do, they're allowed off work to practise their religion, so they sign up as Buddhist. - Participant 15, prison chaplain

Religious services can be exploited for the opportunities that they present for physical proximity and contact with others. Participants referred to the prison black market, and the "common knowledge" that Mass is used for exchanging information and contraband: "it's the drugs and mobile phone market" (Participant 7, NRPSN member); "there's a lot of handshaking going on" (Participant 3, NRPSN member).

Another supposed 'perk' comes from the sense among prisoners that members of some faiths enjoy better food and drink. For example, "People used to put down Jehovah's Witness in droves because you got hot chocolate, whereas otherwise you're going to get dodgy teabags, no coffee, as your evening drink" (Participant 7, NRPSN member). Changing one's religion on prison records for this reason is apparently so common that chaplains have become "particularly suspicious of the hot chocolate thing with the Mormons, so they'll go and ask them, 'What do you know about Mormonism?'" (Participant 3, NRPSN member).

Eid seems to be the big one because it's perceived – even though it isn't always true – that they get a massive feast. Now, in some prisons, they do.

- Participant 12, prison chaplain

The various rumoured advantages to faith membership can lead prisoners to declare affiliations falsely, giving an inflated account of the prevalence of religious

belief among prisoners, and underrepresenting the scale of non-belief and, thus, the demand for non-religious pastoral support. This has practical implications.

As part of the Prison Service's policies against proselytism, sessional chaplains and faith representatives are only permitted to approach prisoners of their own belief group. Therefore, non-religious pastoral carers may therefore only approach non-religious prisoners, and expressed annoyance at the apparent "belief that if they let you be, as it were, you would be grabbing recruits" (Participant 16, NRPSN member).

We have to be careful about approaching people, cold calling. We're not really supposed to do that because that could be seen as proselytising, so we have to be careful just as all the other chaplains do.

– Participant 9, probation officer and NRPSN member

Who, then, is non-religious? Although HMPPS records the religion of every offender upon reception, there was a great diversity of opinion among interviewees as to how 'Nil - No Religion' should be interpreted. Does it mean that the prisoner has no religion, or merely that the prisoner has not chosen to record a religion? If the former, should this be construed positively as denoting a person with non-religious beliefs, or negatively as simply denoting a person without religious beliefs?

You've got 950-ish men, probably about 400 of those would classify as non-religious, although I have some questions about what that means in practice, because that seems to mean everything from 'I'm a committed atheist' to 'I'm an agnostic and I don't really know what I think' to 'I have some kind of belief but it doesn't fit in any of the other brackets'. - Participant 12, prison chaplain

This is a point of disagreement not only between religious and non-religious pastoral carers, but also amongst chaplains themselves. Compare, for example, the

words of two chaplains, Participant 10's words at the start of this section and Participant 12's comments here:

P12: 'Nil' is just for those of no religion. It's like shorthand. So, you write down Nil, but on the computer, it will just say No Religion, and if no one's asked them it will be Not Specified. [...]

KH: So, Nil, presumably, would mean Non-Religious.

P12: Yes, they're synonymous, yeah.

Although these may sound like trivial, semantic distinctions, the diversity of the 'nil' group and the assumptions that are made about it have a real impact on how non-religion is counted in prisons and the extent of the perceived need for secular care, as Participant 4, a non-religious pastoral carer, demonstrates:

P4: A Catholic chaplain can go and look at all the Catholics in the prison and go to them all and say, "Do you want to come to service?" I can't do the equivalent thing; I can't go to all the people who've said 'nil'.

KH: Ah, because 'Catholic' means Catholic, but 'nil' doesn't mean...

P4: Anything! It doesn't mean humanist; it doesn't really mean anything.

One prisoner I spoke to told me that he was not religious, but didn't know whether he was registered as 'nil' or not. The existing categories clearly do not accurately reflect prisoners' beliefs. Some reform is needed here, if the Prison Service's own measure cannot be trusted by its staff or its residents as reflecting belief and non-belief in a reliable or meaningful way.

III. What Is Non-Religious Pastoral Care?

When asked about the possibility of including non-religious pastoral carers or groups for non-religious people, even chaplains who said that they were open-minded were confused about what secular support might look like ("There isn't a Nil or a humanist equivalent to that, is there?" - Participant 15, prison chaplain). Participant 13 is a chaplain, and this extract is typical of my conversations with religious staff:

P13: We'll offer a faith service, but if you identify as a humanist or an atheist or an agnostic - I'd love to know what an agnostic service would look like! - it is more difficult to know what actually could be offered other than pastoral care. [...] Unitarians are interesting because they have a kind of Christian strand, but they have a Universalist strand which does not believe in God. I've got a friend who's an atheist minister of a Unitarian church. [...] So, it's not impossible. It's how you would facilitate that and what that would look like. [...]

KH: I suppose the 'chaplain' would just be a nice person who comes in for a lovely chat, although there might be a demand for that. Someone who does what you do but without the religious part.

P13: That I could see would make sense, would make more sense really. Yeah.

The above quotes seem to reflect a journey in three 'acts'. At first, although the interviewee wanted to help and recognised that non-religious prisoners might have specific needs, she could not see how to meet them, and even laughed at the concept of a group for prisoners with non-religious beliefs. Tellingly, her idea of what a non-religious pastoral carer might be was something like an ordained Christian minister

who does not believe in God. This suggests not only a lack of understanding about non-religious world views, but a failure to appreciate the factors that deter some people from engaging with religious services. Finally, when I suggested that a 'non-religious chaplain' might offer the same pastoral care that she provides herself, only without the religious basis, she viewed this positively as a sensible and viable option.

People get it if you say you're a non-religious chaplain. I usually say, "Basically, I do what the chaplain does but without the God bit".

– Participant 9, probation officer and NRPSN member

To clear up some of the confusion about non-religious chaplaincy, I asked NRPSN members what their work involves. Much like traditional chaplains, their activities include "one-to-one support [...] to staff as well as prisoners" (Participant 9, probation officer and NRPSN member), communicating news to prisoners, liaising with family, helping people to mark a death when they are unable to attend a funeral, and "running discussion groups with non-religious prisoners" (Participant 9, probation officer and NRPSN member) where "people get together for a chat, tea, coffee, biscuits" (Participant 7, NRPSN member).

I will sometimes be dealing over the phone with concerned relatives, so there might be some pastoral support that way as well, and sometimes I'll receive phone calls where I'll have to break news, [...] responding to applications from people wishing to go out and visit a dying relative, talking to people once they were bereaved as well. But it may be someone wanting something much simpler like just a conversation. – Participant 3, NRPSN member

Several of my interviewees were, or had been, involved in group work, encouraging conversation with newspaper clippings, poetry, video clips, etc. For some this was a non-religious discussion circle, for others it was specifically a

humanist group. In all cases, the organisers were clear that the focus of the group or the theme for the day was only a stimulus; group members seemed to find it “a breath of fresh air, really, to have a rational conversation and not be told what to do” (Participant 16, NRPSN member).

We start off with one topic of discussion – so, that might be human rights, for example - and then we go off. I let the discussion go off on the tangents that they want it to, within reason. And it really gives people an opportunity to talk about things that aren't crime-related, for a change, because a lot of their conversations are crime-related, and it also gives them a chance to express their opinions, because in prison you're not often asked for your opinion.

– Participant 9, probation officer and NRPSN member

Non-religious chaplaincy, then, like religious chaplaincy ranges from leading belief-specific sessions (such as humanist discussion groups), to the emotional support, mediation and administrative work that makes up most chaplains' days.

A consensus among religious and non-religious interviewees alike was that chaplaincy is “so much more pastoral rather than religious, whatever your label” (Participant 7, NRPSN member). Although the activity of what used to be called Visiting Ministers¹⁵, who provide services to prisoners of minority faiths on a sessional basis, is likely to be almost exclusively religious, “the majority of the work of chaplains who are doing more than a few hours [a week] is pastoral” (Participant 13, prison chaplain). Some even went as far as to suggest that these two activities are the same thing, referring to “what they call chaplaincy, but pastoral support” (Participant 7, NRPSN member), because “most of the conversations they have aren't really about religion; it's just people wanting to talk and be listened to” (Participant 9, probation officer and NRPSN member).

¹⁵ “Visiting Ministers was the way that non-Christian chaplains were referred to and, you know, it's there in the '52 Prison Act, but it doesn't have any currency now.” - Participant 10, then Chaplain-General of Prisons

"A lot of our work is pastoral care. [...] Whether being a chaplain is more than just pastoral care I think is the question." - Participant 12, prison chaplain

I agree that this is an important question, as a lot depends on it, or at least it should. After all, if chaplaincy is religious care, it ought not to be publicly funded. On the other hand, if what is being offered is emotional or spiritual support, then recruitment should be open to anyone with the necessary skills, religious or otherwise (Savage, 2019). We will see later that this is not the case.

I noted earlier that the role of prison chaplain seems to have evolved to suit the needs of a multicultural and confined congregation. In a closed setting, where people of many different world views are suffering, it no longer makes sense to offer religious pastoral care in the absence of a secular alternative. Instead, the religious element of the work is in many cases greatly diminished, and the emphasis shifts to friendship and mentoring, rooted in empathy and common humanity rather than shared faith. In this way, the function of the prison chaplain is very different to that of the university or hospital chaplain, whose work is closer to ministry because of the wider range of religious and pastoral facilities available to those they serve.

This raises the question why recruitment to chaplaincy roles should be limited to the religious, when so little of the role can be described as ministry. Surprisingly, the same participants who argued that chaplaincy was rarely about religion also felt that one had to be religious to do the work.

IV. How Can Non-Religious People Deliver Pastoral Care?

Even if it were agreed that 'non-religious prisoners' are those who identify as having No Religion (Nil), and that 'non-religious pastoral care' is everything that chaplains would ordinarily do minus religious ministry, several chaplains raised the

more essential question of whether non-religious people are sufficiently capable of providing support given that they do not believe in God or subscribe to the tenets of a religion. Some struggled to – as one NRPSN member put it - “understand why I was doing this work when I didn’t have a calling” (Participant 3).

Our Head Chaplain is firmly of the belief that - and he has said this to me in so many words – ‘chaplaincy is about religion’. - Participant 4, NRPSN member

Despite the fact that people working in the fields of social care, education and health are all involved in emotional support of the kind described by NRPSN members without any religious aspect to their recruitment or work, I heard many times - both reported by NRPSN members and raised by chaplains themselves - themselves the assertion that religious belief was necessary in order to be not just eligible but actually able to provide pastoral care. Unsurprisingly, NRPSN members found the suggestion that their personal beliefs made them unfit for their occupations “terribly patronising” and “insulting” (Participant 3, NRPSN member).

The idea that what I regard as basic humanity and kindness can only come about if I’m guided by God, I find that an offensive idea.

- Participant 3, NRPSN member

In chaplains’ defence, their concern was not based on prejudice about non-religious people, but on the fact that their own personal faith is so important to them in the work that they do, and so valuable a source of strength that they felt that they could not perform their jobs well without it. Chaplains spoke movingly about the strength they draw from serving God.

I couldn’t do it without the support of my faith community and what I see as God’s support for me. – Participant 12, prison chaplain

Most chaplains said that they were motivated in their work by “a call from God” (Participant 15, prison chaplain) which, by definition, atheists could not have experienced. In Todd and Tipton’s research (2011), most prison chaplains, and some officers and governors, saw an attempt to divorce faith from pastoral care as deeply problematic; arguing that personal faith and a ‘calling’ motivated, informed and sustained their pastoral work. However, we can accept that the sense of a calling is valid without subscribing to the premise that it comes from a personal God. A calling may be understood in more secular terms as a vocation, and this feeling is of course not limited to religious believers. The same phenomenon is experienced by all human beings, and what believers may call God, non-believers may simply recognise as instinct or conscience.

It's about humanity. I don't need a calling from God.

- Participant 3, NRPSN member

Why is a calling important? We might argue that it is better to act because of a strong desire to help others, than to obey the instructions of a supreme being. The philosopher Sam Harris asks, “which is more moral: helping people purely out of concern for their suffering, or helping them because you think the creator of the universe will reward you for it?” (2006: 34). For NRPSN members, their care “isn’t about any of that” (Participant 3, NRPSN member) and being non-religious means “you’re neutral” (Participant 7, NRPSN member). Indeed, there was a suggestion that an attachment to faith might get in the way.

For many Christian chaplains, what they’re doing is mission, yeah? They are carrying out the church’s work in another place. [...] That means that you’re not just working for the patient in the prison, you are working for the church.

– Participant 6, NRPSN member

The question of motivation was raised by both chaplains and NRPSN members with, interestingly, each group implying that the fact of being religious or non-religious gave them an advantage over their counterparts.

Pastoral work is about listening, so the less you bring, the better. So, I guess one of the things I would like to do is to have fewer beliefs, fewer baggage, fewer things. It's about bringing less, not more. If you've got a whole bunch of religious views, opinions and that, that's not helping you listen to someone.

– Participant 7, NRPSN member

There appeared to be an element of cognitive dissonance here. One chaplain conceded “that a person of no faith can be just as compassionate and perhaps, on some days, more compassionate than I am” (Participant 11, prison chaplain), while another was “still in a state of kind of not really knowing what I think about” the contradiction between his experience that his non-religious colleague does fine work, and the persistent “notion that faith is kind of necessary for pastoral care” (Participant 12, prison chaplain). Rev Mike Kavanagh (“A great Chaplain General who’s behind us. Some of his office are not” - Participant 3, NRPSN member), was one of few chaplains to say that religious and non-religious people could be equally suited to pastoral roles.

I'd always felt that, actually, what unites chaplains, whatever tradition they are, is that engagement with meaning and purpose. [...] As an Anglican, my understanding is that I'm called to be compassionate to everybody [...] My experience of folk exercising non-religious pastoral care has been that they have that same approach. – Participant 10, then Chaplain-General of Prisons

Poor religious literacy and misconceptions around religion and non-religion necessarily lead to misconceptions about who a chaplain is and what chaplaincy can

be. One chaplain, Participant 12, confessed, "I would just assume that chaplains had a faith of some sort", and certainly he is in the majority here. A survey of 4000 Britons revealed that chaplains are overwhelmingly seen as Christian and only Christian (Humanists UK, 2016); as many as 83% of respondents thought a chaplain could be Christian, 7% thought a chaplain could be from another religion, and only 5% of respondents thought that a chaplain could be a non-religious person. Although people of many faiths use the title 'chaplain', according to the Prison Act 1952, the view that a chaplain must be a Christian is the correct one. The Act reserves the title exclusively for clergy of the Church of England, referring to all other religious workers as 'Visiting Ministers' (Beckford and Gilliat, 1998).

When they hear the word 'chaplain', they assume Christian or, perhaps more specifically, Church of England. And so, I think that is changing. I mean, some of them, they'll say, "I never saw a chaplain when I came in", and I'll look on the system and they've seen our imam. I'll say, "Well, you did see a chaplain", they say, "Oh, I saw a Muslim guy, but I didn't see a chaplain."

– Participant 12, prison chaplain

The visible presence of non-Christian and especially non-religious 'chaplains', ministers and pastoral carers is therefore a powerful tool for changing perceptions ("In my mind, chaplains were of a particular faith, but I've got no qualms about that now" - Participant 12, prison chaplain), promoting engagement across religious groups and creating a more inclusive environment. One NRPSN member described this beautifully: "'Chaplain'. We can change the associations by being it. [...] They know about chaplaincy, and 'humanist chaplain' makes sense as soon as you know what a humanist is. So, by doing that, we become the word, just as the Christians have in the past" (Participant 16, NRPSN member). In this way, representation is quiet activism.

Once you're there and you're a kind presence and people see you making a bit of a difference, chaplains become less hostile to the idea of you, but it doesn't mean they're necessarily going to refer on or, I don't know, think you might be the right person for this person, I suppose. – Participant 3, NRPSN member

In some establishments, this demonstration of skill and compassion has been persuasive ("The proof for me has been in the pudding, actually, and seeing [Participant 14] working with the lads has made me say, 'Ah well, she's doing a great job, and more than capable, and she doesn't have a faith'." – Participant 12, prison chaplain); in others, it has improved the relationships that NRPSN members have with their colleagues, but has done little to change their status, as the above quote shows.

V. Why Do We Need It?

I wouldn't be averse to seeing paid humanist chaplains, but I suppose my question is: Is there always a need for that? Are there needs that non-religious people have in prisons that we are not currently meeting as a chaplaincy team? [...] I don't see too many people saying 'I wish there was someone who didn't have a faith that I could talk to'. - Participant 12, prison chaplain

Most chaplains seemed unconcerned by the implications of unequal care provision ("It's not something that keeps me awake at night" - Participant 10, then Chaplain-General of Prisons), and only one chaplain recalled being specifically approached by a prisoner with an enquiry about provision for people with non-religious beliefs.

I did have a prisoner once who wrote to me and asked why there wasn't an atheist group. [...] It was a good question, and I struggled to answer partly because I was sort of thinking, 'I'm not entirely sure what the purpose would

be'. [...] I did say to him, you know, "Come and talk to me and we can explore it." He wouldn't come and talk to me. - Participant 13, prison chaplain

Even the Rev Mike Kavanagh, who has been praised for his support of the NRPSN suspected that, if non-religious pastoral carers were to be established in every prison, the uptake would be low:

It would be interesting to see, when there are more non-religious pastoral carers, whether they're engaged with more. I mean, the jury's out.

- Participant 10, then Chaplain General of Prisons

However, there is evidence to suggest that the opposite is the case. A possible reason why non-Christian religious people are much more likely to seek support from a chaplain than non-religious people is that non-Christians are employed to provide that support and their availability is publicised; the difference is not one of need, but of visibility. In his study of hospital chaplaincy, Savage (2015) found that after an NHS Trust employed a Muslim chaplain and publicised his availability, the proportion of visits to patients with Muslim beliefs more than trebled. It is likely that the recruitment and advertisement of non-religious pastoral carers would have the same effect.

Perhaps it is unsurprising that chaplains do not perceive an appetite among prisoners for these services. The perceived lack of demand may be partially due to the "stigma attached to asking for help" (Participant 4, NRPSN member), and prisoners feeling unable to complain because of innate power imbalances in the institution; Kirkham and Behan (2017) note that individuals who find themselves in prison are typically less equipped to deal with 'officialdom' and more aware of the risks of being labelled a troublemaker.

They don't very often ask for pastoral support and – let's face it – they're not encouraged to ask for pastoral support. - Participant 4, NRPSN member

Participant 5, Head of Pastoral Support at Humanists UK, described an NRPSN scoping exercise at HMP Winchester in consultation with prisoners and staff, and reported that “an overwhelming wish for non-religious pastoral care was expressed by prisoners once religious chaplains left the room”. The pilot saw a turnout of around 10-12 people each session, and prisoners reported that they appreciated the opportunity to meet with like-minded people, talk about subjects that interested them, and learn about other's point of view. This fostered a sense of belonging, encouraged reflection, and provided a support network - all things that religious prisoners can get from attending services and scripture study classes but that non-religious prisoners were otherwise missing.

The feedback was really positive, and people were really pleased that we were doing it, and a lot of people were like, ‘Oh, finally something specifically for non-religious people!’ [...] We’ve been getting applications landing in the in-tray for us. - Participant 9, probation officer and NRPSN member

In fact, there appears to be very good uptake of secular support in the institutions that provide it: “people request non-religious, so I either get notes or emails, so that’s my priority there” (Participant 7, NRPSN member). Non-religious pastoral carers are currently only engaged on a voluntary, sessional basis and regularly come in - typically one day a week - to find referrals waiting for them: “I’ll go in and they’ll say, ‘Oh, so-and-so wanted to see somebody who wasn’t religious.’” (Participant 14, NRPSN member). Indeed, it was precisely this demand that led Participant 16 to begin providing non-religious care, long before the NRPSN was set up:

I was actually contacted via Humanists UK by somebody at Stafford who was a humanist, a prisoner, and he'd asked to see a humanist chaplain or humanist

person. And that is how I started going to the prison because there weren't many people around that could do it, really. - Participant 16, NRPSN member

Several chaplains argued that they are there to provide care to people of all faiths and none, so the absence of a non-religious team member is not a problem, because the needs of the non-religious are already being met. One chaplain explained why she feels non-religious alternatives are unnecessary:

I don't think there was a need for [a non-religious pastoral carer] to do the work I just described to you in terms of support of the bereaved, because I think we do it well and I don't think you'd find anyone saying that that wasn't done well by chaplains of all descriptions. I mean, there are some chaplains who really don't do it well, but it's nothing to do with them being a chaplain or their faith, it's to do with their personality and the way that they mix, you know. There are chaplains that shouldn't be chaplains. - Participant 15, prison chaplain

This finding is consistent with those of Beckford and Gilliat (1998), whose chaplain participants considered the provision of care for non-Christians to be more than adequate, and Savage (2019), who heard the repeated argument that there is no need for non-religious pastoral care. There was an obvious tension here between religious and non-religious participants, as chaplains resented the suggestion that non-religious prisoners were left out ("some people find it very undermining, as though you're attacking me and what I've always managed to do" - Participant 3, NRPSN member), and NRPSN members felt that chaplains' claim that they could "cover it all" was "an irritating statement, I think, to almost all humanists" (Participant 7, NRPSN member).

Some religious providers may feel that they can talk to non-religious prisoners as well as a specific non-religious provider could, but this breaches the established principle of like-minded support that is extended to other groups, resulting in non-religious prisoners receiving less favourable treatment. Further, the poor suitability of

religious chaplains as non-religious caregivers is demonstrated by the low uptake of chaplaincy services by non-believers, who appear to have 'voted with their feet'.

Humanists UK commissioned YouGov to poll 4,000 British adults from the general population on their views about chaplaincy and pastoral support. They found that 14% of Christians and 11% of those of other religions have used a chaplain¹⁶, but just 4% of the non-religious have done so (2016). Almost three quarters (72%) of non-religious respondents were either 'unlikely' or 'very unlikely' to want support from a chaplain. This is an important finding and should be a serious concern for Her Majesty's Prison and Probation Service. Chaplains may serve everybody, but many non-religious people are unlikely to want their support (Savage, 2019).

Where a lot of the early resistance came is that I think some chaplains felt as though some of the non-religious groups were sort of saying, 'Well, you know, all these 'nils', they're all non-religious, therefore you're not providing for them.' And I think, if you're a chaplain, that really... because you know that's not true. – Participant 10, then Chaplain-General of Prisons

I frequently encountered in both my reading and my fieldwork an appeal to what is known as 'tolerant' or 'hospitable' establishment of the Church of England, grounded in the belief "that a liberal, Christian state, rather than a secular one, is best placed to mediate the diversity of contemporary society" (Copson, 2017: 74).

They would see a humanist coming in to deal with a non-religious person, a 'Nil' person, as being evangelical. That's not the right word but they would regard it as us horning in to say, "Ah, you must be a humanist then", whereas they feel that they would offer a wider choice in some sort of way.

¹⁶ The wording of the question made it clear that not all chaplains are Christian, but an overwhelming majority of respondents indicated that they understood the term to be exclusively Christian. The 11% of people from other religions who have used chaplaincy services are therefore likely to have seen a Christian, perhaps because they were in a setting where a representative of their own faith was unavailable.

The work of Steve Nolan is revealing here. A hospice chaplain, he asserts that the pastoral support needs of the non-religious amount to “spiritual care of the kind best delivered by a chaplain”, because the “spiritual instinct... is never... fully represented by a nonreligious philosophy” (2016). His ‘Case Study of Nonreligious Spiritual Care’ describes not a model of compassionate secular support, but a sustained campaign of interference with a dying man, despite the patient’s “consistent and strong” indications that “he did not want to talk”.¹⁷ When Nolan insists that “religion had not been a part of my involvement... my work with Den and his family represents an episode of non-religious spiritual care”, he overlooks the possibility that the interventions of a chaplain can be read as inherently religious, no matter how ordinary the interaction. It is somewhat incongruous that Nolan offers up his own work as religious person performing religious services (he provided a marriage blessing and a funeral) in a formal religious capacity, as an exemplar of non-religious care. His own testimony seems to refute his claim that chaplains are not only suitable but “best” to support those of no faith.

Participant 15 is the Head Chaplain at the same prison as Participant 16, the non-religious pastoral carer quoted above. On an October visit to their prison, she introduced me to a young man in the workshop who “would be good to talk to”. After a few minutes’ conversation, I saw why she had chosen him. He had non-religious beliefs but met regularly with a religious chaplain because he found his support helpful - “he's just someone I feel I can talk to”. The young man was a poster boy for chaplaincy provided by the religious to the non-religious. He seemed happy and well-adjusted and was looking forward to his release in time for Christmas.

I do not attribute non-religious people’s low engagement with chaplaincy to the behaviour of chaplains as much as to the perceptions of service users (“after all, it’s

¹⁷ Phrases like “Den defied our attempts to address his perceived need to talk. Perhaps I should have been more persistent” seem to demonstrate a particular insensitivity to the patient’s wishes.

meant to be about the prisoners and not about us" - Participant 4, NRPSN member). The evidence on accessing services does not support the argument made by some of my interviewees that because chaplains are there for 'all faiths and none' there is no need for non-religious pastoral carers (Humanists UK, 2016).

Fortunately, the attitudes expressed in this section are very much the minority view. The aforementioned survey found that people of all religions and beliefs supported enhanced provision for people of no faith, with a clear-cut agreement, 69% to 12%, in favour of the introduction of dedicated non-religious pastoral support (Humanists UK, 2016). Almost half of non-religious respondents felt that they were likely to access care from a non-religious pastoral support provider. There was strong support for the introduction of non-religious pastoral support across all religious groups. Those working in the chaplaincy industry who take a contrary view are therefore failing to represent others who belong to the same religion.

At present, a large portion of the prison population is seriously under-represented, as religious restrictions on recruitment have produced a service provider demographic which does not reflect institutions' communities (Savage, 2019). This thesis argues that non-religious people should have – but do not have - the same opportunities to join chaplaincy teams and provide pastoral care as religious people.

If you've opened the door to say we can have an imam here when it always used to be an Anglican and you've got a Sikh coming in half a day or whoever, you're recognising there are other faiths and that people might want to speak to someone of their own faith. Please recognise that someone might want someone of a shared world view to talk to. - Participant 3, NRPSN member

Finally, the multicultural make-up of modern chaplaincy teams appears to undermine the claim that Christian chaplains can give effective support to all. If this were true, there would surely be no need to make separate provisions for minority faiths. Section 10(5) Prison Act 1952 recognises that prisoners have religious or

denominational needs that cannot be met through visitations with someone of another belief system. For example, an Orthodox Christian prisoner should not be visited by a Roman Catholic chaplain. There is no reason why this principle, and indeed law, is not being applied to those who register as ‘no religion’.

Speaking from his experience in hospitals, Savage writes, “It would obviously be quite wrong to assume that a Hindu chaplain can always meet the pastoral care needs of a Christian patient, or that a Christian chaplain can always meet the pastoral care needs of a non-religious patient” (2019: 47). Clearly, imams, rabbis and other faith representatives offer something that Christian chaplains cannot, namely the opportunity to receive support from somebody of your own tradition who views the world as you do. If this is important, why should it not be available to everyone? During fieldwork, I met a pagan prisoner who said that he would approach the pagan chaplain with a personal problem but not the rest of the chaplaincy team, because he knew that the pagan would see things as he did. It was hard not to regret that the same opportunity was unavailable to prisoners with non-religious beliefs.

VI. How Could We Afford It?

Limitations on resources and facilities restrict prisoners’ opportunities to practice religions other than Christianity or explore secular world views (Beckford and Gilliat, 1998), and chaplains repeatedly invoked lack of funding as a reason why prisons should not appoint non-religious people to chaplaincy teams. The Network of Sikh Organisations told Faith Action (2018) that some managing chaplains even put pressure on Sikh sessional ministers to move from weekly to fortnightly visits so that the prison could save money. I visited a prison that had its own mosque, and gave chaplaincy users a choice between the chapel, the mosque and the multi-faith room. I was shocked to find Sikhs and Hindus grouped together for religious practice, being led in joint worship, in the Christian chapel, due to a shortage of staff. Surely the

prison would not have had Christians and Muslims worship together in a prison synagogue because the tenets and practices of each religion are difference. So too for Sikhism and Hinduism. This seemed racist and insensitive.

I don't know if anyone's ever going to say to a volunteer, "Don't come in", but as soon as you factor in payment for this work, you have to justify it in the eyes of the Prison Service. - Participant 15, prison chaplain

The work of non-religious pastoral carers is greatly appreciated, but only until the time comes to pay for it, at which point, my participants explained, HMPPS are "duty-bound to say, 'Look, you're not a religion, and the funding for this work comes out of that pot, so we can't pay you'" (Participant 15, prison chaplain).

Certainly, the NRPSN "started up at a time of austerity, so there isn't any extra money to pay a load of non-religious chaplains" (Participant 9, probation officer and NRPSN member). I am reminded of Maslow's hierarchy of needs (1943), and readily concede – as non-religious participants did – that it would be inappropriate to focus on self-actualisation through pastoral care when prisoners' basic needs for safety and hygiene are not met.

They've got a prison to run. Their first priority is security, is actually keeping prisoners in the prison; their second priority is trying to keep those prisoners safe from each other, and of course keep the staff safe as well. To be honest, I suspect this is a little way down the line. – Participant 4, NRPSN member

The existence of more pressing needs may explain why some chaplains responded coolly to the prospect of welcoming a paid non-religious counterpart ("It wouldn't feel like a huge priority" - Participant 13, prison chaplain), although it is possible that their reticence has more to do with fear for their own job security ("they feel

threatened about their jobs, that we're trying to make everything non-religious" - Participant 3, NRPSN member).

I don't know how you address that without burdening chaplaincy teams to such an extent that they're just unsustainable. And, actually, then what would happen, I suspect, is that it all gets made voluntary.

– Participant 13, prison chaplain

Because of funding restrictions, care providers are under pressure to demonstrate that the expense is worthwhile ("Obviously, I think it's justified! But I'm not in charge." – Participant 9, probation officer and NRPSN member). This presents challenges, not least because the movement of prisoners between establishments makes it difficult to assess which services are most effective (Faith Action, 2018). Chaplaincy teams and external services are reliant on how much the prison management values their work. Counsellors and NRPSN members see first-hand the positive impact that their work has, but struggle to prove it to senior management.

We had the governor who was just, like, "Show me the value for money". Well, how many of the clients we see have kicked off, how many have actually trashed their cells? Ooh, zero! How many have actually been disruptive on the wing? Oh, there you go. It's only when you start to say things like that to people that they go, "Oh, actually, yes, I can see the benefits", but they just see it as an overhead. – Participant 17, counsellor and criminal justice professional

Participants outside of traditional chaplaincy noted that budgetary concerns seem only to arise when it is convenient for them to do so. For instance, although "services in prisons are being cut left, right and centre" (Participant 14, NRPSN member), the number of full- and part-time chaplains has increased significantly since 2011 (Savage,

2019). While religious belief has declined, paradoxically, chaplaincy has grown (Swift, Cobb and Todd, 2015).

I suppose it boils down to money, but they can find money for other things, can't they? That's the excuse we always get, and you must hear it all the time. "Well, it's lack of funding." But it's funny what you *can* fund!

– Participant 17, bereavement counsellor and criminal justice professional

I suspected that, although funding is a very real concern in the Prison Service and beyond, appeals to lack of resources were often a pretext. If the concern were solely about cost, prison management could have no qualms about adopting changes that carry little or no financial implications, but this is not the case. The services of the NRPSN are free, and yet 80% of prisons chaplaincy teams do not include a non-religious volunteer. Whatever the reason may be, it is clearly not financial.

We have considered the negative impact of inequitable chaplaincy policies on non-religious staff and prisoners, but at this point we must also consider the wider public. It should be remembered that prison chaplaincy is supported by the state, so it is the tax-paying population that funds these facilities¹⁸.

A lot of it is coming from taxpayers' money, it's not all being supplied by churches and mosques, you know, in hospitals or in prisons. I pay for it out of my taxes, in the same way as I pay for armaments and other things I don't really want paid for out of my taxes. But, therefore, if I'm paying for that, why can't I pay for some non-religious support for people, that is more in tune with what that area of the population wants? – Participant 3, NRPSN member

¹⁸ No data is available for the cost of prison chaplains, only hospital and military chaplains, whose respective wages cost an estimated £25m a year to the NHS (Hamburgh, R. (2017) 'Are hospital chaplains a waste of NHS money?' *The Guardian*, 4 April 2017) and £22m a year to the Ministry of Defence (McManus, J. (2011) 'Military chaplain funding queried by secular group', *BBC News*. 15 October 2011).

I submit that, if chaplaincy services are available to all of society regardless of belief, both as a resource and as an occupation, and are equally accessible to all in real terms, it is only fitting that all of society should pay for it. If, however, there are religious differences in terms of who is employed in chaplaincy and who can access it – as there demonstrably are – it is unfair to expect them to be funded by the public.

CHAPTER 6: SYSTEMIC BARRIERS TO EQUAL PASTORAL CARE

I. Introduction

Building on the objections to secular care raised in the previous chapter, this chapter describes the systemic challenges to offering a secular alternative to chaplaincy services that can complicate care delivery. One feature that emerged from my interviews with volunteer caregivers, more than the opposition voiced by chaplains, was the structural inequality that presented obstacles great and small to their day-to-day work, and necessarily limited the extent to which they could meet the needs of non-religious offenders.

The reason we've been able to get into prisons in the first place is because there is a structure of sorts, but the structure is actually working against us.

- Participant 4, NRPSN member

Those with experience of joining chaplaincy teams to provide a non-religious alternative describe numerous hurdles to their work. Beckford and Gilliat also "expose deep-rooted problems and imbalances in the prison system's provision of facilities for religious practice" (1998: 2). Although their data are over 20 years old, what is striking about the work is how closely the challenges faced by Visiting Ministers and minority faith representatives in the 1990s mirror the experiences of non-religious pastoral carers today. In both cases, the visitors lament their dependence on a powerful Anglican chaplaincy, poor access to prisoners, difficult internal politics, unequal standing and terms compared to Christian colleagues, and the impression that they are there "to tick the equality box" (Participant 5, Head of Pastoral Support at Humanists UK) but viewed as unnecessary or even a nuisance. These issues persist despite the reception from Managing Chaplains or other prison staff.

There might be a token acceptance of us, but then we're not given the tools to operate, in the fact that we can't access those who are regarded as 'nil'. [...] People could be welcoming and still not know how to help and facilitate you.

- Participant 3, NRPSN member

II. Reaching Service Users

This project initially set out to explore non-religious offenders' access to belief-appropriate support services; I am grateful to my participants for pointing out that this is also a matter of Non-Religious Pastoral Support Network (NRPSN) members' ability to reach offenders in order to provide that care. Barriers operate in both directions; non-faith prisoners struggle to access secular pastoral care, and secular pastoral carers, where present, struggle to access non-faith prisoners.

That's the frustration in my case, I feel I'm not actually getting to them. And I do talk to lots of people and I have great conversations and people sometimes say thank you, you know, but I don't think I've talked to a single person yet who is actually down as 'nil religion'. - Participant 3, NRPSN member

Non-religious pastoral carers and healthcare professionals have described their difficulties in reaching prisoners (Read, Santatzoglou and Wrigley, 2018). During my fieldwork, I experienced a series of locked doors, both literal and metaphorical, and the sense that I was intruding arose long before I entered a prison. To "actually get to your target audience" (Participant 3, NRPSN member) involves more than being admitted at the prison gate. Managing Chaplains act as gatekeepers, controlling the access that prisoners of minority or no faith have to pastoral care that corresponds with their world view, and NRPSN members and other volunteers "need the

chaplains' invitation, permission, support and, sometimes, patronage in order to gain access to 'their' prisoners" (Beckford and Gilliat, 1998: 15).

Hierarchies of access therefore exist not just for prisoners, but also for pastoral carers. Christian chaplains, who have legislative mandates in every prison and are usually the Managing Chaplain, are in powerful positions. Minority faith representatives are dependent on them to an extent but are by now well-established and can typically go about their work without interference. One way in which non-religious pastoral carers are the most disadvantaged is that all religious representatives are told which prisoners have registered as being of that belief group.

We're treated differently to religious people. Religious people [...] would get access to a list of people of their religion, whether they're Buddhists or Sikhs or whatever. We should have the same access. - Participant 6, NRPSN member

Section 10(5) of the Prison Act 1952 stipulates that "the governor of a prison shall on the reception of each prisoner record the religious denomination to which the prisoner declares himself to belong, and shall give to any minister who under this section is appointed to the prison or permitted to visit prisoners therein a list of the prisoners who have declared themselves to belong to his denomination; and the minister shall not be permitted to visit any other prisoners". Because non-religious pastoral carers are not appointed ministers and because of the dispute, discussed above, as to which people are non-religious, the team members covering the third of the prison population who do not belong to any religion do not receive such a list and are therefore not permitted to approach any prisoners. Savage asks quite reasonably, "if a non-religious pastoral carer in a prison doesn't know which prisoners are non-religious, how can they approach them to offer appropriate pastoral care?" (2019:105). Offenders cannot seek out the support of non-religious pastoral carers when "they don't know that we exist" (Participant 14, NRPSN member). The logically prior question, then, is one of awareness and communication. Because meetings with

chaplaincy volunteers must be initiated by the prisoner (to avoid the charge of proselytism), this presents an obvious problem:

If they want support, they need to put in an application to chaplaincy, and then they need to request you specifically, so they need to know there's someone non-religious there. And if they don't want to speak to someone who's religious, they're not likely to write to chaplaincy unless they've heard of you. So, there's quite a catch-22. - Participant 3, NRPSN member

III. Communication and Visibility

If you're Christian [...] it's more straightforward if you put in one of the applications to request a chaplain because everybody knows who he is or she is and how to get hold of them. - Participant 3, NRPSN member

The poor flow of information in both directions, whether by design or oversight, is the most obvious reason why prisoners and pastoral carers from non-Christian traditions struggle to reach each other. This begins immediately upon arrival at the prison, with the omission of important information at induction. Details about services for other prisoners are communicated mainly through chaplains or leaflets produced by them, if at all (Beckford and Gilliat, 1998).

I'd managed to get to shadow one of the C of E people doing Receptions. [...] She was going to all the cells, ticking everyone off her list, giving them the chaplaincy leaflet, which talks a lot about religion and a little tiny bit about pastoral care, and is emblazoned on the front with all the symbols of the different religions. She said all the different chaplains that there are, and even though I was standing right behind her, she did not mention that there was a

non-religious chaplain, until I pointed out to her that she hadn't mentioned that there was a non-religious chaplain, and then after that she did a bit. But I'm afraid I did not make a friend that day. - Participant 4, NRPSN member

It became apparent that chaplains cannot always be relied upon to signpost secular or non-Christian services, and may even seek to suppress them ("Increasingly [prisoners] had to prove what they believed before they could go to things" - Participant 16, NRPSN member). NRPSN members and other pastoral carers such as bereavement counsellors must therefore take it upon themselves to raise awareness of the support that they provide. They do this by advertising on noticeboards in communal areas, and - where possible - maintaining a visible presence on the wings. One chaplain frequently removed the posters displayed by the non-religious pastoral carer in her team ("If I put up a list of the dates that I would be coming in and put the word 'non-religious' on the poster so that they knew what it was, that would be taken down" - Participant 16, NRPSN member), and spoke frankly about the restrictions she placed on her colleague.

She was a bit frustrated with me because I wouldn't publicise her meetings, and that was because she held them in the core working day and we could have had any number of people. We wouldn't let Nils go to her meeting, they had to register as Atheist or Agnostic. It had to be a statement of religious persuasion rather than just 'I don't have any affiliation to anything, and I don't know what I believe, and I'm going to call myself Nothing'. - Participant 15, prison chaplain

To avoid this, an NRPSN member in another prison has taken to advertising on herself as she walks around the prison and has found that staff and inmates alike are often surprised to learn that she exists.

As well as my ID badge, I just have a badge which just says my name in bigger writing, so people can see it, and they come a bit nearer and they say "Oh! Really?" I've had so many staff and inmates who've come up and said, "Oh, I didn't know there was anyone like you in chaplaincy." It seems to me that says it all. - Participant 4, NRPSN member

Another NRPSN member raises awareness by being as visible a presence as possible and accompanying more established colleagues on their rounds.

I find that the best way to let people know that we're there is just to be around and to help with the generic duties. [...] I always introduce myself as the non-religious chaplain, and people often ask, "What's that about?" So, you get the opportunity to explain then. [...] It's so important for us to be visible because, if they can see the service is there then, you know, they can maybe approach us confidentially. - Participant 9, probation officer and NRPSN member

That the onus should be on volunteers to advertise their presence ("I'm sure people could say, "Well, I was never preventing you" and it's like, "No but you weren't helping to facilitate it either"" - Participant 3, NRPSN member) not only disadvantages people with minority religious or non-religious beliefs, it is also contrary to HMPPS policy. Good practice should ensure that prisoners are fully aware of non-religious pastoral care provision, but this is not always the case (Savage, 2019). The inconsistent way in which this is upheld demonstrates the way in which non-religious prisoners are treated differently to others and frequently have their care needs overlooked.

[HMPPS] have said to all Managing Chaplains that [...] they should make that person who declares themselves as non-religious aware that there's a non-religious person on the chaplaincy team that they can speak to. When I arranged this at [Participants 3 and 4's prison], it was all, "We haven't got the

time on when people come in." And I was like, "Well, what happens if someone says they're a Buddhist, would they know there's a Buddhist chaplain?" "Oh, we do that!" So, it's only when they're non-religious.

- Participant 5, Head of Pastoral Support at Humanists UK

IV. Volunteer Status

When I asked non-religious pastoral carers about the barriers to supporting prisoners in their institutions, the responses fell into two categories: obstacles imposed by the Prison Service such as poor access to offenders, inability to advertise and low status within the prison; and obstacles imposed by volunteering itself, specifically the interrelated problems of lack of pay, lack of time and lack of staff.

Non-religious people won't have equal provision until either we've got ridiculous amounts of volunteers, which won't happen, or we're paid, because it's such a challenging environment and you do need somebody there all the time. – Participant 9, probation officer and NRPSN member

In short, because the work is unpaid, "the only people really that can do it are people who can afford to do it, or retired people" (Participant 9, probation officer and NRPSN member), with the result that numbers are low and volunteers cannot give the time that is required. Participant 3, also an NRPSN member, summarised: "There's no income forthcoming so we can't be there as a genuine presence, we can only put a few hours in as volunteers."

Most chaplains start as volunteers. I certainly did. I volunteered for years before I went to sessional work, but then, at the moment that isn't open for humanists. You could say, yeah, that's an inequality.

– Participant 12, prison chaplain

Several participants remarked upon the injustice that non-religious pastoral carers were doing either the same as the paid sessional chaplains for minority faiths, if not more¹⁹, and yet although their denominational group was larger and their contribution at least as great, they remained unpaid. This was perceived by volunteers as exploitative, and as evidence of the Prison Service's lack of respect for non-religious world views and the needs of non-religious prisoners.

It is insulting because it's like, 'Well, because this person is Catholic they are worth being paid, whereas this person is non-religious...'. We're not worth paying. – Participant 9, probation officer and NRPSN member

Rev Mike Kavanagh - at the time of our conversation the Chaplain-General of Prisons, an office whose responsibilities include advising government on prison pastoral care policy - appeared untroubled by this.

KH: So, alongside their jobs they're giving up their time. Is that the same for the Sikhs and Buddhists and Muslims? Are they also unpaid volunteers?

P10: No, no. No, they would be paid, employed, and, you know, in due course, I imagine that we'll have non-religious pastoral carers who will also be employed. But, at the moment, Humanists UK are keen to actually ensure that we get good coverage and we have people who are volunteers.

¹⁹ One non-religious pastoral carer, Participant 3, argued that "the sessional chaplains are not doing the same. When the pagan and the Buddhist come in at [my prison], they're coming in and doing a two-hour class or meeting. They're not doing anything generic while they're there, and they're getting paid for that, whereas we are trying to be open and do as much as we can."

It is concerning that the most senior figure in prison chaplaincy imagined that the priority for the Non-Religious Pastoral Support Network (managed by Humanists UK) was building its presence in institutions rather than remunerating its staff, apparently without appreciating how one depends on the other.

V. Human Resources

The Equality Act says give everyone all those facilities and the chaplaincy and all the rest of it, and don't discriminate. There's dozens of anti-discrimination notices everywhere, so there is a lot of pushing people not to discriminate against religion or non-religion, but if we can't provide the staffing...

- Participant 7, NRPSN member

To work for the Non-Religious Pastoral Support Network, individuals must complete an expensive training course but be willing to work for free, often in environments where they enjoy only "a token acceptance" (Participant 3, NRPSN member). It is unsurprising that uptake is low. Participant 5, Head of Pastoral Support at Humanists UK, estimates that, "there are 110 prisons (excluding all private and YO), and that 16% now have a non-religious presence"²⁰. This means that in 80% of prisons, there is no source of pastoral care provided by and for non-religious people, and there is little that can be done to enhance staff numbers it while the work remains unpaid.

Working in the voluntary sector, you can't demand the same things of people that you can if they're statutory. You are very much relying on people's good will, and people's good will runs out if they think that they're being put on.

– Participant 17, bereavement counsellor and criminal justice professional

²⁰ Five months after this conversation, a Humanists UK newsletter put the figure at 20% (Humanists UK (2018) *News: December 2018*. London: Humanists UK).

By far the best working relationship that I encountered between religious and non-religious chaplains was at the prison where Participants 12 and 14 work as a chaplain and a non-religious pastoral carer respectively. At their institution, a multicultural team works harmoniously and recognises the value of a non-religious pastoral carer, not just as a spare pair of hands, but as a way of supporting the people that religious chaplaincy cannot reach. But, even here, the scope of the work and the impact that could be made was limited by staff shortages.

I've said this to [Participant 12], "If there is anybody else around my area that would be interested in coming in, would that be OK?" He said, "Yeah, as many as you like", sort of thing. So, there wouldn't be a problem but we're still thin on the ground, [...] certainly people who have been trained. It's a big commitment, you know, it's something that you've really got to want to do.

- Participant 14, NRPSN member

Anglican chaplains also complained about a shortage of staff ("We do have four full-time chaplains but usually one person's away or somebody's left and someone's joining but the clearance hasn't come through, and so we're often quite stretched as a team" – Participant 12, prison chaplain). The important difference is that, because of their religion, none of the Christian chaplains had to confront the fact that stopping work would leave hundreds of people in their institution without the support that is right for them.

I certainly see the disparity between the fact that I have a full-time paid job and [Participant 14] is a volunteer. [...] How much time do you have if you're a volunteer? – Participant 12, prison chaplain

Anglican chaplains are available much more often and for longer periods than are representatives of other world views, especially non-religious team members who find that they are “not substantially there” (Participant 3, NRPSN member). The time commitments of my non-religious pastoral carer interviewees ranged from half a day per week to two hours per fortnight.

Most humanist chaplains probably only spend half a day a week in the chaplaincy. I know some spend more. Some spend less, some do half a day a fortnight. It’s not really enough to be taken seriously, I don’t think.

– Participant 4, NRPSN member

The combination of a largely retired workforce and a thin spread of volunteers across the country brings a degree of precarity to the service, with the result that “most days there’s no non-religious person there, and [prisoners] just can’t get access to the care” (Participant 6, NRPSN member). If members feel the need to stop volunteering for personal reasons, they know that this is likely to mean the service disappearing from the prison altogether. Some members were rightly protective of their time, even at the expense of a meaningful presence on the chaplaincy team.

I go to their staff meetings which they have every couple of months or so. And they had one today, which was being held in a mosque, but I had visiting children and grandchildren commitments today, so I couldn’t do that. [...] I could spend a lot more time, and I’m sure there would be room for some of us if there were more people who would come in or be willing to spend the time, but hey, I’ve got to go on holiday as well! – Participant 14, NRPSN member

Of course, “people who are retired deserve time to be retired rather than to be volunteering all their lives” (Participant 3, NRPSN member), but volunteers found

themselves torn between their personal lives and the otherwise unmet needs of prisoners with non-religious beliefs. Elderly volunteers must then choose between prioritising their own health needs and continuing a service when they know that prisoners “did enjoy it and they did look forward to it” (Participant 16, NRPSN member). Participant 16 ran a popular humanist group in her prison and described her difficult decision.

I hadn't been well, really, and I found it quite a strain. And I just felt I had to give something up to lessen the stress and there was nobody to take over. There was nobody. I couldn't raise any interest in the local humanist group and the network isn't big enough yet to sort of just call on the next person. So, I did it with great regret. – Participant 16, NRPSN member

This impacts on inmates too. As one NRPSN member explained, “the low staffing and the low morale has a massive knock-on effect through every aspect of the Prison Service and the life of the prisoners and making life tolerable” (Participant 4, NRPSN member). When the person charged with providing pastoral care to the third of the prison who identify as non-religious is only present for a few hours a week, prisoners can have a long wait to receive help. Interviewees were acutely aware of the possibility of a prisoner being notified of a death after the pastoral carer had left, and then having to wait a week to talk it over with a likeminded person.

Hell, this person was bereaved, and I wasn't able to get in that week at all, so that's two weeks before that person was seen! – Participant 3, NRPSN member

Although there is a constant chaplaincy presence in all prisons, and a religious team member would be more than happy to provide (as far as is possible) ‘non-religious support’, this is not helpful for everybody. In counselling, the waiting list means that the interval between sessions is longer still – “they're not going to see that counsellor

then for at least seven days, possibly 14, 21 days" (Participant 17, prison bereavement counsellor and criminal justice professional).

The turnover of prisoners is much higher in some prisons, meaning that time is an obstacle on both sides of the care relationship; participants based in remand prisons found that "people aren't around for long enough to access it" (Participant 12, prison chaplain). This reduces the opportunity for carers to build trust and confidence with a prisoner. Transient populations also complicate group work, as it can be hard to plan ahead or maintain a 'core' membership. This has implication for awareness-raising too, as it is difficult to spread the word about new services.

They come in on remand, they don't know what's going to happen next. Sometimes they know when they're going to trial but very often, they don't. It could be months, it could be weeks, it could be days. So, that's created a very different atmosphere and it means I haven't got the options, you know. I can't say to somebody, "I'll see you next week." Well, maybe next week, but not next month because they may not be there. - Participant 14, NRPSN member

Although volunteers' time is limited, interestingly, all interviewees agreed that volunteer chaplains - religious or not - were at an advantage in terms of how they use it: "We have the freedom to spend as long as it takes, whereas other people in Chaplaincy have a lesser amount" (Participant 7, NRPSN member). Volunteers have far less time to give, but the hours they do spend in prison are largely their own, and they are unencumbered by the statutory and administrative duties that take up most of the employed chaplains' working week.

It is general pastoral support which, in theory, all chaplains do but, in practice, they're too busy [...] It is only fair to acknowledge that the chaplaincy do do quite a lot. They obviously have to fulfil certain statutory obligations, and they do all their services, and they have groups and other good things.

- Participant 4, NRPSN member

In all prisons, the chaplaincy team must deliver religious services, make daily visits to every prisoner who is in segregation or the prison hospital, and meet new prisoners within 24 hours of arrival. These are known as the 'statutory duties' derived from the Gaols Act 1823. This can be especially demanding in remand prisons, where the population is temporary, uncertain and vulnerable ("We get 30 or 40 new receptions every day, like, into the prison, which is one of the highest in the country. [...] In some jails there's only like 10 people on an ACCT²¹, but we have 40" - Participant 12, prison chaplain). Non-religious pastoral carers, not being employed, have no such duties and are at liberty to spend their whole day on pastoral care. This causes tension with staff.

It was like I was showing them what they should be doing, which they knew they should be doing really, but didn't for all sorts of reasons which are nothing to do with pastoral care. It's to do with their jobs, their own position, energy, all these things. - Participant 4, NRPSN member

Non-religious pastoral carers can help with these visits - Participant 14, for example, takes care of the segregated prisoners at her institution, to lighten the workloads of her colleagues – but their contributions are not always seen as a benefit to the team, and some chaplains view the freedom of NRPSN members as a threat. This mirrors the finding of Beckford and Gilliat that chaplains were worried about becoming "redundant in establishments where counsellors and therapists were being employed to undertake essentially pastoral duties" (1998: 166).

I'd just been in on a casual basis saying hello to people, and I'd ended up having a very long conversation with somebody who [the chaplain] was supposed to

²¹ Assessment, Care in Custody and Teamwork, a monitoring scheme for self-harm and suicide prevention.

be seeing as part of the statutory rounds, and of course she saw me, and she clearly saw that as me undermining her. - Participant 4, NRPSN member

The Chaplain-General rejected the suggestion that non-religious prisoners were at a disadvantage because they have less access to support from a likeminded carer. He neatly summarised the tension between quality and quantity of staff time.

The parity thing's quite tricky because, if you look at it through one lens, actually some people get an awful lot of really good, close-quarters pastoral care, but it would be weekly. Looking at it through another lens, other traditions could see their chaplain every day if they wanted to.

- Participant 10, then Chaplain-General of Prisons

The fact that NRPSN members can only offer a small amount of time has an impact on "how we actually embed ourselves and get ourselves recognised" (Participant 3, NRPSN member), meaning that they often struggle to develop a visible presence in the institution and be treated as a colleague by its staff. Settling in and overcoming the 'growing pains' of the new recruit becomes a Sisyphean task, so that "often, by the third week, you'll find you're tripping over the same boulder you thought you got around three weeks earlier" (Participant 3, NRPSN member).

I have to come in for 10 weeks in a row in order to do the equivalent of one full-time week [...] My own knowledge and learning is not being consolidated because I'm not doing anything often enough. I'm not learning about what to do, who should go where, how things should be done, who to ask. [...] I am not building up that feeling of presence. - Participant 4, NRPSN member

VI. Respect and Working Relationships

I said, "OK, well, who would normally go and see them?" [The chaplain] said, "Any of us! Oh, but if they're really non-religious, we just send the Quaker." I mean, sorry, but that sums up the attitude. – Participant 4, NRPSN member

My NRPSN participants came from different institutions and, while there was a consensus about the differences in availability of belief-appropriate support for religious and non-religious people, there was a range of experiences of delivering that support. The main discrepancy was in degrees of respect from mainstream chaplaincy and the extent to which participants' work was valued and facilitated by the prison. This meant that the task of administering secular support to non-religious inmates was made much easier or harder depending on the culture of the prison itself. For Participants 3 and 4, who are non-religious pastoral carers in the same prison, their links with the chaplaincy made them too religious for non-faith prisoners and too secular for their chaplains, while their colleague Participant 7, not ten miles away, was encouraged in his work and given a list of non-religious inmates. The chaplaincy in which Participant 7 works as a non-religious pastoral carer was described as "a very good case study" (Participant 6, NRPSN member) and commended by HM Inspectorate of Prisons.

It's very patchy. I'm in [a London Cat B prison], as you know, and I quite often talk to [Participant 7] who's in [another London Cat B], and he's definitely having a much more positive experience than I am. It all seems to come down to the Head Chaplain. - Participant 4, NRPSN member

In terms of relationships with colleagues and the institutional response to non-religious pastoral carer, I heard positive and negative reports from NRPSN interviewees in roughly equal numbers. In most cases, staff were initially hesitant.

When I first heard we were getting a humanist chaplain, just because I'd never met any, I was a bit like, "I'm not sure how to get my head around this" because, in my mind, chaplains were of a particular faith. But I've got no qualms about that now. - Participant 12, prison chaplain

In the best case scenarios, chaplaincy staff were grateful to have an extra volunteer and saw the benefits of a secular alternative to mainstream chaplaincy. For Participant 14, "the response was extremely good" and she "felt very accepted" and "valued by the rest of the team, I think that's a big thing". For Participant 7 too, "the people and the welcome, by and large, is very, very good", although he, like several others, encountered insensitivity from religious team members: "One of them came over and said, "Oh, Christ hasn't found you yet."" (Participant 7, NRPSN member). These stories were all too common.

[The rabbi] wouldn't look me in the eye or shake my hand, not because I was a humanist but because I was a woman. [...] And the Roman Catholic, he found it hard to shake my hand, just found it, I don't know, almost sort of heretical, I suppose, in their way. You know, they really didn't want to have anything to do with me. [...] It's hard to maintain your sense of worth, I suppose, if all around you people are being offensive or ignoring you or not showing any interest in what you're doing. - Participant 16, NRPSN member

While many non-religious pastoral carers and other sessional chaplaincy team members find their colleagues to be "welcoming" (Participant 3, NRPSN member), "supportive" (Participant 9, probation officer and NRPSN member) and "totally

accepting" (Participant 14, NRPSN member), some described a culture of hostility and intimidation, with "them on one side and us on the other" (Participant 4, NRPSN member). Where chaplaincy staff were not accepting of non-religious pastoral carers or refused to recognise them as part of the team, the latter were left in a kind of limbo.

As far as the prisoners are concerned, we're part of chaplaincy – "Urgh!" - that sort of immediately identifies us as something, but as far as chaplaincy's concerned, we're not really quite part of them because we're non-religious. I just think that's a very uneasy place to be in. - Participant 4, NRPSN member

Although tensions between Anglican staff and colleagues from other faiths are well-documented in prison chaplaincy (Beckford and Gilliat, 1998), NRPSN members felt that relations between the religious and non-religious were worse still. Their feeling was that the worldview of a theist is not undermined by someone who has different beliefs about the word or the nature of God but *is* undermined by someone who does not believe in a god at all.

They're much happier with people of another religion than they are with people of no religion [...] because they still have belief in certain key elements, like a God. You may differ in how that God should be worshipped, but you do at least agree that there is a God. - Participant 4, NRPSN member

Several participants described certain chaplaincy colleagues as appearing to feel "threatened" (tellingly, five of 10 NRPSN interviewees used this word unprompted) by the work - and even the existence - of non-religious pastoral carers.

We are a threat to them in that situation, though they don't regard themselves as any sort of threat. - Participant 16, NRPSN member

It was implied by several chaplains that religion is necessary for a person to have “hope” or a “moral code”. This is what is known as the ‘romantic conservative’ case against secularism, “a fear that, cut off from traditional religious sources of its values and ethics, society will become lawless and its members immoral” (Copson, 2017: 81). This fear has been particularly strong in the prison system for obvious reasons. Participant 15 is a Managing Chaplain who expanded on this argument:

P15: If people follow a religion faithfully, they are less likely to offend than they if they were either not following a religion or if they had no moral code. So, religion provides a good springboard for talking about ethical behaviour. [...]

KH: Do you think, then, that prisoners who are not religious are maybe more at risk of falling back into those old habits and ending up back in prison?

P15: Well, I just think an external thing to hang a code of conduct on can provide a good, strong support for those who are weak. And I would say that we've got a lot of weak people in our prisons, otherwise they wouldn't be here because they'd have managed it. So, I think, you know, people talk about religion being a crutch, and if you limp, a crutch is a good idea I suppose.

This chaplain was singled out by her non-religious colleague as “quite defensive. She was always surprised if I cared about the men or put myself out to be there when I wasn't feeling well or something like that. She was surprised that I was committed in that way, I think, because she felt I didn't have this powerful belief moving me forward” (Participant 16, NRPSN member). However, even where colleagues are sympathetic and respectful, they often unwittingly made insensitive comments that demonstrated a lack of understanding and “confirmed, really, that we did need something else” (Participant 9, probation officer and NRPSN member). Participant 9 describes her experiences of these encounters:

She was lovely, and I got on so well with her, she was a Salvation Army lady. I said about the difference in dealing with bereavement, specifically, and she said to me, "Oh, it must be so difficult, because you don't have any hope", which, to me, demonstrated... you know, her heart was really in the right place but it demonstrated to me that she just didn't get it. [...] Even with the people that are quite nice to you, you still get some of those questions. "Oh, how can you have morals if you don't believe in a God?" "How can you comfort somebody at the end of their life, or if they're bereaved, if you can't offer them any hope?" - Participant 9, probation officer and NRPSN member

Chaplaincies can be hostile working environments for non-religious people. The positive impact that the Non-Religious Pastoral Support Network and other services can make relies on the extent to which the Head Chaplain and prison management value and accept the organisation and its members.

That's with the active support of the Head Chaplain. Without that, you're a bit stuck. - Participant 4, NRPSN member

In some prisons, chaplains took active steps to hinder and disrupt the work of non-religious pastoral carers ("you get the odd individual that puts a bit of a spanner in the works" - Participant 9, probation officer and NRPSN member). We have already heard of chaplains who took down signs advertising secular support and "tried very hard to cut down on people's experiencing other groups" (Participant 16, NRPSN member). For another participant, the interference became too much.

The Head Chaplain at the time saw it as a threat [...] He put every obstacle in my way to try and stop it from happening, and was quite abusive, really, and I

ended up having to put a complaint of bullying in against him. So, yeah, it was very difficult. - Participant 9, probation officer and NRPSN member

Note that the participant quoted above, alongside her identity as a non-religious pastoral carer, was also a probation officer and already familiar with the prison and its procedures ("I was working there, so I had already built up those relationships. So, you know, when I spoke to the governor, it wasn't just somebody randomly calling from outside who didn't understand the prison system." - Participant 9). This gave her a power and an insight that few, if any, of her NRPSN colleagues enjoy. How many other volunteers would have felt empowered to initiate a disciplinary action, rather than just tolerate the behaviour or walk away?

Our chaplaincy, from what I can gather, is very well thought of by the governors. I don't think they would see a problem in our chaplaincy, but whether, if I went along and I said, "I think there's a big problem in our chaplaincy", they would take any notice, I've no idea. To be frank, I'm far too scared to do that! The only way I would ever do that is if I had a blazing row with the Head Chaplain and was intending to leave [...] and then the mere fact that I'd had a blazing row with the Head of Chaplaincy and was about to leave would count against me. - Participant 4, NRPSN member

Perhaps the most disheartening aspect of delivering non-religious pastoral care in an environment defined by religion is the lack of respect shown to volunteers and their status within the prison. All NRPSN members spoke about feeling unwelcome and unsupported, and constantly second-guessing themselves ("Everything I do around her, I get wrong!" - Participant 4, NRPSN member). The problems posed by volunteering are not just a question of money, but also of status. Employed chaplains have more authority with staff and offenders than do sessional chaplains and volunteers, who feel that "we're not taken seriously" (Participant 4, NRPSN member).

For some people, it is a struggle, and that in itself felt like one area of contention to get through, even before you get access to people, to have some validity.

– Participant 3, NRPSN member

My research shows that non-religious pastoral carers – if they are included at all – have unequal economic and political status compared to religious staff, leading to unequal access to services for the people they represent. Prison policy, a statutory mandate and the weight of tradition combine to give Anglican chaplains a great deal of power in prisons. This is often used for good, to include representatives of other world views and assign them the space and resources they need, but the price that visiting and volunteer chaplains pay for this facilitation is their own agency. NRPSN members said that their lack of standing made them feel like “a bit of an add-on and not really part of the organisation” (Participant 16, NRPSN member). The reliance on religious team leaders reproduces relations of dependence, to the point that “what the chaplains regard as their even-handedness and tolerance is interpreted by some of their critics as exclusion and discrimination” (Beckford and Gilliat, 1998: 56).

Harvard psychologist Chester M. Pearce coined the term ‘microaggressions’²² to describe the everyday slights and indignities that cumulatively create an atmosphere of hostility towards a particular group. The word was originally used in the context of race relations in America but applies here to describe what Beckford and Gilliat call “the many irritations which were insignificant in themselves, but which added up to a serious and long-running injustice” (1998: 84). Some of these were petty indeed. When a non-religious prisoner was unable to attend the funeral of the grandmother who had raised him, Participant 9 tried to help him mark her passing from prison:

²² Pierce, C. (1974) 'Psychiatric problems of the black minority' in Arieti, S. (Ed.) *American Handbook of Psychiatry*. New York: Basic Books.

I took him to the multi-faith room and gave him some poems to choose from. He asked me to read one and he read one as well, and we played her favourite song and talked about his memories of her, instead of having a pray. We had one of those plastic electric candles to switch on because we're not allowed candles. You're only allowed candles in the prison if it's for holy reasons.

- Participant 9, probation officer and NRPSN member

I found this account especially affecting. Between Christian prisoners and chaplains, it is common practice to mourn the dead for funerals and anniversaries by lighting a candle, but because the occasion was not "holy", a grieving man had to commemorate the life of a loved one with a battery-operated tea light, cheapening what could have been a poignant moment, and no doubt would have been had he only been religious.

At the other end of the scale are more serious ways in which volunteers are kept out of the loop and out of the fold. As full-time staff, chaplains are familiar with, and even influence, the workings of the prison, whereas volunteers are not told "where you would be put, what resources would be available to you, whether or not you'd be told the prison was having a shut-down and you wouldn't have your course that afternoon, whether there was any training available that might be helpful" (Participant 14, NRPSN member). Information, as a resource, is unevenly distributed (Beckford and Gilliat, 1998), and this affects non-religious pastoral carers' ability to do their work, which in turn limits the accessibility of that support for service users.

It made it really difficult because we needed to learn from them, really, because they've been doing this for, you know, decades. Centuries!

- Participant 9, probation officer and NRPSN member

Church of England chaplains act on behalf of other religion or belief groups, or, at least, are presumed by prison authorities to do so. Even when religious and non-

religious representatives work together for multicultural events, the former usually plays the leading role. In this way, rather than including non-religious people, joint ventures seem only to perpetuate their exclusion (Beckford and Gilliat, 1998).

We had a kind of religious fair that they ran every year, all the religions. The idea was that prisoners could find out what went on in the chaplaincy, and so all the religions laid out their wares on a stall and people came around, and the last time that I was involved in that they put us in a separate little room. So, it made it less accessible. - Participant 16, NRPSN member

I catalogue these microaggressions not to smear prison chaplains, who in general do terrific work, but to illustrate the marginalisation of non-religious pastoral carers, which inevitably limits the help available to non-religious prisoners, contrary to the aims of chaplaincy and HMPPS.

VII. Conclusion

In these circumstances, it is hard to see how members of other faiths could expect equal opportunity to practise their religions, or how non-religious people could enjoy equal access to support. Non-religious pastoral carers described how the environment chips away at one's mental wellbeing ("There are times when you just want to sort of go and weep in a corner" - Participant 3, NRPSN member) and self-esteem.

Have I just got this completely wrong? Have I just made a really bad move here, said the wrong thing, said it in a bad way, done the opposite of what I'm hoping to do, which is to make myself useful and be generally liked and respected? [...] It is complex and, at the moment, I'm feeling a bit unequal to it.

- Participant 4, NRPSN member

I end this section with an anecdote from an NRPSN volunteer. The speaker is a mature, professional woman whose beginning at the prison evokes the cluelessness and humiliation of a child's first day of school and captures the uncertainty and isolation in which many non-religious pastoral carers work.

I ventured in on my first day with great trepidation, [...] absolutely lost, because the prison plan was... well, all of the wings are identical, so I didn't know where I was, I didn't know how to get back to where I had been [...] and I spent the next couple of weeks going around with a set of keys, not knowing what the heck was on the other side of the door that I was opening, which was quite interesting! I found myself in a couple of exercise yards, you know, one full of men and the other one not full of men, empty. So, knowing that I was being overlooked by windows above me, because it's one of the old-fashioned Victorian prisons, I decided to do a couple of circuits jogging around the yard, rather than look like the idiot that found herself outside a door and didn't know where she was going. - Participant 14, NRPSN member

CHAPTER 7: DISCRIMINATION IN PASTORAL CARE PROVISION

I. Introduction

This chapter considers whether the underrepresentation of non-religious pastoral carers on chaplaincy teams and the resulting unequal access to belied-appropriate care for prisoners with non-religious beliefs, as evidenced in the previous chapters and in the wider literature, amounts to discrimination under the Equality Act 2010. The Equality Act 2010 prohibits four types of conduct: direct discrimination (s.13), indirect discrimination (s.19), harassment (s.26) and victimisation (s.27). Absent any suggestion of the latter two wrongs, I examine here the provisions prohibiting direct and indirect discrimination, and the public sector equality duty created by s.149²³. This chapter sets out the Equality Act 2010 provisions protecting religion and belief, and considers the steps for establishing direct and indirect discrimination, applying each test to the problem at hand, then turns to the public sector equality duty and explores both the complexities of its interpretation and the strength of the protection it provides. I discuss enforcement mechanisms, and the relative advantages and disadvantages of judicial review, the Equality and Human Rights Commission, and second-generation regulation. Informed by antidiscrimination legislation and case law, I conclude that the Prison Service is in breach of its statutory obligations of equal provision in public services.

Early equality statutes in this jurisdiction related initially to race and then to sex, extending to prohibit discrimination on grounds of marital status, but were slower to respond to religious inequalities. The Labour governments of the 1960s and 1970s passed a flurry of legislation on sex and race discrimination (Race Relations Acts 1965, 1968, and 1976, Equal Pay Act 1970, Sex Discrimination Act 1975). This was shortly

²³ All references to sections of a statute refer to the Equality Act 2010 unless otherwise specified.

followed by the European Equal Treatment Directive²⁴ in 1976. This history perhaps partly explains why there is less literacy around religious discrimination, particularly where it relates to lack of religion or belief.

The Equality Act 2010 prohibits discrimination by employers, service providers and public authorities on the ground of age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage or civil partnership and pregnancy or maternity (ss.4-12). These nine traits are called protected characteristics. The protection of religion or belief at s.10 explicitly extends to lack of religion or lack of belief, and philosophical stances such as atheism and humanism.²⁵ Therefore, any provision offered to religious prisoners must also be provided on an equal basis to non-religious prisoners.

The legislation distinguishes between direct and indirect discrimination, at s.13 and s.19 respectively. Direct discrimination occurs when people are treated less favourably because of a protected characteristic (s.13(1)), whereas indirect discrimination arises through the application of a provision, criterion or practice (PCP) that would put the claimant and persons of her relevant group at a particular disadvantage (s.19). The difference between the two has been summarised by Lady Hale as follows:

Direct discrimination is comparatively simple: it is treating one person less favourably than you would treat another person, because of a particular protected characteristic that the former has. Indirect discrimination, however, is not so simple. It is meant to avoid rules and practices which are not directed at or against people with a particular protected characteristic but have the effect of putting them at a disadvantage.²⁶

²⁴ 76/207/EEC

²⁵ Explanatory Notes to the Equality Act 2010 [53]

²⁶ *Essop v Home Office (UK Border Agency)* [2017] UKSC 27 per Lady Hale [1]

The Supreme Court had the opportunity to review both types of discrimination in the context of the criminal justice system in two cases during the course of this research. In April and May 2017, the court decided *R (Coll) v Secretary of State for Justice*²⁷, which concerned direct sex discrimination against an offender, and *Naeem v Secretary of State for Justice*²⁸, which concerned indirect racial and religious discrimination against a prison chaplain. I consider these cases in more detail below.

Lady Hale could not have been plainer in her judgment in *R (on the application of E) v Governing Body of JFS* when she said, “Direct and indirect discrimination are mutually exclusive. You cannot have both at once.”²⁹ They are two separate statutory wrongs with different criteria. She cited Mummery LJ who, in *Secretary of State for Defence v Elias*, stressed that “the separate causes of action need to be separately pleaded, proved and ruled on”.³⁰ The reason for this is obvious; direct discrimination relates to unequal treatment while indirect discrimination relates to equal treatment that operates unequally, so a provision, criterion or practice cannot give rise to both direct and indirect discrimination simultaneously. Indeed, Fredman writes, “the whole point of indirect discrimination is to recognize that equal treatment may itself be discriminatory” (2012: 189).

It is therefore important to clarify at the outset that, in my analysis, I evaluate two separate aspects of prison pastoral care provision that potentially engage direct and indirect discrimination law respectively. The policies on providing belief appropriate pastoral care across religious demographics, set out in Prison Service Instruction (PSI) 05/2016 provide unequally for prisoners of no faith, possibly amounting to *direct discrimination*. Meanwhile, the multi-faith chaplaincy intended for general use by all prisoners, often as the gateway to important services or the sole formal source of pastoral support, appears to be unequally used by and accessible to non-faith prisoners, in a manner that may amount to *indirect discrimination*.

²⁷ [2017] UKSC 40

²⁸ [2017] UKSC 27

²⁹ [2009] UKSC 15 [57]

³⁰ [2006] EWCA Civ 1293 [118]

II. Direct Discrimination

Non-religious people are treated differently to religious people [...] and that's where the problem is. Rather than a group of people who have needs, it's 'the religious people' and 'the non-religious people'.

- Participant 5, Head of Pastoral Support at Humanists UK

The most widely understood form of discrimination is direct discrimination. This is what Lord Hoffmann was referring to when he declared, "Discrimination means a failure to treat like cases alike".³¹ Section 13(1) of the Equality Act 2010 provides that "a person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others." Section 13 presents claimants with a tripartite test in which they must establish: first, that the treatment is different; second, that the treatment is less favourable; and, third, that the reason for the less favourable treatment is a protected characteristic. This requires the treatment of the claimant to be compared with that of an appropriate 'comparator', a real or hypothetical counterpart who does not share the protected characteristic but is in all other material respects (s.23(1)) the same as the claimant. For our purposes, if the potential victim of discrimination is a non-religious prisoner, the appropriate comparator must be a religious prisoner.³² Therefore, the first question under the test is whether the religious and non-religious are treated differently.

Because of the religious diversity of the incarcerated population (Ministry of Justice, 2019), prison chaplaincies are multi-faith and will include not just an Anglican chaplain but ministers representative of other faiths, such as an imam or rabbi, according to the needs of each prison. This is in line with PSI 05/2016, *Faith and Pastoral*

³¹ *R (Carson) v Work and Pensions Secretary* [2006] 1 AC 173 at 14

³² *Essop v Home Office (UK Border Agency)* [2017] UKSC 27 per Lady Hale at 41

Care for Prisoners, which requires that “the Chaplaincy provision reflects the faith / denominational requirements of the prison” (Ministry of Justice, 2016). This suggests that every prisoner should be able to talk to a pastoral carer who shares their world view or, at the very least, that the biggest denominational groups in each prison should be represented in the chaplaincy team.

The team has to be made commensurate with the population of the prison. So, for example, you go to Leeds where there's a large Muslim population and you'll have three full-time imams and a few other chaplains of other faiths. You come to [my prison] and [this region] is quite white, working-class, though you do have some religious pockets around. So, we have a full-time C of E, two full-time general Christian, one full-time Catholic and one full-time imam and then a kind of very part-time pagan and Buddhist and Sikh and so on. So, then the question arises: well, we've got 400 non-religious prisoners...!

– Participant 12, prison chaplain

At the first prison I visited, there were 38 prisoners registered as pagans and around 200 registered as non-religious. There was a pagan chaplain and a pagan group, but no provision for the non-religious because “it is more difficult to know what actually could be offered other than pastoral care. What is it, what does it look like, and who can make it happen?” (Participant 13, prison chaplain). The second prison had “a Sikh chaplain who works 21 hours a week here and there are only five registered Sikhs [...] but Sikhism has to be accommodated because it's a religion” (Participant 15, prison chaplain). Another chaplain, after telling me that there were 450 non-religious prisoners at his institution who were adequately served by Anglican chaplains and did not require separate provision, went on to say:

P11: We've just appointed a pagan minister.

KH: Oh, that's interesting. Have you got many pagan prisoners?

P11: Yeah, we've got about six, yeah.

Because the Prison Service categorises non-religious prisoners in the negative as people without beliefs, there is no requirement to represent this large section of the population on chaplaincy teams. However, if we consider, as the Equality Act does, that these individuals are people *with* non-religious beliefs rather than people *without* religious beliefs, this becomes a glaring omission, and potentially an unlawful one.

How many pagans are there in Britain? How many pagans as opposed to how many people who would say they're not religious? In [my prison], which means they're in other prisons as well, there is a sessional pagan chaplain. He might only come in for two pagans, but if there's a pagan [prisoner], he comes in and they do pagan rituals. But, because it's identified as a religion, he's a paid sessional chaplain. [...] That's where I see discrimination.

– Participant 3, NRPSN member

Different treatment is not, in itself, discriminatory, and a claimant who identifies an inconsistency would next have to demonstrate that the treatment is less favourable and that the protected characteristics is the reason for the less favourable treatment (s.13). There are therefore three elements to an action for direct discrimination: a comparison, an adverse effect, and a causative link.

NRPSN participants were clear that, in their experience, non-religious prisoners are treated not just differently but also less favourably than religious prisoners. Some used the word 'discrimination' or referred to the Equality Act in their comments on perceived discrepancies.

The Prison Service Instruction (PSI) 05/2016 *Faith and Pastoral Care for Prisoners* (Ministry of Justice, 2016) entitles all prisoners to use the prison chaplaincy. If a

prisoner belongs to a minority religion, the PSI requires at Section 2 that “where [a prisoner’s] faith is not represented, arrangements are made for them to have access to a Minister of their own faith”, typically a sessional visitor who is not an employee but paid on a casual basis. There is no equivalent provision entitling non-religious prisoners to a non-religious pastoral care. Non-religious pastoral carers trained to work in prison environments do exist and offer their services for free. These volunteers have the potential to support the individuals that chaplaincies cannot reach and close the gap in care provision, not despite, but because of, the secular nature of their work. One third of the prison population has indicated that they do not subscribe to any religion (Ministry of Justice, 2019), yet only one in five prisons provide access to a non-religious pastoral carer (Humanists UK, 2018). The Prison Service Instructions require only that prisoners of faith can receive pastoral care from someone else of the same faith, not that prisoners of no faith can receive pastoral care from someone else of no faith. In short, religious prisoners can consult with a like-minded minister or pastoral carer while, in most cases, non-religious prisoners cannot.

Why shouldn’t we have the same option as the Muslim prisoners, the Buddhist prisoners, you know? There’s somebody for everybody. Why can’t we have the same thing? Under the Equality Act, we should.

– Participant 9, probation officer and NRPSN member

We can see, then, that all religious prisoners are catered for, whether their religion is represented in the chaplaincy or not, but that the same cannot be said of non-religious prisoners, who appear to be the only group who do not have the right to belief-appropriate pastoral care, understood here as formal emotional support from someone of the same worldview. That the care provider should be of the same belief group as the service user is important for reasons of trust, empathy and connection, and enables the care provider to give support about existential, spiritual or religious

matters directly connected to the service user's beliefs (see Chapter Four). This causes understandable consternation and was perceived by some participants to be unlawful.

Non-religious prisoners are not catered for as non-religious prisoners. If they express the view somewhere on a piece of paper that they are non-religious, they are offered the services of the chaplaincy, of course, but their umbrella of care ends there in most prisons. Whereas, if they express a specific set of beliefs, they will then be put in contact directly with somebody with the same beliefs. So, it seems to me as a lay person that that is discriminatory.

- Participant 16, NRPSN member

This principle is reflected in PSI 05/2016 Faith and Pastoral Care for Prisoners (Ministry of Justice, 2016), which requires that 'a prisoner must not be subject to any form of discrimination or infringement of their human rights by declaring themselves of any faith or religion or as belonging to none.' A non-religious prisoner should not have their rights infringed upon because they have declared themselves be to non-religious, nor receive less favourable treatment for doing so thereafter.

Non-religious prisoners face the same challenges as believers and, during mourning, must also come to terms with their 'double bereavement' of losing a loved one while imprisoned, but they are further disadvantaged in that theirs is a grief without God (see Chapter Two). The non-religious griever confronts his losses unsupported by a faith from which to derive solace, a religious community in whom to find kinship, or a minister to provide guidance and compassion. I spoke to one prisoner who felt that he was "missing out" because "religion is a comfort I'm not getting" and described the powerful feelings of community and strength enjoyed by his Muslim cellmate and his Jehovah's Witness friend. He added, "There's a group for everyone except us. We're the only ones who don't have that."

This thesis further acknowledges, but does not argue, the possibility that there is also discrimination against non-religious staff in prison chaplaincy, who are not

employed, not paid, and not treated in the same way as their religious counterparts in terms of facilitating access to the relevant prisoner group.

We are at a huge disadvantage because we can't offer the support that is required in there, and there is a huge need. – Participant 3, NRPSN member

The present arrangements for pastoral care of religious and non-religious prisoners certainly seem to entail different treatment between the two groups. Even where prison staff are inclined to make belief-appropriate support available, the vast majority of institutions are not served by a non-religious pastoral carer (Humanists UK, 2018), and chaplains appear unsure as to how to organise this ("It's not impossible. It's how you would facilitate that and what that would look like" - Participant 13, prison chaplain). It is still left to prisoners to find out about those services and secure their own secular care.

Prison pastoral carers who participated in this research argued convincingly that the lack of belief-appropriate pastoral care in most prisons, unique to non-religious inmates, puts non-believers at a disadvantage. To establish disadvantage, we must compare "the impact of the PCP on the group with the relevant protected characteristic and its impact upon the group without it."³³ A religious prisoner whose tradition is not represented in the chaplaincy team has the right to support from someone of the same belief, but there is no provision in the official guidance entitling a non-religious prisoner to opt for a secular service (Ministry of Justice, 2016). For non-faith prisoners, the valuable figure of a trained carer with the same worldview is absent, and their only option is to consult with a member of the chaplaincy team.

A sufficientarian approach to discrimination protects the right to a sufficient range of valuable choices. Equality law scholar Bob Hepple explained that "any deprivation of a choice that a person valued is regarded as less favourable treatment" (2011: 54).

³³ *Essop v Home Office* [2017] UKSC 27 para 41

To deprive a person of choice was recognised as subjecting them to less favourable treatment in *R (Equal Opportunities Commission) v Birmingham City Council*³⁴, in which girls did not have the same opportunities as boys to attend grammar school. In this way, non-religious prisoners may be said to experience less favourable treatment than their religious counterparts, because they are non-religious.

*R (Coll) v Secretary of State for Justice*³⁵ also concerned direct discrimination where one category of prisoners was far better served than another with a protected characteristic, in this instance female offenders. The PCP at issue was the accommodation of prisoners released on licence. It can be a condition of early release that offenders live at Approved Premises, formerly known as bail hostels. At the time, there were 100 such premises in England and Wales, of which 94 were for men and six for women, with no women's premises in London or Wales. It was held that male and female prisoners are comparable, yet the risk of being placed far from home is much greater for women than for men. The court recognised that separation from support networks compounds the problems associated with offending, and that this meant women were treated less favourably. It was acknowledged that the relatively small female prison population meant that it would not be practical to provide equal numbers of Approved Premises for men and women, and the Supreme Court found that saving money is a legitimate objective of public policy but that, if a benefit limited in order to cut costs, it must be limited in a non-discriminatory way. The court allowed the appeal and declared that the present arrangement "constitutes direct discrimination against women contrary to section 13(1) of the Equality Act 2010."³⁶

It is conceded that, if a prisoner asked to see a non-religious pastoral carer, it is likely that the Prison Service Instructions would be interpreted broadly as permitting them to do so and the necessary arrangements would be made. This was confirmed by the Chaplain-General of Prisons:

³⁴ [1989] AC 1155

³⁵ [2017] UKSC 40

³⁶ *R (on the application of Coll) v Secretary of State for Justice* [2017] UKSC 40, *per* Lady Hale at 45

P10: Say you were in jail but you'd had strong links with the National Secular Society, for example, you can arrange for a member of the National Secular Society to come in on what's called a special visit to come in and see you, and that wouldn't be counted as one of your visits because they would be seen as your faith/religious minister.

KH: Yeah, a kind of belief representative.

P10: A belief representative, they would be able to come in under that umbrella.

This would be at the Head Chaplain's discretion, however, and it remains the case that the Prison Service Instructions do not guarantee this and that the letter of the prison policy is contrary to the letter of the law in failing to extend to the non-religious the same rights it affords to the religious. Religious prisoners have the right to consult with a like-minded minister or pastoral carer while non-religious prisoners do not.

There is no apparent reason why HMPPS should make arrangements for minority faith groups but not for the non-religious. An argument that non-religious people do not have spiritual needs or require access to a likeminded pastoral carer is unlikely to be satisfactory. Non-religion or non-belief is a protected characteristic under s.10 Equality Act 2010, and those who identify as non-religious have emotional needs relating to inner wellbeing, morality and the human psyche like everybody else.

There appears to be a case here for direct discrimination contrary to s.13 Equality Act 2010. Direct discrimination is only justifiable in certain limited and defined circumstances³⁷, none of which apply in this instance. Treatment which falls within the definition will therefore be unlawful. It should be noted, however, that courts to date have taken a restrictive approach, with the result that direct discrimination claims

³⁷ *R (Coll) v Secretary of State for Justice* [2017] UKSC 40 per Lady Hale at 24

have seldom been successful, and it is likely that a claimant would have to be more convincing than simply establishing a *prima facie* case (Sandberg, 2011). Hepple remarked that “the absence of such a defence has led tribunals and courts to try to avoid findings of direct discrimination and instead to categorise claims of indirect discrimination which can be justified” (2011: 42) with the result that, as McColgan puts it, “outcomes differ according to sometimes hair-splitting distinctions between ‘indirect’ and ‘direct’ discrimination in the context of religion” (2014: 174). It is to indirect discrimination that we now turn.

III. Indirect Discrimination

The previous chapters have shown that, while chaplaincy is open to people of no faith, the uptake of chaplaincy services amongst non-religious people is very low across the board. Whether non-religious service users are welcome or not, chaplaincy, because it is a religious service, is typically perceived as being incompatible with the beliefs of people of no faith.

It's a place they know they can go, but some people will not go. And, if they're anti-religious, they don't want to have anything to do with the chaplaincy.

– Participant 16, NRPSN member

Under s.19 Equality Act 2010, a provision, criterion or practice (PCP) that appears universal but puts people with a protected characteristic at particular disadvantage is indirectly discriminatory unless it can be justified. In her leading judgment in *Homer v Chief Constable of West Yorkshire Police*³⁸, Lady Hale explained that “the law of indirect discrimination is an attempt to level the playing field by subjecting to scrutiny

³⁸ [2012] UKSC 15 at 17

requirements which look neutral on their face but in reality work to the comparative disadvantage of people with a particular protected characteristic.”³⁹

In most cases, what my participants described when they referred to inequality in pastoral care provision was indirect discrimination. Whereas the previous section considered less favourable treatment, this section explores the possibility of particular disadvantage incurred by the non-religious as a result of universal prison policy.

The terms ‘provision, criterion or practice’ are not defined in the Act but should be construed broadly to include policies, rules and arrangements, etc.⁴⁰ All prisons in England and Wales have a multi-faith chaplaincy for use by staff and residents, but what is appropriate for some may not be appropriate for all (“There were people who wouldn’t have considered going to a chaplain” - Participant 3, NRPSN member). There is no pretence that chaplaincy is neutral towards all religions (Beckford and Gilliat, 1998), and the former Chaplain-General of Prisons, Michael Kavanagh, has himself recognised “that a single ‘one size fits all’ model is not going to work” (2015: 257).

There was a real inequality with regards to the provision for non-religious prisoners. And, you know, whilst the chaplaincy team offered support, from speaking to a lot of non-religious prisoners, they didn’t really feel that that was relevant for them. – Participant 9, probation officer and NRPSN member

The chaplaincy provides “support to prisoners of all faiths and none” (Ministry of Justice, 2016), and certainly no offender or colleague would be turned away because they did not belong to a particular religion (“You just see someone, you don’t ask that question, it just doesn’t come in to it.” – Participant 12, prison chaplain). This concept is built into the ethos and culture of the organisation (Savage, 2019), but the evidence so far suggests that the chaplaincy does not meet its objective in providing equal support to those of no faith.

³⁹ See also her more recent landmark judgment in *Essop v Home Office (UK Border Agency)* [2017] UKSC 27

⁴⁰ *Rutherford v Secretary of State for Trade and Industry* [2006] UKHL 19, per Lord Walker [47]

The data we've got shows that people who are not religious at all are not accessing pastoral care to anything like the same extent as religious people. Now, religious people say they're there for "all faiths and none", [...] and yet 90% of the people they visit are religious. Well, half the people in that institution are not, so where are they going? - Participant 6, NRPSN member

In conversation with a prisoner who described himself as "definitely not religious", I was struck by the difference between the information about the non-religious experience that was presented to me (from the paperwork that the chaplain showed me and the prisoner she selected to speak to me) and what I heard when I approached somebody myself. The gentleman told me that he never had and likely never would engage with chaplaincy ("I'm not religious, so what's the point?"). When I asked whether he would see a non-religious chaplain, he said he certainly would and asked whether one was available. At the time there was no secular pastoral carer at his prison, but Participant 16, an NRPSN member, had volunteered at the same institution for two and half years during his sentence. Evidently, news of her work had not reached him. Here was a sad case of unmet needs and poor communication. One imagines that, if the non-religious pastoral carer had been able to advertise her services ("Very often my notices were taken down because it was - or the reason given was that it was - advertising and we weren't allowed to do that" – Participant 16, NRPSN member) and approach those registered as 'Nil - No Religion', he would have known about this option and been able to receive the support he wanted.

I asked a Listener⁴¹ whether he perceived equal care between religious groups. Returning to the distinction between formal and substantive equality, he said that there was "equality of access but not equality of awareness", explaining that alternatives to chaplaincy were poorly publicised, and that prisoners could not avail

⁴¹ A volunteer inmate trained by Samaritans to provide peer support.

themselves of services that they did not know existed. In legal terms, what he meant here is that although he did not see evidence of direct discrimination (less favourable treatment), there is a problem of indirect discrimination (particular disadvantage). A Quaker himself, he told me that his non-religious friends do not engage with chaplaincy because “they say they don’t need it and they don’t want God shoved down their throat. It isn’t like that at all, the barrier is with them, not chaplaincy.” He supports prisoners with non-religious beliefs in his capacity as a Listener but added that if they want to talk to “someone proper” and reject chaplaincy, there is no one to whom they can turn. These observations were reflected in my research interviews.

It is not just chaplaincy as an institution that can be less accessible, but also the physical space. In most cases, the ‘multi-faith’ chaplaincy revolves around a Christian chapel inside the prison (“There’s a huge, wonderful church in the place [...] absolutely massive, beautiful stained-glass church, take 400 people easily” – Participant 7, NRPSN member). The chapel is at the centre of prison life (“All the staff meetings were held in there [...] because there was no staff room that had that capacity” – Participant 3, NRPSN member), sometimes literally:

The lay-out of [my prison], which has its arms coming out of a central point, the body of that spider is the chapel. It’s a chapel! And it’s quite difficult for people in the establishment to get away from that mind-set, whatever they might say. – Participant 4, NRPSN member

I recall how, during prison visits carried out as part of my fieldwork, passing through the chaplaincy doors felt like entering church. I found myself in what Savage justifiably calls “an inequitable space [...] full of Christian symbolism” (2019: 98), and immediately had the sense of being out of place. The result is a constant feeling of exclusion and otherness; here, I do not belong. For some people wanting to access pastoral care, this can be an insurmountable barrier” (Savage, 2019).

There would definitely be a sense of 'You're going to church', in a sense, even though it's not a church [...] and some people wouldn't do it.

- Participant 16, NRPSN member

Although chaplaincies welcome all members of the community, and so provide *prima facie* equality, their structures have always been Anglican, and I argue that it is impossible for chaplaincy to dissociate itself from religion. In practice, the benefits of chaplaincy are more open to some than to others, and these distinctions are drawn along religious lines. A structurally Anglican facility is likely to be ideal for Anglicans, who comprise only 16% of the prison population; an approximate fit for other Christians (32%); less suitable to those of other faiths (22%); and least appropriate for the non-religious (30%) (Ministry of Justice, 2019).

There have been occasions when I have asked if a client would like to mark an anniversary or birthday by lighting a candle in the quiet room in the chaplaincy and they have declined [...] citing the reasons that "it would be hypocritical".

- Participant 18, prison bereavement counsellor

To appreciate this outsider perspective, I ask Christian readers to imagine that they are incarcerated in a prison where the chaplaincy is open to all but led by an imam from a mosque (people and places unsuited to your world view, as vicars and chapels are to the non-religious). How comfortable would you feel engaging with those services? If the answer is 'Less comfortable than a Muslim would feel', you have a sense of the hierarchies of access and opportunity that these institutions create. The evidence bears this out (Savage, 2019).

In many prisons, those of minority faiths are also expected to worship in the clearly unsuitable Christian chapel.

They pull curtains around to cover all the iconography in the chapel and that is where the Muslims meet as well. It looks very camp because there are a lot of velvet drapes everywhere! – Participant 3, NRPSN member

The image of Christianity as ‘the man behind the curtain’ seems a fitting metaphor for prison chaplaincy as a whole, an ostensibly equitable facility managed and controlled by a powerful Anglican presence. For most Christian interviewees, this monopoly was unproblematic.

Realistically, there's going to always be - at the moment, the way the place is - a Christian bias because of the number of people that are registered to one of the Christian denominations, which has an effect on the number of staff that there are on the team and what religions they are because you need to have enough staff to respond to people. - Participant 13, prison chaplain

Where an alternative room is provided, this is typically a smaller ‘multi-faith space’, far less grand and less visible, for the use of prisoners of all other beliefs. The multi-faith space I visited was beige, anonymous, and looked more like a disused staff meeting room than a place to celebrate holy days and commune with God.

We've also got a multi-faith room at the back there which is not the best. It would be nicer if it was a bit bigger and kind of a bit better designed, but that's used for Friday prayers and the Rastafarian group, the pagan group, the Buddhist group... - Participant 13, prison chaplain

Crompton and Hewson describe multi-faith spaces as being “like hotel rooms, approximate dwellings yet home to nobody” (2016: 81). Although this is true to the extent that no user is in his preferred place of worship, the comparison is not entirely accurate. In a hotel, guests are all visitors on an equal footing, whereas in a multi-faith

chaplaincy, some guests are more ‘at home’ than others are. Religiosity – the shared fact of belief, if not the values themselves – unites all users except the non-religious.

At the first prison I visited, the chapel had been rebranded the Faith Centre, in hopes that the move from the Christian word ‘chapel’ to the multi-denominational word ‘faith’ would be more inclusive to people of other religions (Participant 13, prison chaplain). The team appeared not to have considered that ‘Faith Centre’ is equally alienating to people of no faith, whom the institution also seeks to support.

Both Gilliat-Ray (2005) and Crompton and Hewson (2016) reflect on the design of multi-faith spaces, a seemingly uncontroversial aspect that neatly demonstrates the ways in which some groups are made to feel more at home than others. Suppose that we are tasked with creating a space to be used by different religious communities. We might imagine a quiet room with a table at the front on which to place iconography, and rows of seating for worshippers. This may sound neutral enough, but already the designer’s assumptions about how a sacred space looks have crept in, creating a distinctly Christian environment. The rows of seating evoke pews; the table, an altar. A different person might have suggested a shoe rack at the entrance and a carpet on the floor, thereby creating an environment more familiar to Muslims. Gilliat-Ray highlights that “subtle processes of resistance and power relations are at work, and there are almost inevitably ‘winners’ and ‘losers’ in the process” (2005: 303).

The supposedly multi-denominational ‘Faith Centre’ I saw featured an enormous crucifix, Christian artwork and other imagery, and a churchlike layout with rows of seating equipped with kneelers and a table at the front. Changing the language is a step in the right direction, but it is not enough for meaningful inclusion.

In the second prison I visited, the multi-faith room had a bookcase with shelves for different belief systems. I was surprised to see a Humanism shelf. While the move to include non-religious world views is to be welcomed, this approach is not helpful for two reasons: first, humanism and non-religious beliefs are not faiths and their inclusion among religions is misleading; second, if these materials are in a place that

non-religious people are unlikely to visit un the first place, the institution “is not seriously trying to reach out” to its non-religious members (Savage, 2019: 128).

They don’t check their religion first. On that level, yes, they can claim that it’s non-discriminatory. What’s missing is the proactive side of making it non-discriminatory. So, there’s no reaching out, in my view, at all to non-religious people. – Participant 4, NRPSN member

Low uptake of chaplaincy services among the non-religious has implications not just of unequal access to pastoral care, but also of inequality of opportunity as regards the many benefits associated with chaplaincy engagement, and referral to secular services that are accessed through the chaplaincy, which was the concern of the prison bereavement counsellor quoted above.

Non-religious prisoners [...] were getting less time out of their cell because the religious prisoners had the option to go to religious ceremonies and to Bible Study, Qur'an Study, etc., so they had less opportunity for constructive activity. And, also, they didn't have the support network that comes with going to those kinds of things. – Participant 9, probation officer and NRPSN member

As discussed in Chapter Two, any prisoner who suffers a bereavement is seen as soon as possible by the relevant chaplain, but this may not be soon enough for prisoner whose beliefs are represented by a sessional volunteer who only visits once a week. A pagan chaplain told me he had seen a gentleman on a Tuesday and the man's mother had died the next day, but the chaplain was ill the following Tuesday, so the prisoner was not able to discuss his loss with a likeminded pastoral carer until the following week, 13 days after the death. These reports are all too common and arise exclusively in connection with prisoners of minority faith or no faith. Participant 13, a Managing Chaplain, confirmed this:

KH: Presumably, if that person was a Christian, they would have been seen by somebody of their faith a lot quicker.

P13: Yeah. Yeah, they would have been, they would have been.

Under the Equality Act, there will only be indirect discrimination if the group sharing the protected characteristic is, or would be, put at a particular disadvantage in comparison with those who do not share the characteristic (s.19). The claimant will normally need to demonstrate both individual and group disadvantage, and a causal link between them. When comparing the impact of the PCP, the circumstances of those with and those without the protected characteristic must again be materially similar. There is no requirement that the PCP in question put every member of the group sharing the protected characteristic at a disadvantage⁴². In theory, group disadvantage is not needed for indirect discrimination on the grounds of religion or belief, following *Eweida & Others v United Kingdom*⁴³ and *Mba v London Borough of Merton*⁴⁴, although the latter is less clear on how this applies in the domestic context, and the interpretation of the principle remains vague. It is, however, essential to show that the individual themselves experienced or would have experienced the disadvantage⁴⁵. This has the effect of limiting the class of complainants to those who are affected by the provision. The appropriate comparator⁴⁶ here is non-religious prisoners, who are similar to religious prisoners in all material respects save their lack of religious belief.

NRPSN interviewees were confident that non-religious prisoners “are at a disadvantage because they’re just not getting the exposure to chaplaincy, they’re not getting the contact with chaplains” (Participant 4, NRPSN member). The evidence

⁴² *Essop v Home Office (UK Border Agency)* [2017] UKSC 27 per Lady Hale at 27

⁴³ [2013] ECHR 37

⁴⁴ [2013] EWCA Civ 1562

⁴⁵ *Little v Richmond Pharmacology* [2014] ICR 85

⁴⁶ *Essop v Home Office (UK Border Agency)* [2017] UKSC 27 per Lady Hale at 41

shows that pastoral care services offered through a religious institution are more accessible to religious than to non-religious people, and Christians are three and half times more likely to use chaplaincy services than people with non-religious beliefs (Humanists UK, 2016). Although the pastoral care itself may be secular, the people and places providing it are not. This has a disparate impact on prisoners of no faith who may have fewer suitable support mechanisms available to them than other prisoners and may experience poorer outcomes as a result.

This is consistent with indirect discrimination as set out at s.19 Equality Act 2010, whereby a provision, criterion or practice puts persons who share the characteristic of (in this case) lack of religion or lack of belief at a particular disadvantage compared with persons who do not share it.

The facts of *Naeem v Secretary of State for Justice*⁴⁷ involved employment practices and pay scales, but the central issue was one of indirect religious discrimination in prison chaplaincy, so it presents a useful test case for gauging the Supreme Court's response to discrepancies between faith groups in this context. The rate of pay for chaplains depends on duration of employment; the longer a staff member has been in service, the greater their possible earnings. The Prison Service has only employed non-Christian chaplains since 2002 - there having been no perceived need for employees of other faiths before - so it was not possible for these workers to earn the higher salaries that were available to Christians, many of whom have been in long service. A prison imam claimed that this amounted to indirect discrimination. In the Supreme Court, the case was heard jointly with *Essop v Home Office*. The initial Employment Tribunal had held that the pay scheme was indirectly discriminatory, but that the discrimination was justified as a proportionate means of achieving a legitimate aim in the transition to a new pay scheme. The Employment Appeal Tribunal disagreed that the discrimination had been justified. Although the Supreme Court unanimously agreed with the court of first instance, it was conceded that "neither the EAT nor any

⁴⁷ [2017] UKSC 27

higher court is entitled to disturb the factual findings of an Employment Tribunal. It must detect an error of law⁴⁸ and that, absent any apparent legal error, it was not open to them to disturb the original finding. The appeal was dismissed.

Not all discrimination is unlawful. Despite indirect discrimination's focus on equal outcomes, if a justification can be made out, there is no obligation to change or remove the PCP (Hepple, 2011). Lady Hale expanded on this in *Homer*:

The approach to the justification of what would otherwise be indirect discrimination is well settled. A provision, criterion or practice is justified if the employer can show that it is a proportionate means of achieving a legitimate aim. [...] To be proportionate, a measure has to be both an appropriate means of achieving the legitimate aim and (reasonably) necessary in order to do so. [...] To some extent, the answer depends upon whether there were non-discriminatory alternatives available.⁴⁹

This requires a balance between the reasonable needs of the party applying the provision, criterion or practice, and the discriminatory effect on those subjected to it.⁵⁰ Many religious indirect discrimination claims have failed on grounds of justification (Sandberg, (2011)). The strongest argument in support of the present arrangement is that the Anglican clergymen and other ministers who staff the multi-faith chaplaincies of the modern prison can cater adequately for all inmates, but the evidence so far indicates that the chaplaincy does not meet its objective in providing equal support to those of no faith. We have seen from the polling by Humanists UK and YouGov that Christians are three and a half times more likely to have used a chaplain than the non-religious (Humanists UK, 2016).

⁴⁸ *Essop v Home Office (UK Border Agency)* [2017] UKSC 27 per Lady Hale at 47

⁴⁹ Ibid. at 19, 22 and 25

⁵⁰ *Hampson v Department of Education & Science* [1990] ICR 179

Discrimination need not be overt, conscious or deliberate; there is no need to establish an intention to discriminate for discrimination to be made out⁵¹. Indeed, even an intention to remedy previous unfairness may, ironically, give rise to discrimination, as in *James v Eastleigh Borough Council*⁵², where positive discrimination in favour of older women in recognition of their earlier retirement age and greater economic need necessarily entailed less favourable treatment for men of the same age.

It is my view that the failure to provide non-religious support, when it is available for free from trained and accredited pastoral carers cannot be said to be proportionate (understood here to mean 'no more than is necessary'⁵³). It is not proportionate for a multi-faith chaplaincy, representative of every religious group except the non-religious to be the only means by which most prisoners can access formal pastoral care, as this creates hierarchies of access and opportunity between inmates of different beliefs. While some prisoners do have access to non-religious care, provision is patchy and it falls to external volunteers to offer the support and then on prisoners themselves to specifically request it. This thesis contends that a facility that is intended to serve a diverse community but is in practice more accessible to the religious than the non-religious resulting in disadvantage to the latter is discriminatory, and that prison chaplaincy - as it currently stands in England and Wales - is such a service.

It appears that that there are good grounds for separate actions in direct and/or indirect discrimination. When a case can amount to both direct and indirect discrimination, one is normally advised to pursue an action for direct discrimination, which is the stronger claim, given that direct discrimination cannot be justified.

⁵¹ *R v Birmingham City Council, ex parte Equal Opportunities Commission* [1989] AC 1155. Note, however, that the reason for the treatment is part of the test for direct discrimination, but not indirect discrimination (*Essop v Home Office (UK Border Agency)* [2017] UKSC 27). Motive is also relevant to deciding the remedy.

⁵² [1990] 2 AC 751

⁵³ *Homer v Chief Constable of West Yorkshire Police* [2012] UKSC 15 at 17

IV. The Public Sector Equality Duty

In addition to the negative duties not to discriminate, the Equality Act 2010 also contains a new positive duty, reflecting a much richer understanding of inequality than that reflected elsewhere in the law (Vickers, 2011a). The public sector equality duty requires state authorities to consider the need to remove or minimise disadvantages associated with protected characteristics. Developed during the Coalition government against a backdrop of budget cuts and austerity measures, it aimed to put the onus of ensuring institutional compliance with equality law on public bodies rather than discrimination victims.

The public sector equality duty (PSED) at s.149 Equality Act 2010 is a statutory obligation for public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between those with and without protected characteristics when, for example, they make policy decisions or deliver services. The introduction of the duties consolidated in s.149 is a welcome attempt to mainstream equality issues into the work of public authorities.

The PSED began as a policy response to the findings of The Stephen Lawrence Inquiry, which identified a culture of institutional discrimination in the police and public services. The inquiry's report concluded: "It is incumbent on every institution to examine their policies and the outcome of their policies and practices, to safeguard against disadvantaging any section of our communities" (Macpherson, 1999: 369). The duty is intended to prevent institutional discrimination and to advance equality in practice, by helping public bodies to understand their users' needs and deliver their services fairly and more effectively (Fawcett Society, 2018).

Under s.150, a public authority listed in Schedule 19 is subject to the duty in relation to the exercise of all its functions, unless otherwise specified. The first types of legal persons mentioned in this Schedule are "a Minister of the Crown" and "a government department". The PSED clearly applies to Her Majesty's Prison and Probation Service,

which is an executive agency of the Ministry of Justice, a government department. The statutory provision reads as follows:

“A public authority must, in the exercise of its functions, have due regard to the need to—

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.”

Arguably, these goals have not been achieved in prison chaplaincy, where legislation and tradition have combined to create an Anglican monopoly of the services provided to over 83,000 offenders, who have wide ranging religious views and - being incarcerated - nowhere else to go.

Perhaps the greatest impediment to HMPPS and other authorities meeting their statutory obligations comes from the opacity of the legislation itself. The PSED was intended to make authorities more representative of the diverse society they serve and to achieve equality between different demographic groups. Vickers notes that “the difficulty with such an aim is, however, that equality has a range of meanings, and so determining what it might mean to promote equality in this context is problematic” (2011b: 50). A decision maker can scarcely claim to have complied with the public sector equality duty if it does not understand what the duty means.

Indeed, the PSED has been much litigated, leading to a variety of interpretations, particularly of the words ‘due regard’, arising from case law. In *Hotak v Southwark London Borough Council*⁵⁴, the Supreme Court approved the following judgments:

⁵⁴ [2015] UKSC 30

"The [...] duty is not a duty to achieve a result, namely, to eliminate unlawful racial discrimination or to promote equality of opportunity and good relations between persons of different racial groups. It is a duty to have due regard to the need to achieve these goals... What is due regard? In my view, it is the regard that is appropriate in all the circumstances. These include on the one hand the importance of the areas of life of the members of the disadvantaged racial group that are affected by the inequality of opportunity and the extent of the inequality; and on the other hand, such countervailing factors as are relevant to the function which the decision-maker is performing."

Dyson LJ in *R (Baker) v Secretary of State for Communities and Local Government*⁵⁵

"The duty must be exercised in substance, with rigour and with an open mind. The duty has to be integrated within the discharge of the public functions of the authority. It is not a question of "ticking boxes"."

Aikens LJ in *R (Brown) v Secretary of State for Work and Pensions*⁵⁶

"There must [...] be a culture of greater awareness of the existence and legal consequences of disability, including of the fact that a disabled person may not be adept at proclaiming his disability [...] In the areas in which a person's disability could be of relevance, a local authority shall "have due regard to [...] the need to take steps to take account of disabled persons' disabilities" [...] The simple task would have been to survey all the circumstances and then to ask what steps it would be appropriate to take in the light of them. "

Wilson LJ in *Pieretti v Enfield London Borough Council*⁵⁷

⁵⁵ [2008] EWCA Civ 141 [31]

⁵⁶ [2008] EWHC 3158 (Admin) [92]

⁵⁷ [2010] EWCA Civ 1104 [28, 31-2]

"Provided the court is satisfied that there has been a rigorous consideration of the duty, so that there is a proper appreciation of the potential impact of the decision on equality objectives and the desirability of promoting them, [...] it is for the decision maker to decide how much weight should be given to the various factors informing the decision. The concept of "due regard" requires the court to ensure that there has been a proper and conscientious focus on the statutory criteria, but if that is done, the court cannot interfere with the decision simply because it would have given greater weight to the equality implications of the decision than did the decision maker."

Elias LJ in *R (Hurley & Moore) v Secretary of State for Business, Innovation and Skills*⁵⁸

The combined effect of the endorsed dicta above, which may be taken as a summary of the *Hotak* judgment on this point, is as follows. The equality duty is not a duty to achieve a result, but a duty to have due regard to the need to achieve the goals identified in s.149. There should be a culture of greater awareness of the existence and legal consequences of the protected characteristics. The extent of the regard must be what is appropriate in all the circumstances, the weight and extent of the duty being highly fact sensitive. Public bodies may set their own equality objectives, they need not consult with their workforce or interest groups, and the court has no scope to interfere with the decision-making process (Fredman, 2011). The authority may weigh equality considerations against other matters that are relevant, including budgetary constraints, planning considerations or whatever countervailing factors are material to the decision. It is for the decision-maker to determine how much weight to give to the duty. Provided the authority's assessment is rational, a court will not interfere with the balance that it has struck.

⁵⁸ [2012] EWHC 201 (Admin) [77-8]

A positive duty, because it is proactive, sidesteps many of the limitations of the indirect discrimination provisions (Hepple, 2011). Instead of waiting for an individual to bring a claim, which puts the burden of fighting discrimination on those who suffer it, organisations should be taking steps to reduce inequality before problems arise. Crucially, however, the public sector equality duty is not a duty to eliminate discrimination, but only to have due regard to the need to do so. This apparent ambivalence towards equality issues is controversial, as it affords a wide discretion to public authorities and a weak protection to the – often vulnerable - people they serve.

The public sector equality duty has attracted criticism for its poor response to systemic discrimination (Fredman, 2011). The aim of the duty was to bring about a transformative approach to equality by going beyond outlawing discrimination and tackling inequality at a structural level. Regrettably, this is yet to be achieved (Fawcett Society, 2018). It may be that a public authority, having given due regard to the PSED considerations, concludes that a particular course of action does not promote equality of opportunity. That does not necessarily mean that adopting that course is thereby prohibited, nor that the public authority has breached the PSED. Writing in defence of the duty, Vickers (2011a) reminds us that the requirement to have due regard is not meaningless; the regard that is *due* to such important objectives as those of the Equality Act 2010 is very significant, so the standard is not as low as it appears. The word 'need' ("due regard to the need to...") also indicates that these aims are imperative, not merely desirable. It is therefore possible that a transparent ticking of boxes would demonstrate insufficient regard, and breach the duty.

Fredman (2014) adopts a different interpretation, arguing that the statute imposes a duty on authorities to take pre-emptive action, that is, to address inequality as soon as it becomes apparent, even in the absence of litigation. Applied in this way, a public body would be disregarding its duty to have due regard if it failed to take steps to address patterns of discrimination. Once less favourable treatment or disparate impact was established, or if there were a risk of such an outcome, public bodies

would be required to take steps to mitigate it. That this higher standard would better meet the aims of the duty and provide greater safeguarding for protected groups.

Practical implementation of the duty has been limited by the bureaucratic responses of organisations that are more concerned with demonstrating compliance in their decision-making processes than with examining the outcomes of those decisions and achieving substantive outcomes (Vickers, 2011a). Ultimately, the duty seems to amount to a procedural obligation that has understandably been viewed as an exercise in box ticking, instead of a genuine reflection on issues of institutional inequality and possible steps to redress them (Fredman, 2011).

V. Enforcement

In this context, equality law is formally enforced through judicial review processes and the intervention of the Equality and Human Rights Commission (EHRC).

The EHRC is the non-governmental body responsible for monitoring and upholding equality laws in England and Wales. It can issue public bodies with compliance notices if an authority is failing in its duties and, in this way, is able to address discriminatory practices before they reach the courts. The EHRC can also provide legal assistance to individuals and raise proceedings for judicial review in its own name. A wide range of enforcement powers are set out in its enabling statute, the Equality Act 2006 and include conducting investigations (s.20), issuing unlawful act⁵⁹ notices (s.21), monitoring the implementation of action plans (s.22), entering agreements with individuals to take or refrain from taking specified action (s.23), applying for an injunction (s.24), and conciliation and legal services (s.28).

The Commission has revealed that it is aware of shortcomings in pastoral care provision for non-religious people and the problems that this can present in settings

⁵⁹ An unlawful act is one that is contrary to the provisions of the Equality Act 2010.

where no alternative is available (Perfect, 2017). It is unlikely that this awareness will lead to an exercise of its enforcement powers, however. Unfortunately, the EHRC has a narrow remit and has been beset with problems. It has long been under-staffed and under-financed, and there are concerns about its leadership and representation; their budget was criticised early on by the Audit Commission and has been drastically reduced from £70m to £15m as part of the austerity agenda, eliminating their non-core activities such as the strategic grants, helpline and conciliation services (Barrett, 2018).

The Fawcett Society, in a recent review of discrimination law, expressed concern that “while their powers to enforce the equality duty remain in place, the cuts are substantial and significantly reduce the Commission’s ability both to publicise examples of good practice and to enforce the equality duty” (2018: 75). The Equality and Human Rights Commission handles fewer and fewer complaints each year, and a Freedom of Information request in 2016 revealed that it has not issued a single compliance notice to a public authority since the Equality Act came into force in April 2011 (Piscapore-Caruana, 2016).

Judicial review has therefore become the main enforcement mechanism against public authorities. This is the legal process in which individuals or organisations can hold the state to account by challenging the decisions of public bodies and subjecting them to the scrutiny of the judiciary. Judicial review proceedings may be brought by any person with sufficient interest. This includes the Equality and Human Rights Commission, which also has powers to assess compliance with the public sector duties, and issue compliance notices where a body has failed to meet the standards required (ss.31-32 Equality Act 2006). As the grounds on which judicial review can be sought are limited, the usual way of enforcing a public sector duty will be through compliance notices. These are issued when the Commission finds that a public authority has not met a public sector duty, and can require either compliance, or a written proposal showing the steps that will be taken towards compliance. The Commission can apply for a court order compelling compliance if necessary.

The advantage of private litigation is that promises impartial, authoritative and reasoned decision-making, but this is a slow and lengthy process with mixed results. As a means of enforcement, judicial review is fragile, requires claims to be brought within three months of the contested decision, and has been undermined by new cuts to legal aid that reduce access to justice (Sunkin and Bondy, 2008). Where a claim is successful, the available remedies are limited, and because of the focus on individual cases, there is little scope for systemic change. Where there is a finding of indirect discrimination and the respondent proves that the discrimination was unintentional, the judge must not award damages without considering all other alternative remedies, such as a declaration or injunction (Wadham, Robinson, Ruebain and Uppal, 2012).

These shortcomings are not serious problems if they can be addressed by other agencies. Sector-specific enforcers (SSEs), such as regulators and ombudsmen are insulated from some of the challenges confronting the judicial review system. They are a quicker, cheaper, more informal option that offers flexible remedies and can be proactive, not reactive, taking account of non-justiciable rights; for example, HM Inspectorate of Prisons issue independent reports, the Prisons and Probation Ombudsman looks into individual cases, and the Independent Monitoring Board assesses prisoner welfare and reports back to the Justice Minister. While these bodies do not provide remedies, they have a role in enforcing law and policy.

Courts and SSEs being limited on their own, the EHRC has the power to fill some of the gaps in protection and enforcement. Where SSEs lack uniformity and have limited knowledge of equality and human rights, the EHRC has expertise, co-ordinating and supporting SSEs and carrying out enforcement action that courts are unable to perform. Whereas sector-specific enforcers - by definition - can only address problems in their own sector, the EHRC has the power to carry out investigations, monitor progress and the effectiveness of the law, issue codes of practice, conduct inquiries, and instigate or intervene in legal proceedings. It is worth noting that the EHRC, unlike judicial review, is not neutral; courts want objective information to improve decisions, while the EHRC presents the 'best' argument for partisan interests.

Where discrimination proceedings are brought against authorities, they may be coupled with an action for breach of the public sector equality duty, a qualitatively different type of provision to those that prohibit discrimination. Indeed, it may be that failure to discharge the duty will provide evidence of a discrimination, or a rebuttal of a defence of justification, in proceedings brought by an individual. Hepple (2011) suggested that, if a public authority has omitted to reflect on the discriminatory impacts of its policy, it is unlikely that it will be able to persuade a court that its actions were a proportionate means of achieving a legitimate aim.⁶⁰

The PSED does not give rise to any enforceable private law rights; actions for breach of the public sector equality duty are brought by individuals as judicial review actions against the Secretary of State for Justice. Early decisions like *R (Chavda) v Harrow LBC*⁶¹ and *R (on the application of Kaur and Shah) v London Borough of Ealing*⁶², as well as *Baker and Brown*, above, were useful in setting the criteria for how the equality duty should be applied in practice. The case law shows that, where judicial review of an authority's decision has taken place, the focus has been on the failure to address equality issues at the decision-making stage, rather than the imbalanced effect of the decision itself. Sometimes the equality duty has been noted but not properly met, the negative impact on equality has not been confronted, or the appropriate consultation and evidence gathering has not been undertaken. There are very few cases where a public authority has not considered its duty at all, and even these cases are likely to settle before they reach the court (Fawcett Society, 2018).

This focus on procedural matters means that even policies that run counter to equality principles are acceptable if the organisation has fulfilled the requirement of 'due regard'. Manfredi et al describe how public organisations seek to avoid litigation in this way: "the equality proofing of policies that the PSED encourages may provide a veneer of acceptability to policies which in practice lead to deeply unequal results,

⁶⁰ *Secretary of State for Defence v Elias* [2006] EWCA Civ 1293 per Mummery LJ [133]

⁶¹ [2007] EWHC 3064 (Admin)

⁶² [2008] EWHC 2062 (Admin)

not merely failing to address underlying inequality, but actually reinforcing it" (2017: 21). There is therefore little incentive to comply with the duty, and commitment from the public sector has remained weak.

Public bodies must show that they have given adequate consideration to equality issues, not that they have rectified the discrimination in question. Even where there has been a finding that the duty has been breached, the result has rarely been the overturning of the original decision.⁶³ Under s.124 Equality Act 2010, the court need only consider alternative remedies of declaration or recommendation before awarding compensation. Fredman (2016) argues that, rather than focusing on compensation, changing discriminatory practices is central to the goals of equality law and should be the aim of litigation. Lady Hale expressed the same view in *Homer*: "The resulting scrutiny may ultimately lead to the conclusion that the requirement can be justified. But if it cannot, then it can be modified so as to remove the disadvantage."⁶⁴

The wording of s.149 and the low standard of due regard suggest a deference to organs of the state at the expense of protected groups. It may be that only proactive steps and organisational change can realise the aims of advancing equality, fostering good relations and encouraging participation in public life. These concerns led the government to commission a review of the public sector equality duty, which concluded that the law was not operating as intended and that quicker and more cost-effective alternatives should be considered (Government Equalities Office, 2013).

Manfredi et al (2017) view the PSED as operating more effectively as a second-generation mechanism that seeks to achieve an ethos of responsive self-regulation, rather than relying on coercive court proceedings. After all, the measure of the success of the duty is not so much via case law but through mainstreaming equality measures (Vickers, 2011a). The consultation processes introduced by the PSED can lead to cultural changes that alter the behaviour of institutions pre-emptively by embedding

⁶³ And, even where a decision is overturned, the public body may repeat the decision-making process, follow procedure, conduct appropriate consultations and still return, lawfully, to the same conclusion.

⁶⁴ *Homer v Chief Constable of West Yorkshire Police* [2012] UKSC 15 [35]

equality standards deeper into organisational practices. These changes may be viewed as equality outcomes in themselves, although they do not address deep structural inequalities operating within organisations.

Reflexive regulation is sustained by the legal enforcement tools, both as an example and a threat. The judicial review process not only educates public authorities as to the implementation of the Equality Act 2010, but also serves as a deterrent that focuses the minds of the decision-makers. This reliance on the traditional mechanisms means that a weak enforcement regime results in a poor response to equality duties at the organisational level; reflexive regulation cannot be effective if it is not backed by realistic prospects of legal action. As it stands, the government's review found that public authorities are not concerned about enforcement because they "do not believe there are any sanctions or consequences of non-compliance", and "some sectors cut corners as they [are] unlikely to be challenged" (Government Equalities Office, 2013).

Her Majesty's Inspectorate of Prisons can help here, as prison inspectors perform multifaceted roles far beyond their legal remit of the oversight and scrutiny of prison operation. Inspectors serve to set and uphold standard of good practice, promote accountability (Behan and Kirkham, 2016), influence policy (Hardwick, 2016) and support institutions in reaching their equality goals (Simpson, 2019).

VI. Conclusion

Issues of equality law are at the heart of the criminal justice system, and prison in particular. My interviewees depicted prison as "an amazingly rule-bound place" (Participant 7, NRPSN member) that, perhaps more than other state institutions, is especially conscious of and committed to adhering to law and policy, at least at senior management level.⁶⁵.

⁶⁵ Participant 7, an NRPSN member, commented that, "Every corridor at [my prison] says about equality, LGBT, everything, but maybe, or almost certainly, they're not getting the message across to pastoral people."

Equality stuff does come up quite a bit, certainly. [...] We're very aware of the Prison Service Instructions on chaplaincy, and every year or so we get an Assurance and Compliance visit, you know, 100 different things on the checklist, making sure that we're doing them. - Participant 12, prison chaplain

The passing of the Equality Act 2010 therefore led to an enhanced willingness to make changes - or at least to be seen be making changes - to comply with new public sector obligations and "try to follow the rules" (Participant 7, NRPSN member). This paved the way for the establishment of the Non-Religious Pastoral Support Network.

There is some kind of recognition that things do need to change in line with [the Equality Act 2010] and, like any new piece of legislation, there's always this period, isn't there, where you come across things that maybe don't quite fit and then the legislation is the tool to changing it? [...] Because the Equality Act had come in the year before, I was in a better position to do it.

- Participant 9, probation officer and NRPSN member

Participant 9, above, made the most of the receptive atmosphere at her prison and her fortuitous 'insider' position within HMPPS to help set up pastoral care services provided by and for people with non-religious beliefs for whom the in-house chaplaincy is not a good fit.

By making arrangements for all religious prisoners to have access to a minister of their faith, the Prison Chaplaincy Service clearly seeks to offer an equality and universal benefit that was absent before the Prison Act 1952, when only Christian chaplaincy was provided. The unfortunate result of representing every religious belief has, however, been the alienation of non-religious belief. To move from a provision that only represents Christians to a provision that represents all beliefs except non-religious beliefs is a missed opportunity that serves to reinforce this exclusion. This is

an example of Shachar's 'paradox of multicultural vulnerability' (2000), in which attempts to protect minority interests come at the expense of the rights and interests of others; group members may reap some benefits from multicultural accommodation, while individuals with 'other' identities bear disproportionate costs.

CHAPTER 8: FINDINGS AND POLICY IMPLICATIONS

I. Introduction

This final chapter summarises the findings from my empirical doctoral project, presenting conclusions based on my original empirical research and legal analysis, and recommendations for reform. It is the argument of this thesis that non-religious people experience both direct and indirect discrimination in prison pastoral care provision and the HMPPS is in breach of its obligations under the Equality Act 2010. I submit that legislative amendments, policy reform and changes in practice and language would reduce these disparities and promote equal treatment and equality of opportunity for people of all faiths and none in English prisons.

II. Findings

Informed by the results of my empirical work, using new qualitative data from experienced prison chaplains, non-religious pastoral carers and other criminal justice professionals, this study has provided indications of prison pastoral care provision operating unequally both at the policy level and in practice. My work identifies differences in provision of and access to pastoral care for non-religious prisoners. It seems that the current situation, whereby the universal prison chaplaincy is more accessible in practice to believers than non-believers, and belief-specific support is available to every religious demographic except those of no faith, may be unlawful.

Creating conditions of fair treatment and equal opportunities is paramount in prisons, not just in order to bring HMPPS in line with equality legislation, but also as a safeguarding issue for the offenders themselves. Liebling (2011) has found that perceptions of fairness have demonstrable effects on order and wellbeing: “relational

variables, including respect and fairness, perceptions of safety [...] and participation in offending behaviour courses were linked to lower levels of distress. In other words, we can demonstrate that some prison environments are more survivable than others. Legitimate treatment may be literally a matter of life and death" (2011: 535). Vickers describes how "inequality, or misrecognition, in this sense can lead to negative self-image, stigma and lack of self-esteem, all of which are harmful of themselves" (2011a: 149), and this can manifest itself in individual behaviour, potentially affecting the parole prospects of offenders who believe that they are being treated unequally. As I mentioned in the opening chapter, there is a further moral argument for equalising pastoral care provision in light of the state's responsibility to those it imprisons. At a time of widespread violence and unrest across the English criminal justice system (Prison Reform Trust, 2017), visible even-handedness and compassion towards offenders has the potential to make a significant difference to individual welfare and the carceral environment itself.

Empirical findings from this research and elsewhere indicate that religious services are inappropriate for a large portion of the diverse prison population, who naturally expect facilities that are intended for all to be secular, and equally accessible to all at the point of use. While some non-religious prisoners do use the chaplaincy and have positive experiences with it, a significant number feel uneasy having to engage with religious people and places, and this prevents them from getting help (Humanists UK, 2016). The incarcerated population has long been recognised as a disenfranchised group, and it seems that prisoners of no faith are further excluded when it comes to accessing and benefiting from pastoral care.

It is the contention of this thesis that non-religious prisoners have a right to substantive equality with their religious counterparts, and that non-religious pastoral care should be offered universally as a secular alternative to, and independent of, chaplaincy. However, an appeal to prisoners' rights may not be persuasive to prison management, as some NRPSN members have already discovered ("I went in with the intention of not being assertive in terms of, you know, demanding my non-religious

rights, because I don't think you get anywhere with that" – Participant 14, NRPSN member). One participant, a Head Chaplain, displayed a rather intolerant attitude towards the adjustments that are necessary for a spiritually diverse community to enjoy equal opportunities for worship and personal development.

The pagan prisoners are allowed to have in their possession artefacts which include some sort of altar - very few of them have got that - a wand and a rope. [...] It's the worst part of the job for me, because as soon as I'm dealing with somebody saying, "I need to buy a wand", I get very irritated because I think, 'Would you be buying a wand in the community?' You know, you've got access to the books you want, your relatives can send you the books you need. If you were on a desert island, you'd have to make your own wand. I'm sure there are plenty of sticks in the prison grounds. - Participant 15, prison chaplain

Religious spaces that purport to welcome everyone are, in practice, more accessible to some than to others. When those others have no suitable alternative readily available, the hierarchy of accessibility can amount to discrimination against those at the bottom. This is compounded where provisions to accommodate minority faiths are not extended to those with non-religious beliefs.

A good case can be made for contraventions of the Equality Act 2010 at s.13 (direct discrimination) and s.19 (indirect discrimination). The most appropriate means of enforcement would be judicial review, through which a court could, if appropriate, make a declaration that the provision constitutes discrimination and/or breaches the statutory equality duties. Since judicial review processes are poor at rectifying discriminatory practices or creating lasting change, the onus falls on public institutions themselves to be proactive in identifying and redressing disparities in treatment or outcome for protected groups. If, for example, non-religious prisoners were disadvantaged in reaching pastoral care because they were non-religious, the prison, as a public body, would need to consider how it could minimise that damage.

Public bodies must also reflect on the importance of encouraging people with protected characteristics to participate in public life or in other activities where their participation is low (s.149 Equality Act 2010). An area of activity where participation of non-religious people is disproportionately low is in the provision of pastoral care in public institutions. Hence, institutions should be considering how they can encourage greater participation by non-religious people. This might include recruiting non-religious pastoral carers in line with the non-religious population of the prison, as well as providing equivalent opportunities for non-religious prisoners to manifest their beliefs, for example, by having one hour per week of time allocated to meeting collectively and be able to celebrate occasions significant to their belief system (Savage, 2019). At HMP Winchester, this takes the form of non-religious people being able to come together regularly for group discussions in line with their beliefs and to have special provision of meals to mark Darwin Day.⁶⁶

My impression is, where I work, that people of all faiths and none have equal access. Now, it would be really helpful if we were to discover – I'd be disappointed, but it would be helpful to discover – if that's not the case, but I don't see evidence of that. - Participant 11, prison chaplain

Manzano *et al* (2015) showed that non-religious people valued visits from active listeners, but that it was very important to remove "potential subconscious barriers" (2015: 211) to accessing such services. The evidence presented in this thesis indicates that the barriers here are not just potential, and not just subconscious.

There is both a legal and a moral case for non-religious prisoners to have the same access to pastoral support that their religious counterparts enjoy through HMPPS chaplaincy provision. My research finds that, by recognising the need for like-minded support for Muslims, Jews, Catholics and other religious groups, but not for non-

⁶⁶ Darwin Day is February 12th, Charles Darwin's birthday, and is a secular celebration of science and free thought.

religious prisoners, HMPPS is in breach of the latter's right not to be discriminated against. Further, by expecting that non-religious prisoners can be covered by generic religious chaplaincy, the Prison Service is indirectly discriminating against those individuals by failing to recognise and accommodate the different pastoral needs of people with secular world views.

III. Policy Implications

From a practical perspective, this research is important for two reasons: first, the present arrangements for prison pastoral care provision, if discriminatory, may be deemed unlawful, and could lead to legal consequence for public bodies; second, the link between unresolved grief and recidivism suggests that more equitable and accessible pastoral care could reduce reoffending, thereby improving public safety. In this way, my research and the recommendations within advance the Prison Service's strategic business priorities of developing its response to prisoners with complex needs and tackling disproportionate outcomes for staff and offenders on the grounds of protected characteristics (HM Prison and Probation Service, 2018).

This thesis proposes three types of change to reduce inequalities in non-religious prison pastoral care, both for those who would use it and those who seek to provide it: law and policy reform, new recruitment practices and a change in language.

Law and Policy Reform

The law is always adapting in order that it may better serve the public interest and the values of those it governs. This is a constant process of adjustment and improvement through jurisprudence and legislative reform. It is worth considering the changes suggested by Beckford and Gilliat's prison chaplaincy interviewees in the

1990s, which included “arguments for placing the administration of chaplaincy in the hands of secular agencies, possibly giving *all* participants the status of Visiting Ministers. The theme which ran through all these proposals for structural change was the imperative to remove overall control from the Church of England and to treat all faith groups equally. This theme was repeated in suggestions that the Prison Act 1952 should be replaced with more appropriate legislation. In fact, one third of the proposals for legislative change involved removal of the Church of England’s overall responsibility for running prison chaplaincy” (1998: 135-6). Little has changed. It is evident that non-religious people cannot enjoy equality with religious people until they are granted equal rights in law and policy. At present, those who are not Anglican have less opportunity to serve as chaplains than those who are, occupy a lower position in institutional hierarchies and - in the case of prisoners - have no formal right to receive care that is appropriate to their beliefs. To remedy this requires the amendment or repeal of elements of the Prison Act 1952 and PSI 05/2016 on Faith and Pastoral Care for Prisoners.

Beckford and Gilliat, mindful of “the need to abolish the structural ascendancy of Anglican chaplains” called for “a new Prison Act to ensure that all religions were treated equally” (1998: 164, 139). The Prison Act 1952 is now 67 years old, and was designed to apply to a very different prison system in a very different society to the one we occupy today. Three of its provisions in particular strike me as problematic.

Section 7(4) of the Act requires that "the chaplain and any assistant chaplain shall be a clergyman of the Church of England". Representatives of other beliefs may be appointed but do not enjoy the same legal status and are not entitled to call themselves chaplains. Section 9(2) insists that a "chaplain or assistant chaplain shall not officiate in the prison except under the authority of a licence from the bishop". To subject all candidates to approval from the Church of England supposes that all appointments will be Anglican and disadvantages those who represent other faiths or non-religious world views. We can see, then, how the law treats the Church of England differently from other Christian denominations, and from other religions or beliefs.

The Prison Act 1952, I think it is, says there should be a C of E chaplain. There's no legislation that says there should be a non-religious person there. So that then makes it quite difficult, resource-wise. There seems to be a discrepancy between other faith groups as well, not just us and faith groups.

- Participant 9, probation officer and NRPSN member

Finally, section 10(5) compels the prison governor to give any "minister" appointed to the prison chaplaincy "a list of the prisoners who have declared themselves to belong to his denomination; and the minister shall not be permitted to visit any other prisoners." The inability to draw up a list of non-religious prisoners, coupled with the bar from visiting any prisoners not on one's list prevents non-religious pastoral carers from approaching any prisoners, even though around a third of the prison population have indicated that they do not belong to a religion (Ministry of Justice, 2019).

All three provisions discriminate, whether directly or indirectly, against non-religious pastoral carers which in turn reduces non-religious prisoners' access to that care. This is inconsistent and incompatible with modern attitudes towards religious diversity, and even antidiscrimination legislation, premised as they are on protecting Anglicanism as the norm while extending a degree of toleration, at best, to other beliefs (Sandberg, 2011). All three subsections must be repealed or amended if equality between staff and inmates with and without faith is to become a reality in English prisons. This will allow governors to make appointments to the chaplaincy team that reflect their prison's demographic makeup and comply with their obligations under the Equality Act 2010.

Criminal justice professionals and prisoners are often better acquainted with the prison guidelines that dictate their daily lives than with legislation provisions:

We're very aware of the Prison Service Instructions on chaplaincy, [...] but I don't think a lot of the legal side of things gets kind of press, certainly at the

chaplaincy level. [...] Some [prisoners] will have very keen ideas of their entitlements to things and they'll read all the PSIs and say, 'Oh, in the PSI, it says I can have this and this and this.' – Participant 12, prison chaplain

It is therefore necessary to reform not just prison law but also prison policy. Unlike statutes, Prison Service Instructions (PSIs) are revised and updated every five years, although there is a growing trend towards publishing more general frameworks alongside or instead of detailed PSIs. Following its 2011 and 2016 iterations, 'Faith and Pastoral Care for Prisoners' (Ministry of Justice, 2016) is next due for revision in 2021. This presents a perfect opportunity to close gaps in care provision and accessibility for non-religious prisoners. I recommend that where the word 'faith' appears, as it does throughout the guidelines, the word should be understood in its legal sense as meaning religion *or belief*, which extends itself to lack of religion / lack of belief, in accordance with s.10 Equality Act 2010. This tension was identified by Participant 9, a probation officer and NRPSN member:

P9: Under the Equality Act, [lack of religion] is referred to as a belief. The PSI unfortunately still talks about faith groups, rather than faith and belief.

KH: And 'non-religion' is not a faith group.

P9: No, but it's a belief group.

The PSI sets out a range of desired 'Outputs' (or objectives) throughout the document relating to different aspects of pastoral care (Ministry of Justice, 2016). Changing the focus from faith groups to belief groups and recognising that the latter includes those of non-religious belief would subsequently alter the interpretation and results of these outputs. For example, this interpretation would mean that Output 1, that "the chaplaincy provision reflects the faith / denominational requirements of the

prison”, would require approximately the same percentage of chaplaincy staff to be of no religion as the prisoners who have registered as being of no religion. It would further mean that Output 2, that “where [a prisoner’s] faith is not represented, arrangements are made for them to have access to a Minister of their own faith”, gives all non-religious prisoners the right to non-religious pastoral care and requires them to be informed of that right so that they can exercise it. Publicising the availability of non-religious pastoral carers, of meetings and festival days on notice boards and other internal prison media is to be encouraged. Section 2.2, which advised that “prisoners must be treated as being of the faith by which they are registered” would require prisoners who identify as being of No Religion to be considered non-religious.

These opportunities were missed in 2016, as one interviewee recalls:

They’re talking about reviewing it, aren’t they? So, you never know. They reviewed the PSI and I basically went through it and highlighted everywhere where it talked about faith and just said, “Well, can you just add ‘and belief’ into that sentence?” It came back that they weren’t reviewing the actual PSI, they were reviewing the bit at the end which gives an overview of all the different faiths. But they *were* reviewing it!

- Participant 9, probation officer and NRPSN member

In the time since the 2016 update, empirical research such as that of David Savage (2019) and Humanists UK (2016) as well as my own work have consistently demonstrated that non-religious people are less likely to access pastoral care and have fewer opportunities to provide it, with each of these factors reinforcing the other. The disenfranchisement and inequality experienced by minority religions that Beckford and Gilliat (1998) uncovered over twenty years ago in prison chaplaincy persists today for the non-religious. In all three cases, the researchers have shared their findings with two successive Chaplains-General. Her Majesty's Prison and Probation Service can no longer claim to be unaware of a problem of reduced access and, as long as they decline

to redress it, they perpetuate direct and indirect discrimination against their non-religious colleagues and service users.

Changes to law and policy to remove provisions that treat the religions unequally or privilege religious over non-religious world views (such as those in the Prison Act 1952 and PSI 05/2016) would necessarily decrease the control of the Church of England. The allocation of power resources to some groups always entails a reduction for others, but this is not the same as disadvantage. We may imagine that such changes would be unpopular with members of that tradition. As Lord Hope remarked in *Homer v Chief Constable of West Yorkshire Police*, “Any reversal of a discriminatory rule or practice that does not treat everyone equally is likely to have an impact on others which, from their point of view, may seem to be to their disadvantage.”⁶⁷

If anything, the opposition from the established church should be encouraging. Bertrand Russell reminds us “that every single bit of progress in humane feeling, every improvement in the criminal law, every step toward the diminution of war, every step toward better treatment of the coloured races [*sic*], or every mitigation of slavery, every moral progress that there has been in the world, has been consistently opposed by the organised churches of the world” (1957: 20-21). A complaint, however disguised, that an equalising measure to improve the lot of the underrepresented and underserved would erode the relative privilege of a minority group is not a credible counterargument and should persuade us in favour a reform rather than against it.

This thesis recommends that HMPPS publicly support the presence of non-religious pastoral carers in prisons as good practice to prevent discrimination in both recruitment (to paid and volunteer posts alike) and delivery of services to prisoners. It further advises HMPPS to revise the Prison Service Instructions so that their policy is fully inclusive of the pastoral needs of non-religious prisoners, and explicitly grants them the same rights as prisoners of faith.

⁶⁷ [2012] UKSC 15 at 30

Recruitment Practices

Why can't they distribute the chaplaincy – I'm being very naïve – on like an equivalent of proportional representation? – Participant 2, prison charity worker

Changes to law and prison policy are necessary to avoid inequality at the statutory level but are unlikely to make a difference to non-religious service users and care providers in prisons without practical change. The most obvious way to do this is to change recruitment practices so that non-religious chaplaincy team members can be appointed on equal terms with their colleagues of faith, and chaplaincy teams can reflect - ideally proportionately - the diverse prison communities they serve. My argument here is consistent with that of non-religious pastoral care providers:

Looking at the demographics and then considering the service delivery has to be the way to go. Just maintaining the status quo, as we see in lots of different institutions, is just completely unacceptable.

- Participant 5, Head of Pastoral Support at Humanists UK

As we have seen above, HMPPS policy requires, at Output 1 of Prison Service Instruction (PSI) 05/2016, *Faith and Pastoral Care for Prisoners* (Ministry of Justice 2016) that the composition of the chaplaincy "team has to be made commensurate with the population of the prison" (Participant 13, prison chaplain), but this is interpreted as referring only to prisoners of faith. Otherwise, most chaplaincy teams would be made up of 31% secular staff, an unthinkable prospect for several of my interviewees.

The table below, from Savage (2019), compares the religious diversity of prisoners with the religious diversity of the employed chaplains (as opposed to sessional staff and volunteers) who have been appointed to serve them, using data from 2017. It is

clearly shown that Christians are significantly overrepresented, Muslims are slightly overrepresented, other religious communities are slightly under-represented and the non-religious are not represented at all (0%). The result is that few pastoral, spiritual, and religious care departments reflect their institutions' community in terms of their religion or belief demographics.

<u>Religion or belief</u>	<u>Prisoners (%)</u>	<u>Chaplains (%)</u>
Christian	48	74
Non-Religious	31	0
Muslim	15	24
Other Religious	6	2

This calls into question the appropriateness of pastoral arrangements that are still largely in the hands of Anglican chaplains. Savage comments that “the biggest discrepancy between the prisoner and chaplain populations is in the non-religious category. Despite this being the second biggest group for several decades, the prison service chaplaincy had not taken any initiative to train and recruit full-time or part-time non-religious carers and it has taken external players to press for a move toward multi-faith chaplaincy” (2019: 14). This inequality shows little sign of changing, as a recent analysis of all advertised job vacancies for prison chaplaincy or pastoral support roles over an eight-month period made startlingly clear:

<u>Belief</u>	<u>Roles specifically for someone of this group</u>	<u>Roles someone of this group can apply for</u>	<u>Share of prison population⁶⁸</u>
Anglican	19.15%	38.29%	16.3%
Catholic	14.9%	34%	17.1%
Free Church	10.6%	29.8%	0.9%
Muslim	12.8%	29.8%	15.8%
Hindu	0%	17%	0.4%
Sikh	14.9%	31.9%	0.7%
Rastafari	4.3%	21.3%	0.9%
Pagan	4.3%	21.3%	1.2%
Non-Religious	0%	0%	30.5%

Note that while Anglicans could apply for 38% of posts while comprising only 16% of the prison population, and - surprisingly - Sikhs were eligible for almost a third of roles despite representing less than 1% of the population, there was not one advert that was targeted at, or would even accept, non-religious applicants. This lack of diversity has meant that service users have not been able to choose a non-religious pastoral carer, and non-religious pastoral carers have not had the opportunity to be employed to provide that care. It should be noted that 17% of adverts were for 'open' posts, but still required a qualification in Religious Studies or Theology. This disadvantages people of no faith who do not typically have religious qualifications.

Despite the growing numbers of trained non-religious pastoral carers, it remains the case that there is not a single non-religious pastoral supporter employed within a prison chaplaincy team. In the fifth of prisons in which NRPSN members are

⁶⁸ February 2019 figures from Ministry of Justice (2019) 'Prison Population: 31 March 2019', Offender Management Statistics Quarterly. London: Ministry of Justice

welcomed, they are expected to provide their services for free, unlike their religious counterparts. The unequal recruitment, engagement and payment of secular chaplains necessarily entails less opportunity for the large numbers of non-faith prisoners to consult with a likeminded carer. This comes as a surprise even to people familiar with the prison system, like Participant 2, who has extensive experience running training and personal development courses with prisoners as part of her work with a domestic abuse charity (the other participants are non-religious pastoral carers):

P2: But aren't the religious chaplains paid?

P7: Yeah.

P2: So why aren't the non-religious chaplains paid?

P4: That's a good question!

P6: That's a good question! This issue of when you talk about, you know, differences, recruitment is a big difference. To date, the only people who've been recruited in prisons into paid roles, yeah, and permanent roles, are religious people, and the recruitment system prevents non-religious people being recruited. So, there's a discrepancy in need but there's a built-in, institutionalised discrepancy in provision.

There is significant disparity between the profile of the prisoners and that of the chaplains who claim to meet their pastoral needs. Savage adds, "This should be a cause for serious concern by HMPPS. How can its policies and practices be satisfactory if such large discrepancies exist?" (2019: 13). My research has found that people with non-religious beliefs do not enjoy equal opportunity to access or provide pastoral care in prisons, and that they cannot do so until non-religious beliefs are proportionately

represented in chaplaincy teams. As one interviewee said, “the Prison Service have got a duty to provide a chaplain of each prisoner’s belief group” (Participant 9, probation officer and NRPSN member), and this includes addressing secular prisoners’ unmet needs and inequality of opportunity by offering to offer to non-faith prisoners the same option as their religious counterparts, that is, the choice to seek pastoral or spiritual support from a person with the same world view. The scale of religious non-belief in modern Britain will require that at least one non-religious pastoral carer is employed, on the same terms as religious staff, in every prison for this to be possible. This would remove the religious disincentive experienced by some prisoners, so that every person serving a custodial sentence feels able to access the help that is right for them.

With there being such a huge amount of non-religious prisoners, if we were to have the same ratio of chaplains to prisoners as the Church of England, for example, we’d have more than one volunteer or paid person in each establishment. [...] What I’d like to see long term is that we have paid positions for non-religious chaplains that represent the whole spectrum of non-religious people, and that the numbers are proportionate to the amount of prisoners that identify as non-religious, so we can provide a decent service to everyone.

– Participant 9, probation officer and NRPSN member

Developing and neutral pastoral care facilities within a secure environment carries financial implications and does not happen overnight. I recognise that implementing these services demands time, resources and staff energy, all of which are already overstretched, in many cases to breaking point, in English prisons. However, establishing secular pastoral carers equal to but distinct from chaplains in every prison is likely to enhance both the moral and the financial performance of institutions. It is anticipated that many of the issues that put pressure on staff and budgets in a prison environment – behaviour management, threats to safety, physical and mental health

problem, etc. – would be improved significantly if every prisoner had meaningful access to pastoral support from a compassionate and like-minded individual. Where financial resources do not allow for salaried staff, prison management teams should be encouraged to cooperate with volunteer organisations like the NRPSN and commit to raising awareness of the need for, and sources of, secular support for offenders. This is certainly the aim of the Non-Religious Pastoral Support Network, and was an ambition shared by the previous Chaplain-General of Prisons, Rev Mike Kavanagh, who contributed to this research as Participant 10:

KH: So, could there, in theory, be a non-religious Managing Chaplain?

P10: Oh yeah. Yes, yeah, all you need to be a Managing Chaplain, you have to be endorsed by your relevant faith community, err, belief community. So, if you had a Managing Chaplain appointed who was a non-religious pastoral carer, as long as they were endorsed by Humanists UK, then they could be a Managing Chaplain, yeah. [...] My aspiration is that we have a non-religious pastoral carer in every jail in due course, as things develop.

This progress towards equality was halted, at least for the time being, in October 2018, when Rev Kavanagh retired and was succeeded as Chaplain-General of Prisons by Rev James Ridge of the Church of England, a man described by Humanists UK as “openly hostile to non-religious support”. The entrenchment of religious people and provisions in the prison system derives from the idea that nobody is beyond reform, and that all individuals deserve care and support in overcoming their emotional conflicts and leading healthy lives. If this is so, and few could argue otherwise, then a different approach is required to help those in need that the chaplaincy cannot reach.

Terminology

Could there be an alternative word, or could we change it? Well, what is a chaplain? You know, is it even a helpful term? [...] Are these things off-putting?

– Participant 11, prison chaplain

My research has shown me that an essential step towards creating an equitable environment is changing the language that is used in pastoral care. Some terms, such as describing a service as ‘chaplaincy’, can act as barriers to effective communication (Savage, 2019). Language can be a powerful tool of inclusion and exclusion, as the earlier discussion of the word ‘nil’ demonstrates. In prison, many of the words that are used in an everyday way to apply to universal services have distinctly religious meaning, such as, ‘chapel’, ‘chaplaincy’, ‘spiritual’ and even ‘pastoral’ (“We need a new word!” - Participant 9, probation officer and NRPSN member). These words imply that the facilities in question are run by and for people of faith.

Most non-religious pastoral carers identified terminology as a barrier (“Even the language is against you!” - Participant 4, NRPSN member). Consider the information that is provided to prisoners on arrival. Appendices 1-3 provide three examples of prison chaplaincy leaflets currently in use.⁶⁹ We see many religious symbols and words, with little or no mention that non-religious prisoners may access non-religious pastoral carers or reach out to the chaplaincy for secular support. I agree with Savage that “if the front cover of a leaflet consists of religious symbols and/or the word ‘chaplaincy’, it can be seen as a leaflet for religious people and only religious people [...] Hence, some non-religious people who may have benefited from attending may have been inadvertently discouraged” (2019: 127).

⁶⁹ Note that, in Appendix 1, the word ‘Humanist’ has since been removed: “I did get that changed to ‘Non-Religious’. That was the only, only thing that the chaplain would agree to change” (Participant 4, NRPSN member).

If you were given this with no added information would you think, as a non-religious person, that it was for you? Would you even read any further once you've glanced at the front page, assuming you can read English? Would you ever bother to ask anyone about it to find out more? Isn't it more likely you'd put it to the bottom of the pile of stuff you've been given and forget about it?

– Participant 4, NRPSN member

Listing “that sort of oxymoron, ‘humanist chaplain’” (Participant 3, NRPSN member) alongside the vicars, rabbis and imams in chaplaincy leaflets may inadvertently communicate to prisoners who are neither religious nor humanist that the service is not for them. This is the exact opposite of the message that non-religious pastoral carers - and indeed religious chaplains - seek to send. To avoid confusion, many NRPSN members reject the word altogether: “We’re not ‘humanists’, nobody knows that word. We’re here to serve anybody who is non-religious, and I am happy to work generically as well” (Participant 3, NRPSN member). ‘Non-religious pastoral carer’ may be a mouthful and is far from ideal but, it is at least inclusive and does not mislead would-be service users. On the other hand, ‘chaplain’ is a familiar word to prisoners, even if it is not always an appropriate one:

I totally understand why humanists have opted for the term ‘non-religious pastoral carer’. [...] It’s a shame in a way. ‘Humanist chaplain’, from a prisoner’s point of view, they know what they are, and I think it’s going to take a bit of time before they get their head around ‘non-religious pastoral carer’.

– Participant 10, then Chaplain-General of Prisons

In fact, some NRPSN members have retained the familiar religious language for precisely this reason:

I called myself a humanist chaplain because the prisoners understand what chaplaincy is. [...] I don't have to say I'm a 'non-religious pastoral carer' or whatever it is I'm supposed to say. - Participant 16, NRPSN member

It easy to see how a non-religious person reading these materials would understand, despite assurances to the contrary, that these services are not 'for' them, or even that it would be wrong to use them.

The survey data cited above show that, if a person is described as a chaplain, or a department calls itself a chaplaincy, the vast majority of people will consider that these relate to Christians or Christianity. Multi-faith prison chaplaincy cannot be neutral and inclusive when the word chaplaincy is not neutral and inclusive (Savage, 2019). Terms like 'chaplaincy', 'multi-faith space' and 'prayer room' could be replaced by a secular name like 'pastoral care centre' or 'reflection room'. Although religious staff would still need to be ministers of the faiths they represent, neutral clothing and job titles (such as '_____ pastoral carer' or simply '_____ representative') may help to break down barriers. A 'chaplain' is still a religious figure, whether his interactions are faith-based or not, and so arguably takes on a special status that is alienating to much of the contemporary prison population. These changes signal a recognition that non-religious people are afforded the same dignity and respect as a religious people ("It makes a huge difference" - Participant 9, probation officer and NRPSN member). In many cases, communications will need to change significantly in order to demonstrate that what was once a traditionally religious service has developed and transformed into a service for everyone. Fortunately, this work has already begun:

I think we will gradually find language that works across faith and belief as a whole. I don't think we're there yet, but I think we're heading in that direction and that's being picked up. – Participant 10, then Chaplain-General of Prisons

The updated terminology has been implemented successfully in other settings, such as Buckinghamshire NHS Trust, which has the country's first non-religious Lead Chaplain in Lindsay van Dijk.

In hospitals, they're starting to move towards different language, and talking about Pastoral Support and Chaplaincy departments [...] so it's not just all about religion. You can tell from the name of the department that it's inclusive for everybody. – Participant 9, probation officer and NRPSN member

Eight years ago, Todd and Tipton (2011) were challenging the use of the term 'nil', yet the word is still used in the Prison Service Instructions and is part of the everyday language of the prison system. It would be far more appropriate and respectful to refer to people who describe themselves as belonging to no religion as 'non-religious' rather than 'nils' or 'nones'. I recommend that those who have chosen to identify upon registration as 'No religion' should be considered to have made a clear choice to express that they are non-religious, and therefore, likely hold naturalistic, non-religious worldviews.

IV. Conclusion

On the basis of the legal analysis and empirical research conducted in this doctoral thesis, I argue in summary that reform must come on a statutory level through legislation and policy amendments, on a systematic level through changes to employment practices, and at ground-level by modifying the everyday language of prison pastoral care. It is important to ensure that prison policy guidelines explicitly require non-religious support to be provided, and its availability clearly publicised to all prisoners. I close with the words of one of my NRPSN participants who summarised the necessary changes, and the content of this chapter, beautifully.

They can move to fully inclusive recruitment, that doesn't cost any money. They can change the law to make it inclusive, that doesn't cost any money. They can change the attitude so that they make prison governors aware of the needs among non-religious people, that doesn't cost any money. It does require a change in attitude. – Participant 6, NRPSN member

Appendices

Appendix 1

Prison chaplaincy leaflet, identifying information redacted.

HMP World Faiths

Buddhist Prayer

May all beings everywhere plagued with sufferings of body and mind quickly be freed from their illnesses. May those frightened cease to be afraid, and may those bound be free. May the powerless find power and may people think of befriending one another. May those who find themselves in trackless, fearful wildernesses - the children, the aged, the unprotected - be guarded by beneficent celestials, and may they swiftly attain Buddhahood.

Christian Prayer

Our Father, who art in heaven, Hallowed be thy Name, thy Kingdom come. Thy will be done on earth, as it is in heaven. Give us this day our daily bread and forgive us our trespasses, as we forgive those that trespass against us and lead us not into temptation, but deliver us from evil. For thine is the kingdom, the power, and the glory, forever and ever. Amen.

Sikh Prayer

There is only one God, Eternal truth is His name, He is the creator. He is without fear, He is without hate, Immortal, without form, Beyond birth and death, He is the enlightener, He can be reached through the mercy and grace of the true Guru



Hindu Prayer

prostrate myself before the five-faced Lord of Parvati, who is adorned with various ornaments, who shines like the crystal jewel, who is seated peacefully in the lotus pose, with moon-crested crown, with three eyes, wearing Trident, thunderbolt, sword and axe on the right side, who holds the serpent, noose, bell, damaru and spear on the left side, and who gives protection from all fear to His devotees.

Muslim Prayer

Our Lord, let not our hearts deviate after You have guided us and grant us from Yourself mercy. Indeed, You are the Bestower.

Jewish Prayer

Hear, O Israel, the Eternal is our God, the Eternal is One.

Blessed be God's Name and glorious kingdom forever and ever. You shall love the Lord your God with all your heart, with all your soul, and with all your might. And these words, which I [God] teach you this day, shall be upon your heart. You shall teach them diligently to your children, speaking of them when you sit in your house, when you walk by the way, when you lie down and when you rise up. And you shall bind them as a sign upon your hand, and they shall be for a reminder before your eyes. And you shall write them on the doorposts of your house and upon your gates.

The Chaplaincy Team is committed to meeting the Spiritual needs of all prisoners and staff regardless of their belief and practice.

Please do not throw this away – you may need it for future reference

The Chaplaincy Team

There are a number of people who form the Chaplaincy Team. They all have an important role to play but are not all here everyday. Many have duties outside of the Prison.

Below are some of the names you may find helpful

Regular Chaplaincy Activities

<u>Regular Chaplaincy Activities</u>	
Sunday	09:30 Church of England & Free Church Service 09:30 Jewish Group 10:45 Roman Catholic Mass
Monday	Shift 1 Mark Time Bible Studies Shift 2 New Steps Group 08:15 Pagan Group (every other week) 13:45 Jehovah Witness Group 13:45 Quran Studies
Tuesday	13:45 Kingdom Builders
Wednesday	08:15 Christian Meditation Group 13:45 Muslim 'Tabriyya' Class
Thursday	13:45 Alpha Group 13:45 Sikh Service
Friday	13:45 Roman Catholic Group
<u>Full Time Chaplains</u>	
Suhel Mulla Managing Chaplain	Rev CE Unchaplain Imam Muslim Chaplain <u>Sessional Chaplains</u>
Church of England	Roman Catholic <u>Orthodox</u> Free Church Fr RC Chaplain

Requesting a Chaplain

To see a member of the Chaplaincy you need to submit an application via your Landing Officer. Unless you ask for a specific person the Duty Chaplain will come and see you as soon as possible.

In times of serious illness or the death of a close family member, the Chaplaincy should be informed. Appropriate Pastoral care and advice will be offered to you.

Official Prison Visitors

Official Prison Visitors (OPV's) are volunteers who are not linked to any religious group nor are they part of the prison system. They would normally visit you once a week and provide friendly confidential support. Please send an application to the Chaplaincy if you would like an OPV.

OUR MISSION STATEMENT

The Prison Service recognises and respects the right of all prisoners to practice their religion

Monday	Every other month	Monday	11am-1pm	One day a week.

Appendix 2

Prison chaplaincy leaflet, identifying information redacted.

The Chaplains are...

MANAGING CHAPLAIN – Revd

BUDDHIST – Mr

CHRISTIAN Church of England –
Revd

CHRISTIAN ECUMENICAL – Revd

CHRISTIAN Roman Catholic –
Fr & the Revd

CIC Latter Day Saints (Mormon)
– Mr

HINDU – Priest

JEHOVAH'S WITNESS – Mr

JEWISH – Rabbi

MUSLIM – Imam

PAGAN – Vacant

QUAKER – Mrs

RASTAFARIAN – Vacant

SIKH – Mr

Chaplain on Duty

There is usually a Christian Chaplain on duty in the prison each day from about 8.30 a.m. to 4.30p.m. Other Chaplains come to the prison on a regular basis to meet with members of their faith community.

The duty Chaplain can contact your Faith Chaplain for you, should the need arise.

Prison Visitors and Letter Writing

It may be that you have no one able to visit you while you are in prison. If you would like more information about our Prison Visitor or letter writing schemes or our links with the Newbridge Trust, please contact us via an application form. There is currently a waiting list for this service.

Music at

If you enjoy singing or playing an instrument, please contact the Chaplaincy via a general application for any information about the following:

The Chapel Choir. We will arrange for you to see the prisoner Choir Leader for an informal chat and sing.

Each Faith has a prisoner representative who meets regularly with the Managing Chaplain. Their details are on the Prison Information Channel



Chaplains are here to help people of all faiths and none. We seek to be good listeners to those coming to terms with life in prison, and the circumstances leading up to this.

We also support prisoners who are working through offending behaviour programmes, loss and bereavement, or preparing for release.

Faith can be a great source of growth and strength. If you have a religious faith, you are entitled to practise it in prison. Please let us know of any problems in this area.

If you would like to receive a pastoral visit from your own minister, we will help to arrange this.

We can also supply Bibles, Qurans and other religious books to assist your study.

To speak to a Chaplain, please put in a general application.

The Chapel is upstairs on B1. Everyone is welcome to attend services and other activities but please follow wing procedure to sign up for these.

There is a chair lift for anyone who needs it.

The Multi-Faith Room is at the rear of the Faith Centre.

This may involve a meditation (Taizé), Bible study, a visiting speaker...

Weekly Activities

(Please also check the Information Channel)



Wednesdays

10:00-11:30 Quaker Meeting – 1st & 3rd of month
14:30-16:00 JW Bible Study when duty Chaplain available

Thursdays

10:00-11:45 CJC Latter Day Saints (Mormon)
13:15-15:30 Buddhist Meditation
13:15-15:00 Jewish group (fortnightly)

Unless stated, all meetings are held in the Chaplaincy Department

Fridays

From 12:00 Muslim Teaching & Jummah Prayer
14:30-15:45 Bible Study

Saturdays

09:30-10:30 Roman Catholic Mass
10:45-11:30 Quran Class/Arabic Lesson
15.00-16.00 Roman Catholic Prayer Group

Mondays

13:15 Chapel Choir (*by application*)
13:15-13:30 Rastafarian Group
14:30-16:00 Chapel Band practice (*by application*)
14:00-15:30 Baha'i meeting
17:15-18:30 Christian Prayer and Praise in the Chapel

Tuesdays

09:30-11:00 Hindu Meeting
13:15-15:30 Sikh Service
13:15-15:30 Pagan Meeting
17:15-18:30 Christian Worship and Fellowship.



The Chaplaincy team

Managing Chaplain:
Rev'd (CE)

CHRISTIAN CHAPLAINS
Church of England Chaplains
Rev'd

Free Church Chaplain
Rev'd

Catholic Chaplain
Father

Deacon

Jehovah's Witnesses Chaplain

Orthodox Minister
Father

Quaker Chaplain

The Church of Jesus Christ of Latter

Day Saints (Mormon)

WORLD FAITH CHAPLAINS
Buddhist Chaplain

Muslim Chaplains

Imam

Imam

Sikh Chaplain

Mr

Hindu Chaplain

Jewish Chaplain

Rabbi

Pagan Chaplain

Rastafarian Chaplain

Ras

OTHER PROVISION
Humanist Pastoral Care

Faith and Belief Services, Groups and Meetings

Faith and Belief Services, Groups and Meetings	
SUNDAY	09:15 Chapel Service (Church of England communion or a visiting group) 14:00 Christian Activity
MONDAY	08:30 Rastafarian Meeting 10:00 Orthodox Service-monthly 13:25 Humanist (non-religious) Meeting- every other week 17:30 Christian Activity
TUESDAY	13:25 Pagan Meeting 13:25 Sikh Service
WEDNESDAY	10:00 Muslim Study Group (Mosque) 13:25 Buddhist Meeting 13:25 Jehovah's Witness Meeting
THURSDAY	10:30 RC worship or study 10:00 Hindu Service (when required) 13:25 Quaker Meeting 15:00 Chapel Choir
FRIDAY	10:00 Muslim Class 13:00 Muslim Friday Prayers (Mosque)
SATURDAY	09:15 Catholic Mass
ALL MEETINGS TAKE PLACE IN THE CHAPLAINCY DEPARTMENT UNLESS OTHERWISE INDICATED.	



Appendix 3

Prison chaplaincy leaflet, identifying information redacted.

**to the
Chaplaincy
at**

*Returning citizens, not offenders, to the
community by promoting and
supporting faith and belief in a manner
which improves well-being and
affects behaviour.*

We respect all faiths and beliefs
and seek to celebrate our
shared humanity. Those of all
faiths and none are welcome to
request our support.

We are here to help

- To support you in any matter of concern to you or your family.
- To pray with you, and for you.
- To help you in your faith with advice and literature
 - we have Christian literature and study guides, including Bibles in foreign languages
 - we have the Scriptures for the major Faiths e.g. Hindu, Muslim, Sikh, Buddhist.
- To enable you to have a minister from your home area visit you on a special pastoral visit.
- To refer you to *Bereavement and Loss* counsellors for extra support and counselling.
- To inform you understanding through regular groups and courses. Please see the Wing Chaplaincy notice board for details.
- To link you with faith organisations e.g. *Prison Fellowship, Care and Resettlement through Alpha churches.*
- To find a place of worship for you on your release.
- To welcome you at Services and Faith Meetings and groups etc.



The Official Prison Visitor Scheme is run by the chaplaincy department.

- Although run by the chaplaincy, the visitors may not be people of faith, and you do not need to be a person of faith to have an Official Prison Visitor to see you. These are volunteers, appointed by the Governor, to visit prisoners on an informal, befriending basis. They are not to be confused with the Independent Monitoring Board (IMB) These Official Prison Visitors enjoy conversation but they are also very good listeners. There are about 8 of them at present. Even if you receive regular domestic visits, you can ask for an Official Prison Visitor. Mrs in the Chaplaincy is our Prison Visitor contact person. Please ask.
- Religious Festivals and Observances**
- The Prison Service Chaplaincy HQ decides with faith advisors which religious festivals are to be observed in prisons across the UK. This information is published monthly and displayed on Chaplaincy notice boards and prisoners registered to the faith celebrating the festival are excused from work.



Chaplains would like to offer you support should you experience the loss or serious illness of a loved one.

- If you are unable to get to the funeral of a loved one you may find it helpful to come to the Chaplaincy to pray or light a candle.

It may be that lighting a candle on the anniversary of a significant event may give you some comfort.

Please get in touch with us at times like this if you would like support.

How to contact the Chaplains

- Put in an Application on your Wing
- Speak to one of us when we visit the Wings, workshops.
- Make contact after any Chapel Service, other act of worship or meeting.
- Call at the Chaplaincy on the route to your labour.



Appendix 4

Prisoners' religious affiliation data at one prison

RESTRICTED

Specified Religion - Si

Parameters

Religion Code: All

Establishment Code:

Establishment Name: (HMP)

Religion	Count
Agnostic	10
Atheist	7
Baptist	3
Buddhist	35
Christian	98
Church In Wales	2
Church of England (Anglican)	180
Church of Scotland	2
Eastern Orthodox	2
Greek Orthodox	2
Hindu	3
Jehovah's Witness	10
Methodist	3
Mormon	2
Muslim	47
No Religion	208
Oriental Orthodox	2
Pagan	33
Pentecostal	2
Quaker	4
Rastafarian	5
Roman Catholic	83
Salvation Army	1
Sikh	4
Total	748

UNIVERSITY OF Southampton

Participant Information Sheet

Study Title:

Cleric without God: Equality of Pastoral Care for Bereaved Non-Religious Prisoners

Researcher: Ms Kallie Hunt
K.B.Hunt@Southampton.ac.uk

Please read this information carefully before deciding to take part in this research. If you are happy to participate you will be asked to sign a consent form.

What is the research about?

The study is a doctoral research project funded by the University of Southampton. I am a PhD candidate investigating pastoral care provisions in prison. I'm researching the ways that nonreligious prisoners access pastoral care and their experiences of using chaplaincy and other services, especially following a bereavement.

Why have I been chosen?

Your work as a criminal justice professional or prison pastoral carer gives you a valuable insight into prisoners' needs and the facilities available to support offenders who suffer or bereavement during their sentence. You might have expertise in prison chaplaincy and the extent to which non-faith offenders benefit from its services. You may have first-hand involvement in developing secular alternatives to chaplaincy or accommodating religious diversity in prisons. Your professional background means you are uniquely positioned to comment on the ways that bereavement is experienced and supported in English prisons.

What will happen to me if I take part?

You will be interviewed either by telephone or in person in a location that suits you. This will be an informal one-on-one conversation in which you are asked to share your opinions and experiences of non-religious pastoral care in prisons. The session will be recorded on an audio device and should last around an hour. There will be an opportunity to ask questions about the study before and after the session.

Are there any benefits in my taking part?

You will not receive any payments or incentives for taking part. By participating in this study, you are helping to bring new information to light and add to current knowledge about prison pastoral care and access to services for non-religious offenders. It is hoped that this research might lead to improved support for offenders who experience a bereavement during their sentence.

UNIVERSITY OF Southampton

Are there any risks involved?

Bereavement, loss, crime and the treatment of offenders are sensitive issues that may be difficult to discuss. There is no risk of physical harm to you if you participate in this study, but it is possible that you will find some of the topics unsettling. Phone numbers for emotional support helplines are provided at the end. The only anticipated cost to you is an hour of your time.

Will my participation be confidential?

The only person who will know who you are and what you have said is the researcher. After the interview, your contributions will be transcribed and coded so that you are not identified. In the final thesis, you will be described by profession (e.g. prison chaplain), I will comply with the Data Protection Act and university policy by keeping your data confidential and stored securely on a password-protected computer.

What happens if I change my mind?

Participation in this research is entirely voluntary. You have the right to withdraw at any time, including during the interview, without giving a reason. Your data will be deleted, and your legal rights will not be affected.

What if I think of something else after the interview?

You are very welcome to add to your contribution, if you think of something else that you would like to include in the study, please email at K.B.Hunt@Southampton.ac.uk. Your comments will be added to the transcript of your interview accordingly.

What happens if something goes wrong?

If you wish to lodge a complaint or concern with an independent person who is unconnected with the study, you can contact the university's Head of Research Governance, Research Governance Office, University of Southampton, SO17 1BJ, 02380 595058, research@so.ac.uk.

If you are affected by any of the issues raised during the session and would like to talk to somebody, you can call the Mind Infline on 0300 123 3993 or text 85463 during working hours, or call Samaritans for free at any time on 116 123.

Where can I get more information?

For more information, you can contact me at K.B.Hunt@Southampton.ac.uk. Alternatively, the primary supervisor for this project, Dr Harry Annison, can be reached at 02380 594372 or H.Annison@Southampton.ac.uk.

Appendix 6

Interview participant consent form



CONSENT FORM

Study title:

Crief without God: Equality of Pastoral Care for Bereaved Non-Religious Prisoners

Researcher name: Ms Katie Hunt

Ethics reference: 29777

Please initial the boxes if you agree with the statements:

I have read and understood the information sheet and have had the opportunity to ask questions about the study.

I understand that the interview will be recorded and transcribed and may be quoted anonymously in academic work. I agree to take part in this research and for my data to be used in this way.

I understand my participation is voluntary and I may withdraw at any time without my legal rights being affected.

I understand that information collected about me during this study will be stored on a password protected computer and that this information will only be used for the purpose of this study. All files containing any personal data will be made anonymous.

Name of participant

Signature of participant

Date

[September 2017] [Version 1]

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Legislation

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