

Catholic midwives succeed in attempt to extend “conscience” exemption

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Two Catholic midwives have won a legal battle for the right to conscientious exemption from all involvement with abortions.

Mary Doogan and Concepta Wood argued that being required to supervise staff taking part in abortions violated their human rights.

The ruling, which could yet be appealed by Greater Glasgow and Clyde health board, may have wide ramifications for the NHS and for other health staff who oppose abortions on religious grounds.

Giving judgment in a judicial review last year, Lady Smith said: "Nothing they have to do as part of their duties terminates a woman's pregnancy. They are sufficiently removed from direct involvement as, it seems to me, to afford appropriate respect for and accommodation of their beliefs."

However, in a judgement handed down today by Lady Dorrian, sitting with Lord Mackay of Drumadoon and Lord McEwan, the Court of Session ruled : "In our view the right of conscientious objection extends not only to the actual medical or surgical termination but to the whole process of treatment given for that purpose."

Dr Antony Lempert, chair of the Secular Medical forum, said: "Despite their own conscientious objections, these midwives chose to apply for this particular role within their profession. The earlier judgment rightly restrained the limits of conscientious objection to those defined by law and further clarified by Parliament in 1991 and the House of Lords in January 1988.

"Today's judgment could open the door to all manner of objections by professional staff who might now feel empowered to refuse to participate in a wide variety of tasks far removed from the treatment of a patient. It should be the responsibility of the healthcare professional to apply only for roles which are not in direct conflict with their personal beliefs. Where the two do come into conflict, service provision should never be constrained by the personal views of professionals.

"By so broadly extending the practical limits of conscientious objection, the practical effect is likely to be service disruption and compromised patient care. It may become increasingly difficult for NHS provider organisations to ensure that service provision can be maintained. Patients, who do not have the luxury of choosing when they might need to seek medical help, may be disadvantaged."

In a statement, the NHS Greater Glasgow and Clyde health board said: "We note the outcome of the appeal and will be considering our options with our legal advisers over the next few days."

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