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BBC Radio 4 “NICE WORK”

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Venerable Doctor Gordon Kuhrt, Director of Ministry, Church of England
Father Paul Andrew, Vicar of St. John’s Hammersmith, West London
Reverend Christine Medway, part-time Rector in Bath and Wells diocese
Richard Dunstan, Social Policy Officer, National Association of Citizens Advice Bureaux
David Bishop, spokesperson for the Federation of Small Businesses
Richard Lynch, Negotiator, UNIFI
Lisa McGivern, ex-employee at a residential nursing home
Judy Arthur, case study
Dr. Robert Blackburn, Director of the Small Business Research Centre, Kingston University
Mary McClaren, Adviser, Torbay Citizens Advice Bureau Workers, 1-5

DATE: 17 SEPTEMBER 2002

- Presenter Hello. Today the City of London, financial capital of Europe and home to some of the worst employers in Britain, and why working for a small firm can lead to big problems. First though...
- Recorded voice "A clergyman from Cumbria has begun an appeal against losing his job over allegations of sexual harassment, bullying and financial irregularities."
- Presenter Earlier this month a disgraced clergyman appealed to the Archbishop of York to reinstate him in his job. The Reverend Harry Brown's licence to Minister, without which he's not allowed to do his job, was revoked by his Bishop after those very serious allegations were made against him. The decision in the case will be based on what's called Canon Law and appeals of this sort are almost invariably heard in private. In this instance, however, the Archbishop agreed to the Rector's request that his case should be heard in public. A rare instance of openness on the part of the Church of England, according to Reverend Brown.
- Rev. Brown I've always said that I felt that I was accountable to my community, therefore they should know all the facts. It seems to me, and I may be completely wrong, that maybe senior members in the church don't have that same accountability as they would do in industry or in a professional organisation.
- Presenter A decision on the case is not expected until next year but whatever it is, the Church of England will have acted as both prosecutor and judge in the case as it invariably does. That's because the clergy are not covered by the ordinary laws of the land which protect workers' rights.
- Presenter Chris Ball of the MSF Union told me what that means in practice.
- Ball If you're dismissed you can go along to an employment tribunal, you can make a claim for unfair dismissal. If you're made redundant, you've got a statutory right to a redundancy payment. If you're paid below a certain level, then you can have recourse to the fact that there is now a minimum wage legislation on the statute book, and if you're discriminated against at work you can go to an Employment Tribunal and make a claim for sex or race discrimination or disability discrimination. None of those things are available to clergy.
- Presenter In fairness, I think the Church of England does provide a range of rights to its clergy. They do get things like holiday pay, maternity

pay, don't they? Does it really make a difference that they're not given those things in law?

Ball They get most of those things most of the time. It's really when things happen, something goes wrong and something is withheld, that we discover how useful it is to have a legal right, and we certainly do have examples of clergy, for example, who've had their stipends cut, quite arbitrarily, and we do know, for example, that Hindu Priests are being brought over to this country and are being employed or engaged on less than the national minimum wage and they have of course absolutely no legal remedy.

Presenter So even though faith organisations are clearly different from other employers, do you think that their employees, their workers, I should say, should have exactly the same rights as other employees?

Ball Absolutely. I see absolutely no reason whatsoever why faith employees should be treated in any way at all as second class citizens when it comes to the basic minimum statutory floor of rights that ordinary people enjoy. Remember these are minimum standards that everybody is entitled to in this country.

Presenter Chris, this is a thorny issue. How confident are you that you're actually going to see a change in the law?

Ball Well all I can say is that the government is currently consulting on this issue. We think that they are favourably disposed, we think that the tide is probably now moving in our favour.

Presenter In the Church of England, clergy generally fall into two categories, those with a permanent licence to minister, in other words a pretty well permanent job in a particular parish, they're known as freeholders or incumbents. The other category operate a bit like contract workers in that they're given a licence by their Bishop to do a job for a set period of time. These priests in charge, as they're known, and the curates who work with them, are vulnerable because their Bishop has the power to withdraw or refuse to renew their licence as he sees fit.

Presenter Venerable Dr. Gordon Kuhrt joins me now on the line from Church House, the Church of England Headquarters. He's Director of Ministry for the Church with responsibility for employment issues and in our Millbank studio is Father Paul Andrew, Priest in charge of St. John's Hammersmith in West London and a member of the MSF Union.

- Presenter Dr. Kuhrt if I may start with you. Chris Ball suggested there that the Church of England and indeed other faith organisations are treating their clergy as second-class citizens by withholding these basic statutory rights. Is there a good reason why they shouldn't be treated like anyone else?
- Kuhrt Well I thank you for inviting me. I do think there are some reasons why they are in a different situation. Can I start off by saying that we should be completely committed to proper provision for our priests, that is stipend housing expenses and proper conditions of service. That is absolutely vital.
- Presenter Right.
- Kuhrt The next question is, is that best done through a contract with the church as employer, or is it better done in an alternative way? That's really the crucial issue that we need to develop in the coming months.
- Presenter Well every other organisation does it through a contract of employment, don't they?
- Kuhrt Well that may well be so but there would be two big problems in applying that to the clergy. The first is that they have not for hundreds and hundreds of years been regarded as contracted workers. They have been exercising a Ministry of the Gospel, the good news of God in Christ, and they haven't had an employer, and the question is what kind of contract and what kind of employer would be appropriate. It isn't all loss for the clergy, there's also been immense gain in that they have far greater freedom in the way they exercise their ministry than most people, well than any other people who are contract workers.
- Presenter Let me put some of those points to Father Paul, if I may. Father Paul, I know you favour employment rights for clergy. Some clerics have indeed told us what we've just heard, that they don't necessarily want to become employees. They feel that the basis of their relationship with the church should remain trust, not law?
- Father Paul
Andrew Yes but I mean I think I need to take up one thing that Gordon said, and one thing that you said at the beginning, first of all people who are employed as priests in charge are not employed for a set period of time?
- Presenter I beg your pardon?

- Father Paul
Andrew If I can give my own example, when I was appointed priest in charge to my church, the Bishop said, “well you’ll be fine in this job as long as I live” and unfortunately he died of a heart attack eight years later and the present Bishop is trying to close my church and get rid of me. So that does sort of hit home.
- Presenter So you’re making the point that you remain exposed?
- Father Paul
Andrew Exactly.
- Presenter With no continuity of employment beyond an individual’s word?
- Father Paul
Andrew And one thing that Gordon said, he said that the church was committed to a stipend. I mean there’s a significant difference between stipend and pay. A stipend is what clergy receive for not working, and if, for example, a husband and wife were working in a parish, they could receive one stipend instead of two wages and I don’t think anyone would accept that that’s proper in this day and age.
- Presenter Dr Kuhrt if I can come back to you. Let’s move away from individual cases and come back to the central point, that as far as I understand it there are no independent cheques and balances on the Church’s employment practices? So in theory a Bishop could prevent a clergyman or woman from working in a particular parish, ostensibly for perfectly proper reasons, but in fact perhaps because he just didn’t like them or he didn’t care for the colour of their skin and there is no independent regulatory system in place to put injustice like that right?
- Kuhrt I do agree with you that the present position is unsatisfactory and I do believe that priests-in-charge and curates need new provisions for their security. I personally accept that. The question is whether the legislative route through the law of the land is the best way, the better way to do that. There is an alternative. The alternative is that the church or other faith communities are challenged by the government, by the Department of Trade and Industry, to develop a system that holds water and that delivers the very concerns that your other correspondents, Chris Ball and Father Paul Andrew, are concerned about. Those needs need to be addressed. The question is what is the better way to address those needs?
- Presenter Well one woman who does feel very strongly that clergy do need the full protection of the law is the Reverend Christine Medway.

She's registered blind and she ran into problems towards the end of her first job as a curate when she tried to talk to her Bishop about where her next job might be.

Medway There is a lot of hesitation in discussing things openly. I had great difficulty, first of all, even getting an interview and secondly, actually discussing any potential future that there might be. In my case I would guess because I had been diagnosed with multiple sclerosis and I had had a few health problems in 1999. It is unpredictable and most people would probably retire. But these questions weren't really asked of me and I found it very difficult to get anyone to discuss with me what can I do.

Presenter So you feel that the assumption was just made that you wouldn't really be able to carry out your duties and so the best thing would be for you to retire?

Medway There was a definite pressure there, not as baldly put as that, but there was a definite pressure there, and secondly, I did have a letter saying, well you're remarried, your husband is the main breadwinner now.

Presenter So they were suggesting that because there was another breadwinner in your family, there wasn't really any need for you to have a job?

Medway Absolutely, unbelievable.

Presenter Sue, what did you do about this situation?

Medway Well I'm one of those people that sort of tries to get on with it in the end and say, this is my vocation, I feel that I can carry on and I also had medical evidence from a leading neurologist to say, my physical condition was all right to carry on.

Presenter What about this question of a reference, because it's crucial for you to have a reference from the Bishop before you can then go on to another job?

Medway Yes you can't apply for other posts or go on what's called the "lee list" unless you have a commendation from the Bishop and in my case it was quite difficult to get at the beginning. But eventually one was forthcoming when I applied for a post anyway outside of my original diocese.

- Presenter So that being the case, I mean are you in fact convinced that your disability had any bearing on the fact that perhaps they were reluctant to find you another job?
- Medway I'm pretty sure, what other explanation could there be really?
- Presenter Dr. Kuhrt, Christine Medway makes a strong point really doesn't she there. No-one is suggesting the clergy are routinely being ill-treated by their superiors, but they do seem on occasion to be left totally in the dark about their futures. That surely must be unacceptable?
- Kuhrt Well if anyone was left in the dark that would be deeply regrettable and I don't want to comment on Christine's story, because obviously I haven't heard of it until today.
- Presenter Indeed.
- Kuhrt But I do want to say that clearly occasionally things go wrong in any walk of life.
- Presenter So is that not an argument in favour of independent regulatory regime?
- Kuhrt Well it might be, it might be, but we all know dozens of stories, or at least perhaps not everybody does, but I know many stories of people with very significant disabilities who are Parish Priests and Incumbents and Vicars. We've got a Vicar in Kings Lynn who's almost completely blind and he's elected member of General Synod.
- Presenter Well no-one will deny that there are positive stories Dr. Kuhrt.
- Kuhrt We have clergy with wheelchairs, we have clergy who are profoundly deaf and they're welcomed and their ministry is much valued.
- Presenter Do you not need to legislate for the cases where people are discriminated against?
- Kuhrt We might need to, we might need to and I'm very, as I said right at the beginning of the programme, proper provision, proper conditions of service are of great importance to me. The issue is how best should we deliver that in the church or the other faith communities?

- Presenter Thank you very much indeed, it's an interesting subject. I hope we will return to it. My thanks to Venerable Dr. Kuhrt and to Father Paul Andrew. And talking of workers rights, it's always worth remembering that being entitled to something isn't necessarily the same thing as getting it. Employers can be very slow to comply with the law and there's now evidence that people who work for small organisations are the most likely to run into difficulties in getting their rights. That is bad news because around half the workforce is employed by firms with fewer than 50 staff. The reasons for the problem aren't clear but ignorance does seem to play a big part according to new research by the DTI. In their survey only one in 5 small firm bosses describe themselves as confident about the law in this area. Elsewhere though, it seems that some managers are prepared to push the law to its limits and beyond. Mike Johnson reports.
- McGivern "Where's your big football?"
- Reporter These days Lisa McGivern is a full-time mother but last summer she was working as a care assistant in a nursing home. She already had a six month old baby girl when she discovered she was pregnant again. Once Lisa stopped working she needed to claim the state maternity allowance to which she was entitled. That meant asking her employer for a form so she could get the money from the government. Lisa's manager said she'd send it within days but it didn't arrive.
- McGivern I phoned up two weeks later after first requesting it and she said that she'd spoken to the accountant and it was in hand and it will be with me in the next couple of days, but unfortunately still never arrived. So I'd phone up a couple more times and their deputy managers at work there would say that the manager was unavailable to talk to and they said they'd leave a message and it should be with me as soon as possible.
- Reporter Just a few weeks before Lisa's baby twins were due the form still hadn't turned up. It would have cost her employer nothing to provide it, but for Lisa there was much more at stake, around £1,000 in benefit.
- McGivern I was angry at first but I was also upset as well you know that they felt the need to treat me like that. I was just quite up tight all the time worrying about this form, worrying about if I didn't get it how we'd manage financially. I couldn't really understand why it would take so long for a simple procedure.

- Reporter After consulting her local Citizens Advice Bureau, Lisa wrote to the Nursing Home formerly requesting the paper work. A full six weeks after she first asked, it finally arrived.
- Reporter Well as you'd expect it's a scene of peace and tranquillity here on the Devon Coast at the residential home in Paignton, where Lisa used to work. Around 30 people are employed here, the classic small business, I suppose. Now the home's management has told us it didn't deliberately withhold the form Lisa so badly needed to get her maternity pay. It says it's a simple matter of struggling with all the paper work involved in running the home. On a wider note, the home says, employment law in particular is changing so fast it can be difficult to keep pace.
- Reporter Lisa's experience is backed up by studies done by the Small Business Research Centre at Kingston University. It was commissioned by the DTI to poll more than a thousand small firms to discover just how much they know about employment law. Robert Blackburn is the Centre's Director.
- Blackburn Owner managers will only deal with personnel issues as a side issue rather than as a mainstream business issue. It's not really at the top of their shopping list.
- Reporter Does that mean they just won't have the time or the knowledge to deal with this area properly?
- Blackburn I think it's both. It's both time and knowledge but it's also whether or not they actually want to know about this.
- Recorded voice "Hello Citizens Advice Bureau. Can I help you. Right."
- Reporter This is the office Lisa rang for help. Torbay Citizens Advice Bureau handles around 1600 enquiries a year concerning the workplace. Adviser, Mary McClaran says many of the problems relate to small businesses.
- McClaran This case isn't unusual at all. Sometimes I feel there is just ignorance among small employers of the raft of employment legislation that's been introduced in recent years. Sometimes I think there's a little bit more than ignorance, it's perhaps wilful ignorance.

- Reporter That wilful ignorance can mean workers actually losing out on hundreds of pounds worth of benefits which the law says should be there's.
- Arthur We going to Eastenders country now, Victoria Pub.
- Reporter Pontins Holiday Camp, Blackpool. This is where Judy Arthur, not her real name, likes to take her summer break from her job as a cleaner. But because of her employer's unusual approach to the law governing holiday pay, she hasn't received a penny for the time off she's taken since she joined a year and a half ago. What Judy's company has done is breathtakingly simple, but also breathtakingly illegal. It's written into her contract that she's not entitled to any holiday pay in her first year. Judy signed that contract because at the time she didn't know any better.
- Arthur I didn't think anything about it. I thought that's how it was. I did go on holiday for two weeks and when I came back and got my wages I got no holiday pay at all. I wasn't annoyed at first, but then I found out that it is illegal and it was my sister that put me on to that because she's a union rep.
- Reporter Armed with this new information Judy went to her boss, but he just didn't believe her.
- Arthur He didn't agree with any of it, and he says once it's written in your contract that's it. He said that he was in the right and he weren't forced to pay holiday pay to people.
- Reporter Well actually he is. Everyone has had the right to paid holiday since 1998. Plenty of time for Judy's boss to catch up. Judy believes he's well aware that what he's doing is wrong.
- Arthur He's definitely trying to take me for a ride. I think he makes his own laws. I am entitled to holiday pay like everybody else.
- Reporter We would have liked to point out to Judy's company that what it's doing is illegal but she's worried that that would lead to her being sacked and that fear is justified according to small business expert, Robert Blackburn. He believes people like Judy can face an uphill battle when it comes to securing their employment rights and it's all to do with the size of the company they work for.
- Blackburn Some people regard owner managers in small firms to be benevolent dictators and benevolent dictators win out if there's a battle. No matter what legislation exists, owner managers can,

through one way or another, get employees to leave. So the sub-culture within small firms does make it difficult for assertive employees to continue to be in employment.

Presenter Robert Blackburn ending that report by Mike Johnson and the DTI has come up with an idea which it hopes might help put a stop to the sort of problems Mike was exploring there. It's planning to pilot what it's calling "law advice visits" where advisers would go into small firms with a view to helping employers understand and carry out their legal obligations to their staff. Joining me on the line to discuss that I have David Bishop from the Federation of Small Businesses and here with me in the studio I have Richard Dunstan of the National Association of Citizens Advice Bureaux. David Bishop, if I can start with you. As I understand it, small firms would request one of these law advice visits if they felt they were in any doubt about what they should be doing on the employee rights front. What do you make of the idea? Would it be helpful?

Bishop It would definitely be helpful. For a number of years we've been saying that the only way this problem can be tackled is if DTI officials are prepared to come into premises of small business owners and actually talk to the owners on site, thereby getting a better idea of what the business is truly about and saving the owner time and money.

Presenter Richard Dunstan, can you see this scheme actually reducing the sort of problems we were hearing about?

Dunstan It's definitely a good idea and definitely a good step in the right direction. The DTI research that you referred to confirms the experience of CABs over many years which is that far too many employers are insufficiently aware of their legal obligations to their workforce. The problem is clearly, as the research has identified, not a lack of information, there's plenty of information out there, the difficulty is getting that information to employers and employers acting upon it.

Presenter Well yes as you say, I mean there are business links, there's the small business service, there's ACAS, Advisory and Conciliation Service, it's all there isn't it, if they need it?

Dunstan It is, but CABs advise employers as well as employees and we have sympathy for the position of small employers, in particular the pressures of running a small business in an increasingly competitive economic environment are immense. Employment law is

incredibly complex, it changes frequently, and small employers are unlikely to have an employment specialist who can keep up to speed on such matters, and it's understandable sometimes that the employer simply won't be aware of a new law or a change in law and that's why this service will help get that information to employers and help them to act upon it.

Presenter David Bishop, it does seem to me there's a bit of a basic flaw here in that it's the bosses who have to call in the advisers. I mean obviously we can see the good bosses would do that, people who want to comply with the law, but the ones who are being deliberately obstructive, they're not going to do it, are they?

Bishop Well I'm pleased with what Richard says, in that the problem here is not, in the most part, malicious employers, it is ignorant employers and the FSB operates its legal advice line which received 70,000 calls last year and all but a handful of those were from employers who were desperate to find out you know what they can do to offer the correct employment rights.

Presenter Richard Dunstan, I know you at NACAB want to go a stage further than this, you want more teeth?

Dunstan Yes I can see an outbreak of consensus, which is very welcome, but despite what David says, the truth is there is a minority of employers where the non-compliance is deliberate, it is malicious and those employers are taking advantage of vulnerable workers, often low paid, non-unionised, not well equipped to exert their own rights and that's why it's incredibly important that such workers get greater governmental assistance.

Presenter Now you have a plan in mind for this?

Dunstan We suggested that as well as employers getting greater assistance from the government, which is very welcome, we need a stick as well as a carrot for those employers who are unwilling to go and get that advice or who are unwilling to act upon it, an enforcement agency needs to be there to put the pressure on them to act and to have powers to make them act if they are unwilling to do so.

Presenter Do we really need a whole new enforcement agency, we do have employment tribunals, don't we, people can take their complaints there?

Dunstan They do and the employment tribunal system works very well for some people, but it doesn't work for everyone, it's a very daunting,

time consuming and complex system for which there's no legal aid and therefore very little legal assistance. For many people it's simply not worth the effort of going through an employment tribunal claim for what may well be a very small reward. We have a parallel system working already for the national minimum wage where enforcement agency staff go out to check on employers to act on complaints which can include anonymous complaints and to ensure that employers are complying with the law.

- Presenter Richard Dunstan, David Bishop, thank you both very much indeed. The phrase "fat cats" is almost synonymous with people who work in the City of London, bloated plutocrats, the lot of them with their hand made shoes and their big bonuses, if tabloids are to be believed. In fact the truth about working in the Square Mile may be rather different for many people. The TUC claims that it's home to some of the worst employers in the UK. This week it's trying to do something about that with the launch of a union recruitment drive. So we asked workers walking past the Bank of England whether they'd ever considered becoming a union member.
- Worker 1 I haven't really given it much thought to be honest. I work in a non-unionised environment, so it's not something that's really exercised my mind.
- Worker 2 I think it's good that people have representation and more collective power, but whether it will be allowed or whether it will happen I don't know. I think it will be resisted.
- Worker 3 There is the Banking Union but as to becoming a member I haven't really thought about it.
- Worker 4 It depends on what kind of job you do, doesn't it. Some jobs need more protection don't they, so yea I can see it's a good idea definitely.
- Worker 5 Trade in unions, great idea why not, union for fun.
- Presenter So what are city firms getting up to and how common is bad behaviour by city bosses towards their staff. Well more common than you might think according to Richard Lynch of the Financial Workers Union UNIFI.
- Lynch There are lots of examples. A young man recently in an American bank who was being asked to work 90 hours a week and paid 35.
- Presenter 90 hours.

- Lynch Yes. It wasn't 90 hours every week. Some weeks it was only 70 or 80 and a lot of pressure on people to work those hours otherwise you're seen as not being part of the team.
- Presenter But isn't that the way the City's always worked, it's always been a very tough working environment, people are well paid for it, aren't they?
- Lynch Well this particular young man was being paid £35,000 a year, which isn't bad but it's not huge by City standards. But there are vast problems elsewhere as well. This morning, for example, I met a young man who'd been working for a city institution for about five months. He complained about sexual harassment by a long standing female employee and got sacked on the spot. No disciplinary procedure, no warning, nothing, just sacked.
- Presenter So what's going on here? Why do you think so many of these problems are cropping up in the City?
- Lynch Well a lot of City employers are good employers, they trust their workers, they treat them well, but there are a large number, both British and foreign, who don't bother to find out what the laws are, the procedures are, and they get into all kinds of trouble, then they spend huge amounts of money buying themselves out of trouble.
- Presenter Does it tend to be the smaller employers who are creating problems of this sort?
- Lynch Some big employers can be fairly horrible as well. But I think it is probably the smaller employers. There are 300,000 people working in the City. There are 15,000 different employers and of that 15,000 about 80% employ a dozen or fewer staff. That means they haven't got the resources to have a human resources manager, for example. So they just don't know how to behave and unfortunately staff don't really understand what their legal rights are and all kinds of problems crop up.
- Presenter Even in the Heyday of the union movement, the City was not keen on unions. How are you going to persuade them to join up now.
- Lynch Oh that's true. There's never been a tradition of trade unionism in the City. There are about 40,000 or so union members in the City at the moment. It's not big compared to the number of staff.

Presenter This is 40,000 people out of 300,000 people working in the Square Mile?

Lynch Correct. 12 or 13%. It's very low. It is a big jump, I accept that. But I think people are beginning to realise that there are so many problems there and people are so desperate to get something done about them. I think people are more and more going to come to unions.

Presenter Are people going to dare to join, I mean I think it would be fair to say there's almost a stigma attached to being a union member in the City?

Lynch Quite a lot of people dare to join, what they don't dare to do is tell people they've joined. They join just in case there's a problem at some stage.

Presenter As an Insurance policy?

Lynch As an insurance policy, but they're not then telling other people this is a good idea. So that's a problem for us, but we don't mind in a sense. We think people should be in unions and that will give them some protection if things go wrong and that'll be of benefit.

Presenter Richard Lynch of UNIFI. That's it for today. If you'd like more information about anything you've heard in the programme this afternoon, you can email us at nicework@bbc.co.uk or you can call the BBC Action Line on 0800 044 044. You'll find useful web links on our web page where you can also listen to this afternoon's programme again. Here's the address:-
www.bbc.co.uk/radio4/nicework. I'll be back same time next week.

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