

CASE NOTES

EDITED BY JUSTIN GAU

Barrister, Deputy Chancellor of the Diocese of Lincoln

RUTH ARLOW

Barrister, Deputy Chancellor of the Dioceses of Chichester and Norwich

AND WILL ADAM

Rector of Girton, Ely Diocesan Ecumenical Officer

Re St Luke, Heage

Derby Consistory Court: Bullimore Ch, July 2007

Memorials – churchyard regulations

A memorial was approved by the incumbent and erected. It did not conform with the design submitted and, had the true design been submitted, the incumbent would not have approved it. The chancellor took the opportunity to review the churchyard regulations and the procedure for the installation of memorials in general. He identified that a parish priest has no power to approve the installation of a memorial that falls outside the regulations. He or she may approach the archdeacon for guidance, who may allow a departure from the strict guidelines where there have been many other such departures, but the priest is not bound to accept the guidance. The family must then seek the permission by petitioning for a faculty. The chancellor may grant permission for the installation on the basis that he is substituting his judgment on the suitability of a proposal that was not within the regulations. He is neither breaking his own regulations nor acting as an appeal court from the decision of the parish priest. [JG]

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Ladele v London Borough of Islington

London Central Employment Tribunal, May 2008

Civil registrar – ‘gay marriage’ – doctrinal objection – dismissal

Miss Ladele refused, on grounds of conscience, to perform civil partnership ceremonies when Islington Council designated all its existing registrars as civil partnership arrangement registrars. This ultimately led to a disciplinary hearing alleging failure to comply with the council's equality and diversity policy by refusing to carry out work solely on the grounds of sexual orientation of customers. Ladele subsequently brought a complaint of discrimination on the

grounds of religion or belief under the Employment Equality (Religion or Belief) Regulations 2003. The tribunal concluded that she had suffered direct and indirect discrimination and harassment on grounds of religion or belief. She had demonstrated that she had suffered a number of detriments (contrary to Regulation 10(3)), which the tribunal was able to view cumulatively and conclude that there was direct discrimination on grounds of her Christian faith. The requirement that all registrars should carry out civil partnership ceremonies and registration duties constituted indirect discrimination, since this put individuals who held orthodox Christian beliefs about marriage at a disadvantage and actually disadvantaged Miss Ladele, and the council had failed to show that this was a proportionate means of achieving a legitimate aim. The council's refusal to take her views seriously, the allegations that she was discriminating on grounds of sexual orientation and was displaying homophobia, and the fact that she was subjected to disciplinary proceedings constituted harassment. The tribunal noted that the case involved 'a direct conflict between the legislative protection afforded to religion or belief and the legislative protection afforded to sexual orientation'. The tribunal stated that 'Both sets of rights are protected. One set of rights cannot override the other set of rights.' In protecting the rights of the lesbian, gay, bisexual and transsexual community, the council had ignored Miss Ladele's rights in respect of her orthodox Christian beliefs.

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Johnston v Liverpool Diocesan Board of Finance

Liverpool Employment Tribunal, June 2008

Unfair dismissal – relationship between bishop and employee

The claimant alleged unfair dismissal by the Diocesan Board of Finance (DBF) for which he had been Director of Communications. An essential part of the job was working with the diocesan bishop and the media in relation to publicity. In early 2006, the claimant left his wife and began another relationship. He had canvassed that issue with the bishop. In November 2006, a press release was issued on behalf of the bishop apparently claiming, inter alia, that he had given guidance to the claimant and his new partner and that the claimant's future with the DBF was in jeopardy. The claimant submitted a grievance and a meeting took place in January 2007. The claimant lodged an appeal in March 2007, at which he read out a statement accusing the bishop of lying in the November press