

CASE NOTES

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Chaplin v Royal Devon and Exeter Hospital NHS Foundation Trust

Exeter Employment Tribunal, April 2010

Religious symbol – uniform policy – Employment Equality

Ms Chaplin, a nurse who was a communicant member of the Free Church of England, refused on religious grounds to stop wearing a crucifix with her uniform, contrary to the Trust's health and safety policy. As a consequence she was redeployed from nursing duties to be an Admissions and Discharge Coordinator, in which post she was not subject to the same uniform restrictions. The minister of her local church gave evidence to the effect that it was not part of the doctrines of the Free Church of England that its adherents should wear crucifixes. It was held that she had not been subjected to direct or indirect discrimination contrary to the provisions of the Employment Equality (Religion or Belief) Regulations 2003. Despite evidence that another nurse had been asked to remove her cross and chain, the Employment Tribunal held by a majority that the other nurse had not been put at a particular disadvantage since her religious views were not so strong as to lead her to refuse to comply with the policy and, following *Eweida v British Airways*, concluded that the uniform policy did not 'place "persons" at a particular advantage'. The minority, by contrast, held that both nurses had been placed at a disadvantage but that this was justified. [Frank Cranmer and Russell Sandberg].

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Catholic Care (Diocese of Leeds)

Charity Commission for England and Wales, July 2010

Adoption agency – Equality Act (Sexual Orientation) Regulations 2007

The Chancery Division of the High Court had remitted to the Charity Commission for reconsideration whether or not Catholic Care (which refused as a matter of theological principle to provide adoption services to same-sex

couples) should be permitted to change its objects so as to bring its activities within the exemption for charities in regulation 18 of the Equality Act (Sexual Orientation) Regulations 2007. Having duly reconsidered the matter, the Commission refused consent to Catholic Care amending its charitable objects to restrict adoption services to heterosexual prospective parents only, on the following grounds:

- i. the interests of the children were paramount and it was in the interests of children waiting to be adopted that the pool of prospective parents should be as wide as possible;
- ii. discrimination on the ground of sexual orientation is a serious matter because it departed from the principle of treating people with equal respect;
- iii. if the charity were to close its adoption service, the children who would have been placed with prospective parents supported by the charity were likely to be placed with prospective parents through other channels;
- iv. the local authorities concerned considered that homosexual people were suitable prospective parents for hard-to-place children and such adoptions had been successful; and
- v. the Chancery Division had indicated that in the circumstances of this particular case, respect for religious views did not justify discrimination on the ground of sexual orientation. [Frank Cranmer]

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Re St Mary the Virgin, Monkseaton

Newcastle Consistory Court: Hodson Ch, September 2010

Nave altar – absence of provision for kneeling

The parties opponent to a petition for the reordering of an unlisted church did not object to a nave altar in principle, but objected to the specific proposals because of the absence of rails and of provision for communicants to kneel to receive communion. The chancellor, having found that the proposals for the nave altar had the support of the parish as a whole, held that those objections were not of sufficient weight to justify the refusal of the grant of a faculty. A faculty was granted. [Alexander McGregor]

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