

present case: it was clear that the claimant wished to wear her headscarf at all times in work. The tribunal also rejected the claimant's analogy with the employment tribunal decision in *Eweida v British Airways*,³ on the basis that the respondent ran an extremely small business and that the display of hair was related to the nature of the business in a very particular way, which pointed to a risk of a potential adverse impact different from that in the *Eweida* case. The tribunal found, however, that the respondent's application of the PCP was not justified. Although it was reasonable for the respondent to take the view that the issue posed a significant risk to her business, too much weight was accorded to that concern. The respondent herself would have continued to display her own hair and the reason why the claimant was not displaying her own hair would have been entirely apparent to customers or potential customers. These reasons, coupled with the discriminatory impact and the fact that the PCP did not constitute a core requirement of the job's function, meant that the claim of indirect discrimination was well founded.

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Re St Mary the Virgin, Oxford

Oxford Consistory Court: Bursell Ch, June 2008

Memorial – heresy and treason – departure from precedent

The petitioners – the vicar and churchwardens – sought to erect a memorial, in the form of a tablet placed above the choir stalls, to commemorate 'those who died for their faith, both Catholic and Protestant from the University and Oxfordshire, in the Reformation centuries'. The DAC had no objection to the proposal save an amendment to part of the design, which was accepted by the petitioners. The PCC had unanimously approved the proposal and there was considerable local and high-profile support for the scheme. The chancellor drew attention in his judgment to the fact that several of those commemorated had been executed for heresy and others for treason. He reviewed the law outlawing the burial of those who had died as heretics or excommunicate and of those who were executed for treason. He referred to his own judgment in *Re St Edmund's Churchyard, Gateshead*,⁴ noting the presumption against the commemoration of someone executed for high treason who had not been granted

3 See Case Note at (2008) 10 Ecc LJ 256 and L Vickers, 'Indirect discrimination and individual belief: *Eweida v British Airways plc*' on pp 197–203 of this issue.

4 *Re St Edmund's Churchyard, Gateshead* [1995] Fam 172, [1995] 4 All ER 103, Durham Cons Ct.

a posthumous pardon. In the *Gateshead* case, he had refused to permit the commemoration as a martyr of a catholic priest executed for treason. He considered his previous judgment 'too restrictive and less than charitable', particularly given recent improvements in ecumenical relations. He had not taken into account that the calendar of festivals in the Church of England commemorates such figures as Thomas More and John Fisher alongside the protestant martyrs of the age. The faculty was granted. [WA]

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Re St Andrew, Bainton

York Consistory Court: Hill Dep Ch, August 2008
Churchyard – bench – objections

The rector, churchwarden and PCC secretary applied for a faculty to introduce an iron bench into the churchyard extension in memory of a teenager buried there. The DAC offered no objection. A resident of a neighbouring property objected by letter but did not seek to become a party opponent. The deputy chancellor dismissed each of her objections, which included a concern that the provision of a bench would encourage more criminal behaviour in the area, that the bench was of poor workmanship, that the land might be needed for future burials, that another location had first been considered and rejected, and that the family concerned did not attend church. He concurred with the DAC's judgment that the proposed bench would not detract from the character of the Grade I listed building. The faculty was granted until further order, with the particular caveat that, if the objector's fears about the attraction of 'undesirables with a criminal intent' came to be realised, then the faculty could be set aside and the bench ordered to be removed. [WA]

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Re St Andrew, Kildwick

Bradford Consistory Court: Walford Ch, October 2008
Re-ordering – funding – economic conditions

The petitioners sought a faculty for a major re-ordering of the Grade I listed church. The proposals were broadly supported by the DAC, the amenity societies and the district council. There was considerable local opposition. The chancellor noted that the scheme had been devised at a time of 'wholly different