

by the uniform policy. This claim was rejected on the grounds that, whatever the ring was meant to symbolise, it was still undeniably a piece of jewellery, and that the applicant was not obliged to wear it. Both the school and the applicant noted that alternative means of manifesting this belief pursuant to school rules were available to pupils (eg, key-chains, badges, etc) without undue hardship or inconvenience; they also noted the active encouragement by the school for the applicant to discuss her beliefs during PSHE class. The school's uniform policy did make necessary concessions where strict adherence to the policy would constitute an unlawful breach of the human rights of a pupil. Most relevantly, the school permitted two Sikh girls to wear the *kara* bracelet prescribed as an essential requirement of the Sikh religion. Accordingly, the school's uniform policy was prescribed by law, proportionate and promoted legitimate aims.

The applicant further alleged that her Article 14 rights (prohibition of discrimination) were breached because specific exceptions allowed for Islamic headscarves, hijab and Sikh *kara* bracelets, with no analogous accommodation for Christianity. The court found no evidence to support this claim, as all exceptions to the uniform policy were arrived at through carefully reached decisions on each occasion. This included an exception for a Christian girl to wear a headscarf pursuant to her obligations as a member of the Plymouth Brethren.

Case note supplied by Jeremy A Brown

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Reaney v Hereford Diocesan Board of Finance

Cardiff Employment Tribunal, July 2007

Employment – discrimination – sexual orientation

The claimant applied for the post of Diocesan Youth Officer, was short-listed and interviewed for the post. In his application and in the interview, he disclosed that he was homosexual and had been in a same-gender relationship, which had recently ended, and that he did not intend to enter into a fresh one. He was unanimously selected as the best candidate for the post 'by a long way' and he was told that he would be recommended for the post, subject to the bishop's approval. The bishop made it clear to the panel that he considered the claimant's lifestyle a serious impediment to the post. The bishop interviewed the claimant. During the interview, the claimant assured the bishop that he would remain celibate, but if he were to meet someone he would speak to the bishop. The interview continued in relation to issues of human sexuality. The bishop was concerned about the claimant's attitude being affected by the raw emotion of the end of his relationship and his

inconsistent attitude towards celibacy. The claimant was not offered the post. The claimant claimed he had been harassed and discriminated against. The claimant argued that sexual orientation was a private matter, that the bishop's interview was inappropriate and psychologically damaging and that, accordingly, this was a case of clear discrimination and that regulation 7(3) of the Employment Equality (Sexual Orientation) Regulations 2003 was raised. If the section applied, then discrimination had been proved, as the post does not 'promote religion'. The respondent argued that the claimant had raised the issue of sexuality, not the bishop, that the questioning was appropriate, that the post did promote and represent religion and that the concern expressed by the bishop about the claimant's emotional rawness was reasonable. The tribunal rejected the claim for harassment. In relation to the issue of discrimination, the tribunal stated that the regulations do not make a distinction between the mere fact of being gay and expressing that sexual orientation in behaviour. Accordingly the tribunal considered the question whether the claimant would have been treated as he was but for his sexual orientation. The answer was 'no'. The claimant would not have been required to convince the bishop of his future intentions to the sort of standard that the bishop required, had he not disclosed his sexual orientation. The bishop had therefore discriminated directly against the claimant. The tribunal also accepted that there had been indirect discrimination, in that the claimant had to be celibate, a criterion that would not apply to persons not of the same sexual orientation. The tribunal considered that the post would primarily be to represent the diocese, not to be engaged in actual youth work, but the tribunal concluded that the job was one of the few posts outside the clergy that fell within regulation 7(3) of the Regulations, thus regulation 7(3)(b)(ii) would be satisfied. They concluded that the attitude of the claimant in assuring the bishop of his intention to be celibate was appropriate and that the bishop's concern for his future behaviour was untenable (bearing in mind that the bishop had not concluded that the claimant's answers were untruthful). Accordingly, the statutory defence to discrimination under regulation 7(3) was not made out. [JG]

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Re St Michael, Kirkham

Blackburn Consistory Court: Bullimore Ch, August 2007

Faculty – objection – petitions

In granting a faculty for the reordering of a parish church, the chancellor stated that the consistory court would pay little regard to informal petitions of signatures gathered in opposition to a faculty application, noting: