



Re St Christopher, Ellistown

Leciester Consistory Court: de Mestre Ch, 10 June 2022

[2022] ECC Lei 2

Addition of church porch – unlisted building

The petitioners sought a faculty for the addition of a porch over the west door of this unlisted Victorian church. They had rejected the suggestions of the Ancient Monuments Society and the Victorian Society for an internal storm porch, as impractical; and for a grander design, on the grounds of cost. Other suggestions had been incorporated into the design.

The court considered the matters in accordance with the approach set out in *re Maidstone, St Luke* [1995] Fam 1, Court of Arches: ‘... not simply to concentrate upon the effect of proposed works upon the fabric or appearance of the church in isolation, but to consider the proposals in the context of and taking full account of the role of the church as a local centre of worship and mission’. While the church was a fine building of architectural interest, it was not to be treated as if it were listed and therefore subject to the enhanced *Duffield* considerations. Instead, the correct approach was to consider the impact of the works on the appearance and significance of the church, and determine whether the benefit resulting from the change was of sufficient substance to outweigh that impact.

The court was satisfied that the impact on the appearance and significance of the church by the addition of the porch would be minimal. Further, the benefits to the mission of the church in a growing, recovering and increasingly engaged community were important. The heat loss improvements also strongly supported the church’s commitment to the environment. These combined benefits were of sufficient substance to outweigh any negative impact that there might be on the appearance and significance of the church. A faculty would issue. [Naomi Gyane]

doi:10.1017/S0956618X22000928

Ms M Forstater v CGD Europe & ors

Employment Tribunals: EJ Glennie, 6 July 2022

[2022] UKET 2200909/2019

Belief in immutability of biological sex – protected by Equality Act 2010

Maya Forstater, a writer, researcher and adviser on sustainable development, was a Visiting Fellow with CGD Europe, a subsidiary of a US global poverty think-tank. In 2018, following the launch of a Government consultation on

amending the Gender Recognition Act 2004, she expressed critical views on transgender issues on her personal Twitter account, which some transgender people found offensive and transphobic. Some of her colleagues complained that they found her comments offensive and, following an investigation, her Visiting Fellowship was not renewed. She made a claim to an Employment Tribunal, complaining that she had been discriminated against because of her belief and arguing that the relationship had come to an end because she had expressed 'gender-critical' opinions: in outline, that sex is immutable, whatever a person's stated gender identity or gender expression. She further contended that her gender-critical views were a philosophical belief and therefore protected under the Equality Act 2010 and that she had suffered direct discrimination as a result or, alternatively, indirect sex discrimination because her views were more likely to be held by women than by men.

The principal issue was whether, in fact, she held a protected philosophical belief within the terms of section 10 of the Equality Act 2010. At a preliminary hearing to determine whether her belief was protected by the Equality Act, the initial Employment Tribunal held that her belief was 'not worthy of respect in a democratic society' and, therefore, failed the fifth test in *Grainger*. She appealed, and the Employment Appeal Tribunal held that the lower Tribunal had erred in law and remitted her claim to a freshly constituted Tribunal to determine whether or not the treatment of which she complained 'was because of or related to that belief'. The EAT also reminded lower Tribunals that, in applying the fifth test in *Grainger*:

'... it is only those beliefs that would be an affront to Convention principles in a manner akin to that of pursuing totalitarianism, or advocating Nazism, or espousing violence and hatred in the gravest of forms, that should be capable of being not worthy of respect in a democratic society. Beliefs that are offensive, shocking or even disturbing to others, and which fall into the less grave forms of hate speech would not be excluded from the protection. However, the manifestation of such beliefs may, depending on circumstances, justifiably be restricted under Article 9(2) or Article 10 (2) as the case may be.'

At the further hearing, the ET held that CGD's decision not to offer Ms Forstater an employment contract nor to renew her unpaid Visiting Fellowship in March 2019 had been direct discrimination related to her 'gender-critical' beliefs; and that her complaint that she had been victimised after being removed from a company website was 'well founded'. However, it dismissed her other complaints of direct discrimination on the basis of belief, victimisation over a withdrawal of an offer to engage her as a consultant, and harassment and indirect discrimination.

Remedies for the successful complaints and any issues as to apportionment between the Respondents were to be determined at a future hearing. [Frank Cranmer]

doi:10.1017/S0956618X2200093X

Re St Michael and All Angels, Pelsall

Newcastle Consistory Court: Verduyn Dep Ch, 12 July 2022

[2022] ECC Lic 6

Memorial – use of deceased’s maiden name only

In the course of a judgment concerning a petition for a memorial in a form outside the diocesan Churchyard Regulations, the court considered whether it was permissible for the memorial to refer to the deceased only by her maiden name.

The deceased had remained in an abusive marriage until her children left home, at which point she was divorced. Thereafter, there was no consistent pattern of her reverting to her maiden name; although she used her maiden name in correspondence and had made it clear to her children that she wished to be buried under her maiden name, formal documents including the death certificate and burial register carried her married name.

The court considered the law on names, emphasising its informality. In the present case, the only real objection to the maiden name appearing alone on a memorial was the risk of confusion. This would be unlikely to arise amongst those who might visit the grave; and any risk of official confusion could be removed by adding an explanatory note to the burial register and appropriately annotating the churchyard plan. There being no legal or practical objection, a faculty would be granted accordingly. [DW]

doi:10.1017/S0956618X22000941