

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:

- i. That there is a statutory procedure for registering opposition to a faculty application; and
- ii. That there was no guarantee that the signatories were entitled to oppose any such faculty application. [RA]

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Re St Stephen, Burnley

Blackburn Consistory Court: Bullimore Ch, August 2007

Telecommunications – procedure – public notice

Certain parishioners applied to set aside a faculty for the installation of telecommunications equipment in the church tower, on the basis that there had been a failure to display the public notice ‘outside [the] church or in some other prominent position . . . so that it [was] readily visible to the public’, in accordance with rule 6(4)(b)(ii) of the Faculty Jurisdiction Rules 2000. The chancellor found a breach of rule 6(4)(b)(ii), in that no public notice had been exhibited outside the church, there being no external notice board and previous experience and the location of the church having caused fears that a notice affixed to the door would have been torn down within hours. The chancellor set aside the faculty on the basis that the breach was a serious failure to comply with the Rules, holding that a public meeting to address the parishioners’ concerns held by the petitioners subsequent to the grant of the faculty could not remedy the deficiencies in the public notice procedure. [RA]

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Re St Mary, Weston Turville

Oxford Consistory Court: Bursell Ch, August 2007

Memorial – churchyard regulations

The petitioner’s daughter had died in 2004 aged eighteen but was a special needs child and was, in the words of the petitioner, ‘only ever going to be a child’. The proposed headstone was, therefore, until the death of one of her parents going to be a child’s headstone, heart-shaped, with the figure of an angel praying leaning on the top of the heart, with the inscription: ‘It broke our hearts to lose you/But you didn’t go alone/For part of us went with you/The day God called you home’. The memorial fell outside the scope of the Churchyard Regulations. The PCC voted by a majority against such a memorial.