



Employment and the Church

The Legal Situation of the Clergy and Churchworkers

Tricky Legal Issues Explained

5 December 2011, London

6 Hours CPD

9.00 Registration and Coffee

9.30 Chairman's Welcome and Introduction

Mark Hill QC, Pump Court Chambers

9.45 Managing Underperformance by Clergy

- Clergy Terms of Service
- Disciplinary procedures
- The role of churchwardens and the PCC

Professor David McClean, Chancellor of the Diocese of Sheffield

10.15 Determining Employment Status of Clergy and Others

- Office holders or employees?
- Clerical or non-clerical?
- Case law round up
 - *Forbes v Eden* (1867)
 - *President of the Methodist Conference v Parfitt*
 - *Younus v Pakistan Muslim Association*
 - *Davies v Presbyterian Church*
 - *Percy v Board of National Mission of the Church of Scotland*
 - *New Testament Church of God v Stewart*
 - *Roberts v Major Read on behalf of the Salvation Army and anor*
 - *Moore v President of the Methodist Conference*
 - *Impact of Autoclenz v Belcher* [2011]

Heather Platt, Pump Court Chambers

11.00 Coffee

11.15 Do Members of the Clergy have the Same Legal Protection as other Workers?

- Unfair and wrongful dismissal
 - Summary of recent changes in unfair dismissal
 - Consider implications of *Edwards v Chesterfield Royal Hospital NHS Foundation Trust*
- Grievance procedures
 - Dos and Don'ts
- Working Time Directive
 - Holidays and sick leave
 - *Williams-Drabble v Pathway Care Solutions Ltd and anor*
 - *James v MSC Cruises Ltd*
 - Sunday and Christmas working

Helen Trotter, 3 Pump Court

12.00 Sexual Orientation Discrimination

- Discrimination on grounds of perceived sexual orientation - *English v Thomas Sanderson Blinds Ltd*
- Discrimination on grounds of another person's sexual orientation - *Lisboa v Realpubs*
- The tension between protection against discrimination on grounds of sexual orientation and on grounds of religion and belief - *Ladele v London Borough of Islington* and *McFarlane v Relate Avon Ltd*

- Future developments - in particular, in light of EHRC's application to intervene in *Ladele* and *McFarlane*

Alison Russell, Pump Court Chambers

12.45 Lunch

1.45 Religious Discrimination: Can the Church Employ only Christians?

- When will it be an 'Occupational' requirement to employ a Christian?
- What is an 'ethos' and whose 'ethos' is it anyway?
- A 'proportionate means' of 'achieving a legitimate aim'?
- Employment for the purposes of an organised religion
- Engaging the 'compliance' and 'non-conflict' principles
- Education special exemptions
- Positive Action in recruitment ss 158-164 EqA 2010?
- Accommodating other religion and belief in the Church as a workplace

Sarah Crowther, 3 Hare Court

2.30 Volunteers

- Legal protections for volunteers
- Recent cases on the employment status of volunteers
- CRB checks and volunteers - the latest position
- Volunteers and vicarious liability

Spencer Keen, Pump Court Chambers

3.15 Tea

3.30 Child Safeguarding in Organisations

- The ethical, legal and practice framework for child safeguarding
- The value of reference to UN convention on rights of the child
- Safeguarding in recruitment and employment
- Case studies in different churches and other organisations
- Update on the disclosure and barring scheme
- Evaluating outcomes and measuring success

Dr Heather Payne, Consultant Paediatrician, Cardiff University

4.15 Health and Safety

- Accidents on church premises
- Public liability for churchyards and monuments

Mark Hill QC, Pump Court Chambers

4.45 Chairman's Concluding Remarks and Questions

5.00 Conference Close

Anyone advising churches, church schools, or members of the clergy will benefit from attending this one day conference.

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Employment and the Church

The Church of England is a major employer, not just of members of the clergy, but of organists, vergers, and secretarial and other support. And on top of this a huge number of volunteers and occasional workers are involved in keeping the church and church services going. The legal issues are challenging - to what extent should legal obligations be varied to accommodate those with religious beliefs? And are members of the clergy entitled to the same legal rights as those without the same higher calling?

Chairman:

Professor Mark Hill QC is an acknowledged expert in ecclesiastical law and acted as junior counsel in the House of Lords in the seminal decision on chancel repair liability in the House of Lords in *Aston Cantlow v Wallbank* (2004) and in the subsequent assessment of quantum before Lewison J. He is the author of *Ecclesiastical Law*, now in its third edition (2004) and is the editor of the *Ecclesiastical Law Journal*. He is Chancellor of the Dioceses of Chichester and Europe and Deputy Chancellor of York and Blackburn, and a member of the Legal Advisory Commission of the General Synod of the Church of England and the European Consortium for Church and State Research. He is Professor of Law at Cardiff University and a Fellow of its Centre for Law and Religion. His latest book, *Religion Law*, was published in 2010.

Speakers:

Sarah Crowther is a barrister practising in employment and discrimination law at 3 Hare Court. She has a special interest in discrimination on grounds of religion and belief and the tension with other protected characteristics, including sexual orientation. She appeared as junior counsel in the Court of Appeal in *Ladele v Islington BC* [2009] and is instructed in the forthcoming Court of Appeal hearing concerning the faith-based objections of Christian guest house owners to unmarried guests.

Spencer Keen is a member of Pump Court Chambers. He practices in all areas employment law and has particular experience in discrimination cases in employment, goods and services and education. He is co-author of *Disability Discrimination in Employment* (OUP). In the Civil Courts Spencer has appeared in harassment and stress at work claims, health and safety claims, and actions both for and against directors and senior employees. He has provided representation in injunction proceedings in the High Court and County Court in a wide variety of matters including actions for breach of fiduciary duty, breach of contract and breach of restrictive covenants. Spencer is also an active member of the Judicial Review team at Pump Court and has provided representation and advice to, amongst others, athletes subject to disciplinary actions by their governing bodies and in Judicial Review cases involving discrimination. Further information is available on www.spencerkeen.com.

Professor David McClean is an Honorary QC and a Bencher of Gray's Inn. He is Chancellor of the Diocese of Sheffield. He was for ten years Chairman of the House of Laity of the General Synod and chaired the group which prepared proposals for what became the Ecclesiastical Offices (Terms of Service) Measure 2009.

Dr Heather Payne is a Consultant Paediatrician specialising in child development, fostering, adoption and child safeguarding, and a Senior Lecturer at Cardiff University. She is the Paediatrician appointed to the Family Justice Council and has extensive experience of Expert Witness work in the Family Courts. In the past she has been Chair of the BAAF UK Medical Group, a member of the Welsh Assembly Government Carlile committee reviewing safeguards in NHS Wales, a member of the Church in Wales Panel of Bishops Representatives for Child Protection, has advised Government on health of Looked After Children, and published widely on health, disability and safeguarding.

Heather Platt has handled a wide range of cases in the employment tribunal and the EAT; she has particular expertise in unfair dismissal, individual and collective redundancy, whistleblowing and TUPE. She is a popular lecturer in employment and discrimination law at a London University and a member of the Free Representation Unit and Bar Pro Bono Unit. She is a regular contributor to chambers' employment law newsletter and appears in webinars. Heather also sits on internal disciplinary panels and has conducted mediations as both mediator and as Counsel representing.

Alison Russell is the head of the Pump Court Chambers Employment Team and sits as a part-time Employment Judge. Alison is highly regarded by clients and solicitors who have praised her razor sharp analysis and highly effective cross-examination skills. She has a wide experience of employment work, specializing in discrimination and whistle-blowing, particularly lengthy and/or complex cases. She presents regular CPD accredited employment law seminars in person and via the internet for a range of organisations.

Helen Trotter is a member of Pump Court Chambers. Her employment practice has developed over the last few years, with particular strength in unfair and constructive dismissal, and interests in disability and sex discrimination. Helen co-edits the Chambers employment team newsletter and has appeared in a number of webinars, speaking on employment and personal injury topics. In 2010, Helen was appointed to the Attorney General's panel of approved Counsel.

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