

Some Real World Examples and Dilemmas

Cases relating to 'visible manifestations' of religion and belief (things people wear)

- A member of the check-in staff at British Airways (BA), Nadia Eweida, was a Coptic Christian. In 2004 a new uniform policy required female staff to wear an open-necked blouse and a cravat. Eweida began wearing a cross openly in 2006 to show her religious commitment. After initially agreeing to remove it, she later refused to do so and was sent home on unpaid leave, later rejecting an offer of an alternative administrative position on the same pay but without customer contact. She lodged a claim for direct and indirect discrimination and harassment in 2006, but all her claims were dismissed, first by the Employment Tribunal and the Employment Appeal Tribunal in January and April 2008 and then by the Court of Appeal in February 2010. Eweida appealed to the European Court of Human Rights which in January 2013 ruled that her Human Rights Act Article 9 right to manifest her belief had unjustifiably been breached. It stated that domestic courts had given too much weight to the employer's need to project a corporate image and not enough to the employee's right to wear a visible cross, which did not adversely affect that corporate image. The UK government accepted the judgment. In the meantime, BA amended its uniform policy from February 2007 to allow staff to display a faith or charity symbol while wearing the uniform. Eweida returned to work, but BA did not compensate her for the earnings she had lost since the previous September.
- Shirley Chaplin was a member of the Free Church of England and a nurse with 30 years' experience. Throughout her working life she had worn a crucifix on a chain over her uniform as a manifestation of her religious beliefs. In June 2007, new uniforms were introduced at the Trust which for the first time included a V-neck tunic for nurses. In June 2009 Chaplin's manager asked her to remove her 'necklace', stating that it contravened the new uniform policy restricting the wearing of jewellery. Her employer offered several alternative solutions, for example, that she wear the crucifix under a high-necked T-shirt or pinned inside a pocket, but Chaplin rejected them all. Consequently, she was removed from her nursing duties and redeployed to a post that did not have the same uniform restrictions. This post ceased to exist in July 2010. Supported by the Christian Legal Centre, Chaplin took her case to an Employment Tribunal which

ruled that she had not been subjected either to direct or indirect religious discrimination. Chaplin's case went to the European Court of Human Rights (ECtHR) in 2011, where it was linked with the Eweida case. The ECtHR ruled against Chaplin in January 2013. The key difference between this case and Eweida's was that the Trust had imposed its restriction on health and safety grounds in order to reduce the risk of injury when handling patients, and that the policy applied equally to non-Christians and Christians because it related to jewellery, not the religious symbol itself.

Cases relating to workplace adjustments (accommodations)

- Jake Fugler, who was Jewish, was employed by a hairdressers in London. After four years there, Yom Kippur, the most important festival in Judaism when many secular, as well as religious Jews fast, refrain from work and attend a synagogue, fell on a Saturday. Fugler requested a day's holiday, but this was refused as his employer had discouraged holiday requests on Saturdays, the salon's busiest day, and several other staff had already booked the day off. After arguing with the salon owner, Fugler walked out. He lodged a claim for religious discrimination, as well as race discrimination and constructive unfair dismissal. In June 2005, an Employment Tribunal found that the employer's provision indirectly discriminated against Jews and was not justified since the employer had failed to consider whether its staffing needs could have been accommodated in some other way.
- In another case, a residential care worker who believed that Sunday was a day of rest, was issued a final warning for refusing work on occasional Sundays and resigned in May 2010. An Employment Tribunal found that her employer was not guilty of discrimination and was justified in requiring her to work on the occasional Sunday. The Employment Appeal Tribunal (EAT) supported this on the grounds that Sunday resting was not a core element of the Christian faith, though the Court of Appeal, which agreed, refrained from making any such comment.
- In the case of Cherfi, a Muslim security guard claimed that the refusal of his employer to allow him time off to attend Friday prayers was discriminatory. This failed since the employer had offered alternative work rotas (involving weekend working in lieu of time off on Friday) that the applicant had declined.