

NHS Trust did not discriminate when removing Christian NED for speaking out against homosexuality and same-sex couple adoption

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Employment Law News

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RELIGION vs SEXUAL ORIENTATION

NHS Trust did not discriminate when removing Christian NED for speaking out against homosexuality and same-sex couple

adoption

Mr Page, a practising Christian, was a non-executive director of an NHS Trust and a lay magistrate sitting in criminal and family courts. He participated in decisions involving adoptions.

In July 2014, Mr Page was part of a panel of Magistrates hearing a same-sex couple adoption application about a young child and he expressed his view to his fellow magistrates that it was his belief that it is always in the best interests of a child to be brought up by a mother and father, and that it was “not normal” to be adopted by a single parent or same-sex couple. His fellow Magistrates complained and Mr Page was subjected to disciplinary action. He subsequently gave an interview to the Mail on Sunday and took part in a radio phone-in.

Mr Page did not inform the Trust about the above. However, the Trust found out about his interviews after receiving a complaint and warned Mr Page that the public expression of his views could undermine confidence that he would exercise his judgment impartially and instructed him to inform it first of any further media interest.

Despite this, Mr Page decided to continue to give interviews to various media outlets, including on the BBC Breakfast News. As a result, he was removed from his magistracy in early 2016. However, Mr Page continued to participate in further media interviews live on ITV News and Good Morning Britain. He stated that homosexual activity was wrong and that he didn't agree with same sex marriage. Mr Page was subsequently suspended by the Trust, which thereafter did not renew the term of his office as a NED.

Mr Page claimed direct and indirect discrimination against the Trust and argued that he had been removed from office because of his religious beliefs.

The Employment Appeal Tribunal dismissed the claim. It had been made clear that there were findings of non-discriminatory reasons for the treatment alleged. In any event, a suitable comparator would have been one who, for reasons unrelated to religious belief, spoke to the media against the Trust's instructions and whose remarks would have been likely to have a negative effect on the Trust's ability to serve the community in its catchment area. There was little doubt that such a comparator would have been treated in exactly the same way as Mr Page.

This case illustrates that the tension between religion and sexual orientation in discrimination claims continues. However, ultimately, Mr Page was not dismissed because he held the views that he held; it was the fact that he repeatedly contacted the media having been told repeatedly that he should not.

Page v NHS Trust Development Authority [2019] UKEAT/0183/18

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