# The proportionality test in discrimination

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The Court of Appeal said that the concept that 'not working on a Sunday is not core to Christian belief' is irrelevant for Tribunals working out whether a Christian's belief that she should not be required to work on Sundays for faith reasons should be granted.

Ms Mba was a care assistant at a children's home run by a Council. She brought an indirect religious discrimination claim when the council required her to work on Sundays. The Court of Appeal agreed that the council's requirement for Ms Mba to work some Sunday shifts was a proportionate means of achieving a legitimate aim (i.e. the needs of the children's home).

The Court of Appeal was asked to find "whether, in carrying out the proportionality exercise, the Tribunal was entitled to give weight to its finding that Mrs Mba's belief that Sunday should be a day of rest and worship "is not a core component of the Christian faith". The Court found that the Tribunal was not because human rights law does not require a test of group disadvantage. As such, the Tribunal should only have focused on Ms Mba's religious freedom when weighing up proportionality. However, what employers need to take away from this decision is that notwithstanding this error, the decision to require Ms Mba to work on Sundays was still proportionate as the council's needs in managing a children's home meant there was no reasonable alternative.

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