



Faith-Based Update

2021

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Welcome



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Decision tool

In consultation with NCVO, we've designed a free decision tool to guide charities and social enterprises faced with serious financial difficulties.

The simple tool provides clearly structured, tailored guidance on the available options. You just answer six questions to receive a detailed report – covering cost cutting, raising finance, collaboration, merger, insolvency advice and mechanisms and more.

bateswells.co.uk/crisis-decision-tool

Get in touch

We would love to hear from you with any ideas of topics or issues you would like us to cover. Please feel free to email Stephanie or Leona.

In this update

Welcome to this update. We begin with wise words from **Lucy McLynn** about what you can do if the conduct of your employees outside of work is not aligned with your organisation's values (page 6). **Victoria Hordern** highlights key data protection challenges (page 10).

Aisha Choudhry brings you up to speed with the major changes to UK immigration law over the last year in light of both Brexit and the pandemic (page 13).

Sophie Cass's two articles relating to churches focus on new churches planting into the UK (page 16) and the new Church Representation Rules for Church of England churches (page 19).

We're delighted to focus on the climate crisis, with **Shanon Shah** providing an overview of the work of the Faith for the Climate network (page 22). On a more personal note, **Lucy McLynn** interviews fellow Bates Wells partner, **Stephanie Biden**, about how her faith has inspired and informed her to respond to the climate crisis (page 25).

Finally, **Barbara Eze** looks at some of the key cases over the past year (page 28).

Welcome

Welcome to this year's faith-based update. We're delighted to be in touch with you again this year. We took a break from our updates in 2020 so we could focus on providing our clients with advice and guidance in response to the Covid-19 crisis.

In the past year we have seen many church and faith communities come under huge pressure, grappling with serious governance challenges and difficult decisions. If there is any way in which we can advise or support you, please do reach out to us.

In responding to the pandemic, we must not lose focus on the even bigger threat posed by the climate crisis. Climate, biodiversity and public health are closely linked, and if we do not respect nature and live within the earth's resources, we can most likely expect further pandemics and an uncertain future.

Faith groups have long been at the forefront of raising awareness of the climate crisis, advocating for both a robust political response and personal lifestyle change. Faith groups have the privileged and unique position of being able to influence millions in their behaviours, teaching your members and followers about why care for creation is so important and offering messages of hope in a potentially overwhelming situation.

Churches and Christian organisations may be interested to see this resource – www.climateemergencytoolkit.com – which was launched recently by a number of Christian charities. It provides a practical resource for making your own declaration in response to the climate crisis.

At Bates Wells, we also believe passionately in the need to take action now to protect our environment. In September 2019, we formally recognised the Climate Emergency and Biodiversity Crisis, and established a Climate Programme to ensure we deliver on our declared commitments. We are pleased to share our [2020 Climate Report](#) with you.

As a B Corp, the planet is one of our core areas of focus and we are proud of the efforts we have made as a firm to realise our climate commitments, but we know there is more we need to do. One of our commitments is to collaborate with others in responding to the climate crisis. We'd love to hear about your own initiatives in this area, and how we can support you.

Stephanie and Leona

Employee conduct



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Employee Conduct

What can a faith-based organisation do if the conduct of its employees outside of work is not aligned with the organisation's values? What if the conduct is of a moral nature, and the organisation and the employee hold different views about acceptable standards of morality and behaviour? We look at some of the employment law challenges involved.

Conduct issues outside of work

Conduct is a potentially fair reason for dismissal of an employee, but most conduct dismissals involve conduct within the workplace (for instance, bullying, insubordination, harassment). Where the employer's concern is about conduct outside of work, it's much more difficult for an employer to rely on that conduct as a fair basis for termination.

Conduct outside of work generally has to be of a very serious nature, and must impact on the employer for there to be a legitimate basis for a fair dismissal. A conviction for football hooliganism, for example, which was covered in the national press identifying both the employee and the employer, was a sufficient basis for dismissal in the 2001 case of *Post Office v Liddiard*.

Employers need to indicate clearly to employees that conduct outside of work may be taken into account as a disciplinary matter, and explain what kind of conduct is unacceptable. This will be highly relevant when an

“Conduct outside work has to be of a very serious nature and have an impact on the employer to justify dismissal”

employer wants to take action because of that conduct.

For faith-based organisations, if expectations are specific, it's really important to have a code of conduct or written set of standards that covers all core aspects of your organisation's expectations about employee behaviour. This document should make it clear that the standards apply to behaviour outside of work as well as in work. Ideally there should also be cross-references to and from the organisation's disciplinary policy.

Social media pitfalls

The importance of clearly communicating employer expectations has been illustrated in cases about social media usage. In the 2014 case of *Game Retail Ltd v Laws*, an employer who sacked an employee for sending tweets that it thought were offensive, threatening and obscene got into difficulties in defending the dismissal as it didn't have a social media policy in place.

In *Walters v Asda Stores (ET/2312748/08)*, a manager said on her Facebook page that it would make her happy to hit customers on the back of the head with a pickaxe! She was found to have been unfairly dismissed because her comment fell into the 'misconduct' category within the examples in her employer's internet policy, rather than within the examples of gross misconduct. Also, the policy didn't draw any distinctions between different levels of staff or set any higher expectations for managers.

Another issue for employers to consider is whether

specific rules about social media comments should be in place where an employee is using their own identity online and there could be a link made back to the organisation. You may feel that high standards of tolerance and politeness, reflecting your organisation's ethos and values, are necessary in interactive media.

Employee engagement with social media can be a really difficult area for faith-based organisations, as there is often, understandably, a lot of encouragement for employees to connect with their employer online and promote their employer's causes, messages and campaigns. The potential flip-side of having these kinds of links, does, however, need careful consideration.

Equality Act considerations

It should be borne in mind that certain attempted restrictions on 'immoral' employee conduct outside of work will be unlawful. In the 2019 case of *Gan Menachem Hendon Ltd v. De Groen*, the dismissal by a Jewish Orthodox nursery of an employee who was co-habiting with an unmarried partner was held to be sex discriminatory. (Interestingly, it was not held that she had been discriminated against because of religion, based on the religious beliefs of the nursery, as she also argued.)

Similarly, an organisation wishing, on moral grounds, to terminate the employment of an unmarried pregnant employee would not be able to do so (because it would be by reason of the protected characteristic of pregnancy). In 1996 a former RE teacher in a Roman

Catholic school who was dismissed after becoming pregnant by a priest was successful in suing the school for sex discrimination (*O'Neill v Governors of St Thomas Moore RC VA Upper School*).

Equally, an employee who is homosexual could not normally be dismissed for this, whatever the organisation's views on same-sex relationships. The only exception to this principle is the very narrow circumstance where employment is 'for the purpose of an organised religion', and a requirement in respect of sexuality is to comply with the religion's doctrines or (because of the nature/context of the employment) to avoid conflicting with strongly-held religious convictions of a significant number of the religion's followers (Equality Act Schedule 9(2)).

Practising the faith

Finally, if you expect your employees to be 'practising' members of your organisation's faith, it should be spelt out if you expect there to be regular attendance at church/synagogue/temple etc. We've often had to advise where there has been a dispute between employer and employee about what it means to be 'practising', with employees arguing that attendance at a place of worship is not an implied element of religious 'practice'.

While this may raise some interesting doctrinal issues, the argument could be avoided by the employer specifying that such attendance is a requirement. Of course, this will only be permissible for posts where

being an adherent to the faith in question has already been established as an Occupational Requirement, which is a whole separate question for an employer's consideration.

Data protection



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Data protection compliance

Data protection compliance is complex for faith communities that regularly engage in large-scale processing of personal data such as:

- Storing information about individuals' religious beliefs;
- Sending fundraising communications to extensive mailing lists of potential donors and supporters;
- Dealing with confidential records about members, beneficiaries and others.

All too often, faith-based organisations have to grapple with difficult and high-risk data protection compliance issues without having dedicated data protection specialists on their staff or governing bodies.

Special category personal data

Data protection compliance is a major challenge for faith-based organisations because of the sensitive nature of the data you hold. Personal data revealing religious or philosophical beliefs is categorised as special category personal data under the General Data Protection Regulation (implemented into UK law as the UK General Data Protection Regulation) (GDPR). The GDPR imposes much stricter rules on the processing of special category personal data than on other data.

Because a person's faith can be inferred from their membership of a religious organisation, faith organisations may need to meet the more rigorous standards applicable to special category personal data for many of their day-to-day processing activities.

It's possible you will also be holding other types of special category personal data, such as information about individuals' ethnicity, health and sexuality.

Lawful basis for processing

All organisations must have a lawful basis for processing personal data (under Article 6 of the GDPR). For special category personal data, organisations also need to satisfy an additional condition under Article 9 of the GDPR.

One of the Article 9 conditions is explicit consent. This is an obvious condition for processing personal data about a person's religion. Explicit consent is a high bar to reach under the GDPR and obtaining valid explicit consent from all of a community's members to the processing of their personal data can be unworkable.

There is an alternative condition to explicit consent under Article 9 that is available only to not-for-profit organisations that:

- are not-for-profit bodies with a political, philosophical, religious or trade union aim;
- are processing special category personal data as part of their legitimate activities – this is likely to cover most activities carried out to further a religious organisation’s charitable aims;
- are only processing the data of members, former members, or other individuals ‘in connection with its purposes’ – for instance partners, supporters or beneficiaries;
- have appropriate safeguards such as restricting access to the personal data, or providing individuals with an opt-out; and
- do not disclose this data to any third party without the individual’s consent.

This condition could be satisfied, for instance, by a church processing the personal data of its members and supporters to run church activities and pastoral care. Note that there is a separate condition for employment law processing.

As this condition is quite narrow, organisations may still need explicit consent to process personal data revealing religious beliefs in the absence of another Article 9 condition.

Are faith organisations responsible for their local volunteers working in the community?

This issue arose in a case involving Jehovah’s Witnesses (JW) in Finland. The European Court of Justice decided that where individual JW volunteers engaged in door-to-door preaching and collected personal data relating to householders by taking notes, these volunteers were data controllers themselves. The JW community had tried unsuccessfully to argue that these personal notes fell outside the scope of data protection law. Faith organisations need to have oversight of data collection by their volunteers and members, as in many cases they will be viewed as a joint data controller – even if the personal data they collect is not being recorded at central organisation level.

Data security

Faith-based organisations must have appropriate and robust security measures in place to protect the personal data you hold. Any breach of security resulting in the loss or disclosure of special category personal data is likely to result in stringent sanctions from the ICO.

For more information on steps that your organisation should be taking to keep personal data secure see this [ICO guide](#).

Immigration



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Immigration

There have been some significant changes to the UK's immigration laws in the last year. Employers must now consider whether they require a sponsor licence in light of Brexit; existing sponsor licence holders must grapple with the new immigration system introduced in December 2020 and ensure that they continue to adhere to their sponsor duties; and all employers impacted by Covid-19 must ensure that they remain compliant with their right to work checks as the checks have been modified in light of the pandemic.

Impact of Brexit

When the UK left the EU under the Brexit Withdrawal Agreement, it resulted in an end to free movement for citizens of the EU, EEA and Switzerland. The new post-Brexit immigration system has been modified to cater for employers affected by Brexit.

Post-Brexit, faith-based organisations seeking to bring Ministers of Religion to the UK will need to possess a sponsor licence and ensure that the person to be sponsored meets the required number of points.

Migrants will need to qualify under either the T2 Ministers of Religion or T5 Religious Workers category. The T2 Ministers of Religion visa can be used to sponsor faith leaders, and those that will be leading congregations and preaching. The T5 Religious Worker visa is a temporary, short-term visa, for those

undertaking non-pastoral roles, supporting religious institutions.

What's changed?

On a positive note, sponsors employing migrants under the 2444 Clergy Occupation Code will no longer have to pay the Immigration Skills Charge.

Resident Labour Market Test

Although sponsors no longer have to carry out the Resident Labour Market Test when sponsoring T2 Ministers of Religion, meeting the new 'genuineness' threshold presents challenges. Sponsors may be asked to provide an explanation of how the person was recruited, their knowledge of the role and whether their experience is relevant. The UKVI must be satisfied that the applicant genuinely intends to carry out the role.

The Resident Labour Market Test is still required for T5 Religious Workers and remains as complex as ever. Although there are exemptions from this requirement, such as for supernumerary positions or members of religious orders, in most cases a sponsor must advertise a vacancy.

Covid-19 right to work checks

Right to work checks have been modified due to Covid-19 and temporary concessions have been put in place by the UKVI. If employers are unable to conduct

a manual or online right to work check, the following steps should be taken:

- Ask the new employee to send a scanned copy or photo of his/her documents proving their right to work via email.
- Arrange a video call with the employee and ask him/her to hold up the original documents. Check the documents against the copies the employee has sent by email.
- Make a record of the date the check was made. Mark this as 'adjusted check undertaken on [insert date] due to Covid-19'. It is important employers use this exact wording.

employers will need to carry out a retrospective check using the normal procedures (either a manual or online check as set out above) within 8 weeks of the measures ending. The retrospective check must be marked 'as the individual's contract commenced on [insert date]. The prescribed right to work check was undertaken on [insert date] due to Covid-19'. Evidence of both checks should be retained by the employer.

Once the temporary measures come to an end,

Requirement	T2 Minister of Religion	T5 Religious Worker
Duties	Work must be pastoral in nature	Work can be a combination of pastoral or non-pastoral
Resident Labour Market Test required?	No	Yes, unless exempt
English language	Yes	No
Maximum stay	Can be sponsored for up to 6 years and may be eligible to apply for Indefinite Leave to Remain.	Maximum stay of 2 years with no option to apply for settlement.

Planting a new church



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Planting a new church

More and more, we are working with faith-based organisations that want to plant within the UK. This can involve establishing new congregations, or setting up a new UK umbrella body or diocese for an existing overseas organisation. Before you design your new charity structure to house your plant, you need to think about structural, ecclesiastical and procedural issues.

Structural issues

Constitutional harmony

The new charity's constitution will need to harmonise with the constitution of the existing mother church or governing body, along with any separate rules or byelaws. This is a delicate balancing act. You will want sufficient safeguards enshrined within the new charity's constitution to protect the spirit and ethos of the overarching church, while still giving the UK entity enough freedom to operate and meet local regulatory expectations.

Structural integrity and guardianship

Will the new charity be a subsidiary of another entity, such as the mother church? Are there individuals who should automatically have a role in the new charity, for example the ultimate head of the mother church? You should also think about what should happen to the new charity's property if it ceases to exist – does it stay with any local churches/congregations or does it pass up to the mother church or global body?

Forwards-facing framework

Future-proofing the structure is important. If there will eventually be individual churches/congregations under the oversight of the new charity, you may benefit from designing a model constitution for these local gatherings that aligns with the new charity. Having this in place from the outset is a lot simpler than trying to harmonise your various churches' constitutions once they have already been established – and helps promote consistency and good governance.

Ecclesiastical issues

Religious roles

Religious roles need to be clearly defined: what does it mean for a person to be a 'Bishop' – which body or person licenses them? Don't forget to provide for interregnums – should a temporary appointee to a religious role also take up any constitutional responsibilities?

Embedding faith

Faith often underpins governance in these sorts of new plant charities. It is helpful to identify the particular beliefs of the new charity within the constitution, such as by appending a statement of faith. Trustees can be required to affirm the statement before taking up the role; and be removed if they no longer adhere to the statement of faith.

Leaders in paid roles

The new charity may have some features that differ from usual charity practices. For example, you may need to justify to the Charity Commission why it would be in the charity's interests for a pastor or other spiritual leader to be a trustee as well as an employee. This is common in churches, and often appropriate given the level of influence a spiritual leader has over the whole organisation. But it differs from the general expectation that charity trustees will be unpaid.

Practical issues

Decision-making

The most common form of decision-making for a secular charity is majority voting. Is there an alternative faith-based model that you want to include in the constitution? For example, discussion and prayer until a unanimous consensus is reached.

Overseas complexities

For overseas bodies setting up a new UK charity, it's common that a number of the intended trustees for the new charity are non-UK resident. You should be aware that the UK transparency requirements (that require details of individuals who 'control' a charitable company to be published on a public register) may bring greater publicity for your trustees than may be the case in their home countries.

Brand licensing

Do consider if the new charity will be using the name of an existing denomination, or if other congregations might affiliate to the new charity in the future and use its name. If so, we recommend taking advice on potential trademark and licensing issues.

A successful plant

Setting up your new congregation or umbrella body can come with a number of unique issues that may be overlooked in a wholly secular approach to establishing the charity. However, with sensitive and careful drafting there is also scope to create a uniquely tailored charity that reflects the spirit and ethos of the faith, and sets your plant up to serve as intended.

Church Representation Rules



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Church Representation Rules

If you are a member of a parochial church council (PCC) or in any way involved with local church governance, the start of the new decade brings you an important question: do you know the rules?

On 1 January 2020, a new edition of the [Church Representation Rules](#) came into force. The new rules entirely replace the previous 1969 rules (and the many amendments to them over the last 50 years). The new rules have been redrafted to make them easier to understand. While many of the concepts and practices will be familiar, there are some significant changes to be aware of to ensure that your church and PCC are operating within the guidelines.

Model rules

Part 9 sets out model rules for parish governance that will apply to each parish by default. However, under the new rules, provision is made for a PCC to make a scheme at an annual meeting to amend, supplement or replace the model rules in order to tailor them to the mission and life of the church in that parish. The bishop's council must approve such a scheme, and can only do so if satisfied that the scheme makes due provision for the representation of the laity and ensures effective parish governance.

“Under the new rules, a PCC can ... amend the rules to tailor them to the mission and life of the church in that parish”

Annual Parochial Church meeting

The deadline for holding an APCM has been extended: instead of 30 April, you now have until 31 May.

PCC meetings

PCCs are no longer obliged to hold at least four meetings per year, but must hold a sufficient number to transact their business. The majority of the members present must be lay members in order for the meeting to be quorate.

Joint councils

'Connected parishes' may now make a scheme to establish a joint council. Where a joint council has been established under the new rules, it will have the same legal status as a PCC. The individual PCCs can decide in the scheme to transfer all their property and functions to the joint council (in which case the individual PCCs go into abeyance); or alternatively, can choose to transfer only some of the property and functions (in which case the individual PCCs continue to manage the remainder).

Electoral roll

The electoral roll process has now been simplified, and includes electronic storage. The PCC decides how the roll is to be published, whether electronic or otherwise.

But don't forget...

Good governance does not start and stop with the rules.

PCCs are also charities, and are regulated by the Charity Commission. The members of all PCCs (whether the PCC is registered with the Charity Commission or not) are charity trustees and must also follow the commission's rules and guidelines, as well as the rules.

Consider making time to ensure that your PCC is familiar with key pieces of Charity Commission guidance (such as '[The essential trustee](#)', '[Conflicts of interest](#)' and the [serious incident reporting regime](#)), at the same time as getting up to speed with the new rules!

The new rules and the Charity Commission guidelines are not something to be wary of; they empower a PCC to serve its community and charitable objects – promoting in the ecclesiastical parish the whole mission of the church: pastoral, evangelistic, social and ecumenical.

Guest feature: Faith for the Climate network



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Guest feature: Faith for the Climate network

Climate change has topped the news throughout the last couple of years, with the scale of the climate crisis facing us laid bare in the IPCC report in 2018, and the growth of the international school strikes movement and Extinction Rebellion.

The government has amended the Climate Change Act to set a legally binding target to bring UK carbon emissions to net zero by 2050. Their own advisers, the Committee on Climate Change, have highlighted the scale and urgency of action needed to bring emissions down within that timeframe. Others have questioned whether 2050 is soon enough, with the Church of England, for example, calling for a 2030 target.

All faith traditions have a care for creation at their core, and, given the impact of climate change on the poorest of the Earth, many people of faith see climate justice for the poor, as well as for creation, at the heart of their sense of a sacred duty to act.

The [Faith for the Climate network](#) works alongside the [Inter Faith Network](#), focussing specifically on faith-based and interfaith action on climate. It brings together people and organisations of many different faiths, already working on climate change.

These range from some of the major aid agencies,

CAFOD, Tearfund, Christian Aid and Islamic Relief, who have been working on climate change for many years, drawing attention to the impact of climate change on people in the poorest and most vulnerable areas of the world; to organisations like Operation Noah, who have been campaigning for many years for fossil fuel divestment by the Churches and Church institutions; to newer initiatives, including for example, [Eco Synagogue](#). Eco Synagogue is a cross-communal movement within the Jewish community, building on the template created by A Rocha with Eco Church for the Christian community. Eco Synagogue provides a way for synagogues to measure their environmental impact and to work towards achieving a bronze, silver or gold award as they take steps to reduce their carbon and environmental footprint.

Other initiatives across faith communities include multi-faith engagement in Extinction Rebellion with Christian prayer, Buddhist meditation, Jewish blowing of the Shofar, and the Muslim call to prayer all at the heart of the protests in London in 2019. The Bahu Trust works across a wide range of mosques in the Muslim community and with MINAB and the MCB to produce a Ramadan climate change toolkit for Ramadan 2020. Eco Sikh, already well established in India and Canada, is now working with the Woodland Trust in the UK to engage the Sikh community in tree planting initiatives,

already part of the Sikh sacred tradition. The new Eco Dharma Network has been set up under the auspices of the Network of Buddhist Organisations, with a toolkit specifically for Buddhist sanghas. Hindu Climate Action is focusing on inspiring and mobilising university students and young professionals in the area of climate action and environmental sustainability. Faith for the Climate has been working to build the capacity of some of the smaller faith communities in the UK – Sikh, Hindu, Buddhist and Muslim – to support climate action within their communities.

In the face of the scale of the crisis, many faith groups are increasing their action and commitments on climate change, particularly with the delayed 26th COP (UN Conference of the Parties on Climate Change) coming to Glasgow in November. Faith for the Climate is focusing on the themes of:

- transformation – commitment to create change within ourselves and our communities
- advocacy – calls for government action on the climate crisis focused on a rapid just transition, care for the living world and fulfilling our global responsibility
- hospitality – being inclusive and welcoming hosts during COP26 (particularly involving faith groups in Scotland).

So many narratives in the media around faith are negative, focusing on abuse, conflict or religious extremism. But faith inspires people to act and work together for the common good. Coming together for climate action is a practical example of what people of faith are already doing day-to-day for the planet, and a vision of how we want the world to be.

To find out more, including links to all the organisations and initiatives mentioned above, please see the website of the [Faith for the Climate network](#) or follow on Twitter [@fftcnetwork](#).

*Shanon was appointed director of the Faith for the Climate Network in January 2021. He is a Fellow of the London-based Muslim Institute, contributing regularly to its flagship quarterly publication, **Critical Muslim**. He also conducts research for the Information Network Focus on Religious Movements (INFORM) and is a tutor in Interfaith Relations at the University of London Worldwide.*

Personal reflections: faith and climate change



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In conversation

Lucy McLynn recently spoke to with Stephanie Biden about how her faith has influenced her response to climate change.

Were you brought up in a faith, Stephanie?

My family were nominally church-going (mostly Christmas and Easter). I remember as a child realising that it was not automatically the case that you were Christian if you were British – you had a choice about this. Despite occasionally going to church, my family were fairly open about their own lack of personal belief, so that gave rise to questions for me about my own faith identity and what I believed.

So what changed for you?

I was given a Gideon's Bible at school and told to read it every day – which I did – and I decided to join a Christian group at school. I started asking questions: Was Jesus who he claimed to be? If so, shouldn't I decide to follow him? I had lots of questions. I went back to the evidence, the Gospels, which I became clear I could trust. They provided the intellectual foundation for my faith. By the time I went to university I got regularly involved in a church, and with the wider Christian community.

Has your faith had a significant impact on your life?

Yes, it certainly influenced my decision to be a lawyer. The principle of justice is very important in the Bible. I

felt that the law was an area in which I could apply my skills to something I believed in.

When did you start to become passionate about climate change?

I always thought that it was important – for as long as I've had my own electricity bills I've used a green energy provider – but increasingly I've recognised the urgency of the issue. The report by the Intergovernmental Panel on Climate Change in 2018 made it clear that the situation was more urgent than I had previously realised. At around the same time, as a trustee of Tearfund, I was hearing that the climate crisis was the single biggest issue impacting people living in extreme poverty. It threatens to undermine the last 50 years of progress. It was also extremely inspirational meeting people working for Tearfund who were on a personal journey towards living zero waste lifestyles.

[Tearfund has produced an insightful short video about Understanding Poverty here.](#)

Does your faith have a bearing on your views about climate change?

I see climate change as being about justice too. Western affluent lifestyles based on consumption are a major factor in climate change and yet we are the best protected from its impact. Those who are suffering the most from climate change have done the

least to cause it and that is unjust. From a Christian perspective, I believe the world was created with an abundant resource for all, and we should be caring for it, and ensuring equitable access. Tearfund's theory of poverty is that it is caused by broken relationships – with ourselves, with one another, with creation and with God. We get to join in God's work of restoring those broken relationships.

Do you feel that faith and climate change are integrally linked?

Yes and no. People of faith do not and cannot have a monopoly on the response to the climate emergency. Everyone needs to be involved in playing their part. Faith is one basis on which people can think through what their responsibility is towards creation and to others, and what that means for their lifestyle. On the other hand I think it would be difficult to have living faith and not be concerned about our accountability for what is happening to our planet.

So what is the role of faith in responding to the climate emergency?

Faith communities have a very practical role to play in addressing the effects of climate change. In many of the worst-affected countries it is the local faith communities that are helping people to adapt and respond, for instance by teaching them new farming methods.

Faith communities are well placed to change behaviours at a deep level because they can engage with shaping people's underpinning world views. Faith-based organisations and faith communities have been at the forefront of a lot of the action around the climate emergency.

What would be your advice to anyone wanting to take steps to tackle climate change?

Take small steps and don't try to do everything at once. Every little thing that you do makes a difference.

Talk to people about the climate crisis. I have been closely involved in championing the work that we have been doing at Bates Wells around recognising the climate emergency. People's awareness of the issues and what needs to be done about them is clearly growing the more we keep the conversation going.

Case update



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Case update

Pastor's disqualification order upheld by Charity Tribunal

Martin Phelps, a pastor employed by Rhema Church London, appealed a Charity Commission Order that disqualified him from being a charity trustee employee or office holder exercising senior management functions within any charity for 10 years.

The original order was issued following a statutory inquiry that resulted in Phelps' being dismissed for serious and gross misconduct.

The varied order, which had reduced the number of grounds from nine to four, included improper use of charity credit cards, unexplained overseas trips using charitable funds and the failure to comply with instructions.

Phelps' appeal was dismissed by the tribunal, which held that the varied order was correct and justified, and that it was also appropriate and proportionate in the circumstances. Phelps was the main person responsible for the misconduct and mismanagement of the charity; he was not fit to be a trustee or hold a senior management position in any charity and it was in the public interest to make such order given the damaging effect his conduct had on public trust in charities.

The decision is a reminder that there are potentially

severe consequences for trustees and senior management of charities, including churches and other religious bodies, who are found to be responsible for the mismanagement of charity assets.

Full judgment:

<http://charity.decisions.tribunals.gov.uk/documents/decisions/Decision%2007%20October%202019%20.pdf>

Faith based schools

The Rittson-Thomas case on the School Sites Act 1841 has now been heard in the Supreme Court. This case turns on timings – land had been granted for use as a school site under the 1841 Act. The school in question had moved to new premises and then later sold the old site. The question was whether or not the site needed to have been sold before the school closed and moved in order to rely on power in s.14 (which allows the school to keep the sale proceeds).

The Supreme Court decision of 23 April 2021 has overturned the Court of Appeal and found that the s.14 power can still be used even where the original school site is sold after the school has closed and moved premises, provided that there was a clear intention throughout to use the proceeds of such sale to improve the new site. This practical approach by the Supreme Court should be welcome news to those managing one of the many schools today still operating on land given

under the 1841 Act.

Expression of religious views

A series of decisions in 2019 and 2020 tackled the expression of religious beliefs, in particular balancing the freedom to express the views or manifest beliefs of one's religion with an organisation's business needs. *R (on the application of Ngole) v University of Sheffield* [2019] EWCA 1127

Ngole successfully appealed against the University of Sheffield's decision to remove him from the Social Work MA course following social media posts expressing views on same-sex marriage and homosexuality. The Court of Appeal held that the removal unlawfully infringed Ngole's right to freedom of expression (Article 10 ECHR). Although maintenance of confidence in a profession is a legitimate aim of professional regulation, the university's position (which was not in line with the relevant guidance) essentially amounted to a blanket ban on the expression of Ngole's views. The removal was disproportionate; Ngole did not act in a discriminatory manner and stated he would not do so, which the university had accepted; Ngole had not been given any guidance on expressing his views in a more appropriate manner and there was no evidence that his posts damaged the social work profession.

Full judgment:

<https://www.judiciary.uk/wp-content/uploads/2019/07/ngole-v-sheffield-university-judgment.pdf>

Page v NHS Trust Development Authority [2019] 6 WLUK 291; *Page v Lord Chancellor / Secretary of State for Justice and another* UKCAT 0304/18/1906

In two separate appeals, Richard Page alleged that his dismissal as a magistrate and a non-executive director of an NHS Trust was discriminatory contrary to the Equality Act 2010. Page had stated that adoption by a single-parent or same sex couple was 'not normal' in his capacity as a magistrate considering a same-sex adoption case and then made public statements relating to this and his belief that he was being discriminated against as a Christian. Both appeals were dismissed by the Employment Appeal Tribunal (EAT). It was held that Page was not dismissed because of his comments but the manner in which these were expressed.

In relation to his magistracy, the EAT held that his removal was not victimisation as he was not dismissed because of his views but rather his public statements on how his views would inform his judicial functions, bringing the profession into disrepute.

It was separately held that Page was dismissed as a non-executive director because of his media appearances, which were done without informing the Trust, conflicted with its principal function to protect health, and detrimentally impacted its ability to serve the community.

Full judgments:

NHS Trust: https://www.bailii.org/uk/cases/UKCAT/2019/0183_18_1906.html

Lord Chancellor: https://www.bailii.org/uk/cases/UKCAT/2019/0304_18_1906.html

Sethi v Elements Personnel Services Limited
ET2300234/2018

A 'no-beards' policy implemented by an employment agency was held to be indirectly discriminatory. Elements Personnel Services refused to recruit Mr Sethi, who is Sikh and adheres to *Kesh*, the belief that body hair should not be cut. The Employment Tribunal found that the rule, in effect, excluded Sikhs as it contradicted a fundamental tenet of the faith. The blanket approach was held to be disproportionate. It was accepted that the agency's client base may require workers to comply with rules concerning personal appearance, but applying such policy without exception was unjustifiable – not all clients maintained a 'no beards' policy and Elements Personnel Services had not enquired whether adjustments could be made for Mr Sethi to take on the role.

Full judgment:

https://assets.publishing.service.gov.uk/media/5ddd1b3340f0b65149fd521e/Mr_RD_Sethi_v-Elements_Personnel_Services_ltd_-_Case_Number_2300234_2018_-_Full.pdf

Can a faith based charity prioritise those of its own religion

Our [last update](#) covered the case of *Z v Ors (On the Application of) v Hackney London Borough Council & Anor* [2019] EWHC 139. The High Court held that Agudas Israel Housing Association's policy to allocate social housing only to Orthodox Jews was lawful by virtue of s.158 (proportionate positive action) and s.193 (the exception for charities) Equality Act 2010. Both the Court of Appeal in June 2019 and the Supreme Court in October 2020 upheld the first decision. Find our update on the Supreme Court's decision [here](#).

Full judgment:

<https://www.supremecourt.uk/cases/docs/uksc-2019-0162-judgment.pdf>

And a bit of climate-friendly news

The Church of England has resolved to achieve net zero greenhouse gas emissions by 2030. This ambitious aim improves on its earlier goal to meet this target by 2045 and is supplemented by the guide – '[A practical path to net zero carbon for our churches](#)' – which is packed with actions on how to reduce emissions. The recommendations are useful for all faith-based communities wanting to explore how to adopt more climate-friendly practices.

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