In the recent decision of Trayhorn v. The Secretary of State for Justice the Employment Appeal Tribunal (EAT) held that a prison had not indirectly discriminated against a chaplain who was disciplined for quoting Bible passages condemning homosexuality.

Mr Trayhorn was a Pentecostal Christian, and an ordained minister. As well as his role as a gardener at HM Prison Littlehey, he volunteered to help with services in the prison chapel. On a couple of occasions he referenced homosexuality as a sin, quoting from a Bible passage to a congregation of prisoners at a prison housing sex offenders. After a final written warning he resigned and claimed unfair constructive dismissal and discrimination on the grounds of religion.

Mr Trayhorn sought to prove that the application of two policies (a conduct policy and an equality policy) by the prison service amounted to a Provision, Criterion or Practice (PCP) which put Christian employees at a particular disadvantage. He was unsuccessful and appealed to the EAT.

The EAT upheld the Employment Tribunal’s decision. It held that to establish indirect discrimination, section 19 of the Equality Act 2010 requires a claimant to demonstrate a group disadvantage. The EAT held that Mr Trayhorn, as a Christian, was not disadvantaged by the conduct and equality policies, nor were other Christians, whether “singly or as a group”. The EAT dismissed the appeal.

This confirms that claimants will continue to need to establish group disadvantage in indirect religion or belief discrimination cases. Employers defending such claims should remain alert to this requirement and draft and argue their defence of claims in view of this.
Immigration
Industrial action
Internships
Legislative Changes
Modern Slavery Act
National Minimum Wage
Overtime
Pay, benefits and bonuses
Pensions
Performance Management
Recruitment
Redundancy and business reorganisation
Redundancy payments
Restrictive Covenants
Right to be accompanied
Right to work checks
Senior Managers Regime
Sickness absence
Termination
Territorial jurisdiction
Trade Unions
Tribunal procedures
TUPE/outsourcing
Uncategorized
Unfair dismissal
Whistleblowing
Working Time

Be careful when quoting from the Bible ...

Tribunal fees are unlawful: extension of time granted

So, where’s “mutual agreement” on this pension form?

Suspension for alleged misconduct may be a breach of contract

Self-employed contractors and the gig economy – keep watching this space!