

been removed by October 2013 after an injunction had ordered their deletion. On appeal, Facebook challenged the findings that two comments which had referred to J20's children on 'Irish blessings' amounted to the tort of misuse of J20's private information. In particular, two posts had said, 'He deleted his children off his fb page because their names are Catholic' and 'He has Catholic children who he doesn't bother with. Probably because they are Fenian'. J20 claimed that he should have a reasonable expectation of privacy in relation to the religious affiliation of his adult children.

Morgan LCJ noted that it was not disputed that a person was entitled to have his or her reasonable expectation of privacy protected. However, the oldest of the children was 31, the respondent had not seen the children since 1997 or 1998 and the youngest was at least 16. There had been no evidence at first instance from the children themselves or about their circumstances. As to whether or not a person's religion was a private matter for the purpose of the alleged tortious conduct the court found that many religious people engage in regular acts of worship in the company of large numbers of worshippers of a similar persuasion. Where that is the case the publication of the fact that the person adheres to that religion would almost invariably not be private information. The court allowed Facebook's appeal in relation to the publication of the religion of the respondent's three children and reduced the award of damages from £3,000 to £500. [Frank Cranmer]

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The Reverend J Gould v Trustees of St John's, Downshire Hill

Employment Appeal Tribunal: Simler J, 5 October 2017

Minister of religion – employment – unfair dismissal – discrimination

St John's church, Downshire Hill, is one of the few surviving Church of England proprietary chapels: although it is recognised as a church within the Diocese of London, it is owned by the congregation and the congregation bears all the costs of the staff and the building. It receives no support from and makes no contribution to diocesan funds. The trustees employed Mr Gould, who married in 1997, from 1995 until his summary dismissal in August 2016. There was no dispute as to the existence of an employment relationship. Difficulties in his marriage were raised by the trustees' leadership team and in May 2015 they proposed that he take a sabbatical in order to attempt to restore his marriage. He did not wish to take the sabbatical but came under pressure to do so. In August 2016 he was dismissed with immediate effect by letter. Simler J said that she had not seen the letter but understood that it gave a breakdown in the relationship of trust and confidence necessary for Mr Gould's continued employment as the

reason for his dismissal. Mr Gould claimed, however, that he had been dismissed because of the difficulties in his marriage. Had he not been married he would not have been dismissed and, therefore, he had been directly discriminated against on the ground of marriage, contrary to section 13 of the Equality Act 2010 read with section 39(2)(c). The Employment Tribunal dismissed his claim and he appealed.

Counsel for the trustees argued that Mr Gould had been dismissed because of the unresolved difficulties in his marriage, not because he was married. Many married couples did not face marriage difficulties, while many unmarried couples faced equivalent relationship difficulties – therefore marriage difficulties were not a proxy for marriage. Simler J was unconvinced, stating that the decision to dismiss Mr Gould depended on the fact that he was married and having marital difficulties, with the emphasis on ‘marital’ rather than ‘difficulties’. The trustees found marital difficulties problematic because of the importance they attached to the institution of marriage and there was an arguable case that that had been the reason for Mr Gould’s dismissal. That composite reason was why the trustees had treated him as they had and the case should have been permitted to proceed. She was satisfied that the Employment Judge was in error of law in striking out Mr Gould’s claim. The appeal was allowed and the decision to strike out the claim set aside. [Frank Cranmer]

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Re St Peter, Bredhurst

Rochester Consistory Court: Gallagher Ch, 11 October 2017

[2017] ECC Roc 9

Churchyard regulations – illegal items – removal by parish

Over a long period a number of items, such as gnomes, figurine angels, balloons and solar lamps, had been introduced onto graves in the churchyard, contrary to the diocesan churchyard regulations. Informal efforts to resolve the situation had failed and the team rector and churchwardens petitioned for a faculty permitting the removal of those items. A number of families wrote letters of objection, though chose not to become parties opponent in the case. The chancellor refuted the argument that everyone should be entitled to mourn in their own way, stating that, where regulations existed, it was manifestly absurd to permit them to be broken as each person saw fit. He referred to *Re St Mary, Roughton* [2017] ECC Nor 1, noting that incumbents are but temporary custodians of the churchyard, which has served and will serve the parish as a place of peaceful reflection and prayer. The petitioners were to be commended for properly seeking to enforce the law. The faculty was granted for the removal