The chancellor reviewed the law on re-ordering, including the question of necessity, citing *Re St Helen, Bishopsgate, Re St Mary the Virgin, Sherborne, Re St John the Evangelist, Blackheath* and *Re All Saints, Burbage*.[5] He noted that the worshipping community wholeheartedly supported the proposal and that the local community voiced no opposition. The chancellor found that, while the removal of the pews would adversely affect the character of the building, the effect would only be of marginal significance and be mitigated by the proposed re-siting of the pews in the gallery. A faculty was granted. [WA]

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Eweida v British Airways plc
Employment Appeal Tribunal: Elias J, November 2008
Religious dress – cross – employment – discrimination

The former uniform policy of British Airways was that employees who wished to wear a visible religious item were only permitted to do so if the item was doctrinally mandatory, could not be concealed under the uniform and had been approved by management. This meant that the claimant was not permitted to wear a cross that was visible on her uniform. She alleged that this constituted direct and indirect discrimination and harassment on grounds of religion or belief, contrary to the Employment Equality (Religion or Belief) Regulations 2003, SI 2003/1660. The Employment Tribunal dismissed her claims.[6]

The claimant's appeal focused solely upon the tribunal's finding that there had been no indirect discrimination. Before the Employment Appeal Tribunal, the claimant contended that the Employment Tribunal had erred in law in finding that the policy did not put Christians at a particular disadvantage. The claimant submitted that the tribunal had erred in finding that there was no evidence that there was a significant number of persons in addition to the claimant who had suffered a 'particular disadvantage'. Even if relatively few people were prepared to go as far as she did in refusing to comply with the policy, there would certainly be some who would object on religious grounds to it, while choosing reluctantly to comply with it. It was submitted that a 'particular disadvantage' could be suffered even where the employee can and does comply with the provision. The EAT noted that, although it was doubtful whether the case was advanced on this basis before the tribunal, there was some merit in this

5 *Re St Helen, Bishopsgate* (1993) 3 Ecc LJ 256, London Cons Ct; *Re St Mary the Virgin, Sherborne* [1996] Fam 63, [1996] 3 All ER 769, Ct of Arches; *Re St John the Evangelist, Blackheath* (1998) 5 Ecc LJ 217, Southwark Cons Ct; *Re All Saints, Burbage* (2007) 9 Ecc LJ 345, Salisbury Cons Ct.
6 The Employment Tribunal decision is noted at (2008) 10 Ecc LJ 256.

argument. Elias J referred to *R v Secretary of State, ex parte Williamson* [2005] AC 246, noting that courts should not adopt an objective standard to determine whether or not something is a religious belief and that it is not necessary for a religious belief to be shared by others or to be 'a mandatory requirement of an established religion'. For the purposes of indirect discrimination, the policy itself need not be incompatible with a specific religious belief, and disadvantage may only arise out of the way that the religion or belief is practised. However, simply showing that others would have a strong view that jewellery, or even crosses, should be worn would not suffice, since the claimant needed to show that those who shared the same religion or belief had suffered the same disproportionate impact. For Elias J, 'the whole purpose of indirect discrimination is to deal with the problem of group discrimination' and in this case the tribunal was plainly entitled to reach its conclusion that there was no evidence of group disadvantage. The appeal was dismissed.

Summary supplied by Russell Sandberg. A fuller version appeared in Law and Justice, *and it is reproduced here with permission. For a critique of the Employment Appeal Tribunal decision, see L Vickers,* 'Indirect discrimination and individual belief: Eweida v British Airways plc' *on pp 000–000 of this issue.*

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A v Okechi

Disciplinary Tribunal, Diocese of Lichfield, December 2008

Adultery – penalty – suspension

Mrs A brought a complaint against the respondent, the Revd Dr Patrick Okechi, incumbent of the parish of the Good Shepherd with St John, West Bromwich. She alleged that she had had a sexual relationship with the respondent from Spring 2004 until February 2006. The respondent denied this relationship, suggesting instead that the complainant had become obsessed with him. The respondent disputed much of the complainant's evidence. The tribunal considered the evidence of telephone records, including intimate text messages and large numbers of calls from the vicarage to the complainant, as evidence in favour of the complainant's version of events. The tribunal unanimously concluded that the respondent had formed an inappropriate adulterous relationship with the complainant and that this was conduct unbecoming within section 8(1)(d) of the Clergy Discipline Measure 2003. In considering penalty, the tribunal took into account the 28-month period of the respondent's suspension from office pending the hearing. He was removed from office and prohibited from exercising any functions of his orders for ten years. The chairman also made