



## European network of legal experts in gender equality and non-discrimination

### NEWS REPORT

<b>Country:</b>	United Kingdom
<b>Title:</b>	Same sex marriage and clergy; <i>Pemberton v Inwood, Acting Bishop of Southwell and Nottingham</i>
<b>Date:</b>	9 January 2017
<b>Expert:</b>	Lucy Vickers
<b><u>Context</u></b>	
<b>Issue at stake:</b>	Same sex marriage and clergy in the Church of England
<b>Ground of discrimination:</b>	Religion/belief; sexual orientation
<b>Source:</b>	National court decision; Employment Appeal Tribunal (EAT),
<b>Field:</b>	Employment/Qualification bodies
<b>Applicable law:</b>	Equality Act 2010

### **Content**

**Case law development:** The claimant is an ordained clergyman in the Church of England. He entered a same sex marriage with his long-term partner, contrary to the current doctrines of the Church of England regarding clergy. As a result, his Bishop revoked his Permission to Officiate and the relevant ministry licence. The licence and permission were needed to enable him to take up a post as a hospital Chaplain in a National Health Service (NHS) hospital trust. The court had to decide whether the action of the bishop amounted to sexual orientation discrimination, or whether exceptions allowing such discrimination in relation to employment for the purposes of religion or belief would apply.

**Decision of the Court:** Although the employer was to have been the NHS Trust and not the Church, nonetheless the employment was for the purposes of an organised religion, and so the exception to the non-discrimination principle contained in Schedule 9 Equality Act 2010 applied. This allows employers to impose requirements related to sex or sexual orientation where employment is for the purposes of an organised religion and the requirement is required to comply with the doctrines of the religion or so as to avoid conflicting with the strongly held religious convictions of a significant number of the religion's followers.

**Key points of analysis:** The exception for employment of the purposes of an organised religion contained in Schedule 9 Equality Act is narrower than the exception for other religious ethos employers. It effectively only applies for the employment of clergy or their equivalents. However, this case shows that it can apply where the employer is not the church.

**Internet link source:** [http://www.bailii.org/uk/cases/UKEAT/2016/0072\\_16\\_0712.html](http://www.bailii.org/uk/cases/UKEAT/2016/0072_16_0712.html).