

Jonathan Evens

interviews

Catharine Pusey

Interim Chief Executive Officer of the
Employers Forum on Belief (EFB)

We need
Catherine's
photo

*A biography of
Catherine, to go
here, would be good*

In search of 'faith-friendly' employers

Workplaces changed in December 2003 with the introduction of regulations outlawing discrimination on the basis of religion or belief. General advice to employers on compliance with the law from organisations like the Chartered Institute of Personnel & Development is that "employers shouldn't be relying on legal requirements alone." As effective organisations have diverse workforces, they argue that employers should "embrace good employment practices regardless of race or religious beliefs" as "different views, perspectives and ideas are vital."

So, what difference does the law and such advice actually make on the shop/office/factory floor? Do 'faith-friendly' employers exist and, if so, what are they doing that warrants that designation?

Cases such as *Islington Council v Ladele* and *British Airways (BA) v Eweida* may seem to tell a different story. Following changes to her employment, registrar Lillian Ladele took the London Borough of Islington to an employment tribunal on grounds of harassment and discrimination contrary to the Religion and Belief regulations. This was as a result of being required by the Council to conduct Civil Partnership ceremonies.

Initially Ms Ladele won her case but this was overturned on appeal. Subsequently, a second similar case involving Islington Council has also arisen.

Nadia Eweida took BA to court after she was told she could not wear a small crucifix necklace as it did not conform to uniform regulations. BA eventually changed its uniform guidelines to allow staff to wear a religious symbol and Miss Eweida continued her job at Heathrow airport. Before the rules were changed, however, Miss Eweida had refused to remove her chain and was offered a non-uniform job where she could wear the cross. She rejected this position and went on to appeal against BA's decision. The tribunal however concluded in its report: "The complaint of direct discrimination fails because we find that the claimant did not, on grounds of religion or belief, suffer less favourable treatment than a comparator in identical circumstances."

Do such cases indicate, as some Christians believe, that significant restrictions on our liberties are coming into place rather than the protection from discrimination that the Religion and Belief regulations were intended to bring?

In search of answers I spoke to Catharine Pusey, then Interim Chief Executive Officer of the Employers Forum on Belief (EFB),



▶▶ an organisation developed by leading employers to “share good practice on belief as part of their commitment to diversity in the workplace.”

Is ‘faith-friendly’ a term that the EFB and its members would recognise and use?

Our members would probably welcome the designation, as with a term like ‘child-friendly’, but what does it actually mean in practice? Employers need to be people-friendly and to recognise that everyone is different.

The EFB was set up by employers. What motivated those employers to set up the Forum?

The area of faith and belief in employment was not well understood by employers. There are so many diverse ways in which faith can be manifested and so many ways in which people of faith could ask for their faith to be accommodated. The founding members wanted to know how their peers were addressing the agenda and to learn more in a neutral forum. They needed to know how to deal with requests for accommodation and wanted to move beyond legislative compliance to devise and subscribe to best practice in religious diversity. There has been a tendency to get information about faiths rather than to consider whether a request is reasonable. So, our members thought that they didn’t have enough answers and needed somewhere where questions could be aired in a neutral environment.

What is it that the EFB exists to provide to its members?

We try to provide somewhere where employers can ask questions about policy and practice in connection with employees. Our advice line is regularly asked, ‘where do I stand?’ on a particular issue. Issues often arise where people undergo change; either the person’s job changes or the person begins to take their faith more seriously. The employer often doesn’t understand why this change has



Nadia Eweida

occurred. People may suddenly announce that they can no longer handle meat or alcohol in a supermarket, for example. We tell employers where the law stands and what other employers have done in similar circumstances. If a request cannot be accommodated, we give employers confidence to make that decision and to explain the reasons why it can’t be done.

We provide opportunities for employers to come together to discuss particular issues and learn more. For instance, we run speed networking sessions where employers have ten minutes to talk to everyone else in the room about issues they face and how they have handled them. We organise a variety of other events including conferences with speakers and seminars providing an introduction to issues of religion and belief in the workplace. We also ensure that the voice of the employer is heard in workplace debates and engage with stakeholders and legislators to ensure that any proposed legislative changes are workable and without unintended consequences for employers.

It is important to understand that belief encompasses both non-belief and





Tim Nicholson, the Sustainability Manager of the construction company Grainger who who claimed he was sacked because of his strong views on climate change

philosophical beliefs. A case from a few weeks ago involved the Sustainability Manager of a Construction Company, an advocate of a green lifestyle. His role was to ensure that the employer met sustainability targets, which meant sometimes offering unwelcome guidance to the company. He was made redundant and claimed that he had been selected on grounds of his beliefs. He has won the right to bring a case under the religion and belief regulations and, in doing so, has broadened out the legal definition of belief. If someone declares a belief and can prove that they wish to follow a way of life that accommodates that belief, they will meet the definition of belief. There is no such thing as a designated religion under the religion and belief regulations.

The key thing is that the EFB is not trying to be another organisation that fosters understanding between faiths. Instead, we are about fostering equality. We like to have a good relationship with faith-based organisations but are not teaching people about religion ourselves. Our aim is to help employers devise and implement best practice with particular reference to belief in the most fair way possible. We refer employers on if they want information about faiths. ACAS and the BBC have good beginner's guides to many religions. Nor are we drawing up lists of recognised organisations or faiths; we can't pretend to have that expertise. But we would like to know where the experts are who can help when employers want more information.

Are there typical issues about which your members regularly ask for advice or information?

The most frequent enquiries involve: uniform issues; working hours; time off for religious holidays/festivals; time out for prayer; and facilities within the workplace. There are also issues of respect in general; that is a key area where we are often asked to advise. Another hot topic is when different needs collide in the workplace and how an employer can be fair to all staff.

What changes, if any, do you think the introduction of regulations on religion or belief has made for employers?

Although the Regulations have been in force since 2003, relatively few cases have come through the tribunals until recently. The regulations have made employers more aware of their obligations under the law and the needs of employees. As society diversifies, so employers also need to diversify. The regulations have also separated out the issue of race from the issue of faith and have given employers the opportunity to look at faith issues alone. They have also given employees a vehicle for communication with employers on faith issues creating a new vocabulary.

Much of what was initially published about the regulations was guidance only, to what extent is case law now being established around the regulations?

We are not seeing a huge number of cases as, by and large, employers and employees resolve those issues that do arise. Case law is beginning to come to the fore however. The problem at the moment is that cases tend to be sensationalised in the press. Nervousness can then lead to more sensational cases which then cause disharmony in the wider world. The cases that the public encounter and the way in which they are reported are often unhelpful for tolerance in the wider community.



Lillian Ladele, the Christian registrar who was discriminated against by Islington Council after she asked to be allowed not to perform civil partnership registrations.

▶▶ **Are there any examples to date of the rights established by one set of equalities legislation contradicting the rights established by other legislation and what approach has been taken in case law in such examples?**

The Ladele case, the widely reported case of the Islington registrar, is one example. It is a complicated case and is going to appeal. The employee’s particular belief meant that she felt she could not conduct all the duties in her role after a change in the law and requested that the employer should relieve her of those duties that she could not in conscience carry out. That would have resulted in potential discrimination against customers and against other staff who objected to her beliefs and also would have been given extra work.

It is currently only possible to test one strand of diversity in the courts at a time and so complainants have to decide on which basis they are being discriminated against – or which strand has the greatest chance of

success. The new equality bill may make it possible to view things in a multi-strand way.

What business benefits are there for employers from compliance with the regulations and the inclusion of religion and belief in diversity policies?

Awareness of best practice should mean that you don’t end up in a tribunal! If an employer is based in a diverse community then their workforce will reflect the people they serve and they will do better business as a result. The employer will also have more productive and loyal staff if they feel comfortable in the workplace. Inclusivity makes staff more productive and better able to serve diverse communities.

Is there value for employers in going beyond compliance with the regulations when it comes to issues of religion or belief?

There is always value in going to best practice, although best practice is a moveable feast. It is easier to accommodate prayer spaces in a Head Office, for example than in a small branch with no spare space and only a few staff so best practice requires different solutions.

Accommodations need to be looked at from a pragmatic point of view: ultimately the employer exists to fulfil a function and service customers and cannot lose sight of that goal. Taking the example of time off for religious festivals; it’s now a given in bigger employers but it becomes more difficult to accommodate the needs the smaller the organisation is.

Initially EFB’s members were all employers with over 1,000 employees. Now members are joining from the public sector where they are measured more on diversity targets and have the most diverse work forces. Small businesses are harder for us to reach because there is no HR department and owner managers are always very busy. However, there are the least problems in small businesses as they can be infinitely flexible provided good relationships ▶▶



Amric Singh

Sikh headgear applied to police uniform in a compromise on colour and style

around meeting the needs of Christians but, by learning from their diverse employees, they have developed services for other faiths, thereby becoming accessible to the greater part of local communities and doing better business as a result.

A car hire company was based opposite a Mosque and users of the Mosque also used the company’s car park without permission when attending services. Rather than ban the practice, the manager spoke to the Mosque’s leaders and agreed an accommodation that went both ways and which has increased their business as well as increasing understanding between employer, employees and customers.

You commented recently that employers know that: “people cannot be segmented into single equality strands, an employee is not just a name, but someone with a gender, an age, a race, a sexual orientation, a faith or belief or set of personal values, and possibly a disability.” As a result, you said that preparing for a future in which the workplace develops multi-strand integration is vital. What do you think this will mean in practice for employers?

The new Equality Bill is designed to bring all equalities legislation together, and in employment areas is not introducing significant change. It shouldn’t make too

▶▶ exist within the firm. People in medium sized enterprises are the most difficult to reach but we hope to build links with Chambers of Commerce to help to reach medium-sized employers.

What action can employers take to avoid a public controversy like the British Airways crucifix issue?

Employers need to ask whether their policies can accommodate the issue rather than whether the request is relevant to the employee’s professed beliefs. For example if someone wants to wear particular head gear; the place to start is by asking whether your uniform policy accommodates the wearing of headgear. If the employee is prepared to wear the allowable headgear and reach a compromise, perhaps on colour or style, then the issue is resolved. The EFB hopes in future to publish model policies on key employment areas such as dress and catering, which can then be customised by employers of all sizes.

Can you give a case study of an EFB member in terms of some of the positive work they have done on religion and belief issues?

Co-operative Funeral Services were originally almost entirely focused



Multi-strand integration

▶▶ much difference for employers, although it may add another burden of proof. At present, for example, in a Sex Discrimination claim a man would have to convince the Tribunal that he had been treated in a way that a woman would not. In future, it's likely that a black Muslim man will be able to claim that he had been treated differently from a white Christian man and more factors of the circumstances can be taken into consideration by the courts. Good employers are aware that they shouldn't be treating employees differently on any of the seven bases.



An arab Christian from the United Arab Emirates

A tendency to assume that because a person is of a particular race that that person would have a particular belief

There is a tendency sometimes to assume that because a person is of a particular race that that person would have a particular belief. Race and belief can be seen as so closely linked that assumptions are made. By separating them out you can break down barriers.

Issues can arise when people of a particular faith are not comfortable working with those of the opposite gender or those with particular sexual orientations. Whether that can be accommodated depends on the job. The employee cannot be absolved of responsibility for accepting the job if it was clear at the outset what was involved. For example, a warehouse worker said that he couldn't handle alcohol in a supermarket. He complained and lost the case because this was a clear part of the role and had

been explained during the recruitment process. People have to think about what they want to do with their lives and not put the onus on the employer to fit the job to their needs.

You recently commented that, “It is vital that the fallout of the current economic turmoil does not lead us back to a time in which values of diversity and fairness are put aside as businesses focus solely on short-term economic recovery. Organisations need to take a long term view on growth and restructure, as the post-recession working environment is being reshaped.” What are the dangers for diversity in a recession and how can they be avoided?

There are dangers that, if employers need to restructure or downsize, it is the ‘nice-to-have’s’ in terms of facilities and the difficult to employ people that go. It is very easy to not realise that that is what you are doing. In the last recession knowledge and experience were lost through redundancies. In future, it will be harder to fill those gaps when the upturn arrives. If the workplace becomes less diverse then there will be less cohesion in society in the longer term.

Is religion or belief the Cinderella in the equalities agenda or has its profile increased in recent years?

Its profile has been growing for unfortunate reasons in terms of a public mindset that cannot get away from equating religion and extremism, together with approaches to gender issues and the impact of high profile legal cases. But the more the profile rises, the more people become aware that they can ask for accommodations.

It is harder to measure the impact of the legislation on practices in the workplace because both religion and sexual orientation are thought of as private to the individual and without effective monitoring you can't measure impact. ■

Jonathan Evens is Vicar of St John the Evangelist Seven Kings and Chair of Faiths in London's Economy. His journalism has appeared in a range of publications including both the Church Times and the Muslim Weekly. Several of his work-related papers and reflections can be found on the website of Mission in London's Economy (www.mile.org.uk).