

The temple was not a place of public religious worship as it was not open to the public but only to those members of the LDS who had obtained the relevant ‘recommend’. Further, the majority of the House held that the exclusion of the temple from such relief did not amount to indirect discrimination as alleged. The rating liability of the temple would not prevent members of the LDS from manifesting their religion. The LDS was not taxed on account of its religion; rather its doctrine and polity prevented it from providing the public benefit necessary to secure a tax advantage. Lord Scott of Foscote expressed doubt about this conclusion but the House unanimously held that, if there was any indirect discrimination, that it was justifiable as being within the margin of appreciation available to individual signatory states under the Convention. [RA]

*For a critique of this decision, see R Sandberg, ‘Underrating human rights: Gallagher v Church of Jesus Christ of Latter-day Saints’ on pages 75–80 of this issue.*

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### **Singh v Aberdare Girls’ High School**

Administrative Court: Silber J, July 2008

*Sikh bangle – indirect discrimination – race and religion*

Singh, a Sikh schoolgirl, applied for judicial review of her school’s refusal to allow her to wear a religious steel bangle (the Kara) at school on the basis that it contravened the school’s uniform policy with respect to the wearing of jewellery. Singh’s request for an exemption from the uniform policy in this regard was refused. Singh had been segregated from other pupils and ultimately told that she would only be permitted to attend the school if she did not wear the Kara. She claimed that these actions amounted to indirect discrimination on grounds of race under the Race Relations Act 1976, and on grounds of religion under the Equality Act 2006. The Court held that the school’s refusal to depart from its uniform policy and allow Singh to wear the Kara amounted to indirect discrimination on grounds of race and on grounds of religion. It was held that Singh had suffered a detriment or disadvantage in that she had been forbidden from wearing an item that she genuinely believed, for reasonable grounds, was a matter of exceptional importance for her racial identity or religious belief. The wearing of the Kara could be shown objectively to be of exceptional importance to her religion or race, even though the wearing of that item was not an actual requirement of her religion. The Court held that the school had failed to justify the discrimination. The cases of *R (on the application of X) v Y School*<sup>1</sup> and *R*

1 [2007] EWHC 298, [2008] 1 All ER 249

(*on the application of Begum*) v *Denbigh High School*<sup>2</sup> were distinguished, in that the niqab and jilbab in those cases were far more visible to the observer than the small and unostentatious Kara, which was only 5 mm wide. [RA]

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### **Re St Mary, Newick**

Chichester Consistory Court: Hill Ch, July 2008

*Bishopsgate questions – necessity – memorial – inscription*

In deciding whether a glass screen should be installed as a memorial, the chancellor took the opportunity to review the principle of ‘necessity’ as adumbrated in *St Helen’s, Bishopsgate*.<sup>3</sup> Having reviewed the authorities, the chancellor stated that the word ‘necessity’ should not be taken in isolation as an abstract concept. It should be read in its clear context, which carries the wider concept of pastoral wellbeing or some other compelling reason. Thus the *Bishopsgate* approach, however articulated, continues to impose a high standard of proof on those who seek to discharge the presumption against change applicable in the case of all listed buildings, yet admits of factors concerning the role of the church as a local centre of worship and mission, which is central to the operation of the faculty jurisdiction in consequence of the overriding consideration set out in section 1 of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991. However, the chancellor declined to authorise the proposed inscription, which, in his judgment, spoke more of the benefactor than the persons in whose memory the screen was to be installed. He required this aspect to be revisited. [JG]

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### **Armstrong v Robinson**

Disciplinary Tribunal: Diocese of Chester, August 2008

*Clergy Discipline – neglect or inefficiency*

The complainant had been a Child Protection Officer Advisor to the Chester Diocese since 1997. Canon Robinson was rector of a parish and an honorary canon of Chester Cathedral. In February 2004, Z (who was serving a sentence of life imprisonment for manslaughter) was released on licence. In September

<sup>2</sup> [2006] UKHL 15, [2007] 1 AC 100.

<sup>3</sup> Noted at (1993) 3 Ecc LJ 256.