

that the old organ was of very poor quality and in need of replacement. Further, it was common ground that a replacement pipe organ would be the ideal. Nevertheless, the petitioners submitted that the expense of a replacement pipe organ would not be an appropriate use of limited parish funds and resources and that the hybrid/combination organ was a good balance between quality and resources. The DAC and the CBC expressed strong reservations about the new and relatively untested technology of hybrid/combination (part pipe, part digital) organs and both preferred the option of a replacement pipe organ. The chancellor held that there was a presumption that a pipe organ would be replaced with another pipe organ and that the burden lay on the petitioners to rebut that presumption. He emphasised that the petitioners had based their decision to seek a faculty for replacement with a hybrid/combination organ on rational and considered assessment of the merits of the respective organs. The faculty was granted. Given the element of risk in using this relatively untested technology the chancellor imposed a condition that the petitioners should commission an independent expert to report upon the performance of the new technology 12 months after its installation, in order that others can learn from the success or failure of the experiment. [RA]

doi:10.1017/S0956618X10000645

McFarlane v Relate Avon Limited

Court of Appeal: Laws LJ, April 2010

Unfair dismissal – counsellor - same-sex couples – religious objection

McFarlane was employed by Relate Avon Limited as a relationship counsellor. He was a Christian and sought exemption from any obligation to counsel same-sex couples on sexual matters as he believed that he should do nothing to condone same-sex sexual activity. This was refused and he was dismissed for gross misconduct. The Employment Tribunal rejected his claims for unfair dismissal and religious discrimination, a decision upheld by the Employment Appeal Tribunal. McFarlane sought permission to appeal to the Court of Appeal. Laws LJ stated that the facts of this case were not sensibly distinguishable from the decision of the Court of Appeal in *Islington Borough Council v Ladele* [2009] EWCA Civ 1357, [2010] IRLR 211 and refused the application. [RA]

A Comment on this case by Dr Russell Sandberg appears on page 361 of this issue.

doi:10.1017/S0956618X10000657