

## **REPORT for CIDAC Panel**

<b>CIDAC hearing date:</b>	31 January 2024
<b>Year of events:</b>	2019 - 2020
<b>Employment at time of events:</b>	Primary school caretaker
<b>Issue:</b>	Investigation for gross misconduct, following allegedly homophobic tweet in contravention of school's Code of Conduct
<b>Was there a legal outcome?</b>	Yes
<b>Date of legal outcome</b>	April 2022
<b>Sex:</b>	Male
<b>Denomination:</b>	Evangelical
<b>Use of data</b>	Public

Keith Waters is a Christian minister, who left his 26 year long employment as Estates Manager of a Cambridge college to plant a new church in Ely. To supplement his income, he took a job as caretaker with the Isle of Ely Primary School, one of approximately 20 schools run by The Active Learning Trust Limited. The school knew, when they offered him employment, that his primary work was as pastor of a local church, and were happy to allow time off for him to conduct funerals etc, should the need arise. As a school, they had minimal understanding of Christian belief and faith, and were keen to use his expertise. Keith was asked to conduct school assemblies, to assist in religious education classes, to speak at the school's Carol service, and even to help draw up the school's Health and Safety policy.

In June 2019, after Keith had been employed by the school for over a year, Cambridge held its first Pride festival. On his X account, which he maintained as a Christian pastor, Keith tweeted, "A reminder that Christians should not support or attend LGBTQ 'Pride month' events held in June. They promote a culture and encourage activities that are contrary to Christian faith and morals. They are especially harmful to children."

Keith's presence on social media was in no way associated with his work at the school, and the connection would not have been obvious to those who did not know Keith personally. The tweet provoked a strong reaction online and from the local media, and the editor of a local newspaper, who was himself gay, retweeted the post to a local liberal councillor in a same sex marriage. It was then picked up by a Parents' Facebook group

linked to the school, which was highly critical of Keith. Their post was taken down quite quickly, but not before it had been circulated more widely. As a result of all this, Keith was subjected to abuse, hate mail and a concentrated campaign of harassment and abuse, even receiving a visit from a local firm of undertakers, who'd been called to make arrangements for his funeral. This was highly intimidating and the impact on Keith's family was severe, especially given that his daughter was at the time battling serious illness.

Three complaints were made to the school, including what was lodged as a 'formal' complaint, and Keith was called before an internal investigation meeting. He was told that, under the rules of the Trust, the school was required to carry out an investigation where there was a 'formal' complaint. He is still unsure as to the truth of this, since no documentation was ever produced evidencing this rule. Before he had formal notice of the investigation by the school, a parent told him there was going to be a Disciplinary Investigation. It is not known how this information leaked out, but it would appear to have come from the school.

On 10<sup>th</sup> June 2019 Keith attended the first investigation meeting, chaired by the Deputy Head. He was allowed to have a friend with him at this meeting. The Deputy Head had researched the online presence of both the Church where Keith was minister, and of himself as the church's minister, prior to the meeting. She found that Keith had failed to follow the school's Code of Conduct and Social media policy, that the tweet in question was discriminatory, and that Keith had thereby brought the school into disrepute. Pending further investigation, he was instructed to avoid pupil/parent engagement of any kind, something Keith found both difficult and embarrassing, as he had been accustomed to greet parents at the school gates, and had regularly engaged with pupils in religious classes and an after school club, that he had been asked to set up by the school for disruptive/disturbed children.

On 24<sup>th</sup> June, Keith sent a letter of resignation to the school, stating that it was clear to him that, whatever the outcome of the investigation, the school would not allow freedom of faith or freedom of speech for its employees. As contractually bound, he gave a month's notice, so that his last day of employment was 24<sup>th</sup> July.

A disciplinary hearing was called for 19<sup>th</sup> July, 2019, which Keith attended. The panel included the school head, and the HR advisor to the school. On this occasion, Keith was not allowed to be accompanied by a friend. Feeling concerned as to the conduct of the investigation, and although told recording of the meeting would not be allowed, Keith recorded the meeting in secret, so that he would have an accurate record of what was said. On this occasion, Keith brought to the panel's attention the fact that religion was a protected characteristic, and explained what Christians believed, reading, with the panel's permission, from Romans 1. The Panel found that the school's policies did not allow the expression of such views and the findings of the investigation hearing were upheld. His tweet was held 'homophobic; harassing; discriminatory and offensive,' and damaging to the school's reputation.

He received a final written warning on 23<sup>rd</sup> July, in which it was stated that his tweet was highly inappropriate and offensive. On 29<sup>th</sup> July, Keith appealed against the written warning on the grounds that his tweet was directed towards Christians, in his capacity as

pastor, and that he had deliberately avoided criticism of the LGBTQ+ community; that the attention the tweet received was solely the responsibility of journalists; and that the warning was an infringement of his right to free speech under Art 10 of the ECHR, and his right to freedom of belief.

The appeal hearing was called for 23<sup>rd</sup> September 2019. The panel this time was larger, and included the presence of one of the school governors, who was openly gay. Keith was accompanied by Pastor Ade Omooba. His appeal was rejected and the Final Written Warning previously received was upheld.

Keith received many 'private' messages and expressions of support, but people in general were too afraid to support him openly. On 24<sup>th</sup> October 2019, he took his case to an employment tribunal, claiming direct and indirect discrimination and unfair constructive dismissal. He relied on the Human Rights Act 1998 and the Equality Act 2010. In particular, on Art 9, freedom of thought, conscience and religion, and Art 10, freedom of expression.

He lost the claim for constructive dismissal because he had already resigned prior to the disciplinary hearing of 19<sup>th</sup> July, but the Cambridge Employment Tribunal found indirect discrimination by the Active Learning Trust on the grounds of religion or belief. The tribunal upheld Keith's freedom to express his beliefs on social media outside his work at the school. Its ruling said that while "evangelical Christian ministers will have views not necessarily shared by everyone, it is part of their duty to preach those beliefs" and that "social media is one medium by which this is done".