

## **Trustee liability in discrimination claims**

A recent employment case provides a timely reminder that trustees may be held personally liable for discrimination unless covered by an enforceable indemnity. In a recent case two former employees successfully sued a charity that had operated a discriminatory anti-Hindu policy and two members of the management committee were held to be jointly and severally liable for an award of some £37,000 for injury to feelings. The two trustees appealed unsuccessfully to the Employment Appeal Tribunal which upheld a finding that the trustees were managing the centre as part of their authority as its directors and were appropriately held to be personally liable as it had been established that the individuals had conducted disciplinary hearings in a discriminatory manner and following the termination of employment had made unfounded allegations to the police about the employees.

Claims against trustees personally are more likely to be made where a charity finds itself insolvent as claims will generally not be satisfied in the liquidation. Claims can be made and may be satisfied if made against a trustee personally. This emphasises the need for trustees to ensure they act within the powers conferred on them at all times. It also demonstrates that Trustee Indemnity Insurance sometime has its uses.

***Bungay and another v Saini and others UKEAT/0331/10***

For more information please contact:

**Jane Klauber**  
Partner  
020 8394 6483  
[Jane.Klauber@russell-cooke.co.uk](mailto:Jane.Klauber@russell-cooke.co.uk)

This material does not give a full statement of the law. It is intended for guidance only and is not a substitute for professional advice. No responsibility for loss occasioned as a result of any person acting or refraining from acting can be accepted by Russell-Cooke LLP.  
© Russell-Cooke LLP January 2012