



Protected beliefs: what’s in and what’s out?

HR Magazine

Like buses, cases on UK religious and philosophical beliefs tend to come in groups. You’ll have seen several of these in the news recently, and it’s not easy to decode what is and isn’t now protected. This article seeks to disentangle fact from fiction, and protected philosophical belief from employee opinion.

Under UK anti-discrimination law, three types of belief are protected: religion, religious belief, and philosophical belief. It’s the latter in particular which has been the subject of recent debate and developments.

A philosophical or religious belief will be protected if it:

- is genuinely held;
- is a belief, not an opinion or viewpoint based on the present state of information available;
- is about a weighty and substantial aspect of human life and behaviour;
- has a certain level of cogency, seriousness, cohesion, and importance; and
- is worthy of respect in a democratic society, is not incompatible with human dignity, and does not conflict with the fundamental rights of others.

To better understand these criteria, it is helpful to look at concrete examples:

- **Vegetarianism** failed the test because it was not considered to be a weighty and substantial aspect of human life and behaviour, rather, it was a lifestyle choice. Furthermore, it did not reach the necessary level of cogency, seriousness, cohesion, and importance because people become vegetarians for many different reasons.
- **Ethical veganism**, on the other hand, can be protected because it is based on unifying beliefs regarding humans’ relationship to animals and climate change, and it affects many aspects of life, not only in relation to food but also travel, investments, clothing, and virtually all day-to-day purchases (in one successful claim, the individual used vegan shampoo and avoided cash notes manufactured using animal products).

However, one ethical vegan’s belief that she had to break the law to relieve animal suffering was not worthy of respect in a



democratic society and so was not protected. When it first came to the tribunal in 2019, a gender-critical belief that sex is immutable was deemed to be incompatible with human dignity and in conflict with the fundamental rights of others, but this decision was reversed on appeal on 6 July.

Employers can take measures to mitigate the risk of legal disputes by:

- Ensuring that leadership and HR have high-level awareness of the law to identify problem areas in policies, react appropriately to staff concerns, and communicate the company's position to staff sensitively.
- Operating an open-door policy so that issues can be discussed informally before they escalate.
- Reviewing policies on an ongoing basis for inclusiveness.

It is also worth bearing in mind that indirect discrimination (where a provision, criterion or practice of the employer would put a group with a protected characteristic at a particular disadvantage) can be legally justified if it is a proportionate means of achieving a legitimate aim.

If it is impossible or impracticable to operate a policy which is not indirectly discriminatory, for example where there is a conflict between two protected characteristics, the best way forward may well be to lawfully indirectly discriminate against one of these groups.

Indeed, in a case decided in late June, the belief that gender is immutable was (here too) held to be a protected philosophical belief, but the employer's indirectly discriminatory policy requiring the employee to use transgender persons' preferred pronouns at work was deemed justified.

Read the full article [here](#).