

# Manifestation of Philosophical Beliefs

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## ***Miller v University of Bristol* [2024] ET 1400780/2022**

- Facts
- Employment Tribunal Judgment
- Applying ***Grainger Plc v Nicholson* [2010] ICR 360**
  - i. the belief must be genuinely held.
  - ii. it must be a belief and not an opinion or viewpoint based on the present state of information available.
  - iii. it must be a belief as to a weighty and substantial aspect of human life and behaviour.
  - iv. it must attain a certain level of cogency, seriousness, cohesion and importance.
  - v. it must be worthy of respect in a democratic society, be not incompatible with human dignity and not conflict with the fundamental rights of others.

## Legal Provisions

- **Section 10 Equality Act 2010**
- **Section 3 Human Rights Act 1998**
- **Articles 9, 10 and 17 ECHR**

# Legal Provisions

## Article 9 – Freedom of thought, conscience and religion

- 1) Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to challenge his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
- 2) Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

# Legal Provisions

## Article 10 – Freedom of expression

- 1) Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
- 2) The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society in the interest of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

# Legal Provisions

## Article 17 – Prohibition of abuse of rights

- 1) Nothing in this Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.

## ***Forstater v CHG (Europe)* [2022] ICR 1**

The principles are:

- a) freedom of expression is one of the essential foundations of a democratic society.
- b) the paramount guiding principle in assessing any belief is that it is not for the Court to inquire into its validity.
- c) the freedom to hold whatever belief one likes goes hand in hand with the State remaining neutral as between competing beliefs, refraining from expressing any judgment as to whether a particular belief is more acceptable than another and ensuring that groups opposed to one another tolerate each other.
- d) a belief that has the protection of Article 9 is one that only needs to satisfy a very modest threshold requirement.

## *Higgs v Farmors School* [2023] ICR 1072

"If the Claimant's actions have a **sufficiently close and direct nexus to an underlying religion or belief**, such that they are properly to be understood as a manifestation of that religion or belief, **any limitation would need to be such as is prescribed by law and necessary, in one of the ways identified under article 9 (2).**"



## ***Higgs* – matters to be considered**

- i. the content of the manifestation.
- ii. the tone used.
- iii. the extent of the manifestation.
- iv. the worker's understanding of the likely audience.
- v. the extent and nature of the intrusion on the rights of others and any consequential impact on the employer's ability to run its business.
- vi. whether the worker has made clear that the views expressed are personal, or whether they might be seen as representing the views of the employer and whether that might present a reputational risk.

## ***Higgs* – matters to be considered**

- vii. whether there is a potential power imbalance given the nature of the worker's position or role and that of those whose rights are intruded upon.
- viii. the nature of the employer's business, in particular where there is a potential impact on vulnerable service users or clients.
- ix. whether the limitation imposed is the least intrusive measure open to the employer.

# ***Thomas v Surrey and Borders Partnership NHS Foundation Trust [2024] EAT 141***

- Facts
- EAT Judgment

## Practical tips

- Evidence gathering of the belief – how defined and expressed?
- Investigate carefully – gather full context
- Document decision-making
- Consider Article 17 – does belief conflict with fundamental rights of others?
- Procedural fairness – apply policies consistently and fairly

# Questions