

EAT finds a lack of belief in transgenderism is a philosophical belief

The Employment Appeal Tribunal (EAT) has ruled that a Christian doctor's beliefs about transgenderism were protected under the Equality Act 2010 but he was not entitled to express those views at work.

- In *Mackereth v DWP and Advanced Personnel Management Group (UK) Ltd* the employee was employed, via an agency, to work as a health and disabilities assessor for DWP. Assessors were required to refer to transgender service users in their presented gender at all times and to use whatever pronoun the client prefers.
- Mackereth stated that as a Christian, he could not use pronouns "in that way, in good conscience." After various meetings and discussions, he was asked "one final time" if he could be supported to address service users in their preferred manner, but he refused.
- The EAT concluded that the beliefs in question, which met the tests to be protected as a philosophical belief, are a belief in Genesis 1:27, that "a person cannot change their sex/gender at will. Any attempt at, or pretence of, doing so, is pointless, self-destructive, and sinful", a lack of belief in transgenderism and gender fluidity and a conscientious objection to transgenderism.
- Despite having protected beliefs, the EAT held that the claimant was not subject to direct discrimination, indirect discrimination or harassment. The claimant has indicated that he intends to appeal to the Court of Appeal on this matter, so further examination of this issue by the courts is a possibility.

Calls for new minimum wage for social care workers

NHS leaders are urging the government to introduce a new minimum wage rate of £10.50 per hour for all social care workers. The aim is to minimise staff shortages by encouraging workers to join and stay in the care sector, rather than moving to higher paid and less demanding roles in hospitality and retail. There is concern that unless action is taken hospitals will have to delay the discharge of patients, as there won't be social care services available.

Did you know?

Scotland and Wales have recognised this issue and implemented minimum wage rates for social care staff which is near to or above £10 per hour, causing England to fall further behind national standards.

Full pay for Covid sickness to end in the NHS

Under temporary measures introduced during the pandemic, NHS staff in England are entitled to full pay for self-isolation or if they are off sick with Covid. However, these special paid leave provisions will be rescinded on 7 July 2022 and contractual sick pay will apply instead. People already off sick with a Covid-related illness will revert to contractual sick pay from 1 September 2022, after a transition period.

Did you know?

Before 3 August 2022, NHS employers will need to meet with those who are currently off sick with a Covid-related illness to discuss the changes to their sick pay.

Requirement to remove religious jewellery

A Christian factory worker has won over £22,000 for indirect religious discrimination after being dismissed for refusing to take off a crucifix necklace. The company's policy outlined that jewellery must not be worn in production areas but that exceptions were made for religious jewellery, subject to a risk assessment. The employer failed to discuss with the claimant steps that could be taken to mitigate the risk.

Did you know?

The Scottish employment tribunal concluded that the Foreign Body Control policy placed the claimant at a disadvantage due to his religious belief, so amounted to indirect discrimination.

Employers faced with a similar issue to the Mackereth case will need to make a judgement as to the impact of the behaviour and the resulting damage to others, before deciding on what action to take. Contact our 24-hour Advisory Service for up-to-date guidance on this and more.

Please contact the 24 Hour Advice Service for advice on your specific situation before acting on the information in this publication.