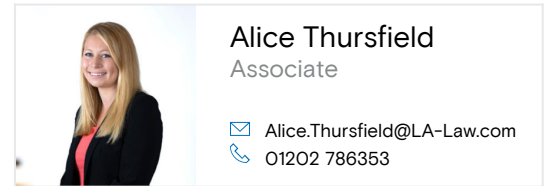




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# Ethical Veganism: A Protected Characteristic



Following on from the case of [Conisbee v Crossley Farms Ltd and others](#), the Norwich Employment Tribunal has ruled that ethical veganism is a philosophical belief and therefore, a protected characteristic under the Equality Act 2010.

## Casamitjana v The League Against Cruel Sports

Mr Casamitjana has brought a claim for unfair dismissal and discrimination against his former employer, The League Against Cruel Sports. Mr Casamitjana claims that he was unfairly dismissed because he raised concerns that his former employer's pension fund was investing in companies that had links to animal testing.

The recent ruling does not settle the claim but confirms that ethical veganism is a philosophical belief which is a protected characteristic under the Equality Act 2010.

## Discrimination and development of the legal meaning of a “philosophical belief”

Direct discrimination occurs where the reason for a person being treated less favourably than another is a protected characteristic listed in section 4 of the Equality Act 2010. These characteristics are:

- Gender reassignment;
- Marriage and civil partnership;
- Race;
- Religion or belief;
- Sex;
- Sexual orientation;

- Pregnancy and maternity.

Prior to this 2020 Casamitjana ruling on ethical veganism and the extended definition of “philosophical belief”, the Employment Tribunal (“ET”) and Employment Appeal Tribunal (“EAT”) had already started to consider and adopt an expansive approach to the definition of a “philosophical belief”.

Back in 2010, the EAT confirmed that an employee’s belief that action was urgently needed to address climate change, could amount to a philosophical belief as it was “*cogent, serious, coherent and worthy of respect in a democratic society*” in the case of *Nicholson v Grainger plc*. The EAT rejected the argument that political or science-based beliefs could not fall within the meaning of a “philosophical belief”.

There have been a plethora of interesting cases on the development of the definition, including:

- In 2013, the ET held that a political belief (that of democratic socialism) could amount to a philosophical belief. The ET applied the *Nicholson* criteria when coming to that decision.
- In the case of *Hashman v Milton Park (Dorset) Ltd*, the belief in the sanctity of life which extended to an intense anti-fox hunting stance was held to be a philosophical belief.
- In *Maistry v BBC*, the ET held that a journalist’s belief in “*the higher purpose of public service broadcasting*” was a philosophical belief.
- The ET broadened the definition of a philosophical belief even further in *Hawkins v Universal Utilities Ltd t/a Unicom*, whereby the ET held that a belief that “*it is wrong to lie under any circumstances*” amounted to a philosophical belief.

The case law narrative and developments over the past decade pointed towards this finding in the Casamitjana case, which was not surprising after the wording of the judgment in *Conisbee v Crossley Farms Ltd and others* late last year. The judge in the Casamitjana case stated that ethical veganism satisfied several tests in that “*it is worthy of respect in a democratic society, not incompatible with human dignity and not conflicting with the fundamental rights of others*”. Therefore the judge was satisfied that ethical veganism is a philosophical belief within the definition of the Equality Act 2010.

## Implications for employers

Whilst this ruling is the judgment of the first instance ET and the final judgment of the case is awaited, the ruling on the meaning of a philosophical belief does have implications on employers. Employers have to respect ethical veganism and ensure that they do not discriminate against an employee for having that philosophical

belief.

More broadly, a common problem area for employers is centred around the extent to which employment law protects the manifestation of beliefs as opposed to the holding of them. The practical implications of an employee exercising their belief in the workplace is subjective and can differ between employees, despite each employee holding the same or similar belief in something.

When looking at the practical implications of ethical veganism more specifically, the effects in the workplace are far reaching. An employee may refuse to wear a uniform or PPE which has either been made from animal products or been tested on animals. Could healthcare workers refuse to administer topical medications which had been tested on animals, for example?

The outcome of the final hearing is yet to be decided. The League Against Cruel Sports maintains that the reason for Mr Casamitjana's dismissal was due to his misconduct and not the belief he holds. Regardless of the final judgment, employers now know that ethical veganism is considered to be a philosophical belief for the purposes of discrimination in the workplace.

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