

# Discrimination law update

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PAUL SCHOLEY, MORRISH SOLICITORS

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# Developments in Discrimination Law

IER

5<sup>th</sup> and 19<sup>th</sup> November 2024

Paul Scholey

Morrish Solicitors LLP



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## Extending protection

- EAT ruling extends Indirect Discrimination claims to claimants without particular Protected Characteristics
- Rollett v British Airways (2024) EAT

## English Nationalism as Protected Belief?

- To be a protected belief (the **Grainger** criteria), the belief must meet 5 criteria:
  - The belief must be genuinely held
  - It must be a belief, not an opinion or viewpoint, based on the present state of information available
  - It must be a belief as to a weighty and substantial aspect of human life and behaviour
  - It must attain a certain level of cogency, seriousness, cohesion and importance
  - It must be worthy of respect in a democratic society, not be incompatible with human dignity and not conflict with the fundamental rights of others

## Thomas v Surrey and Borders Partnership NHS Foundation Trust — EAT (2024)

- Claimant alleges his assignment with Trust had been terminated because of his belief in English nationalism, claiming this was belief discrimination
- Claimant fails as his views are of an English nationalism which believes that there is no place in British society for Muslims or Islam itself (including a belief that Muslims should be forcibly deported from the UK)

## Refusal to return to work – discrimination?

- Parnell v Royal Mail Group Ltd EAT (2024)
- Appeal against employment tribunal's decision to dismiss claims of disability discrimination and unfair dismissal brought by an employee on long-term sick leave who refused to return to work until a two-year warning that had been issued against him had been revoked

## Knowledge & reasonable adjustments

- Glasson v Insolvency Service (2024)
- EAT has held that an employment tribunal was entitled to find that an employer did not discriminate against the claimant under the Equality Act 2010 by conducting oral interviews by video conferencing in an internal recruitment exercise
- Failure to make reasonable adjustments relating to stammer; employer's knowledge?

## Dismissal and social media

- Omooba v Michael Garrett Associates Ltd (2024)
- EAT appeal against an employment tribunal's decision relating to a Christian actor who was dismissed from a role playing a lesbian character, following a social media storm over her publicly expressed beliefs



## Causing or inducing discrimination

- Bailey v Stonewall Equality Ltd EAT (2024)
- Appeal against employment tribunal rejecting a claim by a barrister that an LGBT campaign charity caused or induced her chambers to discriminate against her on the ground of her protected 'gender critical' belief

## Vento Guidelines

Bands for “injury to feelings” in employment claims issued on or after 6th April 2024 are set out below:

- A lower band of £1,200 to £11,700 (less serious cases)
- A middle band of £11,700 to £35,200 (cases that do not merit an award in the upper band)
- And an upper band of £35,200 to £58,700 (the most serious cases), with the most exceptional cases capable of exceeding £58,700

## Equality Bill 2024

- **Sexual harassment:** strengthen legal duty on employers to take all reasonable steps to stop sexual harassment before it starts
- **Menopause:** strengthening protections from menopause discrimination:
  - Large employers with more than 250 employees required to produce menopause action plans
  - Guidance will set out measures for employers to consider relating to uniform and temperature, flexible working and recording menopause-related leave and absence

# Higgs

- Court of Appeal heard submissions October 24
- Link to Hearing: [www.youtube.com/live/TbL0OfZFLUct](https://www.youtube.com/live/TbL0OfZFLUct)
- Ruling awaited



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# ANY QUESTIONS?

Paul Scholey

[info@morrishsolicitors.com](mailto:info@morrishsolicitors.com)

033 3344 9600

Morrish Solicitors LLP

[morrishsolicitors.com](http://morrishsolicitors.com)



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