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## ETHICAL VEGANISM: A PROTECTED CHARACTERISTIC UNDER THE EQUALITY ACT 2010

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An employment tribunal has ruled that ethical veganism is a philosophical belief that is protected by law against discrimination. In Jordi Casamitjana v the League Against Cruel Sports (LACS) JC complains of unfair dismissal having raised concerns with colleagues that its pension fund invested in companies involved in animal testing. The charity did not contest that ethical veganism should be protected but will argue at trial that JC was dismissed for gross misconduct.

Ethical vegans, like dietary vegans, eat a plant-based diet, but ethical vegans also try to avoid contact with products derived from any form of animal exploitation. It includes not wearing clothing made of wool or leather and not using products tested on animals.

The recognition of ethical veganism as a protected characteristic under the Equality Act 2010 may have significant effects on employment, education, transport and the provision of goods and services.

The 'choice' to be vegetarian or vegan is on the rise. How we exploit and treat animals is very much in the public conscience. Farming is now done on an industrial scale.

As with any belief there is clearly a wide scope for a variety in the individual level of commitment. Given that philosophical belief cases are fact sensitive it may be possible for one vegan employee to be protected under the Act and another not. It depends on the views and reasoning expressed by the employee for being vegan. It may depend on an individual identifying as being an 'ethical vegan' rather than vegan and having the commensurate lifestyle.

Given society's current obsession (rightly or wrongly) with individuals readily taking offence and the use of such terms as 'snowflake' it is clear that employers will need to tread carefully when dealing with complaints from (vegan) employees. As with other protected characteristics there will be complaints about inappropriate 'banter', less favourable treatment and other common complaints. But what about such issues as the staff canteen or colleagues eating a bacon sandwich at the next desk? Could a worker on a supermarket checkout refuse to put a meat product through the till?

Importantly, as with all complaints, it is the employer's response or handling of the subject that may give rise to a claim. As much as an employer may not be expected to rearrange its canteen line so as not to offend the sensitivities of an ethical vegan, the mishandling of a grievance about such matters may give rise to a complaint of victimisation and/or amount to a breach of the implied term of trust and confidence. Any employer would be foolhardy for not treating complaints with the same sensitivity and respect that they would for a sexual harassment complaint, for example.

Employers should look to review their diversity policies to include 'ethical veganism'.

For a belief to be protected, the claimant must also show that it has cogency, seriousness, cohesion and importance, meaning that it must fit together in the claimant's life as a coherent belief system, in much the same way as a religion. The belief must also be worthy of respect in a democratic society, compatible with human dignity and not in conflict with the rights of others. This means, for example, that a belief in the innate superiority of certain races cannot be protected.

Earlier in 2019 the same employment judge, Robin Postle, ruled that vegetarianism is not a protected characteristic in the case of Conisbee v Crossley Farms Limited. In that judgment EJ Postle set out the tribunal's view on the differences between ethical veganism and vegetarianism and why being vegetarian was not a protected characteristic (paragraph 41). The distinction is drawn around the greater number of reasons given by vegetarians for being vegetarian. Ethical vegans have a far narrower set of parameters and determining factors that draw someone to live their life that way. The tribunal accepted that the Claimant was a vegetarian and had a genuine belief in vegetarianism and animal welfare. However, it held that vegetarianism is not capable of amounting to a philosophical belief. It is not enough merely to have an opinion based on logic. It is the level of commitment and impact on lifestyle that sets being 'ethically' vegan apart from vegetarians and indeed other vegans.

Someone who expresses a belief in ethical veganism or climate change, for that matter, must be protected in the same way as someone who practises Christianity.

This is a first instance judgment. It is not binding on any other tribunal but may be of persuasive value. No doubt, the issue of protection for such beliefs will produce an appellate authority within the shortness of time. Given that the LACS accepted that JC was an ethical vegan any appeal is unlikely but in any event the judgment in the case is sound and clearly permissible.

Religion and belief is one of nine protected characteristics under the Equality Act. The others are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, sex and sexual orientation.

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