

Dismissal for expressing protected beliefs

In the *University of Bristol v Dr David Miller* the EAT has upheld findings that an academic's particular anti-Zionist beliefs were protected under the Equality Act 2010 and his connected dismissal was discriminatory and unfair.

What happened in this case?

Dr David Miller (the **Claimant**) was employed as a professor by the University of Bristol (the **University**) and was summarily dismissed for gross misconduct following public comments he made about Zionism, including comments directed at students and student societies.

The Claimant's academic work was well known, political and viewed by some as controversial. His public comments had led to a first lengthy independent investigation in 2020, which had concluded there was no formal case to answer in connection with any of the matters investigated. In 2021 a second investigation concluded that certain of the Claimant's statements would be '*offensive to many*' but were not '*antisemitic or amount to or involve discrimination*'.

Nevertheless, it was decided that there was a case to answer in respect of the Claimant's breaches of University policies including the Equality and Diversity policy and the Acceptable Behaviour at Work Policy. While recognising the importance of freedom of speech and academic freedom, the University

concluded that the Claimant's actions constituted gross misconduct, in particular, as he had '*singled out students and student societies for criticism*', and that he had failed to show sufficient '*responsibility, diligence and care*' in his statements and the way he made them.

The Claimant brought claims in the Employment Tribunal (ET) against the University including direct belief discrimination, belief-related harassment, unfair dismissal and wrongful dismissal.

What is the relevant law?

"Religion or belief" is a protected characteristic under the Equality Act 2010 (**EqA 2010**) and includes any religious or philosophical belief.

In *Grainger plc and others v Nicholson*, the EAT set out the following criteria for identifying a protected "philosophical belief":

- 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.

These have been described as modest threshold requirements that should not be set too high.

In *Higgs v Farmor's School*, the Court of Appeal held that where an employee is dismissed for *manifesting* a protected belief, this will constitute direct discrimination unless it is objectively justified. .

Therefore an employer can discipline or dismiss an employee for manifesting a protected belief provided that the employer's action is taken in pursuit of a legitimate aim and is not disproportionate.

What did the ET decide?

The ET found that the Claimant 's anti-Zionist beliefs were protected philosophical beliefs and that the expression of those beliefs was a material factor in the decision to dismiss. The ET held that the Claimant's opposition to Zionism was confined to opposition to the exclusive realisation of Jewish rights to self-determination within a land which is home to a substantial non-Jewish population. It was not

opposition to the idea of Jewish self-determination or a Jewish state *per se*. Accordingly, his belief was held to be worthy of respect in a democratic society and qualified as a protected belief. It held that the dismissal was directly discriminatory, unfair and wrongful.

The University had challenged whether the Claimant's beliefs met various parts of the *Grainger* test, but the most serious challenge was to whether it met the last criterion. The ET made clear many people would disagree with Dr Miller's beliefs or find them offensive but ultimately found, they were still protected. Only beliefs akin to pursuing totalitarianism, or advocating Nazism or espousing violence and hatred in the gravest of forms are deemed 'not worthy of respect in a democratic society'. The fact that a belief is protected, however, does not mean an employee can necessarily voice it with impunity in the workplace if the way the belief is manifested is objectionable.

The ET reduced the Claimant's unfair dismissal award by 50% for contributory fault, finding that his comments concerning students and student societies were blameworthy and had contributed to his dismissal. The ET also held that there was a 30% chance that, had the Claimant remained employed, social media posts he had made in August 2023 would in any event have resulted in a lawful dismissal in October 2023.

The EAT appeal

The University appealed the ET's decision on nine grounds and the Claimant cross-appealed on three grounds.

The Employment Appeal Tribunal (**EAT**) rejected all but one of the University's nine grounds of appeal, with one aspect of the remedy assessment remitted for further consideration. The Claimant's cross-appeal was dismissed.

The EAT upheld the conclusion that the Claimant's anti-Zionist beliefs qualified for protection as philosophical beliefs under the Equality Act 2010. The EAT also upheld the finding that there was a composite reason for dismissal. It was not only the Claimant's comments about students and student groups that prompted the dismissal; his expression of the protected beliefs themselves was also a material factor. The comments about students and student groups were regarded as inappropriate and blameworthy, but were distinct from the expression of his protected beliefs. As the non-objectionable expression of those beliefs was itself a material part of the reason for dismissal, the dismissal amounted to direct discrimination and could not be justified on proportionality grounds.

The ET had assessed a 30% chance that, had the Claimant remained employed, social media posts he made in August 2023 would in any event have resulted in a lawful dismissal in October 2023. The EAT held that the basis for that assessment had not been adequately explained and remitted the issue for reconsideration.

What does this mean for employers?

This decision highlights the importance of clearly identifying what is objectionable about an employee's conduct where protected beliefs are engaged and the consideration of appropriate sanctions.

Relevant considerations may include whether the expression is unlawful or discriminatory, incites violence or hatred, or presents a risk to others. Employers should distinguish those concerns from disagreement with, or objection to, the protected belief itself.

Where there is genuinely objectionable conduct alongside protected expression, disciplinary action should focus on that conduct. If the non-objectionable expression of the protected belief itself materially influences a dismissal, the employer may be unable to justify the decision on proportionality grounds. In such circumstances, a warning or lesser sanction is likely to be the appropriate starting point.

In this case there had been a previous investigation into the Claimant's public communications which had not resulted in any disciplinary sanction so the investigation that led to his dismissal was the second investigation into statements he had made. Had the University issued the Claimant with some guidance or a warning at an earlier stage on what was acceptable in relation to his communications with or about students, his subsequent dismissal may have been proportionate.

Therefore, employers should:

- Be clear what constitutes acceptable behaviour in their organisations and intervene where unacceptable behaviour occurs

- Be consistent concerning disciplinary sanctions – keep records and follow up with monitoring of the conduct in question
- Train managers on having difficult conversations including about sensitive issues
- Where a dismissal has taken place, monitor post termination conduct –expressions of a belief even after termination will be relevant to the true nature of an employee's beliefs as well as to the question of any reduction in the compensatory award.

[University of Bristol v Dr David Miller \[2026\] EAT 84](#)

For more detailed coverage of the law in this area see our [Webinar, Culture wars at work: Navigating employee rights, beliefs and the law](#) from July 2026.

BDBF is a law firm based at Bank in the City of London specialising in employment law. If you would like to discuss any issues relating to the content of this article, please contact Knowledge Lawyer Sophie Cameron (sophiecameron@bdbf.co.uk) or your usual BDBF contact.