

Employment Newsletter

YOUR WEEKLY BULLETIN OF WIT AND WONDER



TEXT ON THE RUN

The strange case of the missing letters



DOCTOR YOUR WORDS, PLEASE

When the Bible says no



ZOMBIES & GHOSTS

How to be either online

WA N OODMAN

Where, oh where, have our letters gone? As you can see from this fractured headline, two Rs, one E and a G are absent without leave.

Why?

To confuse you? To get you to embark on a pointless anagram quest? Or to get your attention?

Well, you've probably guessed, because you've read this far, which means it DID get your attention. I bet you thought 'Oh no - the newsletter team's losing it. They can't even be bothered to check for screamingly obvious typos.'

I like to think of those letters hiding under a hedge somewhere, going 'ERRG, ERRG...'



Much like some very large red letters are hiding in a field somewhere in Wales, going 'DOFE! DOFE!'

These were part of the National Eisteddfod festival sign in Tregaron, Ceredigion which this week vanished overnight. According to BBC Online there was much talk and concern about this mystery while the organisers of the Welsh-language cultural event professed to know nothing.

Until they confessed it was all a big publicity ploy. 'Hiding them drew a lot of attention in Wales and beyond,' admitted a spokeswoman.

WHAT'S IN A PRONOUN?

And speaking of missing letters brings me to ignored pronouns and the case of *Mackereth v the Department of Work and Pensions (DWP) 2019*.

Dr David Mackereth was a Health and Disability Assessor in the DWP when he was dismissed from his role in June 2018 after refusing to use transgender service users' pronouns. This was due his religious beliefs which he followed closely and applied to his everyday life - specifically Genesis

EVENTS SEASON

2022

SEP 28
Peace of Mind

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Dr Mackereth stated that he did not have an issue with using the first names of the service users however his issues arose regarding their preferred pronouns and titles that do not correspond with their birth gender.

Due to this, Dr Mackereth was offered the choice of following the DWP's agreed procedure with help and support or to leave his contract with the DWP. Dr Mackereth confirmed that as "a

Christian, and in good conscience I cannot do what the DWP are requiring of me".

Dr Mackereth then filed a claim for religious discrimination and harassment in the Employment Tribunal in July 2019.

The ET found that no matter how sensitively these matters were handled, there would always be an element of violation of dignity towards transgender individuals. The ET's judgement was that the refusal to refer to a transgender person by their chosen pronouns or titles constitutes unlawful discrimination or harassment under the Equality Act 2010.

It was also held by the ET that Dr Mackereth's beliefs did not constitute a philosophical belief under the case of *Grainger v Nicholson 2010* as his belief was incompatible with human dignity and conflicts with "the fundamental rights of others" and therefore held that Dr Mackereth's beliefs were not worthy of protection under the Equality Act.

Dr Mackereth appealed this decision to the Employment Appeal Tribunal in June 2022.

Dr Mackereth's legal team argued that the ruling of a previous case (*Forstater v CGD Europe 2021*) should be applied to his judgement as it was found in this case that Forstater's personal views on gender did constitute a philosophical belief under the Equality Act 2010.

The EAT found that Dr Mackereth's beliefs were protected under the Equality Act 2010 and the Human Rights Act 1998 as they did not get anywhere near to amounting to extremes akin to Nazism or totalitarianism, however it also held that his beliefs were still "likely to cause offence".

The EAT confirmed that the ET had properly taken into account the context in which Dr Mackereth expressed his beliefs and drew a distinction between those beliefs and the particular way in which he wished to manifest those beliefs. Upon these decisions, the EAT dismissed Dr Mackereth's appeal.

Dr Mackereth continues to fight for his beliefs and intends on taking his case to the Court of Appeal.

Claims for discrimination in the ET have no limit on awarded compensation and other cases where discrimination cases have succeeded the claimant has been awarded sums of up to £25,000 in compensation and damages.

As employers, it is important to ensure protected characteristics are upheld under the Equality Act 2010, however, it is also important to ensure that the protected characteristics that employees exhibit in the workplace do not directly discriminate or offend others in the workplace or any customers or service users.

When discussing these matters with employees, it is quite legitimate for you to ask employees professing these challenging beliefs to square with their duties or good workplace relationships and for them to consider how this may be done and if any help or support can be put in place to assist them with this.

While you should be seen to consider how "difficult" beliefs can be accommodated in the workplace, you are not obliged to submit others (whether colleagues or customers or service-users) to any material detriment in order to do so. It must be clear that these questions do not extend to challenging the truth or wisdom of these beliefs as this could amount to direct discrimination.

NOV 23
Litigation
Lessons
Masterclass



HE'S NOT THAT TALL AND SHE'S NOT THAT THIN



An interesting bit of Word Of Mouth on BBC Radio 4 this week - on dating profiles and how we all tend to lie. A

Sounds like setting yourself up for a fall when you finally get to a real date. If you do it in reverse you're bound to get a better response.

But if you never get together IRL* online relationships can be just as confounding, what with ghosting, zombieing, breadcrumbing and caking.

Confused? (Again.) I don't blame you. Here, for the uninitiated, is what these mean:

* Ghosting - ignoring all contact with someone following some previous flirty texting or even a date

* Zombieing - and then later showing up again in their feed and chatting away like you were NEVER DEAD

bit. Or a lot.

According to D Nicola Fox-Hamilton, a cyber psychologist, the words - and pictures - we use are very telling about the real us. Men tend to overstate their height by two inches while women will understate their weight, and often use a much younger profile picture.

* Haunting/soft ghosting - never speaking to you again but, bafflingly, liking your posts and generally lurking

* Breadcrumbing - not as cold as ghosting or as weird as zombieing... just offering enough response to keep you following. But no more. Ever.

* IRL - in real life

Good luck out there, you digital daters. It's a horror film.

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