

Choose your words wisely: Balancing inclusivity and employees' beliefs at work

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In the recent case of *Orwin v East Riding of Yorkshire Council* the Employment Tribunal found that, whilst recognising that Mr Orwin had the right to hold and express his gender-critical philosophical belief in the workplace, any protection in respect of that did not extend to him expressing that belief in a provocative fashion and then failing to follow a reasonable management instruction in respect of the same.

The Council, like many employers, asked its employees including Mr Orwin to consider adding their preferred pronouns to their email signatures as a way of promoting inclusion of people who identify their gender in a way that is not necessarily consistent with their biological sex.

Mr Orwin held a gender critical belief and so added to his email signature "XYchromosomeGuy / AdultHumanMale". He refused numerous management instructions to remove the words which might be offensive to others or deemed potentially transphobic. He was eventually dismissed. He claimed direct philosophical belief discrimination and unfair dismissal.

Mr Orwin's claims failed. He had taken a deliberately provocative stance with his email signature and refused reasonable management instructions to change it. It was him doing that (that is, the manner in which he expressed his belief), rather than the actual belief he held, that was the reason for his dismissal.

Employers may want to think about being more prescriptive when asking employees to show their support for inclusion practices. Whilst it was implicit that the Council's suggestion that employees did not change their email signatures to something that might be perceived as provocative or discriminatory towards others, the Council had not expressly set that out before making its suggestion. Employers may also want to offer discussions with employees who do not want to support a particular DE&I initiative if it does not align with their beliefs to help them find ways for them to express their own beliefs in a respectful and considerate way. Finally, employers should note that it is International Pronouns Day on 16 October 2024.

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