

YOUR WEEKLY BULLETIN OF WIT AND WONDER



THE WONDER WEEKS

Why we need those six weeks



FREE TO OFFEND

How the transphobic aren't necessarily dismissible



DROPPING OFF THE KID

Adventurous tot exits the car her own way

THE WONDER WEEKS

Every so often some wag pipes up that the school summer holidays are far too long and we should break them up into regularly spaced out two-week chunks across the year.

These are the people who would also have you slice a Creme Egg into quarters and eat one quarter every 15 minutes.

I mean... what?!

Sure, the childcare issue is a nightmare, the hiking of plane fares and hotel prices is aggravating, the non-stop Disney output is horrifying... but the six-week break is great. Don't mess with it, 1/4 Creme Eggers!

Legend has it that the annual July-August break was down to farmers needing their kids to help out with the harvest, but this is not entirely right. According to an article by the Oxford Royale Academy - and also according to your calendar and common sense - farmers don't actually need those kids in the fields until late August and well into September, even October.



It's thought the real reason for the summer break is that... well... it's nice and sunny.

Way back in earlier centuries it was a good time for the faithful to go on a pilgrimage across the many holy days that used to crowd the Christian calendar. A few centuries later, it was a good time for the upper class youth to undertake their Grand Tour around Europe after finishing their studies. And over the past two centuries, a good time for the riff-raff to get in a quick day trip to the beach.

Stands to reason when you think about it. We all need a break. And even more than Christmas and New Year, the summer holiday six-week hiatus is a time to slow down, rethink, take stock, before September grabs us by the shoulder and propels us back onto the three-lane motorway of life.

I say eat Creme Eggs all at once if you want to.

Feel free to argue over on our Facebook page.

*Yes, I know Creme Eggs are hard to get at this time of year. Substitute a walnut whip or something, you pedant!

FREE TO OFFEND

And speaking of things that are hard to get brings me to the case of *Forstater v CGD Europe 2021* and whether an employee's gender-critical beliefs are protected under the Equality Act 2010.

Forstater was employed by CGD Europe for two years as a consultant, working as a researcher, writer and adviser. At the end of 2018, Forstater's contract was not renewed after a number of her colleagues raised concerns about some of her social media posts, claiming that they were "trans-phobic" "exclusionary or offensive" and made them feel "uncomfortable".

Forstater claimed direct discrimination and harassment against her "gender-critical" beliefs.

The Equality Act 2010 protects people from discrimination in the workplace and in wider society. It outlines nine protected characteristics. "Religion or belief" is one of the nine protected characteristics, meaning that it is unlawful to discriminate because of an individual's belief.

The ET held a preliminary hearing to determine whether Forstater's belief was a philosophical belief within the meaning of Section 10 of the Equality Act 2010. Forstater's claim failed at the preliminary hearing as the ET held that her belief did not constitute a protected philosophical belief due to its absolutist nature. Forstater would "refer to a person by the sex she considered appropriate even if it violated a person's dignity". Therefore the ET held that it was not worthy of respect in a democratic society.

Forstater appealed.

The Employment Appeal Tribunal found that the ET were mistaken in their decision. The EAT found that case law dictates that a philosophical belief would only fail to satisfy the threshold "if it was the kind of belief of which would be akin to Nazism or totalitarianism".

The judgment stated that Forstater's belief "might well be considered offensive and abhorrent to some, but the accepted evidence before the tribunal was that she believed that it is not 'incompatible to recognise that human beings cannot change sex whilst also protecting the human rights of people who identify as transgender'... That is not, on any view, a statement of a belief that seeks to destroy the rights of trans persons." The EAT also explained that Forstater's gender-critical beliefs were widely shared and were also in accordance with previous decisions of UK law.

Judge Andrew Glennie found that Forstater had been directly discriminated against because of her beliefs as she was not offered an employment contract, her fellowship was not renewed and she was removed from her employer's website. Judge Glennie dismissed alternative complaints of direct belief discrimination and victimisation, as well as complaints of harassment and indirect discrimination in relation to sex and belief. He added that remedies for the successful complaints would be determined at a future hearing.

The EAT stressed that the judgement did not mean individuals with gender-critical beliefs could "misgender trans persons with impunity" and everyone will continue to be beholden to the prohibitions on discrimination and harassment within the meaning of the Equality Act.

The case highlights to employers the importance of finding a fair balance between allowing freedom of speech and tolerating opposing beliefs and ensuring employees have a safe environment that is free from discrimination and harassment. Failure to do so could result in the employer being liable for a potential claim either way.

It is important for employers to focus on the way in which employees may potentially manifest their views, so if an employee is deliberately upsetting or inciting other employees, regardless of whether that belief is protected, it does not necessarily mean that an employer should tolerate it, or do nothing. It is therefore important for employers to review their policies and handbooks and provide training and relevant education programmes, in order to help protect both the employees and themselves.

EVENTS SEASON 2022

SEP 28
Peace of Mind
Members
Seminar

OCT 6
Settlement
Agreement
Masterclass

NOV 23
Litigation
Lessons
Masterclass



DROPPING OFF THE KID



Happily the drop wasn't far, every car behind stopped and half a dozen drivers leapt to her rescue.

You can see it here: <https://uk.style.yahoo.com/child-rescued-motorists-falling-car-174956485.html>

As is often the case with these short videos, taken from road camera feeds, there's no information on where it happened or what followed or even how the child's parents (presumably) reacted when they noticed.

The Independent online is carrying a short video of a child being rescued by motorists after falling out of a rear

window as the car she was travelling in pulled away at traffic lights.

I like to think Mum and Dad drove on for quite a while, with *The Wheels On The Bus Go Round And Round* playing, going gently mad, as you do with endless musical nursery rhymes and then, maybe half an hour later, during *Little Bo Peep*, thought... *she's* quiet. Not so much as an 'Are we nearly there yet?'

Of course, they'd be tracked down via ANPR and a quick, tearful reunion would follow, but in the interim there might be pause for thought.

Was it *Little Boy Blue* or *Here We Go Round The Mulberry Bush* that literally sent little Susie over the edge..?

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