



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4110538/2019

Held in Glasgow on 1 June 2022

Employment Judge L Wiseman

Mr E McClung

**Claimant
In Person**

Doosan Babcock Ltd

**First Respondent
Represented by:
Ms L Miller -
Solicitor**

NRL Ltd

**Second Respondent
Represented by:
Mr D Livingston -
Representative**

Donald Ross

**Third Respondent
Represented by:
Ms L Finlayson -
Solicitor**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The judgment of the Employment Tribunal is that the claimant's belief in supporting Rangers Football Club does not amount to a philosophical belief within the meaning of section 10(2) of the Equality Act 2010 and cannot be relied upon by the claimant as a protected characteristic for the purposes of claiming discrimination under the Equality Act.

REASONS

1. This hearing was a preliminary hearing to determine whether support for Glasgow Rangers Football Club is a philosophical belief in terms of section 10 of the Equality Act. I heard evidence from the claimant, and I was referred to a small number of documents produced by the claimant. I also heard submissions from the claimant and the representatives of the first and third respondents. Mr Livingston, for the second respondent, adopted the submissions made by the other respondents.

Findings of fact

2. The claimant has been a supporter of Glasgow Rangers Football Club (hereinafter referred to as Rangers) for around 42 years, that is, most of his life. He was taken to a Celtic v Rangers game by his father when he was around 8 years old, and has been “hooked” since then. He attended the supporters club in Grangemouth from around the age of 11 until late teens.
3. The claimant is a member of Rangers. He receives a birthday card from them each year (page 13) and was recently invited to visit Ibrox to see the Scottish Cup. He is also a member of MyGers (page 7). MyGers is a charitable organisation which focusses on building a foundation for Youth and Senior teams for the future.
4. There was no fan attendance at games during the lockdown in 2020 and 2021.
5. The claimant spends most of his income (after paying basic house and car bills) on games. The claimant normally attends at least one or two home games every month, with the odd away game and cup game.
6. The claimant buys his ticket a couple of weeks in advance so he has something to look forward to. He believes this gets him out to work with a spring in his step, so he is working to pay bills and attend as many games as he can afford.
7. The claimant wakes up “buzzing” on match days and enjoys the build up to the game. The claimant believes this is a way of life and creates lasting memories, for example, with him and his father, and with him and his son.

8. The claimant subscribes to Sky Sports and watches matches, pre and post-match interviews and podcasts. He never misses a match and considers it a “massive” part of his life. It motivates him to do/be the best he can.
9. The claimant referred to the photographs he had produced in the bundle of documents which included the Everyone Anyone Rangers FC Charter (page 1); photographs taken at various matches (pages 3, 5, 6, 8, 9, 10); Rangers’ legends (page 14 and 15) and Rangers A Way of Life banners (page 11 and 12).
10. The claimant acknowledged there was a serious aspect to Rangers which made fans the subject of attack by anti-Rangers people. He described himself, and most Rangers’ fans, as caring passionately about the UK and having loyalty to Northern Ireland and the Queen. He had heard sectarian mocking of the Rangers Ibrox disaster in 1971 where 66 people died, knew of violence on Old Firm match days and had heard sectarian comments and songs.
11. The claimant believed there were 1.4 million Rangers fans in the UK and 8 million worldwide.
12. The claimant considered supporting Rangers was a way of life and that it was as important to him as it was for religious people to go to Church.

First Respondent submissions

13. Ms Miller acknowledged the claimant was clearly a devoted fan and wished it noted that nothing she said was intended to belittle that or the enjoyment he got from it.
14. Ms Miller referred to section 10 of the Equality Act and to the case of ***Grainger plc v Nicholson 2010 IRLR 4*** where the EAT had set out the legal tests to be applied when answering the question whether something qualified as a philosophical belief. Ms Miller referred the tribunal to paragraph 10 of the Judgment where reference was made to a passage from Hansard which related to the then Equality Bill where the Attorney General, Baroness Scotland, was recorded as saying, in relation to the deletion by amendment of the word “similar”:

“... it was felt that the word “similar” added nothing and was, therefore, redundant. This is because the term “philosophical belief” will take its meaning from the context in which it appears; that is, as part of legislation relating to discrimination on the grounds of religion or belief.

Given that context, philosophical beliefs must therefore always be of a similar nature to religious beliefs. It will be for the courts to decide what constitutes a belief for the purposes of the Regulations, but case law suggests that any philosophical belief must attain a certain level of cogency, seriousness, cohesion and importance, must be worthy of respect in a democratic society and must not be incompatible with human dignity. Therefore an example of a belief that might meet this description is humanism, and examples of something that might not ... would be support of a political party or a belief in the supreme nature of the Jedi Knights ... I hope that provides some assurance on the change of the definitions of “religion or belief” being adopted and I hope that the noble Baroness will therefore feel content to withdraw the amendment.”

15. Ms Miller referred to paragraph 24 of the Judgment where the Judge indicated the limits or criteria which have to be implied or introduced by reference to previous jurisprudence, and these were as follows:
 1. the belief must be genuinely held;
 2. it must be a belief and not an opinion or viewpoint based on the present state of information available;
 3. it must be a belief as to a weighty and substantial aspect of human life and behaviour;
 4. it must attain a certain level of cogency, seriousness, cohesion and importance and
 5. it must be worthy of respect in a democratic society, be not incompatible with human dignity and not conflict with fundamental rights of others.
16. Ms Miller noted the above criteria were also set out at paragraph 2.59 of the Equality and Human Rights Commission Code of Practice on Employment 2011 as the correct means of determining whether a philosophical belief can be

protected under the Act. Ms Miller submitted a belief in the support of Rangers Football Club did not meet these requirements and therefore could not qualify as a philosophical belief which amounted to a protected characteristic under the Equality Act 2010.

17. Ms Miller, in particular, submitted that support for Rangers was “support” and not a “belief” (and therefore did not meet the requirements of point 2 above). “Support” in this context may be defined as “be actively interested in and concerned for the success of (a particular sports team). “Belief” may be defined as “an acceptance that something exists or is true especially one without proof” or “something one accepts as true or real; a firmly held opinion”. The two, it was submitted, were not the same thing.
18. Ms Miller further submitted that it did not relate to a weighty and substantial part of human life and behaviour (and therefore did not meet the requirements of point 3 above), and that it did not reach the required level of cogency, seriousness, cohesion and importance required by point 4, nor was it worthy of respect in a democratic society (and therefore did not meet the requirements of point 5 above) because support for a football club, whilst not objectionable in any way, did not hold much importance to society when compared with weightier issues such as national independence, ethical veganism or gender critical beliefs (per the case law referred to below).
19. Ms Miller referred to the tribunal judgment in ***McEleny v MOD UK/ET/4105347/2017***. The tribunal in that case held that belief in a political party (SNP) did not qualify as a belief worthy of protection under the Equality Act, whereas a belief in Scottish Independence was found to meet the required standard. The tribunal judge found the claimant’s belief in Scottish independence was underpinned by fundamental questions regarding sovereignty and self-determination and that it was philosophical in nature and capable of protection. Conversely the tribunal found his support for the SNP itself was linked to his desire to achieve independence rather than a meaningful belief in the party itself or their policies. It was accepted he spent a lot of time campaigning for the party, however, this was not sufficient to satisfy the ***Grainger*** test. The tribunal Judge said, at paragraph 27 *“I agree with the*

Respondent that support or active membership of a political party does not of itself amount to a philosophical belief for the purposes of claiming direct discrimination under the Equality Act 2010”.

20. Ms Miller submitted support for a football club should be dealt with in a manner similar to the support of a political party and as such the current case should be decided in line with the reasoning given by the tribunal judge in **McEleny**. The claimant’s attendance at football matches was akin to the campaigning for the SNP carried out by Mr McEleny. Ms Miller acknowledged that whilst this showed a level of support, it was not sufficient to amount to a philosophical belief. Furthermore, the claimant had not provided any compelling articulation of his belief in Rangers FC or any meaningful underpinning of such a belief worthy of being considered a philosophical belief.
21. Ms Miller referred to the case of **Lisk v Shield Guardian Co Ltd and others ET/3300873/2011** which considered whether wearing a poppy could constitute a philosophical belief. Ms Miller referred the tribunal to paragraph 10 of the Judgment, where it was said that *“It is not simply a question of whether somebody’s choice to wear a poppy is a choice that should be respected but whether, underpinning that choice, there is a belief that is capable of being regarded as a philosophical belief”*. The tribunal held that the belief in wearing a poppy did not relate to a weighty and substantial aspect of human life and did not have cogency, cohesion and importance. Ms Miller submitted the present case should be dealt with in the same way because the claimant had failed to show that his choice to support Rangers FC, while it should be respected, was underpinned by any worthwhile belief, capable of being considered philosophical in nature.
22. Ms Miller next referred the tribunal to **Casamitjana Costa v League Against Cruel Sports ET/3331129/2018** where it was decided that ethical veganism satisfied all five criteria set out in **Grainger** and as such, was eligible for protection under the Equality Act. The tribunal in that case considered the concept was centered around the interaction of human and non-human species, with the primary aim being to avoid the exploitation of the latter. It was found that this clearly related to a weighty and substantial aspect of human life and

behaviour. Ethical veganism was held to be a belief rather than a viewpoint and the principle was rooted in morality and was prevalent in all aspects of the employee's life. The tribunal found that ethical veganism possessed a high level of cogency, cohesion and importance as the concept had attracted a clear following amongst businesses and individuals, as it focused on many aspects such as diet, clothing, consumption, travel and relationships. The tribunal had no difficulty in determining that veganism did not offend society because it was recognized nationally for its merits.

23. Ms Miller referred the tribunal to paragraph 35, where it was stated "*The relationship between humans and other fellow creatures is plainly a substantial aspect of human life, it has sweeping consequences on human behaviour and clearly it is capable of constituting a belief which seeks to avoid the exploitation of fellow species.*"
24. Ms Miller submitted the above reasoning showed ethical veganism was capable of constituting a philosophical belief as the relationship between humans and other creatures was of inherent importance to humanity. The desire not to harm or exploit other creatures was intrinsic to humanity and as such, the belief had the ability to impact greatly on human behaviour. Ms Miller submitted that whilst the claimant's support of Rangers FC may be subjectively important to him, it did not represent a weighty or substantial aspect of human life and had no larger consequences for humanity as a whole, as described by the Judge in the **Casamitjana** case. It was therefore submitted that the support of a football club was fundamentally incompatible with this strand of the **Grainger** test.
25. Ms Miller also referred to the **Conisbee v Crossley Farms Ltd ET3335357/2018** case which concerned whether vegetarianism was a concept amounting to a philosophical belief. The tribunal held that the **Grainger** test was only partially satisfied and therefore did not amount to a philosophical belief protected by the Act. It was decided the criteria of "concerning a weighty and substantial aspect of human life and behaviour", attaining a certain level of cogency, seriousness, cohesion and importance" and "possessing a similar status or cogency to religious beliefs" were not attained. Vegetarianism was, in essence, a lifestyle choice.

26. Ms Miller submitted the reasoning given in the **Conisbee** case was directly applicable to the facts of the claimant's case. Similarly to vegetarianism, the support of a football team is merely a lifestyle choice and does not relate to a substantial aspect of human life and behaviour. In **Conisbee** it was pointed out there were many different reasons behind vegetarianism without a single cohesive underpinning or belief. It was submitted this applied to the claimant's case as there was a wide array of Rangers' football fans who will all have varying reasons behind their support and will show their support in different ways. It was further submitted that it was nonsensical to claim the support of a football team had a similar status or cogency to religious beliefs which substantially impact the lives of those who support a particular team. Those belonging to a particular religion have to practice their religion and alter their life to live in a way which is consistent with their religious beliefs. Ms Miller submitted the claimant's support of Rangers FC did not require any degree of dedication, practice or commitment akin to those who belong to a religion.
27. In the case of **Forstater v CGD Europe and others UKEAT/0105/2020** it was decided that gender critical beliefs against the idea of biological sex and gender identity being conflated were capable of being a philosophical belief protected by the Act. The Judge considered that, while the belief was controversial, it was held by many others worldwide, including academics. Therefore, the EAT decided the principles of **Grainger** were satisfied.
28. Ms Miller submitted that in consideration of the reasoning in **Forstater**, the claimant's support of Rangers FC cannot amount to a philosophical belief. Unlike gender critical beliefs, the support of the football club is not the focus of academic interest. This reaffirmed the position that the claimant's belief (if it is a belief rather than support) does not relate to a weighty and substantial aspect of human life and behaviour and lacks the level of cogency, seriousness, cohesion and importance required to satisfy legs 3 and 4 of the **Grainger** test.
29. The last leg of the **Grainger** test required that the belief "*must be worthy of respect in a democratic society, be not incompatible with human dignity and not in conflict with fundamental rights of others*". It was submitted that the claimant's support of Rangers FC also does not satisfy this leg. Ms Miller invited the

tribunal to give consideration to the aforementioned case law and the corresponding beliefs which satisfied this leg, such as ethical veganism, and gender critical beliefs. These beliefs hold importance in a democratic society and are widely respected among the population. The support of Rangers FC does not invoke the same respect in a democratic society and as such, the claimant's belief fails further on leg 5 of the *Grainger* test.

30. Ms Miller noted the claimant had referred to the singing of certain songs, support for the Union and the Monarchy, attendance at as many games as can be afforded etc, but these were not prerequisites of being a Rangers fan: these simply represented how the claimant personally chose to express his support. It was submitted that it would be sufficient (to be a supporter of Rangers FC) for an individual to prefer that they won matches rather than other teams, whether or not you actually watched them in person or on the television, without more. The Rangers "Everyone – Anyone" campaign shown on their website does not suggest that any of the factors listed by the claimant, were in any way necessary to be a supporter of the club.
31. Ms Miller acknowledged the claimant was clearly a devoted supporter of Rangers FC, but submitted that support was not worthy of protection under the Equality Act, and did not amount to the protected characteristic of a philosophical belief.
32. Ms Miller invited the tribunal to find support for Rangers FC was not a philosophical belief entitled to protection in terms of section 10 of the Equality Act.

Second Respondent submissions

33. Mr Livingston adopted the submissions of the first and third respondent.

Third Respondent submissions

34. Ms Finlayson referred to section 10 of the Equality Act and noted the Act did not define the term "philosophical belief". However guidance was provided by the Equality and Human Rights Commission Statutory Code of Practice on Employment, which included the criteria derived from the *Grainger* case.

35. Ms Finlayson noted the Explanatory Notes to the Equality Act 2010 also reproduced the **Grainger** criteria and explained how to determine whether a particular belief qualified as a “philosophical belief”. Ms Finlayson invited the tribunal to note the inclusion of the following statement that “*Beliefs such as humanism and atheism would be beliefs for the purposes of this provision but adherence to a particular football team would not be*”.
36. Ms Finlayson referred to the relevant case law of **McClintock v Department of Constitutional Affairs 2008 IRLR 29; McEleny v Ministry of Defence ET/4105347/2017** and **Casamitjana Costa v League Against Cruel Sports ET/3331129/2018**. Ms Finlayson submitted that in the more recent case of **Forstater v CGD Europe UKEAT/0105/20** the EAT had given guidance on how employment tribunals should approach the preliminary assessment of whether a particular belief qualifies under the **Grainger** criteria as a protected philosophical belief. The first matter was to identify the claimant’s belief. Ms Finlayson submitted that whilst the claimant had demonstrated he is an avid supporter of Rangers FC, he had failed to precisely identify what his actual belief is. The claimant, in his statement, had referred to Rangers fans having other “*strong beliefs*” such as “*allegiance to the Queen; being strong Unionists for Northern Ireland*” and “*some Orange Order involvement or attendance*”. It was submitted that these matters are separate to the issue to be determined which was whether support for Rangers FC is a protected characteristic. Further, these are other beliefs that individuals may have in addition to being Rangers fans, however they were not a necessary component of being a Rangers fan. Ms Finlayson submitted that the case pled was essentially a case about the claimant being a Rangers fan only, and it was not a case in relation to his allegiance to the Queen or him being a Unionist, for example: these were entirely separate issues.
37. The tribunal should, once the belief has been identified, determine whether that belief amounts to a philosophical belief within the meaning of section 10 of the Equality Act. Ms Finlayson referred to the **Grainger** criteria and submitted in relation to criterion 1 that it was not disputed that the claimant’s support for Rangers FC was genuine and that he was a keen fan and supporter of Rangers FC.

38. In relation to criterion 2 it was submitted the claimant had failed to meet this criterion. There needs to be a religious or philosophical viewpoint in which the individual actually believed (*McClintock*). The cases of *Grainger* and *McEleny* noted that support for a political party does not constitute a philosophical belief, there must be that belief in a philosophy or doctrine. Support for a football team, however fervent, did not meet this test. This was supported by the Explanatory Notes (above) which gives examples of a philosophical belief and states “*adherence to a particular football team would not be*” a philosophical belief. Ms Finlayson acknowledged the Explanatory Notes do not have statutory effect, but they were produced to assist the reader in understanding the Equality Act.
39. Ms Finlayson submitted the claimant’s stated belief did not meet the test of criterion 3 because support for a football club could not fairly be described as relating to a weighty and substantial aspect of human life and behaviour. The case law (*Gray, Forstater*) had shown that what is required to satisfy this criterion is a matter of great seriousness and importance which has a great deal of influence on decisions and behaviour. Support for a football club does not determine how someone lives their life or have a substantial influence on their day to day activities and decisions.
40. The claimant’s stated belief also did not satisfy criterion 4 because it lacked the required level of cogency, seriousness, cohesion and importance that was required. The claimant had referred to other matters such as Unionism, support for the Queen and “*a good Protestant Christian set of values*” in order to try to establish that support for a football club reaches the required level of cogency, seriousness, cohesion and importance. However, it was submitted that these matters are separate from support of Rangers FC and they are not a requirement for supporters. Support for a football club, however strong, was not a belief system that meets the required level and accordingly this criterion had not been met.
41. Ms Finlayson submitted the respondent did not intend to argue that support of a certain football club was not worthy of respect, was incompatible with human dignity or conflicts with the fundamental rights of others.

42. Ms Finlayson, in conclusion, submitted that being a supporter of Rangers FC did not meet the ***Grainger*** test: there was a significant difference in law between support for a football club and a philosophical belief. Ms Finlayson invited the tribunal to conclude that being a supporter of Rangers FC was not a philosophical belief that amounted to a protected characteristic under the Equality Act.

Claimant's submissions

43. Mr McClung referred to the terms of section 10 of the Equality Act, the ***Grainger*** case and the Equality and Human Rights Commission Code of Practice on Employment, at paragraphs 2.55 – 2.59 where it sets out that for a belief to be protected under the Act it must:
- be genuinely held;
 - be a belief not an opinion or viewpoint, based on the present state of information available;
 - be a belief as to a weighty and substantial aspect of human life and behaviour;
 - attain a certain level of cogency, seriousness, cohesion and importance;
 - be worthy of respect in a democratic society, compatible with human dignity and not conflict with the fundamental rights of others.
44. Mr McClung noted the reference in the Explanatory Notes to support for a football team not being a belief, but argued this was just a “steer” and the world had moved on since these Notes were issued.
45. Mr McClung submitted his belief was genuinely held. He attended 12 games and spent all his income (once basic bills were paid) on Rangers games. It was a key part of his life and he strived to be the best just as Rangers did. It was a way of life for him. Mr McClung referred to the 1.4 million UK Rangers FC fans and submitted the vast majority of them held strong beliefs genuinely regarding spending their surplus discretionary income supporting the team, allegiance to the Queen, being strong Unionists for Northern Ireland to remain part of the UK

(and Scotland too), some Orange Order involvement or attendance at marches during the marching season. Their red, white and blue colours (or orange colours) worn proudly, their committed vocal support at home with attendances averaging 49,564 and away from home too. Mr McClung submitted that if you watched your team weekly for decades and participated in other related activities, like Rangers Foundation or other charitable work then you are doing as much as a protected religious group member does.

46. Mr McClung submitted fans socialise with other Rangers Supporters Clubs worldwide, and they have a hostile rivalry with Celtic. Mr McClung referred to "*anti-Rangers feeling*" and suggested it was significant.
47. Mr McClung believed being a Rangers fan was about respecting others, being part of a supportive, enjoyable group, with top athletes, coaches and managers who can be looked up to by all. There is support for charity (Rangers Charitable Foundation) and support for the UK Union and the Queen. Individuals go to Northern Ireland to watch matches, support or participate in Orange Order marches and stay with local families. This also happens when fans travel to Scotland and are put up in fans' homes. Mr McClung submitted this demonstrated a commitment and belief in the philosophy of being a Rangers FC fan.
48. Mr McClung considered support for Rangers FC was a weighty aspect of human life and behaviour. He described being a fan as setting an example to others in terms of striving to be the best, giving respect, commitment, spending money and time to travel to see games and going for it. Memories were created when family members attended games together. There were over 8 million supporters worldwide.
49. Mr McClung submitted that traditionally Rangers fans were described as Unionists (Scotland and Northern Ireland), Orange Order participants or supporters or Protestant Christians. He acknowledged that support for the Queen and/or being a Unionist were not prerequisites of being a fan, but suggested 95% of fans did support the Queen and being a Unionist. He suggested that decades of supporting Rangers FC equaled any religious beliefs or groups which were protected today. He referred to churches closing, merging

or losing congregations every year, but Rangers fans continued to grow in number.

50. Mr McClung submitted supporting Rangers FC was a way of life: it kept him going, gave him the drive to work so he could attend games, be charitable, support the team and be positive. Rangers FC has been established and supported for 150 years. The Everyone – Anyone Charter was about respect for all. It was democratic to support your team: it was a way of life.
51. Mr McClung referred to the cases of ***Grainger plc v Nicholson; Casamitjana v The League Against Cruel Sports; McEleny v The Ministry of Defence; Hashman v Milton Park (Dorset) t/a Orchard Park ET/3105555/2009*** and ***Williamson v Secretary of State for Education and Employment UKHL 2005 2 AC 246***.

Discussion and Decision

52. The issue to be considered by the Tribunal in this case is whether the claimant's support of Rangers Football Club amounts to a philosophical belief within the meaning of section 10 of the Equality Act 2010, and can be relied upon as a protected characteristic under the relevant sections of the Equality Act under which his claim is brought.
53. I had regard firstly to the terms of section 10(2) of the Equality Act 2010 which is entitled Religion and Belief and which provides that:-
- “(2) Belief means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief ...”*
54. The 2010 Act does not define “philosophical belief”, but the Explanatory Notes to the Equality Act reproduce the guidance set out below from the Employment and Human Rights Commission Code of Practice on Employment. Chapter 2 of the Code outlines the characteristics which are protected under the Act and, under the heading Religion and Belief, it is stated:
- “2.52 The meaning of religion and belief in the Act is broad and is consistent with Article 9 of the European Convention on Human Rights (which guarantees freedom of thought, conscience and religion)”.*

55. The passage entitled “meaning of belief” sets out the following:

“2.55 Belief means any religious or philosophical belief and includes a lack of belief.”

2.56 “Religious belief” goes beyond beliefs about, and adherence to, a religion or its central articles of faith and may vary from person to person within the same religion.

2.57 A belief which is not a religious belief may be a philosophical belief. Examples of philosophical beliefs include Humanism and Atheism.

2.58 A belief needs not include faith or worship of a God or Gods, but must affect how a person lives their life or perceives the world.

2.59 For a philosophical belief to be protected under the Act:

- it must be genuinely held;*
- it must be a belief and 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 and*
- it must be worthy or respect in a democratic society, not incompatible with human dignity and not conflict with the fundamental rights of others.”*

56. The guidance set out at paragraph 2.59 replicated the criteria set out in the **Grainger** case (above) as official guidance on what comprises a “religious or philosophical belief” for the purposes of the protected characteristic of religion or belief. In addition to this, I noted the Explanatory Notes to the Equality Act provide examples of religions for the purposes of the Act, and states that “*beliefs such as humanism and atheism would be beliefs for the purposes of this provision, but adherence to a particular football team would not be*”.

57. I, in considering the issue to be determined by the tribunal, began by identifying the claimant's belief. I had regard to the Court of Appeal case of **Gray v Mulberry Co (Design) Ltd 2020 ICR 715** where it was said that "*Precision in pleading is not equally important in every case heard by an employment tribunal, but in our view it is essential, before considering whether a belief amounts to a philosophical belief protected under section 10(2) of the Equality Act 2010, to define exactly what the belief is*".
58. The claimant articulated his belief as support for Rangers Football Club, and there was no doubt the claimant is clearly an avid supporter. The term "supporter" is defined as "a person who is actively interested in and wishes success for a particular sports team". The claimant's description of his attendance at matches, his interest in pre and post-match information and his interest and enjoyment in all things Rangers, fell firmly within this definition.
59. The claimant also told the tribunal he cared passionately about the UK (in terms of being a strong Unionist) and had allegiance to the Queen. He submitted the "vast majority" of Rangers fans held these views, also participated in some Orange Order involvement/marching and were traditionally described as Protestant Christians. I did not doubt the claimant held these views, but I was not persuaded, in the absence of any evidence, to find/accept that the "vast majority" of Rangers fans hold these views. I acknowledged some supporters will hold those views, but there will equally be many, many supporters who do not hold those views. I considered the "Everyone – Anyone Rangers FC Charter" emphasises the fact that everyone and anyone is a welcome supporter of the Club, and that the views referred to by the claimant are not a part of being a supporter; they do not define supporters and are not in any way a prerequisite of being a supporter. The claimant himself acknowledged that support for the Queen and being a strong Unionist were not prerequisites of being a fan.
60. I concluded that whilst the above matters were important to the claimant, they were not matters which underpinned or explained what the belief in being a Rangers fan was about: they are not a component part, or a prerequisite, of being a Rangers fan. I decided the claimant's belief is defined as being a supporter of Rangers Football Club.

61. I next considered whether the claimant's belief in being a supporter of Rangers was capable of being a philosophical belief within the meaning of section 10(2) of the Equality Act, and I considered each of the **Grainger** criteria.
62. Firstly, it was not in dispute that the claimant's belief in supporting Rangers was genuinely held. Ms Miller, for the first respondent, acknowledged the claimant was a devoted fan and Ms Finlayson, for the third respondent, acknowledged the claimant was an avid fan. I agreed.
63. Secondly, the belief held must be a belief and not an opinion or viewpoint based on the present state of information available. I, in considering this factor, had regard to the Explanatory Notes to the Equality Act where it was stated that "*beliefs such as humanism and atheism would be beliefs for the purposes of this provision, but adherence to a particular football team would not be*". The claimant argued that the law had moved on from this time, and that, as a general proposition, I would accept. However, it is still helpful to have regard to the Explanatory Notes because they assist in understanding the Act and its objectives.
64. I also had regard to the **McClintock** case (above) where it was stated there needs to be a religious or philosophical viewpoint. Further, in the **Grainger** and **McEleny** cases (above) where it was stated that support for, or active membership of, a political party does not constitute a philosophical belief, and that there must be a belief in a philosophy or doctrine. This chimes with the submission of Ms Miller where she directed the tribunal to the definition of "support" (in the context of this case) as being "actively interested in and concerned for the success of" a particular sports team, contrasted with the definition of "belief" as being "an acceptance that something exists or is true, especially one without proof" or "an acceptance one accepts as true or real; a firmly held opinion".
65. The claimant is a supporter of Rangers in the same way as people may be supporters or active members of a political party. They wish their team (or party) to be successful; they enjoy reading about and informing themselves about their team (or party); they enjoy being a member of their club (or party) and they enjoy attending matches (or events). The claimant's support for Rangers was

akin to support for a political party which the cases referred to make clear does not constitute a philosophical belief.

66. I concluded for these reasons that the claimant's belief did not meet the second criterion.
67. Thirdly, the belief must be a belief as to a weighty and substantial aspect of human life and behaviour. The cases to which I was referred (**McEleny**; **Forstater** and **Casamitjana**) demonstrate that what is required to satisfy this criterion is for the matter to be one of great seriousness and importance which influences decisions and behaviour (for example, national independence; gender critical beliefs and ethical veganism).
68. I acknowledged the claimant's evidence regarding buying a ticket for a game, enjoying the pre-match build-up, waking up "buzzing" on match days, engaging in the singing of songs at matches, but those are all matters personal to the claimant: they are subjectively important. They are things from which the claimant, and no doubt millions of other sports fans, derive enjoyment, but they do not represent a belief as to a weighty or substantial aspect of human life and have no larger consequences for humanity as a whole.
69. The claimant made reference on several occasions to the **Casamitjana** case where it was decided that ethical veganism met all five of the **Grainger** criteria and was eligible for protection under the Equality Act. The tribunal in that case considered the concept was centered around the interaction of human and non-human species, with the primary aim being avoiding exploitation of the latter. It was found that this clearly related to a weighty and substantial aspect of human life and behaviour: it was a belief rooted in morality and was prevalent in all aspects of the employee's life. The concept had attracted a following amongst businesses and individuals as it focused on aspects such as diet, clothing, consumption, travel and relationships. The relationship between humans and other creatures was of inherent importance to humanity.
70. The claimant clearly sought to draw a parallel with the fact Rangers drew support from a large number of people all over the world. I did not doubt this, but there was nothing beyond this to demonstrate to the tribunal what weighty

and substantial aspects of human life and behaviour were impacted by being a supporter of Rangers.

71. I considered support for a football club to be akin to a lifestyle choice, rather than relating to a substantial aspect of human life and behaviour. In the **Conisbee** case (above) the employee argued that vegetarianism was a philosophical belief. The tribunal, whilst accepting the employee had a genuine belief in vegetarianism, and accepting there were many vegetarians across the world, identified the reasons for being a vegetarian differed greatly, without a single cohesive underpinning or belief. This was in contrast to veganism, where the reasons for being vegan appeared to be largely the same.
72. I accepted the submission made by Ms Miller that this same reasoning applied to the claimant's case insofar as there was a wide array of Rangers fans who would have varying reasons behind their support, and who would show their support in different ways.
73. I concluded for these reasons that the claimant had failed to satisfy the third criterion.
74. Fourthly, the belief must attain a certain level of cogency, seriousness, cohesion and importance. I acknowledged that for the claimant his support of Rangers was a serious and important matter: he described it as a way of life and that he strived to be the best, as Rangers did. I did not doubt the claimant's evidence regarding the build-up to match days and his habits on the day of a match, or the fact it is a way of life for him, but these are all personal matters detailing what he does and how he likes to enjoy the pre-match, match and post-match. There was nothing to suggest fans had to behave, or did behave, in a similar way. The only common factor linking fans would be the fact they wanted their team to do well/win.
75. The claimant did refer in his evidence to support for the Union and loyalty to the Queen but, as stated above, those factors are not prerequisites of being a supporter of Rangers. There will be many fans who do support those factors, and many fans who do not. There will be many fans who sing the songs referred to by the claimant in his evidence, but there will equally be many fans who do

not. It is not these factors which link supporters of Rangers: it is the desire for the team to do well/win which links them.

76. I had regard to case of *Lisk* (above) where it was held that the employee's belief that people should pay their respects by wearing a poppy from 2 November to Remembrance Sunday was not a philosophical belief. The tribunal held that however admirable, the belief lacked the required characteristics of cogency, cohesion and importance and could not fairly be described as relating to a weighty and substantial aspect of human life and behaviour.
77. I drew a parallel with this case and concluded that however fanatical the claimant's support for Rangers, it lacked the required characteristics of cogency, cohesion and importance. I say that because support for Rangers has no larger consequences for humanity as a whole, nothing underpinning it beyond a desire for the team to do well/win and no impact on how people lived their lives.
78. I decided the belief did not satisfy the fourth criterion for these reasons.
79. Fifthly, the belief must be worthy of respect in a democratic society, be not incompatible with human dignity and not conflict with fundamental rights of others. I acknowledged the claimant's support for Rangers was worthy of respect insofar as it is for him to decide which football team he wishes to support. I was not persuaded however that support for Rangers Football Club invoked the same respect in a democratic society as matters such as ethical veganism or the governance of a country, both of which for example have been the subject of academic research and commentary.
80. I concluded for these reasons that the belief of supporting Rangers did not meet the fifth criterion.

81. I decided, for all of the reasons set out above, that support for Rangers Football Club does not amount to a philosophical belief within the meaning of section 10(2) of the Equality Act 2010, and cannot be relied upon by the claimant as a protected characteristic for the purposes of claiming discrimination under the Equality Act.

Employment Judge: L Wiseman
Date of Judgment: 23 August 2022
Entered in register: 25 August 2022
and copied to parties