

Manifesting protected beliefs: when are my views protected?

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[London Ambulance Service NHS Trust v Garrett \[2026\] EAT 77](#)

1. In [London Ambulance Service NHS Trust v Garrett](#) [2026] EAT 77, the employer (“Respondent”) appealed against a decision of the Employment Tribunal (“ET”) which had, by majority, found that the Respondent had directly discriminated against the employee (“Claimant”) on the grounds of belief. The ET also upheld one complaint of direct race discrimination.
2. The Claimant was a member of the ambulance crew. He identifies as white British.
3. On 30 January 2020, the Claimant and his colleague Mr Omar Joe (who is black) got into a heated argument because the Claimant considered that Mr Joe had caused a delay in responding to an emergency call (Mr Joe had gone to the shop for snacks). During the argument, the Claimant referred to Mr Joe as a “roadman”.
4. The ET made findings of fact about events that occurred on 4 and 7 June 2020 as follows:
 - a. On 4 June 2020, following the death of George Floyd, the Respondent’s Chief Operating Officer, Mr Khadir Meer, sent an email to staff which stated (among other things) that: “[T]he sad fact is, this is not a new issue. The history of systemic racial prejudice spans centuries and continents and is not exclusive to the USA”.
 - b. Mr Meer also invited Black Asian and Minority Ethnic employees to attend a virtual drop in session and invited all staff to attend an allyship workshop.
 - c. On 7 June 2020 the Respondent’s CEO, Mr Garrett Emmerson, sent an email to all staff, in which he stated that the organisation needed to challenge unacceptable behaviour at all levels.

- d. On 7 June 2020, the Claimant and Ms Sonal Shah had a brief discussion about the actions of Black Lives Matter. Another colleague, Ms Evangeline Chalwell, overheard the conversation and submitted a complaint ("**the First Complaint**") against the Claimant.
 - e. The First Complaint centred on the Claimant stating that he did not accept the concept of systemic racism, that individuals are responsible for their own actions (which can result in higher incarceration rates, lower levels of education and poverty) and that black people cannot "hide behind their race" (the Claimant only accepted that he made the remark about not accepting systemic racism). The ET accepted that the Claimant said all of these things.
5. On 29 July 2020, Mr Joe submitted a complaint ("**the Second Complaint**") about the incident on 30 January 2020 (see above at para 3).
 6. On 5 August 2020 Mr John Chilvers was asked to investigate the complaints.
 7. When Mr Chilvers interviewed the Claimant, on 7 September 2020, the Claimant accepted that he had used "a black man's voice" during his conversation with Mr Joe on 30 January 2020.
 8. The ET was critical of Mr Chilvers because he had decided not to interview Ms Shah in relation to the Second Complaint (given that the conversation around Black Lives Matter had been between the Claimant and Ms Shah and Ms Chalwell only overheard it). The ET also considered that Mr Chilvers had made assumptions in his report:
 - a. That "roadman" is a racial slur (albeit a "diversity consultant" had advised Mr Chilvers on this point); and
 - b. That the Claimant's rejection of systemic racism amounted to racially-charged language.
 9. The matter proceeded to a disciplinary hearing before Mr Darren Farmer on 5 October 2020. Mr Farmer adjourned the hearing so that Mr Chilvers could interview Ms Shah. By decision of 23 November 2020 Mr Farmer found that:
 - a. The Claimant's use of "roadman" was a term of abuse but not racial in nature.
 - b. To the extent that the Claimant denied making the remarks that were the subject of the Second Complaint, Mr Farmer preferred the evidence of Ms Chalwell: she had no reason to make it up.

- c. Mr Farmer found that the Claimant had inappropriately mimicked Mr Joe.
 - d. He found that the Claimant did not treat his colleagues with respect and that this amounted to gross misconduct.
 - e. He issued a final written warning to the Claimant and required him to undertake training (e.g., around unconscious bias), as well as a written reflective practice.
10. In his evidence to the ET, Mr Farmer stated that he did not use the Claimant's denial of systemic racism as evidence of misconduct: rather, it was the offensive manner in which the Claimant had acted towards his colleagues.

The Protected Belief

11. The Claimant's alleged protected belief was that: *"[he did] not believe systemic racism exist[s] and that social, financial and culture play a bigger role in outcomes regardless of colour."*
12. Following a Preliminary Hearing, the alleged belief was also identified as:
- "... a philosophical belief that you should treat people how you would want to be treated, and that all people should be treated with respect. That we are all one race and while we may have different colours or cultures we should all be treated as one".
13. The Employment Appeal Tribunal ("**EAT**") stated that the Claimant's alleged protected belief in the claim form is that systemic racism does not exist (the "**no-systemic-racism belief**"). The EAT labelled the belief at para 12 above as the "**treatment belief**".
14. The Respondent had denied, firstly, that the no-systemic-racism belief amounted to a protected belief (per the criteria set down in **Grainger plc v Nicholson** [2010] ICR 360); and, second and alternatively, that the adverse treatment was because of the Claimant's manifestation of his belief. The Respondent had conceded that the treatment belief amounted to a protected belief before the final hearing but denied that the Respondent had meted out less favourable treatment because of the same.
15. The parties agreed before the EAT that the ET had to determine if the no-systemic-racism belief was a manifestation of the treatment belief. The EAT noted that the Respondent had not challenged whether the no-systemic-racism belief was itself a protected belief under **Grainger** and so that issue did not need to be determined on appeal.

The ET's Decision

16. The ET found (by majority) that:

- a. The no-systemic-racism belief was a manifestation of the treatment belief.
- b. The Respondent's interference with the Claimant's protected belief was disproportionate.
- c. The ET found that the Respondent's actions amounted to direct discrimination in that (i) Mr Chilvers did not interview Ms Shah as part of his investigation; (ii) the Respondent did not take into account certain evidence in relation to the Claimant's stance on the systemic-racism issue; and (iii) that the disciplinary sanction included that the Claimant had to undertake a written reflective practice.

The Grounds of Appeal

17. The Respondent appealed against the ET's determination on the grounds that:

- a. **Ground 1:** The ET erred in holding that the no-systemic racism belief was a manifestation of the treatment belief (the ET had found that (emphasis added) "[T]he Claimant's rejection of systemic racism is wholly consistent with his belief in equal treatment for all races regardless of colour...There is an **undeniable link** between the two – it **flows logically** from a belief in equal treatment for all races...[it was] **not simply an opinion** he had formed from the evidence and might change").
- b. **Ground 2:** The ET erred in upholding the belief complaint in relation to Mr Chilvers concluding his investigation without interviewing Ms Shah.
- c. **Grounds 3 and 5:** The ET erred by upholding the belief and race discrimination complaints in relation to the Respondent's failure to take into account certain evidence on which the Claimant sought to rely at the disciplinary.
- d. **Ground 4:** The ET erred by upholding that the requirement to carry out a written reflective practice was because of the Claimant's rejection of systemic racism and that its aim was to try to change the Claimant's belief.
- e. **Ground 6:** The ET's decision on Ground 5 (i.e., that the Respondent's failure to take into account certain evidence on which the Claimant sought to rely at the disciplinary amounted to race discrimination) was perverse.

The EAT's Determination

Ground 1: was the no-systemic-racism belief protected?

18. The EAT notes that the no-systemic-racism belief is a statement of fact, i.e., whether society is systemically racist. By contrast, the treatment belief is a normative statement, i.e., that, because of our common humanity, people of different colours or cultures ought not to be treated differently because of such differences of race.
19. The EAT found that the ET had mischaracterised the no-systemic-racism belief as rejecting a theory “which attributes specific characteristics to people because of their race”. Rather, the EAT held that the Claimant had expressed the no-systemic-racism belief (see above at para 11) as a descriptive statement about how society functions as a matter of fact. The EAT held that this may explain why the ET fell into a logical error by finding that there was an “undeniable link” between the two beliefs and that one “flows logically” from the other.
20. The EAT therefore upheld Ground 1. The EAT also determined that, on the ET’s findings of fact, the no-systemic-racism belief was not a manifestation of the treatment belief as it did not satisfy the “intimately linked” test in the case of Eweida v United Kingdom (2013) 57 EHRR 8 the ECHR.
21. As the EAT noted, the ET found that the adverse treatment (see above at para 16c) was because of the Claimant’s no-systemic-racism belief which was itself a manifestation of the treatment belief. Without that premise, the adverse treatment was not because of a protected belief at all. However, for “good order” the EAT addressed all of the grounds of appeal.

Ground 2: did the ET err by upholding the belief complaint around the failure to interview Ms Shah?

22. The EAT held that, based on the ET’s findings, Mr Chilvers decided he did not need to interview Ms Shah because he considered that the conduct which the Claimant had admitted (i.e., that he did not accept the concept of systemic racism) supported a case that the Claimant made a racially-charged statement, and he was keen to move forward.
23. Ground 2 succeeded because the ET had not considered whether Mr Chilvers would have proceeded without interviewing Ms Shah in circumstances where an employee had made a racially-charged statement which was not a manifestation of a protected belief. The ET had no basis for finding that Mr Chilvers was influenced by the protected belief instead of the fact that he considered that the remark was racially charged.

Grounds 3 and 5: did the ET err by upholding the belief and race discrimination complaints around the Respondent's failure to take into account certain evidence?

24. The EAT found that the ET had erred by finding that the Respondent had not provided a non-discriminatory explanation for not taking into account the Claimant's research which he (the Claimant) asserted "disproved the existence of systemic racism".
25. While the ET was not obliged to consider every feature of the evidence put forward by a party, Mr Farmer's evidence was that he had not accepted this research because it lacked academic rigour.
26. The EAT upheld Grounds 3 and 5 (belief and race discrimination respectively) because the ET had found that the Respondent discounted the Claimant's research because of its *contents* without considering the Respondent's non-discriminatory explanation.

Ground 4: was the requirement for the Claimant to carry out a written reflective practice because of the manifestation of his no-systemic-racism belief / aimed at changing that belief?

27. The EAT found that it was incumbent on the ET to engage with its earlier findings that Mr Farmer had meted out the sanction because the Claimant offended his colleagues and had not treated them with respect. The ET had also recorded that Mr Farmer was "...very clear in his evidence that he did not use the Claimant's denial of systemic racism as evidence of any misconduct. What was misconduct was the offensive manner in which he acted towards other colleagues."
28. These features relate to the way in which the Claimant had manifested his belief that systemic racism did not exist rather than the content of that belief. The ET had not considered this.

Ground 6: was the ET's decision perverse on the race discrimination complaint (Ground 5)?

29. The EAT held that it was perverse for the ET to conclude that the Claimant's research was discounted because of his own race. Ground 6 succeeded, in part, because the ET had not engaged with Mr Farmer's evidence that he discounted the evidence because the Claimant's research lacked academic rigour (see above, under Grounds 3 and 5, at paras 24-26).

Conclusions and Take Aways

30. This case highlights that care and attention are required by the ET and practitioners in cases of belief discrimination. Where a non-protected belief is said to be a manifestation of a protected belief, the test in Eweida (“intimately linked”) needs to be addressed with precision.
31. Parties can also learn from the ET’s error in this case: once a protected belief and/or the alleged manifestation of the same has been articulated, that cannot be re-opened by the ET in its decision (see above at para 19). If a Claimant considers that they have not properly articulated the protected belief and/or the manifestation of the same, then they may well want to make an application to amend and address the correct framing of these points both during cross-examination and when delivering closing submissions to the ET.
32. Finally, the case highlights that care needs to be taken when addressing whether the adverse treatment is because of the protected belief. It is important to consider the appropriate hypothetical comparator and, of course, address all of the evidence that the Respondent adduces for its actions and whether this amounts to a non-discriminatory reason.

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