

**The Vegan Society  
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**By email: [helpline@tiu.org.uk](mailto:helpline@tiu.org.uk)**

For the attention of the relevant manager,

**RE: Healthy Start Voucher scheme and restriction on the purchase of milk.**

It has recently come to our attention that vegans are unable to use their NHS Healthy Start Vouchers to buy milk because the vouchers restrict the purchase of milk to cow's milk only: <https://www.healthystart.nhs.uk/healthy-start-vouchers/what-to-buy-with-the-vouchers/>

It is important for everyone to eat calcium-rich foods daily and fortified plant-based milk plays an important role in vegan nutrition. In fact, the UK's Eatwell Guide recognises that fortified plant-based milk represents a valuable alternative to cows' milk. Calcium content is comparable and the soya variety is similar to cow's milk in terms of protein quantity and quality.

Another issue that affects vegans is that Healthy Start supplements contain vitamin D from animal fat, which means that the only vegan-friendly nutritional benefit of this scheme is free fruit and vegetables. In order to meet national recommendations about supplementation of vitamins A, C and D in under-fives, vegan parents/guardians have to purchase vegan-friendly drops like Abidec.

As you may be aware, vegans hold sincere ethical convictions, and seek to exclude, as far as is possible and practicable, all forms of exploitation of, and cruelty to, animals for food, clothing or any other purpose. The convictions of vegans come within the protection of the law and, on the face of it, it appears that the Healthy Start Voucher scheme could be inadvertently discriminatory. In addition, the British Dietetic Association and the American Academy of Nutrition and Dietetics acknowledge that well-planned vegan diets can support healthy living during all stages of life. Therefore, the vitamin D supplement and the voucher scheme unfairly disadvantages vegans and the restriction on the purchase of milk is unjustified.

## **LAW**

The sincere convictions of vegans, with regard to animal welfare, are within the scope of equality law and legislation concerning the human right to freedom of conscience. As such, public authorities such as the National Health Service must give due regard to the needs of vegans to ensure compliance with legal duties, and so that vegans do not experience unlawful interference or discrimination.

## **European Convention on Human Rights (ECHR)**

## Article 9

### Freedom of thought, conscience and religion

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.

2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others

## Article 14

### Prohibition of discrimination

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

The Human Rights Act 1998 (HRA) provides that the human rights contained in the European Convention on Human Rights form part of UK law. Section 6 makes it unlawful for a public body to act in a way that is incompatible with a convention right.

## **Equality Act 2010**

This Act is informed by the EU principle of non-discrimination which reflects the importance of fundamental rights, the significance of provisions contained in the ECHR and the case law of the ECtHR.<sup>1</sup>

Provisions for 'belief' should be consistent with Article 9 principles and case outcomes.<sup>2</sup>

Section 10 makes a belief a protected characteristic. Belief means 'any religious or philosophical belief or reference to belief, including a reference to a lack of belief.'

Section 19 makes indirect discrimination unlawful, this being to apply a criterion, provision or practice which is discriminatory to a person's belief and which is not a proportionate means of achieving a legitimate aim.

## **2. LEGAL CASES**

### **Grainger Plc v Nicholson [2010] ICR 360**

This case defined philosophical belief under the Equality Act as

- genuinely held;

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<sup>1</sup> Council Directive 2000/78/EC, Preamble (1) and (4).

<sup>2</sup> Explanatory Notes to the Equality Act 2010, Section 10, paras 51-52.

- a belief, not an evidence-based opinion or viewpoint;
- related to a weighty and substantial aspect of human life and behaviour;
- cogent, serious, cohesive and important; and
- worthy of respect in a democratic society, not incompatible with human dignity and not incompatible with the fundamental rights of others.

**General Municipal and Boilermakers Union v Henderson [2015]  
UKEAT/0073/14/DM**

Simler J, the Employment Appeals Tribunal President, said: 'The law does not accord special protection for one category of belief and less protection for another. All qualifying beliefs are equally protected. Philosophical beliefs may be just as fundamental or integral to a person's individuality and daily life as are religious beliefs.'

***H v United Kingdom (1993) 16 EHRR CD 44***

A prisoner did not want to work in a print shop because he assumed the dyes were not vegan. Veganism was accepted as coming within the scope of Article 9 ECHR.

**R (Williamson) v Secretary of State for Education and Employment [2005] 2 AC 246**

Lord Walker commented that vegetarianism is an uncontroversial example of what could constitute a belief within the legal meaning.

**Hashman v Milton Park (Dorset) Ltd [2011] ET 3105555/2009 (31 January 2011):**

This case involved a vegan that worked at a garden centre. He was fired for his views on fox hunting. Relying on *Grainger*, the judge summarised the philosophical belief in question as follows:

*They derive from the sanctity of life and animal welfare. They affect every area of his life. His beliefs are cogent, serious, coherent and important*

The judge found that the claimant lived his life in accordance with his beliefs (including veganism) and therefore they amounted to a philosophical belief both within the ordinary sense of the word and within the meaning of The Employment Equality (Religion or Belief) Regulations 2003, which adheres to the principle of Article 9 ECHR. The judge found there was no competing right, as there was not a human right to indulge in fox hunting.

**3. LEGAL GUIDANCE**

The Equality and Human Rights Commission has a statutory duty to disseminate information about equality measures and publicly states that veganism is within the scope of protection of law.<sup>3</sup>

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<sup>3</sup> <https://www.equalityhumanrights.com/en/human-rights-act/article-9-freedom-thought-belief-and-religion>

## Issues

1. Vegans hold ethical convictions that, affect every aspect of their lives from the food they consume to the clothes they buy and the avoidance of certain forms of entertainment. Therefore, the law recognises veganism as a belief system and protects vegans against discrimination.
2. As vegans do not consume animal products, the inclusion of animal derived vitamin D unfairly disadvantages vegans.
3. As vegans do not consume dairy milk, the restriction imposed by the NHS on the purchase of milk is discriminatory as it unfairly and unreasonably disadvantages vegans.
4. There is no justification for the discrimination as the vegan diet, including non-dairy milks is recognised as being healthy. Fortified plant-based milk is a calcium-rich food and an important alternative to dairy.

## Conclusion

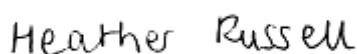
The nutritional value of fortified plant-based milk is well established and there is a suitable alternative vitamin D supplement. Given the status of veganism in law and the legal duties of the NHS, the vitamin D in the supplement should be replaced with vitamin D3 from lichen, and the restriction on the purchase of milk ought to be removed so that vegans are able to purchase suitable non-dairy milk. Failure to do so will result in us considering our legal options.

Please confirm within 14 days that the NHS will alter the supplement formulation and extend the Healthy Start Vouchers to include fortified plant-based milk.

Yours sincerely,



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