



COVENTRY LAW CENTRE

EMPLOYMENT

DISCRIMINATION ON GROUNDS OF RELIGION OR BELIEF

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Since the 2 December 2003 it has been unlawful to discriminate against somebody in the workplace on the grounds of their religious or other belief. Religion or beliefs are defined by the law as meaning any religion, religious belief or similar philosophical belief. This very broad definition means that as well as including all major religions it will also cover much smaller fringe groups and beliefs such as humanism, it may also include pacifism or indeed vegetarianism. It is not likely to cover political opinions unless that political belief extends to a broader perception of the world. So, a member of the Conservative Party would probably not be covered but a member of the Green Party might be.

Direct Discrimination

Direct discrimination occurs when a worker or job applicant is treated less favourably than others because they follow or are *perceived* to follow, or do not follow, a particular religion or belief. For example, if a person is refused employment, is dismissed, is not provided with adequate training or promotion, or is given adverse terms and conditions of employment because they follow or do not follow a particular religion or belief, this amounts to direct discrimination.

In some very limited circumstances it may be a Genuine Occupational Requirement (GOR) that is a job undertaken by a person of a particular religion. However, Genuine Occupational Requirements are always open to challenge by an individual and the burden of proof lies with the employer to establish the validity of a GOR by providing evidence to substantiate the claim. Employers should be very careful when suggesting there is a GOR.

Indirect Discrimination

Indirect discrimination occurs when an organisation applies a provision criterion or practice which would equally apply to persons not of the same religion or beliefs but put persons of a particular religion or belief at a particular disadvantage when compared with other persons. Furthermore, the employer cannot show that the provision criterion or practice is a proportionate means of achieving a legitimate aim. For example, some observers of particular faiths hold beliefs about covering or not covering hair. An employer may have a specific policy on this issue, however, it may form part of a legitimate aim (for example, if the business is concerned with the preparation of food) and it may, therefore, be lawful.

Harassment

Harassment consists of any behaviour that undermines the dignity of the individual and is offensive, frightening or in any way distressing. This can include intentional bullying which would be obvious but it can also be more subtle, such as nicknames, teasing or name calling. Such behaviour can cause great upset to the individual and the employer is under an obligation to investigate and treat seriously allegations of harassment.

Victimisation

Victimisation occurs when an individual received detrimental treatment because they have made a complaint, they intend to make a complaint or it is a third party who is assisting somebody who has made a complaint to a Tribunal.

Liability

An employer should be liable for the actions of its employees, or other third parties if they are in a position to control the situation or take remedial action. If they do not do so then you may have a valid claim against them.

Enforcement of the Law

The way that the law against discrimination on grounds of sexual orientation is enforced is by complaint to an Employment Tribunal. However, before a complaint is made to a Tribunal it is advisable to make sure that you have exhausted all internal grievance procedures. A complaint to a Tribunal must be made within 3 months of the act complained of or if the complaint is of a succession of acts, within 3 months of the last act committed.

It is worth seeking legal advice at an early stage to determine whether you have a case in law and the strength of your case.

Coventry Law Centre runs an employment and discrimination advice line for initial telephone advice on 024 76253169. The advice line runs on Tuesdays and Thursdays between 10:00am – 12:00noon.