

Keeping the Faith

Religious Discrimination in Employment



Overview

It has been unlawful to discriminate in employment because of race and sex since the mid 1970s. This did not extend to religion or belief, except in Northern Ireland, until December 2003, when the Employment Equality (Religion or Belief) Regulations 2003 came into force.

This law protects you from religious discrimination in England, Scotland and Wales and covers traditional established religions, like Christianity or Islam.

It is not clear how far you are protected if you follow a less traditional faith. It does not apply to political beliefs.

How you are protected

The regulations apply to all aspects of employment, including recruitment and vocational training. They outlaw the following different types of behaviour:

Direct discrimination - is when you are treated or would be treated less favourably than someone else because of your religion or belief. This applies if someone treats you less favourably because of their perception of your religion or belief, regardless of whether this is right or wrong. It also applies if you are discriminated against because of your association with a particular religion or belief or if you have refused to comply with a discriminatory instruction.

Indirect discrimination - is when your force has a policy or practice that applies to everyone, but puts you at a disadvantage compared to others because of your religion or belief. This is only allowed if your force can show this policy was a "proportionate means of achieving a legitimate aim".

Victimisation - is when you are treated less favourably because you have made a complaint or allegation about discrimination, or are helping someone else who has.

Harassment - is when your dignity is violated or you are subjected to a hostile, degrading or offensive environment because of your religion or belief. This could include nicknames, teasing or other upsetting behaviour.

In some cases the regulations also cover discrimination after you have left the force. For example, if a force gives you a discriminatory reference or won't give you one at all because of your religion or belief.

Exceptions

There are only two general exceptions where the Regulations do not apply: safeguarding "national security" and positive action. Any recruitment or promotion must be on the basis of merit, but forces can use positive action to redress inequalities.

For example trying to attract applicants from a particular religion or belief. There may also be limited circumstances where there is a "genuine occupational requirement" (GOR) for an officer to be of a particular religion or hold a particular belief. Because the police do not have an ethos based on religion or belief, it must prove that it is a GOR for an officer to have a particular religion or belief. A GOR on the grounds of religion or belief should not be used to discriminate on any other grounds.

Remedies

If a complainant is successful in their complaint of unlawful discrimination, the Tribunal may grant whichever of the following remedies it considers "just and equitable":

- A declaration on the rights of the parties
- A recommendation that the Respondent takes a particular course of action
- Compensation (plus interest).

Compensation may include awards for injury to feelings, aggravated damages, loss of congenial employment, and any actual and/or future financial loss, for example loss of earnings and pension losses.

There is no limit on the amount of compensation that can be awarded, but a complainant will only be compensated for the losses which they can show were directly caused by the unlawful discrimination as found by the Tribunal.

What do you do if you suffer from discrimination?

You can make a complaint about religious discrimination however long you have been in your job. Normally you have to send your claim to the Employment Tribunal within three months less one day of the act of discrimination.

However, the time limits are complicated and you could be prevented from bringing a claim if you do not complain in time. You can ask your force to fill in a questionnaire to give you information about matters relating to your complaint.

You must do this within 21 days of sending your claim to the Employment Tribunal. If your force doesn't reply within eight weeks or doesn't reply fully, the Tribunal may assume there has been unlawful discrimination.

Contact Us

*If you need further assistance,
please contact your JBB in the
first instance.*

Regulated by The Solicitors Regulation Authority.
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This fact sheet is for general guidance only and should not be treated as a definitive guide or be regarded as legal advice. If you need more details or information about the matters referred to in this fact sheet please seek independent formal legal advice. This information was correct at time of going to press October 2009.