

EDC17D006C

BRIEFING NOTE 18 – DIFFERENT TYPES OF DISCRIMINATION RELATED TO RELIGION OR BELIEF

1.0 Legal Duty

1.1 Under the Equality Act 2010 the University has a legal duty to:

- Ensure that it makes every reasonable effort to promote equality in respect of religion or belief;
- The removal of unlawful discrimination on the basis of religion or belief;
- The promotion of good relations between people of different religions or lawful beliefs;
- The provision of a supportive and inclusive environment to staff of all religions and lawful beliefs.

2.0 Different Types of Discrimination related to Religion or Belief

2.1 Detailed below are explanations of the four main types of religion or belief discrimination and examples of how this applies to the workplace sourced from the Equality & Human Rights Commission¹ and ACAS².

2.2 Direct discrimination

This happens when someone treats you worse than another person in a similar situation, and/or causes you a disadvantage, because of your religion or belief. For example:

¹ Source: the Equality & Human Rights Commission advice and guidance on religion or belief discrimination <https://www.equalityhumanrights.com/en/advice-and-guidance/religion-or-belief-discrimination>

² Source: ACAS http://www.acas.org.uk/media/pdf/d/n/Religion-or-Belief-and-the_workplace-guide.pdf

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- A Hindu businessman interviews two women for a job as his personal assistant. One is Hindu and the other is not religious. The Hindu woman is the best candidate at interview but he gives the job to the other woman because he thinks his clients (who are mainly Christian or have no religion or belief) will prefer it.

2.3 Indirect discrimination

This happens when an organisation has a particular policy or way of working that puts people of your religion or belief at a disadvantage. For example:

- You are Jewish and you finish early on Fridays in order to observe the Sabbath. Your manager has changed the weekly team meetings from Wednesday afternoons to Friday afternoons and you are therefore often absent.

Indirect religion or belief discrimination can be permitted if the organisation or employer is able to show that there is a good reason for the discrimination. This is known as objective justification. This is legal but the reason must be robust and based on a meaningful rationale. For example:

- A small finance company needs its staff to work late on a Friday afternoon to analyse stock prices in the American finance market. The figures arrive late on Friday because of the global time differences. During the winter months some staff would like to be released early on Friday afternoon in order to be home before sunset – a requirement of their religion. They propose to make the time up later during the remainder of the week. The company is not able to agree to this request because the American figures are necessary to the business, they need to be worked on immediately and the company is too small to have anyone else to do the work. The requirement to work on a Friday afternoon is not unlawful indirect discrimination as it meets a legitimate business aim and there is no alternative means available.

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2.4 Harassment

Harassment occurs when someone makes you feel humiliated, offended or degraded. For example:

- A member of staff is devout in her belief. She continually refers to her colleagues as “heathens” and warns them of the consequences they may suffer as a result of their lack of belief. Distressed by her intimidating behaviour, her colleagues complain to their manager that they are being harassed.

Harassment can never be justified. However, if an organisation/employer can show it did everything it could to prevent people who work for it from behaving like that, the individual harasser could be liable. The individual manager and employer would need to provide appropriate evidence to demonstrate the employer has tried to prevent harassment taking place. If they cannot provide this the organisation/employer could be held liable for the harasser’s actions.

2.5 Victimization

This is when you are treated badly because you have made a complaint of religion or belief related discrimination under the Equality Act. It can also occur if you are supporting someone who has made a complaint of religion or belief related discrimination. For example:

- After giving evidence for a colleague who had brought an Employment Tribunal claim against the organisation because of religion or belief discrimination, a worker applies for promotion. Her application is rejected even though she shows that she has all the necessary skills and experience. Her manager says she is a ‘troublemaker’ because she has given evidence at the tribunal and as a result should not be promoted.

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