



## DISCRIMINATION

An employee has the right not to be discriminated against in their employment. It is currently unlawful to discriminate against a person on the grounds of their: - Age; Sex; Race; Disability; Sexual Orientation; or Religious belief

### **Age Discrimination**

The Employment Equality (Age) Regulations came into effect on 1 October 2006. An employer will have directly discriminated against a person if they treat that person less favourably than they treat, or would treat, another person on the grounds of age.

### **Sex Discrimination**

The Sex Discrimination Act 1975 (SDA) makes it unlawful to discriminate against a person on the grounds of their sex or marital status. The Act applies both to the treatment of men and women (with the exception of the protection that I afforded to women in relation to pregnancy or childbirth - see Pregnancy related dismissals).

### **Race Discrimination**

The Race Relations Act 1976 (RRA) makes it unlawful to discriminate on the grounds of race, which also includes ethnic origin.

### **Disability Discrimination**

The Disability Discrimination Act 1995 (DDA) makes it unlawful to discriminate against a person on the grounds of their disability. It should be noted that the DDA has its own definition of disability and this can include any impairment that is 'long term and substantial and adverse affect on a person's ability to carry out his normal day to day activities'.

### **Sexual Orientation**

The Employment Equality (Sexual Orientation) Regulations 2003 came into force on 1 December 2003 and make it unlawful to discriminate against a person on the grounds of sexual orientation.

### **Religious Belief**

Employees are protected against discrimination on the grounds of their religion or belief.

There are four ways in which a person can be discriminated against: - Direct or Indirect discrimination; Victimisation; Harassment

### **Direct Discrimination**

The ET would consider two elements in deciding whether direct discrimination has occurred: - Whether there is less favourable treatment; The reason for that treatment.

Any complaint to an employment tribunal must be made within three months of the act of discrimination complained of. It is not enough to show merely that people have been treated differently. The ET will look at the treatment itself, rather than the consequences of the treatment to determine whether there has been less favourable treatment that could amount to discrimination. An employee must show that they have been treated less favourably and once this is established, the ET will consider the reason for the less favourable treatment. Once an employee has shown that there was less favourable treatment, the employer must then show that the reason for the treatment was not on an unlawful ground.

### **Indirect Discrimination**

Indirect discrimination occurs where all employees are treated the same, but the effect of that treatment will create a discriminatory effect. For example, a requirement that all employees must be at least 6 foot tall, would discriminate against women as it is likely that more men would be able to comply with that requirement.

### **Victimisation**

Victimisation occurs when an employee has committed what is known as a 'protected act' and is then victimised by their employer as a result of this. For purposes of discrimination law, the following are deemed to be protected acts: Those who have brought proceedings under the Acts; Those who have given evidence in such proceedings; Those who have done anything else with reference to the Acts; Those who have alleged that a person has committed an act which would be unlawful under the Acts.

As with the discrimination laws themselves, a person is protected from being subject to less favourable treatment.

### **Harassment**

Unlawful harassment occurs when (on the grounds of one of the forms of discrimination), the harasser engages in conduct which has the effect of: Violating a person's dignity; Creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.

Whilst the ET will take into account the perception of the person that has been harassed, the conduct must also be capable of being reasonably considered to have the unwanted effect.

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**Should you require further information about how our Employment Law team can help you - just call 0800 040 33 99 – and one of specialist advisors will be pleased to assist. You can visit us on the web at the above address**

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