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RELIGION AND BELIEF 1

In the Work Place
Overview of the
Employment Equality
(Religion & Belief)
Regulations 2003

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Overview of the Employment Equality (Religion & Belief) Regulations 2003

Contents

- Introduction
- Why the Regulations have been introduced
- Background to the Regulations
- The Employment Equality Directive
- What do the Regulations cover?
- The Regulations – An overview

Introduction

The new Employment Equality (Religion or Belief) Regulations became effective on December 2nd 2003.

The Regulations implement the principle of equal treatment in employment and training, irrespective of religion or belief.

Religion/belief may be evidenced in many ways, some more outward and obvious than others, and may sometimes be a stronger motivator for discriminatory views, attitudes and behaviour than race, culture or ethnicity.

Particular religious groups may be seen as a single monolithic block, static and unresponsive to change and new realities, rather than as a diverse and often progressive group. They may wrongly be seen as not having aims or values in common with the wider community around them. Lack of knowledge and insight can lead to stereotyping, misunderstandings or misrepresentations. A Muslim woman wearing a head scarf (hijab) is perceived as oppressed; a Muslim man with a beard is viewed as threatening.

Religion or beliefs discrimination may occur in not very obvious ways and tackling it effectively requires commitment and creativity. Treating everyone the same, irrespective of their group identities, ignores the importance of that identity to the individual and importantly, demonstrates the extent to which the dominant culture and religion drives the way we do things. Awareness of the needs of other religions and beliefs is therefore very important.

Why the Regulations have been introduced

The Equality (Religious or Belief) Regulations have been introduced because unfair discrimination has such a damaging impact on people's lives.

They are part of a commitment to ensure that, in law, people can no longer be denied jobs because of prejudice; harassment can be tackled promptly and effectively and people have an equal chance of training and promotion, whatever their background.

There is also a growing understanding of the benefits to business of treating all people fairly and with dignity and respect.

SUCH BENEFITS CAN INCLUDE:

- Attracting a high overall level of interest in job vacancies
- Attracting candidates from non-traditional labour pools
- Enjoying positive productive working relationships and cooperation
- Highly motivated employees who feel valued
- High productivity and flexibility
- Effective, value added team work
- Reduction in time consuming negative activities, complaints, arguments, grievances etc
- High staff retention / low staff turnover
- Reduced absenteeism / sickness absence
- Staff willing and happy to provide cover on days when the dominant religion(s) wish to be absent – for example, Christmas
- A high return on investment in training and development activity
- Building a wide inventory of skills and experience
- Flexibility to provide cover during times

The emphasis should be on the skills or competencies needed to perform the job.

when dominant religions prefer to take leave, for example, Christmas, Easter
- More diversity, new ideas, different perspectives, creativity, innovation…
- Enhanced company reputation as a good employer
- Improved corporate image
- Improved, informed customer care responsive to diverse customer needs
- Employee loyalty
- Advantages in dealing with customers, suppliers and other stakeholders in multicultural and globalised markets

The guidelines notes that follow provide a detailed analysis of the Regulations followed by practical tips on implementing them in your organisation in a way that will:

1. Optimise the benefits for you and your employees and
2. Avoid the cost and negativity of litigation.

Background to the Regulations

The Employment Equality (Religion or Belief) Regulations became effective on December 2nd 2003.

The Regulations are part of the UK government's enforcement of The European Community Employment Equality Directive 2000/78/EC. All Member States were required to incorporate the new rules encompassed in this Directive into national law by December 2nd 2003. The Regulations will apply to England, Scotland and Wales.

Existing legislation already protects people against discrimination on the grounds of sex, race, disability and gender reassignment. The new regulations will make it unlawful also to discriminate against workers because of religious or similar belief.

A further set of Regulations, which are effective from December 1st 2003, will protect people from discrimination on the grounds of sexual orientation. Regulations incorporating matters related to disability and age have to be in force by October 2004 and December 2006 respectively.

The Governments approach to the development of the Regulations has been to ensure that requirements are consistent across equality legislation, where practicable, to make it easier for everyone to understand and comply with the law.

The Employment Equality Directive

- Implements the principle of equal treatment in employment and training irrespective of religion or belief, sexual orientation and age in employment and training.
- Includes identical provisions to the Racial Equality Directive 2000/43/EC

on definitions of discrimination, rights of legal redress and the sharing of the burden of proof.
- Allows for limited exceptions to the principle of equal treatment, for example, to preserve the ethos of religious organisations.

What do the Regulations cover?

The Regulations apply to all employers/ businesses whatever their size. They cover the private and public sector, including the police.

The Regulations also protect office holders appointed by the Government and other office holders where they fall within the scope of the Directive (that is if they are paid and are subject to some form of direction.) This means, for example, that the regulations will cover clergy and judicial offices including magistrates and Employment Tribunal members.

The Regulations do not cover people who hold elected office, or an office that is not on a par with a job, for example, an executor – appointed under a will.

The Regulations also outlaw discrimination on grounds of religion or belief by:

- Barristers in relation to an offer of pupilage or tenancy
- Advocates in relation to taking any one as a pupil
- Partnerships within firms
- Trade organisations
- Qualification bodies
- Providers of vocational training
- Institutions of further and higher education
- Employment agencies
- Professional and other qualification bodies

The Regulations – An overview

The Regulations apply to all aspects of employment including recruitment, terms and conditions, promotions, transfers, dismissals and training. They also apply to vocational training.

- The Regulations make it unlawful on the grounds of religion or belief to:
- Directly discriminate against anyone. This means that a person cannot be treated less favourable because of their religion or belief. This includes treating a person less favourable because they are perceived to have a particular religion or belief, irrespective of whether that perception is right or wrong. It also includes treating a person less favourably because of someone else's religion or belief, for example, the religion of their spouse or partner.
- Discriminate indirectly against anyone. Indirect discrimination occurs where a person applies a criterion, provision or practice equally but people of a particular religion or belief are disadvantaged because they are not able or less able to satisfy the requirements of particular criterion, provision or practice. This will be unlawful unless it can be objectively justified as a proportionate means of achieving a legitimate aim.
- Victimise someone because they have made or intend to make a complaint or allegation as a result of the new regulations. This also applies where someone is victimised because they have given or intend to act as a witness in relation to a complaint.
- Subject someone to harassment. Harassment is unwanted conduct that violates a person's dignity or creates

an environment that is intimidating, hostile, degrading or humiliating having regard to all the circumstances and the perception of the person harassed. It should be 'reasonable considered' that the person's dignity has been violated or that the environment has been offensive.

- Discriminate or harass someone in certain circumstances after the working relationship has ended, for example in the giving of references.
- The Regulations do permit discrimination in very limited circumstances where a genuine occupational requirement exists. The employer must be able to demonstrate that she or he has an ethos based on religion or belief that results in a genuine and determining occupational requirement for a worker to be of a particular religion or belief and that it is proportionate to apply that requirement in a particular case.
- The Regulations provide for positive action to be used to 'prevent or compensate for disadvantage linked to a persons religion or belief.' Positive action may be used therefore, to attract job applicants from minority communities or to encourage people from different religions and beliefs to apply for training and development opportunities.

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The Regulations apply to all employers/businesses whatever their size. They cover the private and public sector, including the police.

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