
RELIGION & BELIEF REGULATIONS

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PERS

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December 2003 saw the implementation of the Employment Equality (Religion or Belief) Regulations 2003, designed to prevent discrimination on the grounds of religion/belief.

It is unlawful to discriminate against an employee on the grounds of religion or belief. The regulations also cover those on vocational training (please see page 2 for full list of who the legislation protects).

Religion or belief is taken to mean any religion, religious belief or similar philosophical belief. Please note that these regulations do not cover discrimination on the grounds of belief not akin to religion or similar philosophical belief such as party allegiance/political conviction or fanatical support of a sporting team.

Humanism, atheism or agnosticism may also be included, as they would be covered under the phrase 'or similar philosophical belief'.

The rules also ban discrimination on the grounds of perceived as well as actual belief, that is, assuming correctly or incorrectly, that someone has a particular religion or belief.

For example, A person is discriminated against because his employers thought he was Jewish, even though he is not.

Association is also covered, that is, being discriminated against on grounds of the religion or belief of those with whom you associate.

For example, A man is discriminated against because his father is a Jehovah's Witness.

The regulations cover 'direct discrimination', 'indirect discrimination', 'victimisation' and 'harassment'.

What does the legislation cover?

► **'Direct discrimination'** means treating people less favourably because of their religion or belief, e.g. refusing to employ someone because he is a Hindu.

'Indirect discrimination' means applying a requirement which may disadvantage a person because of their religion or belief. For instance, a rule that prevented all employees wearing hats or headscarves would indirectly discriminate against a Muslim woman who wears a head covering (hijab).

'Victimisation' occurs when a person is treated less fairly because they have been involved in making a complaint about discrimination or have given evidence for someone taking on a discrimination claim. This could be on their own, or someone else's behalf, e.g.

where John is penalised for complaining about harassment suffered by Manjit

‘Harassment’ covers bullying and/or the creation of an unacceptable working environment. It is when a person’s dignity has been violated or when they have been subjected to an intimidating, humiliating or offensive environment. The perception of the employee who has been or is being harassed is important. No intention to harass is required, and harassment can include what might be regarded by some as relatively trivial acts, if it is made known by the recipient that the acts are unwelcome.

All of the above cover the recruitment process, the period of employment and/or training and even post employment discrimination.

Other types of employment covered

- ▶ ❖ employees
- ❖ apprentices and people on work experience
- ❖ self-employed people who have a contract to provide a service
- ❖ Job applicants- this may also apply if the prospective employer discriminates because you made a complaint of discrimination previously.
- ❖ people applying to train, or training, to be a barrister or advocate
- ❖ contract and agency workers
- ❖ volunteer workers in some cases
- ❖ former employees in some cases
- ❖ Crown employees
- ❖ Some office holders, for example, clergy, magistrates and employment tribunal members.
- ❖ members of the armed forces
- ❖ staff of the House of Lords and House of Commons
- ❖ police officers
- ❖ partners in a business and people seeking partnership in a business
- ❖ people undertaking or seeking vocational training
- ❖ Members of occupational pension funds.

Types of employment not covered



► There are certain areas, which are excluded from the Employment Equality (Religion or Belief) Regulations 2003, in which it is lawful to discriminate. These are:-

- ❖ Action taken for the purpose of safeguarding national security.
- ❖ Office holders who hold elected positions, such as a ministerial posts or local councillors within a local council
- ❖ employees who work totally outside Great Britain, unless the employment is carried out for the operations of the employer's business in Great Britain and the employee is or was a resident in Great Britain at the time of recruitment or at some time during the employment
- ❖ being of a particular religion or belief is a genuine and determining occupational requirement; *and* it is proportionate to apply that requirement in the particular case. For example, a mosque wishing to appoint an Imam is likely to be able to argue that having a religion or belief is a genuine occupational requirement for the post. However, a church-run care home seeking to appoint a care assistant would probably not be able to claim that the care assistant should be of a particular religion or belief.

Taking Action

► If you are an employee who is suffering from discrimination take action as quickly as possible. Your employer is required by law to try and prevent it. Keep a diary of events as evidence and use the following stages.

- ❖ Ask the person to stop and/or report it to you line manager.
- ❖ If this fails, raise a written grievance. See our grievance and disciplinary factsheet on how to do this. If the perpetrator is your manager you can deal with someone higher up in the organisation.
- ❖ If this also fails you may complain to an Employment Tribunal (ET). You must have raised a written grievance with your employer before you do this (unless you fear that raising a grievance will result in a significant threat or further harassment to yourself, or your property). There is usually a three month time limit to apply from the date when the discrimination took place however, this may be extended if you are awaiting a decision following a grievance on which you have to allow the employer 28 days to respond. Please note that this only applies to employees. Otherwise the three month time limit applies. Grievance procedures can complicate issues surrounding the three month time limit. Contact PERS for more information on time limits and the statutory grievance procedure.

In the case of dismissal the time limit usually runs from the date of dismissal. If you appeal the dismissal stating that you think it was related to discrimination under the act then you may have extra time to await a reply from the employer. However, some employers delay replying until the last minute so that you may miss the three month limit. Note that time limits can be complex so please seek further advice from PERS or another advice agency for further clarification.

If you resign and want to claim constructive dismissal as a result of an act of discrimination that was continuous, the time limit runs from the date the employment contract terminates (last day of notice).

Harassment Some Examples

► **Case Study 1**

Aziz is a Muslim. Some of his fellow workers sometimes make mocking and offensive remarks about the time he spends in the bathroom and the small container of water he sometimes is seen to take to the bathroom with him (for performing ablution). After a particularly inappropriate comment, Mr A complains to his manager.

Mr A is being harassed on the grounds of his religion.

Case Study 2

Mr B is a Rastafarian. On a number of occasions Mr B's manager has suggested to him that he should 'get his hair cut' and 'smarten himself up'. He frequently speaks to him in a way that is dismissive.

Mr B is being harassed on the grounds of his religion.

Case Study 3

Mrs C is married to a Jew. She is continually being teased about her partner's religious convictions. She finds this hurtful and distressing.

This is harassment on the grounds of religion or belief, even though it is not Mrs C's own religion or belief that is the subject of teasing.