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Discrimination Law ^[1]

The Equality Act 2010, much of which came into force on 1st October 2010, brought together previous discrimination laws in Great Britain adopting a single approach and consolidating a number of important changes to the law.

What types of Discrimination are there?

Discrimination can only be based upon age, disability, gender reassignment, marital status, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

If you feel that you are being treated differently because of any of the above characteristics and your employer cannot show that the treatment is unrelated to that factor, it may be possible for you to claim discrimination in an Employment Tribunal. Contact us ^[2] today for advice.

Preventing discrimination

Your employer has an obligation to its employees to make sure there are set procedures in place to prevent discrimination in the work place and should deal with any complaints that arise because of discrimination.

Manner of Discrimination

There are different ways of discriminating against someone:

1. Direct Discrimination

This is when an employee is treated less favourably than other employees because of a protected characteristic such as –

- Race
- Gender/Sex
- Disability
- Age

2. Discrimination by Association

This is direct discrimination against an employee because he/she associates with someone who connects with a specific factor. For example, a non-disabled employee might bring a disability discrimination claim where they have been treated less favourably because they have a disabled child.

3. Discrimination by Perception

This is a form of direct discrimination against an employee because he/she is wrongly perceived to have a protected characteristic.

4. Indirect Discrimination

This is when a provision, criterion or practice is applied in the workplace such that the proportion of one sex or race etc, who cannot comply with it, is considerably smaller than the proportion of the opposite sex, other races etc., who can comply. There is a defence where the provision, criterion or practice can be 'justified' by the employer as a proportionate way of achieving a legitimate aim (unconnected with gender, race etc).

5. Victimisation

This is when an employee is treated less favourably because they have done or might do a 'protected act' such as bringing a discrimination claim, complain about harassment or give evidence in an employee's discrimination complaint.

6. Harassment

This is when a person, on the basis of their protected characteristic is subjected to unwanted conduct which violates his/her dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for them. It covers verbal, non-verbal and physical conduct.

Submitting a claim

If you decide to submit a claim, there is no need to have been employed for a specific length of time. However an Employment Tribunal must receive the claim within 3 months minus one day from the date of the last act of discrimination. For example, if an employer makes a racist comment to an employee of ethnic origin, then the date that comment was made would be the last act of discrimination for the purposes of starting a claim. The deadline would be 3 months minus one day from that date.

In some cases, an employee may be relying on a series of acts which is called a continuing act of discrimination. In this situation the deadline would run from the last in the series of those acts.

What if my claim is successful?

If a discrimination case is successful the most common remedy is an award of compensation. There is no cap upon the compensation that can be ordered by an Employment Tribunal and it can include an element to cover injury to feelings and, occasionally, if the employee suffered psychological injury, damages for Personal Injury. The damages can also be increased if the employer's behaviour was insulting or malicious ("aggravated damages").

Tribunals can also make recommendations for improvements in the employer's policies and systems, although these are unusual.

Please note that the above information is for guidance only. For full tailored advice on Discrimination law and how it could apply to you please contact our specialised Employment Team ^[3].

For further information and to be contacted by one of our employment experts fill out our online enquiry form ^[2] or call us on 0121 746 3360.

Links

[1] <https://www.sydney-mitchell.co.uk/services-individuals/employment-law/discrimination>

[2] <https://www.sydney-mitchell.co.uk/contact>

[3] <https://www.sydney-mitchell.co.uk/about-us/our-people/employment-law>