

DISCRIMINATION

The Law

The Sex Discrimination Act 1975, Race Relations Act 1976 and the Disability Discrimination Act 1995 aim to prevent discrimination on the grounds of gender, race and disability. The Sex Discrimination Act was amended in 1999 to protect transsexual people against discrimination in employment and vocational training.

The Employment Equality (Sexual Orientation) Regulations 2003 and The Employment Equality (Religion or Belief) Regulations 2003 make it unlawful for employers and some other bodies to discriminate against (directly or indirectly) or harass or victimise a person on the ground of sexual orientation or on the ground of religion or belief respectively.

The Employment Equality (Age) Regulations 2006 prohibit age discrimination in relation to recruitment, promotion and training and a ban on all retirement ages under 65 unless the retirement age is objectively justified. The Regulations also require employers to inform employees in writing of their intended retirement dates at least six months in advance. The upper qualifying age for unfair dismissal and redundancy is also removed and there is an additional duty on employers to consider requests to continue to work beyond the retirement age. Please see the Age Discrimination – Key Points factsheet for further information.

It is also unlawful to discriminate against someone on the basis that they work part-time ([Part-Time Workers \(Prevention of Less Favourable Treatment\) Regulations 2000](#)) and on the basis that they have a fixed term contract ([The Fixed Term Employees \(Prevention of Less Favourable Treatment\) Regulations 2002](#)).

Under the Equal Pay Act 1970 it is unlawful to offer different pay and conditions where women and men are doing the same or like work or work rated as equivalent. Pay is interpreted widely by the courts, e.g. access to pensions or 'perks'. It is also unlawful to offer unequal pay for work of equal value in terms of demands made under such headings as effort, skill and decision making. This applies even where two posts look apparently dissimilar.

Further Information

Although all of the solicitors in our Employment Team are experienced at advising both employers and employees in relation to discrimination matters, Duncan Murray, a partner in the Team, is an expert in the field of discrimination and has been involved in some ground breaking discrimination cases. For example, he was instructing solicitor for the Ministry Of Defence in MacDonal v MOD which was appealed to the House of Lords.

Duncan is assisted by Pamela McKay, Carrie Mitchell and Jillian Paton who also specialise in discrimination law.

As well as advising on bringing and defending discrimination cases before Employment Tribunals we are also able to offer:-

- discrimination audit/health check
- compliance training for managers and supervisors
- training on avoiding harassment claims
- advice on drafting and implementing an adequate equal opportunity policy

Additional useful information can be found on the following website:

Equality and Human Rights Commission

<http://www.equalityhumanrights.com/>

For more information please contact our experienced employment law solicitors in Edinburgh, Glasgow and London.

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