



What amounts to Religious belief?

The Employment Equality (Religion or Belief) Regulations 2003 (“the Regulations”) make it unlawful to discriminate against people in employment on the basis of their religion or beliefs.

Sejal Raja explores what this means for employers.

Regulation 2(1) of the Regulations (as amended by the *Equality Act 2006*) defines religion or belief as “any religion, religious belief, or similar philosophical belief”. Under the new definition, “belief means any religious or philosophical belief”. In addition, the Equality Act 2006 provides that discrimination in employment can occur on the grounds of someone else’s religion rather than the individuals. Therefore, if the complainant is treated less favourably because of his or her association with someone of a particular religion then this could amount to discrimination under the Regulations. The amendment to the Regulations will, therefore considerably widen the scope of the meaning of Religious beliefs.

The explanatory notes published with the Equality Act 2006 suggests that the religion or belief must have a clear structure. The notes also sets out a number of religions that are protected and which include Buddhism, Christianity, Hinduism, Islam, Jainism, Judaism, Rastafarianism, Sikhism and Zoroastrianism. The notes also provide that denominations or sects in a religion are also religions, e.g. Catholics or Protestants in Christianity.

The difficulty that employers face is that there are a significant number of religions that are practised in the UK. In addition employers have to take into consideration employees “beliefs” to ensure that it does not fall foul of the Regulations.

In the recent case of *Nicholson -v- Granger Plc and Others*, the Employment Tribunal, at a Pre-Hearing Review, held that an individual’s belief about climate change was capable of being a belief for the purposes of the Regulations. During the course of the Hearing, Mr Nicholson stated that his beliefs relating to climate change

“is not merely an opinion but a philosophical belief which affects how I live my life, including my choice of home, how I travel, what I buy, what I eat and drink, what I do with my waste and my hopes and fears.”

The case was appealed to the Employment Appeal Tribunal and upheld the Employment Tribunal’s decision that an individual’s belief about climate change was capable of being a “belief” for the purposes of the Regulations.

Continued...

In doing so the Judge provided the following guidance as to what amounts to a belief for the purposes of the Regulations.

- The belief must be genuinely held.
- It must be a belief and not an opinion or viewpoint.
- It must be a belief as to a weighty and substantial aspect of human life and behaviour.
- It must attain a certain level of cogency, seriousness, cohesion, and importance.
- It must be worthy of respect in a democratic society.

What this case highlights is that if somebody's belief has sufficient cogency, seriousness, cohesion and importance and are worthy of respect in a democratic society then that individual will be protected under the Regulations. The Tribunal accepted Mr Nicholson's evidence in that Mr Nicholson's views went beyond mere opinion and they affected the way he led his life, and held that it was a belief protected under the Regulations. However, Mr Nicholson still had to show that he had suffered discrimination on the basis of his beliefs.

In our cosmopolitan society, employers engage a number of employees/workers of different religions. Employers have to ensure that all employees are treated consistently so that they do not fall foul of the Regulations. The difficulty that employers face is not only are there are a number of religions but that not everyone follows their faith in the same way. In addition employers have to contend with whether an employee's "belief" is protected under the Regulations.

As long as employers act consistently and ensure that any decisions it makes are based on business needs then it should be able to defend a claim for discrimination.

First published in Modern Manager December 2009

If you have any questions regarding the content of this briefing then please contact

Sejal Raja at sejal.raja@rlb-law.com.



Disclaimer

This briefing is for guidance purposes only. RadcliffesLeBrasseur accepts no responsibility or liability whatsoever for any action taken in relation to this note and recommend that appropriate legal advice be taken.

LONDON: 5 Great College Street, Westminster, London, SW1P 3SJ, Tel +44 (0)20 7222 7040, Fax +44 (0)20 7222 6208

LEEDS: 6-7 Park Place, Leeds, LS1 2RU, Tel +44 (0)113 234 1220, Fax +44 (0)113 234 1573

CARDIFF: 25 Park Place, Cardiff, CF10 3BA, Tel +44 (0)29 2034 3035, Fax +44 (0)29 2034 3045