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Essential Information Leaflet: EMPLOYMENT DISCRIMINATION

Edition: January 2009

Who can bring a Claim for Discrimination?

In employment situations claims can be brought by potential and past employees as well as current employees, making this a particularly difficult area for employers. In addition, employees do not need a year's continuous service to bring a claim as they do for unfair dismissal. Employers may struggle to defend claims where there is no anti-discrimination policy in place.

What kinds of Discrimination are there?

- Sex
- Race
- Disability
- Religion/Belief
- Sexual Orientation
- Age

What Compensation can be awarded to a potential, past or current employee who brings a successful claim for discrimination?

If an employee has been dismissed for a discriminatory reason then the Compensation is as described under unfair dismissal (see Unfair Dismissal - What compensation is awarded to those who bring successful claims?). The principal difference between compensation for discrimination claims and that for unfair dismissal is that in discrimination cases compensation may be awarded for injury to feelings (see below) and there is no upper limit on the amount of compensation which may be awarded. News reports of huge financial awards or settlements often make the headlines.

There are three recognised “bands” of awards that are made for injury to feelings:

- The lower band - £500 - £5,000
- The middle band - £5,000 - £15,000
- The upper band - £15,000 - £25,000 and over

Evidence in Discrimination Cases

It is well accepted that evidence in discrimination cases may be more difficult to obtain and for this reason the discrimination questionnaire process was introduced. The questionnaire process allows employees to pose particular questions to employers the answers to which are admissible in evidence. For example, a potential employee who is disabled and who did not get the job in question following interview, may ask how many disabled employees a Company employs in the belief that the answer to the question will show the Company in poor light. A female employee who did not get the promotion she believes she deserved could ask how many female employees a Company employs at senior level and request sight of a Company’s anti-discrimination or equal opportunities policy.

What is the Limitation Period for Discrimination Claims?

Claims must be brought within 3 months of the act of discrimination or in cases of on-going discrimination, within 3 months of the last in the series of acts or omissions.

The information given herein is not a comprehensive guide to the law and is intended to be a brief and non-exhaustive summary only. Specific legal advice should be sought for actual cases.

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