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Discrimination

General Notes

Discrimination on the grounds of age will become unlawful in 2006. It is already unlawful to discriminate on the grounds of sex, race, disability, sexual orientation, religion or religious belief, or gender re-assignment.

The question of whether an employer has discriminated against an employee or job applicant is looked at objectively – ‘good’ motives are no defence, and it is easy to get it wrong.

Discrimination can be

- direct
- indirect
- victimisation
- harassment

It must be guarded against at every stage of the employment process/relationship, namely

- arrangements made for selecting employees
- terms/conditions offered
- refusing to offer employment
- access to training, promotion, benefits, etc
- dismissing or subjecting to a detriment

Discrimination claims require no period of continuous employment, and there is no cap on awards that can be made, including sums for injury to feelings. Claim must be made within 3 months of the act complained of (cf. continuing acts and acts with continuing consequences), unless the Employment Tribunal (ET) decides it is just and equitable to extend this time limit.

Evidence

It is often hard to produce direct evidence of discrimination, so if a claimant can show facts from which an inference of discrimination can be made it is then for the employer to rebut that presumption.

If it finds that the claim is valid the ET can make a declaration as to the infringement of the claimant's rights, and/or award compensation and/or make recommendations as to how the employer should change things.

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