

## **DISCRIMINATION ON THE GROUNDS OF SEXUAL ORIENTATION**

It is unlawful for your employer to discriminate against you on the grounds of your sexual orientation.

### What is discrimination on the grounds of sexual orientation?

There are 3 kinds of unlawful discrimination on this ground. These are:

1. Direct discrimination. This is where for a reason relating to your sexual orientation, you are treated less favourably than someone else of a different sexual orientation. Examples of being treated less favourably include being bullied or harassed (see our separate factsheet on bullying and harassment) or being disciplined or selected for redundancy for a reason relating to your sexual orientation.
2. Indirect discrimination. This is where your employer operates, without good reason, a rule or procedure that affects you adversely because of your sexual orientation. For example, if your employer has a rule that employees must have children, then this could indirectly discriminate against gay employees - unless the employer could objectively justify this rule, it would be unlawful discrimination. This is a very complex area of law but our legal experts can help you with this.
3. Victimisation. This is where you are victimised because you have raised an issue of unlawful discrimination (either to your employer or to an Employment Tribunal). An example of this would be if you complained to your employer that you had been abused by a fellow employee on the grounds of your sexual orientation and, because you had complained about this, your employer then treated you less favourably – this in itself would be unlawful discrimination.

If you wish to bring a claim for sexual orientation discrimination, you will usually need to pursue a grievance first with your employer – if you do not, the Employment Tribunal may not consider your claim.

### Who can I claim against?

If you are unlawfully discriminated against, you can bring a claim against the person who has discriminated against you (e.g. a co-worker or your boss) and you can also bring a claim against your employer (e.g. for failing to stop the discrimination from occurring).

### Who can bring a claim for unlawful discrimination?

There is no requirement for you to have been employed by your employer for any length of time before you can bring a claim for unlawful discrimination. In fact, there is no need for you to actually be an employee. You can bring a claim for unlawful discrimination if you are:

- A job applicant (e.g. if you are turned down for a job because of your disability)
- An employee (even if you are in the first day of your employment)
- A worker (i.e. you are not an employee but are still providing services to your “employer”, e.g. as a self-employed contractor)
- An ex-employee and, for example, your ex-employer refuses to provide a reference for you because you complained of unlawful discrimination whilst you were still an employee.

### Remedies

If you have been unlawfully discriminated against, an Employment Tribunal may award you compensation. This is usually for any losses you may suffer (e.g. lost wages if you are dismissed) and an award for injury to feelings. **There is no limit on the amount of compensation that can be awarded for unlawful discrimination.**