

Dear Beata

Apologies for the delay in getting back to you, I was in London yesterday and have only got back to my desk today.

I should point out that while we remind schools of the requirement on them to ensure policies are compatible with equalities legislation, we do not refer them to specific pieces of legislation. To do so could lead to the Department becoming entangled in a dispute between an employer and employee. However, we believe the key pieces of legislation are as follows:

New Equalities legislation

From December 2003, it is unlawful to discriminate on the grounds of sexual orientation, religion or belief, before, during or after employment or in vocational training. The law covers direct and indirect discrimination, harassment and victimisation, whether such action is intentional or unintentional. It applies to applicants for jobs, employees, agency workers and some self-employed individuals.

Sexual Orientation Regulations

The regulations make discrimination on grounds of the individual's sexual orientation or the orientation of those with whom they associate, whether real or perceived, unlawful. The regulations cover orientation towards persons of the same sex, opposite sex, and same and opposite sex, but not sexual practices.

The main implication relates to benefits offered to opposite sex partners which are not currently offered to same sex partners. One area which might therefore be affected is time off work. For example, where two individuals meet the relevant qualifying conditions, statutory adoption leave is available to an individual who adopts a child and two weeks statutory paternity leave is available to their partner, whether opposite sex partners or same sex partners.

Religion and Belief Regulations

These regulations cover all religions and belief systems including non-believers, whether real or perceived, but not political beliefs. They extend to employees' requests for time off for religious observance. Employees may require time off to observe a religious festival or prayers. There is no statutory right to take additional time off and managers are not required to grant all requests for leave for religious observance. However, if such requests for leave are refused because of an employee's religion or belief, managers risk direct discrimination claims. Refusal may be justifiable on business grounds. If rules, that are not objectively justifiable, are applied which disadvantage employees of a particular religion, managers risk claims for indirect discrimination.

Genuine Occupational Requirements (GORs)

Under both sets of regulations, it is possible to justify different treatment on the grounds that there is a "Genuine Occupational Requirement" where a certain sexual orientation, religion or belief is a

genuine and determining requirement for the job. The GOR clause is a complicated matter. GORs should be identified before the commencement of the recruitment, training or promotion process and certainly before the vacancy is advertised. Managers should therefore seek guidance from the Education Services team if you believe that the GOR rule applies.

The next steps

Managers are advised to:

- sensitively apply their existing arrangements for time off for example, compassionate, bereavement, special, maternity, adoption and paternity leave to employees in same gender relationships where they would otherwise be applied to those in opposite gender relationships;
- review for example, their Equal Opportunities, Dignity at Work, Recruitment and Selection practices, ensuring that they are robust and cover the legislative requirement;
- promote and ensure that employees are aware that discrimination is not acceptable;
- apply a consistent approach when dealing with requests for time off for religious observance;
- consider providing facilities for prayers if requested and be flexible in meeting any requests for time off for prayers.

I hope this is of help to you.

Yours sincerely

Peter Windram
New Professionalism Project
School Resources Group

From: BEAND1@uvm.dk [mailto:BEAND1@uvm.dk]
Sent: 18 April 2007 09:44
To: WINDRAM, Peter
Subject: Using veil in schools in UK

Dear Peter

Thank you for your reply about using veil in schools. You mention in your answer that "Current guidance states that schools should consult widely when drawing up or amending existing policies on dress codes and regard to their responsibilities under Equalities legislation."

Will you please mail me these guidance. If possible today.

Yours sincerely

Beata Engels Andersson
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