

Religious Observations in the Workplace

March 2025

Today's agenda



- The legal context
- Time off for religious reasons
- Case law
- Best practice for employers

The Law

Equality Act 2010



- Religion or belief is a protected characteristic
 - Those with a religion or belief
 - Those who don't share the religion or belief
 - Those who hold a philosophical belief e.g. veganism, gender critical beliefs (we will not be covering this aspect today)
- Direct discrimination
- Indirect discrimination

Direct discrimination



- A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others
 - Refusing a job application even though it's the best on merit due to them disclosing they are a Catholic
 - Not promoting a high performing colleague as they are Muslim and you don't think the requirements of their religion are compatible with the requirements of the senior role
 - Athiest employee is consistently given a lower bonus than Christian employees, despite performing just as well
- No justification defence

Indirect discrimination



- Indirect discrimination occurs when a policy which applies in the same way for everybody has an effect which particularly disadvantages people with a protected characteristic.
- Where a particular group is disadvantaged in this way, a person in that group is indirectly discriminated against if he or she is put at that disadvantage, unless the person applying the policy can justify it

Indirect discrimination



- Examples of religious indirect discrimination:
 - You are Jewish and you finish early on Fridays in order to observe the Sabbath. Your manager has changed the weekly team meetings from Wednesday afternoons to Friday afternoons and you are therefore often absent.
 - An employer decides to give their employees a longer lunch but remove their morning and afternoon breaks. This is intended to improve productivity. The rule applies to everyone. However, it causes a problem for some Muslim employees who had been allowed to use breaks for prayer. This is likely to be indirect discrimination as it puts Muslim employees at a disadvantage.

Indirect discrimination



- Can be ‘objectively justified’
 - A proportionate means of achieving a legitimate aim
- Is there a genuine business need for the PCP?
- Can the objective be achieved through a less discriminatory means?

Time off for religious reasons

Time off for religious reasons



- Prayer or reflection
- Religious festivals and services

No legal right to time off work for the above, but unreasonable refusal could amount to direct or indirect discrimination

Holiday requests for religious reasons



- No legal right to time off for religious holidays, festivals etc
- Employee may request annual leave
- Consider the request in full and do not reject unreasonably
- If rejecting, need an objective business reason which is proportionate and there must be no less discriminatory means to achieve that objective (i.e. a proportionate means of achieving a legitimate aim)
- Be flexible:
 - Offer as unpaid leave
 - Can employee make up time after period of leave?

JH Walker v Hussain and others



- Employer stated no holiday should be taken May to July (PCP)
- This coincided with Muslim festival of Eid.
- A number of Muslims brought a claim of indirect race discrimination.
- Employer believed it was acting for a sound business reason but the ET and EAT held that the employer had not balanced the needs of the business against the needs of the employees
- Employer had not taken into account that the employees had offered to work extra hours to reduce any backlog caused

Prayer and work



- Some religions may require prayer a certain number of times per day and/or at certain times within the day
- Deal with reasonably and try your best to accommodate
- Offer a private and quiet space for prayer e.g. an unused meeting room
- Employers should try to be flexible:
 - Can the employee start earlier or work later to make up the time?
 - Can a shorter lunch break be given to allow for other breaks in the day?

Estorninho v Zoran Jokic



- The Claimant was a chef and was dismissed for refusing to work Sundays
- He was a Roman Catholic which obliged him to abstain from working on Sundays
- The ET accepted there could be a legitimate business need to ask for staff to work extra as it was getting busier and it was proportionate to ask him to work extra shifts
- However, it was not proportionate to ask him without discussing the matter with the other chef and finding ways to avoid Mr Estorininho having to work Sundays

Best practice

EHRC – Faith-friendly workplace



Providing a range of social activities to increase chance of appealing to everyone

Not having an overly restrictive dress code

Be mindful of cultural differences e.g. handshakes and direct eye contact

Try to ensure there is a quiet place for prayer and be flexible about break times

Awareness that some religions may wish to avoid contact with certain foods or alcohol

Consider holding meetings at times suitable for fasting employees

Where possible, provide halal and vegetarian dishes in canteens

Accommodate annual leave or unpaid leave to celebrate religious festivals

Helpful resources



- Scottish Engineering Employment Guide
- [ACAS guidance on religious discrimination in the workplace](#)
- [EHRC guidance on religion in the workplace](#)
- Scottish Engineering training offerings:
 - Employment law essentials
 - EDI training

A favour to ask!



- Scottish Engineering pay survey
- Deadline extended to 10 March 25
- Please contact debbiewilson@scottishengineering.org.uk for the survey details, if not already in your inbox

Questions?