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Module 4005

Scenario 2 discrimination against marital status

I consider this to be discrimination or victimization Jayne thinks her supervisor because constantly speaks he dislike for divorced people

it is not legally possible to be harassed for marriage and civil partnership status.

It is unlawful for employers to discriminate against an employee because they are either married or in civil partnership; it does not apply if you are engaged to be married interestingly the distinction is based on the status of marriage and not who that person is married or divorced

There are three main forms

1 Direct discrimination

An employee is directly discriminated against by another person if they treat the individual less favorably than they treat others because of a protected characteristic.

For example, you decide not to hire someone because they have just got married and you think it would suit someone who is single and can dedicate more time to work commitments.

2 Indirect discrimination

Indirect discrimination occurs when a company's policies, procedures or rules which apply to everyone has the effect that people with a certain protected characteristic are put at a disadvantage when compared with those who do not share it.

For instance, if an employer has a practice of not hiring anyone who has children, this will likely put those who are married or in a civil partnership at a disadvantage.

Indirect discrimination may be justified by objectivity. The employer must be able to show that there is a good business reason, and it is a proportionate means of achieving this legitimate aim. However, it is difficult to prove this is the case.

3 Victimization

A person victimizes an individual if they treat someone badly because they have performed a 'protected act' or they believe that they have done so or suspect they will. A protected act includes making a claim for discrimination or helping someone to make a claim.

For example, if an employee acted as a witness for an employee's discrimination claim and they have been passed over for promotion, it could amount to victimization.

Employees cannot bring a claim for harassment on this basis. However, they may still be able to make a claim under a different protected characteristic, for example sex or sexual orientation.

The law relating to marital discrimination under the Equality Act 2010

Under s.8 of the Equality Act 2010 discrimination in the workplace (as we're looking at this from an employment law context) because someone is married or in a civil partnership is prohibited. In a "direct discrimination" context, workers and employees can't be subjected to less favorable treatment because they're married or in a civil partnership. Examples of less favorable treatment include dismissal, failure to promote, demotion, unequal contract terms etc. In a case of direct marital or civil partnership discrimination the treatment afforded to the Claimant (the person discriminated against) must be compared with another actual or hypothetical worker or employee in a similar position (i.e. same job or duties etc.).

Ref [Marital Discrimination: What Happens when Your Employees ...https://www.thrivelaw.co.uk › 2020/06/23 › marital-discrimi...](https://www.thrivelaw.co.uk › 2020/06/23 › marital-discrimi...)

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