

Your Legal Questions

Stephen Soper
Partner & Solicitor



Q. One of my staff has complained that he is being discriminated against by a co-worker because he is homosexual. I have taken this up with the co-worker concerned but he says that homosexuality offends his religious beliefs. What can I do?

A. This is a very difficult and socially controversial area of law because there are separate regulations covering discrimination on the grounds of religion and belief on the one hand and sexual orientation on the other.

There have been several cases before Tribunals dealing with the issue of conflicting discrimination. In one of these an employee circulated religious extracts in the work place which spoke out against homosexuality. He was dismissed and claimed discrimination on the basis of his religious beliefs. His claim was rejected because the Tribunal concluded that it was the employee's conduct in distributing homophobic literature which was the reason for his dismissal not his religious beliefs. In other words, the material would have justified action by the employer whoever had circulated it.

The key message emerging from this case for employers is that all employees are entitled to hold their beliefs, whatever they are, but it is fair for an employer to stop conduct if it has a discriminatory effect on other employees.

In practice, it can be very difficult to assess when this point has been reached. If the employer acts too hastily to restrict the exercise of religious beliefs it may amount to religious discrimination. Conversely, the employer may face a claim for sexual orientation discrimination if its response to offensive material is too little or too late.

Well drafted policies and staff training can reduce the risk of conflicts occurring and prompt professional advice can prevent expensive claims. Seek help from a Solicitor.

Stephen Soper is a Partner and Solicitor in the Commercial and Property Department of Powells Solicitors.

Direct dial 01934 637915
soper@powellslaw.com