

BRIEFING NOTE 15 – DIFFERENT TYPES OF SEXUAL ORIENTATION DISCRIMINATION

1.0 Legal Duty

1.1 Under the Equality Act 2010 the University has a legal duty to:

- Ensure that it makes every reasonable effort to promote equality for all irrespective of their sexual orientation;
- The removal of unlawful sexual orientation discrimination
- The promotion of good relations between people of differing sexual orientations.

2.0 Different Types of Sexual Orientation Discrimination

2.1 Detailed below are explanations of the four main types of sexual orientation discrimination and examples of how this applies to the workplace sourced from the Equality & Human Rights Commission¹ and Stonewall².

2.2 Direct discrimination

This happens when someone treats you worse than another person in a similar situation, and/or causes you a disadvantage, because of your sexual orientation. For example:

¹ Source: the Equality & Human Rights Commission advice and guidance on sexual orientation discrimination <https://www.equalityhumanrights.com/en/advice-and-guidance/sexual-orientation-discrimination#h1>

² Source: Stonewall <http://www.stonewall.org.uk/search/what%20is%20discrimination>

- At a job interview, a woman makes a reference to her girlfriend. The employer decides not to offer her the job, even though she is the best candidate they have interviewed.

2.3 Indirect discrimination

This happens when an organisation has a particular policy or way of working that puts people of your sexual orientation at a disadvantage. For example:

- An employer has an adoption policy that only applies to opposite-sex partners and does not apply the same benefits to same-sex partners. This disadvantages individuals due to their sexual orientation.

Indirect sexual orientation discrimination can be permitted if the organisation or employer is able to show that there is a good reason for the discrimination. This is known as objective justification. This is legal but the reason must be robust and based on a meaningful rationale.

2.4 Harassment

Harassment occurs when someone makes you feel humiliated, offended or degraded. For example:

- Colleagues keep greeting a male worker by the feminine version of his name although he has asked them to use his proper name. The colleagues say this is just banter but the worker is upset and offended by it.

Harassment can never be justified. However, if an organisation/employer can show it did everything it could to prevent people who work for it from behaving like that, the individual harasser could be liable. The individual manager and employer would need to provide appropriate evidence to demonstrate the employer has tried to prevent harassment taking place. If

they cannot provide this the organisation/employer could be held liable for the harasser's actions.

2.5 Victimisation

This is when you are treated badly because you have made a complaint of sexual orientation related discrimination under the Equality Act. It can also occur if you are supporting someone who has made a complaint of sexual orientation related discrimination. For example:

- The man in the example above wants to make a formal complaint about his treatment. His manager threatens to sack him unless he drops the complaint. This would be unlawful.

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Author	S Forder - Human Resources Division
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