

## **Chapter Seven**

### **Religion or Belief**

Part 2 of the Equality Act 2006 prohibits discrimination on grounds of religion or belief (or lack of religion or belief) in the provision of goods, facilities and services, in education, in the use and disposal of premises, and in the exercise of public functions. They provide protection from religion or belief discrimination that is similar to the protection provided on grounds of race and sex.

Part 2 of the Act came into effect on 30<sup>th</sup> April 2007.

The Employment Equality (Religion or Belief) Regulations 2003 protects against discrimination on the grounds of religion and belief in employment, vocational training, promotion and working conditions and came into force on 2<sup>nd</sup> December 2003.

#### **How we will meet these duties**

The Wealden Equality Scheme represents a comprehensive scheme which identifies our overall aim: to ensure that all our services and employment opportunities are provided with equity and fairness to everyone. The Council is committed to preventing discrimination in the provision of our services and employment opportunities against people because of their religion or belief. Chapter One of the Wealden Equality Scheme sets out our overall equality principles, values and approach to equality and diversity. The Service Delivery and Employment Action Plans reflect our aim, priority objectives and details the actions that we will take to meet all of our equality duties.

#### **Guidance on the measures to outlaw discrimination**

Source: Guidance provided by Department for Communities and Local Government (<http://www.communities.gov.uk/index.asp?id=1510068>)

#### **Discrimination on grounds of religion or belief**

The religion or belief provisions of Part 2 of the Equality Act prohibit discrimination on the basis of:

- a person's actual religion or belief;
- a religion or belief they are thought to have; or
- the religion or belief of someone else with whom they are associated (for instance, someone such as a friend or member of their family).

They also prohibit discrimination against a person because they do not hold a religion or belief. Part 2 protects people from being discriminated against because, for example:

- They hold a particular religion;
- They are married to a person of a particular religion;
- They appear to be of a particular religion because of the way they dress;
- They are not of a particular religion.

The concepts of religion and belief in the Equality Act will be interpreted by the courts with reference to relevant case law, including that relating to the European Convention on Human Rights.

Thus, the concept of religion will include, but not be limited to, those religions widely recognised in this country such as the Baha'i faith, Buddhism, Christianity, Hinduism, Islam, Jainism, Judaism, Rastafarianism, Sikhism, and Zoroastrianism. Denominations or sects within a religion can be considered as a religion or religious belief, such as Catholics or Protestants within Christianity.

The concept of belief includes beliefs such as Humanism, or other philosophical beliefs similar to a religion. However, other categories of beliefs, such as support for a political party, are not included.

Part 2 also outlaws discrimination on grounds of lack of religion or belief. It is therefore unlawful to discriminate against someone on the grounds, for example, that they do not belong to a particular religion (or any religion at all), or that they do not adhere to a particular belief, such as Humanism.

#### **Direct and indirect discrimination**

Part 2 of the Equality Act prohibits both direct and indirect discrimination on the grounds of religion or belief.

**Direct** discrimination takes place when someone is **treated less favourably** than other people are/would be treated. This is where there is no material difference in the relevant circumstances and the reason for the treatment is the religion or belief the victim holds or is thought to hold, or that of someone associated with them. This might occur if a person were, for example:

- refused entry to commercial premises;
- refused service;
- denied accommodation.

**Indirect** discrimination occurs when provisions, criteria or practices, that are applied generally, result in people of a particular religion or belief (or lack of religion or belief) being put at a disadvantage, as compared with others, and these provisions, criteria or practices cannot be objectively justified. This applies even if the negative impact is **unintentional**.

#### **Victimisation**

The religion or belief provisions of Part 2 also protect against victimisation. This means that it will be unlawful for a service provider or public authority to treat a person less favourably because they:

- Have brought, have intended to bring, or intend to bring, proceedings under Part 2;
- Have given, have intended to give, or intend to give, evidence or information in connection with such proceedings or any investigation;
- Have alleged, have intended to allege, or intend to allege, that a person

contravened Part 2;

- Have done, have intended to do, or intend to do, any other thing in connection with Part 2;
- Suspect them of doing the above things.

However a person who makes an allegation which is untrue and not made in good faith will not be protected against adverse consequences for so doing. It is not unlawful for a person to treat less favourably someone who has maliciously made a false allegation against them under the religion or belief provisions of Part 2.

### **Discriminatory practices**

The religion or belief provisions of Part 2 make it unlawful for a person to adopt or maintain a discriminatory practice. This is a policy, requirement or condition which would be likely to result in unlawful discrimination if applied to persons of a particular religion or belief, but where there is not an individual victim of the practice in question.

### **Discriminatory advertisements**

The religion or belief provisions of Part 2 make it unlawful to publish an advertisement for goods, facilities, services and premises that can reasonably be understood to indicate the intention to act in a way that is unlawfully discriminatory.

### **The Council as an employer**

Under the religion or belief provisions of Part 2 employers are liable for the actions of their employees and agents, whether or not they know about or approve of the act.

It is a defence however for an employer to prove that he or she took reasonable steps to prevent breaches of Part 2.

Employers have obligations under the Employment Equality (Religion or Belief) Regulations 2003 not to discriminate against their employees on the grounds of religion or belief.

### **Goods, facilities and services**

The provisions of Part 2 of the Equality Act require providers of goods, facilities and services to ensure that they are not treating their customers unfairly on the grounds of religion or belief, just as they are required not to treat their employees unfairly on these grounds.

Discrimination is unlawful whether or not a charge is made for the goods, facilities or services concerned.

### **Premises**

The religion or belief provisions of Part 2 prohibit discrimination on grounds of religion or belief when disposing of premises, i.e. when selling or renting property.

### **Public authorities and public functions**

The religion or belief provisions of Part 2 make it unlawful for public authorities to discriminate when exercising public functions.

Public authorities must ensure that all their services are provided in such a way that no-one entitled to use any service is disadvantaged in receiving it by reason of religion or belief.

Public authorities should not stop working with religious organisations because of fear that working with religious organisations may be perceived as discriminatory under the religion or belief provisions. Nothing in Part 2 has such effect.

There is nothing to prevent an authority finding one provider which offers a service restricted on religious grounds, and others that are not restricted, provided that discussions are made in a non-discriminatory way and that their provisions overall meet the needs of other users.

### **Contracts or grants and religion or belief groups**

The religion or belief provisions of Part 2 do not create specific requirements of public authorities in considering grants or contracts: ordinary decision-making processes should continue. But public authorities should not refuse to fund a group or activity that they would otherwise fund simply because of the religion or belief of the group, or put barriers in their way because of their religion or belief. Nor should public authorities give preferential treatment to a particular group because of its belief-system. Different treatment of religion or belief groups may be possible, for example to meet a particular need or because one of the specific exemptions in the Act applies.

### **Need to further cohesion**

Public authorities should ensure that in complying with the religion or belief provisions of Part 2 due regard is given to the need to promote and maintain community cohesion. This needs to be based on an understanding of the local cultural, ethnic and religious demography; and should aim to avoid any group feeling that its traditions and interests are being unfairly neglected by comparison with another.

There are a number of exceptions to Part 2 which may be relevant to public authorities: these are described below.

### **Religious festivals**

Public authorities, and particularly local authorities, are often involved in activities to celebrate major religious festivals. It would be very difficult however, to recognise equally the festivals of all religions. This does not mean that an authority cannot be involved in any. The key test is whether the authority's policy is affecting its users' access to or experience of a service or function in a discriminatory way.

Further information can be sourced from the Department for Communities and Local Government (<http://www.communities.gov.uk/index.asp?id=1510068>)

