

## DIVERSITY IN THE WORKPLACE: SEXUAL ORIENTATION

The Equality Act 2010 make it unlawful to discriminate on the grounds of sexual orientation in relation to employment, vocational training, and the provision of goods, facilities and services. The Act protects current, former and prospective employees, and contract workers.

**Direct discrimination** means treating someone less favourably than another because of the sexual orientation they have or are thought to have, or because of their association with anyone, which cannot be justified. See also associative and perceptive discrimination below.

**Indirect discrimination** occurs when a condition, rule, policy or practice applies to everyone but disadvantages people with a particular sexual orientation without any justifiable reason.

**Associative discrimination** is direct discrimination and occurs against someone because they associate with another person who possesses a protected characteristic. For example, an employee's promotion is declined because their partner's sexual orientation.

**Perceptive discrimination** is direct discrimination against someone because others think they possess a protected characteristic. It applies even if that person does not actually possess that characteristic. For example, an employee is heterosexual but a colleague frequently suggests that he is homosexual.

**Harassment** is unwanted conduct which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. Employees are also protected from harassment by association and perception (as above) and will be able to complain of behaviour even if it is not directed at them. Harassment may consist of persistent or isolated acts; it is important to remember that the key is whether the behaviour is acceptable by reasonable normal standards, and is disadvantageous or unwelcome to the person subjected to it.

**Victimisation** occurs when someone is treated less favourably because they have previously made or supported a complaint under the Equality Act 2010, or because they are suspected of doing so. Protection against victimisation is not provided if the complaint is made maliciously or those supporting the complaint know it to be untrue or malicious.

### What is meant by 'Sexual Orientation'?

Sexual orientation is defined as orientation towards persons of the same sex (lesbians and gay men), opposite sex (heterosexual), or towards persons of the same sex and the opposite sex (bisexual).

The legislation specifically excludes sexual practices, such as sado-masochism and paedophilia.

### Implications for us as colleagues

- As with other differences between individuals all employees are required to protect and respect the dignity of others with regards to sexual orientation. Failure to do so may result in disciplinary action being taken, up to and including dismissal. Employees must not discriminate on the grounds of sexual orientation in any situation including at work, at work-related social gatherings or by e-mail.

Inappropriate electronic downloads are also not permitted by BBSRC and may lead to disciplinary action.

- If an employee discriminates against a colleague, liability not only falls with the employee but may also rest with the employer.
- If you are a victim of discrimination or have witnessed discrimination occurring in your place of work, please contact either your line manager or local HR Manager.

### **Implications for us as managers**

- Line managers have a duty (on behalf of BBSRC/the establishment) to protect employees from discrimination. If a manager suspects that an employee is the subject of discrimination, he/she should discuss what action to take with the local HR Manager.
- Line managers must take active measures to promote equality of opportunity for all – this may be through reminding their team of the BBSRC Dignity and Diversity at Work Policy, Diversity Strategy, BBSRC's equality scheme, etc.
- Line managers should be aware that any complaint received in writing will be interpreted as a grievance. If line managers do receive such complaints, they should seek advice from the HR Manager. Any complaint should be treated seriously.
- It should be remembered that it is also illegal to discriminate against former employees (for example, by refusing to give a reference).

### **Sources of Further Information**

Your local HR Manager or HR & Corporate Services Group, BBSRC Office

### **Linked Documentation**

BBSRC Employment Code – Section A3 Dignity and Diversity at Work

Department for Business Innovation & Skills @

<http://www.berr.gov.uk/employment/discrimination/index.html>

The Equality & Human Rights Commission @

<http://www.equalityhumanrights.com/your-rights/sexual-orientation/>

The Advisory Conciliation Arbitration Service @

[www.acas.org.uk](http://www.acas.org.uk)