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action against
islamophobia

Islamophobia in the
Workplace



Islamophobia has no place in the workplace.

Islamophobia at work happens when a person or group of people repeatedly behave unreasonably towards a person that follows Islam.



Direct discrimination happens when a person is treated less favourably than another person in a similar situation because of their religion. Indirect discrimination can be less obvious.

It can happen when employers or service providers put in place conditions, requirements or practices which appear to treat everyone the same, but which disadvantage some people because of their religion. Direct and Indirect discrimination against Muslim workers in workplaces is form of Islamophobia.



Direct Islamophobia

Direct forms of islamophobia may include the following:

Mocking Muslim Identity: Making fun of colleagues using words that mock their Muslim identity.

Assumptions Based on Attire: Assuming a Muslim colleague wearing a hijab is radicalised or an extremist

Name-Calling and Stereotyping:

Constantly labelling a Middle Eastern employee as a “terrorist” by managers and co-workers

Indirect Islamophobia

Indirect forms of islamophobia may include the following:

Religious Accommodations:

Complaining about Muslim colleagues adjusting their hours during Ramadan

Exclusion: Excluding colleagues from

social gatherings based on religious practices can be seen as harassment and impact working relationships.

Examples

Examples of discrimination in employment could include:

Language Expectations: Requiring employees to speak English at all times, even during breaks.

Race/religion-Based Unfair Treatment: Subjecting employees to negative comments about their race during work.

Racial Bias in Hiring: Refusing to employ someone from a specific racial group based on the assumption that they are unreliable.

Social Fit Assumptions: Not hiring or promoting an individual due to assumptions about their compatibility with colleagues.

Illegal interview questions

Questions asked during an interview should be related to the work that you will be undertaking during that employment.

Section 351(1) of the Fair Work Act 2009 (Cth) highlights that employers are prohibited from taking adverse action against employees or prospective employees based on various protected attributes.

These attributes include race, colour, sex, sexual orientation, breastfeeding, gender identity, intersex status, age, physical or mental disability, marital status, family or carer responsibilities, subjection to family and domestic violence, pregnancy, **religion**, political opinion, national extraction, or social origin

Questions that can be asked

Questions directly relating to your work or your ability to do your work are allowed. Asking whether your religion will affect your ability to perform your job is not one of those questions an interviewer should ask.

Generally, they will attempt to ask open ended questions giving you the ability to reveal personal information about you. Examples are as follows "Are there any factors that could impact your weekly working hours?" or ""Is there any information we should be aware of that could impact your ability to meet the job requirements?"

How to deal with illegal/bad faith questions

If you believe that the questions asked during an interview were illegal or done in bad faith, it is always good to ask the interviewer whether this question would allow them to assess your ability to do the job. An example would be "Does this job relate to my religion" or "How does knowing my religion give you an advantage in assessing my skills for this job".

Victimisation

If you have made or plan to make a complaint due to discrimination or you have provided information/evidence about a claim, you might start being treated unfairly due to it. This is called victimisation, and it is illegal under S67 Equal Opportunity Act 1984.

Dress Code

Employers are permitted to specify dress requirements in the workplace if they do not discriminate against an individual. Discrimination is illegal and an employer cannot treat an individual unfairly because of a protected characteristic. This includes any Muslim attire. Employers should not discriminate against a person in employment on the basis of their religious dress.

Valid Reason for discrimination based on Dress Code

An exception to dress code discrimination may only apply in circumstances where an employer can assert health and safety justifications. It is lawful for an employer to implement dress requirements which may be of a discriminatory nature if it is necessary to prevent hazards in the workplace. For instance, an employer might choose to prohibit loose clothing if there's a risk that it could become entangled in machinery. Similarly, employers may require employees handling food to be clean-shaven and tie their hair away from their face.

If you are working in the open food areas, you might be asked to shave. Offer an alternative such as a beard net or working in a different for a time.

If you are working in a field that has a lot of loose machinery that will cause harm to you or others due to loose clothing being caught on said machinery, then discrimination is allowed due to health and safety justification.

Dress regulations must be reasonable, which means they should be appropriate for the particular industry and job role and able to be supported by health and safety factors.

Adverse Action

Adverse action refers to any negative treatment taken against an employee based on certain protected attributes, such as religion. Adverse Action is illegal under Section 342 of the Fair Work Act 2009.

Adverse action taken by an employer includes doing, threatening, or organising any of the following:

- Termination of employment
- Physical harm
- Detrimental position changes
- Unequal treatment
- Refusal to hire
- Unfair Employment terms

Case Study

A case study compiled by the Human Rights Commission follows a woman who had converted to Islam and decided to wear a hijab or headscarf to work. She claimed that her boss then asked to see her and threatened to try to remove her from the front desk as the headscarf made her uncomfortable.

She made a complaint to the Commission. The Commission was advised that the complainant resolved the complaint internally by speaking directly to her employer who apologised for her reaction and advised that the complainant was welcome to wear the headscarf.

Steps to take personally to try and stop discrimination at the workplace:

- Talk to your employer or heads of departments
- Talk to Human Resources
- Be direct in communicating expectations.
- Understand unconscious bias.
- Encourage an atmosphere of civility.
- Stop bullying as soon as it is detected.

If you believe these methods would not work or did not work you can also report it to:

- Your relevant Union
- Fair Work Commission
- Fair Work Ombudsman
- Australian Human Rights Commission

For more information regarding your own state:

Australian Capital Territory	ACT Human Rights Commission	hrc.act.gov.au
New South Wales	Anti-Discrimination Board of NSW	www.antidiscrimination.justice.nsw.gov.au
Northern Territory	Northern Territory Anti-Discrimination Commission	www.adc.nt.gov.au
Queensland	Queensland Human Rights Commission	www.qhrc.qld.gov.au
South Australia	South Australian Equal Opportunity Commission	eoc.sa.gov.au
Tasmania	Equal Opportunity Tasmania	equalopportunity.tas.gov.au
Victoria	Victoria Equal Opportunity & Human Rights Commission	www.humanrightscommission.vic.gov.au
Western Australia	Western Australia Equal Opportunity Commission	www.eoc.wa.gov.au

Channels of Reporting

Action Against Islamophobia (AAI)

It is highly recommended that all incidents of Islamophobia (however big or small), be reported to the "Report Islamophobia" page on the website. Reporting the matter also allows experts in the field to collate the relevant data when presenting the seriousness of Islamophobia to policy makers and law enforcement agencies, which will impact on legislative changes in creating greater protections against Islamophobia.

Lodge an application with the Fair Work Commission (FWC)

Someone who has experienced racial discrimination in a work-related situation can lodge a general protections application with the FWC. After receiving the application, the FWC will try to assist the parties involved in the dispute to reach a solution through the conference process.

Australian Human Rights Commission

A complaint alleging religious discrimination in the workplace may be investigated by the Australian Human Rights Commission. It is the Commission's responsibility to look into these concerns and make an effort to resolve them through conciliation. The Commission has received complaints regarding a variety of topics, such as religious harassment at work, discrimination due to attire, and discrimination due to nonreligious beliefs.

There are a range of anti-discrimination laws, and you may prefer to raise your concerns with the Australian Human Rights Commission on 1300 369 711.

Make a complaint to your employer

A lot of companies have policies against discrimination. If such policies exist in your office, it's crucial that you get a copy of them to assess if any violations have occurred. If they have, you should utilise the established complaint procedure to report these violations. Even if your office doesn't have these policies, you can still discuss the issue with your immediate supervisor or a member of the human resources department to see if there's an internal solution to the problem. This could be the most expedient way to address the issue.

Make a complaint to your Union

Additionally, if you are a member of a union you can talk to your union representative to seek advice and assistance.

Fair Work Ombudsman (FWO)

If you believe that you and/or other employees have been unlawfully discriminated against in your employment, you can request assistance from the FWO. You can do this by calling FWO on 13 13 94 or submitting an online enquiry. The FWO investigates allegations of unlawful workplace discrimination and may initiate litigation against a national system employer for contravening the FW Act.

The FWO does not have jurisdiction to deal with all unlawful discrimination complaints. Where a complaint or enquiry is outside their jurisdiction, you will be referred to the appropriate organisation.



We're Here to Help:

Action Against Islamophobia (AAI) Supporting families in responding to and addressing Islamophobia in the workplace.

Telephone: (02) 8377 4199

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