

## **The Cost to the Employer of Losing a Discrimination Case – How Good is Your Policy and Training on Discrimination, Harassment and Victimization?**

Recent case history: In a Racial Harassment case, the employer put forward a defence that everything had been done within their power to prevent discrimination, harassment and victimisation through the provision of Equality & Diversity (E & D) Training and their policy on E & D. This was rejected by the Employment Tribunal (ET) on the grounds that the training had become 'stale' as it was no longer effective in preventing harassment (the training had been provided three years prior to the harassment taking place). The employer submitted an appeal to the Employment Appeals Tribunal (EAT).

The EAT upheld the decision of the ET on the grounds that the E & D training was no longer effective in preventing the harassment that had taken place. There was also an inference on the quality of the training in that the Judge reflected on the fact that 'the less effective the training the more quickly it becomes stale'. Furthermore, the EAT picked up on inconsistencies in the E & D policy document that had been provided to the Tribunal.

In a not too dissimilar case, put forward on the grounds of racial discrimination, a complainant was awarded £16,000 in compensation and the employer was ordered to pay the complainant's legal costs of £11,200. Taking into consideration the employer's own legal costs the total cost to the employer would likely have been in excess of £35,000.

The average compensation payments (not including legal costs), made by Employment Tribunals to individuals, during the year April 2019 to March 2020 are of particular interest:

- Race Discrimination                      £ 9,801
- Sex Discrimination                        £17,420
- Disability Discrimination                £27,043
- Age Discrimination                        £38,794
- Sexual Orientation                        £27,936

Compensation awarded by courts of law, as opposed to tribunals, can be significantly higher (as will be the legal costs incurred) but there are also other, negative, effects that can prove costly to an organisation.

The toxic nature of Discrimination, Harassment and Victimization can stifle innovation, creativity and productivity whilst also tarnishing the Organisation's Brand; thereby putting business continuity at risk.

### **New Equality and Diversity Provision**

Specialist Human Resources Limited provides Equality & Diversity Training at a fraction of the cost incurred when discrimination, harassment and victimisation creep into the workplace.

This training is delivered by a legally qualified consultant and provides the participants with an understanding of:

- The Characteristics that are protected under the Equality Act;
- Discrimination, Harassment, Victimisation;
- The Difference between Direct Discrimination and Indirect Discrimination;
- Provision, Criterion or Practice (related to indirect discrimination);
- Employer's and Employees' Liability;
- Adverse Treatment on the Grounds of Pregnancy;
- Employer Defence;
- Positive Discrimination;
- Unconscious Bias.

In addition, we can assist in drafting E & D Policy as well as providing updates on the latest case law with regard to Equality & Diversity.

If you would like to know more, please contact us on 01522 688869 or email me at [george.kemish@specialisthumanresources.co.uk](mailto:george.kemish@specialisthumanresources.co.uk)