

Specialist Human Resources Limited

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Is your Equality and Diversity Policy damaging your Brand

We have recently seen a number of reputations ruined by inappropriate behaviour by people in the public arena, but personal reputations are not the only thing that may suffer. Whether the behaviour is of a sexual nature, or discriminatory, it could be extremely detrimental to the Brand of an organization, let alone costly if a claim is brought before an Employment Tribunal (ET) or in the Law Courts. It should be noted that, where the act is deemed to have been carried out by a worker in the course of his/her employment, a claim could be brought against the Employer, as well as against the Individual who commits the offence, irrespective of whether the Employer was aware that the offence was being committed at the time. Furthermore, it should be noted that the ET has made it clear that 'intent' plays no part in the legal position with regard to claims of direct discrimination, and that it is the actual 'act' of discrimination that will be judged¹. However, the Employer will have a defence to the actions of its workers if it can show that it took all reasonable to prevent the discrimination. So what steps should the Employer take?

I would suggest the Employer should take the following preventative steps:

- Have a robust equality and diversity policy – highlighting the fact that any transgression will result in disciplinary action being taken against the transgressor.
- Provide training in equality and diversity – this should not be a one-off training session. It is suggested that the training should be repeated at least bi-annually in order to bring their workers up-to-date with the latest legislation and best practices.
- In the event that disciplinary action is taken – ensure that the action taken fits the seriousness of the offence (an oral warning is unlikely to impress the ET).

This not only provides a defence in law, but also protects your Brand.

¹ Martin v S S Photay & Associates [2007] ET/1100242/07