

Lecture 10

Health & Medicine, Disability



Lecture 10 1 DISCRIMINATION IN EMPLOYMENT There have always been certain groups in society that are discriminated against due to prejudices and preconceptions of the people with whom they have to deal. The preconceptions are sometimes verbal but often not, and the people holding these preconceptions may well be unaware of the way that they see and judge things and people. The effects of these can be seen in the employment arena. Definition Equal opportunities is an approach to the management of people at work based on equal access and fair treatment irrespective of gender, race, ethnicity, disability, sexual orientation or religious belief.

Women in Employment Women form a large and increasing proportion of the working population. The idea of women working to support the family is not new. Pay differentials between men and women have remained an issue, despite equal pay legislation. The Annual Survey of Hours and Earnings (2006) reported that across all occupations, women earned 77% of male earnings in the same occupational group. Pregnant workers still seem to be poorly treated. Research published in People Management (28 June 2007) reveals that they are frequently disadvantaged or bullied in ways ranging from being passed over for promotion or training, to not being given rest breaks, to being pressured to over-perform to make up for lost time.

Ethnic Minorities in Employment Black workers are particularly at risk because not only their customs and practices often differ from those of the indigenous population (UK population), although this decreases over time, but their colour clearly identifies them as being different. Immigrant labour in the UK was identified as being heavily concentrated in less desirable, non-skilled, manual jobs, causing Smith (1974) to remark that the composition of the

minority workforce was 'markedly different, by type of job, from the total work force'. Reasons cited for adopting positive action plans on racial equality include: a) Good HR practice in attracting and retaining the best people b) Compliance with the Codes of Practice which are used by Employment Tribunals c) Widening the recruitment pool for access to more labour d) Other benefits — image of company, identification with customers, geographic location

Disabled people in Employment Walker (1986) notes that disabled people have always experienced higher levels of unemployment, have greater difficulty in returning to work and therefore often remain unemployed for longer periods. Stereotyping of disabled persons includes: a) Long periods off work for medical reasons b) Accident proneness c) Poor skill levels d) Difficulties adjusting the work environment for wheelchair access and other needs e) Negative image to customers who feel awkward in their presence f) Stereotyping disabled roles and capabilities (lift attendants, switch board operators, assembly tasks)

Age Diversity in Employment The main protection for the older employee is against redundancy, for which they will be financially compensated, but there is no protection for them in seeking fresh employment, training or promotion. The voluntary Code of Practice on age diversity in Employment (1999) has some impact on the number of recruitment advertisements specifying or implying age limits (Torrington et al, 2002). The fact is that older workers: a) Have experience and skills in the job that may counteract any age-related loss of performance b) Tend to stay in the job, reducing turnover and associated costs, have better attendance and disciplinary records c) Do experience loss of strength and stamina. d) Experience some loss of mental functioning or

other cognitive functions e) Are no more likely to be flexible /inflexible in relation to learning and change than younger employees f) Do not cost more as age-based reward systems are replaced by performance-based systems

Other Forms of Discrimination 1. Sexual orientation — gay, lesbian, bisexual, transgender may experience discrimination in the culture of the firm (verbal abuse). 2. Religious beliefs — through dress codes, dietary laws, time off for religious holidays. 2 THE LEGISLATIVE FRAMEWORK Sex Discrimination and Race Relations Acts A. The Sex Discrimination Act (SDA) 1975 outlawed certain types of discrimination on the grounds of sex, marital status, maternity or pregnancy. The provisions were amended by the Employment Equality (Sex Discrimination) Regulations 2005. B. The Race Relations Act (RRA) 1976 outlawed discrimination on the grounds of colour, race, nationality, or ethnic or national origin. A new Statutory Code of Practice on Racial Equality came into effect in April 2006. Definitions Direct discrimination occurs when one interested group is treated less favourably than another (except for exempted cases). For example, not promoting women because of pregnancy, or because of nationality or race. Indirect discrimination occurs when an employer applies a provision, criterion or practice to men and women equally, but it has the effect of putting one sex at a particular disadvantage, without justification. For example, changing shift hours when there is working parents/single parents. Victimisation occurs when an employer disadvantages workers because they have sought to exercise their legal rights or assisted others in doing so. For example, not promoting an employee because he has taken the firm to an Employment Tribunal over discriminatory practices. Harassment occurs when an

employee is subjected to conduct that violates his/her dignity, or creates an intimidating hostile, degrading, humiliating or offensive environment for him/her. For example, racial abuse, and unwanted sexual advances. See note in text for exemptions in discrimination. Complaints of Discrimination These may be made to an Employment Tribunal within three months of the alleged offence. If it is unsuccessful, the tribunal will hear the case, with the power to award: a. An order declaiming the rights of both parties b. A recommendation for action to redress discriminatory practices within a specified time c. An order requiring the discriminating employer to pay compensatory damages Public Body Requirements These are placed on large public organisations. - The Race Relations (Amendment) Act 2000 requires them to draw up detailed plans for ending race discrimination and promoting equality of opportunity in all employment practices. - The Equality Act 2006 requires them to eliminate all unlawful discrimination and harassment and to promote equality of opportunity between men and women (the 'gender duty') The Commission for Equality and Human Rights Both bodies publish Codes of Practice giving detailed guidance on how HR policies could be developed to avoid discrimination, how staff should be informed and trained and how practices should be monitored. Equal Pay Act The Equal Pay Act 1970 was the first of legislation promoting equality at work between men and women. The Equal (Amendment) Regulations 1984 established the right to equal pay for work of equal value. The Employment Equality (Sex Discrimination) Regulations 2005 The Regulations made changes to the Sex Discrimination Act including the following: a) Redefinition of indirect discrimination. b) Specific definition of sexual harassment c) Pregnancy and

maternity Sexual Harassment see note in text. Disability Discrimination Act 1995 A disabled person is defined as a person who has a physical or mental impairment that has a substantial and long term (more than 12 months) adverse effect on his ability to carry out normal day-to-day activity. The Act contains provisions for disabled access to services, transport facilities and education and training opportunities. Some changes to working arrangements are: - Altering working hours - Making changes to equipment - Adjusting premises - Training Employment Equality Regulations 2003 This outlawed discrimination on the basis of: - Religion or belief - Sexual orientation They apply to private and public sector organisations and cover all aspects of employment — recruitment, working conditions, dismissal. HR practitioners have had to review and monitor a wide range of existing policies to ensure that staff are not being treated less favourably on grounds of religious belief or sexual orientation, imposing dress codes that infringes religious customs, or handling requests for time off to celebrate religious holidays. The HR department will need to communicate policy changes and guidelines to line managers. This will present an opportunity to raise awareness of religious and sexual orientation issues. Employment Equality (Age) Regulations 2006 The 2006 Regulations ban direct discrimination e. g. refusing medical insurance to 50+ persons, and indirect discrimination e. g. requiring new employees to pass a fitness test, in recruitment promotion, training and terms and conditions. See note in text. 3 EQUAL OPPORTUNITIES IN PRACTICE See note in text. 4 MANAGING DIVERSITY The emphasis has so far been on separate groups who are discriminated against in employment and we have concentrated on the meeting of legal obligations. This is an

important starting point, but obviously a limited perspective. The words managing diversity has been used to represent an integrated and more fundamental perspective. Ellis and Sonnenfeld (1994) describe managing diversity as: ... the challenge of meeting the needs of a culturally diverse workforce and of sensitising workers and managers to differences associated with gender, race, age and nationality in an attempt to maximise the potential productivity of all employees. (p. 82) Effective managers seek to understand the job-relevant ways in which their staff differ and should seek to manage their performance in ways which recognise those differences as far as possible. Managers need to understand the unique contribution each person can make to the firm. Equal Opportunities and Management of Diversity Torrington et al (2002) sum up the major differences as follows, see note in text. Legislation for your case/assignment 1. Chapter 3: the legislative framework on recruitment Sex and Race – The Sex Discrimination Act 1975 (amended 1986) – The Race Relations Act 1976 (amended 1996, 2000 and 2003) – The Employment Equality Regulations 2003 Chapter 4: the legal framework on selection Discrimination – Application forms should not have questions which are not work related – Medical references should not be required from older persons, due to indirect age discrimination – Interview procedures and documentation should be controlled to avoid discrimination (women having mood swings/hormonal problems) – Selection tests should avoid favouring particular groups. Chapter 5: individual performance The Equal Pay Act 1970 The Equal Pay (Amendment) Regulations 1984 The National Minimum Wage Act 1989 Chapter 11: the Health and Safety at Work Act 1974 [pic]