

Discrimination case opens door to payouts over £10,000

News - 09/09/2016

The case of a gay employee who won an award from the Discrimination Tribunal after other employees made offensive comments about a Pride march outside their place of work demonstrates that employers have to take training and processes seriously, and that the £10,000 compensation payout applies per individual complaint, not per overall claim, says Ogier employment lawyer Helen Ruelle.

The employee won claims not just for discrimination and harassment but also for unfair dismissal, because he was made redundant after submitting his complaint. Because his employer had no formal process governing redundancy, they were unable to defend the claim.

Liability for the award that he has received has been split between two colleagues who discriminated against him - because they made the offensive comments, and then laughed about it when challenged - and his former employer.

Helen, who works in Ogier's Employment Law team covering the Channel Islands, says that the case underlines the importance of proper training, and of following proper process.

She said: "This judgment establishes that the £10,000 compensation cap applies per complaint - that means that where a complaint spans indirect discrimination, direct discrimination and harassment, for example, the overall compensation cap is £30,000, not £10,000.

"That is an important point that had not previously been clear.

"The other important point from this case, is that If the employer had given staff proper training on discrimination or put policies in place, then the incident that led to this claim may never have happened.

"What's more, had the employer been able to demonstrate that through training and policy they had taken reasonable steps to prevent that kind of behaviour, they might not have been found

liable to pay compensation although the employees making the comments would still have been liable."

There was also an issue about social media in the case - tribunal was shown content from the complainant's Facebook page. The posts were potentially relevant to the case because to win the claim, the complainant had to demonstrate that he had actually been offended by the remarks that were made. The content of the posts potentially went to this point.

However, the tribunal declined to consider the Facebook posts, citing privacy concerns - a decision that could set a precedent.

About Ogier

Ogier is a professional services firm with the knowledge and expertise to handle the most demanding and complex transactions and provide expert, efficient and cost-effective services to all our clients. We regularly win awards for the quality of our client service, our work and our people.

Disclaimer

This client briefing has been prepared for clients and professional associates of Ogier. The information and expressions of opinion which it contains are not intended to be a comprehensive study or to provide legal advice and should not be treated as a substitute for specific advice concerning individual situations.

Regulatory information can be found under [Legal Notice](#)

Meet the Author



Helen Ruelle

Director of Local Legal Services

Jersey

E: helen.ruelle@ogier.com

T: [+44 1534 514417](tel:+441534514417)

Key Contacts



Will Austin-Vautier

Counsel

Jersey

E: will.austin-vautier@ogier.com

T: [+44 1534 514460](tel:+441534514460)



Laura Shirreffs

Senior Associate

Jersey

E: laura.shirreffs@ogier.com

T: [+44 1534 514096](tel:+441534514096)

Related Services

[Employment law](#)

[Local Legal Services](#)

[Legal](#)