

## Ruling on abusive discrimination claims could guide Jersey cases

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An experienced lawyer who applied for a trainee position at an insurance firm purely to make an age discrimination claim has had his claim thrown out as an abuse of process.

The Court of Justice of the European Union has turned down the claim in a move which could be persuasive on Jersey's Employment Tribunal, because the law in Germany - where the claim was first made - is based on the same EU Directive as the UK law. The Jersey discrimination law is heavily modelled on the UK law.

Ogier lawyer Helen Ruelle said that the ruling by the EU court could influence the local tribunal if they were faced with what they thought was someone abusing the discrimination law by applying for a job they had no interest in, just to claim that they had been discriminated against.

The original case concerned Nils-Johannes Kratzer, who sued insurance firm R+V Allgemeine Versicherung AG when his application for a trainee position was turned down. The company said that they had advertised for a trainee, and that as a lawyer of 15 years' experience, Mr Kratzer was not a suitable candidate.

The EU court has held that Mr Kratzer was not serious about applying for the job, and that instead, he was simply applying to be able to claim the status of an applicant, and to be able to make a claim under German discrimination law. They ruled that his intentions meant that he could not claim the protection that a genuine job applicant has under the discrimination law.

Helen said: "It is a concern if people are abusing a law which was put in place for the serious purpose of protecting people from discrimination and being abused because of their gender, age, sexuality or race.

"Fortunately, we have seen little evidence of this in Jersey since the Discrimination (Jersey) Law 2013 came into force in September 2015.

"Although this is an EU court decision, it is one that the tribunal would be able to take account of in the event that a frivolous application for employment was made here, just to set up a claim under our discrimination legislation."

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