

TESTIMONY

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“Sayeda”

Exiting a Toxic Situation

An Employee's Experience of Covert Workplace Discrimination on the Basis of Religion

Testimony from the UK

*The relationship between a person's religion or beliefs and their workplace experience has been the subject of a number of high profile cases in the UK. Under the law, employers must go further than simply not discriminating themselves, they must also take steps when their employees are subjected to discrimination and harassment by, for example, other staff members. Employer rules and regulations have been considered on numerous occasions. In 2006, for example, an employment tribunal held that it was not discriminatory for a primary school teacher to be required to remove her face-veil in the classroom. In 2013, in *Eweida and Others v the United Kingdom*, the European Court of Human Rights held that it was a violation of freedom of religion under Article 9 of the European Convention on Human Rights for an employee working on an airline check-in desk to be prohibited from wearing a crucifix but, due to health and safety considerations, there was no such violation in the case of a nurse.*

This month, the Equality and Human Rights Commission (EHRC) published the findings from a call for evidence it launched in August 2014 on religion or belief in the workplace and service industry. Amongst other things, it explored the direct and personal experiences of employees. A variety of views were represented and circumstances reported. It is clear from the evidence that, for many, discrimination on grounds of religion or belief still impacts on their employment. This is true both in terms of the person's recruitment and promotion and their day-to-day experiences in the workplace, with employees reporting bullying and harassment at the hand of colleagues.

The Equal Rights Trust spoke with Sayeda (not her real name) about her experiences of religious discrimination and harassment when she was working for a public authority in the UK. From the EHRC findings, it appears that Sayeda's case is not a one-off.

I am a charity director from London, with a legal background. I also happen to be a Muslim. While I am semi-practising, I am very liberal in my interpretation of Islam, and have never worn a headscarf or any other type of religious garment. I do not speak about my religion (or its links with politics on the macro level) to people, unless they have specific questions. This goes for people in the workplace as well as outside it.

In 2006, I commenced employment with a local authority in an administrative role. On the first day, I had a supervision meeting with my then Line Manager. We discussed personal presentation and she asked me how often I washed my hair. I replied that it was dry and I therefore did not wash it every day.

A few weeks later, a management referral was made for me to see the Occupational Health Advisor. My line manager wrote in her referral:

S has eczema and reports that her scalp and face are particularly affected. S has reported that proprietary shampoos make the condition worse and therefore she does not wash her hair very often. This is causing a significant odour and is not conducive to working within the team room or with professionals and families. S would appreciate some advice on how to manage her condition and it would be appreciated if this could be done as a matter of urgency. S has only been in her position with the Council for one week.



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The Line Manager also ticked the box that said “this employee’s medical condition is likely to affect future attendance” and that “the problem was caused or made worse by work.” There was no reason for her to tick either of these boxes – I was not late to work or missing work nor did work cause any problem with my hair.

The Occupational Health Advisor was the next person to see me. She said that although I had clear signs of eczema, it was not causing a significant smell. I asked her whether this sort of issue could lead to the termination of my employment at the end of my probationary period. I was concerned that my employment would be terminated. Since I had obtained this job after three months of unemployment, the thought of having to search again so soon was almost too much to bear. She replied that it would not. The Line Manager confirmed this view when I e-mailed her to ask the same question afterwards.

I was then sent to various health experts, both occupational health and external GPs, who recommended different shampoos and scalp applications. I then received a threatening letter from Human Resources, saying that if I did not resolve this issue satisfactorily, my employment would be terminated at the end of the probationary period.

Seven months after I started, my probationary interview was finally held (a month late, out of mere tardiness on the Council’s part), but I passed it, as no additional complaints had been made. I had also completed a high volume of work to a very good standard. The day after this, I was told that another complaint had been made by a colleague. By this point, my Line Manager had changed, since the previous one had retired. I told the new one that I had no idea where these comments were coming from, as I prided myself on my good hygiene and had never had any complaints in my previous workplaces. She did not respond.

Why do I think this was religious discrimination? My colleagues were aware of my religion because of my Muslim name, ethnicity and the fact that I fasted during Ramadan. I believe that the smell issue was just a smokescreen to mask deeper prejudices. On one occasion, I helped to open the door for the most malicious colleague at an external building. She said that she was “scared” for both of us because there was a “stampede” of worshippers coming from the mosque opposite. The Team Administrator once said the same thing, asking me why building work on the mosque was so noisy, and why it was taking so long – as if I was somehow personally responsible! The bullying continued, and one of the senior chairpersons made jokey references to me not drinking alcohol when she brought back some rum cake from holiday.

The Senior Coordinator held a meeting with me and the new Line Manager, to put me forward for some work with another sub-department. He said I was a “bright individual” and that he wanted to offer me some more challenging work in order to “keep me for longer”. He was, however, concerned about the complaints the other team members had made about me (he told me he suffered from a nasal condition, so had to rely on accounts from others). He would veer between sympathy for me and capitulation to what the bullies were saying. I had expected him to have more accurate insights about the situation as a senior professional, and was disappointed that he did very little to help me.

The Team Administrator left in July. We had a team leaving lunch for her at a local restaurant. I felt excluded throughout, as if the team were ignoring my contributions and talking over me.

I was shouted at by a team member for not finishing my episodes on the local authority software program. I said that I was waiting for management authorisation on them; they could not be closed without this. I confided in the new Line Manager that the colleague in question might be threatened by my performance (she had described a recent assignment of mine as “almost too good”). The Line Manager said she would get involved if this individual tried to bully me again. Her behaviour improved in the short-term, so no further action was taken.

I received an accolade for my one-off clerking assignment with the sub-department. The Senior Coordinator forwarded this to the Chairperson and my Line Manager, but I did not receive a word of praise from them about this until I mentioned it to the Line Manager in a meeting two weeks later, where I was castigated for nearly sending out a different piece of work with a photocopying error.

Eleven months after I joined this workplace, a new team member started to talk about religion. She told me she thought the Muslim headscarf was “sexist” and asked why only women had to wear it. She then blamed me for another software-related issue, which turned out to be her own fault.



Photo credit: Gladkov/Bigstock.com

A week later, a highly distressing meeting took place between me, the Senior Coordinator, my Line Manager and two members of the team. One of them said I was “disgusting” and “not fit to do the work” because of a faded stain on my polo neck top and a small tear in the sleeve. The Senior Coordinator stopped her from making any more spiteful comments. I later asked him and the Line Manager to speak to this team member about her nasty behaviour, saying that I would be forced to take out a grievance if no action was taken (it was not).

A few days later, the Senior Coordinator and Line Manager had a meeting with me close to 5pm. The Senior Coordinator explained that he had spoken to the most malicious team member about her conduct, but that team member had said that she felt she was simply referring to a factual situation. He told me that I needed to take all necessary steps to resolve the smell issue, even if that meant hanging my coat in the wardrobe rather than letting it absorb cooking smells in the hallway. He clearly believed her, and ended up sanctioning me instead of her. They also asked me to improve my timekeeping in the mornings. (I had turned to arriving late and spending a little more time on the internet as a form of escapism; I was looking up details about the kinds of jobs I really wanted, where I could make a difference to people’s lives). I then received a letter notifying me of a preliminary fact-finding investigation against me, with the charge about my timekeeping brought up, as well as others that were not mentioned in the meeting.

Not long after this, I left the room one afternoon to have a private telephone conversation with a trade union representative. This was the only time she had available and we had been trying to get hold of each other for at least two days. I was put on hold for a long time, but when I did get through to her, we discussed the charges that would be brought up in my preliminary fact-finding investigation. I was only gone for twenty minutes, but when I got back, a new team member started screaming at me, asking where I had been because she had had to leave the room for an “emergency phone call”. This is despite the fact that she clearly saw and heard my mobile phone ring, and other members of the team did this all the time. She brought the Line Manager down to cover the desk and this exchange took place in front of her. I replied that other members of the team always took mobile phone calls – personal ones at that – but was told to take responsibility for my own actions by the Line Manager. The new team member finished the exchange by saying she “couldn’t talk to me”. I apologised and said that I wouldn’t do it again.

The next morning, another team member disappeared from the room for twenty minutes without telling anyone where she was going. When the Chairperson asked us where she had gone, in a starkly different approach, the new team member replied that she had “gone walkies”. This person would take sick days on a regular basis, sometimes every week, yet she got nothing but sympathy from the team as she was a single mother. However, my lateness (which was a direct result of the bullying, took place over a specific period and had a far lesser impact on productivity) resulted in a threat of a disciplinary hearing. I mentioned at the Fact-Finding Hearing that I had not been late for any of my previous jobs. I also thought it was strange that other members of the team routinely left at 4.30pm without telling the line manager (I often covered the desk in their absence). I therefore assumed that the periods of

time not covered by core hours (which are 10am–12pm and 2–4pm) were to be arranged by mutual agreement within the team.

After extensive discussions with trade union representatives, and a lot of stress, I decided to resign. I had been with the local authority for over a year, and the job was not what I wanted to do in the long term anyway. While I was genuinely interested in the subject matter of the work, it was fairly routine in nature, and I wanted something that would challenge me. More fundamentally, I was relieved to be exiting a toxic situation, with people who had deliberately excluded and marginalised me. However, I felt sad that things had become so polarised, and kept asking myself, “Why didn’t they like me?” I am generally considered to be a likeable and easy-going person. Two days before I was supposed to leave, the most malicious team member opened a window in a symbolic gesture, accused me of disrespecting the team, and said I had “run out of excuses”. She said this in spite of the fact she knew that I was leaving.

I spoke to a race equality caseworker about this episode during my lunch hour. I would pass their office on the way to mine; they were also on the Council site, although they were financially independent from the Council. I soon learnt that there was very little in the way of free (or affordable) high quality support for people who had suffered employment discrimination. He said that he could not smell anything, and the smell issue was just a way for this individual to try and upset me before I left. He described it as “petty” and thought it was probably a smokescreen for hers (and the team’s) real issue with me, whatever that may be. I then had a few more meetings with my trade union representative, who gave me access to a solicitor. He helped to put everything in order in terms of my resignation. The solicitor actually encouraged me to take the local authority to an employment tribunal, but I was just starting out in my career and did not want to get a reputation as a “troublemaker”. I also knew that religious discrimination is difficult to prove in many of these cases. Because of the terms of the compromise agreement, I did not feel empowered to make a formal complaint.

Fortunately, I got a new job within a week of leaving, one that was more consonant with my long-term career goals. I had already interned for a human rights organisation, but this experience led to a greater resolve to pursue human rights as a paid career. I became an advisor to anti-discrimination organisations, and explained to them that covert workplace discrimination is the most insidious sort – it is often wrapped up in truly deceptive packages. I took part in some research on anti-Muslim sentiment in 2009, and discovered that several other Muslims had been bullied out of jobs in this way.

Statutory agencies like the Advisory, Conciliation and Arbitration Service and the EHRC need to do more to tackle this kind of insidious discrimination (and need to receive greater funding themselves). I would recommend a complaints system for individuals who do not want to take legal action against their current or former employers, so that the EHRC can investigate said complaints on their behalf. The local Race Equality Councils, by and large, do not exist anymore (and I do not see any evidence of them being replaced by local Equality and Human Rights Councils in my local area). There is a gap in quality advice provision and representation for victims of religious discrimination, somewhere between trade union reps (who can vary significantly in their competence levels) and unaffordable lawyers, which is not being met.