

## **View from the Chair; Business Newsletter; 9 May 2023 Geraldine McGahey, Chief Commissioner, Equality Commission NI**

### **Refusal of service due to political opinion**

Following recent news stories about local businesses refusing service to some people, and some enquiries from service providers, I thought it might be useful to revisit what the law says about unlawful discrimination in this area, in particular the potential for discriminating against someone on the grounds of their political opinion.

Simply put, businesses providing services to the public must not discriminate against people on any of the grounds covered by Northern Ireland's anti-discrimination laws governing the provision of goods, facilities and services to the public. Rights in respect to provision of goods, facilities and services are protected on the grounds of disability, race, sex, sexual orientation, religious belief and political opinion. Unlike other parts of these islands, you are not protected on grounds of your age.

The recent news stories included allegations of discrimination from people who believed they were unlawfully refused services because of slogans on the tee shirts they were wearing, connected to a rally in Belfast.

To explain, the equality law that is relevant to this situation is FETO, the Fair Employment & Treatment (NI) Order 1998, which prohibits discrimination on the grounds of religious belief and political opinion in employment and in the provision of goods and services.

FETO also prohibits discrimination on the grounds of philosophical belief in the field of employment, but not in relation to the provision of goods and services.

So, if someone feels they have experienced unlawful discrimination because of a refusal of service on political grounds, they can take proceedings in the County Court.

The court may well decide that the views expressed amount to a political opinion and are protected by FETO but whether it amounts to unlawful discrimination will depend on the specific facts and ultimately would be for the court to decide.

More generally, a service provider cannot refuse to provide a service to a customer on one of the five equality grounds above. As a service provider you cannot refuse to provide services, even if you think that serving that customer will upset or raise objections from other customers.

None of this means that a person for example who holds a particular set of protected religious beliefs or political opinions has a right to express, or demonstrate their support for, those beliefs or opinions in ways that would discriminate against or harass your other customers. Failure to treat your employees and other customers

with respect would allow you to consider withdrawing your services from disrespectful or offensive customers.

As an employer, you are liable for the actions of your staff, including if they discriminate against a customer. You should be able to show that you have in place an equality policy which covers how your staff behave with customers or service users, that all staff know about it and that it has been implemented effectively. Policies must be fair, proportionate, applied consistently to everyone and non-discriminatory.

These policies may prohibit the use of offensive words and phrases, the display of flags and emblems in shared spaces, or clothing or emblems, such as football shirts, tattoos or other logos. It is important that any policy is applied consistently and not just to some individuals and groups rather than others.

It is fair to say that this can be a complex area, and if you are in any doubt, or in need of guidance, we can offer you free and confidential advice and information – just ring our Advice and Compliance team on 028 90 500 600 or email [enquiries@equalityni.org](mailto:enquiries@equalityni.org)