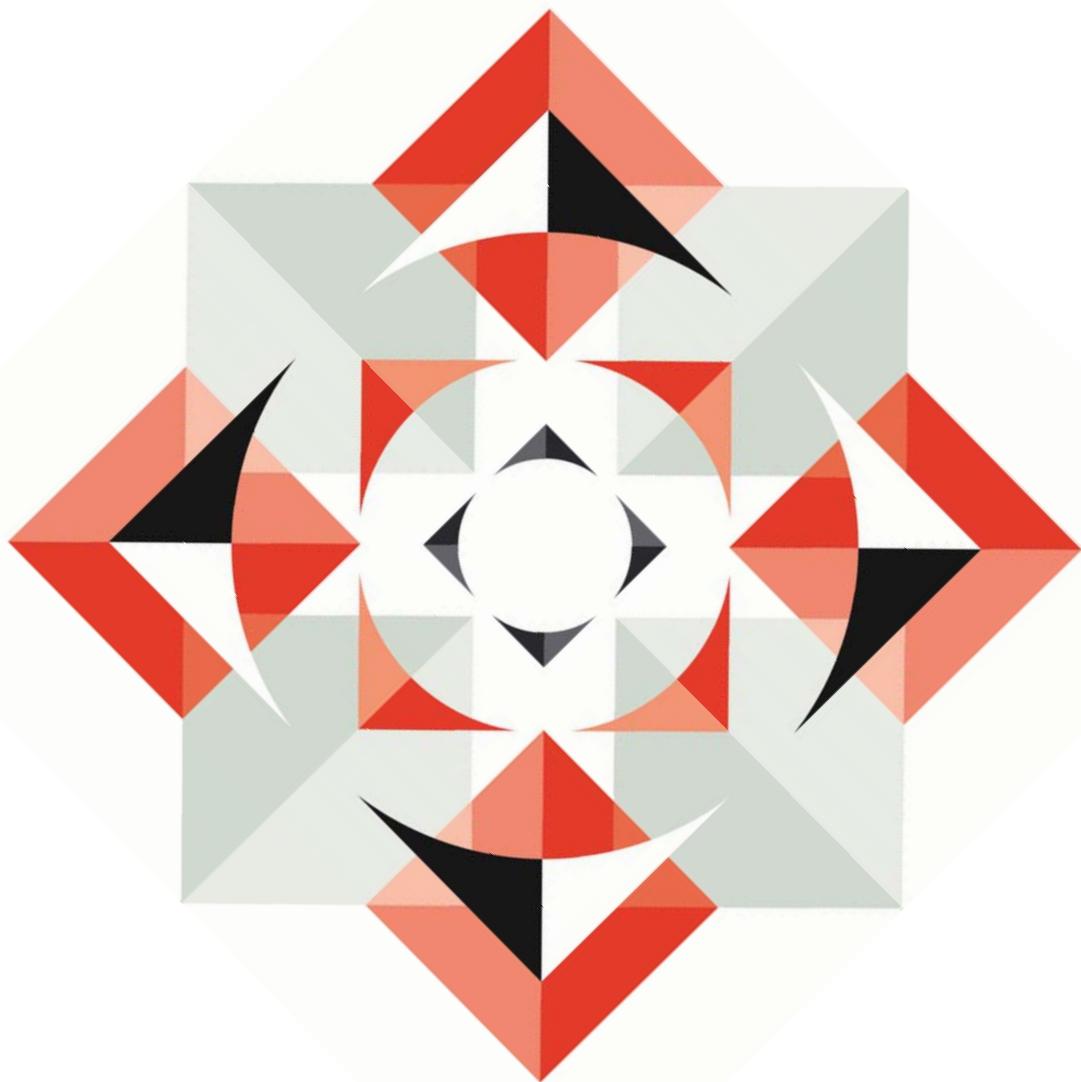


Ramadan - employment issues



► Inside

- When is Ramadan?
- Discrimination
- Practical steps
- Religious observance policy



Introduction

During the Islamic holy month of Ramadan, practising Muslims will fast from sunrise to sunset for a period of 30 days.

This InBrief looks at the issues employers need to be aware of during Ramadan and how they can support their staff.

When is Ramadan?

The timing of Ramadan depends upon the lunar calendar. As such, it changes by 10-11 days each year. For the next few years, Ramadan will take place during the summer months and, because of the longer hours of daylight, the impact upon affected employees will be at its most pronounced.

The length of the fast is considerably greater in Northern Europe and can be up to 16 hours long. Although the vast majority of practising Muslims will still follow the traditional practice of fasting from sunrise to sunset throughout the month of Ramadan, some may choose to fast during a different time period - for example, by following Mecca daylight hours.

Discrimination

In the UK, employees are protected under the Equality Act 2010 ("the Act") against discrimination on the grounds of religion or belief. As followers of Islam, Muslims who practice Ramadan receive protection under the Act. It covers various types of discrimination, but direct and indirect discrimination are most relevant to the workplace issues that may arise during Ramadan.

Direct discrimination

Under the Act, direct discrimination covers less favourable treatment that is "because of" religion or belief. This includes the religion of the person discriminated against, but also covers the religion of any other person (for example, an employee's Muslim wife).

Direct discrimination will occur where an employer fails to make allowances for followers of one religion but does make allowances for others.

Indirect discrimination

Indirect discrimination can be harder to identify. It takes place when an employer applies a provision, criterion or practice (such as a policy), which on its face applies equally to everyone but which in fact puts or would put those of a particular religion at a disadvantage. The person complaining of discrimination must actually have been disadvantaged. An employer has a defence of justification to an indirect discrimination, if it can show that the provision,

criterion or practice is a proportionate means of achieving a legitimate aim.

Practical steps

Recruitment

Job applicants are protected from discrimination in the same way as employees. Employers should therefore accommodate reasonable requests when scheduling interviews. For example, an applicant may wish to have their interview scheduled for the morning rather than the afternoon when they will have been fasting for several hours.

Monitoring performance

Employees observing Ramadan whose output is monitored may see a drop in performance towards the end of the day. Employers should ensure that line managers are aware of the potential impact and are appropriately prepared. In addition, consideration should be given to whether it is appropriate to make allowances for any downturn in performance during Ramadan. This is particularly the case where performance data forms part of an annual appraisal upon which decisions about an employee's career are made, such as an annual bonus or consideration for promotion into a new role.

That said, many Muslims will be well practised at coping with the demands of Ramadan. Employers should be aware of the potential for an impact on performance, but not assume that any deterioration is solely down to an employee's religious observance.

Flexible start and finish times

Observers of Ramadan must fast from sunrise to sunset. Because of this, employees may wish to start and finish work earlier as they may feel tired and less productive towards the end of the working day.

Scheduling and breaks

Similarly, some employees may wish to work during their lunch break so as to be able to leave early. Employers should consider acceding to these requests, but should also ensure that they comply with their obligations under the Working Time Regulations. In particular, staff must have a break of at least 20 minutes during any period of work lasting at least six hours.



Employers should seek to create an environment in which workers feel able to discuss their religious observance with colleagues in an open and frank way. Employees should feel able to tell their colleagues that they are fasting so that colleagues and managers can consider ways in which they can be supported during Ramadan.

Those observing Ramadan have to cope with disturbed sleep patterns as they wake up before dawn for their first meal of the day ("Suhur"). In the UK, this may mean finishing the morning meal as early as 4.40am in order to fast until the sun sets after 9.15pm. Because of possible fatigue, employers should encourage workers to take breaks every hour, particularly if they are engaged in routine, monotonous work.

The opportunity for breaks of this type should be made available to all. Muslim employees should not receive preferential treatment, otherwise employers may find themselves at risk of discrimination claims from those not observing Ramadan.

Prayer room

Aside from fasting, Ramadan is a time when Muslims reflect on their faith. They may pray more than they usually might during the rest of the year. If requested, employers should consider offering a quiet space where staff may pray undisturbed.

Business lunches and offsite meetings

As noted above, mandatory business lunches hold the potential to cause a particular issue for those observing Ramadan. While employers should not assume Muslim colleagues will not want to attend, they must not cause such employees to feel pressured into agreeing to go.

For other meetings, something as simple as not having biscuits on the table could demonstrate sensitivity to a Muslim colleague's observance of Ramadan.

Leave requests

Employers may receive more requests for holiday during Ramadan. This could cause operational issues where Ramadan falls during the summer months as there may already be significant numbers of staff requesting annual leave.

Eid is the three-day festival which begins

immediately after the last day of Ramadan. For many, Eid is to Muslims as Christmas is to Christians. Employers should make extra effort to allow staff to take this time off when requested.

The start of Eid is dependent on the sighting of a new moon, so employees may not always be able to be specific about the exact date(s) they wish to take leave. Employers should be aware of the particular significance of this time and the possibility of holiday requests being submitted or changed at the last minute.

Religious observance policy

Employers should consider developing a specific policy on religious observance. This can help formalise the employer's approach to dealing with the practical issues outlined above. It will also provide a useful resource for both line managers and employees.

This policy should deal with the employer's approach to all religions. For example, it should deal with the extent to which Jewish staff observing the Sabbath can adjust their work schedule in order to get home before sunset.

More generally, employers should raise awareness of the existence of different groups that celebrate at different times throughout the year. Diversity training can be part of this, but even something as simple as placing a calendar of religious events on the staff noticeboard or intranet can help.

For further information on this subject please contact:

James Davies

Partner

T + 44 (0) 20 7074 8000

james.davies@lewissilkin.com

Tom Heys

Legal Analyst

T + 44 (0) 20 7074 8267

tom.heys@lewissilkin.com

