

Hygienic standards versus religious clothing regulations? Non-discrimination rules as standard for the development of a good practice

Workshop: Either participation or else concealed exclusion? Religious clothing regulations in work life drawn on the example of the healthcare sector

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Das Förderprogramm „Integration durch Qualifizierung (IQ)“ wird durch das Bundesministerium für Arbeit und Soziales gefördert.



In Kooperation mit:



Scientific Approach to Hygiene and Infection Prevention

- Evidence-based measures
- Systematic risk analysis
- Clinical and epidemiological studies
- Microbiological and experimental research

Discrimination

- Direct discrimination: different or worse treatment of a person based on personal characteristics
- Harassment
- Victimization
- Indirect discrimination: rule, guideline, practice or procedure is applied to all but disadvantages some based on a personal characteristic

Religious and Ethnic Discrimination



Sandra Bauer

18,8 %



Meryem Öztürk

13,5 %



Meryem Öztürk

4,2 %

Source: Institute for the Study of Labor
*Discrimination against Female Migrants
Wearing Headscarves*, from 2016

Legal Perspectives

- Limits imposed on the freedom of religion or belief have to respect principles of proportionality and must limit arbitrary repercussions on employment
- Religious discrimination might only be permissible when reasonable and objective rationales are given

Legal Norms

The General Equal Treatment Act (AGG)

- § 7 AGG Prohibition of Discrimination
- § 12 AGG Preventative Measures

The German Constitution

- Art. 3 GG Equal Rights
- Art. 4 1st and 2nd column GG Religious freedom
- Art. 12 1st column GG Free choice of employment
- Art 33 GG Access to public offices disregarding religion

Questions for the Discussion

- What can be done to ensure religious freedom and hygienic standards in the healthcare sector?
- How to deal with the situation in an adequate and practicable way?
- Which reasonable accommodations should be made?

Thank you very much for your attention!

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In Kooperation mit:



Equality Impact Assessment tool

		Yes/No	Comments
1.	Does the policy/guidance affect one group less or more favourably than another on the basis of:		
	• Race	No	
	• Ethnic origins (including gypsies and travellers)	No	
	• Nationality	No	
	• Gender	No	
	• Culture	No	
	• Religion or belief	No	
	• Sexual orientation including lesbian, gay and bisexual people	No	
	• Age	No	
	• Disability - learning disabilities, physical disability, sensory impairment and mental health problems	No	
2.	Is there any evidence that some groups are affected differently?	No	
3.	If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?	No	There is no discrimination in this guidance
4.	Is the impact of the policy/guidance likely to be negative?	No	
5.	If so can the impact be avoided?	N/a	
6.	What alternatives are there to achieving the policy/guidance without the impact?	N/a	
7.	Can we reduce the impact by taking different action?	N/a	

Source: NHS 'Bare below the elbow'
Supplementary Policy for Hand Hygiene 2.0,
from 2016

Prevention of Discrimination

Unternehmenskultur und Arbeitsorganisation

Flexible Regelungen zur Arbeitszeitgestaltung (Rücksichtnahme auf Gebetszeiten etc.)

Arbeitsplatzgestaltung (Gebets-, Ruheraum o.ä.)

Angemessene Maßnahmen mit Bezug auf bestimmte Arbeitsplatzvorschriften (z. B. Hygiene-Vorschriften)

Möglichkeit der Freistellung zu religiösen Anlässen und an religiösen Feiertagen (Freitagsgebet, Sabbat- und Sonntagsruhe, Ende des Ramadan etc.)

Berücksichtigung religiöser Feste im Betriebsablauf (multireligiöser/-konfessioneller)

Existenz und Unterstützung von Mitarbeitenden-Netzwerken für religiöse Vielfalt (z. B. Unterstützung von Gebetskreisen)

Religiös angemessenes Kantinenangebot

Gestaltung von Betriebsfeiern

Weitere Maßnahmen

Source: *Umgang mit religiöser Vielfalt am Arbeitsplatz*
Praxisbeispiele aus Unternehmen und Verwaltungen
German Federal Anti-Discrimination Agency, from 2016

Possible Plan of Action

- Full sleeves are allowed to be worn at all times except during clinical procedures with a patient and during handwashing, where sleeves will have to be rolled up to three-quarter length between the wrist and the elbow.
- no sleeves below the elbow in clinical areas and provision of disposable sleeves for those who might want to use them to cover their arms

Source: Department of Health
*Uniforms and Workwear – Guidance on uniform and
workwear policies for NHS employers, from 2010*

Possible Plan of Action II

- three-quarter length sleeves and provision of disposable gloves to cover the rest of the arm
- no sleeves below the elbow but separate sleeves that are worn from the shoulder to the wrists, easy to roll up and can be laundered with uniforms
- disposable sleeves which are elasticated at the wrist and elbow when in contact with patients.

Source: Department of Health
*Uniforms and Workwear – Guidance on uniform and
workwear policies for NHS employers, from 2010*