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| **The Human Rights Act’s****1998****UK****Article 13: 14**Protection from discrimination in respect of these rights and freedomsDemeanourDiscrimination occurs when you are treated less favourably than another person in a similar situation and this treatment cannot be objectively and reasonably justified. Discrimination can also occur if you are disadvantaged by being treated the same as another person when your circumstances are different (for example if you are disabled or pregnant).It is important to understand that the Human Rights Act does not protect you from discrimination in all areas of your life – there are other laws that offer more general protection, such as the Equality Act 2010.What the Act does do is protect you from discrimination in the enjoyment of those human rights set out in the European Convention of Human Rights. Article 14 is based on the core principle that all of us, no matter who we are, enjoy the same human rights and should have equal access to them.The protection against discrimination in the Human Rights Act is not ‘free-standing’. To rely on this right, you must show that discrimination has affected your enjoyment of one or more of the other rights in the Act. However, you do not need to prove that this other human right has actually been breached.**What type of discrimination does the Act protect you from?**The Human Rights Act makes it illegal to discriminate on a wide range of grounds including ‘sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status’.The case law relating to this right has shown that the term ‘other status’ includes sexual orientation, illegitimacy, marital status, trade union membership, transsexual status and imprisonment. It can also be used to challenge discrimination on the basis of age or disability.**Does the right cover** **indirect discrimination?**The courts have also ruled that the human rights protection from discrimination includes indirect discrimination. This occurs when a rule or policy, supposedly applying to everyone equally, actually works to the disadvantage of one or more groups. For example, a requirement that all employees be over six feet tall may be indirect discrimination. Women and some disabled people will be disadvantaged and to be justified this would need to be a strict requirement for the job.Using this right - exampleA gay couple successfully used the anti-discrimination protection in the Act to receive the same treatment as a heterosexual couple in relation to the rules on the inheritance of the tenancy of a property.**What the law says;**Article 14: Prohibition of discriminationThe enjoyment of the rights and freedoms set forth in the European Convention on Human Rights and the Human Rights Act shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.**Example case** - R (L and others) v Manchester City Council and another case [2001]Manchester City Council paid lower allowances to foster carers who were family members, compared to carers who looked after children who were unrelated to them. Two families with foster children from their own families alleged that the rates were so inadequate as to be in conflict with the children’s welfare. They also argued that the rates were discriminatory; the council’s failure to base calculations on the families’ financial needs showed they had not considered the potential risk to Article 8 rights (right to respect for private and family life). The court held that Article 8 obliged the local authority to take ‘all appropriate positive steps’ to enable children to live with their families, unless their welfare was at risk. The payment of foster allowance fell within these positive duties and should not be done in a discriminatory manner. There had been a disproportionate difference in treatment on grounds of ‘family status’, which the council had failed to justify. This meant that the policy fell afoul of Article 8 and Article 14.See the publication ‘Human rights, human lives: a guide to the Human Rights Act for public authorities’ for more examples and legal case studies that show how human rights work in practice. |