

Racism in the Workplace

The following fact sheet is a summary of some of the key pieces of information that may support you to resolve your current issue and to manage the immediate situation. If you are an eligible member and require further advice, please see the link at the bottom of the page.

Introduction

There is extensive quantitative evidence demonstrating the prevalence and scale of structural and racial inequality and discrimination. We know it exists and social work, despite its inherent value base, is no exception. Racial discrimination at work is regularly reported by social workers to the Social Workers Union.

Key survey findings in Community Care, March 2022 show that [“28% of social workers said they had experienced racism from colleagues or managers at least once in the previous year”](#).

The [Racism in the UK Labour Market 2022 \(TUC\)](#) is an “important and sobering report that lifts the lid on racism in our labour market. Based on extensive polling, it provides quantitative evidence of the scale of workplace discrimination facing black workers, and it offers an insight into the insidious way in which this racism undermines lives, livelihoods, and life chances. The TUC’s research shows that racism scars every aspect of working life. As well as determining who gets hired and fired, it also shapes black workers’ day-to-day experiences, from training and promotion opportunities to the allocation of shifts and holidays.

Many BME workers experience [bullying, harassment](#) and worse. [Alarminglly, the vast majority do not report this to their employer](#)”.

- Social workers from ethnic minorities – particularly black practitioners – describe “being overloaded and then criticised for underperforming”, having both higher workloads and increased scrutiny of, and negative assumptions, about their skills, and “overloaded and then criticised for underperforming”.
- Overall, 10% of respondents said their career progression had been limited because of racism.

Equality Act

Under the [Equality Act 2010](#), discrimination in the workplace is unlawful.

But what exactly is race discrimination under the law, and what can you do to challenge it? Race is one of nine 'protected characteristics' covered by discrimination law (Equality Act 2010). The law protects people against discrimination at work – this includes harassment and victimisation.

Employers must do all they reasonably can to protect people from [discrimination](#) and take steps to prevent race discrimination at work. This includes recognising the benefits of having an inclusive and diverse workforce that does not exclude anyone because of race.

Anyone who discriminates against someone at work is responsible for their own actions.

Employers can be held responsible too – this is called vicarious liability. By law, employers must do everything they reasonably can to protect staff and job applicants from discrimination.

Employers also have a responsibility – a '*duty of care*' – to look after the wellbeing of their employees. If an employer does not do this, in some cases it could lead to a serious breach of your employment contract.

If an employee feels they have no choice but to resign because of it, the employer could face a claim of race discrimination and constructive dismissal.

Public sector organisations have an extra legal responsibility to stop discrimination, under the public sector equality duty.

What race means

Someone's race is made up of one or more of these things:

- Skin colour
- Ethnic origin or ethnic group – (Examples of protected ethnic groups include: Irish Travellers, Jewish people, Romany Gypsies, Sikhs)
- National origin
- Nationality
- Racial group

What discrimination law covers

Discrimination law covers:

- Direct or indirect discrimination – when someone is put at a disadvantage and treated less favourably because of a protected characteristic, for example race, whether or not they are a member of that group.
- Harassment – when bullying or unwanted behaviour is related to a protected characteristic.
- Victimisation – when someone is treated differently or less favourably because they made or supported a complaint to do with a protected characteristic, or someone thinks they did or might do.

Who is protected by race discrimination law?

At work, the law protects the following people against discrimination:

- Employees and workers.
- Contractors and self-employed people hired to personally do the work.
- Job applicants – find out more about discrimination when applying for a job.

It's against the law to discriminate against someone because of any of the following:

- Their race.
- The race of someone they know or have a connection with, for example a family member, friend, or colleague ('discrimination by association').
- Someone's 'perceived' race – this means thinking someone is a certain race when they are not ('discrimination by perception').

Prohibited Conduct

In order for discrimination to have occurred, there must have been some form of 'prohibited conduct'.

The Equality Act provides a number of behaviours that constitute prohibited conduct and are therefore classed as discrimination – these are explained further below.

Direct Discrimination

Direct discrimination occurs when an employer treats an employee less favourably due to a protected characteristic. This includes 'discrimination by association' and 'discrimination due to a perceived characteristic'. Discrimination by association occurs when someone is treated less favourably due to their association with someone with a protected characteristic.

Indirect Discrimination

Indirect discrimination occurs when a provision, criteria or practice puts someone with a protected characteristic at a disadvantage and the employer cannot show that this provision, criteria or practice is a 'proportionate means of achieving a legitimate aim'. An example of indirect discrimination would be an employer applying a policy insisting that all employees work bare headed, as this could put a female Muslim employee at a disadvantage if they wish to wear a hijab for religious reasons or a male Sikh employee at a disadvantage if they were prevented from wearing a turban. If the employer can argue that there is a legitimate reason for the policy being in place, they will escape liability for discrimination. For example, a hospital could justify preventing an employee from wearing religious jewellery on health and safety grounds.

Harassment

Harassment occurs when a person engages in unwanted conduct related to a protected characteristic and that conduct has the purpose of violating the person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person. Examples of harassment include being subjected to abusive language or unwanted conduct of a sexual nature.

Victimisation

Victimisation occurs when a person is subjected to a detriment because they have either brought proceedings under the Equality Act, given evidence in relation to proceedings under the Act or made an allegation that the employer or another person has contravened the Equality Act. For example, if an employee is offered a promotion and this offer is withdrawn following that person raising an allegation of discrimination, this could be held to be victimisation.

Proving discrimination

Whilst there is clear protection for employees against discrimination in the workplace, the law is clear that discrimination has to be proved, it cannot just be assumed.

Therefore, it is essential that there is evidence of the discrimination suffered in order to be successful in proving it. Some forms of discrimination can be more difficult to prove than others. This can be difficult for our members who are well aware of the discrimination they suffer on a daily basis but may struggle to find the required evidence as proof.

What to do

- If you believe that you are suffering race discrimination or have suffered discrimination in the workplace, it is important that you keep a chronology of events and gather any evidence that would support your case.
- You should also refer to any local employer policies such as Dignity at Work/Grievance Policy to ensure that you can report concerns and formalise experiences about race discrimination at work.
- Your first step may be to raise the issue informally. However if you feel that you have tried that route a [formal grievance](#) may be the option open to you.
- If you are considering a grievance, please contact the A & R service for advice on how to structure it.

SWU / BASW Representation

We may be able to support you if you have a potential Tribunal claim. Please discuss this with the A & R team before submitting your claim. Detail of the approach we take is contained in the following documents:

- [Employment Tribunal FAQs](#)
- [Member Form – Discrimination](#)
- [The A & R Service and how we work for you](#)
- BASW and SWU Engagement Letters

Advice and Representation Service

Telephone – 0121 6228413

Email - ARAS@basw.co.uk

Reviewed – August 2023

Next Review Due – August 2024

We advise you to have early discussions with the Advice and Representation Service because of the strict timescales which operate by the Tribunal Service in these cases. Any claim for discrimination or for any other detriment is three months from the detrimental act. It is therefore important to be aware of this when considering your position.

If you believe you have a strong claim but do not wish to go to tribunal, you may wish to consider whether a settlement is possible. Please see our [settlement agreement guidance](#) for further information.

If you are an [eligible member](#) and require further information or guidance on this issue, please complete the [A & R Referral Form](#) online.

Please note: The information we have provided is current and true at the time of writing. It is designed to be a general guide and is not exhaustive. Nor is it our intention that this guidance should be relied upon by you as an alternative to legal advice. Whilst we make every effort to keep it current, we cannot guarantee that it remains up to date.