

BRIEFING NOTE 8 – DIFFERENT TYPES OF RACE DISCRIMINATION

1.0 Legal Duty

- 1.1 Under the Equality Act 2010 the University has a legal duty to:
- Ensure that it makes every reasonable effort to promote race equality;
 - The removal of unlawful race discrimination
 - The promotion of good relations between people of different racial groups.

2.0 Different Types of Race Discrimination

- 2.1 Detailed below are explanations of the four main types of race discrimination sourced from the Equality & Human Rights Commission¹ and examples of how this applies to the workplace.

2.2 Direct discrimination

This happens when someone treats you worse than another person in a similar situation because of your race. For example:

- A Polish job applicant attends for interview and receives the highest scores on the tests and interview. The employer decides not to appoint him even though he's the best candidate they have interviewed, because

¹ Source: the Equality & Human Rights Commission advice and guidance on race discrimination <https://www.equalityhumanrights.com/en/advice-and-guidance/race-discrimination>

they believe that he will not fit in with the current team who are all UK nationals.

2.3 Indirect discrimination

This happens when an organisation has a particular policy or way of working that puts people of your racial group at a disadvantage. For example:

- An employer has a minimum and/or maximum height restriction. This would put individuals, where the majority of individuals of a particular ethnic origin are of a particular height range at a disadvantage.
- An employer has a dress code that does not allow individuals to wear headwear. This would put individuals who cover their hair, such as Muslim women or Sikh men at a disadvantage.

Indirect race discrimination can be permitted if the organisation or employer is able to show that there is a good reason for the discrimination. This is known as [objective justification. For example:](#)

- A non UK/EU national is interviewed for a position and requires a Tier 2 visa to take up employment. The employer does not offer the individual the post even though they are the best candidate. The employer would need to prove that this was objectively justifiable and that there was not a practical alternative. The employer must comply with UK immigration legislation. If the nature of the role or level of qualifications needed or salary offered do not meet the rules to apply for a sponsorship certificate for the individual the employer cannot employ them. The only exception might be if the individual has an alternative immigration status which allows them to work in the UK.

2.4 Harassment

Harassment occurs when someone makes you feel humiliated, offended or degraded. For example:

- A young British Asian man at work keeps being called a racist name by colleagues. His colleagues say it is just banter, but the employee is insulted and offended by it.

Harassment can never be justified. However, if an organisation or employer can show it did everything it could to prevent people who work for it from behaving like that, you will not be able to make a claim for harassment against it, although you could make a claim against the harasser. The individual harasser could be liable and the individual manager and employer must provide appropriate evidence to demonstrate the employer has tried to prevent harassment taking place, or could be held liable for the harasser's actions.

2.5 Victimisation

This is when you are treated badly because you have made a complaint of race related discrimination under the Equality Act. It can also occur if you are supporting someone who has made a complaint of race related discrimination. For example:

- The young man in the example above wants to make a formal complaint about his treatment. His manager threatens to sack him unless he drops the complaint. This would be unlawful.

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