

RACISM IN THE WORKPLACE

Racism in the workplace is a sad reality for many people but it's one that can be combated by business leaders who have the ability to put preventative measures in place.

As a business, you would be liable under the Equality Act (2010) as well as the Harassment Act (1997) for any wrongdoing that occurs within your workplace under the aforementioned legislation. This is what is known as being 'vicariously liable'. For example, if a manager is accused of racism in the workplace (or any other form of discrimination) then within an employment tribunal both the manager as an individual and the business could both have damages awarded against them. And if the manager is unable to pay the damages, it's possible that the business would become liable for the full damages.

But more important than this, your employees and colleagues have the right to be cared for within any business, whatever their background. Businesses cannot survive without their employees - they deserve to be treated with respect and dignity. As well as the potential for claims in an employment tribunal that you could be open to, racism in the workplace could see you losing staff to resignations, or even bring claims of constructive dismissal.

As purpose-driven companies we need to be better.

Focussing on the Equality Act (2010), the following is an overview of the types of race discrimination as detailed in said legislation:

- **Direct Race Discrimination:** treating a person / people of one race worse than a person / people of another race
- **Indirect Race Discrimination:** policies or practices your business has, deliberately or otherwise, that puts people of one race at a disadvantage to people of another race
- **Harassment:** to harass a person, or people, because of their race
- **Victimisation:** if an employer, manager, or colleague retaliates to claims brought forward by a worker about discrimination by treating them badly

POLICIES

The importance of protecting your workforce, and the business, against racism and discriminatory practices in the workplace should now be clear. The best place to start with this protection is with company policies that are actively placed to combat the issues being discussed here.

As such, it is important that as a business you have strong policies and procedures in place that clearly outline what is expected of your employees. As well as simply having the policies, these need to be communicated to all staff at all levels of the business and should be easily accessible for future reference (ie: printed on a notice board, saved on the business intranet). The policies should be a key part of staff training, both for new members of staff and for existing members of staff to be reminded of the policies at regular intervals.

Disciplinary procedures must also be in place for anyone who does discriminate within your workplace. It is important that staff are aware of the consequences of discrimination and that you do not let any behaviour 'slide'.

It is also a good idea to encourage employees to report any instances of discrimination and remind them of this regularly. As a business leader you cannot oversee everything that happens in the business (you can't be everywhere at once!) and so this will help you to stay on top of any potential issues regarding discrimination within your workplace.

Coming back to the idea of vicarious liability, if you are able to provide evidence of robust policies that have been communicated to staff alongside regular training then a tribunal will likely take this into consideration when considering any cases brought forward. Similarly, with no policies in place, this will also be considered a factor in any case being tried.

INVESTIGATION AND DISCIPLINARY PROCEDURES

If an allegation of discriminatory behaviour is made within your business then it is imperative that you investigate the accusation thoroughly. This forms a key part of the disciplinary procedure, as the person, or people, being accused have the right to an investigation. Alongside this, as a business you need to ensure you do not open yourself up to claims of unfair dismissal.

As such, the following steps must be taken when an allegation of discriminatory conduct is made:

- Appoint an investigator. They should be as impartial as possible (ie: if the employee who has been accused is known to be good friends with the investigator then this could be seen as the investigation not having the integrity it should do).
- The investigator needs to consider all evidence from all sides of the allegation before making any decisions.
- The investigator must hold a disciplinary hearing that the alleged wrongdoer must be allowed to attend (and accompanied if wished for). All the findings should be considered within the hearing and the alleged wrongdoer must be allowed to provide their version of the events in question that relate to the specific allegation.
- With impartiality, the investigator must upon all of the above having taken place, consider the best action to take.
- If the decision is reached that the person alleged of wrongdoing should be dismissed, then they must be given the opportunity to appeal the decision.

USEFUL LINKS

- The Equality Act (2010): <https://www.equalityhumanrights.com/en/advice-and-guidance/race-discrimination>
- The Harassment Act (1997): <https://www.legislation.gov.uk/ukpga/1997/40/contents>

- Racial Discrimination: <https://www.nidirect.gov.uk/articles/racial-discrimination>

Save trees, save paper. Please consider the environment before printing this document.