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Employment – 20:20 vision

Providing clarity and insight on employment law matters

Racial equality in the workplace – considerations for employers



With the recent focus on the Black Lives Matter movement and the global rallies, protests and social media campaigns placing a spotlight on racism, it's crucial that employers take stock of the practices in their workplaces. In the same way that the "#metoo" movement exposed the widespread and systemic issue of sexual harassment and placed pressure on companies to promote a culture of equality and acceptable behaviour - the movements to tackle racism may well be the next "#metoo" and employers should not delay in taking action.

All employers have a legal responsibility to protect their staff from racism. Employers are advised to understand the impact of unconscious bias and ensure workforces are given comprehensive training on discrimination. Employers should also be looking pro-actively at diversity and ways to try to harness the ingenuity a diverse workforce brings. We have set out below some key considerations for employers in this respect:

- Review your recruitment practises. Job adverts, CV selection and interviews must be inclusive. Where appropriate, employers can consider positive discrimination to ensure greater recruitment of under-represented groups.
- Create an inclusive workplace with open dialogue on racism. Communicate your zero-tolerance policy and encourage employees to speak up if they witness or experience racism.
- Consider having a Black, Asian, and minority ethnic (BAME) network to support your diversity efforts.
- Undertake a review of your policies, procedures, to ensure there are no provisions which directly or indirectly discriminate against BAME employees.
- Note the importance of unconscious bias which can manifest itself in different ways - such as unconsciously favouring others who look like you or who have had similar experiences. Consider whether unconscious bias is having an influence on decisions in recruitment, promotion and performance management and if it is, take steps to eradicate this.
- Ensure opportunities during employment are afforded equally to all employees, regardless of race and implement ways of monitoring this
- Ensure complaints of racism are dealt with promptly, in accordance with your grievance, equal opportunities, harassment, victimisation or other relevant policies and take the necessary disciplinary action against perpetrators.
- Be aware that employers can be vicariously liable for the actions of their employees in relation to discrimination, harassment and victimisation - whether in person, on email or WhatsApp or on social media. It is important that employers are able to show that they took all reasonable steps to prevent discriminatory behaviour.

- Provide regular training on race discrimination to keep these issues at the forefront of employees' minds. This should cover the consequences of racism both on a personal level for the victim, and on a financial and reputational level for the employer and the perpetrator.
- Consider whether your use of automated software or AI leads to algorithmic discrimination. For example, whether an automated filtering of CVs from job applicants based on university attended will have a greater impact on applicants from ethnic minorities or whether any automated tool or the data on which any AI system was trained contains the bias of the programmer.
- Offer support to those employees who are affected by the Black Lives Matter movement.

Contact us

We can assist with training, reviewing policies and procedures and implementing any of the other recommendations set out in this alert. Please contact your usual Stephenson Harwood contact for more details.



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