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# Combating racism in the workplace

Last year, the reputation of Yorkshire County Cricket Club was shattered after the club failed to appropriately tackle the historical allegations of workplace racism waged by former player Azeem Rafiq - downplaying the accusations as 'good-natured banter' that didn't require disciplinary action.

The issue shook the world of cricket, raising concerns throughout the wider employment landscape, and serving as a bleak warning - take racism seriously, or risk reputational catastrophe. But what can you do to ensure occurrences of racist behaviour won't damage your business? We look at how racial harassment can impact the workplace:

## How is racism defined by the law?

Race discrimination was introduced into UK law by the Race Relations Act 1976, and it now forms a key part of the Equality Act 2010. It includes a non-legally binding code of practice which provides employers with a framework for dealing with such issues.

There are five core types of discrimination set out within the Equality Act 2010, that can each be applied to nine protected personal characteristics, one of which is race:

- Direct discrimination - being treated less fairly than another individual due to race.
- Indirect discrimination - when employment policies disadvantage people due to race, eg banning certain religious or cultural hairstyles or clothing.
- Associative discrimination - treating someone with prejudice because they associate with people of other races.



- Perceptive discrimination - treating someone with prejudice because they are perceived to be of a different race, even though they aren't.
- Racial harassment - Threatening someone's dignity or creating an intimidating, hostile, degrading, or humiliating environment, through targeting any one of their protected characteristics.

## How is racism impacting the workplace?

Employment tribunals focussing on racial discrimination rose in the UK by 48 percent in 2020. It's a trend that has become evident over many years with 2,036 cases in 2017, increasing to 3,641 by 2020.

Misjudged verbal exchanges between work colleagues are a frequent catalyst for race discrimination claims. But discarding racist comments as merely 'banter' can be incredibly toxic and dangerous. Regardless of how a comment was intended, all racial connotations will have the potential to cause anguish. Not acknowledging this fact, failing to recognise the impact that the comments could have on the recipient, or not taking quick, decisive action to put an end to any such activity could be extremely costly in the long term.



C&a

racism

## How can employers protect themselves?

First and foremost, employers must have comprehensive inclusion and diversity, and grievance policies set in place in order to deter any instances of discriminatory behaviour. These documents should highlight the appropriate mechanisms for reporting all instances of racism, inequality, discrimination or harassment, whilst clearly conveying a strict zero tolerance approach to any confirmed occurrences. It should also provide a thorough definition of the type of disciplinary action that can be instigated against all those found to be in breach of the policies.

Undertaking practical inclusivity training with every member of the workforce is also advisable, covering exactly what is meant by terms such as 'unconscious bias', as this will remove any question over what behavioural expectations amongst staff are.

## How should complaints be dealt with?

In many cases, the complainant might simply ask for an apology or request that the situation be closely monitored in the future. In others, the nature or seriousness of the accusation might mean that a more formal complaint will be lodged, and disciplinary procedures followed. It is often most pertinent to adhere to a formal grievance process as guided by legal or HR advisors and this will guarantee that strict protocols are met when tackling the matter.

Wherever it is appropriate, additional support systems should also be put into place for the complainant - whether that means

counselling through an employee assistance programme (EAP), the aid of an external organisation that can provide support to victims of harassment, bullying and discrimination.

## The failure to manage racism

The inability to prevent an environment where racial discrimination and harassment can flourish and grow has the potential to cause irreparable damage to a business. You could of course lose valued workers and face possible employment tribunals, but the magnitude of the harm that could be done to a business' reputation could also hit its finances too.

Promoting inclusivity and protecting your employees is far better for business as well as generally being the ethically correct way to work. By holding those who engage in racist behaviour accountable, employers can protect not only the mental wellbeing of their workforce but also create a more balanced working environment.



**About the author:** Tina Chander is the head of employment law at Wright Hassall and deals with contentious and non-contentious employment law issues, acting for small businesses to large multinational groups. She advises on a variety of employment law matters, including all aspects of employment tribunal proceedings and appeals.