

# A JOURNEY OF RACE EQUALITY

What are we really doing as employers to make a difference from a **race equality** perspective?

What more can be done?...

**21ST MARCH 2021**  
**YOU HR CONSULTANCY LTD**

A paper for employers to drive greater levels of positive change on the subject of Race Equality.

**Jonna Mundy, CEO**

# What You HR wants to highlight...

'Race' defines how we are divided into distinct groups based on inherited physical, biological, social and behavioural differences, including colour, nationality, ethnic or national origins, or being a person of a particular racial group.

Discrimination occurs in four forms; Direct, Indirect, Harassment, Victimisation.

The Race Relations Act (1976) that was first established has evolved greatly over the years to what has now become the Equality Act (2010) to define more specifically how workplace equality should be governed and sets the parameters of quantifying discrimination:

**Direct race discrimination** occurs when a person is treated or would be treated, less favourably 'because of' race compared with others in like-for-like circumstances. Direct discrimination can never be justified, no matter how well-intentioned the motive.

**Indirect discrimination** is, for example, where an employer operates a policy which, on the face of it, has nothing to do with race but in practice, the effect causes disadvantage from one racial group when compared to other persons and cannot be shown to be a proportionate means of achieving a legitimate aim.

**Harassment** occurs when, on the grounds of race, or ethnic, or national origins, where the harasser engages in unwarranted conduct which has the purpose or effect of violating another person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for another. Harassment can include a victim's perception, which could reasonably be seen as having a 'harassing' effect.

**Victimisation** is where an individual is treated less favourably as a result of someone having made, tried to make, helped someone else to make or assumed to have made a situation less favourable for another. There is no longer a need to compare such treatment to another employee who has not acted/been treated less favourably.

**Liability for race discrimination usually lies with the employer and/or any other employee(s)** who are found to have discriminated. Employers will be liable for their employees' discriminatory acts of where those employees are acting in the course of their employment, whether or not the employer knows about or approves of those acts. An employer will also be liable for the acts of third parties in certain circumstances. Such situations are known as vicarious liability.

In 2020, Race Discrimination claims were on the increase, according to the Ministry of Justice, with statistics showing an average award being £9,800 (the maximum being over £30,000) concerning dismissal and race discrimination. Under the Equality Act (2010) **a claim for racial discrimination could face an unlimited compensation pay-out** at an employment tribunal, let alone the reputational damage it can cause, and the pain generated through such a long-drawn-out process.

**Employers and employees could also be liable for unlawful acts at events involving employees which are held outside of work time** but where the nature of the event can be linked to work in some way; in other words, an event which could be described as an extension of employment, even in an unpaid lunch break, or immediately after work, i.e. colleagues socialising in the pub.

Race discrimination can take form and claims succeed:

- **Before employment** – i.e. during a recruitment campaign or in a selection and assessment process
- **During employment** – i.e. when considering employees for internal promotional or developmental opportunities
- **After employment** – i.e. providing an unsatisfactory reference or where any disputes remain unresolved

To convince an employment tribunal that all reasonable steps were taken to prevent discrimination, harassment or victimisation from occurring, employers must be able to demonstrate that they have followed all the best practice recommendations in the Equality and Human Rights Commission Employment Statutory Code of Practice. This regardless of the length of employment. There is often a misconception that a claim can only be brought after a certain period of employment, i.e. if an employee has more than 1 years' continuous service. **Irrespective of their length of service**, an employee can submit a claim on the grounds of race if their dismissal was for a discriminatory reason.

If there are facts that a tribunal concludes an employer has committed an unlawful act, then the tribunal must hold (in the absence of any other explanation) that a contravention of the Equality Act (2010) has occurred. **It is down to the employer to evidence (prove) they did not contravene the Act.** The claimant initially has to produce evidence that demonstrates a high degree of probability that discrimination has occurred. If they do so, the 'burden of proof' moves to the employer needing to defend their non-discriminatory actions.

Hopefully the above sets the scene sufficiently enough to demonstrate why it is in an employer's best interest and indeed their duty to proactively support race equality.

# What we can all do?...

No matter how big or small your organisation is,  
You HR requesting a **call to action** for all employers:

Commit to at least 1 or more actions from the following for 2021 and beyond:

1

Assess where you are currently with your **organisational thinking**, focus and actions when considering race equality in your workplace, what are you proactively doing to ensure all employees **advocate** your organisation's stance to be one that is **free from race discrimination** and zero tolerance applies, regardless.



2

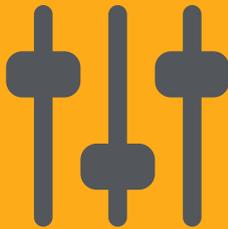
Ensure **policies, process** and **practice** have been assessed from an **equality impact** perspective and all is well implemented in your workplace so every employee knows what is expected of them, what they can expect from you as their employer; that **job, training** and **development, career progression** and other opportunities will be equal and fairly applied.

3

Make **organisational statements** that emphasise your expectations of how all will conform and promote how these apply to stakeholders in your; supply chain, partnerships, collaboration, networks, trade etc...

4

Relish in creating an **inclusive culture** with **openness** and **honesty** for employees to be able to '**speak up**' and how they **can raise any concerns** in relation to race discrimination, inequality or exclusion, **without fear of reprisal**, and that managers or key advocates (i.e. freedom to speak up guardians) are well equipped to address concerns raised over racial inequality.



5

Have as part of your ongoing **management training** and **development** plans, an annual focus on **managing** with **equality, diversity** and **inclusivity** so you know they are equipped and can assure you that the desired culture you want to have in place is operational, that they positively and **proactively deal with** any matters that arise, that they encourage and advocate best practice inside and outside your organisation.

6

Check that all employees are aware of how to engage and be involved to enhance your organisation's stance to support race equality. Do you encourage **staff forums** perhaps? encourage **feedback** from training you put in place for employees on the subject of race equality, diversity and inclusivity? Conduct a **survey** or use feedback **tools to enable** employees to share their views, ideas and innovation, then take positive action.



7

Measure the success of your focus and actions to create a **continuous cycle of improvement** and betterment. Regardless of how diverse your employee community currently is, you could, as part of your **Corporate Social Responsibility (CSR)** set specific objectives to be achieved that better connect your business to a wider focus on race equality (such as signing up to the **Race Equality Code**), your CSR goals can help you to advocate your focus both inside and outside the organisation and encourage others to do so.

8

**Join up** and **collaborate** with **like-minded** groups of businesses to be a **bigger force for good**. Identify **benchmarkers** and **influencers** within your network that will help to keep the momentum of your learning and organisational evolution to **strive toward best practice**.

9

**Share your journey** of the great work being done, on an individual, group, organisational perspective to **encourage others** in your organisational community to share, learn and keep a steady flow of equality on everyone's agenda and in their line of sight.



10

From the tragedy of George Floyd losing his life and for all others gone but not forgotten, we **cannot leave** matters to the next person, the next employer to address - as **one business community**, we could **make a difference together**. #itsallaboutthepeople

Share your actions with us or on social #rolan.

Book a free no obligation virtual meeting with one of our trusted confidants to find out how we can help you and share more about You HR's work to champion race equality, diversity and inclusivity, email: [alice@youhr.co.uk](mailto:alice@youhr.co.uk). or call 01491 729 455

For Rolan ♥

