



Resource pack for reps and members

# Race equality



# BAME resource pack for reps and members

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# 1. Why race equality matters

We know that inequality affects BAME people across our society and communities – from housing to health, education to employment and within the criminal justice system.

Prospect is committed to a policy of equality, diversity and inclusion. We work to ensure that members receive fair and equal treatment at work and offer support to members who experience discrimination.

## **Race action plan – our approach**

Our rule book includes a commitment to promote equal opportunities for all members and within their employment. But, we know equality is about more than rules: it is also about creating a culture of equality, diversity and inclusion as a union and at work.

In September 2021, our National Executive Committee agreed our **Race Action Plan** which has been developed through the involvement of our BAME members and active volunteers, through a review of existing data, surveys and reports, and with the involvement of staff and elected representatives.

The Race Action Plan is part of a broader strategy, aiming to provide a consistent union-wide approach to Equality, Diversity and Inclusion (EDI). The scope of this plan includes managing issues around racism within the union, within sectors and within individual member organisations and addressing under representation of minority ethnic workers/members in the workplace and within the union.

This guide provides information on race equality law, how to create a more inclusive workplace and on negotiating for equality.

It is important to remember that the law covers many freelance and other atypical workers. This resource pack will be relevant to all sectors of the union and all our different types of workers.

## 2. What the law says

Unlawful discrimination can occur at any stage of employment, from applying for a job through to dismissal and after leaving.

It is unlawful to discriminate against somebody on the grounds of a 'protected characteristic'. There are nine protected characteristics, as follows: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

### **Who is protected?**

There is no qualifying length of service required to take a claim that you have been discriminated against to an employment tribunal. This is a major difference to many other employment rights, including bringing a claim of unfair dismissal.

The Equality Act can cover a very wide range of workers including those on freelance, casual, zero-hours, internships and other atypical contracts.

Whereas some statutory rights, such as unfair dismissal and redundancy, only cover employees, the protection against discrimination at work is much more extensive. It will only be the genuinely self-employed who are excluded from bringing a claim under the Equality Act.

Freelancers working through their own limited company may still be covered, but it will always depend on the individual circumstances.

Even as a short-term freelance worker, you are likely to have rights not to be discriminated against on the grounds of race by an engager, employer, or co-worker. This will apply to any length of engagement, even if it is just a few days' work.

Determining employment status can be complex, so if in doubt contact your union full-time officer.

### **Prohibited conduct**

The Act sets out four types of prohibited conduct - direct discrimination, indirect discrimination, harassment and victimisation. Each of these are explored in more detail below.

### **Direct discrimination**

Direct discrimination is where a person is treated less favourably because of a protected characteristic.

The test in direct discrimination cases is to compare the less favourable treatment experienced by the Claimant with how the employer treats or would treat someone who does not share the same characteristic i.e. would the complainant have received the same treatment but for their race?

The definition of direct discrimination is broad enough to include associative discrimination. For example, it will be unlawful to treat someone less favourably because of their association with a BAME person.

The definition also covers discrimination due to the perception that someone has a protected characteristic. For example, if someone is thought to be of a particular race and is treated less favourably, they will have protection under the Act, even though they may not in fact be of that racial group.

## **Indirect discrimination**

Indirect discrimination occurs where the employer applies a provision, criterion or practice (PCP) to everyone, but the PCP puts, or would put, persons sharing a protected characteristic at a particular disadvantage compared to others; and the employer cannot show that the PCP is a proportionate means of achieving a legitimate aim.

This covers circumstances where the employer treats everyone in the same way but that treatment has a disproportionate adverse effect on people who share a protected characteristic. For example, if an employer refuses leave at a particular time of year that coincides with the Muslim festival of Eid, this would be a rule applying to everyone but would have a disproportionate effect on some workers more than others and would therefore be indirectly discriminatory unless the employer could objectively justify the treatment.

## **Harassment**

Harassment is an unlawful act for which both the perpetrator and the employer may be liable.

Racial harassment is where a person engages in unwanted conduct related to race which has the purpose or effect of:

- violating that other person's dignity, or
- creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

In deciding whether harassment has occurred, a tribunal must consider the perception of the person making the complaint but also whether it is reasonable for the conduct to be said to have the effect it did.

## **Victimisation**

Victimisation is where a person is subjected to a detriment because they have:

- brought proceedings under the Equality Act
- given evidence or information in such proceedings
- done anything for the purpose of or in connection with the Act, or
- alleged that someone has contravened the Act.

Individuals are protected from being detrimentally treated for making or supporting an allegation of discrimination, so long as the allegation is made in good faith.

This is important protection for workers who challenge a breach of the Act or support a colleague in making a complaint.

## Employer liability

Under the Equality Act an employer is liable for acts of discrimination carried out by employees acting in the course of employment. This will apply whether or not the acts of discrimination were done with the employer's knowledge or approval.

For example, if an employee is racially harassed at work by a colleague, the employee could take a claim against both the employer and the individual colleague. The employer will have a defence if they can show they took all reasonable steps to prevent the discrimination from happening.

## Positive action

Employers may encourage applications for employment and can target training opportunities to people with a protected characteristic, where they are underrepresented in the workforce or if they encounter disadvantage as a result of the characteristic.

The Act also allows for limited positive action to address under-representation in the workforce. Where a candidate for employment (or promotion) is 'as qualified as' other candidates, the employer would be able to make the selection on the basis of promoting diversity through selection by a protected characteristic, where it could be shown that this is 'a proportionate means of achieving the aim of overcoming or minimising the disadvantage or encouraging participation'.

## Public Sector Equality Duty

There are special responsibilities on public authorities to actively promote equality of opportunity and eliminate unlawful discrimination in respect of race.

Public authorities include central government departments and agencies, local authorities, schools and the health service. Additionally, some private sector companies who are performing functions of a public nature will be covered by the duty but only in the exercise of those public functions.

Public authorities have a general duty to have due regard to the need to:

- advance equality of opportunity on the grounds of the protected characteristics
- eliminate discrimination, harassment and victimisation
- foster good relations between those who share a protected characteristic and those who do not share it.

This duty will apply both in respect of how they deliver their services to the public and to their employment practices. All employers should do equality impact assessments on their procedures.

The Equality Act provides for Public Sector Equality Duty (PSED) specific duties on public bodies. These differ for England, Wales and Scotland.

## Time limits

Claims to a tribunal must usually be started within three months of the act of discrimination or harassment. These time limits are strictly enforced, so it is important that any issues are referred to the union's full time officer as soon as possible.

## Union advice

Legal advice and assistance is offered at the discretion of the union and is decided on the facts and merits of each case. For more information see our guide to legal advice at <https://library.prospect.org.uk/download/2015/01155>

The Equality Act applies to England, Wales and Scotland. It does not apply in Northern Ireland, which continues to have separate, though very similar, legislation. There are also significant differences in the Isle of Man and Channel Islands.

## Focus on: Some of Prospect's legal successes

### Successful case of indirect discrimination results in over £1M compensation

Prospect challenged Home Office promotion procedures on the basis that they were indirectly discriminatory on the grounds of race and age.

Graham Dean had worked for the Home Office for over 11 years. His appraisals were excellent throughout and his managers had repeatedly recommended him for promotion. But to get promoted he needed to pass a Core Skills Assessment (CSA). He failed the CSA on four occasions, so despite his glowing recommendations he could not be promoted. Prospect could show a significantly smaller proportion of BAME and older employees passed the test and brought a case to the Employment Tribunal.

Graham won his case. The tribunal found the CSA did disadvantage BAME workers and held that the Home Office could not objectively justify their continued use of the CSA.

After the judgment the Home Office announced that it would change its promotion procedures and accepted that Graham could apply for promotion without sitting the CSA. He was interviewed for a post and was subsequently promoted.

There were a number of other workers who had also failed the CSA and new ET cases were submitted by both Prospect and PCS. After a lengthy battle through the Courts almost 50 civil servants won their discrimination case and secured more than £1M in compensation.

### Prospect case improves discrimination law

Prospect's landmark Supreme Court case for our member, Mohammad Naeem, was instrumental in clarifying indirect discrimination and making it easier for other workers to bring successful claims.

Mohammad argued that he had been discriminated against by the Prison Service in terms of his pay on the grounds of his race and religion. Despite the fact that we could show that the pay structure led to a greater proportion of BAME workers being gathered at the lower end of the pay scale, the employer argued that it was for the employee to prove the cause of the disparity in pay was because of his race/religion.

The Supreme Court ruled that the employer (and the lower courts) had applied the wrong test and it was sufficient for the Claimant to establish there was disparate disadvantage and at that stage the employer was required to objectively justify the different treatment.

### Other recent legal cases for members include:

- Successful settlement for a member who had faced prolonged racial harassment in the workplace.
- Two members brought cases that they had been subjected to racial harassment when managers made Islamophobic comments. The cases settled just before the tribunal hearing.



## 3. Being a good ally

Prospect representatives play a key role in challenging and changing the culture in the workplace. They do this by shaping workplace policies, ensuring fairness, and assisting members in personal cases.

Being an ally is about making changes for the benefit of others by being willing to act with and for others in pursuit of equality.

Black Lives Matter (BLM) has helped to refocus the ongoing issues people face all over the world, and especially in the workplace and society, and how we all need to be more aware of the experiences of our colleagues and what we can do to create a more inclusive society.

Like being a member of a trade union, being a good ally is the same principle.

### **Mind your language**

The language surrounding equality, diversity and inclusivity is ever evolving, but it is important to acknowledge. Language is a vehicle for expressing thoughts and feelings, but it does much more than that and sets a tone about relationships and feeling welcome or not.

Being aware of the power of our language is about treating people with respect and dignity and increasing awareness. Developing a common language allows us to break down divisions and work towards a better understanding and partnership, by talking about differences without creating a culture of fear or blame if you get it wrong.

This is increasingly important as modern workplaces are reflective of an increasingly diverse society. We can all take collective responsibility in ensuring there is an inclusive environment for all our colleagues.

### **Being open to challenge and change**

Prospect representatives can play a key role in challenging racism and discrimination to ensure that workplace policies and practices are fair for everyone.

Workplace 'banter' can become so entrenched that inappropriate use of language and behaviour can become normalised. It can however be difficult to challenge bad behaviour in the workplace, particularly when it seems that everyone else is joining in.

Here are some things you can do:

- Be visible in calling out unacceptable behaviour - it's not enough to simply not use racist language, we all must actively call it out if we see/hear it.
- Be aware of and promote your employer's commitment to equality and diversity, including policies around harassment and bullying.
- Work with your employer to raise awareness of the importance of race equality at work; how to identify and challenge inappropriate behaviour and to use the existing bullying and harassment procedures.

- Ensure clear communications on EDI and that consistent behavioural standards are enforced across the organisation.

## Talk with colleagues

Find out what the issues people are facing are. Use your existing structures, be this your Prospect branch, workplace networks, or simply by talking with your colleagues about the issues that may be affecting them. Here are some ways to find out what the issues are:

- Talk to members (and non-members) to find out about local issues and concerns - do not assume you know the issues that are affecting people.
- Be sensitive - are the questions you are asking appropriate? Think about where you are asking the questions. Is it the correct time or place?
- Join your workplace or union race networks – the networks will be able to provide information about what they are working on and offer advice and support as well as being a source of information about potential organising and campaigning issues.
- If you are part of a branch, you will have access to surveying tools which can allow you to get a snapshot of how members feel. If you need more advice on how to run surveys speak to your full time officer.
- Identify improvement actions and guide members to sources of support e.g. through union or organisational networks, mentoring schemes etc.

## Union meetings

As well as thinking about what an employer can do better, it is important to also think about how the union can improve.

- Meet new members before meetings and accompany them so that they can find out more about what goes on.
- Ensure that meetings are held in venues and at times where all can attend.
- Encourage “buddying” by reps to support interested members to later become reps and/or committee members.
- Prospect offers development courses on ‘how to be an effective communicator’ and ‘how to run an effective meeting’.

## Focus on: Learning engages workers at Rosyth

Satnam Ner, health physicist in the nuclear safety department at Rosyth dockyard in Scotland, says that the branch at Rosyth had tried to organise workers around traditional issues. People joined the union but they were not particularly interested in becoming active.

But things changed when the Scottish Trade Union Congress black worker's committee got funding to develop courses for black workers to overcome barriers to gaining employment and to progress within employment.

There was quite a lot of take up from members at Babcock. Subsequently, Prospect sponsored a union learning fund bid to deliver union-led learning at Babcock Rosyth, which was also open to non-members.

There was considerable interest in this initiative – both in terms of recruiting new members and developing new union learning reps.

At the time, Satnam was the only union learning rep (ULR), now there are six.

Four courses were held between January and March 2018 on facilitation and leadership skills, career aspirations and progression planning women moving forward.

The new union learning reps, the majority of whom are BAME, formed a ULR committee. The initiative has been really successful in terms of gaining new members and, importantly, new reps for Prospect.

The company was fully supportive and engaged from the outset and provided facilities, time off for employees to attend the courses and was invited to have some input to the content of the courses.

The company was also keen to have employee-led networks. A women's network and a BAME network, which includes Prospect's BAME network within the branch, have been set up.

The aim is for the networks to work with the company on equality, diversity and inclusion.

Babcock Marine has appointed a head of diversity and inclusion and appointed D&I managers at each of its four main sites – Satnam is the D&I manager for Rosyth.

## 4. Zero tolerance to harassment

A respectful and inclusive culture cannot exist if bullying and harassment are tolerated in the workplace. However, few employers are doing enough to stamp out unwanted workplace behaviours.

The prevalence of bullying and harassment is highly correlated with work environments where there are significant imbalances of power and where workers' employment is insecure.

Unions have a critical role to play in helping to create an inclusive workplace culture. Without engagement and buy-in from the whole workforce, it will be impossible to meaningfully change the culture of a workplace. Whilst organisational leaders and managers have a role to play in setting standards and developing strategy, cultural change within an organisation cannot be imposed from the top but must be built from the ground up. As key leaders in the workplace, union activists and representatives have a central role to play in helping to make change happen.

### Steps employers should take

To institute a zero-tolerance approach to bullying and harassment, there are several steps employers should take:

- Develop a clear policy on bullying and harassment, in collaboration with the workforce, that sets out clearly what constitutes bullying and harassment and states the organisation's zero tolerance approach to addressing this issue
- Develop a credible, transparent, and fair procedure for handling bullying, harassment and other unwanted behaviour when it arises, including providing appropriate support for workers who have experienced unwanted behaviours
- Regularly monitor the incidence of unwanted behaviours, through workplace surveys and other means, and ensure there are multiple avenues for workers to come forward to report issues
- Undertake a bullying and harassment risk assessment to identify key factors which increase the risk of incidents of bullying and harassment so that steps can be taken to mitigate them
- Set clear standards around language and behaviour and ensure that leaders within the organisation exemplify those standards
- Provide appropriate, mandatory training to all staff on bullying and harassment to explain and reinforce the principles behind the organisation's bullying and harassment policy; specific training should be provided to line managers, in particular on how to manage complaints of unwanted behaviour.

## 5. Negotiating for equality – What's on your bargaining agenda?

The real test of a positive workplace culture is in the day-to-day experience of employees. Challenges such as the under-representation of BAME workers and the glass ceiling for women's progression will not be resolved overnight. An organisation that is serious about creating and sustaining a positive workplace culture needs to integrate appropriate policies and actions as part of their everyday business. Unions play an important role in this process.

### **Recruitment and retention**

Review your employer's practices, for example at the key stages of the career lifecycle.

- Review the organisation's external EDI profile e.g., website, social media, advertising.
- Review the imagery and language used in job adverts, where jobs are advertised and consider setting diversity benchmarks for candidate shortlists.
- Review actual role requirements and only value skills gained outside the workplace where relevant.
- Anonymise application forms.
- Ensure that all those involved in selection and interviewing have received EDI training
- Consider the make-up of interview panels.
- Ensure that the reasons for all decisions are recorded.
- Compare the profile of new recruits with applicants and candidates selected for interview. Review any differences between internal and external candidate pools.
- Ensure clear communications on EDI and enforce consistent behavioural standards across the organisation.
- Speak to employees leaving the organisation to understand their reasons for doing so.

### **Pay**

Research consistently shows that BAME workers are paid less than their white colleagues. Union reps can be part of the solution by working with employers to:

- Ensure that the pay system is regularly audited and that the audit extends to other contractual terms as well.
- If not doing so already, encourage the employer to introduce ethnicity pay gap reporting.
- Check that pay audits gather data on the distribution of workers with a protected characteristic(s) by grade and working pattern and that it covers pay, bonuses and other allowances.

- Understand recruitment, retention and promotion procedures and how they might impact where individuals are placed within the pay structure upon appointment/promotion - are BAME workers clustered in the lower grades or at the bottom of pay bands?
- Ensure that length of service is taken into account in the audit.
- Interrogate the data to identify areas for improvement and agree priorities for action.

## **Contractual Terms and employment status**

Workers with protected characteristics, particularly BAME workers, are more likely to be in insecure forms of employment such as temporary or zero-hours contracts, or be working on an agency basis.

Reps should consider the following:

- Is there a policy on the criteria for using temporary or contract staff?
- Are staff on atypical contracts included in equality monitoring arrangements?
- What is the justification for not employing permanent staff?

See Prospect's **Members' guide to atypical workers** and **Member's guide to fixed term contracts**.

## **Performance management/appraisal systems**

Prospect has seen an increase in discriminatory practices in the operation of performance management systems across the public and private sectors that tend to negatively impact workers with protected characteristic, including BAME workers.

Reps should work with employers to:

- Ensure that the performance management/appraisal system has been assessed to be fair and transparent, e.g. a forced distribution system (where managers are given quotas for performance markings) is much more likely to result in inequalities and discrimination.
- Look at how often assessments take place and the criteria for assessment.
- Ensure that the system is audited for equality - are BAME members more likely to receive lower markings/ratings?
- Ensure that all those involved in progression and promotion decisions have received ED&I training.
- Review job descriptions and role profiles to ensure that they reflect current job demands.
- Review progression routes including, where possible, creation of alternative pathways to certain roles.
- Introduce a succession job role matrix to support employees and focus their attention for career development purposes.

## Training

Simply running race equality training is not enough – it is the nature of that training and its likely effectiveness which is important. Consider:

- Does the employer provide equality, and specifically race equality, training for all staff?
- Does the employer provide bespoke training to supervisors and line managers, especially those making decisions on recruitment, promotion etc.?
- Does the employer routinely refresh training and ensure workers attend?
- How effective has training been – do workers feel able to report incidences of discrimination? What action is taken when they do?
- Are managers open to discussing employees' concerns around discrimination and workplace culture?
- Trying 'reverse mentoring' to help managers understand BAME colleagues' experiences of the organisation

## Flexible working

Good flexible working policies are critical for ensuring that workplaces are inclusive and accessible to all.

Issues to consider:

- Does your employer currently offer flexible working options? Does this include a full range of options for where/when people work?
- Can the organisation's family friendly policies be improved?
- Are flexible working options accessible to everyone? Are there groups within the workforce who have less access to flexibility?
- Do staff working flexibly have equal access to promotion, progression, training and development opportunities? Are there any systematic differences in pay (including any bonus payments) for staff working flexibly?
- Analyse the number and profile of employees offered and taking advantage of flexible working patterns.

See Prospect's **Members' guide to part-time and flexible working** and **Members' guide to homeworking**.

## Health and safety

Promoting health, safety and welfare at work is one of Prospect's key objectives. There is an important equalities dimension to this too as some health and safety issues can disproportionately affect particular groups of people.

- Workers with protected characteristics, including BAME workers, are more likely to experience bullying and harassment - do existing policies and practices take account of this?
- Is there a policy on workplace mental health?

- Does your workplace have health and safety reps from a BAME background who may offer a different perspective?
- Does personal protective equipment adequately take account of cultural/religious dress and cater for gender differences and disabled colleagues?
- Ensure that the physical work environment accommodates for everyone including, for example, welfare facilities.

Prospect provides training on how to be an effective Health and safety Rep and bargaining for a mentally healthy workplace. See <https://prospect.org.uk/training-for-reps> for more details.

## Restructuring and redundancy

Employers need to ensure that an equality impact assessment is undertaken prior to any significant business change, in order to avoid the risk that restructuring has a disproportionately negative impact on workers with a protected characteristic, especially where there is a risk of redundancy.

Here are some things to consider when dealing with these issues in your workplace:

- Has the employer carried out an equality impact assessment for the proposed business changes? If so, has the union been fully involved in that assessment process?
- Does the planned restructuring process involve a new pay and grading structure? If so, has an equality audit of the new pay system been carried out?
- If the employer is considering relocating staff, is there a risk that this could disproportionately affect workers with a protected characteristic(s), for example, increased commuting times or limited travel options?
- If redundancies are being proposed, has the employer carried out a proper redundancy consultation? Can the criteria for any proposed redundancies be objectively justified?
- Is it possible that the criteria for redundancies could indirectly discriminate against some workers more than others?
- Are members on alternative working patterns more likely to be at risk of redundancy?
- Has the employer considered (further) reasonable adjustments for disabled members in order to help keep them in employment?

See Prospect's **Members' guide to redundancy**.



## Focus on: Theatre Diversity Action Plan

Bectu's Theatre Diversity Action Plan is an innovative approach to tackling the lack of diversity in the theatre workforce.

Bringing together more than 130 theatres that have committed to taking practical steps to increase representation of Black and minority ethnic staff in their workforce, the plan has the potential to change the make-up of UK theatre for the better.

Developed in association with theatre employers in both the public and private sector, the plan aims to give employers the practical tools to increase diversity across the theatre workforce, from front-of-house teams to backstage staff.

The plan includes a guide to give employers the ability to identify what can be done in their own theatres. The plan below is adapted from the Theatre Diversity Action plan:

### 1. Set up a joint working group

Communicate with both staff and management about the need for changes to the way things 'have always been done', what is being done and why the working group is proposing such action. The most successful initiatives bring everyone with them.

### 2. Check out the organisation's equality policy

It is good practice to have a written document that sets out the organisation's commitment to tackle discrimination and promote equality and diversity. The policy should not only set out what you would like to achieve, but also how you are going about achieving it. Existing policies may need to be reviewed.

### 3. Produce an accurate workforce assessment

The purpose of equality monitoring is to establish the real picture which will help you to work out whether there is an issue to be addressed and whether progress is being made towards the aims set out in your equality policy. Analysis of the data should inform a strategy and action plan.

### 4. Agree realistic targets and timeframes

Targets should be stretching but achievable, taking account of the demographic in local labour markets.

### 5. Attract diverse applicants

The checklist above set out some suggestions for enhancing diversity of applicants. It is also vitally important to consider sector attractiveness and employer brand. News of challenging workplace cultures or inadequate basic facilities travels fast and can prove a powerful demotivator for potential new hires.

### 6. Ensure a level playing field for recruitment and progression

Appointment processes should be transparent and consistent for all applicants. Sources of externally recruited staff should be reviewed and applicant tracking systems used to report on outcomes and inform decisions about changes in practice.

### **7. Embed and enhance gender and ethnicity pay gap reporting**

Often organisations do not make full use of the data generated for pay gap reporting. It is important to move beyond the focus on headline average pay gap figures, for example to differentiate between business units and types of role. This data should inform the production of jointly agreed action plans.

### **8. Review progress**

Once plans have been put into action, it is important to continue reviewing progress and to actively consider whether any additional measures are needed or if a different approach is required.

### **9. Communicate**

It is important to discuss strategy with your branch, to make the case for action and to report on progress. This work should be grounded, honest and relatable for the wider membership, otherwise it risks initiative fatigue.

You can find out more here: **Theatre Diversity Action Plan - Bectu**

## 6. Personal cases

A large part of the work of a representative is handling personal cases. When dealing with cases of possible race discrimination it is important to listen to the member's view of the cause of the treatment they have experienced.

Consider the following questions:

- what is the issue, e.g. pay, failure to promote, harassment, dismissal?
- why does the member think the decision/unfair treatment was influenced by race?
- who made the decision?
- have other people been treated in this way and what race were they?
- when did the incident(s) occur? Remember that any claim for discrimination must be started within three months of the act of discrimination occurring (see below).
- is there any other evidence of prejudice on grounds of race, either in respect of the member concerned, or other workers?
- has the issue been raised with management?
- how has the member been affected?
- are there any notes of meetings or any other relevant documents?

We may also consider asking questions of the employer under the ACAS guidance on asking and responding to questions of discrimination in the workplace. This can help us to gather more information about what has occurred by asking questions of the employer in relation to the specific incident and the workplace more generally.

In all cases of discrimination other than dismissal, the employee should present a grievance in writing to the employer before making the tribunal claim. Any failure to raise a grievance could result in a reduction of up to 25 per cent of the compensation awarded.

Although you should always use internal procedures, the strict time limits for claims mean it is not always possible to await their outcome before deciding whether to submit a claim.

Also consider the collective issues of the personal case. The member may not wish to take formal action, but it may be possible to raise an issue collectively, perhaps calling on the employer to introduce awareness raising and training on race equality, changing procedures or policies etc.

Applications to an employment tribunal under the Equality Act must usually be started within three months of the incident of discrimination. This time limit can only be extended where the tribunal thinks it is 'just and equitable' to do so. Late claims are rarely accepted. Equal pay claims can be made at any time during the relevant contract of employment or up to six months after.

While not all unfair treatment is because of discrimination, representatives should seek advice from their full-time officer as soon as possible if they think this is the case.

## Focus on: Prospect training courses

### Reps Part 1 and 2

For those members who've completed Reps part 1 (Essential skills) you can attend Reps part 2 (Handling cases) to help guide you as a new case handler to support members most effectively with their personal case.

We also run formal hearing training (online) for those Reps unsure how to represent a member in an online hearing

### Introduction to Equalities

The 'Introduction to Equalities' course for reps, is our initial starting point for many reps wishing to take on the Equalities role within their branch or workplace but with a minimum of knowledge on the subject.

The course is designed to help our reps progress in their role as Equalities reps and to introduce them to the skills needed to tackle EDI issues in your workplace. They will develop an understanding of why trade union members have a key role in tackling EDI issues, learn how to help members on a practical level to become more active, promote an understanding of some key provisions in the Equality act, legal obligations on employers as well as understanding some the predominant EDI issues in UK workplaces currently.

See <https://prospect.org.uk/training-for-reps> for details of all our training courses.

## 7. Data and information

Prospect's approach to campaigning and engaging with employers has always been to ensure our arguments are evidence-based, whether this be through quantitative statistical data or qualitative information of members' real life experiences.

With data, we are able to discredit discriminatory pay or performance management and promotion systems or identify issues such as bullying and harassment.

Discussions should be had with Full Time Officers about the most appropriate means of requesting particular information. Appropriate support can be provided, as required, by the Research and Legal teams.

### Pay data

#### Equal pay audits

All public sector employers should have regular equal pay audits. Private sector employers should also be pressed to undertake full audits as best practice and in line with the EHRC guidance and not just rely on Pay Gap Reports. Representatives may also have a lot of the relevant data already from pay bargaining so think about what information you already have.

#### Ethnicity pay gap reports

Employers with 250 employees or more are required to report annually on their gender pay gap. They are required to publish four key pieces of information:

- The difference in mean hourly pay between male and female employees
- The difference in median hourly pay between male and female employees
- The percentage of men and women in each pay quartile
- The percentage of men and women who receive bonuses and the average amounts received

Some employers are moving voluntarily to introduce ethnicity pay gap reporting. Prospect believes that there should be legal a requirement for employers to provide this data. If your employer does not do this already, representatives should be seeking this information.

However, there is much to do to improve both the quality of data and to overcome barriers to collecting it. Reluctance to provide personal data is understandable as it can often feel like we are being bombarded with requests for information, often with no clear purpose.

A careful approach is needed, taking full account of GDPR requirements, but with appropriate safeguards there are good reasons to provide personal data to your employer:

- **It can identify differences in treatment which may not be justified**  
Prospect has secured access to anonymised employer data that has helped us to discredit discriminatory pay and performance management systems.

- **It can help to identify priorities for action**  
Consistent data sets spanning several years can demonstrate where progress is being made and where further action is required.
- **It can help to provide better access to support for individuals**  
This could include targeted training and development opportunities, access to relevant networks and information updates.

## Collective bargaining

Prospect can also seek formal disclosure of information for the purposes of collective bargaining. This right applies where the union is recognised by the employer and where without the information the union representatives would be 'to a material extent impeded in carrying on collective bargaining'.

If the employer refuses to provide the information an application could be made to the Central Arbitration Committee.

## ACAS Equality Questions

Individuals can raise questions about discrimination and equal pay by using the ACAS Procedure – Asking and Responding to Questions of Discrimination in the workplace. This is a helpful way to ask questions about any area of discrimination, such as pay levels or promotion or recruitment and is particularly useful in cases of indirect discrimination, where gathering evidence of the number of employees and, for example, the racial or gender breakdown of the workforce can be vital to the case.

## Surveys

Prospect can help branches run surveys to understand more about specific issues that may be impacting members at work.

## Freedom of information requests

The Freedom of Information Act 2000 provides public access to information held by public authorities as follows:

- public authorities are obliged to publish certain information about their activities; and
- members of the public are entitled to request information from public authorities.

This may be helpful in some circumstances but often information is best provided through other means. Before making a freedom of information request, consult with your Full Time Officer.

## Grievances

Where an individual has experienced issues of discrimination in the workplace raising a grievance can often be an important means of seeking to address these issues. Grievances can also be raised collectively where the same issue is affecting many members.

# 8. Support and resources

## How to access support

For more information and support:

- Contact your local union representative
- Email your full-time negotiator
- Call the Member Contact Centre on 0300 600 1878

## Resources

- Prospect  
[www.prospect.org.uk](http://www.prospect.org.uk)
- Bectu  
[www.bectu.org.uk](http://www.bectu.org.uk)
- Race Action Plan  
<https://bit.ly/prospect-bectu-race-action-plan>
- Prospect Equality, Diversity and Inclusion Strategy  
<http://members.prospect.org.uk/library/id/2021/00905>
- Equality at work members' guide  
<https://library.prospect.org.uk/download/2008/00092>
- Bullying and harassment members' guide  
<https://library.prospect.org.uk/download/2007/00549>

