



# Matt Gingell™

Making sense of employment law

## Race discrimination: A guide for employees

How is race defined by our anti-discrimination laws?

Race is defined as colour, nationality and ethnic or national origins. The definition of "race" in the Equality Act 2010 is non-exhaustive though, and also has been held to include, for example, caste.

### Direct discrimination

It's unlawful for an employer to discriminate directly by treating a job applicant or employee less favourably because of race.

Supposing two applicants for a job have similar qualifications and experience, but the prospective employer chooses a white candidate over a black candidate because they thought the white person would be a better fit? This is likely to be direct race discrimination.

### Indirect discrimination

It's unlawful for an employer to discriminate by applying a provision, criterion or practice that disadvantages job applicants or employees of a particular racial group without objective justification. The individual has to be disadvantaged, personally, too.

An example of this type of discrimination could be, for instance, where an employer had a policy not to accept job applications from non-EEA nationals who require visas to work in the UK - and a person was refused the job as a result.

### Harassment

Harassment related to race is prohibited. It happens where a person engages in unwanted conduct related to race and the conduct has the purpose or effect of

violating the other person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for them.

A person could suffer harassment if a colleague tells a "joke" about that person's nationality or a person is excluded from work social events because of their race.

### Victimisation

Individuals must not be victimised because they have alleged discrimination, brought a discrimination claim or given evidence or information in relation to discrimination proceedings.

If say an employees raises a grievance at work alleging race discrimination and the employee is then transferred to another department as a result of raising the discrimination complaint, this could amount to victimisation.

### Bringing a claim

Job applicants or employees who believe they have suffered race discrimination could consider bringing a claim in the employment tribunal. Prior to issuing a claim the job applicant or employee would be required to follow the Advisory Conciliation and Arbitration Service (Acas) early conciliation process. In certain cases, it may also be appropriate to have raised an internal grievance beforehand.

Any claims must normally be filed within three months (less a day) from when the discriminatory act occurred. The time limit is subject to the early conciliation rules for extending time.

**This guide is intended for *guidance* only and should not be relied upon for specific advice.  
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