

# Survival



a guide for **black**  
**workers** in further  
& higher education

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## **How can we improve this guide?**

We are keen to make the next black members' survival guide even better. It has been produced with the close involvement of the black members' standing committee. What else should be included? Which parts would you like to see improved? Please email: [jtaylor@ucu.org.uk](mailto:jtaylor@ucu.org.uk)

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# Foreword



I am grateful to the UCU equality unit for producing this important guide to enable black members to play a more active part in the democratic structures of UCU at all levels, especially within their workplaces, branches and regions.

Black members make up an increasing proportion of the UCU membership within higher and further education, representing around 9,000 of the 122,000 UCU membership. According to recent surveys, black workers in education are suffering disproportionately from discrimination, harassment, bullying, low status, lower pay, less job security and variation in contracts, due to institutional and individual racism.

This guide provides vital information, advice and support for black members to defend their rights at work and to build a strong UCU workplace to combat all forms of racism and disadvantage. We need more black activists, at all levels of the UCU structure, including case workers, branch and regional officers, national executive committee members and delegates to national congress and conferences.

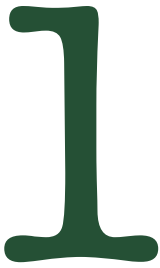
Please make every effort to make full use of this guide and share the contents with other black members.

Remember, unity is our strength. United we stand, divided we fall. It is our union and we must all do our best to make it work for all of us.

Yours in solidarity

*Jim Thakoordin*

*Chair, UCU black members' standing committee  
and national executive committee*



# Introduction

## **What do we mean by ‘black’?**

UCU uses the term ‘black’ in a political sense to refer to people who are descended, through one or both parents, from Africa, the Caribbean, Asia (the middle-East to China) and Latin America. It refers to those from a visible minority who have a shared experience of oppression. The word is used to foster a sense of solidarity and empowerment.

- Black workers make up a large part of UCU’s membership. As of 2012, 7.5% of UCU’s 122,386 members identify as being black or black and minority ethnic (BME), and they continue to face unique challenges and barriers at work in further and higher education. They remain under-represented in both sectors, particularly in higher-level posts. There is evidence that black workers have to work harder to get a job, face greater resistance to career progression, and continue to experience discrimination and racism at work from managers or colleagues.
- There are claims that we now live in a post-racial society where the spectres of racism and discrimination have been virtually eliminated. Some of the more obvious forms of racism may well be reducing. However, while advances have been made over the last 30 years, there still exists both overt and ever-more subtle forms of racism that exclude and discriminate. They can often be hard to identify and define, and difficult to prove.
- The UCU black members’ standing committee identified the need for this guide for black members to equip them with the practical knowledge they need in the modern working environment to protect themselves from discrimination and racism. It is designed to inform you about how you can participate more fully as a union member and to give you information on aspects of discrimination law.



## Union structures

### **Join UCU**

If you aren't a member already, join UCU. Once you are a member, or if you are a member already, make contact with your local branch, ask to be put in touch with other black members to make connections and discuss the issues that affect you as a black person both locally and nationally.

You can join online or download a form here: [www.ucu.org.uk/join](http://www.ucu.org.uk/join)

University and College Union (UCU) represents more than 120,000 members. Of those who have indicated their ethnicity, around 6,500 are black. That represents real strength and a real voice for you.

### **Member-led**

Members of UCU belong to branches or local associations which are generally workplace-based. These members directly elect their own officers who negotiate and represent members locally, with support from full-time staff in regional offices throughout the UK. They also elect delegates to the union's congress, either directly or from smaller institutions and workplaces through aggregations of smaller branches and local associations. Members also directly elect their representatives on UCU's national executive committee (NEC), from constituencies based in Scotland, Wales, Northern Ireland and six broad English geographical areas.

### **Congress**

UCU's supreme policy-making body of the union is its annual congress. Congress includes separate annual meetings of UCU's further and higher education sector conferences where policy particular to these areas is decided. Motions are put to congress by branches and national committees, and the ones that are passed become union policy and are acted upon in the following year.

### **Executive**

The national executive committee (NEC) takes care of union business between congress meetings. Members include representatives from both higher education (HE) and further education (FE). Some are elected regionally, some on a UK-wide basis.

- The rules of the union have been drafted to ensure that black members are represented in UCU's democratic structures. There are nine reserved *equality seats* on the NEC, elected directly by all members. Two of these seats are for black members' representatives, one of whom must be a woman (one from HE and one from FE). The executive comprises a number of sub-committees including the national equality committee.
- UCU also has a national black members' standing committee (BMSC), with 10 members from branches and the two black members in the reserved seats on the NEC (the chair of the committee will be elected from one of the NEC members). A conference for black members is held every year by UCU and this conference elects the BMSC. The BMSC can send two motions and two amendments to the annual national congress, and to both of the sector conferences. The BMSC advises the equality committee and the NEC on matters relating to black members. Look out for information regarding the autumn conference and how you can attend the conference via the mailing lists or on the website.

### **Networks**

UCU actively encourages and supports the development of equality networks locally and regionally. Communication with other black people is vital to share information, garner support and compare successes. You may find it useful to consider the following:

- When was the last time you communicated with a black colleague?
- Have you ever met with other black colleagues to form or discuss forming a network?



- Have you approached your branch/local association with a view to setting up a black members' network at your place of work?

If you are experiencing discrimination at work it may be that the problem is more widespread than you think. Communicating with colleagues in a mutually supportive way can help uncover more systemic institutional failings.

The institution may be persuaded to provide a meeting space for your group as part of their wider obligations under the Equality Act.

### **USEFUL LINKS – UCU NETWORKS**



#### ***Join UCU***

[www.ucu.org.uk/join](http://www.ucu.org.uk/join)

#### ***UCU equality***

[www.ucu.org.uk/equality](http://www.ucu.org.uk/equality)

#### ***Join the network***

As well as these formal structures the equality unit operates a black members' email list to keep you in touch with relevant events and information. Any black UCU member can join – just contact the equality unit at [eqadmin@ucu.org.uk](mailto:eqadmin@ucu.org.uk) and ask to be added to the list.

### **What is institutional racism?**

**'The collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin which can be seen or detected in processes; attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantages minority ethnic people.'** *From the Macpherson report investigating the murder of Stephen Lawrence (1999)*

### **Collective bargaining**

Collective bargaining consists of the process of negotiation between employers and representatives of a union in respect of the terms and

conditions of employment of workers, such as wages, hours of work, working conditions, grievance-procedures, and the rights and responsibilities of trade unions. Make sure your issues form part of the collective discussions with management. A collective approach to tackling institutional racism is key to providing support to all black members. The parties often refer to the result of the negotiation as a collective bargaining agreement (CBA) or as a collective employment agreement (CEA). You can find information on collective bargaining to tackle racism at work in the TUC guide *Tackling racism in the workplace* [www.tuc.org.uk/equality/tuc-20162-f0.cfm](http://www.tuc.org.uk/equality/tuc-20162-f0.cfm)

### **Campaigning**

UCU campaigns nationally on a range of issues, from pay to casualisation and equality. But every day, UCU branches campaign at local level on issues raised by members including job cuts, harassment and bullying. They also campaign to improve recruitment and to win changes to a policy at their college or university. Where you see the need to raise awareness of an issue that affects black members, you can start a campaign.

Your branch may never have organised a campaign around issues affecting black members, but where there is an issue that you believe needs a collective voice, do it! For example, you could hold an event during Black History Month, contacting UCU to publicise your event, or contact our affiliates in Unite against Fascism or Hope Not Hate to see how you can work with them locally. Or you may wish to form closer links with local community or campaigning groups.

### **USEFUL LINKS – CAMPAIGNING**



***UCU campaigning resources***

[www.ucu.org.uk/campaigning](http://www.ucu.org.uk/campaigning)

***Branch materials***

[www.ucu.org.uk/promote](http://www.ucu.org.uk/promote)

***Black History Month***

[www.Black-history-month.co.uk](http://www.Black-history-month.co.uk)





## **Equality reps and becoming active**

Equality reps are trade union members who receive special training on equality law and how to campaign and negotiate on equality issues. They support fellow members who have issues with equality, link up with fellow equality reps as part of regional networks, and are absolutely vital in pushing forward the equality agenda for black people working in both sectors.

If you are interested in becoming more active in the union or in becoming an equality rep follow the relevant link below to find out exactly what is involved, what time off you could be entitled to, and what special training you can receive.

If you can't commit to a regular task, could you volunteer to organise a recruitment and information stall in your building or canteen? Local branches and associations welcome the involvement of members – you can get your local contact details from the UCU website. New activists and the enthusiasm and passion of members hold the key to UCU achieving change for black workers in further and higher education.

### **USEFUL LINKS – BECOMING ACTIVE**

#### ***Becoming a rep***

[www.ucu.org.uk/rep](http://www.ucu.org.uk/rep)

#### ***Becoming an equality rep***

[www.ucu.org.uk/equalityrep](http://www.ucu.org.uk/equalityrep)

#### ***The UCU developing activists network (DAN)***

[www.ucu.org.uk/dan](http://www.ucu.org.uk/dan)

#### ***UCU campaigns team***

[www.ucu.org.uk/ncot](http://www.ucu.org.uk/ncot)

#### ***The TUC guide to organising and campaigning***

<http://bit.ly/vXJctI>

## **Anti-fascism**

UCU stands firm with the trade union movement to oppose all forms of prejudice, harassment and oppression. Our rules set out this commitment to equality, justice and the right to organise in defence of our members. We believe that the doctrine of fascism represents the opposite of these values. Where we value diversity, fascist organisations seek to divide on the grounds of race, gender, religion, sexual orientation and disability.

You can become active as a UCU member in the fight against fascism and racist organisations. UCU affiliates to both Unite against Fascism (UAF) and Hope not Hate. Hope not Hate is Searchlight's campaign to counter racism and fascism in elections and beyond. UAF is a national campaign with the aim of alerting British society to the rising threat of the extreme right. Please check their websites for details of how to help and for information on the fight against fascism.

### **USEFUL LINKS – FIGHTING FASCISM**

**Unite Against Fascism**

[www.uaf.org.uk](http://www.uaf.org.uk)

**Hope not Hate**

[www.hopenothate.org.uk](http://www.hopenothate.org.uk)



# 3

## What to do if you are being discriminated against

If you believe your employer has discriminated against you because you are black, whether this was by your manager or by a colleague, while at work or in the process of applying for a job, you may consider one of the following courses of action.

- Complain informally to the employer.
- Complain formally using the employer's own grievance procedures.
- Make a claim to the employment tribunal.

### **Gathering evidence**

Before doing any of these things you should carefully consider whether what happened was against equality law. Write down everything that happened and gather as much evidence as you can with the support of a union rep – see *How UCU can help* on page 17 of this guide. You should also seek advice on your employer's grievance procedure and the law. Try to identify if, and where, the law has been breached. If you believe you have been discriminated against because of your ethnicity, you need to show that your protected characteristic\* played a part in what happened.

### **USEFUL LINKS – GATHERING EVIDENCE**

**Home Office: Process for complaints under the Equality Act 2010**

<http://bit.ly/MK8LuG>

**Home Office: Discrimination and other prohibited conduct complaints – obtaining information**

<http://bit.ly/TTqena>

\*Race is a protected characteristic under the Equality Act 2010. This is explained in more detail in Section 4, page 18.

## **USEFUL LINKS**

### ***Home Office: Discrimination and other prohibited conduct complaints – questionnaire***

[www.homeoffice.gov.uk/publications/equalities/equality-act-publications/complaints-Equality-Act/prohibited-conduct-questionnaire?view=Binary](http://www.homeoffice.gov.uk/publications/equalities/equality-act-publications/complaints-Equality-Act/prohibited-conduct-questionnaire?view=Binary)

### ***Home Office: Discrimination and other prohibited conduct complaints – answer form***

<http://bit.ly/UdFlwR>

## **Bringing a grievance using the employer’s own grievance procedures**

If the informal approach has not delivered the result you were hoping for, and you believe your concerns have not been addressed, you should next look at raising a formal grievance using the institution’s own procedures. You should consult your UCU rep before taking this step – please refer to the end of this section. Your employer should have a written grievance procedure to deal with claims of racial discrimination and harassment which you should study. If you are not sure where to find it, check the company handbook, HR manual, intranet site or your own employment contract.

Don’t forget to talk to your branch reps and, where appropriate, your colleagues. It may be that you are not alone in facing the issue, in which case the branch can consider collectivising the matter.

### **Letter and interview**

It is highly likely that as part of raising a formal grievance your institution will ask you to put your concerns in a letter, and will also invite you to a meeting. In your letter set out plainly:

- what you believe has been done (or not done), to whom and by whom
- when these incidents took place, giving dates and times and including evidence



- any financial losses incurred giving evidence (receipts etc).

Your letter should also say what you would like to happen, for example:

- an apology
- changes to the way they do things
- money as compensation.

After receiving your letter your employer should invite you to a meeting to discuss your complaint. It should be held as soon as possible at a time and place convenient for you. By law you are allowed to bring a colleague, trade union representative or a trade union official with you to the meeting and they must give that colleague time off work to attend the meeting. It should be acceptable to bring a friend or family member instead, but you should ask permission for that in advance. In advance of the meeting, make a list of all the things you want to cover in the discussion. Make sure somebody takes notes and, if something happens during the meeting that you think is important, make sure that it has been recorded. Ask to see the notes at the end of the meeting to ensure you are happy with them. If English is not your first language and you think you may have difficulty understanding everything, ask your employer to arrange for an interpreter to be present.

### **Appeal**

The employer will tell you the result of your complaint after the meeting and when they have considered the issues and evidence put before them. If you are not happy with the response, you can appeal. This will probably result in you having to submit another letter and having another meeting with somebody more senior. Try not to simply repeat the concerns of your original complaint but aim to frame it differently and respond directly to the decision that has been made following the first meeting.

After this you may or may not have another right to appeal. Take it as far as you can with the institution's internal procedures before considering any other course of action. Consult the links below for more information.

## **USEFUL LINKS – SOLVING DISPUTES**

**TUC: Tackling racism in the workplace**

[www.tuc.org.uk/extras/tackling%20racism%20negs.pdf](http://www.tuc.org.uk/extras/tackling%20racism%20negs.pdf)

**Gov.uk: Solving a discrimination dispute**

[http://www.direct.gov.uk/en/Governmentcitizensandrights/Yourrightsandresponsibilities/Discrimination-yourrights/DG\\_195201](http://www.direct.gov.uk/en/Governmentcitizensandrights/Yourrightsandresponsibilities/Discrimination-yourrights/DG_195201)

**Equality and Human Rights Commission (EHRC): What to do if you believe you are being discriminated against**

<http://bit.ly/SbX512>

**ACAS: Race discrimination**

[www.acas.org.uk/index.aspx?articleid=1849](http://www.acas.org.uk/index.aspx?articleid=1849)

**Problems at work, a free guide from ACAS, TUC, BIS and CAB**

[www.bis.gov.uk/files/file50732.pdf](http://www.bis.gov.uk/files/file50732.pdf)

**UCU: Discrimination, bullying and harassment**

[www.ucu.org.uk/bullying](http://www.ucu.org.uk/bullying)

### **Employment tribunals**

If you believe you have been discriminated against because you are black, and have exhausted every avenue with the employer's own procedures then you may wish to consider an appeal to an employment tribunal on the grounds of discrimination.

Favourable outcomes at employment tribunals vary according to the individual case and can range from reinstatement instructions through to compensation. The tribunal process itself can be lengthy, and quite often institutions decide to settle shortly before the case is heard. This frequently happens where the employer has been holding on, hoping that the member of staff concerned will withdraw his or her allegation before the hearing. If UCU decides your case should be taken to a tribunal, it has the experience and access to the necessary legal advice to best prepare your case. Eligible members will also have the support of UCU's legal aid scheme, giving you the best advice on how to proceed.



To be eligible for help under UCU's legal scheme, you must have been a UCU member for 90 days. Meanwhile, any application must be made to an employment tribunal **within three months of the discrimination. This means that you must alert your UCU branch of your concerns immediately.**

Bear in mind that the success rate of race discrimination claims at tribunal is extremely low. At full employment tribunal hearings this is around 3%, but many settle beforehand so, where possible, it is best to resolve the issue within the institution.

### **USEFUL LINKS – EMPLOYMENT TRIBUNALS**

#### ***HM Courts and Tribunals Service***

[www.justice.gov.uk/tribunals/employment](http://www.justice.gov.uk/tribunals/employment)

#### ***EHRC: The employment tribunal claims process***

<http://bit.ly/RvJe6Q>

#### ***Gov.uk: Employment tribunal guidance***

<http://bit.ly/21RnWn>

#### ***WorkSmart: What happens at a tribunal hearing?***

[http://www.worksmart.org.uk/rights/what\\_happens\\_at\\_a\\_tribunal\\_hearing](http://www.worksmart.org.uk/rights/what_happens_at_a_tribunal_hearing)

### **Disciplinary action**

- In 2001, Nottingham City Council revealed a trend that was believed to be widespread – that black workers were disproportionately subject to disciplinary action. It commissioned a research study from the Institute for Employment Studies to understand why this was. The report concluded that managers were using some procedures inappropriately to deal with situations and that this racially-biased action led to black staff being discriminated against. Unnecessary or unfair disciplinary action undermines the confidence of black workers in the workplace and affects their chances of career progression. It is often an indicator of poor management and supervision in the workplace.<sup>1</sup>

<sup>1</sup>Unison: *Challenging racism in the workplace*

- Institutions should be monitoring disciplinary action by ethnicity and analysing resulting data. If black people are being disciplined disproportionately highly, reasons need to be found. For example, are black members communicated with and trained effectively, and are disciplinary actions used to cover up issues of management incompetence?

### **Redundancy**

In the current climate of widespread redundancies, there is evidence to suggest that black people are being disproportionately affected. A recent freedom of information request from UNISON revealed that in 17 of London's councils, black workers were unfairly bearing the brunt of the cuts. In one council, black workers made up just 31% of the workforce but 63% of the redundancies. In another council black women constituted 5% of the workforce but 23% of redundancies.<sup>2</sup>

Under the Equality Act it is illegal to make redundancy decisions based upon any of the protected characteristics. When an institution decides to make redundancies, it should properly consider the impact its decision may have on different equality groups and check that it is complying with anti-discrimination legislation. It should therefore carry out an equality impact assessment to show that it has considered the effect its decisions will have on all groups of staff.

### **USEFUL LINKS – REDUNDANCY**

***ECU: Equality in restructuring and redundancy***

<http://bit.ly/TOXgil>

***UCU: Challenging redundancies in higher education***

[www.ucu.org.uk/media/pdf/9/3/ucu\\_challredundancy\\_jun09.pdf](http://www.ucu.org.uk/media/pdf/9/3/ucu_challredundancy_jun09.pdf)

***Joint agreement on redundancies in further education***

[www.unison.org.uk/file/A10865.doc](http://www.unison.org.uk/file/A10865.doc)

***UCU: Proforma for equality impact assessments***

[http://www.ucu.org.uk/media/docs/6/7/ucu\\_iaproforma.doc](http://www.ucu.org.uk/media/docs/6/7/ucu_iaproforma.doc)

<sup>2</sup>[www.unison.org.uk/asppresspack/pressrelease\\_view.asp?id=2600](http://www.unison.org.uk/asppresspack/pressrelease_view.asp?id=2600)





**TUC: Black workers and the recession**

<http://www.tuc.org.uk/equality/tuc-16626-f0.pdf>

**How UCU can help**

Before approaching management with a grievance you should seek UCU's help as follows:

- Seek initial advice from a UCU local representative. If you don't know how to contact your local branch officers, then your regional office can assist you. You can find details of UCU's regional offices on our website: [www.ucu.org.uk/yourcontacts](http://www.ucu.org.uk/yourcontacts)
- You should contact your departmental union rep or your UCU branch/LA secretary, although you may find it useful to talk to other members of your branch as well, particularly your branch equality officer. When you arrange a meeting with the employer to discuss your complaint, your union rep should attend with you.
- Your local branch will nominate someone who will be your first point of contact. They should be able to listen to your concerns and discuss with you the best way to raise them with management. Tell them about any evidence you have relating to your complaint. Make sure you both know the institution's complaints and race discrimination policies and procedures.
- Keep a diary of events and save any relevant information including letters, emails and other documents that may relate to your case.

**USEFUL LINKS – GETTING HELP** 

**Getting support**

[www.ucu.org.uk/support](http://www.ucu.org.uk/support)

**Regional office finder**

[www.ucu.org.uk/yourcontacts](http://www.ucu.org.uk/yourcontacts)

# 4

## The Law

This section will guide you through what you need to know about equality law in the UK; how it can protect you and empower you to challenge racism and promote equality. The Equality Act 2010, although weakened by the ConDem government, provides protection for black people against prejudice and bigotry, obliges institutions to protect and promote equality, and gives licence to challenge unequal or racist practices.

The basis of race discrimination law in the UK was formed with the Race Relations Act (1976). This Act was amended and strengthened after the Stephen Lawrence Inquiry identified the problems of institutional racism in 2000, leading to additional reforms such as the equality duty, compelling institutions not just to comply with law, but to positively monitor and promote equality in their workforces. The Act was then superseded by the Equality Act in 2010, which consolidated all existing equality legislation. You can find links to a range of resources explaining the Equality Act and current race discrimination law at the end of this section.

The Equality Act works by identifying specific ‘protected characteristics’ that mean a person is more susceptible to discrimination or attack. Race is one of those protected characteristics, referring to a group of people defined by their race, colour, and nationality, including citizenship, ethnic or national origins. The other protected characteristics are age, disability, gender reassignment, religion or belief, sex, sexual orientation, marriage and civil partnership, and pregnancy and maternity.

### **Direct discrimination**

Direct racial discrimination occurs when somebody is treated less favourably because of their race, than others in similar circumstances. Racist abuse and harassment are both forms of direct discrimination.



### **Example**

A college lecturer is removed from teaching a class on the grounds that management want somebody of the same ethnic background as the majority of students in that particular class. The decision cannot be justified by any other criteria, and represents direct racial discrimination.

### **Discrimination by association**

This is direct discrimination against somebody because they associate with another person who possesses a protected characteristic. This means that even if a person is not black, they may experience racial discrimination as a result of their association with a black person.

### **Perception discrimination**

Perception discrimination is direct discrimination against an individual because others think they possess a particular protected characteristic. It applies even if the person does not actually possess that characteristic.

### **Example**

A British man with excellent qualifications and experience applies for a job for which he meets the criteria in the job description, but is not selected for interview because he has an African-sounding name. He has fallen victim to racial (ethnic or national origins) perception discrimination.

### **In context**

Researchers from the National Centre for Social Research carried out extensive research for the Department of Work and Pensions on this issue. They sent out 3,000 matched applications for jobs ranging from positions requiring highly-qualified applicants such as accountants and IT technicians, to less well-paid positions such as care workers and sales assistants. They found that, on average, someone with a British name had to send nine applications before getting an interview, while those with an African or Asian name had to send 16.

### **Indirect Discrimination**

Indirect discrimination can occur when an employer sets conditions, rules or policies in the organisation that apply to everyone, but may disproportionately affect people who share a protected characteristic.

### Example

A rule that all employees cannot wear headgear would discriminate and exclude certain groups, such as Sikh men and boys who wear a turban, in accordance with Sikh practice.

### In context

UCU is committed to ensuring that all its members and the students they teach or represent are free to wear religious attire in the institutions they work in, to ensure fair access to employment and education for all. You can read UCU's religious attire policy here: <http://bit.ly/TOXFIk>

### Harassment and victimisation

These terms each have a defined meaning in the Equality Act. *Harassment* is 'unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating hostile, degrading, humiliating or offensive environment for that individual'.

*Victimisation* occurs when an employee is treated badly as a result of the fact that they have made or supported a complaint, or raised a grievance under the Equality Act. This part of the act aims to protect you if you fear you may be discriminated against for making a complaint or lodging a grievance. The act also covers employees who are suspected of having made or supported a complaint or grievance.

### The public sector equality duty

The law is concerned not just with correcting and rectifying discrimination when it occurs. Your institutions should also be thinking about how they are creating the climate and the structure to prevent racism in the first place and also promoting equality. That's where the public sector equality duty comes in.

The duty (at section 149 of the Equality Act) requires public bodies to consider all individuals when carrying out their day to day work – in shaping policy, in delivering services and in relation to their own employees.



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**USEFUL LINKS – THE PUBLIC SECTOR EQUALITY DUTY**



**UCU: Equality duty (includes guides to the specific duties)**

[www.ucu.org.uk/equalityduties](http://www.ucu.org.uk/equalityduties)

**UCU: Equality duty toolkit**

<http://bit.ly/Pos1xY>

**TUC: Guide to the public sector equality duty**

<http://bit.ly/VdYHwV>

**The Macpherson Report, ten years on**

[www.statewatch.org/news/2009/jul/uk-hasc-macpherson.pdf](http://www.statewatch.org/news/2009/jul/uk-hasc-macpherson.pdf)

**THE EQUALITY ACT**



**TUC: Equality law guidance**

[www.tuc.org.uk/tucfiles/130/guideequalitylaw2011.pdf](http://www.tuc.org.uk/tucfiles/130/guideequalitylaw2011.pdf)

**EHRC: Equality Act resources and guidance**

[www.equalityhumanrights.com/legal-and-policy/equality-act](http://www.equalityhumanrights.com/legal-and-policy/equality-act)

**UCU: Briefing on the 2010 Equality Act**

[www.ucu.org.uk/equalityact](http://www.ucu.org.uk/equalityact)

**Advisory, Conciliation and Arbitration Service (ACAS): Equality Act guidance**

[www.acas.org.uk/index.aspx?articleid=3017](http://www.acas.org.uk/index.aspx?articleid=3017)

**Home Office: Equality Act guidance**

<http://bit.ly/nL1BFh>

**GOV.UK: Racial discrimination resources**

<http://bit.ly/PosjoJ>

# 5

## Applying for jobs

As highlighted in Section 4, the National Centre for Social Research found that, on average, someone with a British-sounding name had to send nine applications before gaining an interview, while those with an African or Asian name had to send 16. Under the Equality Act, an employer must not treat you less favourably than another job applicant because you are black (a protected characteristic), as this would represent direct discrimination. An employer must not ask questions about your protected characteristics unless these are clearly related to the job. It is illegal therefore to select applicants for interview based on race, whether listed on the application form, or inferred from a name or other information supplied. Clearly, however, this still happens in practice.

If you suspect that you have not received a job offer because you are black you may be able to take your case to the employment tribunal but, in truth, this will be difficult.

If you are in post, you should encourage your employer or institution to implement a policy of positive action where disproportionate gaps exist among black staff.

Positive action is where an employer takes action to provide support, training, or encouragement to people who share a protected characteristic such as being black.

Positive action is only allowed where a particular racial group:

- suffers disadvantage
- is under-represented



- has needs that are different from the needs of other racial groups in the workforce

An employer has to ensure that any positive action taken is a proportionate way of tackling the disadvantage or under-representation experienced by particular racial groups, without discriminating against people outside of this group.

**USEFUL LINKS – APPLYING FOR JOBS** 

***EHRC: Your rights to equality at work when you apply for a job.***

<http://bit.ly/MmXPQw>

***Government Equalities Office: A quick start guide to using positive action in recruitment and promotion***

<http://bit.ly/rOKp4h>



# 6

## Promotion and progression

### **The evidence**

There is evidence that black people face greater difficulties in gaining promotion and more institutional resistance to career progression within both higher and further education. An Equality Challenge Unit report in October 2011 examined this issue in detail within English higher education institutions, revealing lower comparative levels of black staff progressing to high-level jobs. It also revealed lower levels of black staff in both sectors overall compared with the national statistic of around 11% of those employed in the UK identifying themselves as coming from a black or BME background. There were also worrying findings regarding the working environment black staff felt they experienced, and the weak support arrangements that institutions provide for black staff. Some of the key findings compiled in the report were:

- The proportion of academic staff from a BME background is at its lowest at professorial level (HEFCE, 2008); BME academic staff constitute 4.8% of professors and heads of departments, compared with 6.2% at lower level (UK nationals only; Connor, 2008).
- BME staff receive lower pay on average than other staff, and are less likely to benefit from a permanent/open-ended contract of employment (Institute of Employment Studies, 2005, based on a survey of 5000 staff).
- 23% of black and 21% of Asian managers rated their career progression as disappointing. This compared to only 13% of those from both white and mixed ethnic backgrounds.<sup>3</sup>
- In a survey of 37 institutions, 55% of institutions responded that racism was evident to varying degrees at their institution.

<sup>3</sup>TUC: *Tackling racism in the workplace*





- 85% of institutions responded that support arrangements exist for all staff at their institution. 46% responded that there are support arrangements in place for specific groups of staff, including disabled staff and lesbian, gay, bisexual and transgender staff, but only 33% thought there are support arrangements for BME staff.

The last piece of major research into the issues of representation, promotion and progression of black staff in FE institutions was carried out in 2005 by the Commission for Black Staff in Further Education. NATFHE, one of UCU's predecessors played an important part in putting together this report. Although this research was carried out in 2005, there has been little evidence to suggest that the picture has altered since then. It found that:

- only 1% of further education colleges had a black principal, representing four out of 412 mainstream colleges in England, including 107 sixth form colleges.
- black staff constituted just 4.9% of managers overall, 3.8% of heads of teaching departments and 4.6% of senior lecturers or equivalent.
- White staff were more likely to be employed in managerial positions with 9% employed as managers, compared with 6.2% of black staff.
- 65% of white staff were employed on permanent contracts, compared with 60% of minority ethnic staff.
- There were wide regional variations between black staff and local black populations. In London 25.5% of staff were black compared with a minority ethnic population of 28%; in the North West, 1.2% of staff were black compared with a minority ethnic population of 4%; and in the West Midlands, 8.3% of staff were black compared with a minority ethnic population of 10%.

Both of these reports also point to an over-representation of black workers in lower-paid jobs within academic and academic-related staff positions in further and higher education.

A comprehensive NUS report on the experiences of black students in further and higher education published in 2011 revealed that black students are less likely to be satisfied with their educational experience and less likely to attain first-class degrees in comparison to their white peers.

### **Recommendation 10.1 – NUS: Race for Equality report**

‘Ethnic diversity among staff is important for both black and white students, as it provides positive role models, as well as a range of perspectives that enrich learning and demonstrates an institution’s commitment to diversity. Universities and colleges need to improve the diversity of their staff to better reflect the diversity of their student body.’

For racism and inequality to be tackled in society, a representative workforce at all levels, with positive role models for young black people, is essential.

### **Temporary, short-term and agency staff**

The proportion of black agency workers has been quoted by the Department for Trade and Industry (DTI) as being three times higher than the proportion for the population as a whole. Agency staff and temporary workers are among those with the fewest rights and lowest pay and are most susceptible to redundancy. They are unlikely to get access to training and staff development and as a consequence are unlikely to progress in the workforce.

There are things you should look out for at your institution to ensure that black workers are not being exploited by being placed on poorly-paid temporary contracts. Find out if there is a union agreement on the employment of temporary or agency staff, what proportion of the workforce is employed on a temporary contract or through an agency, and whether the institution’s monitoring policy extends to those staff. If it does not, there may be an inaccurately positive picture in the statistics.

Find out if there are instances where jobs of a similar role or grade are being undertaken by staff on permanent contracts, and challenge this as a clear example of inequality. If there are instances where workers’



contracts are being automatically renewed, ask why they are not put onto a permanent contract.

UCU has produced a comprehensive guide to assist all temporary staff in further and higher education. If this is an issue that affects you or others in your institution, you can download it from the link below.

### **USEFUL LINKS – TEMPORARY STAFF**

**UCU: Survival guide for hourly-paid staff**

<http://bit.ly/TW3b5a>

### **What should institutions be doing? What can you can do?**

Recommendations from both reports quoted above, and other research, set out common practices that need to be adopted by institutions to ensure fair and representative promotion and progression for black staff:

- Ensure equality and diversity training is made available to managers responsible for making decisions affecting their department.
- Regularly monitor, analyse and make available data regarding the ethnic profile of your workforce. Make decisions based on your findings and report on those decisions.
- Actively initiate development opportunities for black staff. This may include mentoring or other skills-development initiatives that may help to mitigate occupational under-representation, and promote career progression.
- Ensure there is a safe environment and efficient mechanisms are in place for black staff to report dissatisfaction or make suggestions without fear of reprisal, resentment or discrimination. Monitor complaints and expressions of dissatisfaction and act upon disproportionate levels of frustration from particular groups.

There are a range of other more detailed recommendations contained in the reports. Remember that institutions have a legal obligation to pay due regard to the public sector equality duty.

The TUC guide *Tackling racism in the workplace* sets out a promotion checklist that you can use to quickly assess whether the right structures are in place at your institution to facilitate and encourage fair progression and promotion for black staff.

### **Promotion checklist**

- Is there a specific policy or scheme for career progression?
- How are promotion/acting up opportunities advertised?
- Are all workers eligible to apply for any promotion or acting-up opportunities?
- If not, what reasons are given for limiting access?
- Is there evidence to show that the employer has followed standard recruitment procedures for promotion? Are job descriptions and person specifications available for the job, and are applications assessed against this?
- Do applicants who wish to apply for promotion or acting up complete a standard application form?
- Are interviews held before making an appointment?
- Are you aware of black workers applying for promotion but consistently being turned down?

### **USEFUL LINKS – PROMOTION AND PROGRESSION LINKS**

**ECU: Experience of Black and minority ethnic staff in HE in England**  
<http://bit.ly/SqPRHu>

**Commission for Black Staff in Further Education: Challenging Racism**  
<http://www.unison.org.uk/file/A2665e.pdf>

**ACAS: Tackling discrimination and promoting equality**  
<http://www.acas.org.uk/CHttpHandler.ashx?id=318&p=0>

**NUS: Race for equality**  
[http://www.nus.org.uk/PageFiles/12350/NUS\\_Race\\_for\\_Equality\\_web.pdf](http://www.nus.org.uk/PageFiles/12350/NUS_Race_for_Equality_web.pdf)

# 3

## Ways to get involved

As the biggest post-school teaching trade union in the world, UCU gives you a real voice and collective strength. As a member, you provide the key to that strength. UCU, in common with all trade unions, relies on our members to run the union. We have a small number of full-time paid staff, but the huge bulk of union work is carried out by volunteers and our members. Black members play an important role in running the union – but we always need more activists and new people to come forward to get involved. In today’s climate particularly, black members are under great pressure at work and free time is at a premium, but even a little help can make a lot of difference.

### **What does the union do?**

Most trade union work takes place in the workplace. UCU has regional and national committees, including the black members’ standing committee – see *Section 2, Union structures* – but it is local work that keeps the union running. You don’t have to become an officer or full-time activist to help out.

The main areas of local union work are:

- **Negotiating:** this is where we talk to management, sometimes about local policies or issues or sometimes about particular areas such as health and safety. UCU can help to negotiate a better equal opportunities policy for your institution. Keep UCU informed about unsatisfactory practices and procedures relating to black people at your workplace.
- **Campaigning:** this could be raising local or national issues, talking to people about the union, distributing union material or running campaigning or recruitment stalls.

- **Casework:** this is the representation of individual members. UCU will provide training for new caseworkers. Ask UCU about training programmes, which are run regularly, both locally and nationally. There is further information about UCU training on the union's website: [www.ucu.org.uk/training](http://www.ucu.org.uk/training)

There are opportunities to get involved in all of these areas. Perhaps you would like to be trained to support other members facing race discrimination? Or could you act as a departmental or subject rep and distribute union materials?



