

Race Discrimination Claims Protocol

Where a member or their representative believes that they have been the subject of race discrimination in their workplace, the Branch must ask the member to complete a CASE form as soon as possible to ensure that any Employment Tribunal deadline is not missed.

All CASE forms setting out allegations of race discrimination must be forwarded by Branches to the Region promptly and without delay.

The Region must refer all race cases to Thompsons, using the CASE protocol, for a preliminary legal assessment to be made. A record of the request must be retained on CASE. Where Thompsons give a negative assessment, the Region, in conjunction with the Branch, will (a) obtain further information and evidence from the member; (b) seek a further full assessment from Thompsons and (c) arrange a meeting with Thompsons in person, or by telephone, to assist Thompsons in making their assessment. The member may choose to be accompanied by someone from the Branch. In the event that an Employment Tribunal limitation date arises before Thompsons' merits assessment has been received and before Thompsons have agreed to represent the member it is the responsibility of the Regional Officer to ensure that a protective claim is lodged within the time limit for bringing a claim.

At all stages of the process, Regional staff and the Branch should seek to identify potential organising and/or collective bargaining opportunities which would further our campaign against racism in the workplace.

In order to ensure that members complaining of race discrimination in the workplace are provided with the best representation and support, and in order to advance our campaign against racism in the workplace, Regions are reminded of the following -

- (a) Regions must feed back summary information on cases to Regional Black Members' Committees.
- (b) Regions must ensure that Thompsons are invited, on an annual basis, to discuss work being done on race discrimination cases with Regional Black Members Committees. These meetings will include a full statistical breakdown comprising of the number of race cases accepted/rejected during the year, etc.
- (c) All Regional and Area Organisers should have attended a mandatory race awareness training course. If any Regional or Area Organisers have not attended a course, they must do so at the earliest opportunity.
- (d) Regions must monitor particular problematic employers and report back to Branches so that work can be delivered on exerting industrial pressure upon employers to deal with racism in the workplace.
- (e) If at any stage during the process the Regional Organiser, having taken advice from Thompsons, decides not to proceed, and the member or Branch are unhappy a request can be made to the Regional Secretary to review the case. The Regional Secretary will consult the Head of Legal Services to consider the following –

- (i) Test 1 - merits of the case
 - (ii) Test 2 - strategic importance
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- (f) If the Regional Secretary decides not to pursue the case because the case has neither reasonable prospects of success nor strategic importance, a case conference will be convened, involving the relevant representative(s) of black members (selected following discussion between the Chair of the Regional Black Members Committee and the Regional Secretary), the Regional Organiser, Regional Secretary and Regional Management members Team if appropriate, a representative from Thompsons, legal services, the member and branch. If following examination of the case a consensus on how to proceed cannot be reached, the original decision will be invoked. The case conference, contents of discussions and communications at, and relating to, the case conference are confidential. Any individual participating in a case conference established under this paragraph requiring a briefing/training on the operation of the Protocol, or UNISON's legal process, should submit a request in writing to the Regional Secretary.
 - (g) If the decision is not to pursue the Tribunal case, the Branch, in partnership with the Regional Organiser, should continue to provide support to the member in the workplace in line with the union's representation guide.
 - (h) Following the case conference, if the decision is taken to request pursuing an Employment Tribunal case the Regional Secretary will seek authority via Head of Legal Services from the Chair of Services to Members to proceed. It is the requirement of rule K of UNISON'S rules that the decision to run an Employment tribunal case is a matter at the absolute discretion of the NEC.
- (6) If UNISON decides not to pursue a case but the member wishes to go ahead and engages their own legal representative and succeeds at an Employment Tribunal, the union will exercise discretion, in consultation with the Chair of Services to Members, in deciding whether to reimburse the costs incurred by the member. This discretion will only be applied in circumstances where it is proven this protocol has not been adhered to (in part or in full).

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