

# Combating racist abuse in the workplace

*A TUC guide to protecting migrant and Black and  
Minority Ethnic workers from violence, harassment  
and abuse*

# Combating racist abuse in the workplace – a TUC guide

## Introduction

This TUC guide aims to support union reps to combat racist abuse in the workplace.

Following the June referendum on UK membership of the EU there has been a significant increase in reported hate crimes. The threats and abuse have not been limited to EU migrants in the UK but also towards non-EU migrants and British born Black and Minority Ethnic (BME) people.

The Metropolitan Police reported a 50% increase in recorded incidents in the week after the referendum, while the National Police Chiefs Council said there had been a 57% rise in hate crimes in the first three days after the vote. Within a month of the referendum there had been more than 6,000 reports of hate crime to police.

Anecdotal evidence from migrants and British BME people indicate that there has also been an increase in other forms of abuse, such as on social media, which often go unreported.

Racist violence, abuse and harassment are not new and did not suddenly appear during or after the referendum on EU membership. However, it appears that the negative way that migrants were portrayed in the campaign has given confidence to some with racist attitudes to voice their view publicly. It has also led to a growth in visibility of the far right.

Even before the referendum was called, racist incidents were increasing.

Anti-Semitic incidents and incidents aimed at Muslims have both increased in the past few years. According to a Home Office report, there was an 15% increase in reported hate crimes based on race in the year 2014/15 compared to the year before and a 43% increase in reported hate crimes based on religion.

There are also reports that people are experiencing growing abuse while working. Violence and harassment was already a significant problem in the workplace. According to research from the Health and Safety Executive, there were 569,000 incidents of work related violence in 2014/15. This includes being assaulted or spat on or being threatened with violence.

The government does not publish a breakdown of the figures, but those sectors where there is a higher proportion of migrant or BME staff (such as health, retail and social care) have some of the highest rates.

However violence is only one aspect of the abuse that many migrant and BME workers experience. Reports of harassment and discriminatory behaviour at work include patients who refuse to be attended to by NHS workers from other parts of Europe, shop workers being told by customers they now had to “go home”, and bus and taxi drivers facing similar abuse.

Unions have a key role in combating racist abuse in the workplace. This guide sets out to help reps to play that role.

## What is abuse?

Racist or religious hate incidents can take many forms including verbal and physical abuse; bullying; threatening behaviour; online abuse; damage to property.

According to the Crown Prosecution Service, a hate incident is any incident which the victim, or anyone else, thinks is based on someone's prejudice towards them because of their race, religion, sexual orientation, disability or because they are transgender. It says that "racist and religious crime is particularly hurtful to victims as they are being targeted solely because of their personal identity, their actual or perceived racial or ethnic origin, belief or faith. These crimes can happen randomly or be part of a campaign of continued harassment and victimisation."

However a racist incident does not need to be a crime to be abuse. It can be any discriminatory action or remark aimed at or about a person or group.

In the workplace, it is not only clients, customers or the public who may be abusing or harassing workers. It can be employers, line managers or colleagues.

### **The TUC Equality Law guide says the following on harassment:**

#### **Harassment**

*Individuals often use the word 'harassment' to describe situations where they feel that they are being bullied or unjustifiably 'picked on'. However, the Act has strict definitions of harassment. Individuals must fall within one or more of these definitions if they wish to pursue a claim of unlawful harassment under the Act. The first definition of harassment states that a person A harasses another B if A engages in unwanted conduct related to a relevant protected characteristic and the conduct has the purpose or effect of:*

- *violating B's dignity, or*
- *creating an intimidating, hostile, degrading, humiliating or offensive environment for B.*

*The unwanted conduct must be related to one of the following protected characteristics: age, disability, gender reassignment, race, religion or belief, sex, or sexual orientation.*

#### **What sort of conduct could constitute harassment?**

*It could take many forms, for example, abusive language, name-calling, jokes, banter, mimicry, gestures, assault, offensive emails, displays of pictures or posters and so on.*

# Tackling abuse in the workplace

## The law

Health and safety law applies to risks of violence (including verbal abuse), just as it does to other risks at work. Under the Health and Safety at Work Act employers have to ensure, so far as is reasonably practical, the health safety and welfare of their employees. The 1999 Management of Health and Safety at Work Regulations also state that employers have a duty to consider the risks to workers (including the risk of reasonably foreseeable violence), assess the risks and then prevent or control them.

The Equality Act 2010 makes it unlawful to discriminate against workers because of a protected characteristic. That includes their religion or belief, or their race, including colour, nationality, and ethnic or national origin. It specifically states that harassment is a form of discrimination and defines harassment as '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'. In addition, public sector employers are bound by the stronger Public Sector Equality Duty which places on them a duty is to integrate consideration of equality and good relations into their day-to-day business.

Employers also have a 'duty of care' for all their workers. Employers are usually responsible in law for the acts of their workers. Breach of contract may include the failure to protect an employee's health and safety at work.

Workers who are assaulted, threatened or abused at work also have legal remedies

available to them under civil law. These can result in damages against the employer or individuals, the most common remedy for which is a personal injury claim.

Under criminal law, there are two main types of racist and religious hate crime. These are racially or religiously aggravated offences under the Crime and Disorder Act 1998 and any other offences for which the sentence can be increased under the Criminal Justice Act 2003 if they are classed as a hate crime.

The Protection from Harassment Act 1997 makes harassment a criminal offence and violence and threatening behaviour are also criminal offences.

## The role of Employers

Employers must ensure that all employees have a right to work in a safe environment without discrimination or the fear of harassment or abuse. While many employers have policies on bullying and harassment at work and an equal opportunities or anti-racism policy, they may have been in place for some time and could now be in need of review. They also may need promoting to all workers, customers or service users at this time.

As part of their policy, employers should make it clear that there will be zero tolerance in the workplace for any form of racist abuse or harassment whether from visitors, customers, clients or employees.

This means more than just putting up a poster. All staff should be trained and supported on how to deal with any abuse they witness or receive, whether inside the workplace or from others if it is directed at a worker. It must be made clear that any discriminatory or abusive remarks are unacceptable - 'banter' is no excuse.

There should be simple methods for reporting any abuse or harassment and any reports must be acted on. This has to include a policy for dealing with any customers or service users who are abusive or threatening.

### **ADVICE FROM THE EQUALITY AND HUMAN RIGHTS COMMISSION**

*Talking about contentious political issues:*

■ *Any discussion about contentious political issues should be conducted sensitively and with respect for the views and positions of others.*

■ *We all have the right to freedom of expression, but this does not extend to the protection of speech that discriminates against, harasses or incites violence or hatred against others.*

Risk assessments should always include the possibility of violence or abuse and, if any risk is identified, the employer has a duty to consider what steps they should take to reduce that risk. Often employers will suggest personal alarms etc., to deal with the risk of threatening behaviour, but, while these can be useful they are not a replacement for dealing with the issue at source and looking at working practices that may make abuse more likely, such as having employees work alone or jobs that entail visiting patients or customers in their homes.

Support should also be offered to anyone who experiences any kind of race hate incident and who is worried about the

possibility of abuse. This may involve making links with local BME or migrant support groups, or access to an employee assistance programme.

Employers should also make it clear that they will support any workers if they wish to report an incident to the police or are involved in any criminal case as a victim or witness, including providing legal advice or assistance if necessary. It should not normally be up to the employer to decide whether to involve the police, but the victim, who should be offered support and advice before deciding.

*It should be made clear to any migrant workers that they are a full and valuable member of the workplace and that this has not changed as a result of the "Brexit" vote.*

Employers need to involve the union in joint work to combat racism, harassment and abuse in the workplace.

#### **Checklist for employers**

- Have and promote zero tolerance policy
- Ensure you have a policy for dealing with bullying and harassment at work
- Train all staff
- Have systems in place to support affected staff
- Review reporting mechanisms
- Work jointly with unions

## The role of Unions

Unions have a major role in helping to ensure that workplaces are free from incidents of abuse or harassment aimed at migrant or BME workers. You should check with your union about their policies for dealing with harassment, discrimination and bullying.

All stewards should receive training on how to support and represent members suffering abuse. This should include how to be supportive and sympathetic as well as highlighting the need to make sure that the victims keep a record of any incident, including details of any witnesses. The TUC runs a number of courses on this, as may your trade union. Union workplace representatives also need to be clear on how to deal with cases of racial harassment or abuse where both the perpetrator and the victim are members.

One of the most important things union representatives can do is ensure that their employer has policies for preventing and dealing with any form of abuse. These may be part of a bullying and harassment policy, but also need to be seen as part of the employer's obligations to combat discrimination. Equally important, these policies must be regularly monitored and reviewed (*see section on the role of employers*).

If you think that racist abuse may be an issue that is faced by members in your workplace or if you receive any complaints of abuse or harassment then you should raise the issue with your employer as it may be that the current policies are not effective, are not being implemented or people are unaware of them.

Survey your members either as the union or jointly with the employer to find out if anyone has experienced or witnessed abuse, or is anxious as a result of the fear that they may experience abuse. You should also try

to find out if they are aware of the policies and procedures for preventing and reporting abuse.

Involve migrant and BME members in any work that you do to tackle racist abuse either within the branch or with employers. If you do not have a branch race equality or migrant workers group, you could consider supporting BME or migrant workers to set one up.

If there is more than one union recognised within your workplace then you should work together to make sure that the trade union movement is taking joint action to tackle abuse and harassment against migrants or BME workers.

Trade union branches can also work with local support or anti-racist groups such as Hope not Hate, Show Racism the Red Card or Stand up to Racism to help tackle racism in the wider community.

### **Checklist for union representatives**

- Check union policies and guidance
- Get all representatives trained
- Negotiate effective policies with employers
- Survey members
- Involve migrant and BME members
- Work with other unions and anti-racist bodies

## Further information

For information on your union's policies on harassment abuse and discrimination check their website.

The TUC has produced a number of guides for activists. Check the TUC website [www.tuc.org.uk/activist-resources](http://www.tuc.org.uk/activist-resources)

For information on training courses for union representatives contact your trade union or unionlearn [www.unionlearn.org.uk](http://www.unionlearn.org.uk)

ACAS guidance on bullying and harassment and race discrimination are on their website [www.acas.org.uk/](http://www.acas.org.uk/)

The Equality and Human Rights Commission have produced a leaflet and letter to employers on race hate incidents [www.equalityhumanrights.com/en](http://www.equalityhumanrights.com/en)

There is joint guidance on preventing workplace harassment and violence which has been agreed by the CBI, TUC, ACAS and the HSE. [www.hse.gov.uk/violence/preventing-workplace-harassment.pdf](http://www.hse.gov.uk/violence/preventing-workplace-harassment.pdf)