

Tackling exploitation in the workplace: relevant legislation for organisations working with BAME groups

On 15th November 2016 ROTA held the first of its series of workshops on the role of exploitation and discrimination within the workplace. The event was attended by 22 participants, with presentations from Rosa Crawford of the TUC and Michael Reed of Free Representation Unit.

At the beginning of the workshop, participants were asked to consider three key questions:

Question 1 - Can you provide any examples of exploitation and/or discrimination experienced by individuals accessing your organisation?

The main industries BAME and migrant workers were considered to be most at risk of exploitation and discrimination were hospitality, construction, social care and factory based work. Underlining all areas were the role of agencies and the imposition of poor terms and conditions. This includes pressure to work long hours, 0 hours contracts, charging for copies of contracts and wage slips and other unspecified deductions from earnings. In some cases individuals are at risk from control by criminal gangs.

Concern was also raised in relation to work within domestic roles and the particular vulnerability experienced by migrants whose visa's permitted them to work for a specific employer.

There was a general understanding that the overlap of immigration status with employment can make individuals particularly vulnerable.

In addition to the position of migrant workers, participants also expressed concern in relation to discrimination and exploitation of BAME communities generally. It was felt that a number of organisations still lack sufficient diversity policies and the "Glass ceiling" and promotion opportunities still lacking for BAME staff. Specific issues with raised with regard to young people - both in unpaid internships or more formal apprenticeship schemes. As well as issues within larger organisations where policies are not always matching practice. This was considered to be the case for public sector workers such as NHS staff and the police. One participant raised the issue of 'anti-migrant' rhetoric within the workplace in recent months and the difficulty of raising a grievance where managers themselves are also responsible for racist treatment.

There was also concern that employers are still not giving adequate support to staff with mental health, substance misuse and transgender needs and discrimination is still prevalent in these cases.

There was consensus that in a time of “cut backs” excuses were being made for greater exploitation of staff and the failure of employers to meet their basic duties.

Question 2 - Can you give any positive examples of how you have provided support in these situations?

Few attendees had positive examples themselves but felt it was an issue that was prevalent in their work and that they required knowledge in how to tackle these issues.

A small number of participants did share their experiences. One individual explained how she was able to use her role within safeguarding to support a young person who was being exploited in an apprenticeship scheme and how they were able to advocate on behalf of the young person for better terms and conditions.

The group reflected on the importance of record keeping and the use of union membership.

Reference was made to recent high profile case examples including Deliveroo and Asda.

Question 3 - What difficulties have you encountered? (i.e. external support / legal representation etc.)

The number one obstacle identified was fear. This was based on concern that by raising a grievance, the individual would lose their employment and the consequences this would have on supporting their family. For migrant workers, recent changes to eligibility for certain welfare support payments now make it imperative that the individual remains in employment.

This was followed by concern for the intimidating, complex and stressful experience of grievance procedures and in limited cases, attendance at the employment tribunal.

The reduction in the availability of legal aid and therefore legal representation and employment tribunal fees created a significant obstacle for those brave enough to raise a formal complaint.

Participants were aware of the existence of a range of services (for e.g. Trade Unions, CAB, ACAS, Law Centres, Free Law Drop in Sessions, non-profit voluntary centres) but the issue was their limited capacity to take on cases. A number of participants stated that they had contacted their union but there was some concern as to the capacity of unions to take on cases and personal experiences of cases being refused by their union on the basis of projected likelihood of success.

Migrant workers were less likely to be in a union or in some cases working in the informal labour market. Some migrant workers can have concerns about losing employment which impacts on access to housing and welfare support, or in the case of undocumented workers, being subject to deportation for speaking out against an exploitative employer.

In some cases, the reduction in funding for support services has also affected the support on offer to individuals experiencing exploitation and discrimination. One participant discussed the “continued strangulation of services”. This has led to the provision of short term interventions at crisis level instead of prevention. And in some cases, it can be “difficult to know who provides the best support” or that the support on offer is most appropriate for their specific needs. One participant expressed concern at the “lack of age specific support services”.