Equality and
Human Rights
Commission

Tackling racial harassment: Universities challenged
Executive Summary

Executive summary

We launched our inquiry into racial harassment in publicly funded universities in Britain to examine staff and students' experiences of racial harassment and the effect they might have on their education, career and wellbeing. We also wanted to look at the extent to which universities have in place available, accessible and effective routes to redress for their staff and students if they experience racial harassment.

This report summarises the findings from our:

- public call for evidence

- university survey

- student survey

- roundtable discussions, and

- interviews with universities, students and staff.[1]

We also make recommendations for change.

Experience and impact of racial harassment

Racial harassment is a common experience for a wide range of students and staff at universities across England, Scotland and Wales.

Around a quarter of students from an ethnic minority background (24%), and 9% of White students, said they had experienced racial harassment since starting their course. This equates to 13% of all students.

20% of students had been physically attacked. 56% of students who had been racially harassed had experienced racist name-calling, insults and jokes. Other common experiences included:

- subtle and nuanced acts, often known as microaggressions

- being ignored or excluded from conversations or group activities, and

- being exposed to racist material or displays.

In most cases students said their harasser was another student, but a large number said it was their tutor or another academic.

---

[1] The full findings are available in our research reports: '**Racial harassment inquiry: survey of university students'** (available on request) and '**Racial harassment inquiry: survey of universities'**, and 'Racial harassment in British universities: qualitative research findings'.

Over half of staff who responded to us described incidents of being ignored or excluded because of their race. More than a quarter said they experienced racist name-calling, insults and jokes. Much of this harassment took place in office environments, frequently in plain sight of their colleagues.

International students told us about feeling unwelcome, isolated and vulnerable.

We received examples of anti-Semitic and Islamophobic slurs, and anti-English sentiment at Scottish and Welsh universities, for both staff and students.

We were told that most incidents were part of a pattern of repeated harassment.

Racial harassment can have a profound impact on an individual's mental health, educational outcomes and career.

Racial harassment can cause humiliation, isolation, loss of confidence and serious harm to mental health and wellbeing. Students who experienced racial harassment said they were left feeling angry, upset, depressed, anxious and vulnerable; 8% said they had felt suicidal. Staff reported experiencing similar impacts.

Students and staff disengaged from core activities, to keep themselves safe or to prevent further erosion of their confidence and wellbeing, but at a cost to their studies or careers. Around 1 in 20 students who responded to our call for evidence said racial harassment caused them to leave their studies. Around 3 in 20 staff said racial harassment caused them to leave their jobs, with many more saying they were considering, or had considered, doing so.

Over 1/2 of staff

who responded to us described incidents of being ignored or excluded because of their race.

More than a 1/4 of staff

told us they experienced racist name-calling, insults and jokes.

Transparency and scrutiny

Staff and students are not adequately protected by the law

The main source of legal protection from racial harassment for university staff and students is the Equality Act 2010. There are limits to the protection the Equality Act 2010 provides, particularly regarding harassment of staff or students by third parties, including for student-on-student and student-on-staff harassment.

Publicly funded universities are subject to the public sector equality duty (PSED) which puts a duty on universities to pay due regard to the need to eliminate harassment. It does not place a positive duty on universities to take all reasonable steps to prevent racial harassment. In the absence of this positive duty, the onus falls on individuals to challenge by pursuing legal cases, which can be a daunting and expensive prospect.

Effective redress

The higher education sector does not fully understand racial harassment and university staff lack confidence in dealing with race issues

University staff often lack the understanding, skills and confidence to manage conversations about race effectively. This can lead to anxiety in managing incidents of racial harassment, because of a fear of getting it wrong and possibly facing allegations of discrimination. This in turn undermines fair treatment and the prospect of early resolution. Some staff receiving complaints informally may not act effectively or at all. Students and staff gave examples of how this lack of understanding has led to poorly handled complaints and in some cases, complaints being dismissed altogether.

1 in 20 students said they left their studies due to racial harassment

3 in 20 staff said racial harassment caused them to leave their jobs
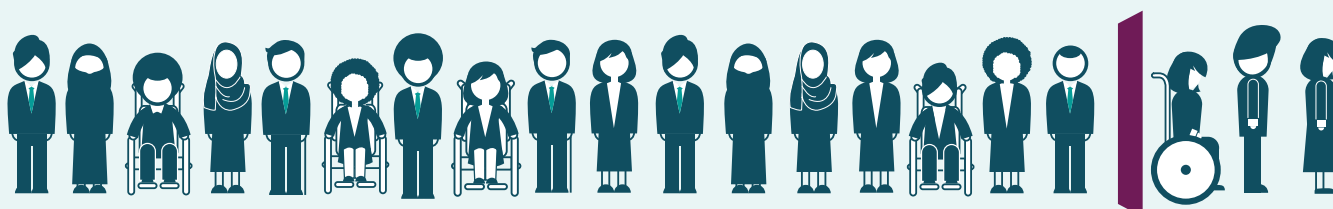
Most students and staff do not report racial harassment

Our survey found that two-thirds of students who said they had experienced racial harassment during the first half of the 2018/19 academic year did not report it to their university. Fewer than half of all staff respondents to our call for evidence, who had been racially harassed, reported their experiences. They told us this was because they:

- had no confidence that the university would address it

- did not know how to report

- could not judge whether it was serious enough to report, or

- had difficulty proving what occurred.

Others feared the personal consequences that reporting might have on their education, career and wellbeing, or worried they would be seen as a troublemaker. For students, this was most evident where their tutors had the potential to directly affect long-term career prospects, especially for students on medical placements and postgraduates carrying out research working closely with senior academics.

Under-reporting and recording restricts the universities' ability to take action

Many universities significantly underestimate the prevalence of racial harassment and have misplaced confidence in people's willingness to come forward.

In fact, within a six month period in 2018/19, 8% of all students in our survey (an estimated 180,000 if scaled up to the entire student population) said they had experienced racial harassment. One third of these (equivalent to 60,000) said they reported it to their university. However, our survey of universities found that, across all 159 publicly funded universities in Britain, they had recorded around 559 complaints of racial harassment from students over a period of three-and-a-half years. This works out at only around 80 formal complaints every six months.

Although many universities thought that staff and students were likely to raise complaints informally, for example, through their tutor or students' union representative, more than half did not have processes for collecting data on informal complaints.

559 recorded complaints of racial harassment

from students over a three-and-a-half year period across all 159 publicly funded universities in Britain

Universities received an average of just 2.3 total staff complaints of racial harassment, and 3.6 total student complaints of racial harassment, between the start of the 2015/16 academic year and January 2019. Around 4 in 10 institutions in our our university survey (38%) reported having received no complaints of racial harassment from staff; around 3 in 10 (29%) received no reports from students. Almost 1 in 5 institutions (18%) received no complaints of racial harassment from either group.

Universities have an incomplete picture of the scale of racial harassment because of underreporting and informal complaints not being recorded routinely. This calls into question the extent to which universities are meeting their PSED obligations which include having regard to the need to eliminate harassment and to foster good relations. To meet these obligations, universities must have reliable evidence when developing and reviewing their policies and procedures. If a university has a poor understanding of the scale of the problem, this can lead to their priority setting, resource deployment and activities being inadequate to tackle the issues.

Universities are overconfident in their complaint handling processes

Universities tended to think they were handling complaints of racial harassment well. However, the majority of universities did not seek feedback on the complaints process. Many students and staff said they had not been told about the support that was available or were given insufficient information.

Nearly all universities we surveyed who had received complaints felt that they had dealt with them fairly. However, our call for evidence found a much higher level of dissatisfaction with investigative processes than university responses would suggest.

A significant concern for many students and staff was that those involved in handling their complaint could lack the independence to do so effectively.

The majority of students and staff we heard from did not get the outcome they wanted.

Our call for evidence found that fewer than 4 in 10 student complaints of racial harassment, and around 1 in 6 staff complaints, were upheld and offered some kind of redress.

Where sanctions were applied against the perpetrator following a disciplinary process, universities often felt unable to tell the person who made the complaint due to concerns about breaching data protection rules. This

left the individual feeling unsupported and that justice had not been served. For universities, it represents a missed opportunity to promote the consequences of unacceptable behaviour more widely and increase confidence in the complaints system.

Universities are not following guidance on how to handle complaints

Staff and students who made complaints told us they:

- did not always know how to do so

- did not know what the possible outcomes might be, and

- were not kept informed of progress and felt unsupported, suggesting that institutions are failing to follow complaints handling guidance.

Several universities acknowledged that complaints handling often took too long and understood how this undermined effective redress.

Some universities are taking steps to improve reporting

When universities were asked about their main priority in addressing racial harassment, they most often talked about building trust, raising awareness of unacceptable behaviour and ensuring that all incidents are reported.

Universities also mentioned improving reporting tools, to provide a central and consistent method for students and staff to report harassment and access support. This includes anonymous reporting to help universities gain a clearer picture of the scale of the issue.

Universities highlighted the need for better guidance on:

- good practice approaches

- dealing with more nuanced and covert instances of racism or harassment, and

- how to explain and deal with racial 'banter'.

Higher education culture

There needs to be leadership to help embed a culture where racial harassment is not tolerated

A lot of recent university action to tackle harassment has focused on sexual harassment. There was not the same confidence in talking about, and tackling, racial harassment.

Students and staff said that policies and leadership commitments were often undermined by a lack of meaningful enforcement. Yet universities saw little need to change their existing policies and rarely, if ever, talked about the need for greater enforcement of those policies.

There was a strong perception that universities too often place their reputation above the safeguarding and welfare of their students and staff. University leaders need to create and maintain environments where racial harassment is not tolerated and where race, and racial inequality, is discussed competently, confidently and constructively. This will create a culture where individuals across the whole institution – both students and staff – are able to work and study in a safe environment, be themselves and fulfil their potential.
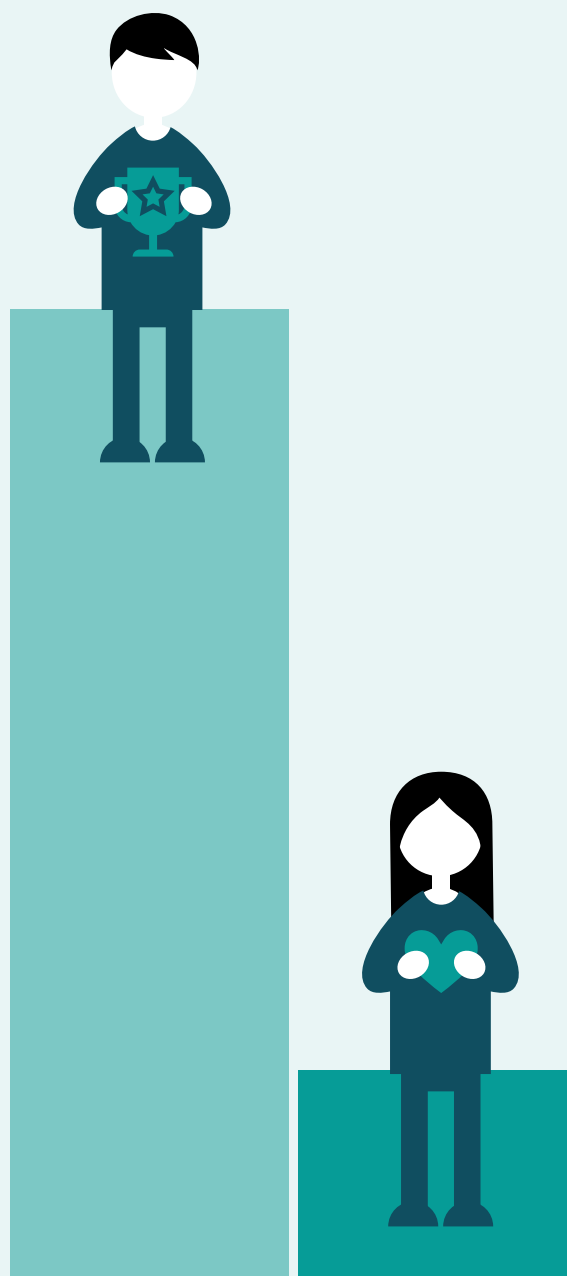
"
There was a strong perception that universities too often place their reputation above the safeguarding and welfare of their students and staff.
"

Recommendations

Our recommendations centre on the following themes:

1. **Protections, transparency and scrutiny** focuses on increasing university transparency about how they are tackling harassment and creating safe spaces, as well as their progress in building trust in reporting mechanisms.

2. **Effective redress** centres on how available, accessible and effective their routes to redress are, as well as how data is used to build trust and inform a cycle of learning and improvement.

3. **A change in university culture** where leaders understand issues of harassment, set expectations, provide oversight and scrutiny and implement training to embed a culture which is free from harassment and supports good relations.

   University governing boards carry out due diligence and, where appropriate, take action on tackling harassment in line with their PSED duties.

   Higher education institutions (HEIs) take more responsibility for preventing and addressing harassment, drawing on evidence of what works.

Theme 1: Protections, transparency and scrutiny

Recommendation 1: The UK Government must reinstate third party harassment protections and introduce a mandatory duty on employers to increase protections for staff from harassment.

We recommend that:

i. The UK Government reintroduce the third party harassment provisions in subsection 40(2) to (4) of the Equality Act 2010 and amend them to remove the requirement for the employer to know that the employee has been subjected to two or more instances of harassment before they become liable.

ii. The UK Government introduce a mandatory duty on employers to take reasonable steps to protect workers from harassment (including third party harassment) and victimisation in the workplace. Breach of the mandatory duty should constitute an unlawful act for the purposes of the Equality Act 2006, which would be enforceable by the Equality and Human Rights Commission.

iii. The UK Government deliver its commitment to introduce a statutory code of practice on harassment at work (drafted by the Equality and Human Rights Commission), specifying the steps that employers should take to prevent and respond to harassment, and which can be considered in evidence when determining whether the mandatory duty has been breached.

Recommendation 2: Governments should review regulatory frameworks and court hearing structures within each nation, to determine how best to increase protection from harassment for students.

We recommend that:

i. Governments across Britain consult on how best to enable the Office for Students (OfS), Higher Education Funding Council for Wales (HEFCW) and Scottish Funding Council (SFC) to effectively:

    a. assess whether higher education providers have taken sufficient steps to tackle harassment and to impose conditions of funding or registration where they have not (such as withholding or requiring repayment of funding or imposing a fine) by improving their powers or increasing the use of their existing powers, and

    b. measure higher education provider progress in preventing and tackling harassment.

    Governments and higher education sector bodies, particularly the OfS, HEFCW and SFC, should monitor the progress being made by higher education providers in this regard. Where there has been insufficient action by higher education providers to prevent harassment, we recommend the UK Government amend the Equality Act 2010 to make HEI's liable for acts of harassment committed by students (against students or staff), unless they have taken all reasonable steps to prevent it.

ii. The UK Government reviews which courts or tribunals hear non-employment discrimination claims such as claims by students, and work with devolved governments to ensure that complainants can access an affordable and prompt hearing before an adjudicator with experience in equality cases.

Recommendation 3: Governments should strengthen the PSED specific duties to enable action on sector-wide inequalities to be tackled more quickly and consistently, drawing on evidence from our inquiry and 'Is Britain Fairer?' reports.

We recommend that:

i. All public bodies should set equality objectives or outcomes, and publish evidence of action and progress, on the findings and recommendations relating to their functions in our formal inquiry and 'Is Britain Fairer?' reports.

ii. Governments across Britain should review how the PSED specific duties could be amended to focus public bodies on taking action to tackle the challenges in our formal inquiry and 'Is Britain Fairer?' reports.

Theme 2: Effective redress mechanisms

Recommendation 4: Higher education providers must enable students and staff to report harassment and ensure their complaints procedures are fit for purpose and offer effective redress.

We recommend that higher education providers:

i.   Ensure that all students and staff understand the options to report incidents (for example, named or anonymously), the potential limitations of each option and the support available to them.

ii. Ensure publicised mechanisms are in place to enable students on placements, studying abroad, on joint degrees, or internships in industry, to report harassment. Providers should consider setting clear expectations of the relevant placement provider.

iii. Review their procedures to ensure they consistently follow guidance from Acas, the Office of the Independent Adjudicator / Scottish Public Services Ombudsman, and the Equality and Human Rights Commission[2] on complaint handling and managing harassment, and amend their approach where this is not the case.

iv. Ensure formal complaints handling procedures:

    a) are led by impartial staff who are trained to understand and investigate harassment, including racial harassment

    b) enable complainants to understand the possible outcomes from the start and receive a clear explanation for complaint decisions, and

    c) when disciplinary action is taken, inform the complainant and alleged perpetrator that the provider may communicate any sanctions imposed, where it is appropriate to do so, subject to the requirements of data protection legislation.

---

[2] Forthcoming in 2019.

Recommendation 5: Higher education providers should ensure effective data collection procedures are in place to enable them to develop a baseline in order to evaluate and improve their prevention and response strategies.

We recommend that higher education providers:

i. Implement centralised reporting and case management systems, which enable universities to review and analyse reported incidents and complaints to inform continuous improvement.

ii. Conduct a periodic and regular survey of staff and students[3] to measure the prevalence of racial harassment and assess their confidence in reporting and complaints procedures.

Recommendation 6: Universities UK (UUK), the Information Commissioners Office (ICO) and higher education providers' data protection officers (DPOs) should work together to increase understanding around data sharing to support effective complaints handling and redress.

We recommend that:

i. UUK should work with the ICO to ensure that universities better understand the requirements of data protection legislation, in particular:

a) the circumstances in which they are able to share the outcome of disciplinary proceedings with complainants and the steps they need to take to do so lawfully, and

b) how anonymous reporting systems can be operated in accordance with the requirements of data protection legislation.

---

[3] Higher education providers can adapt their existing surveys to include this.

ii. DPOs within universities should take steps to allow their institutions to share the outcomes of disciplinary proceedings with complainants where it is appropriate to do so, including:

    a) reviewing contracts with staff and students, policies and procedures and privacy notices to ensure that they inform staff and students when the outcome of disciplinary proceedings may be shared, and

    b) considering, on a case-by-case basis, whether the university has a lawful basis for disclosure under Article 6 of the General Data Protection Regulation (GDPR) and whether disclosure would be proportionate in all of the circumstances.

iii. UUK should form a working group with other DPOs to discuss these data protection issues and create case studies to ensure consistency of practice across universities.

Recommendation 7: The regulator, the funding councils and UUK should provide more guidance to support providers to prevent and tackle harassment.

We recommend that:

i. University ministers, in their next remit letters to HEFCW and SFC, set out their expectations that preventing and tackling racial harassment in higher education is a priority for British higher education providers.[4]

ii. The OfS, HEFCW, SfC and Scottish Government support higher education providers to prevent and tackle harassment by publishing an advice notice / guidance and draw attention to the links between harassment and differential outcomes for students.[5]

---

[4] The Minister made this request to the OfS in England on 16 September 2019. See: 'Letter from the Education Secretary: September 2019' (PDF).

[5] OfS may draw attention to Regulatory Advice 6, which advises higher education providers on considering the links between harassment and differential outcomes for students.

iii. UUK Advisory Group[6] develops approaches that will support higher education providers to:

   a. hold inclusive discussions about race in a supportive and appropriate environment, and

   b. understand the different forms of racial harassment and how best to tackle them, including racial microaggressive acts.

Theme 3: A change in higher education culture

Recommendation 8: Ensure that initiatives to support mental health in higher education reflect the impact of harassment on people's mental health and wellbeing, and the needs of people with different protected characteristics, to best support a diverse student and staff population.

We recommend that Universities UK's #StepChange programme on mental health, Student Minds' work on developing a

University Mental Health Charter and the Scottish Government's Student Mental Health and Wellbeing Working Group review our findings, alongside other recent academic research on the effects of harassment, and:

i. take into account how student and staff experiences of harassment negatively affect mental health and wellbeing, attainment and career progression, and

ii. encourage higher education providers to review their approach to mental health, particularly:

   a) how it provides access to support and assesses impact for different groups under the Equality Act, and

   b) how effectively it responds to the specific mental health needs of students and staff who experience harassment, including racial harassment.

---

[6] UUK is developing an advisory group, which draws on this inquiry's findings and recommendations, to support members to prevent and respond effectively to incidents of race-based harassment and hate crime, with a view to supporting continuous improvement for individuals as well as at an institutional and sector-wide level. UUK should draw on learning from their own sector-wide survey to tackle harassment and hate crime and work with Advance HE for this recommendation.

Recommendation 9: Higher education leaders and governing bodies demonstrate leadership and accountability for embedding an inclusive culture across their institution.[7]

We recommend that:

i. Heads of providers and senior leaders:

    a) take steps to better understand issues of harassment, including racial harassment

    b) publish a public commitment to tackling harassment, and

    c) embed the responsibility to eliminate harassment into their institution's culture, knowledge and practices. This includes ensuring that their approach is informed by evidence and that appropriate safeguarding activity is embedded within their existing governance structures, building on UUK's 'Changing the Culture' strategic framework.

ii. Governing bodies of higher education providers have procedures in place to:

    a) satisfy themselves that their institutions identify, reduce and report on harassment as part of their due diligence processes, and

    b) support their obligations under the PSED, where these apply.

iii. To satisfy themselves that higher education providers are identifying and reducing harassment, governing bodies of higher education providers should ask for information and evidence on how the provider has:

    a) reinforced its commitment to tackling harassment among students and staff

    b) allocated responsibility for tackling harassment, particularly racial harassment, and equipped staff for those roles

---

[7] Along with guidance from OIA and SPSO, UUK and Advance HE have made recommendations on how higher education providers take practical steps to prevent and tackle harassment and embed a more respectful culture. See, in particular, **Universities UK (2016), 'Changing the Culture'**; Baird H. et al. (June 2019), **'Evaluation of Safeguarding Students Catalyst Fund Projects: Summative Evaluation Report. Report to: The Office for Students'. Advance HE**.

c) identified indicators to assess the effectiveness of its processes to prevent and address harassment, and to review progress annually

d) integrated these insights into informing and measuring progress on its equality objectives / outcomes and into its decision-making, policies and practices, and

e) in England, taken information on harassment into account when preparing information on closing gaps in outcomes, as part of registered providers' progress reports on their access and participation plans.[8]

We support Advance HE's recommendation that OfS, with others, develop and promote a framework of minimum safeguarding practice to help drive change in addressing student safeguarding issues.[9]

Recommendation 10: Higher education providers use the National Student Survey to improve their understanding around student safety and harassment.

If the OfS conducts a review on the National Student Survey, we recommend that the OfS and UK funding bodies propose that the two questions on student safety become core questions rather than optional questions, to provide all survey respondents with the opportunity to respond.[10]

---

8   Universities should use the checklist developed by UUK and NUS to support them in closing the attainment gap.

9   Baird, H. et al. (June 2019), **Evaluation of Safeguarding Students Catalyst Fund Projects. Summative Evaluation Report. Advance HE**, pp.9-12.

10   Optional questions in the National Student Survey are: i) I feel safe to be myself at university; ii) My institution takes responsibility for my safety.

Contacts

This publication and related equality and human rights resources are available from **our website.**

For information on accessing one of our publications in an alternative format, please contact: **correspondence@equalityhumanrights.com.**

Keep up to date with our latest news, events and publications by **signing up to our e-newsletter**.

EASS

For advice, information or guidance on equality, discrimination or human rights issues, please contact the **Equality Advisory and Support Service**, a free and independent service.

Telephone   0808 800 0082

Textphone   0808 800 0084

Hours   09:00 to 19:00 (Monday to Friday)

              10:00 to 14:00 (Saturday)

Post   FREEPOST EASS HELPLINE FPN6521

Equality and
Human Rights
Commission