Race discrimination legal support fund: further information

June 2023

Equality and Human Rights Commission

Contents

[Aims of this legal support scheme 2](#_Toc106353064)

[Who can apply 2](#_Toc106353065)

[Types of support we can offer 3](#_Toc106353066)

[Cases we can fund under the scheme 3](#_Toc106353067)

[How we will decide which cases to fund 4](#_Toc106353068)

[Why we might refuse or stop support 4](#_Toc106353069)

[When we might fund cases through to final hearing 5](#_Toc106353070)

[Terms and conditions of assistance 6](#_Toc106353071)

[Contact us 7](#_Toc106353072)

[Alternative formats 7](#_Toc106353073)

## Aims of this legal support scheme

We are aiming to:

* improve access to justice for victims of race discrimination
* make sure those we regulate know their legal duties, understand the consequences of not meeting those duties, and take action to improve their practice, and
* identify strategic matters that we can take forward outside of the legal support scheme to achieve wider positive change.

## Who can apply

Legal representatives (including those in the not-for-profit sector) who act for individuals who have experienced discrimination can apply to our fund.

### How individuals can access the fund

If you have experienced discrimination but do not have legal support, you can contact the [Equality Advisory and Support Service](https://www.equalityadvisoryservice.com/) and ask about the fund. They can give you advice and support about your complaint. If you want to seek legal redress and your complaint is eligible for the fund, EASS may refer your case to us and we can assign one of the firms from our panel of solicitors to your case. The solicitors may then make an application to the Commission for funding so that they can help you pursue a legal claim to access justice.

If you are aware there is an urgent deadline on your case, please notify the Equality Advisory and Support Service of this in your first call.

### How legal representatives can apply

Legal representatives acting for individuals can apply to the fund by completing the application form. We will assess your application and might request further information. We aim to inform the legal representative of the outcome of the application within three weeks. We are unable to provide any funding to cover the costs of making the application. We only cover fees for work that has been agreed by us after the application has been accepted and our terms have been agreed.

If a client has approached you with a complex case and you consider that it will take a few hours to review the paperwork, then you can apply for funding to do an initial scoping exercise and / or assess merits. Following this you can make a further application for a funding extension if the case has merit.

Legal representatives providing advice or casework in the not-for-profit sector can apply for funding for casework, counsel’s fees and other disbursements or outlays (for example, obtaining experts’ reports) that the client would otherwise be expected to pay for.

### What about urgent deadlines?

Any applications with an imminent or urgent deadline should be marked as urgent.

Individuals and their legal representatives remain responsible for meeting any legal deadlines including while the application for support is being assessed.

## Types of support we can offer

We may be able to provide support by:

* funding frontline advice from legal representatives (which may include pre-action work including evidence gathering, advice on merits, initial letters, starting proceedings, court fees, as well as litigation itself)
* funding legal representation in a court or tribunal, or
* funding disbursements or outlays (for example, counsel’s fees or experts’ reports).

## Cases we can fund under the scheme

The scheme will include claims under any part of the Equality Act 2010, as long as they relate to race discrimination (including harassment and victimisation). This may include, for example, cases in:

* employment
* recruitment
* housing
* services provided to the public, for example, shops, transport and leisure facilities
* clubs and associations
* schools
* higher and further education
* public functions, such as the operation of prisons, a local authority social care function or social security

The claim can be one that is already in a court or tribunal or one that is at an earlier stage.

## How we will decide which cases to fund

We have discretion over which cases to fund and how much funding we will provide.

All cases must meet the following criteria:

* The dispute must concern race discrimination that could be unlawful under the Equality Act 2010.
* The claim is within, or has been started within, the legal time limit.
* One of our objectives is to improve access to justice for victims of discrimination. For this reason, we will only provide support where we think it will help someone to access justice in circumstances where they might not otherwise be able to do so. For example, where individuals cannot access other forms of funding, such as legal aid, from unions or insurance.

We will then prioritise cases based on the following factors:

* How closely the case aligns with [our current strategic priorities,](https://www.equalityhumanrights.com/en/node/783) as well as priorities identified through the scheme itself.
* How closely cases align with our [litigation and enforcement policy](https://www.equalityhumanrights.com/en/publication-download/our-litigation-and-enforcement-policy-2019-2022) (for example, the scale, seriousness and impact of the problem).
* Whether the case has a reasonable prospect of success, or, if it’s at an early stage, requires further investigation to advise the individual about their rights and merits of a claim.
* Whether we could achieve wider positive change if the case was successful.
* Any significant risks to the Equality and Human Rights Commission (reputational, financial (including any third party costs liability) and legal).

## Why we might refuse or stop support

We will not be able to provide support if:

* The case is out of scope, time-barred or has little prospect of success.
* The resources needed to achieve a successful outcome will significantly outweigh the benefit to the individual or wider society.
* We have previously declined a request for support, unless significant new evidence has come to light.
* There is public or other funding available that covers the work for which support is being requested, unless the funding requested is for additional work not covered by legal aid or insurance, etc.
* The complainant does not cooperate with us or the representative, or does not comply with the conditions of support.
* We think there is insufficient merit, following a review of the merits after an initial grant of funding, new evidence coming to light or a change of circumstances.
* We think the issue can be tackled more effectively by using one of our other powers, such as by taking enforcement action.

## When we might fund cases through to final hearing

In appropriate cases we will provide funding through to final hearing. In your application, you must give the full estimate of costs through to final hearing. Any additional funding requested beyond this estimate will only be considered in exceptional circumstances.

Our initial grant of funding will normally be limited to making further inquiries, where necessary, and then obtaining counsel’s opinion on the case from a member of our panel of counsel. We will review whether to continue to fund the case in light of counsel’s opinion. If we continue to fund the case, we will normally agree funding up to a new review point, such as up to the start of proceedings or the receipt of defences, and ultimately up to final hearing.

We may withdraw funding at the initial or later review points based on the factors listed above, such as the strength of the case, its cost and its likely benefit to the individual and the wider public.

## Terms and conditions of assistance

If we offer support on a case we will ask the legal representative and the client to sign our standard terms and conditions of assistance. These agreements are a condition of the funding.

Fees we pay for legal representatives are calculated on an hourly rate and capped at fixed levels.

Please contact us if you need further information or a full copy of our terms and conditions of assistance.

# Contact us

If your question has not been answered, you can contact us by email, post or telephone for further information.

England and Wales

Email: racesupportfund@equalityhumanrights.com

Post: Race Discrimination Legal Support Scheme

Equality and Human Rights Commission

Arndale House

Arndale Centre

Manchester

M4 3AQ

Phone: 0161 829 8190

Scotland

Email: racesupportfund@equalityhumanrights.com

Post: 100 Bothwell Street (First Floor, East)​​​
Glasgow
G2 7JD

Phone: 0141 228 5924

## Alternative formats

For information on accessing this form in an alternative format, please contact: correspondence@equalityhumanrights.com.