



23 May 2016

Dear Madam/Sir,

Re: Your liability regarding legal claims of caste discrimination

You may be aware that the Equality Act 2010 opens up public authorities to claims for caste discrimination (as part of race discrimination). This was confirmed by the Employment Appeal Tribunal in 2014 in the case of *Chandhok v Turkey* (UKEAT/0190/14/KN). By expanding the meaning of race to cover caste, the case law also opens up the possibility of prosecutions under the criminal law.

The risks your authority faces because of caste include:

- The Equality Act expects all public authorities to observe the public sector equality duty which includes monitoring on the protective characteristic of race. Since race now includes caste, all public authorities are bound to maintain records of the caste membership of their employees and customers. Your authority risks being liable to legal claims if these records are not maintained and monitored.
- Your organisation's equality policy will have to include caste as a factor and, in so far as caste has not been factored in, your authority could be open to a higher risk of claims for caste discrimination.
- If your authority provides services, facilities, grants or training to a community organisation whose membership is based primarily on caste grounds it may be open to claims of caste discrimination.
- If your authority and its managers are not aware of the caste group to which its employees or customers belong, it could be held liable for caste discrimination for offending them, even if done inadvertently.
- Not keeping records of the caste status of your employees or customers could also result in a greater risk of a claim of caste discrimination against your authority.
- Because membership of a caste group survives conversion to another religion, non-Hindus – e.g. Christians or Muslims - could make claims against your authority on grounds of discrimination against them because of their antecedent caste.
- Your authority or its employees could be subject to prosecution on grounds of offences aggravated by a caste factor, which entails a higher add-on sentence to the primary crime.
- If your authority holds, assists, facilitates, or takes part in events for the benefit of a group constituted primarily by their caste membership it could be open to claims of caste discrimination.
- If your authority hires premises for events such as weddings to a group constituted primarily by their caste membership, it could be open to litigation for caste discrimination.

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- If your authority convenes, holds, assists, facilitates, or takes part in events such as Navratri or a puja, where attendance is primarily for members of a caste group, it could be open to litigation for caste discrimination.
- Your authority's insurance must cover risks of legal claims of caste discrimination or criminal liability aggravated by caste. This could result in a higher premium because of the presumptions as to which groups discriminate, harass or criminally aggravate on grounds of caste.
- Being found liable for caste-based discrimination or aggravation could result in a person's ability to be a director of a company, a trustee or hold public or political office being called into question.

This letter is meant to be for guidance only and is not to be construed as legal advice for any purpose whatsoever. We merely wish to draw your attention to the potential risks posed by claims of caste discrimination and criminal aggravation. Should you require accurate and reliable legal advice in confidence, you are well advised to consult your authority's legal representatives directly.

Should you require further information about the background, content and any training requirements as to how caste is covered in the Equality Act, please feel free to contact us at director@dipf.org.uk.

Yours sincerely,

Prakash Shah

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