

From recruitment to retention: How to support your Muslim employees in the workplace

In brief

The position and safety of Muslims in civil society is once again the subject of debate as a result of Marine Le Pen's recent proposal to ban the headscarf in all public spaces in France. Notwithstanding that Le Pen lost the election and with Ramadan underway, it is timely to explore the employment implications of Islamophobia in the workplace and practical steps employers can take to create a more inclusive and thriving working environment for their Muslim employees, to ensure they maintain their 'employer of choice' status.

According to the 2021 Muslim Council of Britain (MCB) report on Islamophobia, applicants with English-sounding names were offered three times the number of interviews than applicants with Muslim names. These statistics demonstrate that Islamophobia and unconscious bias remain pervasive in British workplaces. Far from being just an issue of religious discrimination, the intersectional issues affecting Muslims can compound the disadvantage further. For example:

- Applicants from minority ethnic backgrounds were required to submit 80% more applications to get a positive response from an employer compared to white applicants¹.
- In her report entitled 'Unlocking the Workplace for Muslim Women', Dr. Suriyah Bi found that 47.2% of women stated they had encountered Islamophobia and discrimination as a challenge in the workplace.

Research from the UK government's social mobility watchdog in 2017 uncovered that Muslim applicants and employees feel disadvantaged at almost every stage of the employment process. Barriers at the recruitment stage are clearly highlighted through the statistics mentioned above. Once successfully in the workplace, research continues to point towards further instances of discrimination and a lack of cultural awareness. Such factors adversely impact the career development and progression of Muslims in the workplace, with the impact being significantly worse for Muslim women. Unsurprisingly, this often results in a higher turnover and shorter periods of service of Muslim employees, in comparison with their non-Muslim counterparts.

Based on this, employers who are seeking to continually attract and retain diverse talent should be actively monitoring their current practices at every step of the employee life cycle, including asking thoughtful questions about factors that contribute to the exit of Muslim employees and turning these learnings into positive changes to decrease attrition rates.

Key takeaways

The updated Parker Review report confirms that 89 FTSE 100 companies have met the 2021 target of representation of at least one member from a minority ethnic background on their boards. By the time the update was published, a further five companies from the FTSE 100 list reported having minority ethnic representation on their boards. Whilst there are three years until the 2024 target date for FTSE 250 companies to reach this same level of representation, prudent employers will likely want to take strides towards an inclusive and representative workforce at all levels within the organisation. Employers may wish to consider taking

¹ Defining Islamophobia: A Contemporary Understanding of how Expressions of Muslimness are Targeted, Muslim Council of Britain Report 2021

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active steps to support not only the recruitment of Muslim employees into the workforce, but also to ensure that once they have joined the organisation, the prospects of them having long and thriving careers are maximised.

Islamophobia: How do we define it?

"Islamophobia is rooted in **racism** and is a type of racism that targets expressions of **Muslimness or perceived Muslimness**."

In April 2018, the All-Party Parliamentary Group (APPG) on British Muslims undertook an exercise to develop a working definition of Islamophobia. This exercise included engaging with a variety of organisations as well as individuals including academics, community leaders and politicians to determine what the term actually means.

Whilst the above definition has not been formally accepted by the current UK government, it is helpful to enable employers to focus on tackling this issue. The key questions that employers need to ask themselves are (i) how does the above definition manifest in the workplace and (ii) what can we do to not only eradicate this from the workplace but foster an open culture of inclusiveness at every level?

Employers will be familiar with the protections afforded to employees under the Equality Act 2010 ("**EqA**") related to race and religious beliefs (which are covered further below), but the concept of **Muslimness** may be less familiar and needs to be unpacked and understood, in order for progress to be made. Muslimness or perceived Muslimness "denotes any perceptible marker of Muslim identity" as summarised in the MCB report. Notably, such markers include name, appearance and clothes, and actions. Applying this to the employment context, conscientious employers should consider how Muslim applicants and Muslim employees are treated from the application review and interview stage, through to daily interactions and engagement in the workplace, in order to ensure these employees do not experience anti-Muslim bias. Employers will also want to ensure that Muslim employees receive the same opportunities for advancing in the workplace and are not overlooked for promotions due to reasons associated with their religion, rather than merit-based reasons. Barriers to this may be subtle, unconscious or systemic — related to social stereotypes or caused by hidden and/or indirect consequences of which an employer (even a progressive or well-intentioned one) may not be aware.

Why it matters: the business case

Workforces that do not reflect the diversity of their customers, their clients and the communities within which they operate are at a competitive disadvantage to those that do. Muslims make up approximately 4.13 million of the UK population. Therefore, whilst on a human level, employers will want to ensure that they are supportive of their Muslim employees in the workplace, there are also numerous business motivations for employers to actively support and uplift Muslim colleagues and ensure any barriers they may experience in the workplace are removed.

According to the findings published by the Women and Equalities Committee, Muslims suffer the greatest economic disadvantages of any group in society. This translates into unemployment rates for economically active Muslims being above average, in comparison to that of the general population. The disadvantage acutely impacts Muslim women who are 71% more likely than white Christian women to be out of employment, even when they have the same educational level and language skills. At the same time, figures from 2020 show that 84.2% of British Muslim women were actively engaged in the labour market and contributing to the economy, suggesting that Muslim women are highly competent and skilled. This demonstrates that Muslim women are a section of untapped talent in the UK, which employers should be keen to explore.

Employers who take pride in their culture should focus on eliminating any form of Islamophobia in the workplace to ensure they are creating and fostering a truly supportive and inclusive working environment for Muslim employees.

The legal implications

It is worth noting that the APPG definition is not legally binding, but conduct that meets the APPG definition of Islamophobia will likely also satisfy the conditions for discrimination.



It is also worth noting that there is no qualifying period for discrimination complaints, so employees and applicants are able to enforce their rights under the EqA at any time. If a successful claim is brought, a tribunal will usually award compensation for loss of earnings and benefits, which is uncapped, as well as a sum for injury to feelings.

Religious discrimination

Under the EqA, religion or belief is a protected characteristic. Islam is a religion for the purposes of British discrimination legislation. This means that it is unlawful to discriminate against someone owing to the fact that they are Muslim. This would include discriminatory recruitment practices, which directly or indirectly impact Muslim applicants. Protection also extends to harassment and victimisation.

Employers should be particularly sensitive around the time of Ramadan and ensure those who observe the holy month are not disadvantaged. This might include not being criticised or disadvantaged for being unable to attend work events that fall during Ramadan, or being penalised for potentially lower productivity due to fasting. Employers may also want to consider the timing of events and whether there is scope to defer key events to a different date. 'Banter' or jokes about a Muslim employee fasting (or not) could also result in harassment allegations being made. Similarly, Muslim employees sometimes face insensitive or even hostile comments and questions from those who associate their religion with extremism - an experience not typically common amongst employees of other religions.

Race discrimination

Applying the *Mandla and anor v. Dowell-Lee* test on the definition of an ethnic group, it has been held that those of Muslim faith in general do not form part of an ethnic group. However, Muslim claimants have seen success in obtaining race discrimination protection in some indirect discrimination cases where a workplace practice puts those of certain ethnic origins at a particular disadvantage. For example, in *JH Walker Ltd v. Hussain*, it was held that a workplace policy that prevented workers from taking time off to celebrate Eid was indirectly discriminatory against workers who originated from the Indian subcontinent.

Areas for employers to consider

Race and ethnicity data collection

Our [Mind the Gap report](#) highlighted the critical importance of collecting and understanding diversity data, as a key step in the development of inclusion and diversity strategy and initiatives, and measuring their success. It would be unusual and not the cultural norm to collect data on religion/belief, but collection and analysis of ethnicity data can nonetheless be a useful, albeit not a perfect, indicator in highlighting issues and pinch points affecting Muslim employees. Whilst the collection of ethnicity data is a particular hot topic, we recommend employers explore the possibility of requesting applicants and employees to self-report on a voluntary basis in order to:

- Better understand and monitor the demographic of its applicants and employees
- Identify any under-representation of ethnic groups with a view to diversifying recruitment
- Develop specific initiatives and set targets to address any under-represented groups
- Measure success as they strive towards creating a more diverse workforce to retain their 'employer of choice' status
- Ultimately be more accountable and transparent in their commitment to equal opportunities for all

Whilst such data collection can be helpful, employers need to be mindful of the risks involved when collecting such data, especially how such risks differ across jurisdictions. For example, in the UK, collecting diversity data (and specifically race and ethnicity data) on a voluntary basis is common practice and generally low risk, subject to the usual data protection compliance steps. However, employers will want to carefully consider what ethnicity categories to use, and be mindful that aggregating different ethnicities can mask issues.

Outside the UK, the position is more difficult. In France, for example, organisations may not process data relating to ethnicity, even with explicit employee consent. It is not advisable to collect race and ethnicity data in jurisdictions where this may not align with cultural norms and even put employees at risk.

In the UK at present, ethnicity pay gap reporting is not mandatory. However, it is worth noting that the introduction of mandatory ethnicity pay gap reporting by April 2023 was [one of the main recommendations in the report](#) by the Women and Equalities Committee for all organisations that currently report their gender pay gap (GPG). The report also mentioned that the ethnicity pay



gap reporting laws "should include the requirement for employers to publish a supporting narrative and action plan" alongside the raw data.

Following this, employers who are committed to attracting talent and diversifying their workforce may wish to consider the benefits and risks of collecting race and ethnicity data. This is especially relevant when deciding whether the collection of such data may be useful with a view to increasing representation of Muslim employees across their workforce and to prepare for what could become a new mandatory reporting obligation. If such data is collected, employers must ensure active steps are taken and the data is used proactively to tailor and monitor their inclusion strategy.

Recruitment

In order to successfully appeal to a seemingly untapped and under-represented section of the labour market, there is increased value in reviewing recruitment practices to ensure employers are widening their talent pool and attracting Muslim talent, especially Muslim women. Research demonstrates that Muslim women are often considered a homogenous group, often with stereotypical gender roles playing an unconscious part in the recruitment process. For example, it is reported that Muslim women are more likely to be asked questions in connection with their marital status, childcare commitments and family life, in comparison to other non-Muslim female applicants. By providing thoughtful and tailored training on appropriate interviewing techniques and raising cultural awareness to guard against stereotypes, employers will be able to help limit the impact of unconscious bias on the recruitment process, and ensure they can tap into talent.

Career progression

Commitment to career progression of all employees will help employers to decrease attrition rates; especially with respect to Muslim employees. A common experience of Muslim employees summarised in Dr. Suriyah Bi's report is that tight-knit networks established in the workplace, which might offer support to some, are seen as places of 'exclusivity' and inaccessible to Muslim employees.

Exit interviews consistently reveal that a major factor leading employees to leave their jobs is a lack of a sense of belonging. Ensuring all employees feel comfortable in the workplace is key to reducing high turnover rates. This is increasingly the case when it comes to the experience of employees from ethnic minorities, including Muslim employees. Whilst many employers wish to celebrate and value diversity, employers who commit to inclusion and diversity initiatives that translate into positive experiences for Muslim employees are likely to set themselves apart from others. Offering mentoring to support career advancement, nuanced training that instils a culture of inclusivity and pluralism respected by all, and a flexible approach during important times of the year, e.g., Ramadan, are just a few examples that employers may wish to contemplate when setting their inclusion strategy and considering how to distinguish themselves. Offering tailored mentoring and networking schemes specifically focusing on the advancement of all employees may help your workplace stand out as one where all employees, irrespective of religion, are able to flourish.

Dress codes

Dress code, in particular, can often act as a barrier to progression in the workplace. The headscarf can be seen as a visible sign of Muslimness and Muslim women at times can be made to feel uncomfortable — both overtly and covertly — for wearing one in the workplace. Dr. Suriyah Bi's report also sheds light on wider prejudices associated with the headscarf. For example, it is not uncommon for Muslim women who wear headscarves to be perceived as less ambitious than their non-Muslim counterparts. This, combined with potential gender stereotypes and workplace cultures based on exclusivity, can contribute to Muslim employees being overlooked for promotions.

European court rulings from two German cases in 2021 (*IX v. Wabe eV and MH Müller Handels GmbH v. MJ*) held that in limited circumstances, companies can prohibit employees from wearing a headscarf. Whilst such cases turned on particular facts, the European court held that a prohibition on wearing any visible form of expression of political, philosophical or religious beliefs in the workplace **may** be justified by an employer's need to present a neutral image towards customers or to prevent social disputes. However, that justification must correspond to a genuine need on the part of the employer; and, in reconciling the rights and interests at issue, when considering whether such action is justifiable, national courts can take into account the specific context and more favourable national provisions on the protection of freedom of religion.

It is worth noting that such cases are often highly emotive and garner a lot of publicity. Employers should note that these two cases were very fact-specific and that they should not be regarded as an example of common policy-making amongst employers in this rather complex area. It is likely that cases such as these would have a very different outcome in the UK unless the employer identified a particularly burning need based on the job role.

Prudent employers should ensure that any policy implemented fully reflects the values and ethics of their organisation.



Time off for Muslim festivals

Employers do not have to automatically permit employees to take time off on or around Muslim festivals. However, employers wishing to minimise discrimination risks and promote inclusion may wish to give consideration to doing so. The EqA Code of Practice establishes that employers should, where possible, accommodate requests for annual leave for a religious occasion, where it is not unreasonable for employees to take time off. As mentioned above, there has been a successful discrimination complaint against an employer's policy of refusing time off for Eid. **Deloitte** is an example of an organisation that has implemented a flexible approach to time off by allowing their UK employees to take public holidays when they choose, rather than be limited to conventional UK public holidays, from January 2022. This will allow Muslim employees to take leave on dates that carry meaning for them, e.g., Eid.

Flexible working

Employers may find that the performance and productivity of employees is impacted at specific times of the year, e.g., during Ramadan. Offering temporary flexible working arrangements may be beneficial for both the employer and employee to ensure Muslim employees feel supported during this time. For example, **Meta** have implemented Choice Days, which allow employees to take a handful of days off from work annually, based on their personal preferences. This allows Muslim employees to take time off during days that are important to them.

Getting it right: top tips for Ramadan and beyond

1. **Awareness, education and understanding** – Create a supportive and inclusive environment in which Muslim employees feel valued and comfortable. This can range from (i) thoughtful training at every level, which will be key in ensuring any anti-Muslim and unconscious bias is tackled and that anti-harassment training recognises the specific issues faced by Muslim employees; (ii) issuing clear guidelines as to behaviours that are considered Islamophobic, anti-Muslim, and/or racist; (iii) providing the option to network and socialise without alcohol being the focus, and sensitivity around dietary requirements at work events; (iv) encouraging role models within your organisation who may be happy to share their views to mentor, reverse mentor, or blog about their experiences; (v) providing appropriate facilities in the workplace for employees of all faiths to use as needed during the working day e.g. a multi-faith prayer room or a reflection room.
2. **Accommodate flexible working** – The ACAS guidance and the ECHR Code of Practice suggest that employers should consider whether any temporary work arrangements could be put in place during Ramadan. This might include scheduling meetings at more suitable times during the day or even arranging working hours more flexibly during the month. For example, some Muslim employees may wish to start their day earlier or work through their lunch to ensure they can break their fast with their families.
3. **Review recruitment practices** – Employers who wish to attract applicants from as wide a talent pool as possible need to take steps to actively ensure that their recruitment and selection practices and procedures do not unfairly discriminate, directly or indirectly, because of religion or belief.
4. **Focus on retention** – Employers should ensure they are investing in the career progression of Muslim employees in the same way as other employees. Consider implementing mentoring circles to ensure Muslim employees can reach their full potential. Any information gleaned from exit interviews should be considered carefully and should drive change, where possible.
5. **Set an example at the highest level** – Taking meaningful steps in moving towards equity in the workplace means taking real action to address and eradicate Islamophobia. Leaders need to be advocates and allies of Muslim colleagues to ensure they feel a much-needed sense of belonging in the workplace.



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