



CASEWORK POLICY

WHO ARE WE?

Cheshire Halton & Warrington Race & Equality Centre is a charitable equality organisation that provides services across the area of Cheshire, Halton, Warrington and surrounding areas of North Wales and Wirral.

As part of our service we offer free advice and representation in cases of discrimination. This policy explains what our service is about, what type of cases we take on and what you can expect from us as an organisation when dealing with your case.

THE SERVICE

We are only funded to carry out casework on behalf of claimants, ie people who are making a claim (not defending one) if it falls under discrimination legislation. That is claims of discrimination on the basis of:

- Age
- Gender (including transgender status)
- Disability
- Race
- Sexual Orientation
- Religion or Belief (or lack of)

All the legislation protects people from discrimination when it occurs in the following areas: employment, training, services (shops/restaurants etc.), education, housing and public services (although age discrimination is still restricted to employment only). CHAWREC gives advice and help to prepare a case in all these areas. If we think that the case meets our criteria (see below) we may be able to represent you in employment tribunal or county court.

If your case involves other areas of employment law, such as unfair dismissal we can also advise and represent alongside the discrimination case. However, if it includes other matters unrelated to employment law then we will refer your case to another agency better equipped to deal with it.

CRITERIA FOR ASSISTANCE

The REC can only offer casework assistance to individuals who **live or work** in Cheshire, Halton, Warrington, North Wales or Wirral. We may also help you if you the discrimination took place when you visited the area and you have no alternative means of representation nearer your home.

We will consider all claims for assistance. However because we have limited resources we have adopted case criteria to help us make decisions on the people we can assist.

In considering whether to grant assistance we will take into account:

- Whether there is a reasonable prospect of success
- The conduct of the complainant in pursuing his/her case

- Other sources of representation
- The implications the case has for the REC's resources

1. Prospect of Success

We will take into account whether your case has a reasonable chance of success. If the caseworker dealing with your case is of the opinion that the case will be unsuccessful then he/she will explain the reasons why and confirm that in writing if requested.

We will only assist where we think the case has at least a 50 per cent chance of being successful. The reason for this is because we have limited resources and so cannot afford to fund a case that has little chance of winning.

We do however have the discretion to assist individuals where the case is weak but tests a new point of law.

2. Conduct of the Applicant

The conduct of a claimant is taken into account in all cases, from before any assistance is provided up to and including representation. If we feel that you are acting in an unreasonable manner then we may withdraw assistance. This includes where a complainant is verbally or physically abusive or threatening to staff or volunteers.

3. Other Sources of Representation

If you are a member of a Union then we will take this into account when deciding how we can help you.

If you are a fully paid up member of a Union we expect that you will approach them for advice and help. If you do come to the REC first, we will ask that you take your case to the Union to make a decision about representation.

If however your Union will not assist you or you are unhappy with the service you are receiving then the REC will consider whether you can be given assistance.

CHAWREC generally only takes on cases involving a Union member where the Union has rejected a representation request; it is only in exceptional circumstances where the REC would agree to take over the case instead of the Union. Also if we agree to assist we will require your permission to obtain your file from the Union.

4. Implications for Resources

The REC has limited funds to assist complainants with cases. Consequently we are obliged to consider the amount of time your case will take.

Cases which are particularly complex either legally or factually, or which involve a lot of witnesses will generally be referred from the REC to another agency. Normally this will be the Equality and Human Rights Commission. If this applies to you the Officer dealing with your case will explain in more detail.

WHAT YOU CAN EXPECT FROM US...

CONFIDENTIALITY: we assure complete confidentiality at all times. This means that the details of your case will not be passed to anyone outside the organisation without your express permission*. However, we do need to pass information to the Equality and Human Rights Commission (as one of our funders) so that they are able to monitor the amount of

cases being dealt with by the REC and their outcomes. If you are not happy with this, please inform us and we will provide your details anonymously.

*If your case is heard by an Employment Tribunal/county court, then the decision will be a public document that anyone can have access to.

INFORMATION: the Officer dealing with your case will open a case file for you and allocate a reference number to it. All information on your case will be stored there. You can have access to this file if you request it. However, you are not entitled to remove the file from the premises, so if you require any documentation contained within it, we will copy it for you. Under the Data Protection Act you are also entitled to any information that is held on our computers about you. We may charge you if you wish to take a copy of your file, up to a maximum of £25.

ACTION: at your interview we will provide you with advice. This will also include a suggested course of action. However, it is for you to decide whether you wish to take this advice or not. The caseworker will not take any action without your approval first. Within 7 days of the interview you will receive a letter confirming the contents of the discussion and any advice provided. This is just to ensure that we are clear about the issues of the case and what action is to be taken.

SERVICE STANDARDS: we understand how important your case is to you and so we endeavour to be as prompt as possible when you contact the office to speak to someone. If you leave a phone message we will respond by the following day. If you write to us we will acknowledge within 7 days and provide a full response within 14 days. However, you can also assist us to utilise time efficiently by only speaking to your allocated caseworker when necessary. Remember the REC deals with a number of complaints in one day and can't always respond immediately to everyone who calls.

HELP & ADVICE

If your case is covered by the Race Relations Act then we will interview you to establish more information about the case.

The purpose of the interview is for you to obtain the advice necessary to make a decision on what to do next. If you require an interpreter please tell us in advance, we will make every effort to get you one.

The caseworker will do everything to help prepare your case and to collect the evidence you need. However this is not legal representation at tribunal or court. You must not assume that we will represent you unless you have had confirmation from the caseworker dealing with your case.

WHAT KIND OF SUPPORT CAN THE REC OFFER?

If CHAWREC decides to support your case it can do so in several ways

- Informal action, such as attending meetings with you to come to an agreement
- Referral to the Equality and Human Rights Commission or some other competent advisor
- Initial advice & assistance including investigation of a complaint using the Questionnaire Procedure under the Race Relations Act
- Representation at Preliminary, Interlocutory and Pre Hearing Reviews before an Employment Tribunal
- Full representation at an Employment Tribunal
- Full representation at county court
- Arranging representation/advocacy before a court or tribunal, to be paid for by you, the client

- Advising you on how you can pursue the case yourself
- Preparing an application to the Employment Tribunal or an Employment Appeal Tribunal
- Assistance and advice with internal appeals or grievance procedure
- Negotiating through ACAS or solicitors to try to settle your case

WHAT WE EXPECT FROM YOU...

You will be informed which of these options the REC has decided to grant. **At all times after granting assistance the REC will be responsible for your case and will decide upon the best and most appropriate conduct of your case.**

In return we expect that you will:

- Treat all members of the REC with respect, including paid staff, volunteers and Executive Committee Members. Any aggressive, violent or unreasonable behaviour would be a reason to withdraw assistance
- Keep the REC fully informed of any changes in circumstances which might affect their case
- Respond to letters/phone calls from the REC within a reasonable period of time.
- Provide the REC with all information (in confidence) which is relevant to the case
- Accept reasonable advice from the REC, including advice on appropriate settlements
- Not contact the media without agreement of the REC
- Not instruct another representative without agreement

If you fail to comply with these conditions we may refuse/withdraw assistance.

FINANCIAL LIABILITIES

The REC cannot pay travel or any other out of pocket expenses for you or your witnesses.

If a medical report is necessary, you must pay for this.

The REC cannot be held liable for costs arising from an unsuccessful case, unless they are the result of professional negligence or misconduct.

The REC however undertakes to advise and assist clients to claim any entitlement that may be due so as to minimise the costs incurred by them. The REC also undertakes to advise clients about any legal or other costs that they may be liable to incur before they arise.

The legal casework service is completely free of charge. However, there may be costs in taking your claim forward. These will not be the REC's own charges but other additional costs. Any potential costs will be outlined in full by the caseworker in charge of your case.

The REC cannot pay for County Court fees that are payable in non-employment cases. If you are pursuing a non employment case we must warn you that if you lose your case, or for some other reason you withdraw your claim after issuing a claim to a County Court, the other side could ask for costs and these could include costs incurred before the claim was formally made to the County Court. If you decide to issue proceedings we shall discuss with you a more detailed letter setting out the cost implications.

ACCESSING YOUR RECORDS

We hold information about your case both on our computer system and manually in a file. Our records are kept securely and we ask you to sign a document allowing us to hold that information.

DONATIONS

The REC is a not for profit organisation that relies on the support of individuals and agencies for its work to continue. We welcome support for our work in a variety of different ways, including offers of financial donations. Although the casework service is free, ***if a cash sum is obtained either through a settlement agreement or through a successful tribunal case, we ask you to consider making a donation to the REC***, to enable us to continue our work.

It is the policy of this REC that ***no staff member shall receive a financial donation personally***. However, staff are permitted to receive small gifts in kind, at the clients discretion. If any staff member receives a personal financial donation/gift it will constitute a disciplinary offence.

COMPLAINTS

The REC has a Complaints Procedure that you can use if you are unhappy with the service provided by the caseworker. Please pick up the 'Complaints!' leaflet.