



# **Equal Opportunities Policy**

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## 1. Our Commitment

- 1.1 The Council is committed to providing equal opportunities in employment and to eliminating unlawful discrimination in employment, job applicants or to customers.
- 1.2 This policy is intended to assist the Council to put this commitment into practice. Compliance with this policy should also ensure that employees do not commit acts of unlawful discrimination.
- 1.3 Striving to ensure that the work environment is free from harassment and bullying and that everyone is treated with dignity and respect is an important aspect of ensuring equal opportunities in employment. The Council has a separate Dignity at Work Policy, which deals with those issues.

## 2. The Law

- 2.1 The Equality Act 2010 sets out protected characteristics that qualify for protection from discrimination, these are as follows:
  - Age
  - Disability
  - Gender reassignment
  - Marriage and civil partnership
  - Pregnancy and maternity
  - Race
  - Religion or belief
  - Sex
  - Sexual orientation

It is unlawful to discriminate directly or indirectly in recruitment or employment on grounds of these protected characteristics.

- 2.2 It is unlawful to treat someone less favourably on grounds of disability or age, unless the less favourable treatment can be justified.
- 2.3 Discrimination after employment may also be unlawful, e.g. in refusing to give a reference or in the form of reference given.
- 2.4 It is unlawful to discriminate directly or indirectly in the provision of goods, facilities or services to customers on grounds of the protected characteristics.
- 2.5 It is unlawful to discriminate, without justification, on grounds of disability or to fail to make reasonable adjustments to overcome barriers to using services caused by disability. The duty to make reasonable adjustments includes the removal, adaptation or alteration of physical features, if the physical features make it impossible or unreasonably difficult for disabled people to make use of services.
- 2.6 It is unlawful to victimise someone because he or she has alleged unlawful discrimination or supported someone to make a complaint or given evidence in relation to a complaint.
- 2.7 Some types of harassment or bullying will be unlawful discrimination.

### 3. Types of Unlawful Discrimination

- 3.1 **Direct discrimination** occurs when someone is treated less favourably than another person because of a protected characteristic they have or are thought to have (perceptive discrimination), or because they associate with someone who has a protected characteristic (associative discrimination).

An example of direct sex discrimination would be refusing to employ a woman because she was pregnant.

Unlike the other forms of discrimination, direct discrimination on the grounds of age can be justified if it can be shown that the discriminatory treatment is a proportionate means of achieving a legitimate aim.

This means that:

- there must be a genuine business need behind the measure (such as health and safety reasons or training requirements);
- the measure must, in practice, demonstrably contribute to the achievement of that business aim;
- the measure must be appropriate, when the importance of the business aim is weighed up against the discriminatory effects; and
- there must not be another, less discriminatory, way of achieving the same aim.

Perceptive and associative discrimination are both forms of direct discrimination (see below).

- 3.2 **Perceptive discrimination** is direct discrimination against an individual because others think they possess a particular protected characteristic. It applies even if the person does not actually possess that characteristic.

An example of perceptive discrimination would be rejecting a male applicant for a job on the basis that it is wrongly thought that the applicant was gay because he came across as camp during the interview.

- 3.3 **Associative discrimination** is direct discrimination against someone because they associate with another person who possesses a protected characteristic.

An example of associative discrimination would be withdrawing an offer of a role to a job applicant after discovering they have a disabled daughter who requires intense care and attention.

- 3.4 **Indirect discrimination** is where a provision, criterion or practice is applied which is such that it would be to the detriment of a considerably larger proportion of the relevant group to which the individual belongs than to others, which is not objectively justifiable and which is to the individual's detriment.

An example of indirect sex discrimination could be requiring everyone to work full time unless there is a good reason, unrelated to sex, as to why the particular job has to be done on a full-time basis, since requiring everyone to work full time will normally adversely affect a higher proportion of women than men.

- 3.5 **Failure to make reasonable adjustments** is where arrangements disadvantage an individual because of a disability and reasonable adjustments are not made to overcome the disadvantage.
- 3.6 **Harassment** is “unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual”.
- 3.7 **Harassment by a Third Party** - employers are liable for harassment if they fail to protect employees from persistent harassment by third parties, for example contractors, members of the public, service users.
- 3.8 **Victimisation** is where someone is treated less favourably than others because he or she has alleged unlawful discrimination or supported someone to make a complaint or given evidence in relation to a complaint.

## 4. Equal Opportunities in Employment

- 4.1 The Council is committed to the elimination of unlawful discrimination in all aspects of employment including recruitment, promotion, opportunities for training, pay and benefits, discipline and selection for redundancy.
- 4.2 Person and job specifications will be limited to those requirements that are necessary for the effective performance of the job. Candidates for employment or promotion will be assessed objectively against the requirements for the job, taking account of any reasonable adjustments that may be required for candidates with a disability. Disability and personal or home commitments will not form the basis of employment decisions except where necessary.
- 4.3 Questions asked as part of the selection process relating to the health of candidates will be limited to those that have been identified as being intrinsic to the role. This will be done through risk assessment with the advice of Occupational Health as appropriate.
- 4.4 The Council will consider any possible indirectly discriminatory effect of its standard working practices, when considering requests for variations to these standard working practices. This may include the number of hours to be worked, the times at which these are to be worked and the place at which work is to be done. The Council will refuse such requests for variations only if the Council considers it has good reasons, unrelated to any prohibited ground of discrimination, for doing so. The Council will comply with its obligations in relation to statutory requests for contract variations. The Council will also make reasonable adjustments to its standard working practices to overcome barriers caused by disability.
- 4.5 The Council will monitor the ethnic, gender and age composition of the existing workforce and of applicants for jobs, and the number of people with disabilities within these groups, and will consider and take any appropriate action to address any problems, which may be identified as a result of the monitoring process.
- 4.6 The Council cannot lawfully discriminate in the selection of employees for recruitment or promotion, but the Council may use appropriate lawful methods, including lawful positive action, to address the under-representation of any group which the Council identifies as such in particular types of job.

## 5. Dignity at Work

- 5.1 The Council has a separate dignity at work policy concerning issues of bullying and harassment on any ground, and how complaints of this type will be dealt with.

## 6. Customers, suppliers and other people not employed by the Council

- 6.1 The Council will not unlawfully discriminate against customers using or seeking to use facilities or services provided by the Council.
- 6.2 Employees should report any bullying or harassment by customers, suppliers, visitors or others to their manager who will take appropriate action.

## 7. Training

- 7.1 The Council will provide training in equal opportunities to managers and others likely to be involved in recruitment or other decisions concerning staff.

## 8. Employees' Responsibilities

- 8.1 Every employee is required to assist the Council to meet its commitment to provide equal opportunities in employment and the elimination of unlawful discrimination.
- 8.2 Employees can be held personally liable as well as, or instead of, the Council for any act of unlawful discrimination. Employees who commit serious acts of harassment may be guilty of a criminal offence.
- 8.3 Acts of discrimination, harassment, bullying or victimisation against employees or customers are disciplinary offences and will be dealt with under the Council's disciplinary procedure. Discrimination, harassment, bullying or victimisation may constitute gross misconduct and could lead to dismissal without notice.

## 9. Grievances

- 9.1 If a member of staff considers that they may have been unlawfully discriminated against, they may use the Council's grievance procedure to make a complaint. If the complaint involves bullying or harassment, the grievance procedure is modified as set out in the dignity at work policy.
- 9.2 The Council will take any complaint seriously and will seek to resolve any grievance, which it upholds. Employees will not be penalised for raising a grievance, even if the grievance is not upheld, unless the complaint is both untrue and made in bad faith.
- 9.3 Use of the Council's grievance procedure does not affect employees' right to make a complaint to an employment tribunal. Complaints to an employment tribunal must normally be made within three months of the act of discrimination complained of taking place.

## 10. Equality Impact Assessment and Monitoring

- 10.1 The operation of this policy will be monitored for its impact on different staff groups in line with the Equality Act 2010. This will enable the Council to assess whether any differences have an adverse impact on a particular group, such that further action would be required.

## 11. Data Protection

- 11.1 In implementing this policy, the Council will ensure that any personal data relating to the application of this policy will be obtained, processed and destroyed in line with Data Protection requirements.