

# Equality in employment policy

1. The councils reserve the right to revise, withdraw or replace the content of this policy at any time and to introduce new policies from time to time to reflect the changing needs of the organisations or new legislation. This policy refers to employees but the standards outlined should be adhered to by everyone working for the councils, such as casual or agency workers or contractors.

## Policy statement

2. Both councils are committed to being equal opportunities employers and aim to promote equality of opportunity and avoid unlawful discrimination in all aspects of employment. Our work environment should be a place where all individuals are respected and treated with dignity and where all forms of bullying and harassment are viewed as unacceptable behaviour.
3. This policy supports the councils' corporate equality objectives and is intended to assist the councils to put their equality commitments into practice. Compliance with this policy will ensure that employees do not commit unlawful acts of discrimination, bullying or harassment.

## The law

- it is unlawful to discriminate directly or indirectly in recruitment or employment on the grounds of 'protected characteristics', specifically age, sex, gender reassignment, pregnancy and maternity, race (including colour, nationality, and ethnic or national origins), disability, sexual orientation, religion or belief, or because someone is married or is a civil partner
- we have a duty to provide reasonable adjustments to take account of a disabled person's impairments during recruitment and during employment, even where that involves treating them more favourably
- we have a duty to advance equality of opportunity between people who share a protected characteristic and those who do not
- we have a duty to foster good relations between people who share a protected characteristic and those who do not
- discrimination after employment may be unlawful, e.g. in refusing to give a reference or in the form of reference given
- some types of harassment or bullying will be unlawful discrimination.
- 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.

## Types of unlawful discrimination

4. The following paragraphs provide examples of unlawful discrimination.
5. **Direct discrimination** is where a person is treated less favourably than another in comparable circumstances. 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 in certain circumstances if it is a proportionate means of achieving a legitimate aim. It may also be lawful to treat a disabled person more favourably than a non-disabled person.
6. **Indirect discrimination** may occur when an employer applies an apparently neutral provision, criterion or practice which puts workers sharing a protected characteristic e.g. sex, race or age at a particular disadvantage. An example of indirect sex discrimination could be requiring a group of employees to work full time unless there is a genuine business reason, as requiring people to work full time will normally adversely affect a higher proportion of women than men.
7. **Associative discrimination** is when someone is discriminated against because they are associated with another person who possesses a protected characteristic (for example discrimination against the parent of a disabled child).
8. **Perceptive discrimination** occurs when an individual is directly discriminated against because others think they possess a protected characteristic (for example discrimination against a heterosexual because they are mistaken for homosexual).
9. **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. For example, not providing an employee with severe dyslexia with practical aids to assist their concentration could potentially be failing to make a reasonable adjustment.
10. **Victimisation** is where someone is treated badly as he or she has alleged unlawful discrimination or supported someone to make a complaint or given evidence in relation to a complaint.

## Bullying and harassment

11. **Bullying** can be defined as *persistent, offensive, abusive, intimidating, malicious or insulting behaviour, or abuse of power which makes the recipient feel upset, threatened, humiliated or vulnerable, undermining their self-confidence and potentially causing them to suffer stress.* Bullying can be blatant, such as someone shouting at an individual in

front of others, or subtle, such as delegating work inappropriately to set up an individual to fail.

12. Bullying can be carried out by a person in authority, a colleague, a person's direct or indirect report or a group of people. Bullying can be viewed as a way of someone hiding their inadequacy and a bully often projects their inadequacy on to others:

- to avoid facing up to their inadequacy and doing something about it
- to avoid accepting responsibility for their behaviour and the effect it has on others
- to reduce their fear of being seen for what they are (often incompetent)
- to divert attention away from their inadequacy

Organisational culture factors such as directive management styles, work overload and a blame culture can also result in bullying.

13. **Harassment** is behaviour which is unsolicited, personally offensive and that fails to respect the rights of others in the workplace. Harassment could be verbal, physical or visual and may relate to a person's sex, gender reassignment, disability, race, religion or belief, sexual orientation, age or any other reason. It has the effect of:

- violating the worker's dignity; or
- creating an intimidating, hostile, degrading, humiliating or offensive environment for that worker.

14. Harassment may be directed at one person or many people. It often takes place when there are no witnesses, although not always. It can be persistent behaviour over a period of time, or it could be a one-off act. It is not the intention of the perpetrator that is the key in deciding if harassment has occurred, but whether the behaviour is unacceptable by reasonable standards and is disadvantageous or unwelcome to the person or people subjected to it or witnessing it (employees can also be harassed if they find behaviour that is not directed at them personally offensive). Employers can also be liable for harassment of their employees by third parties such as customers and clients.

15. Harassment can lead to:

- a loss of self-worth and self-confidence
- a person blaming themselves for being harassed
- personal embarrassment and suffering
- disruption to work and working relationships
- damaged reputations
- individuals being prosecuted under criminal as well as civil law and being personally liable. An individual is likely to have to pay



compensation themselves, as well as any payment the council may be ordered to make.

**16. Examples of bullying and harassment are:**

- unreciprocated and unwelcome verbal or physical advances ranging from inappropriate touching and standing too close, to serious assault
- physical intimidation or abuse
- verbal intimidation – threats, shouting and swearing, inappropriate jokes, banter, taunts or insults, spreading malicious rumours, making derogatory statements about an individual, suggestive remarks, compromising invitations, offensive manner of communication (e.g. aggressive tone, mockery)
- written intimidation – aggressive emails, offensive literature
- visual intimidation - offensive graffiti, pin-ups, posters, cartoons, drawings, obscene gestures
- pressure to participate in religious / political groups
- demeaning comments about someone's personal characteristics – e.g. this could relate to facial disfigurement or speech impediments
- personal intrusion by pestering, spying on or following an employee outside working hours
- isolation or non co-operation at work, exclusion from social activities
- withholding information necessary to perform a job; unfair allocation of work; setting unrealistic deadlines; taking credit for a colleagues work or deriding someone else's work in order to undermine them
- deliberately undermining a competent worker by overloading and constant criticism
- making threats about job security without foundation
- preventing individuals progressing by intentionally blocking promotion or training opportunities

**Helping to eliminate bullying, harassment or discrimination**

**17.** We all have a responsibility to help create and maintain a work environment free from bullying, harassment and discrimination. You can help to do this by:

- being aware of how your own behaviour may affect others and changing it if necessary - you can still cause offence even if you are 'only joking'
- treating your colleagues with dignity and respect
- taking a stand if you think inappropriate jokes or comments are being made
- making it clear to others when you find their behaviour unacceptable, even if it should be obvious in advance that this would be the case

- intervening, if possible, to stop harassment, bullying or discrimination and giving support to victims
- making it clear that you find harassment, bullying and discrimination unacceptable
- reporting harassment, bullying or discrimination to your manager or to your HR representative and supporting the council in the investigation of complaints; and
- if a complaint of harassment, bullying or discrimination is made, not prejudging or victimising the complainant or the alleged harasser.

18. If complaints are made, managers will be expected to deal with them fairly, promptly, confidentially and sensitively.

## **Dealing with bullying, harassment or discrimination**

19. The councils recognise that employees who believe they are being subjected to bullying, harassment or discrimination may feel very vulnerable and reluctant to complain, particularly if they view their direct or indirect manager as the problem. They may be unwilling or unsure about how to make a complaint or be concerned that it will be made to sound trivial. They may suffer in silence because they are reluctant to draw attention to the situation and they may just want to see an end to what they consider to be unwelcome behaviour.
20. The councils also recognise that the alleged bullying, harassment or discrimination may be a result of misinterpreted behaviour.
21. In the light of these sensitivities, we encourage employees to raise a complaint of bullying, harassment or discrimination informally in the first instance, unless they are the victims of extreme forms of behaviour such as violence and abuse.
22. The purpose of the informal procedure is to reach a solution speedily if practical, with minimum embarrassment and risk to confidentiality. It is likely to be particularly effective if the alleged offender is not aware that their behaviour is unwelcome, when an informal discussion can lead to greater understanding and an agreement that the behaviour will cease. An informal procedure is set out below.

## **An informal procedure**

23. If someone (a colleague, direct or indirect report, manager, customer, councillor) treats you in a way which you believe constitutes bullying, harassment or discrimination, keep a written record of what has happened, where and when it happened, how you felt at the time and, if possible, who witnessed it.
24. You should then consider taking the following steps if you feel you are able to:



- invite the alleged offender to an appropriate and private place to talk
  - make it clear that the discussion is to be treated in strict confidence on both sides
  - describe your recollection of their behaviour and explain, calmly and politely, why the behaviour offends you and that you would like it to stop
  - seek an agreement from the alleged offender that the behaviour will stop.
25. If you feel unable to approach the alleged offender in person, write to them in an appropriate way stating the points below:
- your perception of the behaviour and how it made you feel
  - when and where it occurred
  - why you object to it
  - that you want it to stop
  - how you expect to be treated in future
26. You should keep a copy of the letter. If English is not your first language and you need help writing this letter please contact your HR representative and they can arrange for you to receive help from an interpreter.
27. If you feel unable to raise the matter either in person or in writing with the alleged offender yourself, ask your manager, a work colleague or trade union representative to make this approach on your behalf to ask them to stop. As the situation may be stressful, you may wish to seek assistance or support from our employee assistance programme provider. Contact details are available on the intranet.
28. If you are unable to approach the alleged offender, it does not constitute your consent to the harassment, bullying or discrimination and it will not prejudice any formal complaint you may subsequently bring.

## **Formal procedure**

29. If an informal approach does not resolve your concerns, you may take formal action using the councils' grievance policy. If formal action is taken against an employee in relation to allegations of bullying, harassment or discrimination, this will normally be carried out under the disciplinary procedure. In serious cases, such behaviour could constitute gross misconduct and lead to summary dismissal.

## **Allegations involving the councils' customers**

30. If a customer or supplier complains that they have been bullied, harassed or discriminated against by a council employee, the manager dealing

with the complaint may make informal enquiries in the first instance and then decide whether to invoke a formal investigation in line with the councils' disciplinary policy.

31. If you feel you have been bullied, harassed or discriminated against by a customer or supplier you should report this to your manager. Your manager should follow up on your complaint, taking into account the councils' complaints procedures and the guidance in this policy and the grievance policy.

## **Our equal opportunities commitments**

32. The councils will advance equality of opportunity and avoid unlawful discrimination in all aspects of employment including recruitment, promotion, opportunities for training, pay and benefits, discipline and selection for redundancy.
33. Job descriptions and person specifications will be limited to those requirements that are necessary for the effective performance of the job.
34. 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. This will help the councils to always recruit and retain the best person for the job.
35. Disability and personal or home commitments will not form the basis of employment decisions except where justified in order to meet the needs of the business.
36. The councils will consider any possible indirectly discriminatory effect of its standard working practices, including 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, when considering requests for variations to these standard working practices and will refuse such requests only if the councils consider they have good reasons, unrelated to any prohibited ground of discrimination, for doing so.
37. The councils will comply with their obligations in relation to statutory requests for contract variations.
38. The councils will also make reasonable adjustments to their standard working practices to best support disabled job applicants and employees.
39. The councils will monitor a range of employment indicators according to the ethnicity, gender, disability, sexual orientation, religion and belief and age of employees. They will take appropriate action to address any significant under-representation or barriers which may be identified as a result of the monitoring process. The purpose of this monitoring is to help the councils ensure that their employment practices and opportunities are fair and accessible for all.

40. The councils will not discriminate in the selection of employees for recruitment or promotion, but may use appropriate lawful methods, including lawful positive action, to address the under representation of any group in particular types or levels of job.
41. The councils will carry out equality impact assessments (EIAs) during significant changes to policies, procedures or team structures.
42. The councils have a zero tolerance approach to harassment and victimisation.

## **Training**

43. All employees will be made aware of the councils' equalities commitments during their induction process. All employees will attend valuing equality and diversity training which councillors will also receive as part of their induction.

## **Equal Pay**

44. The councils are committed to operating a pay and reward system which is transparent, based on objective criteria and free from bias. We will use an analytical job evaluation system to assess the demands of jobs and their place in the grading structure.
45. The councils also commit to reviewing our pay every three years to ensure that there is no discrimination within the pay structure. We will provide clear information to all employees regarding our pay practices. If changes are required, the councils will implement them in consultation with our recognised trade union.
46. If you have a concern about equal pay you should, in the first instance, raise it with your line manager. Ideally, the matter will be dealt with informally although you may refer to the formal grievance procedure if an informal approach does not provide you with what you consider to be a satisfactory outcome.

## **Responsibilities**

47. The chief executive of the councils' paid establishment has overall responsibility for ensuring that this policy is operated effectively. Each director is responsible for ensuring that equal opportunities are promoted within their portfolio.
48. It is the responsibility of the HR team to ensure that this policy is being monitored effectively and communicated effectively to employees.
49. Each manager is responsible for ensuring all employees are aware of their responsibility not to discriminate, promoting equality and diversity



within the work place and ensuring that every employee complies with this policy.

50. Every employee is required to assist the councils to meet their commitment to provide equal opportunities in employment and avoid unlawful discrimination.
51. Employees can be held personally liable as well as, or instead of, the councils for any act of unlawful discrimination.
52. Acts of discrimination, harassment, bullying or victimisation against employees will be dealt with under the councils' disciplinary procedure. Discrimination, harassment, bullying or victimisation may constitute gross misconduct and could lead to dismissal without notice.

## **Monitoring and review**

53. The HR team is responsible for the effective implementation of this policy and for ensuring it is reviewed regularly. This will include an annual summary of equalities data relating to the councils' employees and potential employees which may result in amendments to this policy.
54. Information provided by job applicants and employees for monitoring purposes will be used only for these purposes and will be dealt with in accordance with the Data Protection Act 1998.

## **Alternative formats of this policy**

55. Alternative formats of this publication can be made available on request. These include large print, Braille, audio, email, easy read and other languages. Please contact the HR team on 01491 823424.

## **Law relating to this document**

- Equality Act 2010
- Human Rights Act 1998

Version 1 issued August 2010  
Version 2 issued January 2012  
Version 3 issued July 2014  
Version 4 issued September 2014  
Version 5 issued November 2014