

Together
we make a
difference

Equal Opportunities Policy

OCTOBER 2022

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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 As part of the Council's commitment to anti-discrimination and tackling Hate Crime we endorse the International Holocaust Remembrance Alliance Definition of Anti-Semitism details of which are shown in Appendix 1.
- 1.4 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

Political opinion or affiliation is not a protected characteristic under the Equality Act 2010; however since 25 June 2013, any employee dismissed for a reason related to political opinion or affiliation may bring a claim for unfair dismissal to tribunal irrespective of their length of service.

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 **Discrimination by Association**

It is also unlawful to discriminate against an individual because they “associate with” someone with a particular protected characteristic (marital and civil partnership status are excluded from this provision). Examples could be direct discrimination or harassment because:

- the employee socialises with friends who hold a particular religion or belief
- the employee is married to someone of a particular race or skin colour
- the employee needs time off work to care for a disabled child, partner or parent
- the employee refuses to carry out an employer's instruction to discriminate on the grounds of age.

3.4 **Indirect discrimination**

Unlawful indirect discrimination occurs if all of the following conditions are satisfied.

- The employer applies a provision, criterion or practice to everyone (or to everyone in a specific category, eg all the applicants for a vacant job).
- The provision, criterion or practice puts, or would put, people who have a particular protected characteristic at a particular disadvantage when compared with people who do not have that characteristic.
- The provision, criterion or practice puts, or would put, an individual at that disadvantage.
- The employer is unable to show that the provision, criterion or practice is a proportionate means of achieving a legitimate aim.

The discrimination does not have to have been intentional for an employer to be found guilty of unlawful indirect discrimination.

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”.

The most important criterion in establishing whether behaviour amounts to harassment is the perception of the person on the receiving end of the particular behaviour. The motive of the harasser is largely irrelevant – it is the effect on the victim that is determinative. Legislation provides that it must be reasonable for the victim to take the view that the conduct in question amounted to harassment.

Examples

Harassment (related to one of the protected characteristics) can include:

- physical abuse
- offensive or hostile language
- offensive jokes or banter
- belittling or derogatory remarks to or about someone
- teasing or taunting
- offensive nicknames
- the transmittal of offensive material by email
- mimicking someone’s accent or mannerisms in a demeaning way
- ignoring someone.

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.
- 6.3 The Equality Act 2010 provides that it is unlawful for an employer to discriminate against a person because of any of the protected characteristics:
- in the arrangements it makes for the purpose of deciding to whom it should offer employment
 - in the terms on which it offers employment
 - by not offering employment.
- Job applicants are therefore protected throughout the entire process of recruitment against any form of discrimination.
- 6.4 Unless a job is one to which an occupational requirement applies, the Council will not state in any job advertisement that the organisation is seeking someone with a particular protected characteristic.
- 6.5 The Council has designed its job application forms so that personal details, eg name, gender, date of birth, nationality, ethnic origin, marital status and age, can be entered on to a separate page of the form which can then be detached from the main part of the form (and held confidentially by the HR department) before the shortlisting process begins.
- The purpose of this is to reduce the possibility of unlawful discrimination arising during the shortlisting process. If those carrying out the shortlisting are not aware of the candidates' racial background, age, etc then no discrimination can occur.

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.
- The Council will ensure that there is equal treatment and equal access to training for all staff irrespective of their gender, family status, race, religion, sexual orientation, age, disability and part-time status.

Training should be flexible as regards:

- timing – so as not to disadvantage employees who, because of family commitments or for religious reasons, cannot work on a particular day or at a particular time
- duration of individual sessions and regular breaks, eg to accommodate the needs of an employee with a disability or someone who wishes to pray at regular intervals
- location and venue – which should be suitable for people who have limited mobility or who use a wheelchair.

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 victimization against employees or customers are disciplinary offences and will be dealt with under the Council's disciplinary procedure. Discrimination, harassment, bullying or victimization 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.

Appendix 1

The International Holocaust Remembrance Alliance Definition of Anti-Semitism

“Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.”

Contemporary examples of antisemitism in public life, the media, schools, the workplace, and in the religious sphere could, taking into account the overall context, include, but are not limited to:

- Calling for, aiding, or justifying the killing or harming of Jews in the name of a radical ideology or an extremist view of religion.
- Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as collective – such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions.
- Accusing Jews as a people of being responsible for real or imagined wrongdoing committed by a single Jewish person or group, or even for acts committed by non-Jews.
- Denying the fact, scope, mechanisms (e.g. gas chambers) or intentionality of the genocide of the Jewish people at the hands of National Socialist Germany and its supporters and accomplices during World War II (the Holocaust).
- Accusing the Jews as a people, or Israel as a state, of inventing or exaggerating the Holocaust.
- Accusing Jewish citizens of being more loyal to Israel, or to the alleged priorities of Jews worldwide, than to the interests of their own nations.
- Denying the Jewish people their right to self-determination, e.g., by claiming that the existence of a State of Israel is a racist endeavour.
- Applying double standards by requiring of it a behaviour not expected or demanded of any other democratic nation.
- Using the symbols and images associated with classic antisemitism (e.g., claims of Jews killing Jesus or blood libel) to characterize Israel or Israelis.
- Drawing comparisons of contemporary Israeli policy to that of the Nazis.
- Holding Jews collectively responsible for actions of the state of Israel.

Anti-Semitic acts are criminal when they are so defined by law (for example, denial of the Holocaust or distribution of anti-Semitic materials in some countries).

Criminal acts are anti-Semitic when the targets of attacks, whether they are people or property – such as buildings, schools, places of worship and cemeteries – are selected because they are, or are perceived to be, Jewish or linked to Jews.

Anti-Semitic discrimination is the denial to Jews of opportunities or services available to others and is illegal in many countries.