

# EQUALITY AND DIVERSITY

## Information for Employers

### Access and Equality and Diversity

As one of the region's largest Training Providers we are responsible for recruiting and training hundreds of learners each year.

As part of our role we have to ensure that we follow good equality and diversity practices and over the past few years have worked hard to develop policies and procedures.

We have a company Equality and Diversity Policy including a Dignity at Work Policy. We have also recently introduced a Safeguarding Policy in line with Independent Safeguarding Authority guidelines.

All staff have recently undergone training and achieved at least Level 2 qualifications in Equality and Diversity.

We offer all our learners the opportunity to complete a certificated project based on equality and diversity in the workplace.

Reviews occur on a regular basis in the workplace to discuss learners' progress and welfare.

In doing this we have not only realised how important a commitment to equality and diversity is, but also the difficulties that employers can face in implementing a policy.

To help we have developed (and over time revised) this guide, to give our employers some basic background on the issues that may affect them. We hope that you find it useful and although we do not claim to be experts we will be happy to discuss any aspect of it with you.

This document, along with guidance for learners is available to download from our website on [www.accesstraining.org](http://www.accesstraining.org)

## The Business Case for Equality and Diversity

Today's business environment is changing. The average age of the workforce is steadily rising and women make up nearly half the workforce in the UK, double the numbers of 25 years ago.

The workforce is also changing in other significant ways. Government reports estimated that the UK working age population will increase by 5 million by 2020, and that minority ethnic communities will account for about half that increase.

For business the lesson is clear. The failure to use human potential to the full will become more

damaging as labour markets become more competitive and more mobile. The imperative for employers to treat and reward all staff fairly will become more and more difficult to resist. And the benefits are there to be reaped.

#### So what are the benefits?

Promoting equality and diversity makes good business sense. By implementing an effective policy you can:

- **Attract the best recruits**
- **Select the best staff**
- **Maximise the potential of your workforce**

- **Promote good relations between your employees**
- **Enhance your company's reputation**
- **Comply with legislation**

In most cases practising effective equality and diversity can be achieved within the organisation's current resources and staffing. Policies do not need to be bureaucratic. Clear and consistent guidelines will help you treat everyone fairly and help you reap the benefits of keeping the committed, productive employees you need.

## The Concepts

Equality and diversity are concepts that go hand in hand but are not the same.

Equality is about making sure people are treated fairly and given fair chances. Equality is not about treating everyone in the same way, but it recognises that their needs are met in different ways. Equality tends to focus on those areas covered within the law (race, gender, disability, religion or belief, sexual orientation and age) and is about creating an environment where no-one is unfairly discriminated against.

Diversity on the other hand is about valuing individual differences. It incorporates the principle that whilst everyone should receive equal rights, rather than ignoring the differences between people their diversity should be recognised, valued and enjoyed. Embracing diversity brings to an organisation a wide range of experience, ideas and creativity and if managed well it can ensure that each individual utilises their skills effectively and feels valued for their individual qualities.

## Types of Discrimination

The aim of equality in the workplace is to ensure that everyone has an equal chance when it comes to recruitment, employment terms and conditions, discipline, promotion, training, personal development and any other benefits that an employer may offer. Where equality is effective, decisions are not influenced by assumptions and stereotypes but are made on the basis of the 'best person for the job.'

Implementing equality successfully means trying to remove all types of unlawful discrimination. But what types of discrimination are there?

**Direct Discrimination:** Someone treated less favourably than

another person because of a Protected Characteristic (PC). Protected Characteristics are listed overleaf.

#### Associative Discrimination:

Direct Discrimination against someone because they associate with another person who possesses a PC.

#### Discrimination by Perception:

Direct Discrimination against someone because the others think they possess a particular PC.

**Indirect Discrimination:** Can occur when you have a rule or policy that applies to everyone but disadvantages a particular PC.

**Harassment:** Employees can now complain of behaviour they find

## Help and Advice

For more information about equality and diversity issues, including guidance on the law and details on how to write your own policy, the following websites may be useful:

Citizens Advice Bureau  
[www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)

Equality North East  
[www.equality-ne.co.uk](http://www.equality-ne.co.uk)

The Commission for Equality and Human Rights (CEHR)  
[www.equalityhumanrights.com](http://www.equalityhumanrights.com)

Disability North  
[www.disabilitynorth.org.uk](http://www.disabilitynorth.org.uk)

ACAS [www.acas.org.uk](http://www.acas.org.uk)

offensive even if it is not directed at them.

#### Harassment by a Third Party:

Employers are potentially liable for harassment of their staff by people they don't employ..

**Victimisation:** Someone is treated badly because they have made/supported a complaint or grievance under the Act.



# Observing the Law

The Equality Act 2010 replaces the previous anti-discrimination laws with a single Act. It simplifies the law, removing inconsistencies and making it easier for people to understand and comply with. It also strengthens the law in important ways to help tackle discrimination and inequality. It came into force on 1 October 2010.

People who access your goods, facilities and services are protected from discrimination on the basis of a 'protected characteristic'.

## The Protected Characteristics (PC): Key Points

**Age:** The Act protects people of all ages. However, different treatment because of age is not unlawful direct or indirect discrimination if you can justify it, ie if you can demonstrate that it is a proportionate means of meeting a legitimate aim. Age is the only protected characteristic that allows employers to justify direct discrimination.

**Disability:** The Act has made it easier for a person to show that they are disabled and protected from disability discrimination. Under the Act, a person is disabled if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day to day activities, which include things like using a telephone, reading a book or using public transport. As before, the Act puts a duty on you as an employer to make reasonable adjustments for your staff to help them overcome disadvantages resulting from an impairment (eg by providing assistive technologies

to help visually impaired staff to use computers effectively).

Additionally, indirect discrimination now covers disabled people. This means that a job applicant or employee could claim that a particular rule or requirement you have in place disadvantages people with the same disability. Unless you can justify this, it would be unlawful.

The Act also includes a new provision which makes it unlawful, except in certain circumstances, for employers to ask about a candidate's health before offering them work.

**Gender Reassignment:** The Act provides protection for transsexual people. A transsexual person is someone who proposes to, starts or has completed a process to change his or her gender. The Act no longer requires a person to be under medical supervision to be protected—so a woman who decides to live permanently as a man but does not undergo any medical procedures would be covered.

It is discrimination to treat transsexual people less favourably for being absent from work because they propose to undergo, are undergoing or have undergone gender reassignment than they would be treated if they were absent because they were ill or injured.

**Marriage and Civil Partnership:** The Act protects employees who are married or in a civil partnership against discrimination. Single people are not protected.

## Pregnancy and Maternity Leave:

A woman is protected against discrimination on the grounds of pregnancy and maternity during a period of her pregnancy and any statutory maternity leave to which she is entitled. During this period, pregnancy and maternity discrimination cannot be treated as sex discrimination. You must take into account an employee's period of absence due to pregnancy-related illness when making a decision about her employment.

**Race:** For the purposes of the Act 'race' includes colour, nationality and ethnic or national origins. A racial group can be made up of two or more different racial groups (eg Black Britons).

**Religion or Belief:** In the Equality Act, religion includes any religion. It also includes a lack of religion, in other words employees or jobseekers are protected if they do not follow a certain religion or do not follow a religion at all. Discrimination because of religion or belief can occur even where both the discriminator and the recipient are of the same religion or belief.

**Sex:** Both men and women are protected under the Act.

**Sexual Orientation:** The Act protects bisexual, gay, heterosexual and lesbian people.

**Equal Pay:** The purpose of this Act is to ensure that men and women who are doing the same work or work of equal value are not discriminated against in terms of their pay and/or other terms within their employment contract.

## Other legislation that may be relevant to you includes:

**The Human Rights Act** came into force in England in October 2000.

Under the Act, individuals have rights called Articles (11) including things like freedom of expression and privacy, and Protocols (4) such as the right to education. Currently, the Act does not allow an individual to bring a case against an employer who is not a public authority but this is likely to change in the future.

For more information regarding business's new obligations as providers of goods, services and facilities please refer to:

British Chamber of Commerce:  
[www.britishchambers.org.uk](http://www.britishchambers.org.uk)

British Retail Consortium:  
[www.brc.org.uk](http://www.brc.org.uk)

Chartered Institute of Personnel and Development:  
[www.cipd.co.uk](http://www.cipd.co.uk)

Confederation of British Industry:  
[www.cbi.org.uk](http://www.cbi.org.uk)

Federation of Small Business:  
[www.fsb.org.uk](http://www.fsb.org.uk)

Tourism for All:  
[www.tourismforall.org.uk](http://www.tourismforall.org.uk)

Trades Union Congress:  
[www.tuc.org.uk](http://www.tuc.org.uk)

## And Finally...

In certain circumstances discrimination may be allowed. These can include:

Where there is a 'genuine occupational' requirement for a position, eg where a young actress is required to play the role of a female teenager in a film.

Where an organisation takes 'positive action' to counteract the effects of past discrimination or help abolish stereotyping, eg an employer may encourage particular racial groups to take advantage of training programmes where they have previously been under-represented.

Where existing legislation may override anti-discrimination law, eg health and safety and licensing laws and the national minimum wage regulations.

However, whatever the reason for discrimination, it can only be lawful if an employer can 'justify' his or her actions. If not, your applicant or employee may have a right to complain!

## Is it Worth the Risk?

Employers who are not convinced of the benefits of promoting equality must still consider the possibility that an applicant, an employee or a former member of staff may seek to make a claim against the organisation.

Employers who directly discriminate are obviously at risk, but so are employers who act erratically, who cannot objectively justify their decisions or who conduct themselves in a manner which falls below that generally expected in a modern employment environment.

All this can lead individuals to feel that they have been treated unfairly and without convincing evidence to prove otherwise, an employment tribunal may accept this belief as being likely and make a finding of unlawful discrimination against an employer.

Whatever the outcome of discrimination hearings, the process is not only very stressful but is also likely to be very expensive in terms of time and money. If a finding of discrimination is made against an employer, they face the possibility of unlimited compensation being awarded to the claimant. A public finding of discrimination, possibly coupled with a criticism of an employer's decisions or procedures is not a good advertisement for any organisation. Not only could it have an adverse effect on recruitment but it could also affect current and potential customers as well as causing future problems in gaining or maintaining public sector contracts.

