



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 in developing comprehensive policies and procedures.

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.

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.

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. Projections show that over the next few years there will be 2 million more jobs in the economy - 80% of which will be filled by women.

But the workforce is also changing in other significant ways. A recent Government report estimated that the UK working age population will increase by a million by 2012, and that minority ethnic communities will account for more than 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: By removing any barriers to employment, you will encourage applications from a far wider range of qualified candidates.

Select the best staff: By using selection methods based only on the ability to do the work, you should recruit the best person for the job every time.

Maximise the potential of your workforce: By providing fair and open access to training and promotion, you will maximise the potential and motivation of your employees.

Promote good relations between your employees: By outlawing discrimination, including harassment and victimisation, your employees will be happier and staff turnover will drop.

Enhance your company's reputation: By committing to equality and diversity, your reputation as a good employer will increase. A diverse team will also bring different talents to the workplace - these enhance the ability of a business to innovate

and maintain a competitive edge.

Comply with legislation: By complying with anti-discriminatory legislation, you will be less likely to face costly tribunal cases.

Meet the requirements of Local Authorities: By implementing effective equality and diversity practices, you are more likely to be considered when putting forward tenders for work.

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.



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 occurs when one person is treated less favourably than another would be treated in the same circumstances. Refusing to employ someone because of their race is a type of direct

discrimination. This type of discrimination is usually intentional.

Indirect Discrimination occurs when a requirement is set that cannot be justified as necessary and, as a result, discriminates against certain individuals or groups. An example of this would be to insist on only recruiting people over 6 feet tall, even though this requirement is not essential for doing the job. Because this condition excludes far more women than men (as well as individuals from certain ethnic minorities) this could constitute indirect discrimination. Indirect discrimination is usually unintentional and often occurs through misunderstanding, ignorance, or lack of awareness.

Harassment is any type of unwelcome or unwanted behaviour that makes the recipient feel embarrassed,

humiliated or intimidated. It may be deliberate although it doesn't have to be. An employee could be harassing someone else even if they don't realise they are doing it. However, this does not mean it isn't wrong or that the employee shouldn't complain about it. Harassment may be verbal (jokes, comments or gossip), visual (staring, gestures, unwanted letters or e-mails etc), or physical (standing too close, touching, or even physical assault). Bullying, intimidation and ignoring someone are all types of harassment.

Victimisation occurs when someone is treated unfairly because they have complained of discrimination against themselves, or have given evidence in respect of someone else's complaint. An employee who complains of racial abuse, and is then passed over for promotion because he or she is considered to be a 'troublemaker', would have been victimised.

Observing the Law

There have been huge developments in anti-discrimination legislation over the past few years, covering many areas of everyday life. However, some of the most significant changes have been in the introduction of legislation concerning employment.

Outlined below is information about what the current legislation covers. It is however a very basic introduction and it is advisable to do your own research on what each act says – you never know when you may need it:

Age: Age discrimination law currently applies in employment and vocational training and makes it illegal for an individual to be treated less favourably than another because of their age. The law applies to people already in work, as well as those applying for a new job and means that employers can no longer use age as a factor in their employment, training or retirement decisions.

Relevant legislation includes:

The Employment Equality (Age) Regulations 2006

Disability: Under current legislation it is illegal to treat someone with a disability less favourably than another, unless there is a justifiable reason to do so. An individual is classified as disabled if they have 'a physical or mental impairment, or a long term health condition that has a substantial and long term impact on their day to day life.'

Disability legislation covers many areas of life including employment.

One of the major consequences of



this legislation is the need for employers to make 'reasonable adjustments' to help people access their work. Examples of this could include a physical change to a building, such as a ramp or lift, or more flexible working arrangements for a disabled employee.

Relevant legislation includes:

The Disability Discrimination Acts of 1995 and 2005 The Disability Equality Duty 2006

Gender: Sex discrimination legislation currently applies to vocational training and employment and makes it unlawful to discriminate against a person because of their gender. The legislation which also covers harassment applies to women; men; individuals who are married or in a registered civil partnership and individuals who are undergoing or have undergone gender reassignment (changing to another sex).

Also included in this area of legislation is the Equal Pay Act 1970. 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.

Relevant legislation includes:

The Sex Discrimination Act 1975 The Employment Equality (Sex Discrimination) Regulations 2005 The Gender Reassignment Regulations 1999 Equal Pay Act 1970

Race: Under race relations legislation it is illegal to discriminate on the grounds of race; colour; ethnic or national origin and nationality in many areas including employment. This legislation covers people from all racial groups including white people.

Relevant legislation for employers includes:

The Race Relations Act 1976 The Race Relations Amendment Act 2000

Religion or Belief: Under this legislation everyone (if they want to) has the right to practice a religion or belief, express their views and get on with their day to day life without experiencing threats or discrimination. The legislation applies to many areas of life including vocational training and all areas of employment.

Relevant legislation includes:

The Employment Equality (Religion or Belief) Regulations 2003

Sexual Orientation: Under current legislation it is unlawful to treat someone less favourably because of their actual (or perceived) sexual orientation. Therefore, whether an individual is homosexual, heterosexual or bisexual they have a right to be treated fairly. This legislation applies to both vocational training and employment.

Relevant legislation includes:

The Employment Equality (Sexual Orientation) Legislation 2003

Other legislation which may be of interest includes:

The Equality Act 2006, The Human Rights Act 1998 and the EU Employment Directive 2000.

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.



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

Equality North East
www.equality-ne.co.uk

The Commission for Equality and Human Rights (CEHR)
www.equalityhumanrights.com

Disability North
www.disabilitynorth.org.uk

ACAS www.acas.org.uk

Produced by Access ©

F0007 Issue No 5 04/07/08 An Equal Opportunities Organisation