

Reigate & Banstead Borough Council

Corporate Equality Policy, Nov 2020

1. Introduction

- 1.1 The Council is committed to eliminating all forms of unlawful discrimination, victimisation and harassment which are under its control, and to promoting equality and good relations both within the Council organisation and within and between all communities in the borough.
- 1.2 The Council has had a Corporate Equality Policy in place since January 2007, outlining the policy towards fair treatment and equal access to our services and employment. Since first being in place, the Corporate Equality Policy has been reviewed several times to ensure it reflects latest legislation and guidance and remains up to date.

2. Legislative framework

- 2.1 Section 149 of the 2010 Equality Act sets out the general equality duty and covers the nine protected characteristics (age, disability, sex, gender reassignment, pregnancy and maternity, race, religion, or belief and sexual orientation.)
- 2.2 In summary, those subject to the general duty must have due regard to the need to:
 - a. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - b. Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - c. Foster good relations between people who shared a protected characteristic and those who do not.
- 2.3 Having due regard for advancing equalities is explained in the Act as involving:
 - a. Removing or minimising disadvantages suffered by people due to their protected characteristics.
 - b. Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
 - c. Encouraging people from protected groups to participate in public life or other activities where their participation is disproportionately low.

The Act advises that meeting different needs involves taking steps to take account of disabled people's disabilities. It describes fostering good relations as tackling prejudice and promoting understanding between people from different groups. It states that

compliance with the duty may involve treating some people more favourably than others. The duty to have due regard to the need to eliminate discrimination also covers marriage and civil partnership.

3. Definitions

3.1 The Corporate Equality Policy applies in respect of all the protected characteristics recognised in the Equality Act 2010. These are:

- a. Age
- b. Disability
- c. Gender reassignment
- d. Marriage and civil partnership
- e. Pregnancy and maternity
- f. Race
- g. Religion or belief
- h. Sex
- i. Sexual orientation

3.2 Appendix 2 provides further information about the Equality Act and the protected characteristics.:

3.3 The Policy applies to all aspects of the Council's functions, including:

- a. The provision of direct services
- b. The commissioning and procurement of goods and services
- c. The recruitment, employment, training and development of staff
- d. Our community involvement
- e. Grant making
- f. Consultation with local people and in our partnerships with other organisations
- g. Our exercise of statutory powers and responsibilities.

3.4 The Policy applies at all levels in the Council, including individual levels.

3.5 Appendix 3 provides a glossary of terminology.

4. Aims

4.1 The Council aims to:

- a. Eliminate all forms of unlawful discrimination, victimisation and harassment which are under its control and influence and comply with all relevant legal requirements in relation to equality and diversity.
- b. Demonstrate leadership by advancing equality of opportunity between those with one or more protected characteristics and those without, and by recognising and valuing difference (both the council and the borough's communities).

- c. Encourage good relations between people of different groups and foster social inclusivity and community cohesion.

4.2 In acting in the way described above, the following outcomes will be pursued:

- a. Borough Councillors and Council employees who are aware of their general and specific duties in relation to equality and act in a manner consistent with these duties in undertaking their work within the Council and the borough.
- b. The services that the Council provides are accessible by all members of all communities within Reigate & Banstead borough
- c. The Council provides information about its services in a way which is accessible by all members of all communities within Reigate & Banstead borough
- d. Employment opportunities at the Council are open to all applicants.
- e. Staff training and development opportunities are open to all employees
- f. Pay and conditions of service are fairly applied to all employees.
- g. Member learning and development opportunities are open to all councillors
- h. Agencies who carry out work on behalf of the Council can demonstrate a commitment to promoting equality of opportunity for all customers and fostering good community relations.

4.3 The Council undertakes an annual service and financial planning process to inform its operations and set its budget. In addition to this, from time to time the Council will update existing policies, strategies and operational practices; and will also develop and implement new projects as well as delivering 'business as usual' services.

4.4 Across all this work, the Council will take into account its responsibilities within the Equality Act 2010 and other statutory obligations (as set out in Appendix 2).

4.5 The Council will also adhere to its statutory obligations in respect of employment and the recruitment of staff to delivery Council services and the procurement of goods and services.

5. Roles and responsibilities

5.1 The following have specific responsibilities:

Council

5.2 The Council has the direct responsibility to ensure that the local authority complies with its statutory requirements in relation to equality issues, and to confirm the arrangements for review and revision of procedures, and monitoring methods, to ensure equality of opportunity and the effectiveness of the Council's Corporate Equality Policy and other related policies.

Elected Borough Councillors

- 5.3 Elected councillors ('members') have a responsibility to maintain an up-to-date understanding of the Corporate Equality Policy, and to act in a manner that furthers the Council's general equality duty and its specific equality objectives. They also have a responsibility to ensure that Council's services are available to all members of the borough's communities and set a good example by treating all residents, other Council service users, employees and other workers with dignity and respect.

Chief Executive and Directors (together comprising the Senior Management Team)

- 5.4 The Chief Executive and Directors have a responsibility to:
- a. Ensure that the Corporate Equality Policy is implemented; that all those with management responsibilities work actively to forward its aims; .
 - b. Ensure that their behaviour towards residents, other Council service users, employees and other workers does not involve any form of harassment or discrimination,
 - c. Consider – through their work in partnership with other local authorities, agencies and partners – opportunities to further promote the Council's equalities duties and objectives.

Heads of Service, team leaders and staff with line management responsibilities

- 5.5 Heads of Service and team leaders have a responsibility to ensure that the services their teams provide are available to all members of the community (including those with protected characteristics) in accordance with this policy, and that they observe their responsibilities, setting an example with behaviour that is of the highest standard. Senior Managers must also ensure that they consider the equality implications of any policies and procedures in operation within their service.
- 5.6 Heads of Service, team leaders and all staff with line management responsibilities have a responsibility to ensure that staff act in a manner that furthers the aims of the Corporate Equality Policy. All managers must:
- a. Ensure that all staff and workers are aware of the Council's Corporate Equality Policy and that they know how to raise any issues
 - b. Set a good example by treating all residents, other Council service users, and employees and other workers with dignity and respect
 - c. Be alert to, and correct, unacceptable behaviour within the work areas for which they are responsible, guiding staff or other workers if they (the Managers) witness unacceptable behaviour by explaining politely but firmly to them that such behaviour is unacceptable
 - d. Deal with any complaints or allegations which come to their attention appropriately, effectively and confidentially and

- e. Ensure that they consider the equality implications of any policies, procedures and projects for which they are responsible, which will include undertaking Equality Impact Assessments and ensuring that the outcomes of such assessments are available to the decision-maker.

Employees

- 5.7 It is the responsibility of all employees of the Council to ensure that:
- a. They understand the Corporate Equality Policy and what it requires
 - b. They ensure their own conduct does not discriminate, cause offence or misunderstanding
 - c. They help ensure that services and information provided to all members of the borough's communities are accessible and provided in a fair and inclusive way.

Trade Unions/Staff Association

- 5.8 The Council recognises the need to have full consultation with the trade unions and staff association on the contents of the policy and the arrangements for its operation, to ensure co-operation with the implementation and monitoring of the policy.
- 5.9 It is also the responsibility of the trade unions and staff association to support the implementation of this policy.

6. Implementation Requirements & Strategy

- 6.1 This Corporate Equality Policy sets the framework within which the Council will discharge its equality duties.
- 6.2 The Council is a public body which, under the Equality Act 2010, also has a specific duty to publish one or more equality objectives to demonstrate how it is meeting the aims of the general equality duty. This Policy should be read in conjunction with the Council's Equality Objectives.
- 6.3 The latest set of Equality Objectives is available via the Council website at www.reigate-banstead.gov.uk/equality, supported by information about why the objectives have been selected, and how the Council will seek to achieve its objectives.

7. Version control information

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| Author | Kate Brown/Cath Rose |

Appendix 1 – Related Policies

All Council policies should consider equalities issues and relate to equality. There are however, several key policies which play a particular role in addressing equalities issues including: -

- Recruitment & Selection Policy & Procedure
- Housing register & nominations policy
- Procurement policy

The Council will build monitoring and evaluation into its Corporate Equality Objectives and equality issues will be considered in all service and function reviews.

Appendix 2 – The Equality Act and the Protected Characteristics

The Equality Act 2010

- The Equality Act introduced in 2010 provides the new legislative framework to protect the rights of individuals and advance equality of opportunity for all.

Public Sector Equality Duty

The Equality Act includes a single equality duty which requires public bodies to have due regard to the need to:

1. eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Act
2. advance equality of opportunity and foster good relations across all the protected characteristics with the exception of marriage and civil partnership.

The Act also incorporates two specific duties:

1. A local authority must publish information to demonstrate its compliance with the general duty no later than 31 January 2012 and subsequently of intervals of not greater than one year beginning with the date of the last publication.
2. A local authority must publish its equality objectives by 6 April 2012 and at least every four years thereafter. An objective must be specific and measurable.

The Council's latest Equality Objectives are published on the Council website at www.reigate-banstead.gov.uk/equality..

The Protected Characteristics

The Act has collectively terms the areas where equality considerations must apply as the 'protected characteristics'.

The protected characteristics under the Act are:

- Age
- Disability
- Gender reassignment
- Marriage and Civil Partnership
- Pregnancy and maternity
- Race
- Religion or Belief
- Sex
- Sexual orientation

Full definitions of each characteristic can be found in sections 5-12 of the Act. Some of the relevant considerations are summarised below.

Age

The Act protects people of all ages from unlawful discrimination. It is important to note that this is the only protected characteristic where direct discrimination may be justified, but employers may only be able to justify differential treatment on the grounds of age if they can

demonstrate that the different treatment is a proportionate means of achieving a legitimate aim.

Disability

A person has a disability if they:

- have a physical or mental impairment, and
- the impairment has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.

The meaning of the term 'substantial effect' is defined in the Act as one that is greater than the effect which would be produced by the sort of physical or mental conditions experienced by many people which have only 'minor' or 'trivial' effects (section 212(1)).

Further detail as to the definition of the term 'disability' can be found at Schedule 1 of the Act.

Gender Reassignment

The Act defines a transsexual person as someone, who is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning a person's sex. Importantly, the Act no longer requires a person to be under medical supervision to be protected.

Marriage and Civil Partnership

Discrimination on grounds of marriage or civil partnership is prohibited under the Act. The prohibition applies only in relation to employment and not the provision of goods and services.

Pregnancy and Maternity

Discrimination of women on the grounds of pregnancy or maternity during pregnancy and any maternity period is prohibited under the Act. There are different provisions covering the work and non-work context.

Race

The Act confirms that it is unlawful to discriminate on grounds of colour, nationality or ethnic/national origins.

Sex

Men and women are protected under the Act.

Sexual Orientation

Heterosexual, bisexual, gay and lesbian people are protected under the Act.

Appendix 3 – Definitions for the purpose of this Policy and Related Policies

The Equality Act 2010 defines the various kinds of discrimination with reference to the characteristics which are protected under the Act. It legally protects people from discrimination in the workplace and in wider society.

Whilst these types of discrimination largely replicate those found in previous legislation there are some important changes which materially alter the scope of protection.

Harassment

Harassment is defined in the Act as:

'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'.

Harassment applies to all protected characteristics except for pregnancy and maternity, and marriage and civil partnership.

The Act specifically prohibits three types of harassment:

- Harassment related to a 'relevant protected characteristic'
- Sexual harassment; and
- Less favourable treatment of a service user because they submit to or reject sexual harassment related to sex or gender reassignment.

For harassment related to a protected characteristic, 'related to' includes where the employee or client being harassed has a protected characteristic or where there is any connection with a protected characteristic. 'Any connection' includes a situation where the employee or client being harassed has an association with someone who has a protected characteristic or where they are perceived wrongly as having a particular protected characteristic.

If you are an employer you may now also be found liable for harassment by third parties who are not your employees (e.g. clients or contractors). This has been extended to cover age, disability, gender reassignment, race, religion or belief and sexual orientation.

The following must be shown for liability to be established:

1. the prohibited conduct has occurred with your knowledge on at least two occasions, and
2. you have not taken reasonable steps to prevent it.

A statutory defence is available to employers and principals (as service providers) who can avoid liability for harassment carried out by their employees or agents if they take all reasonable steps to prevent harassment occurring.

Victimisation

Victimisation occurs when an employer or service provider subjects a person to a detriment because the person has carried out (or you believe they have or may carry out) what is referred to as a 'protected act'.

A protected act is any of the following

- bringing proceedings under the Act
- giving evidence or information in proceedings brought under the Act;
- doing anything which is related to the provisions of the Act;
- making an allegation that another person has done something in breach of the Act.

The term 'detriment' has not been defined under the Act but it can be reasonably inferred that if an action has the effect of putting a person at a disadvantage or if it makes their position worse, such treatment will amount to a detriment.

The victim need not have a protected characteristic in order to be protected from victimisation under the Act; for example they could have been supporting a person with a protected characteristic who is making a claim. Claims for victimisation can only be brought by individuals and not groups.

Discrimination

There are two types of discrimination – direct and indirect.

Direct Discrimination

Direct discrimination occurs when someone is treated less favourably than another person because:

- they have a protected characteristic,
- they are thought to have a protected characteristic or
- they associate with someone who has a protected characteristic.

Direct discrimination under the Act is defined as follows:

'A person (A) discriminates against another (B) if, because of a protected characteristic, A treats B less favourably than A treats or would treat others'.

This definition of direct discrimination applies to all protected characteristics. In relation to the protected characteristic of age, direct discrimination can be justified if it is a proportionate means of achieving a legitimate aim.

Separate provisions exist in respect of discrimination against a woman on the grounds of pregnancy or maternity (sections 17 and 18).

Direct Discrimination - Association and Perception

The definition of direct discrimination under the Act also covers a situation where someone is treated less favourably than another person because they are thought to have a protected characteristic (discrimination by perception) or because they associate with someone who has a protected characteristic (discrimination by association).

Direct Discrimination - Dual Discrimination

Under the Act, there is a new category of dual discrimination, which allows claims of discrimination to be brought in relation to a combination of two protected characteristics. Dual discrimination claims can only be brought in relation to direct discrimination.

Claims for dual discrimination only apply to the following protected characteristics: age; disability; gender reassignment; race; religion or belief; sex or sexual orientation.

The provisions relating to dual discrimination have not yet come into force (as at April 2011) and the implementation of this part of the Act is under review by the Coalition Government.

Indirect Discrimination

Indirect discrimination occurs when a policy or practice that applies to everyone particularly disadvantages people who share a protected characteristic. Indirect discrimination under the Act is defined as follows:

‘A person (A) discriminates against another (B) if A applies to B a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic of B's.’

Indirect discrimination can only be justified if you can show that the policy or practice is a proportionate means of achieving a legitimate aim.

Indirect discrimination had already applied to age, race, religion or belief, sex, sexual orientation and marriage and civil partnership. Under the Act it has now been extended to cover disability and gender re-assignment. It does not apply to pregnancy or maternity.

Discrimination arising from disability

This is a new provision under the Act. A person discriminates against a disabled person if he/she treats them unfavourably because of something arising in consequence of their disability, and this treatment cannot be justified as a proportionate means of achieving a legitimate aim.

If you are acting as either an employer or service provider and did not know and could not reasonably have been expected to know of the disabled person's disability, then the unfavourable treatment will not amount to discrimination. However, you must do all you can reasonably be expected to do to find out if a person has a disability.

Unlike direct and indirect discrimination, this form of discrimination does not require the use of a comparator to establish less favourable treatment.

Duty to make adjustments

The Equality Act 2010 consolidates and extends existing duties upon employers and suppliers of goods and services from the Disability Discrimination Act 1995 to make reasonable adjustments for disabled persons.

The duty is three fold:

- Where a provision, criterion or practice puts a disabled person at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled, the person to whom the duty applies must take reasonable steps to avoid the disadvantage.
- Where a physical feature puts a disabled person at a substantial disadvantage in comparison with persons who are not disabled, the person to whom the duty applies must take reasonable steps to avoid the disadvantage.

- Where a disabled person would, but for the provision of an auxiliary aid, be at a substantial disadvantage in comparison with persons who are not disabled, the person to whom the duty applies must take reasonable steps to provide the auxiliary aid.

In relation to requirements where the provision, criterion or practice in question or the auxiliary aid required relates to the provision of information, 'reasonable steps' include making sure that the information is in an accessible format.

The duty referring to the provision of auxiliary aids only previously applied to premises and goods and services, but has now been extended to employment. More details about how the duty operates in the goods and services and employment contexts can be found in Schedules 2 and 8 of the Equality Act.