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# Equal Opportunities Policy

SHARED SERVICES

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Council of the  
ISLES OF SCILLY

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May 2018

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## REVISIONS TO SOURCE DOCUMENT

Version	1.1	Approving Committee	Full Council
Date	May 2015	Ratified by Council	
Responsible Officer	Senior Officer: Shared Services	Review Date	May 2016

Version History			
Date	Version	Author/Editor	Comments
2013	1.0	HR+OD Manager	Original policy
12/05/15	1.1	LWJ	Review of policy
18/05/2018	1.2	O: Human Resources	Updated 10.2 to ensure compliance with GDPR

Equalities Impact Assessment Record					
Date	Type of Assessment Conducted	Stage/Level completed (where applicable)	Summary of Actions Taken Decisions Made	Completed by.	Impact Assessment Review date

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## CONTENTS

Revisions to Source Document .....	1
Contents .....	2
Policy statement .....	3
The law .....	3
Types of unlawful discrimination .....	3
Equal opportunities in employment .....	4
Dignity at work .....	5
Customers, suppliers and other people not employed by the council .....	5
Training .....	5
Your responsibilities .....	6
Grievances .....	6
Monitoring and review .....	6

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**Law relating to this document:**

Equality Act 2010

General Data Protection Regulation (2016/679 EU)

## POLICY STATEMENT

- 1.1 The Council of the Isles of Scilly is committed to providing equal opportunities in employment and to avoiding unlawful discrimination in employment and against 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 unlawful acts of discrimination.
- 1.3 Striving to ensure that the work environment is free of 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 bullying and harassment policy, which deals with these issues.

## THE LAW

- 2.1 It is unlawful to discriminate directly or indirectly in recruitment or employment because of age, disability, sex, gender reassignment, pregnancy, maternity, race (which includes colour, nationality and ethnic or national origins), sexual orientation, religion or belief, or because someone is married or in a civil partnership. These are known as "protected characteristics".
- 2.2 Discrimination after employment may also be unlawful, e.g. refusing to give a reference for a reason related to one of the protected characteristics.
- 2.3 Staff should not discriminate against or harass a member of the public in the provision of services or goods. It is unlawful 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. In addition, service providers have an obligation to think ahead and address any barriers that may impede disabled people from accessing a service.

## TYPES OF UNLAWFUL DISCRIMINATION

- 3.1 **Direct discrimination** is where a person is treated less favourably than another because of a protected characteristic. An example of direct discrimination would be refusing to employ a woman because she is pregnant.
- 3.2 In limited circumstances, employers can directly discriminate against an individual for a reason related to any of the protected characteristics where there is an occupational requirement. The occupational requirement must be crucial to the post and a proportionate means of achieving a legitimate aim.

- 3.3 **Indirect discrimination** is where a provision, criterion or practice is applied that is discriminatory in relation to individuals who have a relevant protected characteristic (although it does not explicitly include pregnancy and maternity, which is covered by indirect sex discrimination) such that it would be to the detriment of people who share that protected characteristic compared with people who do not, and it cannot be shown to be a proportionate means of achieving a legitimate aim.
- 3.4 **Harassment** is where there is unwanted conduct, related to one of the protected characteristics (other than marriage and civil partnership, and pregnancy and maternity) that has the purpose or effect of violating a person's dignity; or creating an intimidating, hostile, degrading, humiliating or offensive environment. It does not matter whether or not this effect was intended by the person responsible for the conduct.
- 3.5 **Associative discrimination** is where an individual is directly discriminated against or harassed for association with another individual who has a protected characteristic (although it does not cover harassment because of marriage and civil partnership, and (according to guidance from the Government and ACAS) pregnancy and maternity).
- 3.6 **Perceptive discrimination** is where an individual is directly discriminated against or harassed based on a perception that he/she has a particular protected characteristic when he/she does not, in fact, have that protected characteristic (other than marriage and civil partnership, and pregnancy and maternity).
- 3.7 **Victimisation** occurs where an employee is subjected to a detriment, such as being denied a training opportunity or a promotion because he/she made or supported a complaint or raised a grievance under the Equality Act 2010, or because he/she is suspected of doing so. However, an employee is not protected from victimisation if he/she acted maliciously or made or supported an untrue complaint. There is no longer a need for a complainant to compare his/her treatment with someone who has not made or supported a complaint under the Equality Act 2010. For example, if a blind employee raises a grievance that the employer is not complying with its duty to make reasonable adjustments, and is then systematically excluded from all meetings, such behaviour could amount to victimisation.
- 3.8 **Failure to make reasonable adjustments** is where a physical feature or a provision, criterion or practice puts a disabled person at a substantial disadvantage compared with someone who does not have that protected characteristic and the employer has failed to make reasonable adjustments to enable the disabled person to overcome the disadvantage.

## EQUAL OPPORTUNITIES IN EMPLOYMENT

- 4.1 The Council will avoid unlawful discrimination in all aspects of employment including recruitment, promotion, opportunities for training, pay and benefits, discipline and selection for redundancy.

- 4.2 Person specifications and role profiles 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 The Council 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 Council considers it has good reasons, unrelated to any protected characteristic, 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.
- 4.4 The Council will monitor the ethnic, gender and age composition of the existing workforce and of applicants for jobs (including promotion), and the number of people with disabilities within these groups, and will consider and take any appropriate action to address any problems that may be identified as a result of the monitoring process.

#### **DIGNITY AT WORK**

- 5.1 The Council has a separate bullying and harassment policy concerning issues of bullying and harassment on any ground, and how complaints of this type will be dealt with.

#### **CUSTOMERS, SUPPLIERS AND OTHER PEOPLE NOT EMPLOYED BY THE COUNCIL**

- 6.1 The Council will not discriminate unlawfully against customers using or seeking to use goods, 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.

#### **TRAINING**

- 7.1 The Council will provide training in equal opportunities to managers and others likely to be involved in recruitment or other decision making where equal opportunities issues are likely to arise.
- 7.2 The Council will provide training to all existing and new employees and others engaged to work at the Council to help them understand their rights and responsibilities under the dignity at work policy and what they can do to help create a working environment free of bullying and harassment. The Council will provide additional training to managers to enable them to deal more effectively with complaints of bullying and harassment.

## YOUR RESPONSIBILITIES

- 8.1 Every employee is required to assist the Council to meet its commitment to provide equal opportunities in employment and avoid 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 victimisation against employees or customers are disciplinary offences and will be dealt with under the Council's disciplinary procedure. Discrimination, harassment, bullying or victimisation may constitute gross misconduct and could lead to dismissal without notice.

## GRIEVANCES

- 9.1 If you consider that you may have been unlawfully discriminated against, you may use the Council's grievance procedure to make a complaint. If your complaint involves bullying or harassment, the grievance procedure is modified as set out in the bullying and harassment policy.
- 9.2 The Council will take any complaint seriously and will seek to resolve any grievance that it upholds. You will not be penalised for raising a grievance, even if your grievance is not upheld, unless your complaint is both untrue and made in bad faith.
- 9.3 Use of the Council's grievance procedure does not affect your right to make a complaint to an employment tribunal. Complaints to an employment tribunal must normally be made within three months beginning with the act of discrimination complained of.

## MONITORING AND REVIEW

- 10.1 This policy will be monitored periodically by the Council to judge its effectiveness and will be updated in accordance with changes in the law. In particular, the Council will monitor the ethnic and gender composition of the existing workforce and of applicants for jobs (including promotion), and the number of people with disabilities within these groups, and will review its equal opportunities policy in accordance with the results shown by the monitoring. If changes are required, the Council will implement them.
- 10.2 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 Council's Data Protection Policy.