

Equality Policy

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1. Introduction

The Council is committed to eliminating discrimination and encouraging diversity amongst the workforce. The Equality Act 2010, which consolidated and replaced much of the previous equality legislation forms the basis of this policy. The Council has a legal duty to provide opportunities for both learning and employment in an environment which is fair and without discrimination.

2. Public Sector Equality Duty

The **Public Sector Equality Duty (PSED)**, introduced under the Equality Act 2010, applies to public sector bodies including listed local authorities such as Shropshire Council. The legislation states that a listed authority must comply with both a general equality duty and with specific duties, as set out in the Equality Act 2010.

The general equality duty may be described as the duty on a listed public authority, when carrying out its functions, to have what is called due regard to the three equality aims.

These aims are:

- **eliminate discrimination, harassment, victimisation** and any other conduct that is prohibited by ensuring there are appropriate employment policies in place,
- **advance equality of opportunity** between groups/people who share a relevant protected characteristic and groups/people who do not share it, by considering the need to remove or minimise disadvantage, by taking steps to meet different needs, and by encouraging participation when it is disproportionately low.
- **foster good relations** between groups/people who share a relevant protected characteristic and groups/people who do not share it.

To demonstrate full compliance with the specific duties, listed authorities are required to publish:

- Information about workforce diversity and about service user diversity, to demonstrate compliance with the general equality duty. The frequency for this is annual
- One or more equality objectives which an authority thinks it should achieve in order to do any of the things mentioned in the general equality duty. The frequency for this is a minimum of every four years, with effect from April 2012.

Equality objectives must be specific and measurable. The authority must publish one or more equality objectives as per the minimum of every four years.

These should be published on the local authority website, thereby providing visible evidence of Shropshire Council's efforts to meet its obligations under the Public Sector Equality Duty.

The Council accordingly published its first **Equality Objectives Action Plan** in 2012. A stocktake was carried out during 2014/2015, with a progress report produced to show the position as at 31st March 2015. This is available on the website.

Something that Shropshire Council as a listed public authority looks at, when considering the PSED obligations, are what is termed the nine **Protected Characteristic** groupings of people.

These groups are, in alphabetical order:

Age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex; sexual orientation.

The Council demonstrates equal treatment to people who are in these groups and to people who are not, through having what is termed due regard to their needs and views when developing policy and strategy, and when commissioning, procuring, arranging or delivering services.

Decision makers must be aware of the duty to have due regard when making decisions or taking action, and must assess whether it has implications for people with a particular Protected Characteristic. Equality implications should be considered when policy decisions are being made, and should be kept under review, for example through use of standard Equality and Social Inclusion Impact Assessments. Guidance and examples are available on the Council website.

Shropshire Council additionally takes a tenth grouping of people into consideration when considering the equality impact of changes to services etc, under the heading of Social Inclusion. This includes people that may be described as vulnerable, due to safeguarding concerns; households living in poverty; people with caring responsibilities; people living in rural areas who may be isolated from services, amongst others.

Additionally, is also unlawful to discriminate on the grounds of trade union membership or non-membership, full time, part time, fixed term or casual status, past unrelated convictions, caring responsibilities, perceived social or economic status, and HIV or AIDS).

3. **The Equality Commitment**

Selection for employment, promotion, training or any other benefit will be on the basis of aptitude and ability. Additionally, The Disciplinary, Grievance and Harassment and Bullying procedures and policies must all be free from discrimination. All employees with any of the 'protected characteristics' must be treated fairly and with respect.

The Council aims to:

- Create an environment in which individual differences and the contributions of all staff are recognized and valued.
- Provide every employee with a working environment that promotes dignity and respect to all, where employees feel able to challenge behavior and attitudes which are contrary to the policy.
- Ensure that all intimidation, bullying or harassment will not be tolerated and cases will be dealt with swiftly and fairly. The Bullying and Harassment Policy is available to complainants and the Disciplinary Policy may be instigated against perpetrators.
- Ensure training, development and progression opportunities are available to all staff.
- Review all our employment practices and procedures to ensure fairness.

4. Roles and Responsibilities

All staff and volunteers are responsible for ensuring that discrimination does not occur within the workplace.

5. How to resolve difficulties

The Council is responsible for preventing employees from suffering discrimination in the workplace and are ultimately responsible for any discrimination carried out by their employees, regardless of their knowledge or approval. The Council must also ensure that their employees are not harassed by a third party. It is important therefore that managers ensure that all staff and volunteers are aware of the policy.

If a complainant raises a grievance because either they are subject to discrimination, or because they have witnessed discrimination directed towards another person, they should be able to access, or request a copy of the Council's Bullying and Harassment Policy from their manager. The complainant will have the option of pursuing either the informal or formal route.

In cases where an employee's conduct falls short of the required standard, the disciplinary procedure may be invoked. The disciplinary procedure is the means by which rules are observed and standards are maintained. In cases where the misconduct is minor, it may be dealt with through the informal route. However, in cases where the informal route has not had the desired effect or the misconduct is considered too serious, the formal route should be followed. Certain acts such as a serious breach of the Council's adopted Equality Policy, including any form of unlawful discrimination, victimisation, bullying or harassment of colleagues may constitute gross misconduct which may lead to dismissal.

Internal issue.

If an employee complainant raises a grievance because either they are subject to discrimination by a member of staff, or because they have witnessed discrimination directed towards another person by a member of staff, they should access the bullying and harassment policy available on the Intranet. The complainant will have the option of pursuing either the informal or formal route.

In cases where an employee's conduct falls short of the required standard, the disciplinary procedure may be invoked. The disciplinary procedure is the means by which rules are observed and standards are maintained. In cases where the misconduct is minor, it may be dealt with through the informal route. However, in cases where the informal route has not had the desired effect or the misconduct is considered too serious, the formal route should be followed. Certain acts such as a serious breach of the Equality Policy, including any form of unlawful discrimination, victimisation, bullying or harassment may constitute gross misconduct which may lead to dismissal.

External issue

If an employee complainant raises a grievance because either they have been subject to discrimination by a third party, or because they have witnessed discrimination directed towards another person by a third party they should be able to access the Bullying and Harassment Policy.

Where a third party complainant raises a grievance because either they have been subject to discrimination by an employee, or because a third party has witnessed discrimination directed towards another person by an employee they should access the Council's Complaints Procedure.

6. How to identify and act on hate crime

Hate crime is an offence committed against a person or property motivated by the perpetrator's hostility and prejudice towards people because they are seen as being different. By working together organisations will try to meet their equality and diversity obligations, particularly in seeking to eliminate discrimination, harassment and victimisation. In addition, working together encourages social inclusion and promotes a resilient and caring society.

To report a hate crime you will need to complete the hate crime reporting form.
<https://www.shropshire.gov.uk/crime-and-criminal-justice/report-a-hate-crime/>

7. Recruiting and employing people fairly

The council will make sure that we provide equality of opportunity to all in employment.

The Council:

- Has an open and transparent approach to recruitment
- Will ensure that recruitment decisions are made using pre-agreed objective criteria
- Will seek to appoint the best applicant for the job based on merit
- Will ensure the recruitment and selection process conveys a positive image of Shropshire Council and portrays us as an employer of choice
- Has been awarded the "two ticks" symbol by JobcentrePlus which demonstrates our commitment to employ, retain and develop the abilities of disabled people
- Will ensure that the recruitment and selection of staff is conducted in a professional, timely and responsive manner and in compliance with current employment legislation
- Will provide appropriate training, development and support to those involved in recruitment and selection activities in order to ensure the recruitment of employing people is fair

- Will treat all applicants fairly, equitably and efficiently, with respect and courtesy, aiming to ensuring that the applicant experience is positive, irrespective of the outcome
- Will ensure that its recruitment and selection is cost effective
- Will ensure that if any member of staff involved in the recruitment process is related to, or has a close personal relationship with an applicant then they are not involved in recruitment process at any point. Including restructures, ring-fencing, decisions about post-creation and job description content.
- Will ensure that all documentation relating to applicants will be treated confidentially in accordance with the Council's Data Protection Policy.
- Will not as a matter of course require job applicants to complete a medical questionnaire as part of the application procedure. Health related questions should be avoid unless **intrinsic** to a function of their work. Additionally, candidates should not be asked about their sickness record until they have been made a conditional offer

8. **Training and Development**

During training sessions identify good equality practice and include guidance around discrimination, harassment or victimization as appropriate. When selecting candidates to attend training, ensure that selection is free from discrimination.

9. **Monitoring and review**

Monitoring and review includes gathering individual personal information on the diversity of potential recruits and existing employees, at certain times, and comparing and analysing the data. Anonymity of individuals is required when publishing overall statistics such as those contained in the annual Workforce Diversity Monitoring Report published on the Council website. The Annual Report helps the Human Resources Team to contribute to progress with the objectives in the four year Equality Objectives Action Plan, including Action Area A: "publish more visibly".

The Human Resources Team has agreed to carry out actions to meet six specific equality objectives within the Shropshire Council Equality Objectives Action Plan. These are under the broad headings of Action Area B: "collect and analysis more proactively" and Action Area C: "work more jointly" and are as follows:

Overall Strategic Action B: collect and analyse more proactively

- Analyse internal information on workforce, and compare with good practice authorities, in order to identify and comment on trends and prioritise where the gaps may be in representation of groups with Protected Characteristics.
- Identify good practice in training and guidance around discrimination, harassment or victimisation, including around recruitment, induction and retention, and where appropriate introduce this as part of Shropshire Council training programs and briefings for officers and elected Members.
- Evaluate perceived effectiveness of briefings and training programs, in order to ensure officers and Members feel equipped and encouraged to come forward where any such incidents occur

Overall Strategic Action C: work more jointly

- Identify good practice in training and guidance on developing and maintaining good relations, including around recruitment, induction and retention, and where appropriate, introduce this as part of Shropshire Council training programs and briefings for officers and elected Members.
- Evaluate increased understanding amongst officers and elected Members about the challenges faced by people with Protected Characteristics and people at risk of social exclusion
- Support positive joint approaches towards recruitment and retention of young people in local businesses across the sub region

Associated Policies and Procedures

Grievance Policy and Procedure
 Bullying & Harassment Policy
 Maternity, adoption and surrogacy adoption leave policy
 Flexible & Agile Working Policy
 Employee Absence Management Policy
 Disciplinary Policy

	Approval date
Policy Forum	14 th July 2016
EJCC	29 th July 2016

APPENDICES

Appendix A

DEFINITIONS

The Protected Characteristics are as follows:

AGE

Discrimination directed at either 'young' or 'old' is likely to be unfair.

It is important to emphasise that employers are highly vulnerable if they decide not to interview any job candidates who have reached an age which they regard as an appropriate age for retirement. Employers should therefore interview older and younger candidates, focusing on their skills and ability to do the job rather than age alone.

Retiring from work

Dismissal

Unless it can be objectively justified it is not permissible to dismiss someone on the grounds of retirement. Older workers (age 55 plus) can voluntarily retire at a time they choose and draw any occupational pension they are entitled to. Older workers may also request flexible retirement from age 55. It is advisable for the employee to contact their pension provider for further information regarding pension benefits. Employers cannot force employees to retire or set a retirement age.

Work place discussions

Whatever the age of an employee, discussing their future aims and aspirations can help an employer to identify their training or development needs and provide an opportunity to discuss their future work requirements.

For all employees these discussions may involve the question of where they see themselves in the next few years and how they view their contribution to the organisation. A useful exercise is to ask open questions regarding an employee's aims and plans for the short, medium and long term. Some employers may find it useful to hold these discussions as part of their formal appraisal processes.

The outcome of any workplace discussions should be recorded and held for as long as there is a business need for doing so. A copy will be provided to the employee.

Poor performance

If an employee is performing poorly the employer should discuss this with them to establish a cause. Failure to address any poor performance with an employee because there is an expectation they will retire soon may be discriminatory. Employers should establish a reason for poor performance, setting improvement periods and agreeing what training and development would help the employee meet the business expectation.

If levels are not improved and an employer has followed the company's performance procedure they then may decide to dismiss the employee on capability grounds, contact Human Resources for further information.

Is the increase in annual leave based on length of service discriminatory?

No, any increase in benefits during or before the 5th year of service is not discriminatory, the increase in the annual leave is based on loyalty, rather than age.

DISABILITY

It is unlawful to discriminate against workers because of a physical or mental disability or fail to make reasonable adjustments to accommodate a worker with a disability. Under the Equality Act 2010 a person is classified as disabled if they have a physical or mental impairment which has a substantial and long-term effect on their ability to carry out normal day-to-day activities. Day-to-day activities include things such as using a telephone, reading a book or using public transport. The overriding principle of equality legislation is generally one of equal treatment, however the provisions relating to disability discrimination are different because the employer may and often must treat a disabled person more favourably than a person who is not disabled. This may mean that employment practices need to be changed as is reasonably practical so that the disabled person can benefit from what is offered to the same extent as a person without that disability can. If an employee has a disability that is making it difficult to work, employers should consider what reasonable adjustments they can make in the workplace to help or schedule an interview with the employee to discuss what can be done to support them. This could be as simple as supplying an adequate, ergonomic chair or power-assisted piece of equipment. Reasonable adjustments also include re-deployment to a different type of work if necessary. Further advice and guidance may be obtained from the Managing Attendance Policy and Occupational Health.

GENDER REASSIGNMENT

Gender reassignment is a personal, social, and sometimes medical process by which a person's gender presentation (the way they appear to others) is changed. Anyone who proposes to, starts or has completed a process to change his or her gender is protected from discrimination under the Equality Act. An individual does not need to be undergoing medical supervision to be protected. So, for example, a woman who decides to live as a man without undergoing any medical procedures would be covered.

It is discrimination to treat transgender 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, or if they were absent for some other reason.

- **Support for individuals undergoing gender transitions** - Discuss with the transgender person how they would prefer information about their transition to be communicated to colleagues. Some transgender people may feel comfortable talking about their transition with colleagues, but others may prefer not to.

- **Confidentiality** - At a point agreed with the individual, all personal records should be changed to reflect the acquired name and gender. Access to personal records which indicate a person's previous gender should be retained only if necessary, and otherwise deleted or destroyed.

Employees should make sure that they consider the following.

- **Telling people about your situation** - Make a list of the people who need to be informed. You may wish to speak to them personally, or may prefer to ask HR or your line manager to communicate with them

- **Medical appointment and absences** - Make sure the employer knows when you will need to take time off work. It is discrimination for your employer to treat you less favourably if you are absent from work for a reason related to gender reassignment than you would be treated if you were absent because you are ill or injured, or if you were absent for some other reason.

- **Changing everything into your new identity** - You will need to change your name on your email address, Shropshire Council directories, records and work passes. Speak to your line manager at an early stage about how this should be managed.

MARRIAGE AND CIVIL PARTNERSHIPS

Gay and lesbian couples are able to get married or register their civil partnership in England, Scotland and Wales, which gives many of the same rights as other married couples.

Same sex couples who marry or register as civil partners have the same rights as other married couples in respect of employment rights.

The Equality Act protects employees who are married or in a civil partnership against discrimination.

PREGNANCY AND MATERNITY

It is unlawful to discriminate, or treat employees unfavourably because of their pregnancy, or because they have given birth recently, are breastfeeding or on maternity leave.

Discrimination happens when a woman is treated unfavourably because of her pregnancy, pregnancy-related illness or she exercises the right to statutory maternity leave. Ensure that an employee absent from work is notified of any important information, such as restructures, changes to terms and conditions and organisational/management changes within the service area.

RACE

It is unlawful for an employer to discriminate against employees because of race, which includes: colour, nationality, ethnic or national origin.

In very limited circumstances, there are some jobs which can require that the job-holder is of a particular racial group. This is known as an 'occupational requirement'. One example is where the job-holder provides personal welfare services to a limited number of people and those services can most effectively be provided by a person of a particular racial group because of cultural needs and sensitivities.

RELIGION AND BELIEF OR LACK OF RELIGION AND BELIEF

There is no specific list that sets out what religion or belief discrimination is. The law defines it as any religion, religious or philosophical belief. This includes all major religions, as well as less widely practised ones.

To be protected under the Equality Act, a philosophical belief must:

- be genuinely held
- be a belief and not an opinion or viewpoint, based on the present state of information available
- be a belief as to a weighty and substantial aspect of human life and behaviour
- attain a certain level of cogency, seriousness, cohesion and importance
- be worthy of respect in a democratic society, compatible with human dignity and not conflict with the fundamental rights of others
- humanism and atheism are examples of philosophical beliefs
- workers are also protected against discrimination if they do not hold a particular (or any) religion or belief

Employers do not have to give workers time off or facilities for religious observance, but they should try to accommodate them whenever possible. For example, if a worker needs a prayer room and there is a suitable room available then a worker could be allowed to use it, providing it does not disrupt others or affect their ability to carry out their work properly.

Many employers find that being sensitive to the cultural and religious needs of their employees makes good business sense. This can mean making provisions for:

- flexible working
- religious holidays and time off to observe festivals and ceremonies
- prayer rooms with appropriate hygiene facilities

- dietary requirements in staff canteens and restaurants
- dress requirements

SEX

It is unlawful to discriminate against workers because of their gender eg paying women less than men for carrying out the same role. In very limited circumstances, there are some jobs which can require that the job-holder is a man or a woman. This is known as an 'occupational requirement'. The list of occupational requirements is restricted.

SEXUAL ORIENTATION

An employer should protect bi sexual, heterosexual and lesbian and gay people from discrimination on grounds of their sexual orientation. Sexual orientation is defined as:

- orientation towards people of the same sex (lesbians and gay men)
- orientation towards people of the opposite sex (heterosexual)
- orientation towards people of the same sex and the opposite sex (bisexual)

ADDITIONAL PROTECTIONS APPLY TO THE FOLLOWING:

Equal Pay

An employer must give equal treatment in the terms and conditions of their employment contract if staff are employed on

Like work – which is the same or broadly similar
 Work rated as equivalent under job evaluation
 Work found to be of equal value

Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002 aim to ensure employees on a fixed term contract are treated no less favourable than compared to permanent employees.

Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000 should receive the same rate of pay as an equivalent full time member of staff, they should not be excluded from training and should receive holiday pay pro rata to an equivalent full time employee.

Rehabilitation of Offenders Act 1974, many ex-offenders are given certain employment rights if their convictions become 'spent'. The DBS Code of Practice and the Rehabilitation of Offenders Act states that employers are not allowed to discriminate against employees with a criminal background and must treat applicants fairly. When working or applying to work with children extra checks may be needed, for example an enhanced DBS check. Recruitment decisions should therefore be based on if the criminal information presented is relevant to the job the applicant will be carrying out.

Trade Union Membership. In accordance with the Trade Union and Labour Relations (Consolidation) Act 1992 protection from discrimination either because of membership or non-membership of a trade union.

Lifestyle. The Council ensures that employees are treated no less favourable due to their lifestyle eg goth.

TYPES OF DISCRIMINATION

Direct discrimination

Direct discrimination occurs if an employer treats a person less favourably on the grounds of a person's protected characteristic compared to a person who does not have that protected characteristic. There may be rare instances during recruitment where a genuine occupational requirement is acceptable, but this should be discussed with the HR Business Partner eg Where the job requires someone of a particular sex for reasons of privacy and decency - for example, a job working in a changing room.

Direct discrimination - associative discrimination

Associative discrimination is direct discrimination against someone because of their association with another person who possesses a protected characteristic.

Direct discrimination - perceived discrimination

Perceived discrimination is direct discrimination against a person because others think they possess a particular protected characteristic. It applies even if the person does not actually possess that characteristic but is perceived by others to do so.

Indirect discrimination

Indirect discrimination is where a criterion or practice is applied to everyone, but particularly disadvantages people who share a protected characteristic.

Harassment

This is behaviour that is deemed offensive by the recipient. Harassment occurs when, for a reason which relates to a protected characteristic another person engages in unwanted conduct which may be physical, verbal or non-verbal and which violates the person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for that person. It is the effect of the conduct rather than the perpetrators intentions that define whether it constitutes harassment. Employees can raise a complaint against behaviour that they find offensive even if it is not directed at them. Complainants need not possess the relevant protected characteristics themselves. Employees are also protected from harassment because of perception and association.

Victimisation

Victimisation has a specific meaning in discrimination law. It does not just mean singling someone out. Victimisation makes it unlawful for one person to treat another less favourably than others because they made or supported a discrimination complaint or raised a discrimination grievance or because they are suspected of doing so.

An employee is not protected if they have maliciously made or supported an untrue complaint. However it is sufficient if the employee believes that the victim has done, or intends to do any of the things listed above.

FURTHER REFERENCE.

Shropshire Council

<https://www.shropshire.gov.uk/equality,-diversity-and-social-inclusion/>

Gov.uk

<https://www.gov.uk/guidance/equality-act-2010-guidance>

Equality and Human Rights Commission EHRC

www.equalityhumanrights.com/

The Equality Act 2010

<https://www.gov.uk/guidance/equality-act-2010-guidance>

Equality and Social Inclusion Impact Assessments

<https://www.shropshire.gov.uk/media/1457869/Shropshire-guidance-and-evidence-template.pdf>

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