Hillside Primary School

Equality and Diversity Policy



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(Based on the latest NCC 'Equal Opportunities in Employment Policy and Procedures P331')

Introduction

The purpose of this model policy is to ensure that all school employees are selected, trained and promoted on the basis of their ability, the requirements of the job and other similar criteria that are non-discriminatory. This will enable all employees to perform to their full potential in the workplace.

Employment decisions influenced by discriminatory views or prejudices are damaging to the school. They can often lead to the following:

- not getting the right person for the job,
- not giving employees the opportunities they need to progress
- not giving employees an environment in which they can work to the best of their ability
- claims of discrimination
- damage to the reputation of the school

It is also the School's policy that full and fair employment opportunities are made available to people with disabilities. As this is an area of the law which places, at times, quite complicated obligations on employers, further information about this is contained in a separate document entitled *Equal Opportunities policy – disability P331.*

Scope

This policy and procedure forms part of the schools overall commitment to safety, wellbeing and duty of care at work. It applies to all employees of the school whilst at work and also applies to employees whilst off-duty if there is a detrimental effect to the schools reputation or an effect on their ability to attend work.

Equal Opportunities

The School expects employees to adhere to this policy in line with the School's obligations under equality legislation. Headteachers must ensure that all reasonable adjustments or supportive measures are considered to allow equality of access and opportunity regardless of age, gender, ethnicity, sexual orientation, disability, faith or religion, gender identity, pregnancy or marital status.

1. Policy principles

This policy will provide a framework to avoid unlawful discrimination in all aspects of recruitment and employment (and post-employment where references are concerned) and will ensure that no one will be discriminated against on the grounds of:

- ethnic or national origin
- race, colour or nationality
- sex or marital status
- gender reassignment
- spent criminal convictions
- trade union membership or non-membership

- disability
- religion or belief
- sexual orientation
- age, or
- part time working

unless by virtue of legislation or Occupational Requirement.

The School has a legal obligation to ensure that it and its employees do not discriminate on any of the grounds listed below. The School is also aware of potential areas for discrimination, which although not specifically prohibited under legislation, nevertheless bear no relationship to an individual's ability to effectively perform the job applied for and therefore should not be taken into account in employment decisions, e.g. an individual's language, personal circumstances or background.

2. Relevant legislation *(if applicable)*

- **Equality Act 2010 -** Provides a single, consolidated source of discrimination law, covering all the types of discrimination that are unlawful. It extends protection against discrimination in the following nine areas (these are called protected characteristics):
    - age
    - disability
    - gender reassignment
    - marriage and civil partnership
    - pregnancy and maternity
    - race
    - religion or belief
    - sex
    - sexual orientation

- **Public Sector Equality Duty -** The Equality Act 2010 introduced a single Public Sector Equality Duty (PSED), which means schools should have due regard to equality in all matters where the equality of anyone within the school community could be affected. see para 12 for further information.
- **Employment Rights Act 1996** – provides certain dismissal protection to Trade Union Reps
- **Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA) –** see Employment Rights Act above.
- **Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000 -** prevents discrimination of part time workers compared to full time workers.
- **The Fixed-Term Employees (Prevention of less favourable treatment) Regulations 2002 -** prevents discrimination of fixed-term employees
- **Rehabilitation of Offenders Act 1974 and Exceptions Order 1975 –** prevents discrimination against ex-offenders. The Exceptions Order means ex-offenders still have to disclose listed spent convictions if they are applying to work in certain sectors, education being one of these sectors.

3. Employees responsibilities

All employees of the school have a responsibility for ensuring best equal opportunities practice and avoidance of unlawful discrimination. Each employee is expected to adhere to

the equal opportunities information issued to them and where relevant, practically apply it. Disciplinary action will be taken against any employee who is found to have committed an act of unlawful discrimination. Discrimination, harassment, bullying or vicitmisation may constitute gross misconduct and could lead to dismissal without notice. Serious acts of harassment may lead to a criminal offence.

All employees should ensure that they do not discriminate against or harass other employees, pupils, parents or suppliers at any time during the course of their employment. See *Bullying and Harassment model policy P308* for further information.

4. Headteacher responsibilities

Headteachers and managers have particular equal opportunities responsibilities, as they have responsibility for other employees and workers. Equal Opportunities training is available from Educator Solutions Governance and Leadership team via SLA online. The responsibilities of Managers in specific areas of employment are examined below.

5. Types of discrimination

So far the policy has described the characteristics in which a person can be discriminated against. This part of the policy will detail how this discrimination can occur, in an employment context, and how to avoid it.

Discriminatory acts can take various forms:

- **Direct discrimination** is to treat a person less favourably on the grounds of, for example, ethnic /racial origin, than others (to whom these grounds do not apply) would be treated in the same or similar circumstances. However, in some circumstances the law on discrimination does allow direct discrimination. For example: on grounds of age to comply with legislative requirements - HGV drivers have to be a certain age to be allowed to drive the vehicle, therefore it would not be discriminatory to deselect an individual application for interview for an HGV job, if they did not meet the legal age requirement to drive an HGV,

- **Indirect discrimination** often occurs unintentionally but is unlawful whether intentional or not. It involves some sort of provision, criterion or practice being required of job applicants, for example, the ability to be mobile, work irregular hours, or possess particular skills or experience. If the requirement could be complied with more easily by one group of people, than another, (e.g. by men more easily than women,) then it could have a discriminatory effect. Such an effect might have to be accepted if the requirement properly arose out of the nature of the job, but if it did not then it would constitute unlawful indirect discrimination.

- **Associative discrimination** is direct discrimination against someone because they associate with another person who possesses a protected characteristic.

- **Discrimination by perception** is direct discrimination against someone because others think they have a protected characteristic, even if the person does not have a protected characteristic.

- **Victimisation** occurs if someone is treated less favourably than another, because they have made/or are suspected to have made an allegation of unlawful discrimination in good faith.

- **Harassment** occurs where an individual is subjected to unwanted conduct which violates their dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment.

- **Discrimination against people with a disability** occurs when assumptions concerning the disability are made, without consulting the person involved, when reasonable adjustments to the working environment are not fully considered or implemented, and when more importance is placed on disability than on ability.

6. Positive action and special treatment

There are some specific areas of employment where positive action of a group, or groups of employees is permitted. This is usually to address inequalities in British society as a whole, which have caused these groups to be disadvantaged.

"Positive action" in equality legislation means that an employer is allowed to provide facilities to meet the special needs of people in relation to training, education or welfare and to target job training at people who are underrepresented in a particular area of work, or encourage them to apply for such work e.g. targeting recruitment at male teachers to increase the diversity in teaching. Positive action may cover any of the equality strands e.g. race, gender, disability, sexuality, religion and belief or age.

Positive action/special treatment is permitted under law in the following areas:

- In the provision of special rights for women in respect of their pregnancy or pregnancy related absence.
- With regard to death or retirement (e.g. in the terms of pensions).
- With regard to permitted "positive action" in relation to training.
- To address under-representation of groups in terms of gender, race, disability, religion or belief, sexuality or age.

Positive action is different from positive discrimination which is unlawful under equality legislation. This is where a candidate is appointed to a job, not because they are the best candidate for the job, but because of their gender, race, sexuality, etc.

The Equality Act 2010 also allows employers to discriminate on the grounds of sex, race, sexuality and religion or belief in the selection of employees for jobs where there is a genuine occupational requirement which requires the individual to be of a specific gender, ethnic origin, sexuality, religion or belief. There are unlikely to be many positions in a school which have an occupational requirement, if you think one may be required, please seek advice from Educator Solutions HR Services.

7. Employment situations where there is a risk of discrimination

During employment, there are certain processes and activities, where there is a particularly high risk of discrimination occurring, these include:

- Recruitment and selection
- Terms and conditions of employment
- Selection for promotion, transfer and redeployment
- Selection for training and development
- Performance appraisal

- Grievance, disciplinary and dismissal (including retirement), and
- Post-dismissal activities

7.1. Recruitment and Selection

One of the areas of employment, in which discrimination is most likely to take place, is during the recruitment process. If discrimination takes place during recruitment, it can lead to the best candidate for the job being overlooked or even being deliberately deselected on grounds which are wholly unrelated to the candidate's ability.

Employees with a responsibility for recruitment should ensure that they receive training on the statutory responsibilities in this area. Discrimination in recruitment is covered in the Educator Solutions HR Leadership training: Recruitment, Interviewing and Selection.

All reasonable adjustment required by candidates with a disability will be taken account of, job specifications will only include requirements that are necessary for the effective performance of the job and candidates will be assessed objectively against the requirements of the job. Further advice on how to avoid discrimination during the recruitment process, including information on provisions for candidates with disabilities, is provided in the *Recruitment and selection model policy P108 and the Equal Opportunities in employment model policy – disability P330*. Further information on assessing the relevance of criminal convictions held by applicants is available in the *Employing people with criminal convictions P112b.*

7.2. Terms and Conditions of Employment

It is the responsibility of Headteacher to ensure that no employees suffer a detriment in the terms and conditions of employment they are offered or given, for example, denying a man a flexible working request where a woman's would have been accepted.

7.3. Selection for promotion, transfer and redeployment

When selecting for promotion, transfer or redeployment, selection criteria must be non-discriminatory and all decisions should be based only on the employee's ability.

Headteachers selecting employees for promotion must ensure that all employees are given an equal opportunity to progress within the school.

There should be no limits placed on the number of people from disadvantaged or under-represented groups, employed in any section or department.

7.4. Training and Development

When Headteachers select employees for training or development programmes, they must be selected on the basis of ability only. All employees must be given equal access to training, unless they are covered by positive action exceptions relating to the under-representation of certain groups.

7.5. Performance Appraisal

The performance appraisal scheme states that good performance should be recognised and praised, areas for improvement and development should be identified and where appropriate, poor performance should be addressed through support and review.

In recognising good performance it is important that Headteachers expectations are the same for all employees and assumptions are not made regarding the skills individual employees do or do not possess.

7.6. Grievance, Disciplinary and Dismissal

It is important to ensure that no discrimination occurs in any of these procedures.

Where an employee feels they may have been unlawfully discriminated against they should use the schools grievance procedure to make a complaint. If the complaint involves bullying or harassment it should be raised via the school's Bullying and Harassment policy.

All allegations of discrimination made under the grievance procedure must be taken seriously and handled in a sensitive manner. It should never be assumed that complainants are being over-sensitive about discrimination, as what might be considered reasonable behaviour by some, could be considered offensive by others.

Headteachers should consider all reasonable actions to support employees in grievance or disciplinary situations where they would otherwise be disadvantaged e.g. provision of a support worker or advocate.

7.7. Post-dismissal activities

It is important to note that actions which take place after termination of employment can also be considered discriminatory. An employer has an obligation not to discriminate or victimise when they are providing a reference, even post-dismissal.

7.8. Leave for religious observance

Many religions or beliefs have special festivals or spiritual observance days and an employee may request leave to celebrate these. Headteachers should also make every effort to accommodate any request for prayer or other spiritual observance facilities e.g. appropriate accommodation, adjustment of working hours.

7.9. Other areas

As well as in the above areas of employment, discriminatory treatment may take place during normal day-to-day work activities and can be committed by the school employees or representatives, or by individuals from outside the school, such as external service providers, clients or members of the public. All incidents of this nature are taken very seriously by the school and employees are encouraged to report any such incidents to their manager.

7.10. Unequal treatment

If any employee considers that they are suffering from unequal treatment within the terms of this model policy, they may make a complaint under the school's grievance procedure.

8. Bullying and Harassment

If an employee feels that they are being harassed or bullied on discriminatory grounds, they should take action under the school's *Bullying and Harassment policy*.

9. Well-being of employees

The school encourages employees to maintain an appropriate balance between work and private life. This encouragement comes in part through providing employment policies aimed specifically at allowing employees to achieve this balance. Employees are encouraged to discuss individual needs with their Headteacher. Headteachers should have

an awareness of differing individual personal stress levels and well-being, and support other employees who may be experiencing pressure.

10. Additional support for employees

Well-being at work can be affected by what is happening inside and outside the working environment.

Counselling services give employees and their family members who may be troubled the opportunity to talk with a counsellor and obtain support and advice on a wide range of work related or personal issues.

Please contact the school to find out if they subscribe to a counselling service for employees to use.

11. Positive action taken to prevent unlawful discrimination

The school will inform all applicants and employees of the policy on Equal Opportunities as part of their induction.

Public Sector Equality Duty

The Equality Act 2010 introduced a single Public Sector Equality Duty (PSED) (sometimes also referred to as the 'general duty') that applies to public bodies, including maintained schools and Academies, and extends to certain protected characteristics - race, disability, sex, age, religion or belief, sexual orientation, pregnancy and maternity and gender reassignment. This combined equality duty came into effect in April 2011. It has three main elements. In carrying out their functions, public bodies are required to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

Chapter 5 of the DfE document The Equality Act 2010 and schools provides comprehensive information of the duty and what schools and academies must do to comply.

12. Monitoring and review

This policy will be monitored periodically by the school and will be updated with any changes in the law. The school undertakes to ensure that the Equal Opportunities policy is effective.

In support of this, the school will:

- Monitor the employment activities to which the Equal Opportunities in Employment policy applies.
- Review on a regular basis all employment policies and procedures to ensure they reflect legal and policy obligations, and are effectively delivered. This will include consultation with employees and Unions.
- Undertake regular audits of recruitment and selection processes, and undertake analysis of those people applying for, being shortlisted and appointed to particular posts and also of the school's workforce as a whole.
- Provide advice and guidance to recruiters and other key employees so that they are aware of the legal requirements and their responsibilities under this policy.

- Ensure employees with disabilities are provided with an opportunity, at least on an annual basis, to discuss with their manager their developmental needs, including any reasonable adjustments which might be required, to enable them to perform to their full potential in the workplace.

13. Procedure/Management action

Where a school/academy has reasonable grounds that an employee is not complying with this policy they must investigate and potentially take disciplinary action.

14. Data Protection

The school processes any personal data collected for equal opportunity in employment purposes in accordance with its data protection policy. Any data collected is held securely and accessed by, and disclosed to, individuals only for the purposes of equal opportunity in employment. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the school's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under the school's disciplinary procedure.

15. Associated documents

- P330 Equal Opportunities in employment model policy– disability
- P308 Bullying and Harassment policy
- P108 Recruitment and selection model policy
- P307a Grievance model procedure

Designated Governor: Harry Hamilton

Name/Signature of Headteacher: Simon Minter

Date: Nov 2024

Review date: Nov 2027

Appendix 1 – Table of changes

Date of change	Paragraphs affected	Summary of update
14/05/2019	3, 7.6, 8, 15	References to Dignity at work policy updated to Bullying and Harassment policy.
18/05/2018	All	New policy added to HR InfoSpace