

# Equality in Employment Policy

Effective November 2016

## 1. Introduction

This policy is recommended for adoption by Governing Bodies of all schools, including Foundation, Voluntary Aided schools and Academies.

This policy has been developed in consultation with the recognised trade unions. Where the Governing Body wishes to deviate from this policy or adopt any other policy, the Governing Body will arrange consultation with recognised trade unions.

The school is committed to supporting, developing and promoting diversity and equality in all of its employment practices and activities. We aim to establish an inclusive culture free from discrimination and based on the values of fairness, dignity and respect.

## 2. Scope

This policy applies to all employees and casual workers within the school.

## 3. Definitions

**Equality** means treating everyone with fairness and respect and recognising the needs of individuals.

**Diversity** means recognising, valuing and taking account of people's different backgrounds, characteristics, knowledge, skills, needs and experiences. It is also about encouraging and using those differences to create an effective workforce.

**Protected Characteristic** is a legal term that means any of the following characteristics:

- Age
- Disability
- Gender Reassignment
- Marriage and Civil Partnership
- Pregnancy and Maternity
- Race (colour; nationality; ethnic or national origin)
- Religion or Belief
- Sex
- Sexual orientation.

Please see Appendix A for definitions of each of the Protected Characteristics.

**Discrimination** means any of the following:

**Direct discrimination** – this is treating someone less favourably because of:

- their own Protected Characteristic;
- their association with someone who has a Protected Characteristic ("discrimination by association");
- they are wrongly thought to have a Protected Characteristic ("discrimination by perception").

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**Indirect discrimination** – this is where people with a Protected Characteristic are, or would be, disadvantaged by the application of a provision, criterion or practice (PCP) when compared with others who do not share that Protected Characteristic, and that PCP cannot be objectively justified.

**Discrimination arising from disability** – this is where a person is treated unfavourably because of something arising in consequence of their disability, and that treatment cannot be objectively justified.

**Discrimination by failing to make reasonable adjustments** – this is where if a person who has a disability is at a substantial disadvantage at work, there is a failure to make reasonable changes to help them overcome that disadvantage.

**Harassment** means unwanted and uninvited conduct or behaviour relating to a Protected Characteristic that has the purpose or effect of:

- violating an employee's dignity, or
- creating an intimidating, hostile, degrading, humiliating or offensive working environment for the recipient(s).

**Victimisation** means treating someone detrimentally because:

- they have made a complaint or intend to make a complaint about discrimination or harassment, or
- they have given or intend to give evidence relating to a complaint about discrimination or harassment.

### 3. Principles

#### 3.1 Promoting Equality and Eliminating Discrimination

The school is committed to promoting equality and fairness at work.

We will:

- create a working environment where everyone is treated with dignity and respect.
- advance equality of opportunity and foster good relations between people who share a Protected Characteristic and people who don't.
- take all reasonable steps to eliminate discrimination.
- have fair and robust employment policies and practices, to achieve equality of opportunity for job applicants and employees.
- give employees appropriate training and guidance to understand equality issues and act appropriately.
- make reasonable adjustments for employees or applicants who have a disability.
- ensure that opportunities for promotion; learning and development are accessible to all employees and are available on a fair and equal basis.
- take seriously and take appropriate steps to address any complaint or information that suggests discrimination has taken place within the school.

We will not:

- unlawfully discriminate against anyone in any aspect of work.
- use any Protected Characteristic as a reason to:
  - decide not to employ someone
  - discipline or dismiss someone, or refuse to extend a fixed term contract
  - refuse to provide someone with training, learning and development opportunities
  - deny access to promotion,
  - give less favourable terms and conditions, or
  - refuse benefits, facilities or services.
- have any policies, conditions or practices which cannot be objectively justified.
- treat anyone unfavourably because of something arising in consequence of their disability, unless that treatment can be objectively justified.
- treat anyone less favourably because they are on a part-time or fixed-term contract unless that treatment can be objectively justified.
- tolerate any form of discrimination within our school.

All employees are expected to:

- abide by all the principles of this policy and be accountable for their own actions.
- promote the principles of equality.
- behave in a non-discriminatory way towards colleagues, pupils and members of the public.
- Challenge (or report to the Headteacher or Governing Body), any discrimination or breach of the principles of this policy.

### **3.2 Harassment and victimisation**

The school is committed to eliminating harassment and victimisation.

We will:

- take all reasonable steps to prevent and eliminate harassment and victimisation.
- take seriously any allegation of harassment or victimisation.
- seek to resolve and deal with the cause of any harassment/ victimisation.
- seek to create an inclusive culture where harassment and victimisation do not occur.
- encourage employees to raise concerns under the school's Anti-bullying and Harassment Policy.

We will not:

- harass or victimise anyone.
- tolerate harassment or victimisation by any person associated with the school.

Employees are expected to:

- abide by all the principles of this policy and be accountable for their own actions.
- understand that if they harass or victimise others they may be subject to disciplinary action and may be held personally liable.
- challenge inappropriate behaviour that may amount to harassment or victimisation.
- refer to the school's Anti-Bullying and Harassment Policy if they wish to raise any concerns relating to harassment or victimisation.
- understand that making unfounded, vexatious or malicious complaints may lead to disciplinary action.

### **3.3 Diversity**

The school is committed to developing a diverse workforce.

We will:

- aim to provide the best possible education for our pupils by having a workforce that is representative of the community that we serve.
- seek to attract, motivate and retain a diverse range of employees including people with all Protected Characteristics.
- celebrate diversity amongst our staff, pupils and community.
- recognise, respect and respond to individual differences and needs.
- consider where jobs are advertised to ensure that applicants are drawn from the widest possible pool.
- consider using positive action to address disadvantage or disproportionately low representation in an area of work or activity. For example, we may use advertisements to attract people with particular Protected Characteristics where they are significantly under represented in the workforce. However, selection for recruitment or promotion will always be on merit.
- consider positive action initiatives to provide learning and development opportunities for particular groups of employees who are under-represented in specific jobs.

All employees are expected to:

- work within the ethos of diversity.
- foster good relations with all of their colleagues regardless of differences.
- take an active part in promoting equality and diversity in everything that they do at work.
- to treat everyone in their working environment with dignity and respect.

### **3.4 Occupational requirements**

In very limited circumstances where it can be objectively justified, we may apply an 'occupational requirement' to a job. This is where a job requires the jobholder to have a particular Protected Characteristic. We will always take HR advice before applying an Occupational Requirement.

### **3.5 Equality monitoring and confidentiality**

We monitor job applicants and the workforce using the information disclosed by employees relating to the Protected Characteristics. The purpose of monitoring is to evaluate the effectiveness of this policy and related policies and practices. This is so that we can improve our equality and diversity, and so that positive action can be taken (where it is appropriate and justified).

All personal data relating to Protected Characteristics is confidential and is processed; stored and handled appropriately; sensitively and in accordance with Data Protection legislation.

### **3.6 How employees can raise an equality issue**

All employees are encouraged to try to resolve equality issues informally with the relevant person or people concerned where this is possible and appropriate.

If the employee feels they cannot resolve the matter themselves, any of the following options may be appropriate, depending on the circumstances:

- speaking with their manager, Headteacher or a Governor
- Raising a Grievance under the Grievance Policy
- Raising a complaint under the Anti-Bullying and Harassment Policy
- Make a disclosure under the Whistleblowing Policy.

Employees should be made aware of any support available to them through confidential counselling services, for example:

- Any Employee Assistance Programme that the school's employees may have access to; and
- The Education Support Partnership - <https://www.educationsupportpartnership.org.uk/> , telephone 08000 562561.

Employees may also be able to get support from:

- a trade union representative.

## Appendix A - Definitions of the Protected Characteristics

### **Age**

Where this is referred to, it refers to a person belonging to a particular age or range of ages.

### **Disability**

A person has a disability if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.

### **Gender reassignment**

A person has this Protected Characteristic if they are proposing to undergo, are undergoing or have undergone a process (or part of a process) for the purpose of reassigning their sex by changing physiological or other attributes of sex.

### **Marriage and civil partnership**

A person has this Protected Characteristic if they are married or have a civil partner.

### **Pregnancy and maternity**

Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the work context, the protected period starts when the pregnancy begins and ends when the maternity leave ends. However, breast-feeding mothers are also protected against direct discrimination.

### **Race**

Race refers to a group of people defined by their race, colour, nationality (including citizenship), or ethnic or national origins.

### **Religion and belief**

Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief. Generally, a belief should affect a person's life choices or the way they live for it to be included in the definition.

### **Sex**

Male or female.

### **Sexual orientation**

Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.

A more in-depth definition of these Protected Characteristics can be found at:

<http://www.legislation.gov.uk/ukpga/2010/15/contents>

## Appendix B - Age in the Workplace

### Recruitment

All job descriptions including job evaluation questionnaires, person specifications, advertising, short listing and selection processes will focus on the skills needed for the job rather than the length of time taken to acquire the skills.

- Terminology – we will avoid the use of age-related phrases such as ‘young and dynamic’ or ‘mature’.
- Qualifications – we will consider carefully the use of qualifications which may be indirectly age discriminatory to ensure that they are necessary and can be objectively justified for the role. Where they are needed; qualifications whose names have changed over time such as GCSEs will always include the statement *or equivalent*.
- Experience – we will seek to avoid reference to ‘x years experience’ in recruitment documentation as this may rule out people who have the skills required but have not had the opportunity to demonstrate them over a longer period. The skills that need to be demonstrated will normally be requested instead.
- Trainee roles - Recruitment for some roles can be associated with a particular age profile such as graduates or apprentices. Advertising will be placed so that a wide pool of applicants can apply, clarifying the job criteria or qualification(s) that are required, not a particular age group.

### Pay and Benefits

Eligibility for pay and terms and conditions of service benefits based on length of service are permitted under the legislation provided the eligibility period is 5 years or less.

The use of a length of service criteria of more than 5 years is only lawful if it is objectively justifiable and reflects a higher level of experience, rewards loyalty; increases motivation, or fulfils a business need.

- The school has arrangements for sick pay and additional leave on reaching 5 years service.
- Redundancy payments are based on age in accordance with the Statutory Redundancy payment framework.
- We will not use age as a criteria for Redundancy selection.
- We may need to differentiate by age to comply with the National Minimum/Living Wage.

### Retirement

The school’s policy is that employees may continue working until they give notice that they wish to retire. We do not have a normal retirement age.

## Appendix C - Disability in the Workplace

### Recruitment

We will not ask questions relating to an applicant's health and absence before making a conditional offer of work or including them in a pool of successful candidates to be offered work when it becomes available. This covers both interview questions and questions asked in references obtained prior to an offer of employment.

Once a candidate has been offered the job (whether this is an unconditional or conditional job offer) we may then ask appropriate health-related questions.

There are some exceptions where we may ask questions regarding the health of an applicant before an offer is made but, only where it is necessary to:

- find out whether an applicant is able to participate in an assessment to test their suitability for the role.
- establish whether there is a duty to make reasonable adjustments to enable an applicant to take part in the recruitment and selection process.
- establish whether the applicant will be able to carry out a function that is essential to the work concerned.
- monitor the diversity of applicants.
- take positive action in supporting employment for disabled people, or
- establish that a person has a disability where this is an occupational requirement.

Only questions that are necessary and relevant will be asked.

For example, all applicants will be provided with full information on the assessment process to be used and asked if, for reasons concerned with their health or a disability, they require any adjustment(s) to the process to be made.

When a vacancy arises, the essential requirements of the job will be determined. Any factors essential to the job will be considered, and a view taken on whether it is necessary to ask all of the applicants about any aspect that may affect their ability to carry out these functions.

A decision will also be made about how an applicant's ability to carry out these functions will be assessed, taking into account any reasonable adjustments that could be made. For example, where a job requires a significant amount of manual handling we may ask all of the applicants about their health in relation to that aspect of the job.

### Reasonable adjustments

The school will make 'reasonable adjustments' to try to ensure that a disabled person is not disadvantaged compared to other employees who do not have a disability. This includes considering changes to job criteria or work practice; removing or altering physical features and providing auxiliary aids and adaptations.

For more information including further examples of 'reasonable adjustments', please refer to the guidance document called *Supporting employees who have a disability*.

## Appendix D - Gender Identity in the Workplace

### Definitions and appropriate language

The term “Gender Identity” refers to a person’s internal, deeply held sense of their gender. For transgender people, their own internal gender identity does not match the sex they were assigned at birth.

Although in the legislation, the Protected Characteristic is termed “Gender Reassignment”, we are committed to protecting and supporting all transgender people, i.e. anyone who’s internal sense of gender does not match the sex they were assigned at birth.

It is generally preferable and more inclusive to use the term “transgender” or “trans” people rather than “transsexual” people. Some transgender people identify as “non-binary”, which means they do not regard their gender identity as exclusively male or female.

Transgender people do not have to be under medical supervision to be protected from discrimination. Not all transgender people undergo surgery as part of their transition. Surgery is not a key criterion in the process and individuals can receive full legal recognition of their new gender status for all purposes without undergoing any surgery.

### Confidentiality

Disclosing that someone is transgender, without the individual’s express written permission to do so, is illegal and can constitute a criminal offence. This data can only be processed for certain specified reasons and data protection applies whether the employee has obtained legal recognition or not.

### Gender Recognition Certificate (GRC)

A transgender person can apply to a Gender Recognition Panel for a GRC to grant them all the legal rights appropriate to their new gender status. If their birth was registered in the UK they will be able to obtain a new birth certificate. To qualify for a GRC the person must show that they have:

- been diagnosed as having persistent gender dysphoria or
- had gender reassignment surgery or other medical treatment and
- lived in their acquired gender role permanently for two years and they intend to do so for the remainder of their life.

A transgender person does not need to present the school with a GRC, either as part of an application or in order for us to change their employment records.

### Recruitment

A job applicant’s gender identity is irrelevant to the recruitment process. We will not ask questions about gender identity status and job applicants are not required to volunteer information about it.

There is no obligation for a person to disclose their transgender status or gender reassignment history as a condition of employment. If they choose to disclose, this is not in itself a reason for not offering employment and non-disclosure or subsequent disclosure are not grounds for dismissal.

If disclosure from the Disclosure and Barring Service (DBS) is required as part of the recruitment process, applicants must disclose any previous names and/or gender to the DBS. Transgender applicants may make use of the special application procedure established by the DBS so that their previous name is not disclosed to the school.

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**References**

When we are providing a reference we will use the current name and not disclose a former name. Care will be taken to use the correct acquired gender pronouns (he/his/she/her), name and title. If the Headteacher receives a reference for someone who has previously transitioned which refers to them by their previous name and/or gender, this information will be treated confidentially.

**Harassment**

Harassment related to gender identity can take many forms. For example, refusing to use the pronoun appropriate to someone's gender identity (for example, calling a transgender woman "he"), persistently calling someone by his or her previous name, ostracising a colleague who has transitioned and displaying transphobic images and literature, are likely to amount to harassment.

**Transitioning at work**

The school is committed to supporting any employee who is undergoing or intending to undergo gender reassignment. For detailed guidance on transitioning at work please see the school's *Gender reassignment – transitioning at work guidance*.

## Appendix E - Religion in the Workplace

### **Time off for Religious Observance**

The school will give reasonable consideration to requests for time and facilities for religious or belief observance in the workplace, based upon individual and service needs. We will attempt to accommodate a request from an employee for time to pray.

Some religions require their followers to pray at specific times during the day. Employees may therefore request access to an appropriate quiet place (or prayer room) to undertake their religious observance. The school is not required to provide a prayer room, however, if a quiet place is available and providing its use for prayer does not cause problems for other employees or the school, we will agree to the request.

In consultation with employees, it may be possible to designate an area for all employees for the specific purpose of prayer or contemplation, rather than just a general rest room. The Headteacher may consider providing separate storage facilities for ceremonial objects.

### **Time off for Religious Festivals**

Many religions or beliefs have special festival or spiritual observance days. An employee may request holiday in order to celebrate festivals or attend ceremonies. Some festivals are aligned with lunar phases and therefore, dates change from year to year; the exact dates for some festivals do not become clear until quite close to the actual day. However, requests should be made as early as possible, giving an approximate indication if the exact date cannot be specified.

The Headteacher will carefully consider such a request to be away from work, taking into account whether the needs of the service allow for them to be away from work during term time. If such leave is granted, it will normally be unpaid.

While it may be practical for one or a small number of employees to be absent from work, it might be difficult if many requests are made. In these circumstances, the Headteacher will discuss the matter with the employees affected, with the aim of balancing the needs of the school and those of other employees and be able to objectively justify any decisions made.

The school has clear, reasonable procedures for handling requests for leave and the Headteacher should ensure that all employees are aware of and adhere to the procedures.

Where an employee requests extended leave relating to their religion or belief for a religious occasion; pilgrimage etc. we will consider the options carefully for all employees, as well as the individual, so that this does not indirectly discriminate against any party.

We will not disadvantage those employees who do not hold any specific religion or belief.

### **Dietary Requirements and Customs**

Some religions or beliefs have specific dietary requirements. If employees bring food into the workplace they may need to store and heat food separately from other food, for example Muslims will wish to ensure their food is not in contact with pork (or anything that may have been in contact with pork). We will discuss these issues with employees and find a mutually acceptable solution to any dietary issues.

Meeting religious needs will often involve little or no change. For instance some religions or beliefs require a person to wash before prayer. This is often done symbolically or by using the existing facilities. However, the school is not required to make significant expenditure and/or building alterations to meet religious needs.

The Headteacher will consult with employees and to consider whether there is anything reasonable and practical that can be done to help employees meet the ritual requirements of their religion. It may help, for example, if all employees understand the religious observances of their colleagues thus avoiding embarrassment or difficulties for those practicing their religious obligations.

Some religions require extended periods of fasting and we will support employees through such a period. However, we will also ensure that we do not place unreasonable additional demands on other employees which may cause conflict between employees.

### **Dress Codes**

If it is practical and safe to do so, employees may welcome the opportunity to wear clothing consistent with their religion. Dress codes and rules which have the effect of conflicting with religious requirements will be avoided unless they can be objectively justified.

Every employee will be expected to comply with Health and Safety legislation and regulations and to wear any personal protective clothing relevant to the role that they undertake, regardless of their religion or belief or any other Protected Characteristic.

## Appendix F - Sexual Orientation in the Workplace

### **Confidentiality and Respect**

While some employees may be comfortable talking about their sexual orientation, some may choose not share such information with the Headteacher and colleagues. Personal information should be maintained in the strictest confidence. An employee should not assume that what they know is common knowledge.

### **Harassment**

Gay; Lesbian or Bisexual employees may find it very difficult to make a complaint or raise concerns relating to harassment for fear that they will be outed\* in the workplace. We will reassure employees that procedures will be conducted with appropriate sensitivity and confidentiality.

\* 'Outing' is when, against their wishes, an individual's sexual orientation is revealed by another person. 'Outing' someone without their clear permission is not only inappropriate, it is also a breach of that individual's privacy and may constitute harassment. It may be also be a breach of the Data Protection Act, depending on what has happened.

Lesbian, gay and bisexual people are sometimes 'outed' for malicious reasons and consequently suffer harassment by colleagues or service users/customers. We will treat such matters very seriously.

### **Social Events**

If the school offers the opportunity for social gatherings which extend to the partners of employees, we will take care with the wording of invitations, posters etc. to ensure inclusion for those with same sex partners. Where partners are invited, this will always be extended to same sex partners otherwise this would be discriminatory.

### **Policies**

Same sex partners are covered under the entitlement for time off such as parental leave, paternity leave, shared parental leave and adoption leave.