

# **Equality, Diversity and Inclusion in Employment Policy**

**(complimented by the Equality, Diversity and Inclusion Procedure)**

## **Our commitment**

The Royal Borough of Kensington and Chelsea (RBKC) is committed to providing equal opportunities in employment and to avoiding unlawful discrimination in the employment of its staff as well as its interactions with its customers.

Our organisational values reflect the prominence the Council places on its commitment to fostering an equal, diverse and inclusive workplace. This policy reflects how the values are translated into everyday employment practice and how they are embedded within a culture that is committed to equality, diversity and inclusion.

The Council's commitment is to promote an environment that is inclusive and free from all forms of unlawful discrimination and one that values the diversity of its people. People will be treated equally, fairly and with dignity and respect. Every effort will be made, and every practical and reasonable step taken to ensure that no individual working for the Council; all job applicants; colleagues from third party organisations providing services for the Council; former employees or any member of the public using the Council's premises or services will receive less favourable treatment or disadvantaged by requirements or conditions that cannot be shown to be justifiable. Putting equality, diversity and inclusion at the heart of what we do ensures transparent and constructive working practices that encourage everyone to give of their best.

Our people are our most prized asset. Enabling staff to make the very best of themselves at work will ensure the Council's performance is effective and well-regarded and enhance our working environment. Using our diverse backgrounds to enhance professional knowledge, foster constructive challenge and generate new ideas to improve what we do will benefit each other as well as those we serve.

This policy is intended to assist the organisation to put this commitment into practice. Compliance with this policy should also ensure that employees do not commit unlawful acts of discrimination nor disrespect colleagues and fellow workers. Unlawful discrimination will be zero-tolerated.

Striving to ensure that the work environment is free of harassment and bullying and that everyone is treated with dignity and respect are important aspects of ensuring equal opportunities is embedded within the employment practices of the Council. The organisation has a separate Dignity at Work policy, which deals with these issues.

## **To whom does this policy apply?**

This policy applies to all who work for the Council – its employees and those workers from organisations working on Council business within its premises such as agency workers, consultants, contractors and suppliers.

## **How the organisational values align with our commitment to fostering an equal, diverse and inclusive workplace:**

**Putting Communities First** – We will put local people at the heart of what we do and in treating them with fairness and sensitivity, we will include and involve everyone, especially those with the quieter voice. It is an ambition of the Council to have a workforce that truly

reflects its local communities and our recruitment and employment approach will focus on achieving this goal, using targeted initiatives to engage and encourage local residents to join the workforce.

**Respect** – Listening to each other and valuing personal experience and cultural background will demonstrate our respect for one another. Demonstrating interpersonal respect will be shown by each member of staff adopting a fair and inclusive approach, regardless of any way in which an individual is different to us. Staff need to adapt their approach to take account of all differences and cultures within the workplace. Individuals also need to be fair and equitable in how they engage with everyone, including service users, and especially those who are under-represented in the workforce. Fairness, equity and courtesy will evidence our respect for one another.

**Integrity** – we shall act with openness, honesty, compassion, responsibility and humility in our interactions with each other. We shall follow through on actions that we say we will do and take ownership for communicating the outcome. This will ensure that the intended recipients of our actions feel involved and valued.

**Working Together** – in recognition of our communities' diversity and varied cultural heritage we will work together and in partnership with all who have an impact on the lives of our residents. In continually adapting and being open-minded and respectful of others' points of view we will focus our efforts to implement solutions that are simple, straightforward and user-led, including others in ideas generation and delivery mechanisms. In working together, we will value others' contributions equally and learn from them.

## **The Business Case for promoting Equality, Diversity and Inclusion**

Having a diverse and inclusive workforce strengthens the Council's position not only as an attractive employer for the very best talented people but also helping it be more in tune with its local communities and better aligned with its service users. A diverse workforce with clear collective goals is generally associated with innovation, comprehensive and better-framed strategies and decisions that are more robust.

### **The Law**

The law is explicit about what its expectations of employers are in relation to preventing unlawful discrimination. **Appendix A** details the different types of unlawful discrimination.

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". **Appendix B** explains what these are in detail.

Discrimination after employment ceases may also be unlawful, e.g. refusing to give a reference for a reason related to one of the protected characteristics.

It is unlawful for an employer to fail to make reasonable adjustments to its requirements, working practices or the physical features of the workplace where these put a disabled job applicant or employee at a substantial disadvantage. It is also unlawful discrimination where a disabled employee is at a substantial disadvantage due to the employer's unreasonable failure to provide an auxiliary aid or service to the disabled employee.

Staff should not discriminate against or harass a member of the public in the provision of services, goods or facilities. 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 make reasonable adjustments to address any barriers that may impede disabled people from accessing a service.

Likewise, as the third Duty of the Equality Act 2010 expresses: there is an implicit obligation for all employees to “promote good relations between groups”. In effect this means that each employee has an obligation to come to work and do a good job i.e. abide by the values and standards expected of them and get on with people regardless of background, ethnicity etc. The onus is on the employee themselves as individuals as opposed to the Council, as a large amorphous entity, being held to account.

## **Equality, Diversity and Inclusion in employment practice**

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.

### **Recruitment and selection**

The Council’s approach to recruiting and selecting talent focuses on encouraging candidates of the highest calibre with the appropriate attitudes and personal qualities to apply for any relevant vacancy. Reflecting the diversity of the Borough’s communities is also an important objective. Throughout the hiring process, each applicant will be treated fairly and with respect.

To acknowledge the Council as a Disability Confident employer, job applicants who report a disability and who meet the minimum employee specification will be guaranteed an interview. All such candidates will be considered on their attitude, merit and abilities.

Person specifications and job descriptions 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.

Prior to any interview, candidates will be invited to express whether any reasonable adjustments are required to facilitate their attendance at interview.

The Council treats personal data collected for reviewing equality of opportunity in recruitment and selection in accordance with its data protection policy. Information about how data is used and the basis for processing is provided in the organisation’s job applicant privacy notice.

### **Development opportunities including promotion**

As a member of staff, you are encouraged to realise your full potential through fair and equitable access to learning as well as career progression opportunities. This will be achieved by proactively promoting and communicating learning interventions that both part

and full-time staff can attend. Equality, diversity and inclusion topics will be featured as a core part of any induction and on-going training initiatives, championed by senior management. Diversity, inclusion and equality will be a corporate imperative and various meaningful learning interventions will be commissioned as part of the mandatory corporate offer.

### **General employment practice**

The organisation 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 organisation considers it has good reasons, unrelated to any protected characteristic, for doing so. The organisation will comply with its obligations in relation to statutory requests for contract variations. The organisation will also make reasonable adjustments to its standard working practices to overcome barriers caused by disability.

### **The employment relationship**

RBKC strives to encourage a working environment where tolerance of each other, respect and inclusion of all are valued and consistently demonstrated. Discrimination, bullying, harassment or victimisation of employees or service users will be treated as disciplinary matters and managed under the discipline and grievance policies. The rights of staff will not be compromised, and they should feel comfortable to raise any equality, diversity or inclusion concerns via their line manager, grandparent manager or HR Business Partner without fear of retribution.

Line managers will address any form of negative behaviour and action may be taken, depending on the specific circumstances.

### **Training & Development**

The Council will provide training and awareness raising to promote understanding of equal opportunities and diversity for managers and others likely to be involved in recruitment or other decision making where equal opportunities issues are likely to arise.

The organisation will provide training for all existing and new employees and others engaged to work at the organisation 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 from bullying and harassment. The organisation will provide additional training to managers to enable them to deal more effectively with complaints of bullying and harassment.

### **Customers, suppliers and other people not employed by the organisation**

RBKC will not discriminate unlawfully against customers using or seeking to use goods, facilities or services provided by the organisation.

The Council will also require its suppliers of goods, services and staff to abide by and respect its equal opportunities policies. It will also require third party providers to evidence their commitment to equal opportunities in how they conduct their business.

Council employees should report any bullying or harassment by customers, suppliers, visitors or others to their manager who will take appropriate action.

## **Your responsibilities**

### **As an employee:**

As an employee, you are required to assist the organisation to meet its commitment to provide equal opportunities in employment and avoid unlawful discrimination. You should be promoting equality, diversity and inclusion and treating everyone with fairness, equity, dignity and respect, as well as being aware of and sensitive to any behaviours or actions that might be construed as discriminatory or harassing in any way.

You can be held personally liable as well as, or instead of, the organisation for any act of unlawful discrimination. Employees who commit serious acts of harassment may be guilty of a criminal offence.

Acts of discrimination, harassment, bullying or victimisation against employees or customers are disciplinary offences and will be dealt with under the organisation's disciplinary procedure. Discrimination, harassment, bullying or victimisation may constitute gross misconduct and could lead to dismissal without notice.

Most importantly, as an employee, you have an obligation to come to work and work with colleagues and partners in the spirit of collaboration, courtesy and mutual respect.

### **As a manager:**

It is your responsibility as a manager to lead by example and model the Council's values and treat all staff, not just your direct reports, with dignity and equal regard. Your behaviour and attitudes to others will demonstrate your commitment to this policy and its related policies.

You should also proactively promote equality, diversity and inclusion and prevent as well as eliminate all forms of discrimination.

If you receive any complaints of discrimination, bullying or harassment, these must be treated with sensitivity and high importance.

## **Dignity at Work**

If you consider that you may have been unlawfully discriminated against, you may use the organisation's grievance procedure (Dignity at Work policy) to make a complaint. If your complaint involves bullying or harassment, the grievance procedure is modified as set out in the dignity at work policy.

The organisation 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.

Use of the organisation'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.

Any breaches of this policy will be treated seriously and may be regarded as gross misconduct under the Council's Disciplinary Policy.

## **Monitoring and review**

Under the specific duties of the 2010 Act, the Council is required to provide information to demonstrate its compliance with the Equality Duty, at least annually.

This policy will be monitored by the organisation to judge its effectiveness and will be updated in accordance with changes in the law. The organisation 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 organisation will implement them.

Formal documented review of this policy will be undertaken annually, and any changes communicated to all staff.

Compliance with the legislation is overseen by the Equality and Human Rights Commission (EHRC). This body ensures that the legislation referenced in this policy documentation is applied and exists to help individuals and organisations to promote equality of opportunity and respect for diversity of workforce.

## Appendix 1 - Types of unlawful discrimination

**Direct discrimination** is where a person is treated less favourably than another because of a protected characteristic, such as their sex. An example of direct discrimination would be refusing to employ someone because they are pregnant.

Direct discrimination in all its forms could involve a decision not to employ someone, to dismiss them, withhold promotion or training, offer poorer terms and conditions or deny contractual benefits because of sex. In almost all circumstances, this would be unlawful.

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.

*For example, an organisation supporting deaf people might require that an employee whose role is providing counselling to British Sign Language users is a deaf BSL user.*

**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).

**Perceptive discrimination** is where an individual is directly discriminated against or harassed based on a perception that they have a protected characteristic when they do not, in fact, have that protected characteristic (other than marriage and civil partnership, and pregnancy and maternity).

**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.

An employee or job applicant claiming indirect discrimination must show how they have been, or could be, personally disadvantaged. They must also show how the application of the 'provision, criterion or practice' has or might disproportionately disadvantage other employees or job candidates with the same protected characteristic.

**Harassment** breaks down into three different types of harassment: (1) where there is unwanted conduct, related to one of the protected characteristics (other than marriage and civil partnership, and pregnancy and maternity which are covered by direct discrimination provisions in the Equality Act 2010) that has the purpose or effect of violating a person's dignity; or is reasonably considered by that person to create an intimidating, hostile, degrading, humiliating or offensive environment. (2) where there is 'unwanted conduct' of a sexual nature i.e. sexual harassment and (3) where there is less favourable treatment of an employee because they have rejected sexual harassment or been victim to it. It does not matter whether this effect was intended by the person responsible for the conduct.

**Victimisation** occurs where an employee is subjected to a detriment, such as being denied a training opportunity or a promotion because of the following:

- they made or supported a complaint or raised a grievance under the Equality Act 2010,

- they had made an allegation of discrimination;
- or because they are suspected of doing so.
- they have given evidence relating to a complaint about discrimination;

An employee is protected under the Equality Act if they make, or support, an allegation of victimisation in good faith – even if the information or evidence they give proves to be inaccurate.

However, an employee is not protected from victimisation if they acted maliciously or made or supported an untrue complaint in bad faith. There is no need for a complainant to compare their 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.

**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 disability and the employer has failed to make reasonable adjustments to enable the disabled person to overcome the disadvantage.

## Appendix 2 – Protected Characteristics

Protected Characteristic	Definition
<b>Age</b>	Age is defined by the Equality Act (2010) by reference to a person's age group. An age group can mean people of the same age or people of a range of ages.
<b>Disability</b>	A person has a disability if they have a physical or mental impairment which has a long term and substantial adverse effect on their ability to carry out day to day activities. Long term means that it has last or is likely to last for at least a year or for the rest of the affected person's life. Carers of disabled people are also protected from less favourable treatment that they receive because of that disability.
<b>Gender Re-assignment</b>	People who are proposing to undergo, are undergoing or have undergone a process to reassign their sex by changing physiological or other attributes of sex. Under the Equality Act (2010), Gender Re-assignment is a personal process rather than a medicalised process; thus, it may be proposed; or the process may have happened previously. It may include undergoing the medical procedures involved or may simply include choosing to dress in a different way as part of a person's desire to live in the opposite gender.
<b>Marriage and Civil Partnership</b>	<p>Civil Partnership – under the Civil Partnership Act (2004) same-sex couples can register a civil partnership, which has almost the same legal effects, rights and obligations as marriage.</p> <p>Marriage – a union between a man and a woman or same sex couple which is legally recognised in the UK as a marriage. The marriage (Same Sex Couples Act 2013) makes the marriage of same sex couples lawful in England and Wales, whilst protecting religious freedom.</p>
<b>Pregnancy and Maternity</b>	A woman who is pregnant or is on maternity leave including one who is breastfeeding.
<b>Race</b>	Race includes colour, nationality (including citizenship) and ethnic or national origin.
<b>Religion or Belief</b>	Religion means any religion and includes a lack of religion. Belief means any religious or philosophical belief and includes a lack of belief.
<b>Sex</b>	Refers to a man or woman.
<b>Sexual Orientation</b>	<p>A person's sexual preference towards</p> <ul style="list-style-type: none"> <li>• Persons of the same sex</li> <li>• Persons of the opposite sex and</li> <li>• Persons of either sex.</li> </ul>