



Yowsun Care Equality and Diversity Policy

This policy is a Yowsun Care Equality and Diversity policy. It complies fully with the legislation requirements contained within the Equality Act 2010.

EQUALITY AND DIVERSITY POLICY

This policy is to be implemented by all Operations team members. This policy is addressed to all employees but is especially relevant to Operations team members.

Policy Statement

This policy takes into account, the responsibility of Yowsun Care in ensuring that equality, fairness and inclusion is evident in all operations and manners of dealing with all categories of staff, clients, contractors and other professionals in line with service delivery. This policy has been reviewed and amended accordingly, in relation to Common Induction Standard 4, Equality and Inclusion. The policy is written in two parts, part one covers the changes in legislation, part two is guidance for workers and staff who deliver care to different minority groups. Part two is not exhaustive but is added to provide specific information for different groups whilst delivering a care service. Yowsun Care takes the view that this area is so complex that where appropriate legal advice would be sought regarding a given situation.

Aim of the Policy

Part one

The Equality Act 2010 came into force on Oct 1st 2010. The Act bridges previous legislation such as the Race Relations Act, Disability Discrimination Act etc. and ensures a consistent approach to issues concerning equality. The same groups are covered that were protected previously e.g.

1. Age

2. Disability
3. Gender Reassignment
4. Marriage and civil partnerships
5. Pregnancy and Maternity
6. Race
7. Religion and belief
8. Sex
9. Sexual Orientation

These are now called “Protected Characteristics”.

The Act extends some protections to characteristics that were not previously covered and strengthens particular aspects of equality law. This policy has been updated to reflect these changes.

Types of Discrimination

1. Direct Discrimination

Direct discrimination occurs when someone is treated less favourably than another person because of a “Protected Characteristic” they have or are thought to have (see perception discrimination below), or because they associate with someone who has a “Protected Characteristic” (see discrimination by association below).

Example

Laura, a senior manager, turns down Simba’s application for promotion to a team leader position. Simba, who is African, learns that Laura did this because she believes that a foreigner, regardless of their dedication and excellence in carrying out their duties, should not be a team leader. Laura thought that Simba’s ethnic background would prevent her from gaining the team’s respect and managing them effectively. This is a direct racial orientation discrimination against Simba.

2. Discrimination by Association

Already applies to age, race, religion or belief and sexual orientation. Now extended to cover disability, gender reassignment and sex. This is direct discrimination against an individual because they associate with another person who possesses a “Protected Characteristic”.

Example

Sheila is a deputy manager and is looking forward to a promised promotion. However, after she tells her boss that her mother, who lives at home, has had a dementia, the promotion is withdrawn because her boss believes that she may soon be distracted or affected by her mother's illness and may have an adverse effect on her focus at work and Sheila may have to be taking more time off work as the illness progresses. This may be discrimination against Sheila because of her association with a disabled person.

3. Perception Discrimination

Applies to age, race, religion or belief and sexual orientation. Now extended to cover disability, gender reassignment and sex. This is direct discrimination against an individual because others think they possess a particular "Protected Characteristic". It applies even if the person does not actually possess that characteristic.

Example

Barry is 45 but looks much younger. Many people assume that he is in his mid 20s. He is not allowed to represent his organisation at an international meeting because the Managing Director thinks that he is too young. Barry has been discriminated against on the perception of a "Protected Characteristic".

4. Indirect Discrimination

Already applies to age, race, religion or belief, sex, sexual orientation and civil partnership. Now extended to cover disability and gender reassignment. Indirect discrimination can occur when you have a condition, rule, policy or even a practice in your organisation that applies to everyone but particularly disadvantages people who share a "Protected Characteristic". Indirect discrimination can be justified if you can show that you acted reasonably in managing your organisation, i.e. that it is "a proportionate means of achieving a legitimate aim." A legitimate aim might be any lawful decision you make in running your organisation, but if there is a discriminatory effect, the sole aim of reducing costs is likely to be unlawful. Being proportionate really means being fair and reasonable, including showing that you've looked at "less discriminatory" alternatives to any decision you make.

Example

Your optician has a rule which allows payment for glasses by instalments for those in work. This rule applies to all their customers regardless of their protected characteristics. This is the pool for comparison. You're not working because you're a pensioner and so are not allowed to pay by instalments. The rule therefore places you

at a disadvantage. It also disadvantages other pensioners who want to buy glasses by instalments.

Being a pensioner falls under the protected characteristic of age. This could be indirect discrimination, as one group of people who share the protected characteristic of age are particularly disadvantaged compared to another group.

5. Harassment

Harassment is “Unwanted conduct related to a relevant “Protected Characteristic”, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.”

Harassment applies to all “Protected Characteristics” except for pregnancy and maternity and marriage and civil partnership. Employees will now be able to complain of behaviour they find offensive even if it is not directed at them, and the complainant need not possess the relevant characteristic themselves. Employees are also protected from harassment because of perception and association.

There are eleven types of harassment that can happen in the workplace and we are aware of these. Here is a summary of the types of harassment:

DISCRIMINATORY HARASSMENT

Discriminatory harassment is any form of harassment that causes an intimidating or offensive workplace because of the victim’s race, gender, age or other protected class.

PERSONAL HARASSMENT

It’s personal harassment when the victim is harassed (subjected to offensive remarks) for a reason other than their protected characteristic. It’s bullying in its most basic form.

PHYSICAL HARASSMENT

Also known as workplace violence, this type of harassment involves physical attacks, destruction of property or threats. In extreme cases, it may be assault.

POWER HARASSMENT

Harassment that’s characterized by a power disparity between the victim and harasser.

A common example of power harassment involves a supervisor and their subordinate.

PSYCHOLOGICAL HARASSMENT

Harassment that has a negative impact on a person’s psychological well-being.

Victims

feel put down or belittled on a personal or professional level.

ONLINE HARASSMENT (“CYBERBULLYING”)

Harassment that takes place online. This harasser might do things like post rumors about their victim on social media or send harassing and threatening messages.

RETALIATION HARASSMENT

Retaliation harassment occurs when a person harasses someone else to get revenge or to prevent the victim from behaving a certain way again.

SEXUAL HARASSMENT & QUID PRO QUO

SEXUAL HARASSMENT is harassment that’s sexual in nature and includes unwanted romantic or sexual behaviour. It’s QUID PRO QUO SEXUAL HARASSMENT when there’s a romantic or sexual request from a superior in exchange for a benefit or to avoid negative employment action (i.e., loss of job).

THIRD PARTY HARASSMENT

Third party harassment is a form of workplace harassment that’s perpetrated by someone from outside of the organization such as a vendor, supplier or customer.

VERBAL HARASSMENT

Verbal harassment involves someone who’s consistently mean or unpleasant and threatens, yells, insults or curses at the victim in public or private.

Example

Derek is disabled and is claiming harassment against his line manager after she frequently teased and humiliated him about his disability. Richard shares an office with Derek and he too is claiming harassment, even though he is not disabled, as the manager’s behaviour has also created an offensive environment for him.

Example

Steve is continually being called gay and other related names by a group of employees at his work. Homophobic comments have been posted on the staff notice board about him by people from this group. Steve was recently physically pushed to the floor by one member of the group but is too scared to report the matter. Steve is not gay but heterosexual; furthermore the group know he isn't gay. This is harassment because of sexual orientation.

6. Third Party Harassment

Already applies to sex. Now extended to cover age, disability, gender reassignment, race, religion or belief and sexual orientation.

The Equality Act makes you potentially liable for harassment of your employees by people (third parties) who are not employees of your organisation, such as customers or clients. You will only be liable when harassment has occurred on at least 2 previous occasions, you are aware that it has taken place, and have not taken reasonable steps to prevent it from happening again.

Example

Joel manages a Council Benefits Office. One of his staff, Paula is one of Joel's team member, working in the same office. Paula is Caribbean. Paula mentions to Joel that she is feeling unhappy after a claimant made racist remarks in his hearing. Joel is concerned and monitors the situation. Within a few days the claimant makes further offensive remarks. Joel reacts by having a word with the claimant, pointing out that his behaviour is unacceptable. He considers following it up with a letter to him pointing out that he will ban him if this happens again. Joel keeps Paula in the picture with the actions he is taking and believes he is taking reasonable steps to protect Paula from third party harassment.

7. Victimisation

Victimisation occurs when an employee is treated badly because they have made or supported a complaint or raised a grievance under the Equality Act; or because they are suspected or doing so. An employee is not protected from victimisation if they have maliciously made or supported an untrue complaint.

There is no longer a need to compare treatment of a complaint with that of a person who has not made or supported a complaint under the Act.

Example

Linda makes a formal complaint against her manager because she feels that she has been discriminated against because of marriage. Although the complaint is resolved through the organisation's grievance procedures, Linda is subsequently ostracised by her colleagues, including her manager. She could claim victimisation.

8. Pregnancy and Maternity

The “Protected Characteristics” are the same as under the old sex Discrimination Act 1975. Women who are pregnant are protected against unfair workplace practices because of their pregnancy.

Example

Georgia is pregnant and works in a care home. The manager knows that Georgia is pregnant, so has taken Georgia off all manual handling tasks, instead, she has been asked to do more of the documentation tasks, using the computer while she enters information. She also goes to help feed residents who are unable to feed themselves. This clearly shows no discrimination against her, as she has been treated fairly, in consideration of her health and physical state (pregnancy). Pregnancy and maternity are a characteristic that doesn't require the normal comparison or treatment with other employees.

Protected Characteristics

Set out below is a guide to any changes under each of the headings of “Protected Characteristics.”

Age (No change)

The Act protects people of all ages. However, different treatment because of age is not unlawful direct or indirect discrimination if you can justify it, i.e. if you can demonstrate that it is a proportionate means of meeting a legitimate aim. Age is the only “Protected Characteristic” that allows employers to justify direct discrimination. The Act continues to allow employers to have a default retirement age of 65 until April 2011. After April 2011 all employers should have a clear policy regarding the employment of Retirees. This could include fitness to work checks, review date of

fitness to work, yearly extension of contract etc. Women have a graduated transition to retirement at 65 years if born after 1st April 1950.

Disability (New Definition and Changes)

The Act has made it easier for a person to show that they are disabled and protected from disability discrimination. Under the Act, a person is disabled 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, which would impact on things like using a telephone, reading a book or using public transport.

As before, the Act puts a duty on you as an employer to make reasonable adjustments for your staff to help them overcome disadvantage resulting from an impairment (e.g. by providing assistive technologies to help visually impaired staff to use computers effectively.)

The Act includes a new protection from discrimination arising from disability. This states that it is discrimination to treat a disabled person unfavourably because of something connected with their disability (e.g. a tendency to make spelling mistakes arising from dyslexia). This type of discrimination is unlawful where the employer or other person acting on behalf of the employer knows, or could reasonably be expected to know, that the person has a disability. This type of discrimination is only justifiable if the employer can show that it is a proportionate means of achieving a legitimate aim.

Additionally, indirect discrimination now covers disabled people. This means that a job applicant or employee could claim that a particular rule or requirement you have in place disadvantages people with the same disability. Unless you could justify this, it would be unlawful.

The Act also includes a new provision which makes it unlawful, except in certain circumstances, for employers to ask questions about a candidate's health before offering them work.

*Please Note

The Department of Health issued Code of Practice for Health and Adult Social Care on the Prevention and Control of Infections and Related guidance, Criterion 10 states clearly that all services deemed as regulated activities under the Health and Social Care Act 2008 should ensure that all staff fill in a pre-employment health questionnaire and give information about residence overseas, previous and current illness and immunisation against relevant infections.

Gender Reassignment (New Definition)

The Act provides protection for transsexual people. A transsexual person is someone who proposes to, starts or has completed a process to change his or her gender. The Act no longer requires a person to be under medical supervision to be protected – so a woman who decides to live as a man but does not undergo any medical procedures would be covered.

It is discrimination to treat transsexual people less favourably for being absent from work because they proposed to undergo, are undergoing or have undergone gender reassignment than they would be treated if they were absent because they were ill or injured.

Marriage and Civil Partnership (No Change)

The Act protects employees who are married or in a civil partnership against discrimination. Single people are not protected.

Pregnancy and Maternity (No Change)

A woman is protected against discrimination on the grounds of pregnancy and maternity during the period of her pregnancy and any statutory maternity leave to which she is entitled. During this period, pregnancy and maternity discrimination cannot be treated as sex discrimination. See Annex 1 for an example. You must not take into account an employee's period of absence due to pregnancy-related illness when making a decision about her employment.

Race (No Change)

For the purposes of the Act 'race' includes colour, nationality and ethnic or national origins.

Religion or belief (No Change)

In the Equality Act, religion includes any religion. It also includes a lack of religion, in other words employees or jobseekers are protected if they do not follow a certain religion or have no religion at all. Additionally, a religion must have a clear structure and belief system. Belief means any religious or philosophical belief or a lack of such belief. To be protected, a belief must satisfy various criteria, including that it is a weighty and substantial aspect of human life and behaviour. Denominations or sects within a religion can be considered a protected religion or religious belief. Discrimination because of religion or belief can occur even where both the

discriminator and recipient are of the same religion or belief. Druids and Pagans are now seen as religions for the purposes of the Act.

Sex (No Change)

Both men and women are protected under the Act.

Sexual orientation (No Change)

The Act protects bisexual, gay, heterosexual and lesbian people.

It is important that staff are aware of the changes in the act and of their role in relation to customers and colleagues. Within the social care sector, services are often provided which are of a sensitive and private nature. Staff must be made aware of the cultural and ethnic needs of the service users in the delivery of the care to the individual concerned.

Please Note

Yowsun Care is aware of the specific guidance which is now available to small businesses via the Equality and Human Rights website.

Under their “Advice and Guidance” heading there are now specific guidance notes which assist small businesses and are example led for different situations. This advice and guidance are aimed at all service providers and includes guidance about ISSP.

If you provide services through a website such as direct marketing or advertising, you are known as an Information Society Service Provider (ISSP).

Stress Free Executives Ltd and its various departments take the advice and guidance regarding discriminatory advertising seriously and regularly reviews any marketing or advertising on its website.

Part two of this policy is intended to be an aide memoir for staff who are involved in meeting the needs of any ethnic minority group, it is not an exhaustive list, but guidance on the cultural and ethnic needs of customers should be met in a way which offers privacy, dignity and respect. The attached notes should be seen as the first steps in guiding staff to meet this aim.

Further information should be sought where appropriate. The information is set out in such a way that the information can be placed in the service user’s file.

The Human Rights Act 1998 and its Articles are considered to be part of the basis for the new Equality Act 2010. Please refer to the Safeguarding policy for further clarification and the links between both Acts.

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