

EQUALITY AND DIVERSITY (EQUAL OPPORTUNITIES)

A guide for managers and employees

Policy Statement

The Company believes that everyone should be treated with dignity and respect at work. Employees, potential employees and customers will not receive less favourable treatment or consideration on the grounds of disability, race, colour, nationality, ethnic origin, sex or marital status. Neither will employees or potential employees be disadvantaged by any terms and conditions of employment or Company requirements which cannot be justified as necessary on operational grounds.

What does this mean in practice?

Equal opportunities means treating all individuals fairly and without bias, particularly in terms of recruitment, training, promotion and career development. It includes employees, potential employees, agency/contract workers, customers and suppliers. It is the duty of all managers and employees to accept personal responsibility for the practical application of the equal opportunities policy. Any indications of unacceptable behaviour should be dealt with promptly and decisively. It is essential that all employees understand the importance of drawing any discriminatory practices to the attention of their manager or the Employee Relations Department. Equal opportunities includes supporting and not wasting talent, creating a workplace where employees are confident of fair treatment, have fair access to opportunity and where the Company has successful mechanisms for solving any problems that do occur.

Why is Equal Opportunities important?

Equal Opportunities is an integral part of good management practice, aimed at developing people to the fullest extent possible for the good of the organisation and themselves. Equality of opportunity can raise morale and improve employee and customer relations.

The UK is a multi-racial society in which women account for almost half the working population. Increasingly it is recognised that people with disabilities can make a full contribution to working life. By ignoring these facts, the Company runs the risk of missing out on the talent and skills of a large percentage of society. The Company is unlikely to maximise its potential as a business unless it maximises the use of available talent in the community regardless of disability, race, colour, nationality, ethnic origin, sex or marital status.

Unfair discrimination in the employment field is morally wrong, it is bad for business and may be unlawful.

A number of legal acts render unfair discrimination unlawful. Complaints of discrimination will generally be covered by one or a number of the following Acts;

- Employment Relations Act 1999
- Human Rights Act 1998
- National Minimum Wage Act 1998
- Employment Rights Act 1996
- Disability Discrimination Act 1995
- Trade Union and Labour Relations (Consolidation) Act 1991
- Transfer of Undertakings (Protection of Employment) Regulations 1981
- Race Relations Act 1976
- Equal Pay Act 1975
- Sex Discrimination Act 1975

The Sex Discrimination Act deals with discrimination on the grounds of gender, i.e. being male or female, together with discrimination on the grounds of marital status. The Race Relations Act deals with discrimination on the grounds of race, colour, nationality, or ethnic or national origin.

Types of Discrimination

Direct Discrimination

Direct discrimination means treating a person less favourably than another person purely on the grounds of their sex or race. For example, not offering a person a job purely because she is a woman, refusing to promote a person because he is black, dismissing a woman because she is pregnant or deliberately harassing a person because of his nationality.

Direct discrimination is not justified even where the motive is full of best intentions. For example, if the best applicant for a job in a male dominated environment is a woman but the employer refuses to employ her because he is genuinely concerned that she will be subjected to sexual banter, innuendo etc that could amount to unlawful discrimination. In the eyes of the law, she is being treated less favourably purely because of her sex. In this situation the employer should be taking steps to address the problems with the male workforce, not disadvantaging women because of the men's behaviour.

It is direct discrimination to treat a woman less favourably for any reason due to pregnancy or maternity.

Indirect Discrimination

Indirect discrimination involves applying a requirement or condition which, although applying to everyone, has a disproportionate effect on a particular sexual group or racial group when compared to another. This means that a considerably smaller proportion of one group can comply with the condition and that group is therefore at a disadvantage.

For example, advertising a job requiring 10 years service when 5 years would do could be indirect discrimination. Such a requirement could discriminate against women who have spent time bringing up a family, even though they may be well qualified for the position. Another example would be a job advert for a labourer which specified applicants must be over 5ft 5. This would be indirectly discriminatory against women as the proportion of women that can comply with the height condition is much less than the proportion of men.

Indirect discrimination is not necessarily deliberate. Sometimes it occurs because of long standing habits which have never been questioned.

Genuine Occupational Qualifications (GOQ)

It should be noted that it may be lawful to discriminate in jobs where being of a specific sex or race is a genuine occupational qualification (GOQ). For example if the job needs to be held by one particular sex for reasons of privacy or decency or for reasons of authenticity. For example, the owner of a Indian restaurant may only wish to employ staff who are of Indian origin for authenticity reasons. GOQs are unlikely to apply within our Company.

Employer Liability

Employers are responsible for acts of discrimination committed by employees during the course of employment, whether they were committed with or without the employers' knowledge or approval. This also includes acts that may be committed outside the workplace while representing the Company, or attending a Company function, such as a Christmas party. For example, if a male employee makes lewd suggestions to a female employee whilst under the influence of alcohol at a Company Christmas party, this could be regarded as sexual harassment (and vice versa). Or if an employee makes an offensive joke about a black persons skin colour, this could be regarded as race discrimination.

It is important to note that employers can be held liable for acts of discrimination committed by third parties, for example by customers, suppliers or contractors, where the discrimination was reasonably foreseeable and the employer did nothing to prevent it.

It is unlawful for an employer to instruct or attempt to instruct any other person to discriminate e.g. telling an employee only to serve white people.

It is essential to note that while the Company may be held liable in the eyes of the law for an act of discrimination, the individual committing the act may be liable for personal prosecution. If the individual committing the act is an employee, they will be subject to the Company's disciplinary procedure as appropriate. This could result in dismissal, depending upon the particular circumstances and seriousness of the case.

Who has the responsibility for the practical application of the Equal Opportunities Policy?

All employees share in this responsibility. It is essential to remind employees that they must bring to the attention of their manager, or the Employee Relations department, any discriminatory behaviour. The matter will then be fully investigated and appropriate action taken to stop the behaviour.

Managers and supervisors have special responsibility, particularly ensuring that they adhere to the principles of the policy when involved in the recruitment, selection, training, development and promotion of employees.

The Company's grievance procedure is available to any employee who believes that he or she may have been unfairly discriminated against. (see Procedure for dealing with complaints of discrimination) .

How does the Equal Opportunity Policy work in practice?

Recruitment

- Job vacancies are open to all applicants and everyone is given equal consideration
- The most suitable people are selected for jobs with regard only to their experience, skills and qualifications
- No one is unfairly discriminated against, directly or indirectly, on the grounds of disability (except for justified operational grounds), race, colour, religion, nationality, ethnic origin, sex or marital status at any stage of recruitment
- The Company will only use Employment Agencies that adhere to the principles of Equal Opportunity

Recruitment Advertising

- Efforts are made to ensure that the balance of the workforce recruited reflects that of the local community from which it is drawn, e.g. use of Employment Centres, local press
- Publicity does not stereotype people. Job titles and job content are not biased in any way

Selection

- Application forms ask only questions that are relevant to the individual's ability to carry out the job
- Candidates are judged and selected against objective criteria,
- Selection decisions will not be based on assumption or unfair prejudices
- At interview candidates are only asked questions relevant to the job, their previous work experience, skills and qualifications
- No unnecessary or irrelevant questions are asked about personal or domestic circumstances and/or plans (e.g. a woman should not be asked a question that a man would not also be asked, such as who will look after your children when you are working/if they fall ill)
- Selection processes should accommodate disabled applicants to enable them to compare on a like for like basis with a non disabled applicant. The Company will consider implementing reasonable adjustments to the working environment to enable a disabled person to consider a particular opportunity. The Company should make any necessary arrangements as is reasonable to allow a disabled applicant to attend a job interview.
- The Company does not assume that overseas qualifications are of a lower standard than their UK equivalent
- Any tests used should be free from any unjustifiable bias, either in the content or scoring mechanism, and should be relevant to the job being applied for
- If medical information is required, this will be obtained for disabled and non disabled applicants.

Training and Development

- Training and development opportunities are open to all full time and part time employees
- Promotion opportunities are open to all suitably qualified and experienced employees

Terms and Conditions of Employment

- All employees are to be treated without bias with respect to pay and other conditions of employment, having regard to local or geographical benchmarks, skills and experiences. Terms of employment will be determined solely by reference to the job, not personal characteristics
- Salary reviews and performance appraisals will be carried out for all categories of employee regardless of disability, race or sex.

Termination of Employment

- The Company will only terminate an employee's employment on sound, justifiable grounds. Any decision taken to dismiss an individual will not be due to their sex or race.
- There may be occasions when it becomes necessary to dismiss an employee on the grounds of incapability due to ill health. The ill health may be linked to a disability but no dismissal should take place before exploring all reasonable alternatives/adjustments.
- An individual's sex or race will have no bearing on redundancy selection decisions. A manager should take an employee's disability into account, however, when making redundancy selection decisions but only in a positive sense. For example, if a disabled employee has more absence from work than his colleagues, any absences caused by his disability should be ignored for the purpose of rating his attendance at work.

Procedure for dealing with complaints of discrimination

Generally speaking, where an existing employee is involved, the complaints procedure will be identical to the one outlined in the Bullying and Harassment at Work guide. Bullying and harassment is inextricably linked to the Equal Opportunities Policy. Bullying and harassment is a form of discrimination although it is not always linked to a person's sex, race or disability.

All new employees should be informed of the Company's policy towards discrimination and it should be stressed that any complaints in this regard will be treated very seriously.

The Company recognises the sensitive nature of complaints of discrimination and any investigations will be sensitively handled in confidence with only necessary parties being involved.

Complaints will be investigated promptly and objectively. If required, the complaint may be investigated by a person of the same sex or ethnic group where practicable to do so.

The Company reserves the right to suspend an employee who is suspected of serious discrimination on full pay pending investigation. Suspension itself does not indicate that the individual is 'guilty' of the alleged offence.

Following an investigation it may be necessary to invoke disciplinary action. Unfair discrimination is regarded as a serious breach of Company policy and in some cases may be regarded as gross misconduct resulting in summary dismissal.

The making of false or malicious complaints of discrimination will in itself be regarded as a serious disciplinary offence.

Informal Remedy

It is hoped that any complaint of discrimination can be resolved informally by the recipient making it clear that the behaviour is unacceptable to them and must stop. If unable to do this verbally, the recipient may write a note to the discriminator or may wish to involve a third party who could act on their behalf. This could be a colleague or a member of the Human Resources Department.

It may be that the discriminator is unaware that their behaviour/language causes offence and an informal approach could resolve the situation immediately. If the situation is not resolved to the satisfaction of the recipient then a more formal procedure is likely to become necessary.

(It may be that the recipient of discrimination does not want the situation to be investigated. Employees are reminded that the Company owes a duty of care to provide a safe place and system of work and if the complaint is sufficiently serious the Company may be obliged to investigate it further).

Formal Procedure

Where an informal resolution is not possible, or where serious discrimination occurs, employees are advised to bring a formal complaint. The formal complaint should be made in writing and where possible state:

- The name of the discriminator
- The nature of the discrimination
- Dates and times when discrimination occurred
- Names of witnesses to any incidents of discrimination
- Any action already taken by the complainant to stop the discrimination

The complaint should be sent in confidence to the appropriate line manager or the Employee Relations team in Coventry.

Upon receipt of the complaint it will be determined whether the complainant and the discriminator should be separated. This may involve temporary transfer, usually of the discriminator, to another department or location or suspension of the discriminator on full pay.

The relevant line manager with the assistance of Employee Relations will carry out a thorough investigation as quickly as possible, maintaining confidentiality at all times. All employees involved in the investigation are expected to respect the need for confidentiality. Failure to do so in itself may be considered a disciplinary offence.

Statements will be obtained from relevant parties/witnesses and will be made available to both complainant and discriminator where appropriate. Witnesses should also be available for further questioning from either the complainant or the discriminator and if necessary the investigatory/disciplinary meeting will be adjourned to ask supplementary questions. These questions may be asked of the witness in private if the witnesses are reluctant to appear at the hearing.

The complainant and the employee accused of harassment may be accompanied throughout the investigatory procedure and any resulting disciplinary meeting by a colleague or appropriate representative. The Company will ensure that the alleged discriminator has every opportunity to defend or explain their actions in accordance with the Company's disciplinary procedure.

The severity of the penalty imposed upon an employee found responsible for discrimination will be consistent with the offence committed. I.e. gross sexual/racial harassment will normally result in summary dismissal. Where a lesser penalty is appropriate such as a written warning, this may be coupled with action to ensure that the recipient is able to continue working without embarrassment or anxiety. This could involve counselling for the discriminator, transferring the discriminator to a different work area or arranging for the amendment of working practices to minimise contact between the two employees. If the recipient so wishes, their own transfer may be arranged subject to practical limitations. The result of the hearing will be communicated in writing to both employees.

The employee who receives a disciplinary sanction may appeal against the decision as per the disciplinary procedure.

An employee who brings a genuine complaint of discrimination will not suffer any detriment/victimisation for having brought the complaint. If this did occur the perpetrator would be subject to disciplinary action.

If it is reasonable to conclude that the complaint was vexatious, malicious and without substance to deliberately try and incriminate a fellow employee, disciplinary action will be taken against the employee who brought the complaint and the Company will ensure that the wronged employee is exonerated of the charges made.



Summary

Discrimination is a wide ranging subject which could occur in any number of ways at any stage during the employment relationship. The Company recognises the need to understand and acknowledge the diverse contribution of others and to harness that ability in a way that allows personal fulfilment as well as meeting organisational needs. The Company will not condone discriminatory behaviour. Should you become aware of discriminatory practices or behaviour, or receive a complaint in this regard, please advise your manager as soon as possible or contact the Employee Relations Department.

Contact Details for Employee Relations

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