



EQUALITY AT WORK POLICY

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Equality At Work

1 INTRODUCTION

- 1.1 Ayrshire Valuation Joint Board is a small organisation with limited staff numbers and resources. In accordance with the advice of the Equality and Human Rights Commission this policy, and indeed all our activities in connection with equality and diversity, are undertaken in a manner that is proportionate and relevant to the size of our organisation and the resources available.
- 1.2 Ayrshire Valuation Joint Board recognises the benefits of equality and diversity and will strive to ensure that equality underpins its activities as an employer, partner and service provider.
- 1.3 This policy sets out the Board's commitment to achieving a working environment which is free from unlawful discrimination, harassment, victimisation or bullying and where all employees and the wider community they serve are treated with dignity and respect.
- 1.4 This policy applies to all job applicants to the Board, employees and chief officials.
- 1.5 The policy has been developed jointly with the Trades Unions in line with the principles of partnership working.

2 PURPOSE

- 2.1 The purpose of this policy is to ensure everyone is aware of the standards of behaviour expected from them in terms of equality at work. It aims to assist in the development and maintenance of a working environment in which inequality and harassment are unacceptable. The policy clarifies employees' responsibilities, while providing a clear framework which will ensure that complaints of unacceptable behaviour are dealt with promptly and fairly.
- 2.2 This policy should be read in conjunction with The Board's policies which are underpinned by equalities. A list of key policies can be found at Appendix 1. All policies can be accessed on SharePoint.

3 LEGISLATION

- 3.1 By embracing the diversity of its employees and maximising their individual potential, the Board can foster innovation, deliver high quality services and create an inclusive and positive working environment for all. Advancing equality at work will also help the Board to meet its legal obligations as an employer and a service provider. This policy is underpinned by the public sector equality duty which requires public authorities, in the exercise of their functions, to have due regard to the need to:
 - Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010.
 - Advance equality of opportunity between people who share a relevant protected characteristic and those who do not.
 - Foster good relations between people who share a relevant protected characteristic and those who do not.

3.2 This policy also complies with the following legislation:

- The Equality Act (2010)
- The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012
- Protection from Harassment Act (1997) (Section 8);
- The Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 (SI 2000/1551);
- The Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 (SI 2002/2034);
- Employment Rights Act (1996) (sections relating to maternity and dependent carer leave);
- Employment Relations Act (1999);
- Agency Workers Regulations (2010);
- Rehabilitation of Offenders Act (1974).
- Trade Union and Labour Relations (Consolidation) Act 1992
- Human Rights Act (1998)

4 KEY PRINCIPLES

The following principles will apply:-

- 4.1** The Board takes a zero tolerance approach to unlawful discrimination, bullying, harassment and victimisation.
- 4.2** Everyone has a duty and responsibility to promote a positive working environment which fosters openness, trust and respect, thereby developing a culture where equality is valued.
- 4.3** Everyone must behave in a way that will not cause offence to others, and to acknowledge that views and opinions held by others may differ from their own.
- 4.4** Any complaint made in regard to this policy must be specific and not relate to general accusations. Details on how to make a complaint can be found at Section 8 of this policy.
- 4.5** All complaints will be dealt with in a confidential, sensitive and objective manner and all parties involved will be treated with due respect and protected from victimisation.
- 4.6** If a complaint is upheld or upheld in part, appropriate remedial action will be taken.

Following investigation, complaints that are found to be malicious will be viewed as a potential disciplinary offence and appropriate action may be taken against the complainant in accordance with the relevant discipline policy.

- 4.7** It will be considered a disciplinary offence for any employee to victimise or retaliate against an employee for highlighting an inequality or reporting a complaint of harassment.

5 PROTECTED CHARACTERISTICS

5.1 The Equality Act (2010) is the key statute on discrimination. It provides protection from discrimination because of a protected characteristic. There are nine protected characteristics:

- Age
- Gender Reassignment
- Race
- Sex
- Marriage and Civil Partnership
- Disability
- Pregnancy and Maternity
- Religion or Belief
- Sexual Orientation

5.2 Further definitions and examples of the protected characteristics can be found at Appendix 2.

5.3 Employees also have legal protection from discrimination on grounds of their caring responsibilities, trade union activity, criminal convictions or working pattern. Further information can be found at Appendix 3.

6 PROHIBITED CONDUCT

6.1 The Equality Act prohibits unlawful **direct discrimination, indirect discrimination, victimisation and harassment** related to any of the protected characteristics. Definitions and examples can be found at Appendix 3.

6.2 Applicants or employees will not be discriminated against because of a protected characteristic they have or are perceived to have, or because they associate with someone who has a protected characteristic.

6.3 No job applicant or employee will be subjected to harassment. The Equality Act defines harassment as “**unwanted conduct** related to a relevant protected characteristic which has the purpose or effect of violating their dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.” It should be noted that the Board will not tolerate harassment irrespective of whether it is related to a protected characteristic. Unwanted conduct can include any kind of behaviour including spoken or written words or abuse, imagery, graffiti, physical gestures, facial expressions, mimicry, jokes, pranks or other physical behaviour.

6.4 No job applicant or employee will be victimised or subjected to a detriment as a result of making or supporting a complaint, or raising a grievance in good faith under this policy.

6.5 Employees will not unlawfully discriminate against, harass or victimise a service user.

7 BULLYING

7.1 No employee will be subjected to bullying at work. Bullying is defined as “offensive, intimidating, malicious or insulting behaviour, or an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient causing the loss of self respect”.

7.2 Bullying behaviours can include verbal abuse, spreading rumours or innuendo about someone and making unjustified and malicious criticism or complaints.

- 7.3 Reasonable management actions carried out in a fair and equitable way are not bullying. These may include setting performance goals and standards, allocating work, giving an employee feedback about unsatisfactory work performance, informing an employee about inappropriate behaviour and giving constructive feedback.

8. PROCESS FOR RAISING COMPLAINTS

- 8.1 Any employee who believes they have been discriminated against, harassed, victimised or bullied should raise their concerns **informally or formally** through the Board's Grievance Policy and Procedure.
- 8.2 Employees can raise their complaint directly with their line manager or through their trade union representative. If the complaint involves the employee's line manager, the employee may approach another manager to raise the issue if they feel comfortable in doing so. In such cases, advice should be sought from the Board's Personnel Representatives.
- 8.3 Any employee who witnesses any breach of this policy must inform their line manager without unreasonable delay.
- 8.4 If an employee wishes to report a matter of concern confidentially and out with the scope of this Policy they may refer to the Board's Reporting Concerns at Work Procedure.
- 8.5 Where an employee or applicant wishes to raise a formal complaint about discrimination during the recruitment process they should invoke the Recruitment and Selection Complaints procedure.

9. MISCONDUCT

- 9.1 Where an allegation of discrimination, victimisation, bullying or harassment constitutes an allegation of misconduct, the appropriate Disciplinary Policy and Procedure will apply.
- 9.2 In more serious cases, allegations of discrimination, harassment, victimisation or bullying can constitute gross misconduct and, where established, could result in summary dismissal in line with the appropriate Disciplinary Policy and Procedure.

10. RESPONSIBILITIES

10.1 MANAGERS

- The Assessor or nominated senior officer and all managers are responsible for maintaining a working environment that is free from discrimination, harassment, victimisation and bullying, particularly in the areas for which they are responsible and amongst those employees whom they line manage.
- All managers are responsible for promoting a positive work culture by setting an example of appropriate conduct and behaviour and ensuring employees are aware of the standards of behaviour expected of them. This may include providing feedback on an employee's performance and conduct confidentially and in a respectful manner using objective evidence against clear criteria. Managers should ensure that all employees are aware of this policy, understand the Board's zero tolerance approach and are aware of the standards of conduct and performance expected of them in line with this and other relevant policies such as the Code of Conduct
- Managers have a duty of care to their employees. They should ensure the culture in the Board and their own team does not encourage behaviour which is in breach of this policy.
- Managers should manage and supervise in a fair, consistent and non-discriminatory manner.

- Managers should be alert to the possibility of problems arising and take appropriate action even though a complaint has not been made. Managers should be aware that employees who may be discriminated against, victimised or bullied may be reluctant to make a complaint.
- Managers should deal promptly, consistently and sensitively when a complaint is made by any of their employees, ensuring that confidentiality is maintained at all times.
- This policy does not detract from a manager's right to carry out reasonable management actions such as setting performance goals and standards, allocating work, giving an employee feedback about unsatisfactory work performance, informing an employee about inappropriate behaviour and giving constructive feedback.

10.2 EMPLOYEES

- Employees should be aware of the contents and procedures outlined in this Policy and other Board Policies referred to within.
- Employees must attend training on equalities as directed by their line manager.
- All employees are responsible for ensuring they clearly understand the Board's zero tolerance approach to discriminatory, harassing, victimising or bullying behaviour. This extends to behaviour in the course of a person's employment, such as work related social events and to on-line behaviour. Employees should not discriminate, harass or victimise employees or service users on-line and any such behaviour will be considered grounds for disciplinary action. This extends to postings on social networking sites out with working hours which could constitute discrimination, harassment or victimisation and bring the Board into disrepute.
- Employees should not induce or attempt to induce colleagues to discriminate, harass, victimise or bully and be confident in challenging such behaviours, reporting any breaches of this policy to an appropriate manager.

11 MAINSTREAMING EQUALITY

11.1 In order to further the general equality duty and to provide an accessible, diverse and inclusive working environment, equality must be integrated into the Board's policies, practices and procedures as an employer, including the following:

11.2 RECRUITMENT

The Board's commitment to equality of opportunity for all is reflected in its Recruitment Charter. This includes guaranteeing an interview to disabled candidates who meet the essential criteria for the vacant role and ensuring that reasonable adjustments are made throughout the recruitment and selection process.

Any applicant who believes they have been treated unfairly during the recruitment and selection process can raise a formal complaint through the Recruitment and Selection Complaints Procedure.

11.3 PRE-EMPLOYMENT HEALTH QUESTIONNAIRES

In accordance with the Equality Act, no applicant will be asked questions regarding absence or be required to complete a pre-employment health questionnaire prior to being given conditional offer of employment other than for the following purposes:

- To establish whether the applicant requires reasonable adjustments during the recruitment process.
- To establish whether an applicant can carry out a function intrinsic to the role.
- To monitor the diversity of applicants
- To enable applicants to benefit from a guaranteed interview scheme.
- Where a specific impairment is an occupational requirement for the job to prevent disabled applicants and employees being put at a substantial disadvantage.

11.4 POSITIVE ACTION MEASURES

Where appropriate the Board will use positive action measures to address particular areas of under-representation of any protected group in the workforce.

11.5 TRAINING AND DEVELOPMENT

Through the Performance and Development Review (PDR) process the Board ensures that all employees receive opportunities for development. Where possible, attendance at training will be monitored by protected characteristic.

All employees will be required to undertake equalities awareness training relevant to their role.

11.6 FLEXIBLE WORKING

The Board recognises the benefits of flexible working arrangements and any employee can request flexible working in line with the Flexible Working Policy. Employees will be treated fairly and consistently irrespective of working pattern.

11.7 DISABLED EMPLOYEES

The Board is committed to the employment and career development of disabled people. The Board will make reasonable adjustments to enable employees with disabilities to perform their roles. This may include adjustments such as:

- Altering working hours
- Allowing time off for rehabilitation or treatment
- Transferring the disabled person to another vacancy or another place of work
- Giving or arranging training to the disabled person or others
- Providing a reader or interpreter
- Acquiring or modifying equipment or reference manuals
- Adjusting the premises
- Providing supervision or other support
- Providing information in accessible formats.

This list is not exhaustive and adjustments will depend on individual needs and circumstances.

- Employees can also access South Ayrshire Council's Occupational Health Service, physiotherapy services, and counselling services where appropriate.
- Absence related to a disability will not normally be taken into account when managing absence related to conduct.

- Absence related to capability will be dealt with in line with the Framework for Maximising Attendance at Work.

11.8 TRANSGENDER WORKERS

The Board recognises the challenges which can be faced by transgender employees and will strive to ensure an inclusive working environment which is welcoming and free from discrimination. Where an employee is undergoing, proposing to undergo, or has undergone gender reassignment, they will be consulted with sensitivity and confidentially about their needs in the workplace, including how and when they would like to address their transition with colleagues.

Where an employee undergoing gender reassignment works in a role where an occupational requirement to be of a particular gender applies they will be considered for redeployment under the Managing Change policy.

12. EQUALITY IMPACT ASSESSMENT AND EQUALITIES MONITORING

12.1 EQUALITY IMPACT ASSESSMENT

The Board, as a body subject to the Equality Duty, has a legal obligation to assess the impact of its decisions, policies, procedures and practices against each of the protected characteristics.

The implications of the general equality duty must be set out in reports or other papers for decision makers.

Employees must attend training on Equality Impact Assessment and any other relevant training on the equality duty as directed.

12.2 EQUALITIES MONITORING

In order to maximise the benefits of workplace diversity and identify any areas where there are barriers to equality, The Board's nominated senior officer will monitor the composition of the Board's workforce. This will include data on the recruitment, development and retention of people with respect to relevant protected characteristics, as well as the identification of any areas of segregation by protected characteristic. Workforce monitoring data will be used to identify any differences in outcomes for different staff groups and to enable the identification of equality outcomes relating to employees.

Relevant workforce monitoring data and equality outcomes will be published in accordance with the requirements of the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012.

13. EMPLOYEE INVOLVEMENT

13.1 POLICY DEVELOPMENT

The Board will work in partnership with Trades Unions in the development of policies and procedures which impact on employees. All policies related to employees will be equality impact assessed including involvement from relevant staff groups.

13.2 EMPLOYEE EQUALITY FORUM

This forum meets quarterly and enables employees who have a disability or an interest in any of the protected characteristics to discuss any equality issues affecting them as well as to promote diversity and eliminate discrimination.

13.3 EQUALITY CHAMPIONS NETWORK

In order to promote equalities, services can nominate Equality Champions who provide a link for employees within their Service who wish to raise equality issues. Equality Champions also act as “critical friends” in equality impact assessing the likely impact of policies and procedures and are involved in soliciting and giving feedback on relevant policies and procedures which may impact on employees.

APPENDIX 1

Key Policies and Procedures

This list is not exhaustive and a full list can be accessed on the AVJB directory.

- Annualised Hours Guide
- A Framework for Maximising Attendance
- Code of Conduct
- Code of Practice for Temporary Workers
- Data Protection Code of Practice
- Disciplinary Policy
- Employee Retirement Framework
- Enhanced Annual Leave Scheme
- Flexible Retirement
- Flexi-Time Scheme
- Grievance Policy
- Guidelines on Referral to Occupational Health
- Information Security
- Job Sharing
- Managing Workforce Change
- Family Leave Policy
- Recruitment and Selection
- Reporting Concerns At work.
- Stress
- Special Leave policy

APPENDIX 2

Protected Characteristics: Definitions

Age

The protected characteristic of age means a person belonging to a particular age group. This includes people of the same age and people of the same range of ages, such as over 21s or 65 year olds.

Disability

A person has a disability if he or she has 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. "Normal day-to-day activities" refers to those activities that are "normal" for most people in their everyday lives, such as walking, driving, and forming social relationships. Long term is classed as a condition which has lasted 12 months, or is likely to do so.

Any impairment which meets the above definition may be considered a disability under the Act. Impairments which have not lasted for 12 months, but are likely to, are also protected if they meet the full definition. Cancer, HIV and Multiple Sclerosis are deemed disabilities from the point of diagnosis.

Physical impairments such as severe disfigurement are also treated as a disability under the Act as these are considered to have a substantial adverse effect on the ability of the person to carry out normal day to day activities.

Some conditions are **not** given protection under the Act. These are:

- Addiction to or dependency on alcohol, nicotine, or any other substance (other than in consequence of the substance being medically prescribed). Conditions arising from alcohol dependency, such as liver disease are likely to receive protection.
- The condition known as seasonal allergic rhinitis (e.g. hay fever) except where it aggravates the effect of another condition
- Tendency to set fires
- Tendency to steal
- Tendency to physical or sexual abuse of other persons
- Exhibitionism
- Voyeurism

Gender Reassignment

A person has the protected characteristic of gender reassignment if they are proposing to undergo, are undergoing or have undergone a process (or part of a process) to change gender. There is no requirement for the person to be under medical supervision. Gender reassignment is a personal process under the Act, rather than a medical process.

Marriage and Civil Partnership

Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters. Single people are not protected.

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 non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.

Race

Race refers to a group of people defined by their race, colour, and nationality (including citizenship) 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 (e.g. atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition (e.g. humanism). Political beliefs are not protected.

Sex

Sex refers to whether a person is a man or a woman.

Sexual Orientation

This protected characteristic refers to whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.

APPENDIX 3

Prohibited Conduct.

Direct Discrimination – This occurs when you treat someone less favourably than another because of a protected characteristic they have or are **perceived** to have, or because they associate with someone who has a protected characteristic.

Example: A manager interviews a number of candidates for a job, but does not select the older candidate as he believes older people are not as competent as younger people. This is direct age discrimination.

Indirect Discrimination - This occurs where a provision, criterion or practice disadvantages people who share a particular protected characteristic. Indirect discrimination can only be defended where it is a **proportionate** means of achieving a **legitimate** aim.

Example: An employer applies a no headgear dress code for all employees. This indirectly discriminates against employees who are Jewish, Sikh or Muslim as they may cover their heads as part of their religion. The employer could only objectively justify this if they can show it is a proportionate means of achieving a legitimate aim such as being essential to comply with health and safety.

Perceptive Discrimination – This occurs where a person is discriminated against because of a protected characteristic which they are thought to have.

Example: An employee believes that her colleague is gay and subjects him to homophobic insults and comments. This is discrimination, even if the victim is not, in fact, gay.

Associative Discrimination – This occurs when someone is treated unfairly because they associate with another person or persons who have a protected characteristic.

Example: An employee has a child with a disability and his employer has agreed to flexible working hours in order to accommodate his caring responsibilities. His line manager resents this and treats him poorly as a result. This is discrimination based on the employee's association with his disabled child.

Employers cannot refuse to employ someone because of their caring responsibilities and cannot treat an employee less favourably because they care for a disabled person.

Harassment – This 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. Unwanted conduct can include any kind of behaviour, including spoken or written words or abuse, imagery, graffiti, physical gestures, facial expressions, mimicry, jokes, pranks or other physical behaviour.

Example: An employee with learning difficulties is subjected to jokes about her disability and ongoing practical jokes which humiliate her.

However, an employee who is on the receiving end of harassment but does not have the protected characteristic, is not perceived to have it and does not associate with anyone who has it can take a harassment claim if they feel that their dignity has been violated.

Example: An employee witnesses the racial harassment of a colleague. The employee can take a racial harassment claim, even though it was not directed at her.

Victimisation - This occurs where an employee is subjected to a detriment as a result of making or supporting a complaint or raising a grievance in good faith under the Equality Act.

Example: An employee takes out a grievance against his colleagues citing age discrimination. As a result, his colleagues freeze him out and stop speaking to him altogether.

Discrimination Arising From a Disability

This occurs where an employer or service provider knows or could be reasonably expected to know that a person has a disability and treats the person unfavourably because of the disability.

Example: A disabled person who is a wheelchair user cannot attend an essential training course because this has been booked at a venue with no ramps or lifts and is thus inaccessible. The person is treated unfavourably because of their use of the wheelchair, which is connected to their disability. Unless the council can show that what happened is objectively justified, this is likely to be discrimination arising from a disability, as well as a failure to make a reasonable adjustment.

Rehabilitation of Offenders

The Board will comply with the provisions of the Rehabilitation of Offenders Act 1974 (ROA) in that anyone who has been convicted of a criminal offence and sentenced to less than two and a half years in prison can be regarded as rehabilitated after a period specified in law (Rehabilitation Period), with no further convictions. After the specified period, the original conviction is considered to be spent.

The general rule is that, subject to the provisions below, once a conviction is spent the convicted person does not have to reveal it and cannot be prejudiced by it. The Board will not refuse to employ someone or dismiss someone because of a "spent" conviction.

The Exceptions Order

There are some categories of employment to which the ROA does not apply and for which spent convictions must be disclosed. The Board will maintain a list of such posts. Exclusion of a post from the ROA does not prevent an ex-offender from being appointed – it simply entitles the Board to ask about spent convictions.

Applicants for such posts will be required to declare any unspent convictions and the information provided will be verified via a Disclosure Scotland check. All required checks should be fully carried out before the candidate commences employment.

External applicants will be required to meet the cost of the Disclosure Scotland check.

If the Exceptions Order applies, this will be clearly stated on the Job Description and any recruitment advertisement.

Discrimination and Trade Union Activity

The Trade Union and Labour Relations (Consolidation) Act 1992 forbids employers from refusing to employ someone or treating them unfairly because of trade union membership or participation in trade union activities, or conversely because they refuse to join a trade union or eschew trade union activities.

Employees who are union representatives of an independent trade union recognised by their employer are to be permitted reasonable time off during working hours to carry out certain trade union duties.

Full guidance can be found in the ACAS Code of Practice on Time Off For Trade Union Duties and Activities: http://www.acas.org.uk/media/pdf/n/k/Acas_Code_of_Practice_Part-3-accessible-version-July-2011.pdf