

**HAMBLETON DISTRICT COUNCIL**

**Report To:** Cabinet  
16 April 2013

**Subject:** EQUALITIES POLICY

**All Wards**  
**Portfolio Holder for Corporate Services: Councillor B Phillips**

**1.0 PURPOSE AND BACKGROUND:**

- 1.1 The purpose of this report is to present to Cabinet for approval by Council the Equalities and Diversity Policy.
- 1.2 The purpose of this policy is to ensure that equality is at the heart of Council's employment practices and in the way it carries out its business. The policy takes into account the needs of diverse groups and people of protected characteristic; it aims to eliminate discrimination and harassment, advance equality of opportunity and foster good relations. The policy aims to meet requirements of the Public Sector Equality and Diversity legislation.

**2.0 LINK TO COUNCIL PRIORITIES:**

- 2.1 This policy underpins the delivery of all services in ensuring all services, employees and citizens are treated fairly.

**3.0 RISK ASSESSMENT:**

- 3.1 Risk in not approving the recommendation.
- 3.2 The key risks are:-

<b>Risk</b>	<b>Implication</b>	<b>Prob*</b>	<b>Imp*</b>	<b>Total</b>	<b>Preventative action</b>
Inequality or harassment in employment and/or provision of services occurs	Legal challenge leading to reputational and financial damages	4	3	12	Ensure policy and actions to demonstrate compliance are embedded and published

Prob = Probability, Imp = Impact, Score range is Low = 1, High = 5

**4.0 FINANCIAL IMPLICATIONS:**

- 4.1 In approving the policy there will be costs to promote the policy internally; costs for training employees will be met from in - year budgets.

**5.0 LEGAL IMPLICATIONS:**

- 5.1 The policy has been developed to ensure the Council meets the legislative requirements required in regard to equalities and diversity.

**6.0 RECOMMENDATION:**

6.1 It is recommended that Council approve the Equalities and Diversity Policy in Annex A.

MARTYN RICHARDS

**Background papers:** Hambleton District Council Equality and Diversity Policy.

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**EQUALITY & DIVERSITY POLICY**

DRAFT V.V.V.

**MARCH 2013**

## Document Control

<b>Organisation</b>	Hambleton District Council
<b>Title</b>	Equality & Diversity
<b>Author</b>	Pam Channer, Improvement & Information Assistant
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<b>Subject</b>	Equality & Diversity
<b>Review date</b>	December 2014

## Revision History

Revision Date	Reviser	Previous Version	Description of Revision
February 2013	P A Channer	n/a	Original
March 2013	S Seddon	1	V2 incorporates Impact Assessments

## Document Approvals

This document requires the following approvals:

Sponsor Approval	Name	Date
Equality & Diversity Officer	Sue Seddon	
Director of Corporate Services	Martyn Richards	
Section 151 Officer	Justin Ives	

## Contributors

In developing this Policy, the Council uses information and guidelines from various sources including :

- Equality Act 2010
- Freedom of Information Act 2000
- Human Relations Act 1998
- UNISON Equality Scheme
- Data Protection Act 1998
- Local Govt Ombudsman
- ACAS (Advisory Conciliation & Arbitration Service)
- HDC Equality & Diversity Statement

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## **1. PURPOSE**

Hambleton District Council ('the Council') is totally opposed to all forms of unfair discrimination and committed to encouraging diversity amongst our workforce and in the services we deliver.

Our aim is for our workforce to be truly representative of all sections of the community, where each employee feels respected and able to give of their best, and that the services we deliver are fair and appropriate to the needs of all our residents.

To that end, the purpose of this Policy is to provide equality and fairness for all in our employees and in the delivery of our services and not to discriminate on grounds of gender, marital status, race, ethnic origin, colour, nationality, national origin, disability, sexual orientation, religion or age. We oppose all forms of unlawful and unfair discrimination.

The policy will be monitored and reviewed annually.

## **2. SCOPE**

The Council will demonstrate its commitment by promoting, maintaining and rigorously implementing this Policy to underpin all decisions and actions taken by the Council and its employees.

The Council is committed to following the requirements of legislation, which are summarised in Appendix A, and to eliminating unlawful discrimination as described in Appendix B.

## **3. EMPLOYMENT**

The Council seeks to ensure that no discrimination occurs in recruitment or employment because of age, disability, sex, gender assignment, pregnancy, maternity, race (which includes colour, nationality and ethnic or national origin), sexual orientation, religion or belief, or because someone is married or in a civil partnership.

The Council will provide equality of opportunity in all aspects of employment including recruitment, promotion, opportunities for training, pay and benefits.

All employees, whether part-time, full-time or temporary, will be treated fairly and with respect. Selection for employment, promotion, training or any other benefit will be on the basis of aptitude and ability. All employees will be helped and encouraged to develop their full potential and the talents and resources of the workforce will be fully utilised to maximise the efficiency of the organisation.

The Council strives to ensure that the work environment is free from harassment and bullying and that everyone is treated with dignity and respect is an important aspect of ensuring equal opportunities. The Council has a separate Bullying and Harassment Policy which deals with these issues.

Our commitment:

- To create an environment in which individual differences and the contributions of all our staff are recognised and valued.
- Every employee is entitled to a working environment that promotes dignity and respect to all. No form of intimidation, bullying or harassment will be tolerated.
- Training, development and progression opportunities are available to all staff.
- Equality in the workplace is good management practice and makes sound business sense.
- We will review all our employment practices and procedures to ensure fairness.
- Breaches of our equality policy will be regarded as misconduct and could lead to disciplinary proceedings.
- This policy is fully supported by senior management and has been agreed with trade unions and/or employee representatives. (Insert details if appropriate).
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#### **4. SERVICE DELIVERY**

The Council recognises the need to deliver services in ways that are appropriate to everyone and whenever possible removing barriers that will limit access.

The Council recognises the need to take measures to ensure that disadvantaged groups and individuals can become aware of, and make best use of, the Council's services and to ensure that those services are made physically and communicatively or linguistically accessible to all. The aim is to ensure that all of the Council's services are equally available to all the public - equal treatment for all does not necessarily mean the same treatment for all.

When making decisions about its operations, the Council will consider any implications for Equality and Diversity.

#### **5. STAFF RESPONSIBILITIES**

Every staff member is required to assist the Council to meet its commitment to provide equal opportunities and avoid unlawful discrimination in both employment and service delivery.

Staff can be held personally liable as well as, or instead of, the Council 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 Council's Disciplinary Rules and Procedure.

#### **6. EQUALITY IMPACT ASSESSMENTS**

Equality Impact Assessments (EIAs) have been developed as a tool for ensuring that equality, social inclusion and community cohesion issues can be considered when drawing up policies or proposals which affect the delivery of services, the carrying out of our functions and in our employment practices.

EIAs are conducted in relation to the protected characteristics as identified in the Equality Act 2010. An EIA is formulated from the point a policy is developed and assists us in:

- determining how our policies and practices, or new proposals, will impact or affect different communities, especially those groups or communities who may experience inequality, discrimination, social exclusion or disadvantage;
- measuring whether policies or proposals will have a negative or positive impact on different communities;
- making decisions about current and future services and practices and to gain a fuller knowledge and understanding of the possible outcomes for different communities or customer groups; and
- developing ways of monitoring and reviewing the effects of new or changing policies or proposals.

## **7. IMPLEMENTATION**

The Chief Executive and Cabinet ) are collectively are accountable for ensuring this policy is put into effect, with one of the Directors nominated to take the lead role.

## **8. MONITORING & REVIEW**

This policy will be monitored periodically by the Council to judge its effectiveness and will be updated in accordance with changes in legislation.

In particular, the Council will monitor the ethnic, age and gender composition of the existing workforce and of applicants for jobs (including promotion), and the number of disabled people within these groups, and will review its equal opportunities policy and associated action plan in accordance with the results shown by the monitoring. If changes are required, the organisation will implement them.

Information provided by job applicants and employees for monitoring purposes will be used only for these purposes and will be dealt with in accordance with the Data Protection Act 1998.



## APPENDIX A Summary of Legislation

### Equality Act 2010

1. The Equality Act 2010 came into force on 1 October 2010. The purpose of the Equality Act 2010 was to simplify existing discrimination legislation and create a more consistent and effective framework, while at the same time extending discrimination protection.
2. The Act defines direct discrimination as less favourable treatment because of a protected characteristic. The protected characteristics under the Equality Act 2010 are:
  - age
  - disability
  - gender reassignment
  - marriage and civil partnership
  - pregnancy and maternity
  - race
  - religion or belief
  - sex, and
  - sexual orientation.
3. The Act makes it unlawful to discriminate directly or indirectly, or harass customers or clients because of the protected characteristics in the provision goods and services.
4. Discrimination after employment may also be unlawful, eg refusing to give a reference for a reason related to one of the protected characteristics.
5. Staff should not discriminate against or harass a member of the public in the provision of services or goods. 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 address any barriers that may impede disabled people from accessing a service.
6. Employers will be liable for acts of unlawful discrimination committed by their employees against other employees or customers in the course of their employment unless they can show that they took such steps as were reasonably practicable to prevent those acts. There is no limit on compensation for unlawful discrimination, which includes compensation for injury to feelings and personal injury.
7. Employers may take positive action in the form of proportionate measures to encourage or train people from an under-represented group to apply for jobs, overcome a perceived disadvantage or meet specific needs based on a protected characteristic.

## **Freedom of Information Act 2000**

1. It is the responsibility of the Council to comply with Freedom of Information Act 2000 ('FOI').
2. FOI gives people two rights : the right to be told whether information is held by the public authority, and the right to be provided with this information. These access rights may only be overridden by certain limited and specific exemptions in the Act.

## **Data Protection Act 1998**

1. The Council has a responsibility to maintain authentic, reliable, trustworthy and useable records, in whatever medium, for as long as they are needed, in accordance with the business and regulatory environment, throughout the lifecycle of creation, retention, maintenance, use and disposal of the record. It is also a principle of the Data Protection Act (1998) that personal data must be 'kept for no longer than necessary'.
2. The Data Protection Act 1998 establishes a framework of rights and duties designed to safeguard personal data. This framework balances the legitimate needs of organisations to collect and use personal data for business purposes, against the individual's right to privacy.
3. The legislation is underpinned by a set of eight straightforward, common-sense principles, summarised in Appendix 2.
4. It is a basic tenet of data protection that the public should know, or be able to find out, who is processing personal data plus other information such as why the processing is being carried out. The Council aim to ensure that all personal data is handled in line with the spirit of these principles.

## **Human Rights Act 1998**

1. This Act incorporates the principals of the European Convention on Human Rights (1953). The Articles of the convention that are most likely to impact on employment are:
  - Prohibition of forced labour and slavery
  - The right to a free trial
  - The right to privacy and respect for family life
  - Freedom of thought, conscience and religion
  - Freedom of expression
  - Freedom of assembly and association
  - Prohibition of discrimination

## **APPENDIX B Unlawful Discrimination**

### **Direct Discrimination**

Direct discrimination is where an individual is treated less favourably than another because of a protected characteristic.

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.

### **Indirect Discrimination**

Indirect discrimination is where a condition, rule, or practice is applied that applies to everyone but particularly disadvantages people who share a protected characteristic and it cannot be shown to be a proportionate means of achieving a legitimate aim.

Harassment is where there is unwanted conduct, related to one of the protected characteristics (other than marriage and civil partnership, and pregnancy and maternity) that has the purpose or effect of violating a person's dignity; or creating an intimidating, hostile, degrading, humiliating or offensive environment.

Staff will be able to complain of behaviour that they find offensive even if it is not directed at them and the complainant need not possess the relevant characteristic themselves. It does not matter whether or not this effect was intended by the person responsible for the conduct.

### **Associative Discrimination**

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 pregnancy and maternity).

### **Perceptive Discrimination**

Perceptive discrimination is where an individual is directly discriminated against or harassed because others think that the individual has a particular protected characteristic. It applies even if the person does not possess the characteristic (other than marriage and civil partnership, and pregnancy and maternity).

### **Third-Party Harassment**

Third-party harassment occurs where an employee is harassed and the harassment is related to a protected characteristic (other than marriage and civil partnership, and pregnancy and maternity), by third parties such as customers. For an employer to be liable:

- the harassment must have occurred on at least two previous occasions
- it must be aware that the previous harassment has taken place, and
- it must have failed to take reasonable steps to prevent harassment from happening again.

## **Victimisation**

Victimisation occurs when an employee is subjected to a detriment because they made or supported a complaint or raised a grievance under the Equality Act 2010, or because he or she is suspected of doing so. However, an employee is not protected from victimisation if he or she acted maliciously or made or supported an untrue complaint. There is no longer a need for a complainant to compare his or her treatment with someone who has not made or supported a complaint under the Act.

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 to someone who does not have that protected characteristic and the employer has failed to make reasonable adjustments to enable the disabled person to overcome the disadvantage.