



# **Equal Opportunities and Diversity at work policy**

## **Incorporating the provisions of the Equality Act 2010**

Standards for England is the operating name for the Standards Board for England. The name Standards Board for England is still used for all legal and financial documents, including the employment contract. For the purpose of this policy, Standards for England will be used.

## Contents

		Page
1	Policy statement	3
2	Policy scope	3
3	Principles of this policy	4
4	Responsibilities	4
5	Specific actions to ensure equal opportunities/diversity in employment	5
6	Customers, suppliers and other people not employed by Standards for England	6
7	Grievances	6
8	Future developments	6
	Appendix A – The law relating to this policy	7

## 1 Policy statement

1.1 Standards for England is committed to providing equal opportunities in employment and to avoid unlawful discrimination of employees and customers. The organisation is committed to valuing diversity and promoting equality for everyone. Standards for England recognises the varied contributions that a diverse workforce brings to an organisation and are committed to drawing on the different perspectives and experiences of individuals which will add value to the way the organisation operates.

1.2 Standards for England recognises it is unlawful to discriminate directly or indirectly in recruitment or employment because of:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

These are known as 'protected characteristics'.

1.3 Standards for England aims to recruit, retain and develop employees based on merit, competence and potential. We are committed to promoting a positive work environment for our employees and ensuring employees are given every opportunity to fulfil their potential.

1.4 Striving 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 in employment. The Standards for England has a separate Dignity at Work Policy and Procedure which deals with any discrimination, harassment, bullying and victimisation, which may occur in the workplace.

1.5 The Standards Board has a Dignity at Work Procedure for dealing with any discrimination, harassment, bullying and victimisation, which may occur in the workplace. We also carryout diversity impact assessments on all our policies to ensure that they are compliant with legislation and adhere to the spirit of this policy.

1.6 This policy has been reviewed and revised in April 2011 in line with The Equality Act 2010. This includes the new provision relating to the new single equality duty on public bodies and the extended scope for positive action within recruitment and promotion.

- 1.7 In drafting this policy, reference should be made to the HR service impact assessment which covers the impact of all HR policies and services and provides scope for investigating any negative impact.

## **2 Policy scope**

- 2.1 This policy applies to all employees, agency workers, all job applicants and third parties providing services to Standards to England. Discrimination after employment may also be unlawful, e.g. refusing to give a reference for a reason relating to one of the protected characteristics.
- 2.2 The success of an Equal Opportunities and Diversity Policy will require the commitment and support of all managers and employees alike.

## **3 Principles of the policy**

- 3.1 The following principles apply in implementing this policy:
- The Equality Act 2010 states that compliance with the duty may involve treating some people more favourably than others.
  - Any employment requirements or conditions will be justifiable and reasonable.
  - All employment policies, procedures and practices, will be reviewed and impact assessed to ensure that they are, and remain, non-discriminatory and are compliant with legislation. Material relating to the impact assessment will be published.
  - All managers and others involved in the implementation of organisation's employment policies will receive appropriate training including diversity, recruitment and selection, performance management etc.
  - Employees will receive training during induction and at other appropriate times during their employment to ensure awareness and understanding of this policy and diversity in general.
  - Standards for England will not ask about a job applicant's health (including any disability) before offering him/her the work.
  - 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.

## **4 Responsibilities**

- 4.1 The Chief Executive has overall responsibility for ensuring the correct application and implementation of the policy.

In addition, all managers have a responsibility to:

- Ensure the non-discriminatory treatment of all job applicants and employees and promote equality of opportunity.
- Identify and remove discriminatory attitudes and practices within the organisation, including the recruitment process.
- Raise the level of employee awareness of the policy's existence.
- Deal fairly and speedily with any discriminatory issue raised in the course of employment.
- Be aware of the diverse needs of employees and support them appropriately and fairly.
- Ensure that reasonable adjustments are made to overcome barriers to employment and using our services or facilities.

All employees have a responsibility to:

- Not discriminate against or harass a member of the public in the provision of its services.
- Assist Standards for England in meeting its commitment to provide equal opportunities for all
- Treat colleagues and stakeholders with dignity and respect.
- Have due regard to equal opportunities in the work they do and decisions they make.
- Promote diversity in the workplace.

4.2 Acts of discrimination, harassment, bullying or victimisation against employees or customers can be raised through the Dignity at Work Policy and may be considered disciplinary offences to be dealt with under the disciplinary procedure. Discrimination, harassment, bullying or victimisation may constitute gross misconduct and could lead to dismissal without notice. Types of unlawful discrimination are set out in Appendix A of this policy.

## **5 Specific actions to ensure equal opportunities/diversity in employment**

5.1 Standards for England will avoid unlawful discrimination in all aspects of employment including recruitment, promotion, opportunities for training, pay and benefits, discipline and selection for redundancy.

5.2 Person and job specifications 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.

5.3 Standards for England 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. The organisation will only refuse such requests if it considers it has good reasons, unrelated to any protected characteristic. Standards for England will also make reasonable adjustments to its standard working practices to overcome barriers to employment where the individual has a disability.

- 5.4 Standards for England will monitor the ethnic, gender and age composition of the existing workforce and of applicants for jobs (including promotion), and whether an individual has a disability within these groups through the HR dashboard. The organisation will consider and take any appropriate action to address any issues that may be identified as a result of the monitoring process.
- 5.5 The organisation cannot lawfully discriminate in the selection of employees for recruitment or promotion, but it may use appropriate lawful methods, including lawful positive action, to address the under-representation of any group that the Standards for England identifies as being under-represented in particular types of job.
- 5.6 Our Single Equality Scheme has been designed to ensure that the concept of equal access is integral to the planning and performance process – from our higher level strategy down to individual planning processes. It is a clear statement of our intent that all members of the organisation are responsible for consideration of diversity in the way they work.

## **6 Customers, suppliers and other people not employed by Standards for England**

- 6.1 Standards for England will not discriminate directly or indirectly, or harass customers or clients because of the protected characteristics of disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation in the provision goods and services.
- 6.2 Employees should report any bullying or harassment by customers, suppliers, visitors or others to their manager who will take appropriate action in line with the provisions of the Dignity at Work Policy.

## **7 Grievances**

- 7.1 If you consider that you may have been unlawfully discriminated against, you may use the Standards for England's grievance procedure to make a complaint. If your complaint involves bullying or harassment, then the Dignity at Work Policy is specifically designed for dealing with these issues.
- 7.2 Standards for England 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.

## **8 Future developments**

The Government did not bring all the provisions within the Act into force on 1 October 2010. The provision relating to positive action in recruitment and the public sector duty came in to force in April 2011. It is uncertain when some of the other measures will take effect, including the introduction of dual discrimination provisions, which will allow claimants who believe that they have been treated less favourably because of a combination of two protected characteristics to bring a combined claim. The Equal Opportunities and Diversity Policy will be reviewed when the next phase of this implementation is introduced.

## Appendix A

### The law relating to this policy

#### Equality Act 2010

The Equality Act 2010 came into force on 1 October 2010. The purpose of the Equality Act 2010 is to bring together and simplify nine separate pieces of discrimination legislation and create a more consistent and effective framework, while at the same time extending discrimination protection.

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

Standards for England 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.

The Public Sector Duties (sometimes referred to as the three arms of equality duty are:

1. **Eliminate discrimination, harassment, victimisation** and any other conduct that is prohibited by the Act.
2. **Advance equality of opportunity** between persons who share a relevant personal characteristic and persons who do not share it.
3. **Foster good relations** between persons who share a relevant personal characteristic and persons who do not share it.

These new duties came into force on 6 April 2011.

### Positive action

Standards for England 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. For example, an employer could provide certain religious groups with time off for religious observance.

## Types of unlawful discrimination

**Direct discrimination** is where a person is treated less favourably than another because of a protected characteristic. An example of direct discrimination would be refusing to employ a woman because she is pregnant.

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** 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.

**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. It does not matter whether or not this effect was intended by the person responsible for the conduct.

**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** is where an individual is directly discriminated against or harassed based on a perception that he/she has a particular protected characteristic when he/she does not, in fact, have that protected characteristic (other than marriage and civil partnership, and pregnancy and maternity).

**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 clients or customers. For an employer to be liable:

- the harassment must have occurred on at least two previous occasions (although not necessarily by the same harasser or suffering the same type of harassment);
- 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** occurs where an employee is subjected to a detriment, such as being denied a training opportunity or a promotion because he/she 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 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 protected characteristic and the employer has failed to make reasonable adjustments to enable the disabled person to overcome the disadvantage.