



## **Equal Opportunities Statement and Policy**

### **1. Vision, aims and objectives**

This policy has been revised following the introduction of the Equality Act 2010 which sets out general duties required by listed public bodies and the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012. The Comhairle is committed to adhering to the General Duty for public authorities as set out in the Equality Act 2010. This requires the Comhairle, in the delivery of our service and functions will have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- Advance equality of opportunity between people who share a protected characteristic and those who do not
- Foster good relations between people who share a protected characteristic and those who do not

The above duties apply in particular to eight out of nine protected characteristics set out in the Act – Age, Disability, Gender Reassignment, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation. In respect of the ninth protected characteristic – Marriage and Civil Partnerships, the duty is to eliminate unlawful discrimination only.

The General Duty applies to the Comhairle as an employer, a service provider and in relation to any partnership working as well as in our public duties. The Comhairle is committed to adhering to the specific duties on public authorities as set out by Scottish Ministers to enable and evidence improved performance of the General Duty.

The Comhairle aims to create a culture which recognises and values the differences that employees and communities bring, and which values openness, fairness, and transparency and will provide recognition based on ability and achievement only.

The Comhairle strives to create and maintain an environment whereby people from all backgrounds can live and work together harmoniously by challenging unlawful or unfair discrimination, prejudice, stereotyping, harassment and undignified or disrespectful behaviour.

The Comhairle's objective is to provide everyone in the authority area with an equal opportunity to live, work and learn free from discrimination and victimisation, including those who experience poverty and social disadvantage. Achieving these aims and objectives will enable the Comhairle to meet our legal obligation to eliminate unlawful discrimination and to deliver high quality services.

## **2. Introduction**

The purpose of this policy is to set out the statutory obligations placed on the Comhairle as a listed public authority, by the relevant legislation. The policy applies to Elected Members, employees, student placements and volunteers.

The policy will also inform members of the public and relevant regulatory bodies about the Comhairle's commitment to equality of opportunity and set out its roles and responsibilities.

Partners, contractors and those in the private, public and voluntary sector who carry out Comhairle functions or provide work or services, including those organisations and individuals who provide goods and services to, on behalf of, or in partnership with the Comhairle – will be informed that the Comhairle will work in line with the principles set out in this policy. It is intended that they will also adopt these principles for the work carried out with or on behalf of the Comhairle. Compliance with equality of opportunity is consistent with our obligations under European Union rules and regulations, Best Value and other national policies and strategies and Comhairle policies and strategies.

## **3. Legislation**

On the 1 October 2010 the Equality Act 2010 (the Act) came into force, this was the most significant change to discrimination legislation in the United Kingdom since the 1970's. The purpose of the Act was to simplify and strengthen the previous legislation.

Under the Act the following statutes have been repealed in their entirety:

- Equal Pay Act 1970
- Sex Discrimination Act 1975
- Race Relations Act 1976
- Disability Discrimination Act 1995

This means that listed public bodies are no longer required to publish separate equality schemes and action plans associated with the above Acts.

Much of the following legislation has also been replaced within the Equality Act 2010:

- Equality Act 2006
- Race Relations (Amendment) Act 2000 (public sector duties)
- Employment Equality (Religion or Belief) Regulations 2003
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Age) Regulations 2003
- Equality Act (Sexual Orientation) Regulations 2007

Instead, there are numerous statutory instruments under the Equality Act 2010, these include the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012. The Specific Duties for Scotland set out a number of statutory requirements for listed public authorities to comply with within specified timescales, which include:

- Duty to report on progress on mainstreaming the equality duty
- Duty to publish equality outcomes and report on progress
- Duty to assess and review policies and practices
- Duty to gather and use employee information
- Duty to publish gender pay gap information
- Duty to publish statements on Equal Pay, etc

- Duty to consider award criteria and conditions in relation to public procurement
- Duty to publish in a manner that is accessible, etc
- Duty to consider other matters
- Duty of the Scottish Ministers to publish proposals to enable better performance

The Comhairle is committed to complying with the duties set out in the Act to meet our legal obligations, eliminate unlawful discrimination and deliver high quality services and functions.

#### 4. Equal Opportunity Policy Aims

##### Principles

The main aim of the policy is to enable the Comhairle to set out our legal obligations and create the foundation for the management of equality of opportunity at a corporate and service level. Specifically they include the General Duty from the Equality Act 2010 to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- Advance equality of opportunity between people who share a protected characteristic and those who do not
- Foster good relations between people who share a protected characteristic and those who do not

The 'protected characteristics' are age; disability; gender reassignment; pregnancy and maternity; marriage and civil partnership; race; religion or belief; sex; and sexual orientation.

#### 5. 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 (according to guidance from the Government and Acas) 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).

**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/she is suspected of doing so.

**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.

## 6. Equal opportunities in employment

The Comhairle will not unlawfully discriminate in any aspect of employment including recruitment, promotion, opportunities for training, pay and benefits, discipline and selection for redundancy.

Person specifications and job descriptions 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.

The Comhairle 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 and will refuse such requests only if the organisation considers it has good reasons, unrelated to any protected characteristic, for doing so. The Comhairle will comply with its obligations in relation to statutory requests for contract variations. The organisation will also make reasonable adjustments to its standard working practices to overcome barriers caused by disability.

The Comhairle will monitor the composition of the existing workforce and of applicants for jobs in accordance with the relevant protected characteristics, and will consider and take any appropriate action to address any problems that may be identified through this monitoring process.

## **Dignity at work**

The Comhairle has a separate 'Respect at Work' policy concerning issues of bullying and harassment on any ground, and how complaints of this type will be dealt with.

## **Customers, suppliers and other people not employed by the organisation**

The Comhairle will not discriminate unlawfully against customers using or seeking to use goods, facilities or services provided by the organisation.

Employees should report any bullying or harassment by customers, suppliers, visitors or others to their manager who will take appropriate action.

## **Training**

The Comhairle will provide training in equal opportunities to managers and others likely to be involved in recruitment or other decision making where equal opportunities issues are likely to arise.

The Comhairle will provide training to all existing and new employees and others engaged to work at the organisation to make them aware of their rights and responsibilities under the Respect at Work policy and what they can do to help create a working environment free of bullying and harassment.

Equality and diversity training is included in our induction programmes for all employees.

Provide Equality Impact Assessment training to all employees who are required to make decisions regarding policy, procedure and budgetary matters.

## **Assessment of Impact**

All existing functions, policies, procedures and strategies that will affect people as employees, service users or members of the public, should be assessed for impact. Undertaking an Equal Impact Assessment ensures the Comhairle understands how a policy will impact of the needs of the general duty. This ensure policies are inclusive and do not cause detriment to people with protected characteristics.

## **7. Role and responsibilities**

Every employee is required to assist the organisation to meet its commitment to provide equal opportunities in employment and avoid unlawful discrimination.

Employees can be held personally liable as well as, or instead of, the organisation 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 organisation's disciplinary procedure. Discrimination, harassment, bullying or victimisation may constitute gross misconduct and could lead to dismissal without notice.

## **8. Grievances**

If you consider that you may have been unlawfully discriminated against, employees may use the Comhairle's grievance procedure to make a complaint. If your complaint involves bullying or harassment the complaint will be addressed under the Respect at Work policy.

Service users, volunteers and partners who carry out work, or supply goods and services for or on behalf of the Comhairle should submit a complaint under the Comhairle's complaints procedure.

The Comhairle 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.

Use of the organisation's grievance procedure does not affect your right to make a complaint to an employment tribunal. Complaints to an employment tribunal must normally be made within three months beginning with the act of discrimination complained of.

## **9. Monitoring and review**

This policy will be monitored periodically by the organisation to judge its effectiveness and will be updated in accordance with changes in the law. We will regularly:

- Review our policies, procedures and functions by carry out Equality Impact Assessments
- Listen to our communities and involve them in planning and reviewing our equality outcomes
- Benchmark data and identify good practice by comparing equality and diversity approached of other organisations and adopt relevant practices where appropriate
- Monitor and report on workforce composition in respect of the 'protected characteristics' as set out in the specific duties
- Analyse feedback obtained from stakeholders, employees, clients, and the recognised trade unions where equality practices could be more effective
- Monitor and analyse job application data and recruitment decisions
- Analyse exit interview data
- Monitor complaints made under the Comhairle's Respect at Work policy, Grievance and Disciplinary procedures
- Encourage services to adopt appropriate measures to address claims of prejudice practices

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.