

EQUALITY POLICY

NOVEMBER 2010

EQUALITY POLICY

1 INTRODUCTION

- 1.1 The Equality Act 2010 came into force on 1 October 2010 and the purpose of the Act is to simplify existing discrimination legislation and create a more consistent and effective framework, while at the same time extending discrimination protection. The Act recognises two kinds of discrimination: direct and indirect.
- 1.2 The Equality Act 2010 makes it unlawful to discriminate directly or indirectly, because of the protected characteristics of disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation in recruitment or employment. Discrimination after employment may also be unlawful, e.g. refusing to give a reference for a reason related to one of the protected characteristics.
- 1.3 This policy and procedure therefore is intended to assist the Development Corporation to put this commitment into practice and in accordance with established good employment practice with full regard to relevant Discrimination legislation.
- 1.4 Compliance with this policy should also ensure that employees do not commit unlawful acts of discrimination.
- 1.5 This policy and related procedures apply to all employees within the Development Corporation.
- 1.6 **Links to other Development Corporation Policies:** This policy should be read in conjunction with the Recruitment Policy, Redundancy Policy, Pay and Reward Policy, Bullying and Harassment Policy, Induction Policy, Change Policy and Whistleblowing Policy.

2 DEFINITIONS

- 2.1 The Equality 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.
- 2.2 Indirect discrimination against individuals because they have a relevant protected characteristic is also covered, although pregnancy and maternity does not come under the indirect discrimination provisions in the Equality Act 2010.

- 2.3 **Indirect discrimination** is when there are rules, regulations or procedures operating, which have the effect of discriminating against certain groups of people compared to people who do not, and an action cannot be shown to be a proportionate means of achieving a legitimate aim. This may happen in subtle ways.
- 2.4 **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).
- 2.5 **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).
- 2.6 Please see **Appendix 2** for further relevant definitions.

3 POLICY STATEMENTS

- 3.1 The Development Corporation considers the employment of its staff to be on the basis of equality for all and is committed to providing equal opportunities in employment and to avoiding inappropriate conduct based on age, gender, sexual orientation, race, ethnic origin, religion, belief or disability which detracts from the working environment of employees.
- 3.2 The Development Corporation will avoid unlawful discrimination in all aspects of employment including recruitment and training, conditions of service, pay and reward, performance management, promotion, disciplinary and grievance procedures and termination of employment.
- 3.3 The Development Corporation's Equality Policy covers all aspects of employment; recruitment and training, conditions of service, performance management, disciplinary and grievance procedures and termination of employment.
- 3.4 The Development Corporation will consider any possible indirectly discriminatory effect of its standard working practices, including the number of hours to be worked and the times at which these are to be worked, when considering requests for variations to these standard working practices and will refuse such requests only if the Development Corporation considers it has good reasons, unrelated to any protected characteristic, for doing so.
- 3.5 The Development Corporation values its diverse workforce and is keen to encourage applications from disabled people. The Development Corporation will seek to accommodate any reasonable adjustments within the workplace, employment practices and standard contract arrangements to meet the specific needs of existing or potential disabled employees. The Development Corporation will always do this in consultation with the person involved, and the relevant manager concerned.

- 3.6 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.
- 3.7 The Development Corporation cannot lawfully discriminate in the selection of employees for recruitment or promotion, but the Development Corporation may use appropriate lawful methods, including lawful positive action, to address the under-representation of any group that the Development Corporation identifies as being under-represented in particular types of job.
- 3.8 The Development Corporation will monitor the ethnic, gender and age composition of the existing workforce and of applicants for jobs (including promotion), and the number of people with disabilities within these groups, and will consider and take any appropriate action to address any issues that may be identified as a result of the monitoring process.
- 3.9 The Development Corporation 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.
- 3.10 Individual employees can be held personally liable for acts of unlawful discrimination, harassment and victimisation. If an employee fails to adhere to the principles of this policy and its procedures, she/he may be subject to the Development Corporation's Disciplinary Policy and Procedures whether or not they are also personally liable in law.
- 3.11 The Development Corporation will provide training to all employees to help them understand their rights and responsibilities under this policy and what they can do to help create a working environment free of discrimination.

4 WORKING WITH RELEVANT LEGISLATION

- 4.1 There are a number of Acts of Parliament and Statutory Instruments which have relevance to the operation of this policy such as the Equality Act 2010 and the Employment Act 2008.
- 4.2 The Development Corporation will always ensure that its procedures are within the constraints of the law and follow best practice principles.

5 RESPONSIBILITIES

- 5.1 In order to ensure proper implementation and management of the Equality Policy and its Procedures, the following designated group/individuals will have specific responsibilities as follows:
- 5.2 **Chief Executive (or his nominated delegate)**
- The Chief Executive has overall responsibility, working to the Board, to ensure the Development Corporation complies with its obligations under

the Equality Act 2010.

5.3 **Executive Management Board**

- The Individual Executive Directors are responsible for ensuring this policy is applied within their own area.
- As a management group to monitor all disciplinaries, grievances, promotions and access to training and development to ensure discrimination is not taking place.

5.4 **Human Resources**

- The Senior Manager (HR):
 - is responsible for overseeing the Equality Policy and procedures and ensures that it complies with legislative requirements;
 - will maintain statistical information relevant to the monitoring of the progress of equality of opportunity within the Development Corporation to enable accurate and meaningful equal opportunities analyses to be carried out; and
 - will ensure that managers and staff involved in recruitment activities are properly trained and aware of their responsibility.

5.5 **Line Managers**

- Line Managers are required:
 - to make clear to employees the law and the Development Corporation's policy on equal opportunities and take particular care to deal effectively with all allegations of discrimination, victimisation or harassment. Failure to undertake the responsibilities of dealing appropriately with allegations of discrimination may be regarded as a disciplinary offence;
 - not themselves discriminate, e.g. as managers or as persons responsible for selection decisions in recruitment, promotion, training, etc; and
 - to attend and participate in training provided to educate the on unlawful treatment and discrimination.

5.6 **Employees:**

- Employees must:
 - co-operate with measures introduced by management to ensure equal opportunity and non-discrimination;
 - not induce or attempt to induce other employees or management to practice unlawful discrimination;
 - not victimise or attempt to victimise individuals on the grounds that they have made complaints or provided information on discrimination;
 - not harass, abuse or intimidate other employees or members of the public on account of their gender, race, nationality, marital status, pregnancy, age, colour, disability, social background or sexuality, for example, in attempts to discourage them from continuing their employment; and
 - inform management if they suspect that discrimination is taking place in employment decisions.

6 MONITORING

- 6.1 The Executive Management Board oversees the operation of this policy and will monitor periodically its effectiveness in accordance with the results shown by the monitoring.
- 6.2 To ensure that the policies are fair and equitable, an Equality Impact Assessment (EqIA) will be undertaken to review the procedures and impact of the disciplinary policy and associated procedures. (See Appendix 3)

7 APPENDICES

- Appendix 1: Equality Procedures and Guidance
- Appendix 2: Equality – Key definitions

APPENDIX 1

EQUALITY PROCEDURES AND GUIDANCE

1 GENERAL

- 1.1 The guidance and Equality procedures set out in this policy document apply to all staff and details the Development Corporation's approach on equality issues that may arise in its employment practices.
- 1.2 The procedures provide guidance to managers on how to deal with issues of inequalities or perceived discrimination.

2 COMMUNICATION

- 2.1 The Development Corporation will promote this policy by the following means:
 - on the Development Corporation Intranet;
 - by using the main theme of the policy statement in advertising vacancies;
 - by providing equal opportunities training for all staff and management to facilitate understanding of the importance of equal opportunities;
 - by incorporating equal opportunities training into corporate and local induction programmes; and
 - through the Development Corporation Staff Forum.

3 COMPLAINTS

- 3.1 Any breach of the Equality Policy will be dealt with through the complaints or grievance procedures. Serious offences such as harassment and victimisation will be defined as serious (gross) misconduct and dealt with via the appropriate regulatory procedure.
- 3.2 Any employee who has a concern regarding the application of this policy can make use of the Development Corporation's Code of Conduct and Grievance Policies.
- 3.3 If any employee feels they are or have experienced discrimination or harassment within the Development Corporation should contact their line manager in the first instance or Human Resources.

4 RECRUITMENT AND SELECTION

- 4.1 All job descriptions should be reviewed before advertisement to ensure that job requirements are stated accurately in the person specification.
- 4.2 Full job descriptions and person specifications should accompany all advertisement requests.
- 4.3 Person specifications should consist of measurable and justifiable criteria. Criteria or requirements which are unnecessary to the post and which might exclude applicants of particular groups must not be included. Requirements

- about age, gender, marital status, domestic arrangements or marital plans or pregnancy will not be included.
- 4.4 Requirements about qualifications, length or nature of experience should not be included unless specifically necessary for the post.
- 4.5 Recruitment should be by advertisement and open competition. Exceptions to this principle may be short fixed-term appointments of nine months duration or less, acting up or interim posts, secondments, project work or in the event of organisational change.
- 4.6 Individuals making unsolicited applications, informal visits, telephone and general enquiries regarding vacancies will be sent application forms and other details when posts are advertised as part of the formal recruitment process.
- 4.7 All employees who are involved in the recruitment process will, before commencing the recruitment process, review their selection criteria and tests to ensure that they are related to job requirements and do not unlawfully discriminate. Tests used in the selection process should be validated against future job performance to confirm that the test used is a good indicator of job performance.
- 4.8 Overseas qualifications, which are comparable with UK qualifications, will be accepted as equivalents provided they are recognised by the appropriate Professional Body.
- 4.9 All applicants will be given equal consideration for appointment. Criteria used for short listing and interviewing should be clearly established and equally applied to all candidates. Interview questions should be related to the requirements and circumstances of the job, and must not be of a discriminatory nature on the grounds listed in Section 5.
- 4.10 All members of the recruitment panel should be the same panel carrying out short listing and interviewing.
- 4.11 Selection decisions must not be influenced by gender, race, age, sex, marital status, colour, religion or beliefs, nationality, disability, social background, sexuality, pregnancy, or by the traditional profile of the postholder unless for genuine occupational reasons. A genuine occupational qualification will apply only in very limited circumstances; e.g. the postholder provides services to a racial group, which can most effectively be provided by a member of that group. Selection decisions must not be influenced by perceived prejudices of other staff.
- 4.12 Each individual should be assessed according to his/her personal capability to carry out a given job.

- 4.13 Clear notes and records of the interview should be made by all interviewers and retained by the Human Resources Department for six months after the end of the recruitment process.
- 4.14 Unsolicited references, which may be provided in support of candidates, should be disregarded.

5 RECRUITMENT ADVERTISING

- 5.1 Wherever possible, all vacancies will be advertised simultaneously internally and externally as well as to minority press and media and organisations. The impact of these methods of recruitment will be monitored to ensure they are effective.
- 5.2 All advertisements should encourage applications from all sections of the community and all vacancy advertisements will include an appropriate statement on equal opportunity.
- 5.3 Careful consideration must be given to the most appropriate publications in order to reach the widest possible target audience. The Human Resources Department will provide advice on this.
- 5.4 All advertisements should reflect the job description and person specification and should not use words or phrases which indicate bias.

6 REASONABLE ADJUSTMENTS

- 6.1 Reasonable adjustments are a way of 'levelling the playing field' for disabled people. The Disability Discrimination Act 1995 (DDA) places a duty on employers to take any steps that are reasonable to reduce or remove any substantial disadvantage, which a physical feature of the premises or employment practices may cause a disabled employee or job applicant compared to a non-disabled person.
- 6.2 In compliance with this, managers will be responsible for making arrangements for reasonable adjustments to working conditions or to the physical working environment where that would help overcome the practical effects of a disability or impairment.
- 6.3 Where a disabled person or a person with a history of disability is placed at a disadvantage as a job applicant or as an employee by selection arrangements or working conditions, or by any physical features of the premises, she/he should notify the Human Resources department or line manager (whichever is appropriate).
- 6.4 Human Resources will make arrangements for adjustments as are reasonable in order to prevent this disadvantage and enable the person to compete effectively to allow the individual to carry out their job.

7 PAY AND REWARD

- 7.1 All employees undertaking equal work regardless of their personal characteristics are to be treated equally with respect to pay and other conditions of their employment.
- 7.2 The Development Corporation will seek to ensure that all pay increases are made on an equitable basis and the same rules are followed in all cases.

8 MEETINGS AND TRAINING COURSES

- 8.1 The organiser of a meeting or a training provider, with the assistance of Human Resource, will be responsible for providing support to enable disabled members of staff to participate fully in meetings and training courses.
- 8.2 Disabled members of staff should inform the organiser or training provider in advance of any meeting or training course she/he will be attending, stating whether there is a requirement for communications support or adjustment of the environment.
- 8.3 The organiser of a meeting or a training provider will be responsible for ensuring good communication practice at the meeting, e.g. appropriate use of interpreters, arrangement of seating and visual aids to suit all participants, timing of breaks and arrangements for speaking to the Chair/training provider.
- 8.4 All trainers/speakers/facilitators shall be briefed by Human Resources to incorporate an equal opportunities perspective into their presentations including in the use of materials, publications and other resources.

9 CULTURAL AND RELIGIOUS NEEDS

- 9.1 Where employees have particular cultural and religious needs which may conflict with existing work requirements, the Development Corporation will consider whether it is reasonably practicable to vary or adapt these requirements to enable such needs to be met.
- 9.2 Where employees request either the accumulation of annual leave or unpaid leave in order to visit relatives overseas, sympathetic consideration will be given. More detailed guidance is in the Leave Policy.
- 9.3 Employees who wish to take time off work for additional religious holidays to the English public holidays should take annual leave. Sympathetic consideration will be given to requests for unpaid leave.

10 PERSONNEL RECORDS

- 10.1 In order to ensure the effective operation of the Equality Policy, a record will be kept of all employees' and job applicants' personal details across the nine diversity strands outlined above.
- 10.2 Periodically, employees will be asked to update their own record of these details. Otherwise, access to this information will be strictly restricted.

11 INVESTIGATING ALLEGATIONS OF DISCRIMINATIONS

- 11.1 Allegations of discrimination will be investigated under the Disciplinary Policy and if proven may be treated as a disciplinary offence.
- 11.2 Behaviour or action by employees which go against the essence or letter of the Equality Policy will normally constitute serious misconduct liable to disciplinary action, which may include summary dismissal (definitions and examples of discrimination, harassment and victimisation can be found in Appendix 2).

APPENDIX 2

EQUALITY- KEY DEFINITIONS

- 1 **Protected Characteristics** as listed in the Equality Act 2010 are sex, sexual orientation, marriage or civil partnership, gender reassignment, race, religion or belief, age, disability, pregnancy and maternity.
- 2 **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.
 - 2.1 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.
- 3 **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 to people who do not, and it cannot be shown to be a proportionate means of achieving a legitimate aim.
- 4 **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.
- 5 **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).
- 6 **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).
- 7 **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;
 - 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.

- 8 **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.
- 9 **Detriment arising from disability-** This is a new type of disability discrimination that has been introduced by the Equality Act 2010. It occurs when an employer treats an employee unfavourably because of something arising in consequence of the employee's disability, and it cannot be justified in relation to the job. For example, dismissing someone because of their poor attendance record when their absence was as a consequence of a disability, and without the employer being able to show that the dismissal was a proportionate means of achieving a legitimate aim.
- 10 **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.
- 11 **Positive action** is proportionate steps taken to enable or encourage people who share a protected characteristic to overcome or minimise a disadvantage, to meet their needs or to participate, when the organisation reasonably thinks that people who share the protected characteristic suffer the disadvantage, or have needs that are different, or a disproportionately low number of such people participate in an activity. Examples would include setting equality targets (but *not* quotas which are unlawful); encouraging people from particular groups to apply where they are under-represented; training for promotion or skill training for employees from under-represented groups who show potential.
- 12 **Occupational requirement** - If an employer can show that possessing a particular protected characteristic is a crucial requirement for a job and is a proportionate means of achieving a legitimate aim, then the employer will not be acting unlawfully to refuse to employ someone who does not possess that characteristic.
 - 12.1 The exception applies where being of a particular sex, race, disability, religion or belief, sexual orientation or age – or not being a transsexual person, married or a civil partner – is an occupational requirement.
 - 12.2 Examples in the notes accompanying the Equality Bill include: considerations of privacy or decency might require a public changing room or lavatory attendant to be of the same sex as those using the facilities; an organisation for deaf people might legitimately employ a deaf person who uses British Sign Language to work as a counsellor to other deaf people whose first or preferred language is BSL; unemployed Muslim women might not take advantage of the services of an outreach worker to help them find employment if they were provided by a man.