

Equality Policy

Duties under the Equality Act 2010



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Glossary and abbreviations

Term used	Explanation
SIC, The Commissioner	The Scottish Information Commissioner
HOOM	Head of Operational Management
HOD	Head of Department

Cross-referenced VC documents

VC No	VC name
VC48666	Anti-harassment, -bullying, and –victimisation policy
VC17556	Employee Handbook

Introduction

1. A new Equality Act came into force on 1 October 2010. The Equality Act 2010 (the Act) brings together over 116 separate pieces of legislation into one single Act. Combined, they make up a new Act that provides a legal framework to protect the rights of individuals and advance equality of opportunity for all. The Scottish Information Commissioner must comply with the Act in general. However, she is not included in the list of public authorities which will, from 1 April 2011, be subject to the Public Sector Equality Duties contained within the Act.
2. The Act simplifies, strengthens and harmonises legislative provision to provide a new discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society.
3. The nine main pieces of legislation that have merged are:
 - (i) the Equal Pay Act 1970
 - (ii) the Sex Discrimination Act 1975
 - (iii) the Race Relations Act 1976
 - (iv) the Disability Discrimination Act 1995
 - (v) the Employment Equality (Religion or Belief) Regulations 2003
 - (vi) the Employment Equality (Sexual Orientation) Regulations 2003
 - (vii) the Employment Equality (Age) Regulations 2006
 - (viii) the Equality Act 2006, Part 2
 - (ix) the Equality Act (Sexual Orientation) Regulations 2007
4. The aims of this policy are to set out how the Commissioner intends to:
 - (i) fulfil her duties, as a public official, under the Act
 - (ii) promote equality through the performance of her functions of promoting and enforcing freedom of information law.
5. This policy supersedes the Commissioner's Race Equality Scheme and Disability Equality Strategy.
6. The Commissioner has a separate Anti-harassment, -bullying and -victimisation policy (VC48666).

The Policy

Values and Purpose

7. The Commissioner strives constantly to be inclusive in the performance of her functions. She aims to be responsive to the needs of all members of society, and to avoid creating barriers for anyone who wishes to work with her, or people who contact us in relation to enquiries, information requests, complaints, applications for decision, good practice, etc. (our services), suppliers and former members of staff.

8. All of the Commissioner's staff are entitled to be treated with respect and dignity and the Commissioner will not tolerate any less favourable treatment of any person on the grounds of the Protected Characteristics described below. Staff have a personal responsibility for the implementation of this policy to ensure that they treat others with the respect and dignity that they expect to be treated with themselves.
9. This policy also applies to the treatment of all of our stakeholders including our service users, suppliers, job applicants and former members of staff.
10. This policy will assist the Commissioner and her staff in combatting discrimination on the grounds of the following (referred to as the 'protected characteristics' in the Act), and to foster a culture of equality which recognises the positive contribution that each individual can make irrespective of their:

(i) age	(vi) race (which includes colour, nationality and ethnic or national origins)
(ii) disability	(vii) religion or belief
(iii) gender reassignment	(viii) sex
(iv) marital or civil partnership status	(ix) sexual orientation
(v) pregnancy or maternity	

The Policy in Operation

Types of Unlawful Discrimination

11. Discrimination may be direct or indirect and it may occur intentionally or unintentionally.
 - (i) **Direct discrimination** occurs where someone is treated less favourably because of one or more of the protected characteristics set out above. (An example of direct discrimination would be refusing to employ a woman because she is pregnant.)
 - (ii) **Indirect discrimination** occurs where someone is disadvantaged by an unjustified provision, criterion or practice that also puts other people with the same protected characteristic at a particular disadvantage.
 - (iii) **Associative discrimination** is where someone is directly discriminated against or harassed for association with another person who has a protected characteristic (although it does not cover harassment because of marriage and civil partnership, and pregnancy and maternity).
 - (iv) **Perceptive discrimination** is where someone is directly discriminated against or harassed based on a perception that they have 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).
 - (v) **Harassment** related to any of the protected characteristics is prohibited. Harassment is unwanted conduct that has the purpose or effect of violating someone's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. (Harassment is dealt with further in the Anti-harassment, -bullying and – victimisation policy (VC48666)).

- (vi) **Third-party harassment** related to gender, sexual orientation, gender reassignment, race, religion or belief, age or disability is also unacceptable.
- (vii) **Victimisation** is also prohibited under this policy. This is less favourable treatment of someone who has raised or supported a complaint or raised a grievance under the Act for discrimination or harassment, or because they are suspected of doing so (Victimisation is dealt with further in the Anti-harassment, -bullying and –victimisation policy (VC48666)).

Application of this Policy

- 12. This policy applies to the advertisement of jobs, recruitment and appointment, promotion, training and development, terms and conditions of work, performance management, pay, termination of employment, any references issued and to every other aspect of employment by the Commissioner. All terms and conditions of employment and related benefits shall be non-discriminatory. Applicants for employment will be assessed according to their skills, experience and suitability for the job.
- 13. This policy also applies to the treatment of all of our stakeholders including our service users, suppliers, job applicants and former members of staff.

Remedies

- 14. The Commissioner and Heads of Department will take responsibility for monitoring the implementation of this policy. However, if any member of staff believes that he or she has been discriminated against, harassed or victimised on any of the grounds referred to above, he or she may raise the matter informally with his or her immediate line manager, or the Head of Operational Management (HOOM).
- 15. If the member of staff (including a former member of staff) wishes to raise the matter further, and the issue relates to harassment, bullying or victimisation he or she should invoke the complaints procedure detailed within the relevant policy document (VC48666). In all other instances he or she should invoke the grievance procedure detailed in the Employee Handbook (VC17556), setting out in detail the basis of the complaint. All such complaints will be taken seriously, treated in confidence and investigated fully. However, with regard to current members of staff, false allegations which are found to have been made in bad faith will be dealt with under the disciplinary procedure.
- 16. If a member of staff is found to have discriminated against, harassed, bullied or victimised another member of staff they will be subject to disciplinary proceedings and depending on the seriousness of the incident, may be dismissed for gross misconduct. In exceptionally serious cases the police may also be involved.
- 17. If stakeholders including our service users and suppliers, or unsuccessful job applicants believe that they have been discriminated against, harassed or victimised on any of the grounds referred to above, they may raise the matter through the Commissioner's Complaints Procedure, details of which are provided on the Commissioner's [website](#).

Disability

- 18. Disability can be defined according to two competing models. The 'medical model' sees the source of a disability in a physical, sensory or mental impairment. The competing 'social model' sees disability as a result of the obstacles that society puts in the way of people with these impairments, with the result of excluding them from mainstream activity. These

obstacles can take the form of physical barriers, communication systems or individual and organisational attitudes.

19. The Act takes a medical definition of disability as its starting point and places obligations on all organisations to limit the social barriers that are put in the way of people with these impairments. The Scottish Information Commissioner, as an employer and a service provider, is obliged to comply with the Act. However, her approach to disability issues is guided by the social model. That is, her actions are aimed to reduce the barriers to access rather than to focus on the individual's disabling condition.
20. The Commissioner has obligations under the Act in relation to her employment practises and the provision of goods, facilities and services. The brief sections below summarise some of the key provisions of the Act that apply to the Commissioner:

Employment

21. No employer should discriminate against or harass an employee who has a disability. The Act requires an employer (or potential employer) to make reasonable adjustments to arrangements for work/recruitment, where these arrangements put a disabled person at a disadvantage. Such adjustments could include modifications to the workplace, working hours or place of work, redistributing work or providing equipment, readers or interpreters.
22. If a member of staff is disabled or becomes disabled, they are encouraged to tell us about their condition so that the Commissioner may support them as appropriate.
23. If a member of staff experiences difficulties at work because of their disability, they may wish to contact the HOOM to discuss any reasonable adjustments that would help to overcome or minimise the difficulty. The HOOM may wish to consult with the member of staff and their medical adviser(s) about possible adjustments. The Commissioner will consider the matter carefully and seek to make reasonable adjustments to the member of staff's role based on that medical advice.

Access to goods, facilities and services

24. No provider of a service should discriminate against a disabled person in the provision of those services. The Act requires that the Commissioner take reasonable steps to adjust any policy, practice or physical feature of our workplace that makes it impossible or unreasonably difficult to use our services. Such steps could include altering physical features of our premises, providing printed materials in alternative formats (e.g. audio tape or Braille), making available a sign language translator at a meeting, and designing our website to be accessible to people with visual impairments.

Equality Training

25. This policy will be supported by a range of training activities, as appropriate, to ensure that all barriers, procedures, attitudes and behaviours that prevent equal opportunity are removed.
26. As a minimum, all staff will be required to read this policy annually, and the induction process for new staff will include training on the Commissioner's equality policy, practices and values.
27. Additional training will be arranged from time to time, in line with organisational need. For example, this may include training on the law covering all the protected characteristics and what behaviour is and is not acceptable, or training on a specialist area such as improving website accessibility.

Equality Monitoring

28. The Commissioner will monitor how many people with a particular protected characteristic apply for each job are short-listed and are recruited.
29. On an annual basis, the Commissioner monitors how many people in the workforce have a particular protected characteristic and the levels that they are employed at.

Review

30. We will review this policy annually to make sure it keeps up with changes in the law and good practice.
31. The Commissioner prepares a new Operational Plan each year. Consideration of the values and purpose of this policy will be embedded in the process through which the Operational Plan is developed.
32. An Action Plan will be developed each year, or as required, setting out the activities which will be undertaken to support effective implementation of this policy, with regard to the needs of employees and stakeholders including our service users, suppliers and former members of staff.
33. The HOOM is responsible for the development and implementation of the action plan.

Appendices

Document control sheet

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