



# Middlesbrough Council Equal Opportunities Policy

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## SUMMARY

1. This policy sets out how the Council will ensure employees and job applicants are treated fairly and in line with legislation that sets out protections for the following characteristics and provision for the use of positive action in specific circumstances:
  - age
  - disability
  - gender reassignment
  - marriage or civil partnership status
  - pregnancy or maternity
  - race
  - religion or belief
  - sex
  - sexual orientation
  - caring responsibilities.
2. Middlesbrough Council is opposed to all forms of prejudice, discrimination, harassment and bullying in the workplace and is committed to ensuring a policy of equal opportunity is applied within its employment processes. There is a separate Equal Opportunities Policy available for schools.

## CONTEXT

3. Legislation sets out various duties, responsibilities and obligations placed on public organisations and their employees.
4. Included within the legislation is the expectation that Council practices ensure fair and equal access to services, employment, promotion and training opportunities. This policy sets out how the Council will ensure this occurs.

## AIMS

5. This policy ensures that:
  - people are treated with dignity and respect in the workplace
  - discrimination (whether it be direct, indirect, associative or perceptible), harassment, third party harassment or victimisation is prevented or is dealt with effectively if it does occur
  - no employee or job applicant is placed at a disadvantage because of unnecessary requirements or conditions which may have an adverse effect on them because they have a protected characteristic
  - policies and procedures are in place to ensure fair access to employment, promotion, recruitment, selection and training opportunities
  - positive action is taken in line with legislation to address areas of under representation in the Council's workplace
  - employment practices comply with the public duties placed upon Councils by relevant legislation.

## SCOPE

6. This policy applies to all Council employees and job applicants regardless of their contractual status. This policy is supported by the Council's Equality Monitoring Policy and the Joint Single Equality Scheme.

## POSITIVE ACTION

7. Positive action provision within the Equality Act 2010 enables the Council to take proportionate steps to help people where they are disadvantaged or under-represented in an area of life or have particular needs because they hold a protected diversity characteristic.

8. In line with legislation, there are no restrictions on actions that could be taken to treat people with a disability more favourably than non-disabled people to ensure equal outcomes are achieved. The Council will undertake appropriate proportionate positive action, on a case-by-case basis, in line with guidance from the HR client unit. All decisions to implement positive action must be based on sound evidence, demonstrating details of under presentation or disadvantage for one of the protected characteristics as set out in equalities legislation, to ensure actions are compliant with legislation.

## REASONABLE ADJUSTMENTS

9. The Council is committed to the principle of reasonable adjustments to requirements, where possible, for people with a disability and this is embedded within its employment processes. Individual experiences of disability can be very different and it is crucial not to make generalisations or assumptions about someone's needs. If an employee thinks they need a reasonable adjustment to be made to enable them to undertake a job, they should contact their line manager in the first instance.
10. The concept of reasonable adjustments, as set out within the Equality Act 2010 is reflected within the Council's HR policies and its recruitment and selection and working practices.

## ACCESS TO TRAINING

11. Access to training should be fair and equitable. The Council will not discriminate in its allocation of training opportunities. The identification of training and development needs is embedded within the Council's TEAM Middlesbrough Appraisal programme that ensures development needs required to achieve the job competencies are identified, prioritised and addressed.
12. The Council has committed itself to the National Skills pledge which states that it will:
- "Actively encourage and support our employees to gain the skills and qualifications that will support their future employability and meet the needs of our business/organisation;
  - Actively encourage and support all our employees to acquire the basic literacy and numeracy skills, and with Government support work toward their first Level 2 qualification in an area that is relevant to our business/organisation; and
  - Demonstrably raise our employees' skills and competencies to improve company/organisation performance through investing in economically viable training and development."

## TYPES OF DISCRIMINATION

13. Within Equalities legislation there are quite specific definitions, setting out the types of discrimination, harassment or victimisation that someone might be subject to because they have a protected characteristic. These definitions, which are taken from the Equality Act wording, and the characteristics they cover are set out below:

### Discrimination

14. The principles of discrimination apply to the race, religion or belief, sexual orientation, age, disability, gender reassignment and sex strands. The principle of indirect discrimination also applies to the marriage and civil partnership diversity characteristics.
- Direct - occurs when someone is treated less favourably than another person because of a protected characteristic they have or are thought to have (see perceptive discrimination below), or because they associate with someone who has a protected characteristic (see associative discrimination below).
  - Associative - direct discrimination against someone because they associate with another person who possesses or is perceived to possess a protected characteristic.
  - Perceptive - direct discrimination against an individual because others think they possess a particular protected characteristic. It applies even if the person does not actually possess that characteristic.
  - Indirect - can occur when an organisation has a condition, rule, policy or even a practice that applies to everyone but which particularly disadvantages people who share a protected characteristic.

15. Indirect discrimination can be justified if it can be shown that an organisation has acted reasonably in managing its business, i.e. that it is “a proportionate means of achieving a legitimate aim”(Equality Act 2010). Being proportionate means being fair and reasonable, including showing that the potential for ‘less discriminatory’ alternatives were considered as part of any decision-making process.

### **Harassment**

16. Harassment is unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. Employees can complain of behaviour that they find offensive even if it is not directed at them, and the complainant need not possess the relevant characteristic.

### **Third party harassment**

17. Third party harassment is harassment of staff by people not employed by the Council. The Council has a duty to protect staff from harassment and take all reasonable steps to prevent it.

### **Victimisation**

18. Victimisation (for the purposes of this policy) occurs when an employee is treated badly because they have made or supported a complaint or raised a grievance under the Equality Act 2010; or because they are suspected of doing so. An employee is not protected from victimisation if they have maliciously made or supported an untrue complaint and this issue is being addressed by the Council’s disciplinary Procedures.

## **PROCEDURE FOR ADDRESSING DISCRIMINATION, HARASSMENT OR VICTIMISATION**

19. Complaints of discrimination, harassment or victimisation will be treated seriously and sympathetically, and confidentiality will be respected.
20. One incident may be sufficiently serious to meet the definition of discrimination, harassment or victimisation as set out above. It is not necessary for there to have been a series of incidents.
21. If an employee perceives that they are experiencing discrimination, harassment or victimisation because they hold a protected characteristic, are associated with a person who has a protected characteristic or are perceived to hold a protected characteristic, they can seek advice by calling the confidential employee assistance free phone helpline (0800 716017), available 24 hours a day, 365 days a year.
22. Or they can make a complaint by:
  - contacting one of the Council’s bullying and harassment contact officers (01642 727424 or [contactofficers@middlesbrough.gov.uk](mailto:contactofficers@middlesbrough.gov.uk));
  - contacting their line manager; or
  - asking a colleague to speak to their line manager on their behalf.
23. It is important that whatever mechanism is used to make the Council aware of the concerns that the following is established by the investigating officer and that the allegations are properly scrutinised:
  - details of the complaint
  - what the complainant wants to happen to resolve the situation
  - options available to the complainant
  - the next steps that will be taken by the investigating officer.
24. The situation may be resolved informally by an approach to the alleged harasser by either the complainant or the investigating officer, with their consent, either verbally or in writing to stop the unwanted behaviour.
25. Whether or not informal steps have been taken, the employee retains the right to make a formal complaint using the Council’s grievance policy. They also have the right to be accompanied throughout by a bullying and harassment contact officer, a colleague or a trade union representative.

26. Any complaint will be investigated thoroughly and in a timely manner. It may be possible to resolve a complaint through conciliation. Those found to be responsible for discrimination, harassment or victimisation will have their behaviour addressed using the Council's disciplinary procedures when necessary. The Council has a grievance policy and supporting guidance in place to support staff wishing to make either a formal or informal complaint. The guidance sets out in detail how complaints should be managed.
27. Further details of this process are set out within the Council's Harassment, Discrimination and Bullying policy.
28. The Council's Recruitment and Selection policy details how complaints from job applicants should be managed. Applicants who think that they have been discriminated against because they hold a protected characteristic, are advised to submit details of their concerns to the Head of Human Resources, Mouchel, 4th Floor, Vancouver House, Middlesbrough, TS1 1JL, in the first instance.

## CONFIDENTIALITY

29. The Council is committed to respecting privacy. For example, some employees may choose to be open about their sexual orientation or disability and inform their manager or colleagues. It is important not to assume that because an employee has informed one person that they have informed others or that they wish the information to be disclosed to others. The individual employee should have control over who is aware and who is not. Where equality monitoring is undertaken, all reasonable steps will be taken to ensure that information provided will be held securely.

## REHABILITATION OF OFFENDERS ACT

30. The Council is committed to ensuring that offenders are not unjustifiably discriminated against on the basis of their criminal record, have equal access to work and are treated fairly in the workplace. The Rehabilitation of Offenders Act 1974 enables certain criminal convictions to become 'spent' or 'ignored' after a period of time has lapsed from the date of the conviction. After that time an ex-offender is not normally obliged to mention the conviction when applying for a job. There are a number of posts, which are exempt from the Act including those involving work with vulnerable adults or that entail having access to children under the age of 18. Rehabilitation periods are as follows:

Sentence	Rehabilitation period
Imprisonment, corrective training or sentence of detention in a young offenders' institution for more than six months but not more than 30 months	Ten years*
Imprisonment or sentence of detention in a young offenders' institution for a term not exceeding six months	Seven years*
A fine or other sentence not expressly covered by the Act	Five years*
Order for detention in detention centre	Three years
Absolute discharge	Six months
Conditional discharge	One year
Probation	Five years*

\*The rehabilitation period may be reduced for a person under 18 at the time the sentence was passed.

### Job applicants

31. When a Disclosure and Barring Service (DBS) check produces a history, that history is considered in order to decide whether the employment may proceed. This consideration takes into account number, type, frequency and age of any convictions or warnings and the relevance to the job for which the applicant has applied.

### Existing employees

32. DBS checks are repeated every three years. When a DBS check produces a history then that history needs to be considered in order to decide whether the employment may continue. This consideration will take into account the factors outlined above. The manager, with HR advice, will consider the history

to decide on whether employment can continue. The decision made must be recorded. If there is doubt or dissent, the matter is referred to the DBS panel to consider. The DBS panel can make a decision or can refer to the relevant Executive Director/Director and Assistant Chief Executive for decision.

## **ROLES, RESPONSIBILITIES AND ACCOUNTABILITY**

33. The Council is responsible for ensuring that its processes, policies, strategies and decisions comply with equalities legislation. To ensure this occurs, the Council has put in place a number of measures including procedures, policies, training and awareness raising exercises to ensure all employees understand their duties under equalities legislation.
34. Managers are responsible for ensuring they comply with this policy and that staff are aware of its content. All staff are responsible for ensuring they conduct themselves professionally and treat colleagues, members and customers in a fair and equitable manner at all times. The Assistant Chief Executive is responsible for the enforcement of this policy.

## **TRAINING, COMMUNICATION AND DISSEMINATION OF THE POLICY**

35. Managers receive training on recruitment and selection processes and are made aware of the range of HR / employment policies that the Council has in place to ensure the principle of equal opportunity is embedded within Council processes. Equality and diversity issues are included within the Corporate Induction and the Managers' Development Induction programmes as a topic. A programme of bite-sized equality and diversity awareness courses and workshops are offered as part of the Corporate Learning and Development programme.
36. The Council has a TEAM Middlesbrough Competency Framework, which includes a competency "Valuing Diversity - Making everyone welcome". This competency helps employees to understand and celebrate our differences and reflect the community we serve.

## **MONITORING AND REVIEW**

37. The policy will be reviewed every three years unless there is case law or new legislation in the interim, which means the guidance is no longer fit for purpose. To ensure that the policy remains fit for purpose, the following monitoring arrangements are in place:
  - collection of departing employees views via a leavers' questionnaire
  - employee surveys
  - complaints monitoring
  - hate crime incident monitoring.

## **DATA QUALITY STATEMENT**

38. The Council is committed to high standards of data quality. Every care has been taken in the development of this policy to ensure that the data and information used is accurate, valid, reliable, timely, relevant and complete, in line with the Council's data quality policy.

## **APPENDICES**

Appendix 1 – Impact Assessment

For more information on the Council's approach to equality and diversity please visit the Council's website at <http://www.middlesbrough.gov.uk> or contact the Corporate Policy officer on 01642 729080.