



## Equality in Employment Policy

Effective from January 2011

### 1. Policy Statement

The School is firmly committed to the principles of equality, diversity and inclusion in both employment and the accessibility and delivery of services. This means:

- Promoting equality and making services and employment accessible to all
- Treating people fairly, regardless of their race (colour; ethnic or national origin), religion or belief, gender or gender identity, sexuality, disability, age or because of their association with someone who has that characteristic.

In order to provide the best possible service to our customers the School aims to have a workforce is representative of the community that we serve.

Fairness at work and good job performance go hand in hand therefore, tackling discrimination helps to attract, motivate and retain employees and enhances the School's reputation as a good employer. By having fair and robust employment policies the School will ensure that all employees have equal access to work and to develop their skills.

The School is opposed to all forms of unlawful and unfair discrimination and harassment of any kind, and will work to eliminate it, to create a working environment where everyone is treated with dignity and respect. All employees are expected to be accountable and to challenge discrimination.

As an employer, service provider and contractor, the School will also challenge social exclusion and discrimination, promote equality and celebrate diversity to achieve excellence.

### 2. Scope

This policy applies to all employees within the school.

Where the Governing Body wishes to deviate from this proposed policy or adopt any other policy, it is the responsibility of the Governing Body to arrange consultation with recognised trade unions.

### 3. Principles

#### 3.1 Equality

The Equality Act 2010 focuses on promoting equality of opportunity by protecting and supporting individuals from discrimination by virtue of the following 'protected characteristics':

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- Race (colour; nationality; ethnic or national origin)
- Disability.
- Gender/Gender Identity
- Age
- Sexuality
- Religion or Belief
- Pregnancy and Maternity
- Marriage and Civil Partnership.

The Equality Act 2010 provides further detailed guidance.

### **3.2 Managing diversity**

Managing diversity goes much further than having an equality policy. It is about recognising, respecting and responding to individual differences and needs and treating people fairly and equally but, not necessarily in the same way.

For example, when interviewing a deaf person, the School could make 'reasonable adjustments' which might include arranging for someone who is British Sign Language trained to accompany the individual at interview to translate. This would be treating the individual equally with a hearing person, even though it would not be by using the same methods.

The ownership of managing diversity is a core part of the School's business, integrated within the School's strategic goals, annual plan and service plans. All employees are required to work within the ethos of equality and diversity and will be given appropriate training and guidance to do this.

### **3.3 Recruitment and employment**

The School has implemented and will continue to develop policies and practices to achieve equality of opportunity for job applicants and employees.

The School has strategic objectives to improve the workforce profile of those from under-represented groups. Action plans and positive action initiatives have been developed and will be maintained to ensure we are successful in meeting the objectives above. Fair and non-discriminatory practices will also be used. Any employment conditions or requirements which cannot be objectively justified will not be used. Positive action initiatives will only be implemented where the School can justify its actions through its current workforce profile.

The recruitment and selection policy gives specific advice on advertising and recruitment practices to improve the diversity of the workforce. The Head

Teacher should consider where posts are advertised to ensure that applicants are drawn from the widest possible pool.

### **3.4 Learning and development**

All employees have equal access to learning and career development opportunities. In addition, positive action initiatives will be considered to provide learning and development opportunities for particular groups of employees who are under-represented, in specific occupations and management posts. Employees on part-time and fixed term contracts will have the same access to learning and development opportunities as full-time and permanent employees

### **3.5 Employee monitoring**

Comprehensive monitoring of job applicants and the workforce is carried out using the information disclosed by employees relating to the 'protected characteristics' above. The purpose of monitoring is to evaluate the effectiveness of this policy and related HR policies and practices, so that positive action can be taken (where it is appropriate and justified).

## **4. The Legal Framework**

The School's legal obligations and duties include those defined by the Equality Act 2010 in relation to discrimination and social inclusion.

The Equality Act 2010 provides further guidance.

Refer to guidance on the how to retain employees who have become disabled.

### **4.1 Direct discrimination**

Job applicants or employees must not be treated less favourably because of their race (colour; nationality; ethnic or national origin); religion or belief; gender or gender identity; sexuality; disability and age; or 'unfavourably' because of their pregnancy.

For example, it is unlawful to use any of the 'protected characteristics' above as a reason to:

- decide not to employ someone
- discipline or dismiss
- refuse to provide an individual with training, learning and development opportunities
- deny access to promotion
- give adverse terms and conditions

It is also unlawful not to consider “reasonable adjustments” for employees or applicants who have a disability.

The most common form of direct discrimination is likely to be a refusal to offer employment to an individual because of their age; race, gender or gender identity, disability, religion/belief or sexuality. It is important that recruitment all processes are conducted in a fair and equal way. In addition, similar discrimination might take place in relation to employment practices; promotion and training opportunities.

Direct discrimination may only be justified in very limited circumstances for example, where an occupational requirement (OR) exists or can be shown to apply. Please see the Occupational Requirements section below for further details.

#### **4.2 Discrimination arising from disability**

This discrimination occurs when a disabled person is treated less favourably because of something connected with their disability and this less favourable treatment cannot be justified.

#### **4.3 Discrimination ‘by association’ or ‘perception’**

Direct discrimination ‘*by association*’ or ‘*perception*’ applies to all of the ‘protected characteristics’ listed above. Protection is provided for people who are discriminated against because they are perceived to have, or are associated with someone who has, a ‘protected characteristic’ for example, an employee with a disabled child or gay relative etc.

This will mean, for example, that carer's relatives will be protected by reason of their connection to or association with an older relative, sibling or disabled child.

#### **4.4 Indirect discrimination**

This is often a less obvious form of discrimination when certain requirements, conditions or practices are imposed that apply to all employees but, have the effect of disadvantaging people of a particular age; race; gender or gender identity; disability; religion/belief or sexual orientation. Indirect discrimination is unlawful, whether it is intentional or not.

The European definition applies to all protected characteristics i.e. where a ‘provision; criterion or practice’ (PCP) applied, puts or would put those sharing that characteristic at a particular disadvantage.

Examples include:

- Requiring that an employee be six feet tall would disproportionately disadvantage women

- Having uniform requirements stating that employees may not wear any headwear would indirectly discriminate against Sikh men
- Having unjustifiable job criteria in relation to language ability, age, length of experience which means that the number of people from a racial group; age group or of one sex, are not able to meet it.
- Advertising a job as only full time might exclude part time workers; job sharers or people with caring responsibilities.
- A policy or practice that creates a substantial disadvantage for a disabled person.

The School will ensure that selection criteria; policies; benefits; employment rules or any other practices are not indirectly discriminatory.

#### **4.5 Harassment (including bullying)**

Harassment includes unwanted and uninvited conduct or behaviour relating to a 'protected characteristic' that has the purpose or effect of violating an employee's dignity or creating an intimidating, hostile, degrading, humiliating or offensive working environment for the recipient(s) as defined within Section 26 of the Equality Act 2010.

It takes many forms, such as bullying or offensive, hostile, ridiculing or demeaning behaviour. Any of these may be linked to an employee, by reference to their age, gender, gender identity; sexuality, disability, race, religion or belief or by their association with people with those 'protected characteristics'. For example, it will cover harassment based on a person's association with their disabled child.

It may be intentional but, it can also be unintentional, for example, involving nicknames, teasing, name calling or other behaviour which is not with malicious intent but which is upsetting for the recipient.

All the circumstances must be taken into account, including the perception of the person claiming harassment; as one type of behaviour might constitute harassment in some cases and not in others. Further guidance can be obtained from the HR Advisory Team.

If harassment takes place in the workplace or at a time and place associated with the workplace, for example, a work related social gathering, the School may be liable and may be ordered to pay compensation unless it can be shown that it took reasonable steps to prevent harassment. Employees who harass others may be subject to disciplinary action and may be held personally liable.

The School will take all complaints of harassment seriously. The Head Teacher and supervisors are responsible for ensuring that employees understand what is

expected of them and they should seek to eliminate any harassment of which they become aware.

Employees should be made aware of the steps they can take if they feel they have been discriminated against, harassed or victimised. They should feel confident that their complaint will be treated seriously, that managers will deal with the cause of the problem and that the process will be undertaken in confidence.

#### **4.6 Third party harassment**

Section 40 of the Equality Act 2010 requires employers to protect their employees from harassment by third parties, such as service users; customers and contractors.

**Definition** - *Third party harassment happens when an employee has been harassed in the course of employment on at least three occasions by a third party. It does not matter whether the third party is the same or a different person on each occasion.*

Employees should immediately make the Head Teacher aware if they believe that they have/are being harassed by a third party, so that appropriate action can be considered and all reasonably practicable steps taken, to prevent harassment.

Third party harassment applies to all of the protected characteristics – (except for pregnancy and maternity and marriage and civil partnership).

The Head Teacher is expected to take all appropriate steps to prevent any third party harassment they become aware of and to ensure that employees know how to report it i.e. using the School's Anti-Harassment policy. They must not wait until it happens three times before taking any action and should address an issue as soon as they become aware of it.

Further advice and guidance is available from HR Advisory.

Please refer to the School's Anti-Harassment Policy.

#### **4.7 Victimisation**

Section 27 of the Equality Act 2010 protects employees from being treated detrimentally because they have made a complaint or intend to make a complaint about discrimination or harassment, or have given or intend to give evidence relating to a complaint about discrimination or harassment. For example, an individual may become labelled a 'troublemaker' and be denied promotion or training or be ostracised by their colleagues.

If this happens or if a Head Teacher fails to take reasonable steps to prevent it from happening, the School may be liable. Individuals who victimise others may be subject to disciplinary action and may be held personally liable.

#### **4.8 Occupational requirements (OR)**

Schedule 9 of the Equality Act 2010 allows the School to lawfully treat people differently in very limited circumstances, as a proportionate means of achieving a legitimate aim, where a specific and justifiable occupational requirement exists.

When deciding if this applies it is necessary to consider the nature of the work and the context in which it is carried out. Jobs may change over time and the School should consider whether the requirement continues to apply, particularly when re-recruiting to a role where an occupational requirement (OR) has previously been justified.

The Head Teacher must obtain further advice from HR Advisory before proceeding.

#### **4.9 Positive action**

Positive action can be used to address disadvantage or disproportionately low representation in an area of work or activity.

For example, it may be used to attract disabled job applicants or people from ethnic minority groups where they are significantly under represented in the workforce. However, selection for recruitment or promotion must always be on merit.

The Head Teacher may wish to consider positive measures such as using advertisements which encourage applications from a particular 'protected characteristic' group but must be clear that selection will be on merit and not discriminatory. Further guidance can be obtained from the HR Advisory Team.

### **5. Responsibilities**

The Head Teacher and Governing Body have a particular responsibility for embedding diversity into the culture of the School. They are responsible for implementing and monitoring the diversity issues generally and specifically those identified in the School's Single Equalities Scheme, for the services which they manage.

The Single Equality Duty covers all 'protected characteristics' and public sector procurement and is intended to promote equality and to eliminate discrimination; harassment and victimisation.

The Head Teacher should ensure that opportunities for promotion; learning and development are accessible to all employees and are available on a fair and equal basis. They should ensure new employees undertake an appropriate induction which covers equality and diversity.

The Head Teacher should understand that discrimination and harassment are unlawful and totally unacceptable and must challenge any inappropriate or discriminatory behaviour they become aware of. The Head Teacher should also

ensure that employees within the school understand that if they harass colleagues, they may be subject to disciplinary action and could also be held personally liable.

## **6. Individual responsibilities**

Employees, volunteers and other workers within the school are expected to take an active part in promoting equality and diversity in everything that they do at work and to treat everyone in their working environment with dignity and respect.

The School requires all its employees to behave in a non-discriminatory way towards colleagues, pupils and members of the public etc. Failure to do so will be taken seriously and could lead to disciplinary action. Individuals should understand that saying “no offence was intended” may not constitute a defence in a disciplinary hearing or an Employment Tribunal. In addition, the absence of a complaint from an individual being harassed does not mean that harassment has not taken place.

Employees may challenge inappropriate or discriminatory behaviour where they feel confident to do so, or to report it to their Head Teacher. They can also raise concerns about behaviour they find offensive, even if it is not specifically directed at them.

Employees who abuse any of the School procedures by making unfounded or malicious complaints or operate those procedures vexatiously may be subject to disciplinary action.

## **7. Policy monitoring**

This policy will be reviewed and consulted on with Trade Unions to take account of any new diversity legislation and the introduction of new strategies to increase the diversity of the workforce.