

# Equality & Diversity in the Workplace Policy

## Oxfordshire County Council's Equality Policy 2012- 2017

---

“We are committed to making equalities integral to everything we do, ensuring it is seen as part of everyone's business and a way of helping us deliver excellent outcomes for individuals and communities”

### Our Commitment

1. In all aspects of employment and the management of people Oxfordshire County Council aims to create a work environment that:
  - values and recognises all employees and enables them to develop and perform to the best of their abilities
  - supports dignity and respect for all, where no form of discrimination, intimidation, bullying or harassment is tolerated.
  - promotes good relations between different groups sharing protected characteristics and those who do not
  - attracts and retains a diverse range of talent that reflects our community
  - makes reasonable adjustments and reduces barriers for people with disabilities
  - where appropriate, allows positive action to be taken for underrepresented groups

### Legal Framework

2. The Equality Act came into force on 1 October 2010 and brings together over 116 separate pieces of legislation into one single Act. Combined, they make up the Act that provides a legal framework to protect the rights of individuals and advance equality of opportunity for all.
3. The Act simplifies, strengthens and harmonises previous legislation to provide Britain with a new discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society. Protection from unlawful discrimination is provided by the Act in relation to the following protected characteristics:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race – this includes ethnic or national origins, colour or nationality
- Religion or belief – this includes lack of belief
- Sex
- Sexual orientation

## Public Sector Equality Duty

4. As a public body, Oxfordshire County Council is also committed to the three main aims of the Equality Duty, and the need to:
  - Eliminate unlawful discrimination, harassment, 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.

## Employment – when does this apply?

5. This legal framework underpins all aspects of people management including: selection for employment and promotion; learning and development; pay and benefits; employment practices and procedures; performance management. The Council aims to promote a culture of fairness and ensure no employee is treated less favourably on the grounds of a protected characteristic.
6. Employees include those on permanent and fixed-term contracts, casual, agency workers and apprentices. It also includes job applicants.

## Human Rights Act

7. Council employees have additional responsibilities under the Human Rights Act. In all aspects of delivering council services, employees should ensure the human rights of all members of communities are respected. Human rights are based on core principles like dignity, fairness, equality, respect and autonomy. The Act requires public authorities to take proactive steps to prevent breaches of human rights from happening and to respect all individuals' rights, including the right to effectively take part in decisions made by public authorities and to get fair and equal services from public authorities.

8. All children and young people up to the age of 18 years have rights under the United Nations Convention on the Rights of the Child (UNRC). Some groups of children and young people – for example those living away from home, and young disabled people – have additional rights to make sure they are treated fairly and their needs are met.
9. The purpose of the UN Convention on the Rights of Persons with Disabilities (UNCRPD) is to promote, protect and ensure the full and equal enjoyment of all human rights by disabled people.

## Unlawful Discrimination - Definitions

10. **Direct discrimination** occurs when a person treats another less favourably than they treat or would treat others because of a protected characteristic. For example in recruitment, promotion or advancement decisions, access to training, selection for redundancy.
11. This includes '*Perceptive*' discrimination when an individual is treated less favourably because others mistakenly think they possess one of the protected characteristics e.g. the person is thought to hold particular religious beliefs or to be of particular sexual orientation.
12. It also includes '*Associative*' discrimination where someone is treated less favourably because they associate with another person who possesses one of the protected characteristics. This could include turning down someone for a job because they are known to have caring responsibilities for someone with a disability, despite them being the best candidate for the job.
13. **Indirect discrimination** may occur when a working condition, practice or rule is applied which puts workers sharing a protected characteristic at a disadvantage. This would only be justified if there are objective business requirements and there is no other practical way of achieving it.
14. For example, barring part-time employees from promotion opportunities would indirectly discriminate against females who make up the largest proportion of part time workers. Conditions disadvantaging particular groups will be unlawful, unless they can be objectively justified for business reasons.
15. **Harassment** occurs when a person engages in unwanted conduct which is related to a relevant protected characteristic and which has the purpose or the effect of violating the worker's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that worker. This is covered in the Council's [Dignity at Work Policy](#).

16. **Victimisation** is where an employee is subject to a detriment because s/he has brought proceedings, given evidence or information in connection with proceedings or made an allegation (whether or not express) that another person has done something in breach of the Equality Act.

## Positive Action

17. Positive action (see paragraph 18) is not the same as positive discrimination which is unlawful.
18. Positive action is permitted under the law, allowing employers to take certain steps to improve work opportunities for people who share a protected characteristic.
19. Oxfordshire County Council monitors the composition of the local labour market and its workforce, and where there is evidence for the need to improve equality of opportunity for certain groups sharing a protected characteristic, it may decide to take positive steps to address this in accordance with the legal criteria.
20. For example the Council intends to investigate the reasons for the lower levels of young workers employed by the Council, and continue to expand the number of apprenticeship opportunities to create entry level posts.

## Occupational Exceptions

21. The law allows employers to require job applicants or workers to have particular protected characteristics in certain circumstances if it is a genuine requirement for the job. This is called an '*Occupational Requirement Exception*'.
22. For an exception to be lawful it must be legitimate and proportionate, e.g. someone of a particular sex is required for a job for reasons of privacy and decency or where personal services are being provided; an employer has an ethos based on religion or belief which may allow them to justify the requirement for job applicants to hold the same religion or beliefs.
23. The Act makes specific provision for faith schools allowing the posts of Head Teachers and Principals to be reserved for people of a particular religion.

## Protected Characteristics – Some Key Points

### Age

24. The Council recognises the positive contribution employees from all age groups can bring to the organisation and the importance of attracting younger and older workers across all services to ensure we have a diverse range of talent.

25. The Act prohibits discrimination on the grounds of age across the whole employment experience including recruitment, terms and conditions of employment, promotion, training, discipline/grievance procedures and dismissal. There are certain exceptions that may be justified if there are genuine age-based rules or work practices that have to be complied with. Further advice is available from HR.
26. In addition, from 1st October 2011, the default retirement age was removed under The Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011 and it became unlawful for employers to have a 'normal retirement age' unless it can be objectively justified.
27. Oxfordshire County Council lifted its retirement age of 65 for all employees (separate agreements are in place for uniformed fire-fighters). Therefore, in most cases employment will continue until it is ended either by the employee giving notice or action by the employer for a specified reason such as redundancy or dismissal for conduct or capability.

### Disability

A person has a disability if they have a physical or mental impairment which has a substantial, long-term adverse effect on their ability to carry out normal day-to-day activities.

Equality Act 2010

28. Oxfordshire County Council is committed to ensuring that disabled people are welcomed as Council employees and that prospective and current employees of the Council, who are disabled, are treated fairly and any needs arising as a consequence of their disability are addressed during the recruitment process and during their employment with the Council.
29. Cancer, HIV infection, multiple sclerosis and certain mental health conditions are deemed disabilities under the Act from the point of diagnosis. Progressive conditions and those with fluctuating, recurring effects will amount to disabilities in certain circumstances. Advice is available from [Occupational Health](#).
30. Information disclosed by an individual to the Council about their disability will be treated sensitively and confidentially.
31. The Council will:

- take prompt action to identify and implement reasonable adjustments to ensure, wherever possible, disabled people can access, progress and remain in employment
  - access specialist support and advice where required
  - ensure action is taken against those who discriminate against disabled people
  - take all reasonable steps to make sure managers and employees understand their responsibilities under the Equality Act in relation to disabled workers.
32. Guidance for managers on making reasonable adjustments for disabled employees is available in the Equality and Human Rights Commission Employment: [Statutory Code of Practice](#). Advice is also available from HR.
33. [Access to Work](#) can also help if an employee's health or disability affects the way they do their job. This government scheme is able to give the employee and manager advice and in some circumstances support with extra costs which may arise because of the employee's needs.

### **Sex & Equal Pay**

34. Men and women have the right to equal pay for equal work. The County Council operates pay systems based on objective criteria which are free from sex bias. The County Council recognises the importance for all concerned of having a fair and transparent reward system.
35. In addition the Council seeks to close the gender pay gap by developing employment policies which meet service requirements and encourage inclusion and equality.

### **Gender reassignment**

36. People who are proposing to undergo, are undergoing, or have undergone a process (or part of a process) to reassign their sex by changing physiological or other attributes of sex have the protected characteristic of gender reassignment.

### **Pregnancy and maternity**

The Equality Act protects women from discrimination at work because of pregnancy or maternity leave. There is also a statutory regime setting out other pregnant employee's rights including:

- health and safety protection
- time off for antenatal care
- maternity leave & pay
- unfair dismissal protection
- in the event of redundancy the entitlement to be offered any suitable alternative vacancy, in preference to other employees.

37. For the Maternity Scheme go to the [Schools HR policies](#) page on the intranet.

### **Race**

38. A racial group is a group of people who have or share a colour, nationality or ethnic or national origin. For example, a racial group could be 'British' people. All racial groups are protected from unlawful discrimination under the Act.

### **Religion or belief**

39. The protected characteristic of religion or belief includes any religion and any religious or philosophical belief. It also includes a lack of any such religion or belief.
40. The Council will take reasonable steps to accommodate the requirements of an employee's religion or belief, such as religious observances. Whilst employees do not have to disclose anything about their religion or belief, if they do not want to, in some circumstances it may be helpful to discuss certain requirements with their manager in order to aid understanding and avoid difficulties. Managers will consider options and where possible find mutually acceptable ways of accommodating requirements.
41. Chapter 17 of the Equality & Human Rights Commission Employment: [Statutory Code of Practice](#) provides guidance for managers on understanding and accommodating workers' needs.

### **Sexual orientation**

42. Workers of all sexual orientations should feel welcome and safe in the workplace and the dignity of all should be respected. Although some people are comfortable about talking about their partner, others may not be 'out' in the workplace and be fearful of making a complaint. Managers should ensure confidentiality of procedures and information. 'Outing' someone against their wishes is inappropriate and a breach of privacy which may constitute harassment and/or breach the Data Protection Act 1998.
43. Care should be taken to avoid situations where a person feels excluded or unwelcome because of their sexual orientation (e.g. consider how partners are invited to social gatherings). Harassment is not always targeted at an individual but can consist of a general culture that, for instance, appears to tolerate the telling of homophobic jokes.
44. Interviewers should not ask personal questions which may be perceived as intrusive and imply potential discrimination. Where the candidate volunteers such information, interviewers should take care not to allow themselves to be influenced by that information. Assumptions should not be made about who will, and who will not, 'fit in'.

Selection for recruitment (and promotion) must be on merit, irrespective of sexual orientation.

45. In very limited circumstances the Regulations may not apply:
- If there is a genuine Occupational Requirement for the employee to be of a particular sexual orientation in order to do their job. This might apply for example where the job involves counselling or other support services related to sexual matters.
  - In order for a person to comply with the doctrines of a particular religion – but it is unlikely to apply for most religions.

## Criminal convictions

46. Oxfordshire County Council supports and seeks to promote the rehabilitation of offenders and to treat ex-offenders fairly. The Council recognises that many people with past criminal records do not present a risk in employment but work as responsible and productive members of the workforce.
47. An applicant for employment or voluntary work with criminal convictions will be assessed on their relevant skills, qualifications and experience and will only be prevented from taking a job with the Council where any past offences are directly relevant to the job concerned and where it is judged that the applicant, if appointed, would pose a significant risk to the public, clients, property or public funds.

## Responsibility of Managers

48. The Chief Executive has overall responsibility for ensuring that this policy is operated effectively throughout the Council. Directors, Deputy Directors and Heads of Service have day-to-day responsibility for disseminating and championing this policy and ensuring that it is mainstreamed within their Directorates and carried out in practice.
49. All managers must:
- take personal responsibility, as a role model, and ensure you treat everyone with dignity and respect
  - ensure employees are aware of their responsibilities under this policy
  - make sure new joiners & all employees take up learning and development opportunities to increase and refresh their understanding of equality and diversity issues.
  - promote, respect and encourage each employee to reach their full potential and take immediate action to deal appropriately with any breach of this policy
  - encourage an atmosphere whereby staff are confident about discussing their own needs and can raise concerns with the knowledge that they will be taken seriously and dealt with appropriately.

## Managers must not:

- discriminate unfairly within any area of people management
- bully, harass or otherwise intimidate members of staff
- induce other members of staff to discriminate

## Responsibility of Employees

50. To behave in a way that is consistent with the aims of this policy, in the work-place and at work related social functions.

### Employees must:

- ensure you treat everyone with dignity and respect
- take personal responsibility for ensuring your knowledge and skills on equality and diversity issues are kept up to date
- inform your line manager if you suspect that unfair discrimination, harassment or victimisation is taking place within the organisation (see Dignity at Work policy).

### As an employee you must NOT:

- discriminate unfairly in any aspect of your work
  - bully, harass or otherwise intimidate other members of staff or people you come in to contact with as part of your work
  - induce other members of staff to discriminate.
51. Any employee found to be in breach of this policy as a result of behaviour, conduct or comments towards another employee, a client of the Council or any member of the public will be subject to disciplinary proceedings.

## Resolving conflict and disputes - raising concerns

52. If you have concerns about conduct and behaviour in the workplace you should speak to your line manager at the earliest opportunity.
53. More guidance about raising concerns can also be found by clicking on the following [OCC procedures](#):
- Resolving Grievances
  - Dignity at Work

## Statutory Codes of Practice

54. This policy and the associated arrangements shall operate in accordance with statutory requirements. In addition, full account will be taken of any guidance or Codes of Practice issued by the Equality and Human Rights Commission.

[EHRC - Equality Act Codes of Practice](#)

## Monitoring & Review

55. This policy was developed in consultation with Unison and will be reviewed annually.
56. Oxfordshire County Council's Equality Policy 2012-2017 identifies four key equality objectives and associated priorities that align with the Council's overall strategic objectives, as set out in the Corporate Plan.
57. The Council is required to publish information to demonstrate it has considered how its activities as an employer affect people who share different protected characteristics. This is available [here](#).
58. We will examine and regularly review employment policies, practices and procedures and decision-making criteria to assess their impact and to ensure that they do not discriminate unlawfully, or otherwise unjustifiably, and provide equality of opportunity for all job applicants and workers.

## Related Policies & Useful Sources of Guidance & Information

Can be found [here](#) on the intranet:

- Dignity at Work
- Resolving Grievances
- Whistleblowing
- [Equality & Human Rights Commission](#)

**Steve Munn**  
**Chief HR Officer**

July 2012 (amended July 2016)

Alternative formats of this policy can be made available on request. These include other languages, large print, braille, audio, or email. Please contact HR on 03300 240 849.