

EAST HARPTREE PARISH COUNCIL

EQUALITY AND DIVERSITY POLICY

East Harptree Parish Council (EHPC) is committed to promoting equal opportunities and to taking positive steps to avoid and eliminate unlawful discrimination in its employment practices, its meetings, reports, and in any process in which it is involved and where it may have influence. EHPC values people as individuals with diverse cultures, lifestyles, and circumstances. Instances of discrimination will be addressed immediately.

This policy observes and reflects the relevant legislation; Government Guidance; guidance from the Equality & Human Rights Commission, and the Advisory, Conciliation and Arbitration Service (ACAS) guidance re Equality, Diversity and Inclusion in the workplace. Also, suggested example documents from the National Association of Local Councils (NALC) and the Society of Local Council Clerks (SLCC) have been considered.

EHPC has separate policies relating to 'Grievance' and 'Disciplinary' procedures and 'Dignity at Work,' which reflect this policy.

Legislative Background:

On 5 April 2011, the public sector equality duty (the 'Equality Duty') came into force. The Equality Duty was created under the Equality Act 2010.

The equality duty replaced the race, disability, and gender equality duties. The first of these duties, the race equality duty in 2001, came out of the Macpherson Report on the murder of the black teenager, Stephen Lawrence. Following failures of the investigation of Lawrence's murder, the report revealed institutional racism in the Metropolitan Police. It was clear that a radical rethink was needed in the approach that public sector organisations were taking towards addressing discrimination and racism.

Prior to the introduction of the race equality duty, the emphasis of equality legislation was on rectifying cases of discrimination and harassment after they occurred, not preventing them happening in the first place. ***The race equality duty was designed to shift the onus from individuals to organisations, placing for the first time an obligation on public authorities to positively promote equality, not merely to avoid discrimination.***

Following the introduction of the race duty, it was clear that progress could also be made on other areas of equality through the introduction of similar duties. The disability equality duty came into force in 2006, followed by the gender equality duty in 2007 and the Equality Act in 2010.

The 2010 Act:

“The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. It replaced previous anti-discrimination laws with a single Act, making the law easier to understand and strengthening protection in some situations. It sets out the different ways in which it’s unlawful to treat someone.” (From Government Guidance)

The Equality Act identified nine characteristics identified as “Protected Characteristics” they are:

- Race
- Religion or belief
- Sex
- Sexual orientation
- Gender reassignment
- Age
- Disability
- Pregnancy and maternity.

The Equality Duty:

Parish Councils in England are specifically included in Schedule 19 of the 2010 Equality Act which lists who / what is subject to the Equality Duty.

The Equality & Human Rights Commission (Last updated: 22 Feb 2023) states that the equality duty was developed in order to harmonise the equality duties and to extend it across the protected characteristics. It consists of a general equality duty, supported by specific duties which are imposed by secondary legislation. In summary, those subject to the equality duty (*Public Authorities*) **must**, in the exercise of their functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and 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.

These are sometimes referred to as the three aims or arms of the general equality duty. The Equality Act explains (section 149) that having due regard for advancing (promoting) equality involves:

- Removing or minimising disadvantages suffered by people due to their protected characteristics.
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- **Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.**

In addition to the nine protected characteristics, public authorities also need to have due regard to the need to eliminate unlawful discrimination against someone because of their marriage or civil partnership status. This means that the first aim of the duty applies to this characteristic but that the other aims (advancing equality and fostering good relations) do not apply in law.

Purpose of the duty:

The broad purpose of the Equality Duty is to integrate consideration of equality and good relations into the day-to-day business of public authorities (in this case the Parish Council). If we do not consider how a function or process can affect different groups in different ways, this can contribute to discrimination and greater inequality. The general equality duty therefore requires the Council to consider how it could positively contribute to the advancement of equality and good relations. It requires equality considerations to be reflected into the design of policies and the delivery of services, including internal policies, and for these issues to be kept under review. **Compliance with the general equality duty is a legal obligation.**

Types of unlawful discrimination:

Direct discrimination, intended or not, is where a person is treated less favourably than another because of a protected characteristic.

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.

Indirect discrimination is where a provision, criterion or practice is applied that is discriminatory in relation to individuals who have a relevant protected characteristic such that it would be to the detriment of people who share that protected characteristic compared with people who do not, and it cannot be shown to be a proportionate means of achieving a legitimate aim.

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 this effect was intended or not by the person responsible for the conduct.***

Associative discrimination is where an individual is directly discriminated against or harassed for association with another individual who has a protected characteristic.

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.

Third-party harassment occurs where an employee is harassed and the harassment is related to a protected characteristic, by third parties.

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/she is suspected of doing so. However, an employee is not protected from victimisation if he/she acted maliciously or made or supported an untrue complaint.

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 with 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.

Equality, diversity, and inclusion in employment:

As per the above, EHPC will avoid unlawful discrimination in all aspects of employment including recruitment (in accordance with its Recruitment and Selection procedures), promotion, opportunities for training, pay and benefits. There are separate policies regarding Disciplinary and Grievance procedures. The Council also has a separate Dignity at Work policy concerning issues of bullying and harassment on any grounds, and how complaints of this type will be dealt with.

Acts of discrimination, harassment, bullying or victimisation are disciplinary offences and will be dealt with under EHPC's Disciplinary and Grievance procedures. Discrimination, harassment, bullying or victimisation may constitute gross misconduct and could lead to dismissal without notice.

All recruitment initiated by the Parish Council:

Under the Equality Duty, EHPC has a duty to actively promote equality and inclusion. In adverts, job descriptions and any related literature this will be achieved by always advertising a vacancy and advertising as widely as possible. Also, the use of wording that specifically and actively illustrates that EHPC is an inclusive employer and council, and that within the law, applications will be welcomed from all candidates whatever their background or characteristics. **It is therefore the view of EHPC that it is not sufficient to assume that there is nothing in the content that would 'put off' a candidate with a Protected Characteristic.**

Person and job specifications (and appraisals) will be limited to those requirements that are necessary for the effective performance of the job or role. Candidates will be assessed objectively against the requirements for the role, 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.

Interview questions will be standardised, decided in advance and must not refer to any of the protected characteristics.

Working practices:

EHPC will consider any possible indirectly discriminatory effect of its standard working practices, including the times at which work will be undertaken and the place where it is to be done. When considering requests for variations to these standard working practices EHPC will refuse such requests only if the Council considers it has good reasons for doing so, unrelated to any protected characteristic. The Council will comply with its obligations in relation to statutory requests for contract variations. EHPC will also make reasonable and realistic adjustments to its standard working practices to overcome barriers caused by disability.

People not employed by EHPC:

The Council will not discriminate unlawfully against those using or seeking to use the services provided by the Council. Also, the promotion of equality and the taking of positive steps to avoid and eliminate unlawful discrimination will apply within and amongst the Parish Councillors. Any instances, or alleged instances, of non-compliance should be raised with the Chair or the Clerk (or another suitably positioned person) and addressed immediately.

Monitoring and review:

This Policy will be reviewed regularly and will be updated in accordance with changes in the law.

The NALC example policy states that it will be monitored regularly by the Council to judge its effectiveness, *"In particular, the Council will monitor the ethnic and gender composition of the existing workforce and of applicants for jobs (including promotion), and the number of people with disabilities within these groups and will review its equal opportunities policy in accordance with the results shown by the monitoring. If changes are required, the Council will implement them."*

Given the very small number of employees, EHPC considers that such monitoring would not be realistic or meaningful. However, any relevant feedback received, or apparent concerns, will be carefully considered immediately. The Council will remain alert to the issues covered by this policy.

Adopted 19.9.23