

equal opportunities and diversity policy and procedure

General Statement of Intent

The Working Together Project strives for high standards both as an employer and as a provider of services. In so doing, we recognise the need for encouraging diversity and wholeheartedly support a policy of equal opportunities in all areas of our work and responsibilities.

This policy provides guidance to promote diversity and qualities for, and be accessible to paid or unpaid workers, trustees and management committee members, community, voluntary and social enterprise groups and organisations in Brighton and Hove and the surrounding area. In line with the aims and objectives of the Working Together Project as stated in the Memorandum and Articles of Association, we aim to ensure that no person, whether as a job applicant, employee, associate, volunteer, trustee, member, user of our services or as an individual or part of a group or organisation, receives less favourable treatment or faces discrimination on the following grounds:

sex, gender, race, colour, whether they are lesbian, gay, bisexual or transgender, nationality, religion, religious belief, ethnic or national origin, age, marital or civil partnership status, child care arrangements, carer status, disability, HIV status, physical or mental health, unrelated criminal convictions, appearance, class, employment or economic status, trade union membership or political affiliation.

There may be other areas where people experience discrimination and the Working Together Project will work towards an anti-discriminatory environment within the organisation, based on an open discussion of staff, associates, volunteers and users' perceptions of discrimination.

The Working Together Project further recognises that discrimination can be direct or indirect and takes place at both institutional and personal levels. This organisation recognises and believes that such discrimination is unacceptable and is committed to ensuring that its policies and practices provide equal treatment for all in terms of employment of staff, work with volunteers and in all aspects of its service delivery to the Projects' users.

The Working Together Project recognises that staff, volunteers and service users can experience discrimination for more than one reason, e.g. a woman with a disability, and in its work to achieve equality will take this into consideration at all times.

The organisation hopes that the categories stated in this declaration of intent are accessible to all and sees diversity and equal opportunities as part of empowerment in the organisation and in local communities. It is not our intention to limit the access and participation of people in the Working Together Project and we feel that the Declaration of Intent should be interpreted in a positive way.

Policy and Strategy

The Working Together Project is committed to both the elimination of unfair discrimination and the promotion of diversity and equal opportunities. The organisations

codes of practice in employment and service delivery are designed to counteract and prevent discrimination.

The Working Together Project is also committed to monitoring the implementation and effects of this policy and reviewing and updating it at regular intervals. Existing procedures and criteria may be changed in response to changing circumstances and changing needs. This organisation is committed to publicising this policy and to ensuring members of organisations sign up to and agree the Working Together Project equal opportunities and diversity policy. This organisation is committed to providing necessary training and guidance to staff, trustees and volunteers. Working Together Project supports its belief in equal opportunities by linking the equal opportunities and diversity policy to existing policies such as complaints, disciplinary and grievance procedures.

The Working Together Project's equal opportunities and diversity policy is part of a package of inter-related policies produced by the organisation. It is supported by a detailed Code of Practice for recruitment and employment of staff and a commitment to training opportunities.

This equal opportunities and diversity policy is written to conform with the statutory requirements laid down by legislation as well as the guidance and advice offered by the Equality and Human Rights Commission. Further details of legislation can be found in the appendices to this policy.

Objectives

Membership

The Working Together Project is committed to ensuring that its membership reflects the local population and the needs and diversity of the people working in community, voluntary or social enterprise sectors in Brighton & Hove and the surrounding area and that no member of the Working Together Project suffers discrimination. The working Together Project will:

1. Encourage membership of groups and organisations who face disadvantage.
2. Ensure that membership of the Working Together Project reflects the local population and the needs and diversity of the community, voluntary and social enterprise sectors in Brighton and Hove and the surrounding area.
3. Ensure that all members are able to participate in the processes and structures of the Working Together Project and have access to the decision-making process: This includes Trusteeship and participation in meetings of the Working Together Project.

Services

The Working Together Project is committed to ensuring that all sections of the community, voluntary and social enterprise sectors in the local community have access to our services and that these services reflect the diverse needs and experiences of the community, voluntary and social enterprise sector in Brighton & Hove and the surrounding area. Therefore the Working Together Project will:

1. Examine its premises and equipment and make adaptations to ensure that they are accessible to members, users and staff of the Working Together Project.
2. Establish better links with groups facing disadvantage.
3. Increase awareness within the organisation of the needs of minority groups in order to provide relevant services.
4. Review and adapt the organisation's services to meet the needs of community, voluntary and social enterprise organisations facing disadvantage.
5. Ensure that no user of services suffers discrimination.
6. Encourage community, voluntary and social enterprise organisations to implement a similar policy in the delivery of their services, through the provision of training and information.

Employment

The Working Together Project is committed to ensuring that all current and future employees are made fully aware of the Equal Opportunities and Diversity Strategy and receive adequate support and training in carrying it out. The Working Together Project will:

1. Aim to increase the number of paid and unpaid workers from minority groups and groups facing disadvantage, especially in senior positions and in posts where they have access to the decision-making process.
2. Ensure that no employee or prospective employee is discriminated against, either directly or indirectly, through reasons of inadequate advertising, lack of facilities or equipment, or discriminatory recruitment or selection procedures.
3. Ensure that all staff receive adequate support, supervision, training and development opportunities

Training

The Working Together Project recognises the importance of training as a means of breaking down barriers and tackling past and present discrimination.

1. Training provided by the Working Together Project will be primarily aimed at supporting unpaid and paid workers within the community, voluntary and social enterprise sectors so as to build up or develop existing skills.
2. The Working Together Project will aim to provide training for community groups, voluntary or social enterprise organisations that have previously experienced limited

opportunities and discrimination, both direct and indirect, when making decisions regarding training and employment.

3. Training provided by the Working Together Project will recognise the barriers that people can face when commencing training. Training will be designed and delivered in a sensitive way: to provide support and positive encouragement to take account of times and days when people are able to participate in training and to operate in a flexible way. Resources will be found to reimburse for travel for unpaid workers, childcare and other caring costs, accessible venues and equipment will be used and or provided wherever possible, community language interpreters will be provided on request.

Implementation

The Working Together Project recognises that this strategy will only begin to take effect when put into practice. We, therefore, see implementation as a key objective in working towards equality of opportunity. However, we also recognise our limitations, some of which are currently beyond our control, and have a commitment to achieving our goals.

1. Publicity

Information about the Working Together Project and its services will be made available to groups who are currently under-represented in membership and use of the Working Together Project. Distribution will take place through general information systems that are available to the public e.g. local press, libraries, etc., and also through contacting 'specialist' organisations e.g. the Voluntary Sector Forum, the Black and Minority Ethnic Partnership, Spectrum and Federation of Disabled People.

Where possible, we will try to make information accessible to people with any sensory impairment and to people whose first language is not English. All publicity for our training courses will advertise options for signers, interpreters, large print, etc.

2. Environment

The Working Together Project and its services will be made as accessible as possible to all people by:

- Taking account of people's diverse needs when organising the timing of meetings, training, etc.
- Assisting with the provision of childcare or other caring responsibilities.
- Making venues and events as accessible as possible for people who experience problems in accessing premises.

3. Involvement

We will seek to encourage the involvement of disadvantaged and under represented people in all aspects of the Working Together Project by taking their needs into account and by listening to their views. Cost should not be a barrier to the involvement of people

at the Working Together Project. The project aims to deliver training free at the point of entry. Where necessary and possible, financial arrangements will be made to enable the participation of people who would otherwise be unable to pay membership, travel and childcare expenses and other fees.

4. Complaints Procedure

Any person or group who feel that they have faced direct or indirect discrimination from, or been less favourably treated by, the Working Together Project should be encouraged to complain. The Working Together Project has a separate Complaints procedure. Information and assistance with this process should be publicly available. In the first instance, they should do this by contacting one of the Trustees who will then raise the matter at a Trustee meeting. Any person making a complaint will be informed of the outcome of their complaint and what action if any is to be taken.

5. Employment

When recruiting staff, the Working Together Project will advertise as fully as possible, including in the appropriate local and national press, the specialist press including press and media outlets that serve potentially disadvantaged groups.

Special attention will be paid to the wording of the advertisement, application form and additional information, and undue emphasis will not be placed on formal qualifications.

Recruitment and selection of staff will operate in line with current good practice and will include use of job descriptions, person specifications and monitoring forms. Those who are part of this process will take part in equal opportunities and diversity training on recruitment, selection and interviewing.

Terms and conditions of employment of Working Together Project staff will be reviewed annually as part of the equal opportunities and diversity policy. The Working Together Project recognises the importance of setting a positive example and will aim to achieve this in employment practice. Working Together Project ensures that its structures support employees to work to their full potential. Particular support will be given to staff with family and other caring responsibilities, as this is an area in which people often face discrimination. The Working Together Project recognises that all staff are entitled to appropriate support, supervision, training and development and a formal review will take place annually. The Trustees will ensure that appropriate arrangements for these objectives are in place.

6. Training

The Working Together Project recognises the importance of training in furthering equality and opportunity, and will seek to:

- Provide training in a positive and supportive way which will be accessible to people who are disadvantaged or who have faced direct or indirect discrimination.

- Provide training that will enable people to gain and improve their skills and confidence
- Ensure that people who hold positions of responsibility and accountability within the structures of the Working Together Project i.e. Trustees, trainers and members of staff all receive training in, and are aware of, implement and understand the implications of Equal Opportunities and Diversity.
- Ensure that trainers are aware of and understand the policy on the employment of trainers and the implications for Equal Opportunities and Diversity

Monitoring and Review

Brighton and Hove Working Together Project recognises that regular monitoring and review of this strategy is an integral part of working towards equality of opportunity to ensure the organisation works within a truly equal opportunities and diversity policy framework at every level. Initially, this task is the responsibility of the Trustees who may wish to delegate responsibility through appropriate channels. For example, monitoring and review of the strategy in relation to current employees could be an area of work for the Personnel Sub - Group. However, it will be the wider responsibility of the Trustees to ensure that monitoring and review takes place on an annual basis and that recommendations from the process are implemented. In order to ensure that this occurs, the annual external evaluation (monitoring and review) will take account of the following areas in relation to the Objectives and Implementation.

1. Membership

The make-up of the organisation's membership ensures access to groups and organisations that want to be involved in the decision making processes of WTP. To this end we periodically take a proactive approach to encouraging groups from marginalised communities to be involved and on an annual basis monitor diversity through the collation of monitoring information. This information will be used to set targets for membership for the following year. The targets will be reflected in the publicity used to publicise the organisation, both in content and availability/distribution. To ensure broad access to WTP we provide services to a wider constituency than our members.

2. Services

The needs of the members and the targets of the equal opportunities and diversity strategy will be reflected in the services, training and information provision that the B&H Working Together Project offers. These services will be monitored to make sure that they are accessible to all community groups and voluntary organisations in Brighton and Hove and that they reflect people's diverse needs.

3. Employment

There is a Selection and Recruitment policy and all selection and recruitment of staff will be monitored to ensure that it meets the criteria set out in this equal opportunities and diversity strategy. Monitoring will encompass the wording and placement of adverts and the numbers and make-up of applicants, shortlisted candidates and successful

applicants. The terms and conditions, and support, supervision and training offered to staff will be monitored to ensure that it meets the needs of staff and does not discriminate, either directly or indirectly, against individuals or groups.

4. Training

Training will be monitored after each programme run of training to ensure that it is accessible to all people and, where necessary, targets will be set to positively encourage people from excluded communities who are under-represented or who face particular disadvantage. Monitoring will include records and breakdowns of applicants, participants and courses, and records will be kept of people who are unable to take up or continue courses. The outcomes of people on courses and, as far as possible, what they go on to do, will be recorded and monitored.

The trainers will also be monitored to ensure that they reflect the Equal Opportunities and Diversity strategy. They will receive information and advice in carrying out the objectives of the strategy.

Enforcement

Working Together Project recognises the need for a continuing commitment to genuine equal opportunities and diversity within the organisation. The effectiveness of the policy's aims and objectives can only be judged by how the policy operates in practice.

Policy Enforcement – Grievances

Any staff member or volunteer who feels they have been a victim of discrimination or unfairly treated in a way contrary to the intention of this policy should raise the issue through Working Together Project's established Grievance Procedure.

Any service user who feels he/she has been unfairly treated in a way contrary to the intention of this policy should make a complaint through the Working Together Project Complaints Procedure.

Any job applicant who believes that he/she has been treated unfairly and contrary to the intention of this policy should make a complaint through the Working Together Project Complaints Procedure

Incidents of victimisation or harassment will be dealt with in accordance with Working Together Project's Harassment Procedure. Where incidents of victimisation and harassment are proven, the issue will be dealt with under the Working Together Project's Disciplinary Procedure.

Working Together Project will not treat lightly or ignore grievances from members of disadvantaged groups on the assumption that they are over-sensitive about discrimination.

Policy Enforcement - Disciplinary Procedure

Any member of staff found to be in breach of this policy will be subject to disciplinary action in line with the Standard Terms of Employment.

All incidents of direct discrimination are disciplinary offences and will be dealt with under the Disciplinary Procedure.

Incidents of indirect discrimination will be investigated to determine whether they should be dealt with under the Disciplinary Procedure.

Incidents of victimisation or harassment will be dealt with in accordance with the Organisation's Harassment Procedure. Where incidents of victimisation and harassment are proven, the issue will be dealt with under the Organisation's Disciplinary Procedure.

Any volunteer, including Trustees or members of any committee, found to be in breach of this policy will be counselled on his/her actions and may, where necessary, be removed from the Working Together Project's volunteer pool.

Any member of any Committee or working group of Working Together Project found in breach of this policy will be counselled on his/her actions and may, where necessary, be asked to leave Working Together Project.

Any service user found in breach of this policy will, where appropriate, be counselled on his/her actions and may, where necessary, be referred back to their organisation or refused future services from the Working Together Project.

Monitoring

The Working Together Project regards the collection/analysis of data as vital in informing change and improving performance. Where appropriate, statistics on Working Together Project's services will be collected and analysed in relation to equality and diversity matters. We will review employee turnover and seek information on reasons for leaving. Local and national data or statistics will be used to benchmark our performance.

The Trustees will review annually equality of opportunity relating to the Working Together Project services. Recruitment and selection procedures will be monitored and reviewed annually by the Personnel Sub Group. All aspects of personnel policies and procedures shall be kept under review to ensure that they do not operate against the Equal Opportunities and Diversity Policy.

In order to determine the impact of this policy it is important that a monitoring system be developed which will measure commitment, progress and effectiveness. The Equal Opportunities and Diversity Policy will be monitored and reviewed as follows:

The annual organisational performance review meeting will include a review of the equality and diversity implementation;

The personnel sub group will undertake an annual policy review. All relevant parties will be encouraged to submit comments for consideration;

The review recommendations will be presented to the next Trustee meeting for their comments and ratification.

Where it appears that there may have been or there is a breach of the policy, the Personnel Sub Group will investigate the circumstances and action will be taken to counter any proven breach of policy.

If it is found that the policy is excluding or discouraging the development of trustees, staff, associates, volunteers or restricting service users, the Personnel Sub Group should take positive action to re-adjust the policy.

Appendix 1 Equal Opportunities and The Law

Maternity and Parental Leave etc (Amendment) Regulations 2006

These regulations amend provisions in the laws relating to statutory maternity leave and adoption leave. They apply to an employee whose expected week of childbirth is on or after 1st April 2007. The provisions effectively make all women entitled to 12 months maternity leave. They amend the provisions regarding length of notice to be given by an employee who wishes to return early from or extend their maternity or adoption leave from 28 days to 8 weeks. They also allow for 10 “keeping in touch” days between employer and an employee on maternity leave but add protection from dismissal or detriment to the

Employment Rights Act 1996 if the employee undertakes, does not undertake or considers undertaking any such work. See DTI website for further information at: www.opsi.gov.uk/si/si2006/20062014.htm

Employment Act 2002 (Flexible working regulations)

This makes changes to maternity, paternity and adoption rights in the Employment Rights Act 1996. From April 2003, s.47 of the 2002 Act introduces a new right for employees to request flexible working. The details of that right are set out in the Flexible Working Regulations 2002 (SI 2002/3236 and SI 2002/3207).

Part-time Workers Regulations 2000

These give part-time workers the right not to be treated less favourably than comparable full-time workers unless the difference in treatment is objectively justifiable. They do not give a right to work part-time.

Employment Act 1989

This includes an exemption from the operation of the Sex Discrimination Act for acts done in connection with employment or vocational training to comply with certain specified statutory provisions relating to the protection of women at work.

Employment Equality (Age) Regulations 2006

This covers age discrimination in employment and vocational training.

The Disabled Persons (Employment Act 1944 & 1958): Disability Discrimination Act 1995. Under the provisions of the quota system, employers of more than 20 staff have a duty to employ at least 3% registered disabled people. Preference may be given to disabled applicants for certain jobs.

The Chronically sick and Disabled Person's Act 1970, amended 1976:

Employers are obliged to provide facilities for people with disabilities in terms of means of access to and within, parking and sanitary arrangements.

Employment Relations Act 1999

This includes a right to be accompanied at disciplinary or grievance hearings by a trade union official or another of the employer's workers.

Employment Rights Act 1996

This includes the following rights:

The right not to be unfairly dismissed. A dismissal is automatically unfair if it is for a reason related to pregnancy, childbirth, maternity leave, parental leave, or time off for dependants.

The right to maternity leave.

The right to paid time off for ante-natal care.

The right to unpaid time off to care for or to arrange care for dependants where the dependant is ill, injured, assaulted, gives birth or dies; if arrangements for the care of a dependant break down; or if there is an unexpected incident involving a child at school.

The right to be offered suitable alternative work on not substantially less favourable terms and conditions if a legislative requirement or a health and safety recommendation prohibits a woman from doing her usual job because she is pregnant, has recently given birth or is breastfeeding.

The right to be suspended on full pay if a woman is unable to do her usual job on maternity grounds as described above and no suitable alternative work is available.

The right to a statement of employment particulars.

The right to an itemised pay statement.

The right not to suffer unauthorised deductions from wages.

The right to a minimum period of notice on termination of employment.

The right to a redundancy payment.

The right to a written statement of reasons for dismissal.

The right not to suffer a detriment by undertaking, not undertaking or considering undertaking work deemed to be "keeping in touch" days under MPLR (Amendment) Regs 2006 (see below).

Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996

These provide for tribunals to award interest on backpay in Equal Pay Act cases and compensation awards made under the Sex Discrimination Act 1975, the Race Relations Act 1976 and the Disability Discrimination Act 1995.

The Employment Equality (Religion or Belief) Regulations 2003

From 1 December 2003, these regulations prohibit discrimination on the grounds of religion or belief in the employment field. The regulations were amended before they came into force by the Employment Equality (Religion or Belief) (Amendment) Regulations 2003, which extended the scope of the regulations to cover discrimination in occupational pension schemes.

The Employment Equality (Sexual Orientation) Regulations 2003

From 1 December 2003, these regulations prohibit discrimination on the grounds of sexual orientation in the employment field. The regulations were amended before they came into force by the Employment Equality (Sexual Orientation) (Amendment) Regulations 2003, which extended the scope of the regulations to cover discrimination in occupational pension schemes.

The Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000:

Forms of racial discrimination are defined. It is illegal for an employer to discriminate in recruitment, promotion, training and transfer, terms and conditions of employment or dismissal, on grounds of colour, race, nationality (including citizenship), or ethnic or national origins. Positive Action, in terms of encouragement to apply for jobs or the

provision of training and experience, is lawful. The amended Act also imposes general duties on many public authorities to promote racial equality. It applies to jobs, training, housing, education and the provision of goods, facilities and services. It is also unlawful for public bodies to discriminate while carrying out any of their functions.

The Equal Pay Act 1970 & Sex Discrimination Act 1975:

Employers may not discriminate between men and women or married and unmarried people in recruitment, or in any other way in the treatment of employees. Equal treatment, in respect of pay, terms of contract and employment must be given to men and women doing the same or broadly similar work.

Rehabilitation of Offenders Act 1974

It is unlawful to deny someone a job solely on the grounds of a 'spent' conviction. The time period that must elapse before a conviction is deemed 'spent' varies with the gravity of the offence. There are exemptions, and candidates for certain jobs do have to reveal past convictions.

Health and Safety at Work etc Act 1974

This places a duty on employers to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all their employees. There are criminal sanctions for failure to comply with this duty and enforcement is by the Health and Safety Executive and local authorities.

Human Rights Act 1998

This incorporates rights under the European Convention of Human Rights into domestic law. Individuals can bring claims under the HRA against public authorities for breaches of Convention rights. UK courts and tribunals are required to interpret domestic law, as far as possible, in accordance with Convention rights. Previous case law may be overturned if there is a breach of Convention rights and the relevant law can be re-interpreted in a way which is compatible with Convention rights. Convention rights include a right not to be discriminated against on non-exhaustive grounds, which include that of sex, where another Convention right is engaged.

Management of Health and Safety at Work Regulations 1999

These require employers to carry out risk assessments. There are specific obligations on employers to assess risk where there are women of childbearing age at work. Employers may have to alter working conditions or hours of work, offer suitable alternative work or suspend an expectant or new mother on full pay if necessary to avoid risk to her or her baby.

Maternity and Parental Leave etc Regulations 1999

These contain the detail of the rights to maternity and parental leave contained in the Employment Rights Act 1996 (ERA). They also prescribe the circumstances in which a dismissal will be automatically unfair for the purposes of the ERA if the dismissal is for a reason related to pregnancy, childbirth, maternity leave, parental leave, or time off for dependants.

Maternity and Parental Leave etc (Amendment) Regulations 2006

These regulations amend provisions in the laws relating to statutory maternity leave and adoption leave. They apply to an employee whose expected week of childbirth is on or

after 1st April 2007. The provisions effectively make all women entitled to 12 months maternity leave. They amend the provisions regarding length of notice to be given by an employee who wishes to return early from or extend their maternity or adoption leave from 28 days to 8 weeks.

They also allow for 10 “keeping in touch” days between employer and an employee on maternity leave but add protection from dismissal or detriment to the Employment Rights Act 1996 if the employee undertakes, does not undertake or considers undertaking any such work. See DTI website for further information at: www.opsi.gov.uk/si/si2006/20062014.htm

National Minimum Wage Act 1998

This provides that workers shall not be paid less than a designated minimum rate per hour.

National Minimum Wage Regulations 1999

These contain detailed rules as to who qualifies for the national minimum wage and what counts as working time and remuneration for these purposes.

Occupational Pension Schemes (Equal Treatment) Regulations 1995

These set out how claims may be made to enforce rights to equal treatment in occupational pension schemes.

Part-time Workers Regulations 2000

These give part-time workers the right not to be treated less favourably than comparable full-time workers unless the difference in treatment is objectively justifiable. They do not give a right to work part-time.

Pensions Act 1995

This requires occupational pension schemes to observe the principle of equal treatment between men and women.

Protection from Harassment Act 1997

This creates a criminal offence of harassment. It also creates a new type of civil claim, allowing individuals who are harassed to claim damages and/or seek a court order to stop the harasser from continuing the harassment.

Sex Discrimination (Questions and Replies) Order 1975

This prescribes the forms to be used to obtain information in accordance with s.74 Sex Discrimination Act 1975. It also sets out the time limits and methods for service of these questionnaires.

Social Security Contributions and Benefits Act 1992

Statutory Maternity Pay (General) Regulations 1986

Statutory Maternity Pay (General) (Modification and Amendment) Regulations 2000

These contain the provisions relating to entitlement to Statutory Maternity Pay.

Work and Families Act 2006

The Work and Families Act applies to parents whose babies are born on or after 1st April 2007. It introduces changes under the Maternity and Parental Leave (Amendment) Regulations 2006 (see above). It is an act under which the government is given the power to make various changes to maternity and adoption pay and leave, paternity and parental leave, flexible working, working time regulations, and unfair dismissal and redundancy compensation

Working Time Regulations 1998

These contain provisions regulating working time including:

A limit of average 48 hours work per week (with exceptions)

Daily and weekly rest entitlements and rest breaks.

A right to 4 weeks paid annual leave and to be paid for accrued but untaken leave on termination of employment.

Special provisions relating to night work.

Codes of Practice

There are Codes governing employment practice with regard to gender, sex, equal pay, data protection. They have been approved by Parliament but do not have the force of law. However if an industrial tribunal considers any of their provisions relevant to a case, then they must take such provisions into account.

Code of Practice - Gender Equality Duty

The Code of Practice on the Gender Equality Duty for England and Wales came into force on 6 April 2007.

Code of Practice - Sex Discrimination

Explains the Code of Practice section by section in relation to sex discrimination.

Conducting an Equal Pay Review in accordance with Data Protection Act principles

An overview of an employer's obligations under the Data Protection Act 1998 in relation to the various types of personal information processed in the course of an equal pay review.

How to provide equal pay information during tribunal proceedings and observe the Data Protection Act

This document explains your legal obligations when responding to an equal pay questionnaire or to a request for information during the course of tribunal proceedings.

There are serious gaps in anti-discriminatory legislation. There is also no protection afforded to those who are discriminated against on the basis of their present or past political affiliation or Trades Union activity. ("Trade Union and Labour Relations (Consolidation) Act 1992 s. 1 46 and s. 1 52)

Appendix 2 Definitions

1. General

1.1 Working Together Project accepts that indirect discrimination, institutional discrimination, positive action, positive discrimination and victimisation apply to all categories of discrimination. The definitions given under "Racism" can therefore be used in each area of discrimination.

1.2 Working Together Project accepts that many people experience discrimination because their disability, race, or HIV status, etc., is not obviously apparent. Working Together Project is committed to providing an organisational environment, which takes account of both direct and indirect areas of discrimination.

1.3 The Purpose of the following definitions is to illustrate particularly prevalent issues in discrimination, and these issues are not necessarily exhaustive.

2.. Racism

This consists of a combination of power and prejudice. It is having the power to put into effect one's prejudice at the expense of particular ethnic groups. Power is the ability to make things happen or prevent them from happening. Prejudice is an unfounded opinion or feeling based on a person's race, colour, ethnic or national origins.

2.1 Racial Harassment

Racial harassment is conduct that is believed by the recipient or others to be racist in intent. This conduct is an act or series of actions directed at a person or their property because that person is Black or minority ethnic. It exists in many forms, ranging from physical abuse to much more subtle ways of creating an uncomfortable and unpleasant environment. Examples include physical attack or threats, verbal abuse, racist jokes, remarks about a person's appearance, using offensive names, racist graffiti, offensive literature, exclusion from work or social events, false assumptions and stereotyped generalisations.

2.2 Racist Discrimination

Consists of treating a person, on racial grounds, less favourably than others are or would be treated in the same or similar circumstances. This includes the segregation of a person from others on racial grounds.

2.3 Indirect Discrimination

Consists of applying a requirement or condition which although applied equally to persons of all racial groups, is such that a considerably smaller proportion of a particular racial group can comply with it, and which cannot be justified other than on racial grounds.

2.4 Institutional Racism

It is often assumed that discrimination is the result of current actions by individual people. Institutional racism is concerned with past discrimination which has been incorporated into structures, processes and procedures of organisations, either because of racial prejudice or because of a *failure* to take into account the particular needs of Black people and people from minority ethnic groups.

2.5 Discrimination on Racial Grounds

This means to discriminate on grounds of colour, race, nationality (including citizenship) or ethnic or national origins.

2.6 Black

This is a term that is most widely used as a conscious and political expression of racist oppression and/or to denote unity of origin.

2.7 Minority Ethnic

This term is used to describe minority ethnic groups within this society whose origin is not white/British.

2.8 Positive Action

Where Black and minority ethnic people have been under-represented over the previous twelve months in particular work, the law allows provision of training and encouragement to take up opportunities for employment, in recognition of particular needs which arise from past discrimination and disadvantage.

2.9 Positive Discrimination

Apart from some specific exceptions within the Race Relations Act 1976, discrimination in favour of Black and minority ethnic people at the point of selection for work or in the provision of goods and services is illegal.

2.10 Victimisation

Occurs where a person is treated less favourably or is discriminated against because he or she has pursued or intends to pursue their rights under this Policy via the grievance procedure or through legal channels.

2.11 Status of Definitions

Some of the above definitions reflect some but not all of the wording of the Race Relations Act 1976 and the Code of Practice on this legislation. The definitions are designed to provide an outline understanding and not replace the legal form of words.

3. Disability

A person with a disability is one who has been born without, or who has sustained the loss or impairment of a functional ability, which can relate to physical disability, sight disability, hearing disability, speech disability, learning disability or mental illness. It may be hidden or occasional, e.g. epilepsy.

3.1 Handicap

A person with a disability is sometimes described as 'handicapped: it is vital to recognise that the major handicap is in the failure to design an accessible environment and in the attitudes or behaviours of others. If full access, positive attitudes and behaviour and other facilities are provided, she or he would not suffer a handicap.

3.2 Disabled

This term is frequently used to refer to people with disabilities. Some people with disabilities do not like the term because they believe that it reinforces the prejudice that they are incapable, whereas others find it acceptable, and some prefer the term 'differently abled'.

3.3 Registered Disabled

This is a legal term for people who have registered as disabled under the Disabled Persons (Employment) Act 1944 both on 12 January 1995 and 2 December 1996 will be treated as being disabled under the Disability Discrimination Act 1995 for three years from the latter date. At all times from 2 December 1996 onwards they will be covered by the Act as people who have had a disability. This does not mean they are not covered as having a current disability any time after the three-year period has finished. Whether they are or not will depend on whether they - like anyone else - meet the definition of disability in the Act.

3.4 Discrimination

This consists of a failure to consider the needs of people with disabilities in the provision of services or arrangements for meetings or of applying an unnecessary requirement for a job. It also consists of treating people with disabilities as though they are incapable or expecting them to be incapable and, therefore, praising them for being capable.

3.5 Harassment

Harassment of people with disabilities includes actions or behaviour that is unwanted by the recipient such as unnecessary touching or attention, jokes about people with disabilities or the use of offensive terms to describe them.

4. Gender

4.1 Sexism

Sexism involves a belief that women are inferior to men and/or have a specific role to play, which is to serve the needs of men either as wife and carer or as a sex object. Sexism also involves the use of power to maintain this view of women as a reality.

4.2 Sexist language

Use of the male gender in language to describe jobs or people helps to perpetuate the view that women cannot do certain jobs or play certain roles which have traditionally been male dominated.

4.3 Institutional sexism

This refers to structures, procedures or practices that have been established on the basis of a belief that women can only undertake certain roles.

4.4 Sexual harassment

Sexual harassment involves conduct of a sexual nature that is unwanted by the recipient and which the perpetrator knew or should have known was offensive to the recipient. Examples include physical, verbal and visual harassment and persistent attention.

5. Transgender

A term used to include transsexual, transvestite, and cross dressers.

5.1 Transsexual

A person who feels a consistent and overwhelming desire to transition and fulfill their lives as members of the opposite gender. i.e. People who wish to change their body to completely resemble the gender they feel they belong to.

5.2 Transvestite

The clinical name for a cross dresser. A person who dresses in the clothing of the opposite sex. Generally they do not want to alter their body.

5.3 Hemaphroditism and Intersexuality

Where the physiological sex is ambiguous.

6. Lesbian, Gay and Bisexual

6.1 Homophobia

This consists of prejudice and bigotry based on hatred of lesbians and gay men.

6.2 Heterosexism

This is discrimination of lesbians and gays at both the personal and institutional level. Heterosexism is based on the assumption that heterosexuality is the superior and only 'natural' form of sexuality. As with other forms of discrimination, it involves a combination of prejudice and power to apply that prejudice.

6.3 Heterosexual

This refers to a person, male or female, who is sexually and emotionally attracted only to people of the opposite sex.

6.4 Homosexual

This term refers to a person, male or female who is sexually and emotionally attracted only to people of the same sex. It is both a legalistic and medicalised term and so its use is often seen to be oppressive.

6.5 Bisexual

This term refers to a person, male or female, who is sexually and emotionally attracted to people of both sexes at differing times.

6.6 Lesbian/Gay

Lesbians and gay men prefer these terms rather than 'homosexual'. Lesbians usually prefer the term lesbian rather than 'gay woman' because it reflects their separate identities and experiences. The order of reference is also important: the term 'lesbians and gay men' is preferred as it seeks to challenge the false assumption that male behaviour is defining and female behaviour is diminutive. The term is also preferred to 'the lesbian and gay community', which fails to recognise the diversity of experience and needs of lesbians and of gay men.

6.7 Coming Out

This is the term used by lesbians and gay men when they tell other people about their sexuality. It is not to be confused with 'being out' which is the general experience of being open about one's sexuality.

