



**MINUTES of
FINANCE AND CORPORATE SERVICES COMMITTEE
19 APRIL 2018**

PRESENT

Councillors	Mrs B F Acevedo, P G L Elliott, A S Fluker, Miss M R Lewis and Rev. A E J Shrimpton
Substitute Members	Councillors S J Savage and Mrs M E Thompson
In Attendance	Councillors R G Boyce MBE and D M Sismey

1027. APPOINTMENT OF CHAIRMAN

In the absence of both the Chairman and Vice-Chairman it was:

RESOLVED that Councillor A S Fluker be appointed Chairman for the meeting.

IN THE CHAIR : COUNCILLOR A S FLUKER

1028. CHAIRMAN'S NOTICES

The Chairman drew attention to the list of notices published on the back of the agenda.

1029. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors J P F Archer, I E Dobson, M F L Durham, CC, and D M Sismey.

In accordance with notice duly given it was noted that Councillor Mrs M E Thompson was attending as a substitute for Councillor Dobson and Councillor S J Savage was attending as a substitute for Councillor Sismey.

1030. MINUTES OF THE LAST MEETING

RESOLVED that the Minutes of the meeting of the Committee held on 6 March 2018 be approved and confirmed.

1031. DISCLOSURE OF INTEREST

Councillor A S Fluker advised that in the interest of openness and transparency and in relation to Agenda Item 10A Market Site – Update he knew and was an acquaintance of the claimant.

1032. PUBLIC PARTICIPATION

No requests had been received.

1033. LEVEL ONE BUSINESS PLAN 2018 / 19 - RESOURCES DIRECTORATE

The Committee considered the report of the Director of Resources seeking Members' approval of the Level One Business Plan 2018 / 19 for the Resources Directorate, attached at Appendix 1 to the report.

The report reminded Members of the existing Corporate Plan for the period 2015 – 2019 which set the vision and corporate goals that the Council agreed to focus on over the four year period along with a suite of high level outcomes associated with each goal. The Level One Business Plan provided the priorities and targets within the Resources Directorate for the next 12 months.

RESOLVED that the part of the Level One Business Plan for the Resources Directorate for 2018 / 19 be agreed.

1034. CORPORATE HEALTH AND SAFETY

The Committee received the report of the Director of Resources on Corporate Health and Safety activity for Quarter Four (1 January to 31 March 2018). A summary by Directorate and a description of the reported accidents and near misses were set out in the report.

Appendix 1 to the report provided details of progress with the Health and Safety Action Plan for 2017 / 18 and it was noted that all procedures had been reviewed although some service risk assessments were outstanding review.

The Health and Safety Action Plan 2018 / 19 was attached at Appendix 2 to the report.

It was noted that there were very few accidents and no near misses during quarter four and none of the accidents required follow up action. The number of unacceptable behaviour reports remained constant with no significant trend upwards.

Members were advised that the Council's Health and Safety Advisory had undertaken a legionella audit. The audit had resulted in some improvements being identified and these had been notified to the relevant managers for appropriate action.

RESOLVED

- (i) that the accident and incident statistics for quarter four be noted;

- (ii) that progress with the Health and Safety Action Plan for 2017 / 18 be noted;
- (ii) that the Health and Safety Action Plan for 2018 / 19 be agreed.

1035. HUMAN RESOURCES POLICIES AND PROCEDURES

The Committee considered the report of the Director of Resources seeking Members consideration of Human Resources policies and procedures which had been amended and developed.

Appendix 1 to the report provided a list of all policies and procedures which had recently been updated along with details of the amendments made.

A new Equality and Diversity in Employment Policy (Appendix 2 to the report) had been developed, to assist the Council in fulfilling its commitment to provide equal opportunities in employment whilst avoiding unlawful discrimination. Appendix 3 to the report contained Equality Act 2010 Guidance to be placed alongside the Equality and Diversity in Employment Policy.

In response to a question, the Director of Resources advised that equality and diversity training should be included as part of the induction process for new Members but also as a refresher for existing Members.

RESOLVED

- (i) that the updates to policies and procedures are noted;

RECOMMENDED

- (ii) That the Equality and Diversity Policy (**APPENDIX 1** to these Minutes) and Equality Act 2010 Guidance (**APPENDIX 2** to these Minutes) be approved.

1036. SUPPLEMENTARY ESTIMATES, VIREMENTS AND USE OF RESERVES: 1 FEBRUARY - 21 MARCH 2018

The Committee considered the report of the Director of Resources, reporting virements and supplementary estimates agreed under delegated powers and procurement exemptions granted. The report also sought Members' approval of a request to draw down on reserves.

Members were advised that there had been:

- no virements.
- one supplementary estimate to commence in 2018 / 19 for the Treasury Advisory Service. It was noted that having been out to tender one quotation had been received which was higher than the current budget allocation for the 2018 / 19 financial year. Following a review of contract costs from other Authorities it was noted that the contract cost was in line with the cost for other authorities.

- one procurement exemption for the Treasury Management Advisory Contract as only one tender had been received.

In response to a question regarding the Treasury Advisory Service and whether Councils could achieve economies of scale and value for money if such service was procured in bulk, the Director of Resources advised that this was being reviewed by Essex Finance Officers Association.

RESOLVED

- that the supplementary estimate granted during the period 1 February – 21 March and as detailed in paragraph 3.3.1 of the report, be noted;
- that the procurement exemption granted during the period 1 February – 21 March and as detailed in paragraph 3.4.1 below be noted.

1037. URGENT ITEMS OF BUSINESS

Councillor A S Fluker announced that in accordance with Section 100B(4) of the Local Government Act 1972 the Chairman of the Committee had agreed to allow the Director of Resources to raise two urgent items of business as it was necessary to consider and make a decision on them prior to the next meeting of the Finance and Corporate Services Committee being Agenda Item 10A - Market Site Update and Agenda Item 10B - Lease of Office Accommodation. Due to the nature and content of these items the Committee agreed to consider them following Agenda Item 11 – Exclusion of Public and Press.

1038. EXCLUSION OF PUBLIC AND PRESS

RESOLVED that under Section 100A (4) of the Local Government Act 1972 the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 1, 2, 3 and 5 of Part 1 of Schedule 12A to the Act, and that this satisfies the public interest test.

Further to the earlier agreement, it was agreed that the two urgent items of business would be considered after Agenda Item 13 – Legal Services Expenditure.

1039. CHIEF EXECUTIVE'S PERFORMANCE APPRAISAL

The Committee received the report of the Leader of the Council updating Members on progress of the Chief Executive's performance appraisal.

It was noted that the Chief Executive's appraisal had been undertaken on 29 January 2018 by the Leader and Deputy Leader of the Council. The appraisal reviewed performance against previous appraisal objectives which were set out in Appendix 1 to the report. Objectives to be set for the Chief Executive for 2018 / 19 were agreed at the appraisal and set out in the report.

A number of concerns were raised relating to the process of undertaking the Chief Executive's appraisal and whether the appraisal had been carried out in accordance with the agreed procedures. Concerns were also raised around the lack of reporting of this item during 2017 / 18. Councillor Miss M R Lewis stated that an appraisal had taken place in April 2017 and following a debate the Chairman advised that he would look into the issue and report back to the Committee.

In light of the comments raised Councillor A S Fluker proposed that the Committee should advise the Leader of the Council and Chief Executive that it did not believe that the Chief Executive's performance appraisal had been carried out correctly and procedures followed. In addition, a report should be brought back to this Committee once the correct procedures had been followed. This was agreed. Councillor Fluker also undertook to update the Committee by email on this item following discussions with the Leader of the Council and Chief Executive.

RESOLVED that the Leader of the Council and Chief Executive be advised that the Finance and Corporate Services Committee did not believe that the Chief Executive's performance appraisal had been carried out correctly and procedures followed. In addition, a report should be brought back to the Finance and Corporate Services Committee once it could be confirmed that correct procedures had been followed.

1040. LEGAL SERVICES EXPENDITURE 2014 / 15 TO 2016 / 17

The Committee considered the report of the Director of Resources providing a summary of the Council's expenditure on Legal Services following the decision in May 2014 to provide Legal Services internally.

The report provided detailed background information regarding the delivery of legal services at the Council including levels of expenditure incurred on legal services. The Director of Resources presented the report and highlighted a number of areas for Members' consideration.

Following a lengthy debate, a number of areas were highlighted for further investigation and it was:

RESOLVED that the Director of Resources:

- considers and reports on whether the appointment of the Deputy Monitoring Officer fully complied with the Council's Human Resources policies and procedures;
- reviews the options for the provision of legal services including outsourced delivery models with and without an in-house Monitoring Officer and reports back to this Committee;
- reviews and reports back on the mechanisms put in place by the Joint Negotiating Committee Handbook in respect to the role of Deputy Monitoring Officer;
- undertakes a review of the appointment of Deputy Monitoring Officer and whether this should be a Member appointment;

Councillor D M Sismey joined the meeting during this item of business.

1041. MARKET SITE - UPDATE

The Committee considered the urgent report of the Director of Resources, providing details of a recent offer received by the Council.

It was noted that this matter was brought forward for consideration, as it was necessary to consider and make a decision on the recent offer received prior to the next meeting of the Finance and Corporate Services Committee.

The report provided a summary of key issues and detailed background information. A map of the Market Site area was provided at Appendix 1 to the report.

A lengthy debate ensued, during which concerns were raised regarding the length of lease suggested (50 years) and level of discount requested. It was agreed that the recommendations in the report not be agreed but that the Director of Resources, in consultation with the Chairman of this Committee (or his substitute), be authorised having sought Counsel's advice to negotiate the terms of the lease with the claimant.

RESOLVED that the Director of Resources, in consultation with the Chairman of this Committee (or his substitute), be authorised having sought Counsel's advice to negotiate the terms of the lease with the claimant.

Councillor Rev. A E J Shrimpton left the meeting at this point.

1042. LEASE OF OFFICE ACCOMMODATION

The Committee considered the urgent report of the Director of Resources seeking Members' agreement to market unutilised space within the Council Offices on the open market to find a new tenant.

It was noted that this matter was brought forward for consideration, as it was necessary negotiate and enter into a new lease prior to the next meeting of the Finance and Corporate Services Committee.

Appendix 1 to the report provided a map of the Council offices highlighting the area for consideration.

RESOLVED that the Director of Resources in consultation with the Chairman of the Finance and Corporate Services Committee, and on the advice of a legal advisor and Independent Valuer, be authorised to negotiate and enter into a new lease for unutilised space in the Council Offices.

There being no further items of business the Chairman closed the meeting at 9.10 pm.

A S FLUKER
CHAIRMAN



Equality and Diversity in Employment Policy *(Draft)*



Document Control Sheet

Document title	Equality and Diversity in Employment
Summary of purpose	Maldon District Council is committed to providing equal opportunities in employment and avoiding unlawful discrimination. This policy is intended to assist the Council to put this commitment into practice. Compliance with this policy should also ensure that employees do not commit unlawful acts of discrimination.
Prepared by	HR
Status	Final
Version number	1
Approved by	
Approval date	
Date of implementation	
Review frequency	
Next review date	As required by legislative changes
Circulation	All staff
Published on the Council's website	

Validity Statement

This document is due for review as and when relevant legislation changes. Users of the policy should ensure that they are consulting the currently valid version of the document.

If you would like this information in large print, Braille or another language, please contact HR.



MALDON DISTRICT
COUNCIL

Contents

	Page
Policy Statement	4
Scope of this Policy	4
1. Equal Opportunities in the Workplace	4
2. Customers, suppliers and other people not employed by the Council	4
3. Training	4
4. Employee Responsibilities	4
5. Grievances	5
6. Monitoring and Review	5

Policy Statement

Maldon District Council is committed to providing equal opportunities in employment and avoiding unlawful discrimination.

This policy is intended to assist the Council to put this commitment into practice. Compliance with this policy should also ensure that employees do not commit unlawful acts of discrimination.

Striving to ensure that the work environment is free of harassment and bullying and that everyone is treated with dignity and respect is an important aspect of ensuring equal opportunities in employment. The Council has a separate Grievance Policy which deals with these issues.

Please refer to the Council's Equality Act 2010 Guidance for additional information on protected characteristics and types of discrimination, as covered by the Equality Act 2010.

Scope of this Procedure

1. Equal Opportunities in Employment

1.1 The Council will avoid unlawful discrimination in all aspects of employment including recruitment, promotion, opportunities for training, pay and benefits, discipline and selection for redundancy. Person and job specifications will be limited to those requirements that are necessary for the effective performance of the job. Candidates for employment or promotion will be assessed objectively against the requirements for the job, 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.

1.2 See Supporting Disabled Employees Guidance.

2. Customers, suppliers and other people not employed by the Council

2.1 The Council will not discriminate unlawfully against customers using or seeking to use goods, facilities or services provided by the organisation.

2.2 Employees should report any bullying or harassment by customers, suppliers, visitors or others to their manager who will take appropriate action.

2.3 Please refer to the Council's Corporate Equality Policy for further information.

3. Training

3.1 The Council will provide learning opportunities in equal opportunities to staff to help them understand their responsibilities with regard to equalities and what they can do to help create a working environment free of bullying and harassment.

4. Employee Responsibilities

4.1 Every employee is required to assist the Council to meet its commitment to provide equal opportunities in employment and avoid unlawful discrimination.

4.2 Employees can be held personally liable as well as, or instead of, the Council for any act of unlawful discrimination. Employees who commit serious acts of harassment may be guilty of a criminal offence.

4.3 Acts of discrimination, harassment, bullying or victimisation against employees or customers are disciplinary offences and will be dealt with under the council's Disciplinary Policy. Discrimination, harassment, bullying or victimisation may constitute gross misconduct and could lead to dismissal without notice.

5. Grievances

5.1 Where an employee considers that they have been unlawfully discriminated against, or if the complaint involves alleged bullying or harassment, they may use the Council's Grievance Policy to make a complaint.

5.2 The Council will take any complaint seriously and will seek to resolve any grievance that it upholds. Employees will not normally be penalised for raising a grievance, even if the grievance is not upheld, unless the complaint is made in bad faith or for some other malicious or inappropriate reason.

5.3 Use of the Council's Grievance Policy does not affect an employee's right to make a complaint to an employment tribunal. Complaints to an employment tribunal must normally be made within three months beginning with the act of discrimination complained of.

6. Monitoring and Review

6.1 This policy will be monitored periodically by the Council to judge its effectiveness and will be updated in accordance with changes in the law.

6.2 Information provided for monitoring purposes will be used only for these purposes and will be dealt with in accordance with the Data Protection Act 1998.

The Equality Act 2010

The Act makes it unlawful to discriminate directly or indirectly in recruitment or employment because of:

- Age
- Disability
- Gender reassignment
- Marriage and Civil Partnerships
- Pregnancy & Maternity
- Race (which includes colour, nationality and ethnic or national origins)
- Religion or Belief
- Sex (formally Gender)
- Sexual orientation

These are known as "protected characteristics".

In addition, the Act also defines specific types of discrimination.

For further information on protected characteristics and types of discrimination see Equality Act 2010 Guidance.

This page is intentionally left blank

Equality Act 2010 Guidance



Document Control Sheet

Document title	Equality Act 2010 Guidance
Summary of purpose	Maldon District Council is committed to providing equal opportunities in employment and avoiding unlawful discrimination. This guidance document provides additional information on the protected characteristics and types of discrimination, as covered by the Equality Act 2010.
Prepared by	HR
Status	Final
Version number	1
Approved by	
Approval date	
Date of implementation	
Review frequency	
Next review date	As required by legislative changes
Circulation	All staff
Published on the Council's website	

Validity Statement

This document is due for review as and when relevant legislation changes. Users of the policy should ensure that they are consulting the currently valid version of the document.

If you would like this information in large print, Braille or another language, please contact HR.



MALDON DISTRICT
COUNCIL

Contents

	Page
Policy Statement	4
Section 1: Overview	4
1. Scope	4
2. Links to Other Policies / Procedures	4
Section 2: Guidance	5
1. Age	5
2. Disability	6
3. Gender Re-assignment	8
4. Marriage and Civil Partnership	8
5. Pregnancy and Maternity	9
6. Race	10
7. Religion or Belief	11
8. Sex	11
9. Sexual Orientation	11
10. Caste	12
Types of Discrimination	12
1.1 Direct Discrimination	12
1.2 Indirect Discrimination	12
1.3 Harassment	13
1.4 Bullying	14
1.5 Associative Discrimination	14
1.6 Perceptive Discrimination	14
1.7 Victimisation	15

Section 1 - Overview

This guidance document provides additional information on the protected characteristics and types of discrimination, as covered by the Equality Act 2010.

This guidance covers how we treat everyone; colleagues, customers and other stakeholders. The guidance should also be used when policies are being planned and services are commissioned. Further information can also be found in the Council's Corporate Equality Policy.

1. Scope

- 1.1 This document has been produced as a guidance document to enable those concerned to better understand the Equality Act.
- 1.2 Any issues relating to discrimination should be raised immediately with the line manager and / or Human Resources in conjunction with the Grievance Policy and Procedure.

2. Links to other Policies / Procedures:

MDC Equality and Diversity in Employment Policy
 Disability Confident Scheme
 Guide for Managers – the Duty to Make Reasonable Adjustments
 MDC Corporate Equality Policy
 Grievance Policy and Procedure (for further information on bullying and harassment)

Section 2 - Guidance

Protected Characteristics

1. Age

1.1 The Act protects people of all ages. However, different treatment because of age is not unlawful direct or indirect discrimination if it can be justified, i.e. if the employer can demonstrate that it is a proportionate means of meeting a legitimate aim. Age is the only protected characteristic that allows employers to justify direct discrimination.

1.2 An age group includes people of the same age and people of a particular range of ages. Where people fall in the same age group they share the protected characteristic of age. An age group would include “over fifties” or twenty-one year olds. A person aged twenty-one does not share the same characteristic of age with “people in their forties”. However, a person aged twenty-one and people in their forties can share the characteristic of being in the “under fifty” age range.

1.3 Where it is necessary to compare the situation of a person belonging to a particular age group with others, the Act does not specify the age group with which comparison should be made. It could be everyone outside the person's age group, but in many cases the choice of comparator age group will be more specific; this will often be led by the context and circumstances.

Example

A female employee aged 25 could be viewed as sharing the protected characteristic of age with a number of different age groups. These might include '25 year olds', 'the under 30s', 'the over 20s', and 'younger workers'.

The employee in this example might compare herself to 'over 25s', or 'over 35s', or 'older workers'. She could also compare herself to 'the under 25s' or '18 year olds'.

2. Disability

2.1 A person has a disability if they have a physical or mental impairment and the impairment has a **substantial** and **long-term** adverse effect on their ability to perform **normal day-to-day activities**.

2.2 This section replaces similar provisions in the Disability Discrimination Act (DDA) 1995 and provisions in secondary legislation made under the DDA.

2.3 For the purposes of the Equality Act, these words have the following meanings:

- **'substantial'** means more than minor or trivial
- **'long-term'** means that the effect of the impairment has lasted or is likely to last for at least twelve months (there are special rules covering recurring or fluctuating conditions)
- **'normal day-to-day activities'** includes everyday things like eating, washing, walking and going shopping, using a telephone, reading a book or using public transport.

2.4 Where people have the same disability, they share the protected characteristic of disability.

2.5 The Act puts a duty on employers to make reasonable adjustments for their employees to help them overcome disadvantage resulting from impairment, for example, by providing assistive technologies to help visually impaired staff use computers effectively.

2.6 The Act includes a new protection from discrimination arising from disability. This states that it is discriminatory to treat a disabled person unfavourably because of something connected with their disability (e.g. a tendency to make spelling mistakes arising from dyslexia). This type of discrimination is unlawful where the employer or other person acting for the employer knows, or could reasonably be expected to know, that the person has a disability. This type of discrimination is only justifiable if an employer can show that it is a proportionate means of achieving a legitimate aim.

2.7 Additionally, indirect discrimination now covers disabled people. This means that a job applicant or employee could claim that a particular rule or requirement you have in place disadvantages people with the same disability. Unless the employer can justify this, it would be unlawful.

2.8 The Act also includes a new provision which makes it unlawful, except in certain circumstances, for employers to ask about a candidate's health before offering them work.

Progressive conditions considered to be a disability

2.9 There are additional provisions relating to people with progressive conditions. People with HIV, cancer or multiple sclerosis are protected by the Act from the point of diagnosis. People with some visual impairments are automatically deemed to be disabled. For further information on visual impairments see the RNIB website (<http://www.rnib.org.uk>).

Reasonable Adjustments

2.10 The Act requires employers to make reasonable adjustments for their employees 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.

Example 1

Providing assistive technologies to help visually impaired employees use computers effectively.

Example 2

Provide additional time for job candidates with dyslexia to complete written tasks.

Example 3

Consider the physical features of where a meeting is due to take place i.e. stairs, ramps, access etc. to ensure that disabled people are not put at a disadvantage.

Failure to Make Reasonable Adjustments

2.11 This 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.

2.12 Employees should not discriminate against or harass a member of the public in the provision of services or goods. It is unlawful to fail to make reasonable adjustments to overcome barriers to using services caused by disability. The duty to make reasonable adjustments includes the removal, adaptation or alteration of physical features, if the physical features make it impossible or unreasonably difficult for disabled people to make use of services. In addition, service providers have an obligation to think ahead and address any barriers that may impede disabled people from accessing a service.

2.13 Please see Guide for Managers – The Duty to Make Reasonable Adjustments.

Disability Confident

2.14 Disability Confident is a scheme that is designed to help employers recruit and retain disabled people and people with health conditions for their skills and talent.

2.15 The Department for Work and Pensions Disability Confident scheme replaces the previous 'Two Ticks Positive about Disabled People' scheme. The scheme aims to help employers make the most of the opportunities provided by employing disabled people.

There are 3 levels to the Disability Confident Scheme:

- Level 1 – Committed
- Level 2 – Employer
- Level 3 – Leader

2.16 Employers who sign up to the Disability Confident scheme agree to take action on the following commitments:

- Ensure the recruitment process is inclusive and accessible
- Communicate and promote vacancies
- Offer an interview to disabled people if they meet the minimum criteria for the post
- Anticipate and provide reasonable adjustments as required when disabled employees are applying for and doing their jobs
- Support any existing employee who acquires a disability or long term health condition, enabling them to stay in work

2.17 The Council has committed to the Disability Confident Scheme and has also been accredited as a Disability Confident Committed employer (i.e. level 1 of the scheme).

2.18 As a Disability Confident employer, we recognise the rights of disabled staff to be considered fully and fairly in all aspects of employment.

2.19 Further information about the Disability Confident scheme can be found on the GOV.UK website.

3. Gender Reassignment

3.1 This is defined for the purpose of the Act as where a person has proposed, started or completed a process to change his or her sex. A transsexual person has the protected characteristic of gender reassignment and it is unlawful to discriminate against such a person in work and in the provision of goods, facilities, services and public functions.

3.2 A woman making the transition to being a man and a man making the transition to being a woman both share the characteristic of gender reassignment, as does a person who has only just started out on the process of changing his or her sex and a person who has completed the process.

3.4 It is discriminatory to treat transsexual people less favourably for being absent from work because they propose to undergo, are undergoing or have undergone gender reassignment than they would be treated if they were absent because they were ill or injured.

Example 1

A transsexual employee takes time off to attend a Gender Identity Clinic as part of the gender reassignment process. His employer cannot treat him less favourably than he would treat him for absence due to illness or injury, for example by paying him less than he would have received if he was off sick.

Example 2

A transsexual employee tells her boss that she intends to undergo gender reassignment and asks if she can take an afternoon off as annual leave to attend counselling. The request is refused without any reasons given even though there are enough work colleagues in the team available that day to cover her absence. This could amount to gender reassignment discrimination.

4. Marriage And Civil Partnership

4.1 The Act protects employees who are married or in a civil partnership against discrimination. Single people are not protected.

4.2 A heterosexual man and a heterosexual woman who are married to each other and a man and another man who are married to each other/civil partners and a woman and another woman who are married to each other/civil partners all share the protected characteristic of marriage and civil partnership.

- People who are not married or civil partners do not have this protected characteristic.
- A person who is engaged to be married is not married and therefore does not have this protected characteristic.
- A divorcee or a person whose civil partnership has been dissolved is not married or in a civil partnership and therefore does not have this protected characteristic.

4.3 It is unlawful to:

- Dismiss a worker after he or she gets married or enters into a civil partnership.
- To not offer a job to an applicant who has all the relevant experience and skills because she has just got married and the employer thinks she will be focused on starting a family, not her career.
- As a line manager and colleague, ignore a worker and leave her out of work-related social activities resulting in an official complaint that her supervisor is discriminating against her because she is married.

Example

An example of direct discrimination is where a married worker is not promoted, instead the job is offered to a single person because the new role will require socialising and networking which the employer believes a single person would have the time to do.

5. Pregnancy And Maternity

5.1 A woman is protected against discrimination on the grounds of pregnancy and maternity in her employment during the period of her pregnancy and any statutory maternity leave to which she is entitled. This is now separate from protection on grounds of sex, which is not available to a woman during pregnancy and maternity.

5.2 It is unlawful to take into account an employee's period of absence due to pregnancy related illness when taking a decision about her employment.

Example

Linda is pregnant and works at a call centre. The manager knows Linda is pregnant but still disciplines her for taking too many toilet breaks as the manager would for any other member of staff. This is discrimination because of pregnancy and maternity as this characteristic doesn't require the normal comparison of treatment with other employees.

6.1 The Act says you must not be discriminated against because of your race. This section replaces similar provisions in the Race Relations Act 1976.

6.2 For the purposes of the Act 'race' is defined as:

- **Colour:** for example includes being black or white
- **Nationality** (including citizenship) for example includes being a British, Australian or Swiss citizen
- **Ethnic or national origins:** for example includes being from a Roma background or of Chinese heritage.

6.3 A racial group could be 'black Britons' which would encompass those people who are both black and who are British citizens.

Race also covers ethnic and racial groups. This means a group of people who all share the same protected characteristic of ethnicity or race.

6.4 A racial group can be made up of two or more distinct racial groups, for example black Britons, British Asians, British Sikhs, British Jews, Romany Gypsies and Irish Travellers.

Example

An example of indirect discrimination is if a hairdresser refuses to employ stylists that cover their own hair. This would put any Muslim Women or Sikh men who cover their hair at a disadvantage when applying for a position as a stylist. Or, John is not given a position because he is British but born to Jamaican partners, i.e. because of their Jamaican national origins.

7. Religion or Belief

7.1 Religion means any religion and a reference to religion also includes a reference to a lack of religion.

- **A religion** must have a clear structure and belief system. Denominations or sects within a religion can be considered to be a religion or belief, such as Protestants and Catholics within Christianity.
- **A belief** means any religious or philosophical belief and a reference to belief includes a reference to a lack of belief
- **A “philosophical belief”** must
 - Be genuinely held;
 - Be a belief and not an opinion or viewpoint based on the present state of information available;
 - Be a weighty and substantial aspect of human life and behaviour;
 - Attain a certain level of cogency, seriousness, cohesion and importance;
 - Be worthy of respect in a democratic society, compatible with human dignity and not conflict with the fundamental rights of others.

7.2 Any cult involved in illegal activities is not covered. Beliefs such as humanism and atheism would be covered.

7.3 Discrimination because of religion or belief can occur even where both the discriminator and recipient are of the same religion or belief.

7.4 People who are of the same religion or belief share the protected characteristic of religion or belief.

7.5 This section replaces similar provisions in the Employment Equality (Religion or Belief) Regulations 2003 and the Equality Act 2006.

8. Sex

- Formally defined as Gender, both men and women are protected under the Act.
- A reference to a person who has a particular protected characteristic is a reference to a man or to a woman
- A reference to persons who share a protected characteristic is a reference to persons of the same sex
- Men share the sex characteristic with other men and women with other women.

9. Sexual Orientation

9.1 The Act protects bisexual, gay, heterosexual and lesbian people and is defined as a person's sexual orientation towards:

- people of the same sex as him or her (in other words the person is a gay man or a lesbian)
- people of the opposite sex from him or her (the person is heterosexual)
- people of both sexes (the person is bisexual).

9.2 People sharing a sexual orientation mean that they are of the same sexual orientation and therefore share the characteristic of sexual orientation.

9.3 The definition is designed to replicate the effect of similar provisions in the Employment Equality (Sexual Orientation) Regulations 2003 and the Equality Act 2006.

10. Caste

10.1 The Government Equalities Office consultation, Caste in Great Britain and Quality Law, on how to address caste discrimination closed on 18 September 2017.

10.2 This consultation explores how to ensure that there is appropriate and proportionate legal protection against unlawful caste discrimination with due consideration given to how such protection would be implemented in practice. Caste is not currently included within the Equality Act 2010.

Types of Discrimination

11. Direct Discrimination

11.1 This is where a person is treated less favourably than another because of a protected characteristic they have or are thought to have (see perception discrimination below), or because they associate with someone who has a protected characteristic (see discrimination by association below).

11.2 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.

Example 1

An employer refuses to employ a woman because she is pregnant. This is direct discrimination on grounds of pregnancy.

Example 2

Paul, a senior manager, turns down Angela's application for promotion to a supervisor position. Angela, who is a lesbian, learns that Paul did this because he believes the team that she applied to manage are homophobic. Paul thought that Angela's sexual orientation would prevent her from gaining the team's respect and managing them effectively. This is direct sexual orientation discrimination against Angela.

12. Indirect Discrimination

12.1 This is where a provision, criterion or practice is applied that is discriminatory in relation to individuals who have a relevant protected characteristic (although it does not explicitly include pregnancy and maternity, which is covered by indirect sex discrimination) 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.

Being proportionate means being fair and reasonable, including showing that 'less discriminatory' alternatives have been looked at prior to any decision made. Indirect discrimination can be justified if the employer can show that they acted reasonably, i.e. that it is 'a proportionate means of achieving a legitimate aim'. A legitimate aim might be any lawful decision the employer makes in running the business, but if there is a discriminatory effect, the sole aim of reducing costs is likely to be unlawful.

Example

A small finance company needs its staff to work late on a Friday afternoon to analyse stock prices in the American finance market. The figures arrive late on Friday because of the global time differences. During the winter some staff would like to be released early on Friday afternoon in order to be home before sunset – a requirement of their religion. They propose to make the time up later during the remainder of the week.

The company is not able to agree to this request because the American figures are necessary to the business, they need to be worked on immediately and the company is too small to have anyone else able to do the work.

The requirement to work on Friday afternoon is not unlawful indirect discrimination as it meets a legitimate business aim and there is no alternative means available.

13. Harassment

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

Example

Example 1

Paul is disabled and is claiming harassment against his line manager after she frequently teased and humiliated him about his disability. Richard shares an office with Paul and he too is claiming harassment, even though he is not disabled, as the manager's behaviour has also created an offensive environment for him.

Example 2

Steve is continually being called gay and other related names by a group of employees at his work. Homophobic comments have been posted on the staff noticeboard about him by people from this group. Steve was recently physically pushed to the floor by one member of the group but is too scared to take action. Steve is not gay but heterosexual; furthermore the group know he isn't gay. This is harassment because of sexual orientation.

Harassment applies to all protected characteristics except for pregnancy and maternity and marriage and civil partnership. Employees will be able to complain of behaviour that they find offensive even if it is not directed at them, and the complainant need not possess the relevant characteristic themselves.

13.2 Employees are also protected from harassment because of perception and association.

14. Bullying

14.1 Bullying is offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means which undermine, humiliate, denigrate or injure the individual or a group of employees. This kind of conduct is usually sustained.

Example

Examples of bullying are:

- shouting at an employee in front of others
- sarcastic comments deliberately aimed at the individual
- ridiculing someone or deliberately setting them up to fail
- overbearing supervision or other misuse of power or position
- making threats about job security without foundation
- undermining a competent worker by overloading and constant criticism

14.2 For further information on bullying and harassment please see the Council's Grievance Policy.

15. Associative Discrimination

15.1 This is where an individual is directly discriminated against or harassed for association with another individual who has a protected characteristic (although it does not cover harassment because of marriage and civil partnership, and pregnancy and maternity).

Example

June works as a project manager and is looking forward to a promised promotion. However, after she tells her boss that her mother, who lives at home, has had a stroke, the promotion is withdrawn. This may be discrimination against June because of her association with a disabled person.

16. Perceptive Discrimination

16.1 This 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 (other than marriage and civil partnership, and pregnancy and maternity).

Example

Jim is 45 but looks much younger. Many people assume that he is in his mid-20's. He is not allowed to represent his company at an international meeting because the Managing Director thinks that he is too young. Jim has been discriminated against on the perception of a protected characteristic of age.

17. Victimisation

17.1 This occurs where an employee is subjected to a detriment, such as being denied a training opportunity or a promotion because they made or supported a complaint or raised a grievance, or because they are suspected by the employer of doing so. However, an employee is not protected from victimisation if they acted maliciously or made or supported an untrue complaint.

Example 1

A blind employee raises a grievance that the employer is not complying with its duty to make reasonable adjustments, and is then systematically excluded from all meetings; such behaviour could amount to victimisation.

Example 2

Anne makes a formal complaint against her manager because she feels that she has been discriminated against because of marriage. Although the complaint is resolved through the organisation's grievance procedures, Anne is subsequently ostracised by her colleagues, including her manager. She could claim victimisation.

This page is intentionally left blank