**Ensuring Equality, Respecting Diversity and Preventing Discrimination**

**Policy and Guidance Notes**

**Frameworks that have informed the development of this Policy**

*ACAS’s advisory booklet on ‘Delivering equality and Diversity’*

This policy and set of guidance notes have been developed with reference to the Advisory Conciliation and Arbitration Service’s (ACAS) advisory booklet on ‘Delivering equality and diversity’. This can be accessed via the following link:

<http://www.acas.org.uk/media/pdf/t/l/Delivering-equality-and-diversity-advisory-booklet.pdf>

*The Equalities Act 2010*

Our approach to ensuring equality and respecting diversity is also governed by the Equality Act 2010, which makes it unlawful to discriminate directly or indirectly, in recruitment or employment because of what the act terms a ‘protected characteristic’. The protected characteristics identified in the Equalities Act 2010 are:

* age
* disability
* gender (or sex)
* gender reassignment
* race
* religion or belief
* sexual orientation
* pregnancy and maternity
* marriage and civil partnership.

This policy and these guidance notes are equally applicable to our staff, the people we support and anyone else we come into contact with as a consequence of our work.

*The Health and Social Care Act 2008 regulations (2014) – What CQC expect*

The Health and Social Care Act 2008 regulations (2014) set out the grounds on which services need to be protecting diversity and promoting people’s equality and human rights. In particular:

* Regulation 10 – Dignity and respect – requires service providers to [have] due regard to any relevant protected characteristics of the service user.
* Regulation 13 – Safeguarding service users from abuse and improper treatment – states that care or treatment must not be provided in a way that includes discrimination against a service user on grounds of any protected characteristic.
* Regulation 9 – Person centred care – requires providers [to make] reasonable adjustments to enable the service user to receive their care or treatment.
* Regulation 19 – Fit and proper persons employed – requires providers to employ people who are physically and mentally capable, after reasonable adjustments are made, of properly performing tasks which are intrinsic to the work for which they are employed.

**The principles of our Ensuring Equality, Respecting Diversity and Preventing Discrimination policy**

The key principles of this policy are to:

* promote equality for all
* promote an inclusive culture
* respect and value the differences between people
* prevent discrimination, harassment and victimisation
* promote and foster good relations across the workforce and with partners.

**Policy Statement in relation to respecting diversity**

[Service name] believes that all human beings have equal worth and should be afforded equal respect regardless of their gender identification or sexuality, their race, their religion or belief system, their cultural identity, their age, their marital status or their disability.

As a company we believe that diversity or ‘the differences between people’ are a source of richness and something that should be valued. It would be a dull world indeed if we were all the same. The differences between people brings with it different experiences and perspectives. Welcoming diversity can therefore result in greater tolerance and enhance our collective learning and understanding.

We believe that individuals and societies are richer when there is a mutual appreciation of the differences between people and it is our objective to promote this within our workplaces, amongst both staff and people who use our services.

**Policy Statement in relation to ensuring equality**

As a company we believe that if all human beings have equal worth then they should be afforded equality of opportunity. We believe that no one should be subject to discrimination or marginalisation on account of any ‘protected characteristic’ and indeed to do so would be unlawful.

In endeavouring to ensure equality of opportunity, we adopt an ‘equalities approach’. Whilst normally we would provide the same information or resources to everybody, an equalities approach recognises that in certain circumstances we may have to do things a little differently for some people in order to provide them with the same opportunity as other people. This concept is neatly illustrated in the illustration below but it is also the basis of making ‘reasonable adjustments’ for people with disabilities.



**Policy Statement in relation to preventing discrimination**

It is our policy to ensure that neither our staff nor the people we support experience discrimination, marginalisation or exclusion because of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, ethnic origin, colour, nationality, national origin, religion or belief, sex and sexual orientation.

If either a member of staff or a person we support raises a concern in relation to experiencing discrimination, then this will be investigated thoroughly and if discrimination is found to have taken place, this will be dealt with under our Disciplinary Policy & Procedure.

**In summary**

All employees, whether part-time, full-time, permanent or temporary, will be treated fairly and with respect. Selection for employment, promotion, training or any other benefit will be on the basis of aptitude and ability. All employees will be helped and encouraged to develop their full potential and the talents and resources of the workforce will be fully utilised to maximise the efficiency of the organisation.

Our approach to equality is consistent with our role as a provider of person-centred services. It is pro-active and focuses on valuing diversity as well as avoiding all unfair discrimination. It values people as individuals and recognises the positive contribution that people with different backgrounds can make to the Company. In the event that any issues of unfair discrimination are brought to our attention, they will be dealt with in a fair, speedy and sensitive manner.

[Service name] commitments

As a company we want to ensure that we have an active commitment to ensuring equality, respecting diversity and preventing discrimination. As part of our approach, we intend to take the following actions:

1. *To ensure non- discriminatory services and practices*

We will ensure that our services and employment practices are in line with this policy and are appropriate, relevant and accessible to individuals or groups who experience discrimination. (for example, our policy employing disabled people.)

1. *Equal Opportunities monitoring*

We will ask employees and job applicants to provide us with information about their sex, race, ethnic origin and any disabilities as part of our Equal opportunities monitoring process. We will periodically review this information to enable us to address any issues identified. We guarantee that this information will only be used for the equal opportunities monitoring process for which it is intended.

1. *Reviewing our Policies and Procedures*

We will periodically review our policies and procedures to ensure that where relevant they remain aligned with this Ensuring Equality, Respecting Diversity and Preventing Discrimination policy and associated guidance notes.

1. *Staff training*

We have developed a workbook which provides staff with information that they need to know in relation to both this ‘Ensuring Equality, Respecting Diversity and Preventing Discrimination’ policy and our ‘Upholding People’s Human Rights policy.

All our staff will be asked to read this and answer the questions as part of their Care Certificate aligned induction programme.

We will also provide people with refresher training in these areas where a need is identified.

Your responsibility as an employee of [service name]

All employees or bank workers have a responsibility to comply with this policy. You must treat your colleagues and the people we support with respect and dignity at all times and must not discriminate against anyone as part of your employment with the company on the basis of any protected characteristic that they might have.

Any breach of this policy may result in disciplinary action. Unlawful discrimination may be regarded as gross misconduct and could lead to your dismissal.

**Guidance notes**

***What is unlawful discrimination?***

The Equality Act 2010 defines the different types of discrimination that are unlawful. These are:

*Direct discrimination*

Direct Discrimination is when someone is treated less favourably than another person because of a protected characteristic. Examples of direct discrimination would be refusing to recruit a woman because she is pregnant; or excluding one staff member from a team training event on account of their disability or race.

*Occupational Requirement (previously known as genuine occupational requirement*)

In limited circumstances, employers can directly discriminate against an individual for a reason related to any of the protect characteristics where there is an occupational requirement. The occupational requirement must be crucial to the post and be a proportionate means of achieving a legitimate aim. Decisions are made on a case by case basis. For example, an organisation that campaigns for LGBT legal rights may feel that their Chair should be lesbian, gay or bisexual.

*Indirect discrimination*

Indirect discrimination is when you have a condition, rule, criteria, policy or practice that applies to everyone but particularly disadvantages people who share a protected characteristic. An example of indirect discrimination would be a manager continually holding team meetings on a Monday, which is a day that a part-time member of the team does not work.

*Associative discrimination*

Associative discrimination is where an individual is directly discriminated against or harassed for association with another individual who has a protected characteristic. An example would be not promoting a staff member because they care for a parent who had a stroke. This is discrimination against the staff member because of their association with a disabled person.

*Perceptive discrimination*

Perceptive discrimination is where an individual is directly discriminated against or harassed based on a perception by others that they have a particular protected characteristic. It applies even if the individual does not actually possess that protected characteristic. An example would be if colleague A harasses colleague B because they think colleague B is HIV positive, even though they are not. Colleague A has made assumptions and discriminated against colleague B, based on a perception.

*Discrimination arising from disability*

Discrimination arising from disability is where an individual has been treated unfavourably because of something connected with their disability (so does not have to be the disability itself). An example would be disciplining a staff member for repeated spelling mistakes that are in fact caused by dyslexia. This type of discrimination is unlawful where the employer (or a line manager) knows, or could be reasonably expected to know, that the person has a disability.

*Harassment*

Harassment is unwanted conduct related to one of the protected characteristics that has the purpose or effect of violating a person’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. It does not matter whether or not this effect was intended by the person responsible for the conduct.

Employees can complain of behaviour that they find offensive even if it is not directed at them and the complainant does not need to possess any of the protected characteristics themselves.

*Victimisation*

Victimisation is when an employee is treated badly and subjected to detriment, such as being denied a training opportunity or a promotion because they made or supported a complaint or raised a grievance under the Equality Act 2010, or because they are suspected of doing so.

An employee is not protected from victimisation if they have maliciously made or supported an untrue complaint. An example would be if a disabled staff member raises a grievance that the line manager is not complying with the duty to make reasonable adjustments and is then systematically excluded from all meetings; such behaviour could amount to victimisation.

*Reasonable Adjustments*

Reasonable adjustments are positive steps that employers and organisations must legally take to remove any barriers people face to working in or accessing their service because of a disability.

The duty to make reasonable adjustments includes:

1. *Changing the way things are done*

An example might include a GP offering someone a double appointment or a home visit because these adjustments would be required to enable a person with a disability to get an effective service from them.

1. *Changing the physical features or layout of buildings*

If the physical features of a building or other premises make it more difficult for people with disability to access them then there may be a case for reasonable adjustments to be made. This could include making sure there is effective access to the building through the provision of ramps or lifts. Making sure that there are toilet facilities with disabled access and making sure that places that people need to access are clearly and properly signed.

1. *Providing extra aids or services*

Some people may require particular aids or equipment to help them access or do something. Or they may need additional services. Examples of these auxiliary aids and servicesmight include providing information in in alternative formats such as Braille or audio CDs or extra staff assistance. Hospitals for example have Learning Disability liaison nurses.

*When do people have to do these things?*

The Equalities Act says there's a duty to make reasonable adjustments if someone is placed at a substantial disadvantage because of their disability compared to non-disabled people or people who don't share their disability. Substantial means more than minor or trivial.

In addition, employers and employees have an obligation to think ahead and address any barriers that may impede disabled people from accessing a service, for example ensuring documents are available in alternative formats.

Appendix 1 – What to do if you believe you are being discriminated against

[Service name] will not tolerate unfair discriminatory behaviour. If you feel this is happening to you, you have the following options:

*For people we support*

If people we support feel they are experiencing discrimination, victimisation or harassment they should be supported to raise this with the Service Manager or the Managing Director. If they feel they are being subjected to these experiences by an Innovations staff member they should be informed that they can raise a formal complaint through our complaints procedure and to be supported to do this if this is required.

*For staff*

If staff feel they are being subjected to discrimination, victimisation or harassment they should report this using our grievance or harassment and bullying at work procedures.

In many instances a direct approach to the person may resolve the situation as they may be unaware of the impact of their behaviour. Ask the person to stop their behaviour, making clear what it is you are finding offensive and / or unacceptable and explaining the effect it is having on you.

If you do not feel it appropriate to (or are not able to) approach the person direct, raise the issues with your manager.

If the person involved is your manager (and / or you do not feel able to approach them) then you should raise your concerns with a more senior manager.

**Appendix 2: Ensuring equality – Good practice guidance**

*Staff recruitment and selection*

In order to promote equality through our staff recruitment and selection process we will:

1. Ensure our job descriptions are clear and concise and include:
* the title of the job
* the aim of the job
* the main tasks and who the employee will work with.
1. Ensure our person specifications for roles are linked to the job description and identify the skills, experience, knowledge and values a person needs
2. Use language in our recruitment literature that does not serve to discriminate. Examples might be: ‘needs to reach and bend to pick items from shelves’ is better than ‘needs to be physically fit’, and ‘needs to give clear information to clients by phone’ is better than ‘needs a good command of spoken English’
3. Ensure that our job adverts state that we welcome applications from all sections of the community
4. Remember that terms like ‘mature person’ or ‘young graduate’ in your job adverts may be discriminatory
5. Not ask health related questions before making a job offer (whether condition or unconditional), except in order to:
* determine if a candidate can carry out a function which is essential to the job
* ask whether candidates need special arrangements for any part of the application process
* anonymously monitor whether candidates are disabled
* take positive action to assist disabled people
* check that a candidate has a disability where this is a genuine requirement of the job.
1. Ensure that more than one person shortlists any job application forms in order to prevent any prejudice or bias
2. Review the process at the end of each shortlisting exercise to check points have been awarded on the evidence alone
3. Not ask questions at interview do of a personal nature – for example about marital status, sexual orientation or gender identity
4. Before appointing a person to the job, we will need to check their eligibility to work in this country under the appropriate Asylum and Immigration legislation.

*Training and development*

In order to promote equality in relation to staff training and development we will:

1. Ensure all staff have the same access to relevant training – regardless of whether they are part-time or full-time
2. Advertise promotion opportunities to all staff
3. Ask the same questions to internal and external candidates during any selection interview.

*Discipline and grievances*

In relation to dealing with discrimination or marginalisation should we encounter it, we will:

1. Ensure that any breaches of this policy are dealt with through our disciplinary procedure.

*Equal pay*

In relation to ensuring that all staff receive the same pay for the same work, we will:

1. Ensure that we have a clear pay structure in place which identifies the rates we will pay staff for each role based on their qualifications, their experience and their length of time with the company.

*Bullying and harassment*

In relation to the prevention of bullying and harassment of the people we support or staff members, we will:

1. Use the following ACAS guides on bullying and harassment at work
* ‘Bullying and Harassment at work: a guide for managers and employers’

<http://www.acas.org.uk/media/pdf/c/j/Bullying-and-harassment-in-the-workplace-a-guide-for-managers-and-employers.pdf>

* ‘Bullying and Harassment at work: a guide for employees’

<http://www.acas.org.uk/media/pdf/r/l/Bullying-and-harassment-at-work-a-guide-for-employees.pdf>

These will also be referred to as part of our Bullying and Harassment policy.

1. Have a clear management commitment to preventing unacceptable behaviour at work
2. Have a Bullying and Harassment policy which explains that:
* harassment occurs when ‘someone engages in unwanted conduct related to a protected characteristic (e.g. disability, race), which has the purpose or effect of violating someone else’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment’
* harassment may include offensive jokes, personal insults, persistent criticism, unwanted physical contact or ‘freezing’ someone out
* harassment and bullying at work can cause fear, stress, anxiety and physical sickness amongst employees. It may also put a heavy strain on personal and family life. It can lead to increased absenteeism, an apparent lack of commitment, poor performance and even resignation
* it is not the intention of the perpetrator which defines a particular type of harassment but the effect it has on the recipient.

*Adapting working practices*

In relation to making adaptations to our working practices, we will:

1. Meet the requirement of the Equality Act 2010 to make ‘reasonable adjustments’ to the working environment to give employees or potential employees with disabilities equal opportunities. This might mean:
* providing an adequate, ergonomic chair
* providing a power-assisted piece of equipment, or
* changing hours to ease travel to and from work.
1. Reasonable adjustments also include re-deploying an employee to a different type of work if necessary.
2. Respond sensitively to the religion or beliefs of employees and provide time off to observe religious festivals, flexible dress policies etc.

*Flexible working*

In relation to flexible working, we will:

1. Use the ACAS guide on ‘Flexible working and work-life balance’.

<http://www.acas.org.uk/media/pdf/j/m/Flexible-working-and-work-life-balance.pdf>

1. Consider different forms of flexible working such as job sharing, part-time working, flexible hours and annualised hours.
2. Introduce a trial period in relation to flexible working to make sure any flexible working arrangements work for both the company and our employees.
3. Give serious consideration to all requests for flexible working and particularly to those from parents of children and carers of adults.