



ELHAP Equality and Diversity Policy

1. Introduction

ELHAP is committed to making sure it provides equality of opportunity through employment and service delivery. ELHAP approaches Equality and Diversity on the principle of inclusion (increasing the diversity of people actively involved in and contributing to the development of sustainable communities). At its heart is a commitment to the value that all staff bring to the organisation because of their diverse characteristics. These cover race, gender, disability, age, marital status, sexuality, religion, background, personality and work style.

ELHAP as part of the community, will aim to influence, promote and maintain the equal treatment of all members within its community.

1.1 Purpose

1.1.1 ELHAP recognises diversity within its workforce and values this diversity as one of our strengths. ELHAP also recognises that this diversity is essential to provide a range of services in an equally diverse community. ELHAP will ensure that the different needs and expectations of its diverse workforce and community are met.

1.1.2 ELHAP will work hard to ensure that:

- As an employer, an employment environment is provided where people have the opportunity to contribute and develop according to their individual merits and aspirations.
- As a provider of services, which recognises the diversity of its local community, each service user and parent/carer is treated fairly and equally, in all its dealings.

1.1.3 ELHAP recognises that there is also a strong business case for placing a positive value on diversity in the workforce and in the community. Managing how staff deal with diversity will better enable ELHAP to provide appropriate, quality services for the whole community.

1.1.4 ELHAP will not discriminate directly or indirectly through applying conditions or requirements which contravene legislation and/or which cannot be shown to be justified.

1.1.5 ELHAP is committed to securing and working in partnership with its community, businesses and Local and National interest groups that represent all sections of the local community, in promoting an environment where fair and equitable services are provided.

2. Aims and scope of this policy

2.1. ELHAP's Equality and Diversity policy seeks to ensure that 'equality' remains an integral and contributory part of achieving our aims and objectives, by addressing equality in employment and service delivery and in its strategic planning processes.

2.2. ELHAP is committed to:

- the elimination of unfair or unlawful discrimination against its employees, job applicants, Trustees, service users, parents and visitors.
- the positive promotion of policies, procedures and practices designed to support equal opportunity at all stages of employment.
- the use, development and retention (wherever possible) of the full range of skills and talents of its employees and Trustees, regardless of race or colour; gender or marital status; disability, religion, sexuality and any other factors which are not relevant to people's ability or potential, except where this would result in a risk to the public and/or to employee safety.

2.3. ELHAP will act within the letter and spirit of equal opportunity legislation and related codes of practice.

2.4. ELHAP will not tolerate processes, attitudes and behaviour that amount to discrimination, including harassment, victimisation and bullying through prejudice, ignorance, thoughtlessness and stereotyping. This commitment will be demonstrated by the Board of Trustees and throughout ELHAP.

3. Requirements and responsibilities under the policy

3.1. Requirement

3.1.1. ELHAP's commitment to equality and diversity needs to be widely and effectively communicated throughout the workforce and to potential employees and contractors.

3.1.2. For this purpose:

- A statement of ELHAP's commitment to diversity and equal opportunity (e.g. Purpose and Aims (and Scope) of this Policy), shall be displayed within ELHAP.
- The principles of equal opportunity must be integrated into all ELHAP's policies e.g. recruitment & selection, disciplinary, grievance, performance management etc.
- A copy of this Policy should be held and maintained by the ELHAP office and be available for inspection by employees.
- All new entrants and contractors will be given a copy of the ELHAP's diversity and equal opportunities statement as part of their induction package.
- Agencies and contractors working on behalf of ELHAP must be able to demonstrate their commitment to equal opportunities and the requirements under ELHAP's equality and diversity policy.
- All human resources and organisation practices will be kept under review to ensure the elimination of unjustified bias or prejudice, whether or not such discrimination is barred by legislation.

3.2. Responsibilities

3.2.1. The Board of Trustees and ELHAP Manager will:

- Create an environment where equality and diversity is valued and its employees are treated fairly and on an equitable basis.
- Integrate equality and diversity within ELHAP's Strategic Objectives.
- Promote equality and diversity in the workplace and in providing services to the community.
- Deter discrimination by making it clear to all that discrimination is unacceptable and will be treated as a serious matter and a disciplinary offence.
- Provide training to line managers and employees and others to ensure that ELHAP's commitment to equalities and diversity is known and understood.
- Provide appropriate training and guidance to support employees in fulfilling their individual responsibilities under this policy.
- Design its services to meet the needs of its community as identified by the community.
- Regularly monitor and review all systems and procedures used in the provision of services to ensure equality, responsiveness, sensitivity and accessibility.

- Work in partnership with employees in promoting equality and diversity in the workplace and in service provision.
- Monitor and keep records on complaints of inequality.

3.2.2. Line Managers in accordance with ELHPA's procedure will:

- Be responsible for the implementation and monitoring of the policy within their areas.
- Ensure that the policies and strategies are communicated to all employees and allow for discussion and feedback.
- Help create a working environment which is free from discrimination, including harassment, victimisation and bullying.
- Ensure that all employees understand their responsibilities i.e. any form of discrimination will not be tolerated and will be treated as a serious offence which could lead to disciplinary action, not excluding dismissal.
- Refer any complaints of discrimination including harassment, victimisation and bullying to the Manager in order that they are effectively managed and dealt with promptly.
- Refer any complaints of inequality from service users, members of the community and employees to the Manager in order to ensure the matter is investigated thoroughly and any other steps taken.
- Consider their actions and ensure that there is no scope for discriminatory practices. They must ensure fairness and equality of treatment in all employment practices e.g. to assess the performance and potential of any individual on merit and without regard to stereotypes and assumptions.

3.2.3. Employees will:

- Ensure that they understand the policy and are clear about its implications i.e. that any breach of the policy will be treated seriously and may lead to disciplinary action not excluding the sanction of dismissal.
- Ensure that they do not discriminate in any matter of employment or service provision/delivery by treating both colleagues and service users fairly, equitably and respectfully.
- Not discriminate against, harass, abuse, intimidate or victimise other employees.
- Not induce or attempt to induce other employees to discriminate against, harass, intimidate or victimise other employees.
- Take appropriate action if there are apparent breaches of the policy.
- Contact any of the following if they feel that they have not been treated fairly under this policy:
 - line manager
 - ELHAP Manager
 - Chair of Trustees (if complaint is against the ELHAP Manager)

4. Legislation

ELHAP is committed to eliminating unlawful discrimination and achieving equality of opportunity as an employer and service provider. ELHAP is committed to the provisions of all related legislation.

4.1. The Equality Act 2010

The Equality Act came into force on 1 October 2010 and has brought together many previous equality related legislation into one act. It identifies 9 Protected Characteristics and the Act provides protection from unlawful discrimination in respect of these characteristics.

The characteristics are:

- age
- disability
- gender reassignment

- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

4.2 Protected Characteristics

4.2.1 Age

The Act protects people of all ages. However, different treatment because of age is not unlawful direct or indirect discrimination if you can justify it, i.e. if you 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.

4.2.2 Disability

Under the Act, a person is disabled if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities, which would include things like using a telephone, reading a book or using public transport.

Employers **must** make reasonable adjustments for staff to help them overcome disadvantage resulting from an impairment (e.g. by providing assistive technologies to help visually impaired staff use computers effectively).

It is discrimination 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.

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

4.2.3 Gender identity and reassignment

A transsexual person is someone who proposes to, starts or has completed a process to change his or her gender. The person does not have to be under medical supervision.

It is discrimination 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.

4.2.4 Marriage and civil partnership

The Act protects employees who are married or in a civil partnership against discrimination.

4.2.5 Pregnancy and maternity

A woman is protected against discrimination on the grounds of pregnancy and maternity during the period of her pregnancy and any statutory maternity leave to which she is entitled. During this period, pregnancy and maternity discrimination cannot be treated as sex discrimination. You must not take into account an employee's period of absence due to pregnancy-related illness when making a decision about her employment.

4.2.6 Race

For the purposes of the Act 'race' includes colour, nationality and ethnic or national origins. A racial group can be made up of two or more different racial groups (e.g. Black Britons). The Act protects people from discrimination on the grounds of race.

4.2.7 Religion or belief

Employees and job seekers are protected if they have a faith or if they have no particular faith. To be protected a belief must satisfy various criteria i.e.. it is a weighty and substantial aspect of human life and behaviour. Denominations or sects within a religion can be considered a protected religion or religious belief. Humanism is a protected philosophical belief but political beliefs would not be protected. Discrimination because of religion or belief can occur even where both the discriminator and recipient are of the same religion or belief.

4.2.8 Sex

Both men and women are protected under the Act. Sex discrimination is discrimination on the ground of sex. All terms and conditions of employment are covered. It also includes applying a 'provision, criterion or practice' which, although it applies to men and women equally, puts women at a disadvantage compared to men and which the employer cannot show is a proportionate means of achieving a legitimate aim. Such an example could be a requirement to work full time

4.2.9 Sexual orientation

The Act protects bisexual, gay, heterosexual and lesbian people from discrimination on the grounds of sexual orientation. The Act makes it unlawful on the grounds of sexual orientation to:

- Discriminate directly against anyone and to treat them less favourably than others because of their actual or perceived sexual orientation;
- Discriminate indirectly - to apply a criterion, provision or practice which disadvantages people of a particular sexual orientation, unless it can be objectively justified;
- Subject someone to harassment - harassment is unwanted conduct that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment;
- Victimise someone because they have made or intend to make a complaint or allegation in relation to a complaint of discrimination on the grounds of sexual orientation

4.2.10 Part time Workers

Part-time workers have the right to be treated no less favourably than comparable full-timers. This means they should:

- Receive the same rates of pay
- Not be excluded from training simply because they work part-time
- Receive holiday entitlement pro rata to comparable full timers
- Not be treated less favourably when workers are selected for redundancy.

4.2.11 Fixed Term Workers

Under the regulations fixed term workers have the right to the same terms and conditions of employment as comparable permanent employees. Please see Local Agreement on the use of Fixed Term Contracts, which can be accessed via the intranet (see section 10)

4.2.12 Agency Workers

The Agency Worker Regulations come into force on 1st October 2011 and are detailed in the Agency Worker Regulation Guidance Document which can be accessed via the intranet (see section 10)

4.3 Other employment related provisions under the Equality Act 2010

Employment tribunals' powers

The Act makes it possible for employment tribunals to make recommendations that an employer takes steps to eliminate or reduce the effect of discrimination on other employees, not only on the claimant. This extends the tribunals' previous powers. For

example, a tribunal might specify that an employer needs to undertake certain training of all staff on equal opportunities. This power does not apply to equal pay cases. (Tribunal judgments were also intended to be made available online so that recommendations will be made public).

4.3.1 Equal pay

The equal pay provisions in the Equality Act 2010 ensure that where women and men are doing equal work they should receive the same rewards for it. The provisions in the act apply to all contractual terms not just those directly related to remuneration, such as holiday entitlement, sick pay, overtime, shift payments, and occupational pension benefits.

Where a woman has evidence of direct sex discrimination in relation to her contractual pay but there is no actual comparator doing equal work, so that a sex equality clause cannot operate, she can claim sex discrimination based on a hypothetical comparator.

It is unlawful for an employer to victimise a worker for bringing an equal pay or discrimination claim or for giving evidence about such a complaint.

4.3.2 Occupational requirement defences

These are harmonised across all protected characteristics and the 'genuine occupational qualifications' (GOQs) in sex, gender reassignment and race cases are no longer needed.

4.3.3 Pay secrecy clauses

Under the Act they are unenforceable in employment contracts, thereby enabling employees to discuss their own pay without fear of breach of contract claims from their employer. It is also unlawful for employers to restrict employees from discussing if any differences in pay are related to protected characteristics. An employer can however require employees to keep pay rates confidential from people outside the workplace, such as a competitor organisation.

4.3.4 Pre-employment health related questions

The Act limits the circumstances when employers can ask pre-employment health-related questions before offering the position. Once a person has passed the interview and you have offered them a job you are permitted to ask appropriate health related questions.

4.3.5 Public Sector Equality Duty

This affects public authorities and harmonises the single equality duty across all protected characteristics, except marriage and civil partnership. The equality duty requires all public bodies to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited;
- advance equality of opportunity between persons who share a 'relevant protected characteristic' and persons who do not share it and;
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

4.3.6 Positive action

The Act extends the circumstances in which employers can select, recruit or employ in favour of a minority candidate who is as qualified as another candidate for a role. For example this may include using positive action for training opportunities to alleviate disadvantage experienced by employees who share a protected characteristics; reduce their under representation in particular activities; and meet their particular needs – any such measures must be a proportionate way of achieving the relevant aim. Provided that where positive action is taken in relation to recruitment (or promotion), applicants (or employees) must be equally qualified, and that the act of treating an applicant (or an employee) more

favourably simply because he or she suffers disadvantage connected to a protected characteristics or is under-represented in particular activities remains unlawful.

4.4 Additional legal instruments dealing with discrimination

- The Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 (SI 2000/1551)
- The Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002(SI 2002/2034)
- Employment Rights Act 1996 (sections relating to maternity and dependant carer leave)
- Race Relations (Amendment) Act 2000
- Protection from Harassment Act 1997
- Racial and Religious Hatred Act 2006
- Equal Treatment Framework Directive (2000/78/EC)
- Equal Treatment Amendment Directive (2002/73/EC)
- Race Directive (2000/43/EC)
- Directive implementing the principle of equal treatment between men and women in the access to and supply of goods and services (2004/113/EC)
- Directive on equality between men and women in matters of employment and occupation (2006/54)

5. Discrimination

ELHAP recognises that discrimination can take different forms, all of which are unacceptable.

5.1. Types of discrimination

5.1.1 Direct discrimination

Direct discrimination occurs when someone is treated less favourably than another person because of a protected characteristic they have or are thought to have (see perceptive discrimination below), or because they associate with someone who has a protected characteristic (see associative discrimination below).

5.1.2 Indirect discrimination

Indirect discrimination already applies to all protected characteristics and can occur when you have a condition, rule, policy or when a practice in ELHAP that applies to everyone but particularly disadvantages people who share a protected characteristic.

5.1.3 Associative Discrimination

This is direct discrimination against someone because they associate with another person who possesses a protected characteristic. It applies to race, religion or belief, sexual orientation, age, disability, gender reassignment and sex.

5.1.4 Perceptive discrimination

This is direct discrimination against an individual because others think they possess a particular protected characteristic. It applies even if the person does not actually possess that characteristic. Perceptive discrimination applies to age, race, religion or belief, sexual orientation, disability, gender reassignment and sex.

5.1.5 Harassment

Harassment occurs when, for a reason which relates to a person's age, race, sex, disability, religion or sexual orientation, another person engages in unwanted conduct which may violate the person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for that person. Harassment applies to all protected characteristics except for pregnancy and maternity and marriage and civil partnership. Employees can complain of behaviour that they find offensive even if it is not directed at them and are protected from harassment because of perception and association.

5.1.6 Victimisation

Victimisation makes it unlawful for one person to treat another less favourably than they would treat other people because that person has made or supported a complaint or raised a grievance under the Act (or previous legislation), or because they are suspected of doing so.

An employee is not protected if they have maliciously made or supported an untrue complaint. However it is sufficient if the employee believes that the victim has done, or intends to do any of the things listed above.

5.1.7 Institutional discrimination

Institutional discrimination consists of the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture, ethnic origin, gender or disability etc. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and stereotyping which further disadvantage such people.

5.2. Eliminating discrimination

5.2.1. This policy sets out ELHAP's commitment to opposing all forms of discrimination and will therefore ensure that its employees, job applicants and the community it serves are not discriminated against on the basis of any of the following:

- race, colour, ethnic group or national origin
- gender or marital status
- disability
- sexuality or sexual orientation
- age
- employment status
- actual/suspected HIV/AIDS
- religion, faith and belief
- trade union activities
- unrelated criminal offences/ex-offenders (subject to any legal or public interest constraints)
- responsibilities for children or dependants

Responding to a complaint of Discrimination / Harassment / Victimisation / Bullying

5.3. Grievances involving allegations of discrimination, harassment, victimisation or bullying require sensitivity and particular consideration in the way they are handled. It is essential that all allegations of this nature are treated seriously and thoroughly investigated. Complaints of discrimination / harassment / victimisation / bullying are to be dealt with using ELHAP's agreed Grievance procedure and/or the Disciplinary procedure.

6. Monitoring and Evaluation

6.1. It is the responsibility of ELHAP Trustees and Manager to monitor the effectiveness of this policy. The Trustees will therefore:

- Monitor the staff appointment process, so that no one applying for a post at ELHAP is discriminated against.
- Monitor the implementation of the Grievance & Disciplinary procedures in accordance with the equality act.
- Monitor training implementation to ensure equality of provision is fair and in accordance with the equality act.
- Take into serious consideration any discrimination complaints from parents, staff or service users.
- Regularly review this policy in light of changing legislation.

7. Implementation of the policy

- 7.1. All employees, agents of and contractors with ELHAP have a responsibility and a role to play in the implementation of this Policy. ELHAP will actively promote this policy and do the following to ensure that this policy is fully effective:
- Regularly review, monitor and evaluate all policies, procedures and practices both in service delivery, employment and resources allocation from an equality perspective to ensure that they conform with this policy.
 - Communicate policies and procedures to employees, service users, contractors and agents.
 - Build equality/diversity targets where appropriate into performance appraisal processes for staff.
 - Take appropriate action (using agreed procedures) if any employee breaches the conditions of this policy.
 - Provide training and guidance to all employees to ensure that they understand their legal and corporate responsibilities.
 - Provide positive action training programmes (where legally permissible) to under-represented groups to redress current imbalances e.g. through recruitment, career planning and training.

9. Further Guidance:

Further information, including links to other useful sites, can be found at

ACAS

Advice and Guidance Document on the Equality Act 2010
<http://www.acas.org.uk/index.aspx?articleid=3017>

Equality & Human Rights Commission:

Guidance relating to the Public Sector Equality Duty
<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

Equality Act Guidance

<http://www.equalityhumanrights.com/advice-and-guidance/new-equality-act-guidance/>

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