

EQUAL OPPORTUNITIES IN EMPLOYMENT POLICY

This Essex County Council Model Policy was originally created 2002 and this issue was released in:	January 2008
Academy Staff were consulted on this document and it was accepted by the relevant committee on :	
It was ratified by the Board of Directors on :	17 December 2007
This policy will be reviewed on:	Autumn Term 2009
This policy will be reviewed by:	Director of Finance / Finance, Premises and Personnel Committee

This policy was based on that reference below with amendments

Equal Opportunities in Employment Policy
A Model for Schools

Published by:
Essex County Council Learning Services Directorate
County Hall, Chelmsford
Essex, CM2 6WN
England

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EQUAL OPPORTUNITIES IN EMPLOYMENT POLICY

1. Statement of intent

1.1 The Academy recognises the value of, and seeks to achieve, a diverse workforce which includes people from differing backgrounds, with different skills and abilities. The Academy will take positive steps to create an employment culture through its Board of Directors, managers and other employees, in which people can feel confident of being treated with fairness, dignity and tolerance, irrespective of their individual differences. This commitment extends beyond the relationship between, and conduct of, employees and potential employees, to the whole Academy community and others connected with it. The Academy is committed to the elimination of unlawful discrimination and to the promotion of good relations between all and this policy complements other equalities policies within the Academy. Specifically this policy should be read in conjunction with the Academy's race equality policy.

2. Objectives

2.1 The Academy will uphold its obligations under law and national collective agreements not to discriminate in any of its activities against employees or applicants for employment on the grounds of their sex, sexual orientation, marital status, disability, race, colour, age, nationality, ethnic origin, religion or creed. It further seeks to ensure fair treatment to all on employment matters whether or not their personal circumstances and differences are covered by these formal agreements and to consider the practicality of accommodating the particular needs of all groups.

2.2 The Academy has in place a range of policies, procedures and practice in relation to recruitment, selection, employment, training and development which support and compliment its Equal Opportunity in Employment Policy and it will operate these in a way which is consistent with the objectives of this Policy. The Academy will provide training to ensure that everyone understands the equal opportunities policy and the legal position underpinning it.

2.3 Behaviour or actions by members of staff against the spirit and/or the letter of the law or this policy will be considered serious disciplinary matters and may, in some cases, lead to dismissal.

2.4 This policy deals with matters of employment in the broadest sense, and this includes the protection of staff from harassment or discrimination by any member of the Academy community or other persons connected with the Academy.

3. Responsibilities

3.1 It is recognised that everyone influences how equality is achieved and that everyone has a responsibility to uphold the law and principles of equality of opportunity. In addition to these general responsibilities, there are other specific responsibilities.

3.2 The Board of Directors has responsibility for:

- supporting the implementation of the Equal Opportunities in Employment Policy;
- ensuring that Academy employment policies and recruitment documentation and practice are consistent with the non-discriminatory objectives of the policy;

- collating, analysing and monitoring policy and practice, initiating appropriate Academy responses to findings;
- ensuring that complaints are investigated and dealt with effectively;
- appropriate training takes place for Board of Directors and employees.

3.3 The principal and other managers and supervisors have responsibility for:

- ensuring that the Equal Opportunities in Employment Policy is implemented in employment and management practices;
- ensuring that the policy is brought to the attention of all employees and that all staff receive appropriate training;
- compliance with the policy at a practical level through action in recruitment and selection, training and development and general management;
- encouraging good practice by people they manage and dealing appropriately with breaches of this policy;
- monitoring day to day operation of relevant policies and procedures;
- a member of the senior management team is the nominated lead on equalities issues.

3.4 All employees have a responsibility to:

- act within the law on equal opportunities and a contractual duty to comply with the policy;
- take part in relevant training and to comply with measures introduced to ensure equal opportunities and non-discrimination;
- report, to their line manager, or other appropriate person, any breaches of this policy enacted against him/herself or another person.

4. Monitoring

4.1 The Academy recognises that genuine equality of opportunity can only be achieved by monitoring what is actually happening and then using this information to modify and improve future action. The Academy will monitor the operation and application of its policies and procedures and their impact on staff and revise them as necessary, particularly with reference to equalities issues.

4.2 The Academy will monitor diversity in the workforce and to promote equality of opportunity and good relations between all groups. Specifically, the Academy collects disability and ethnicity data in respect of applicants for posts and staff in post. Also, in accordance with its race equality policy, the Academy will record details of all racial incidents.

5. Genuine Occupational Requirements and Positive Action

5.1 The Academy will, where appropriate, exercise the powers available to appoint a person from a particular group, where this is a genuine occupational requirement.

5.2 Within the legal framework, the Academy may, where appropriate, encourage applications from, and provide specific training for, under-represented groups.

6. Harassment, Bullying and Victimisation

- 6.1 When harassment and bullying occurs at work it can seriously affect the confidence of employees and consequently how well they do their jobs. They can also affect employees' physical and mental health.
- 6.2 The Academy regards all forms of harassment and bullying as unacceptable and perpetrators are liable to action under the Academy's bullying, harassment and victimisation and disciplinary procedures. Similarly, victimisation of employees who complain of discrimination or harassment or who come forward in their support, is as unlawful as the original harassment, and is also likely to result in disciplinary action against the perpetrator.

7. Complaints

- 7.1 Existing employees of the Academy who feel they have been unfairly discriminated against should raise it in the first instance with their line manager or other manager where their own line manager is the subject of the complaint. Existing employees who feel they have been harassed or bullied should refer to the Academy's procedures on harassment and bullying, and/or as appropriate, the Academy's grievance and/or discipline procedures.
- 7.2 Members of the public who may be concerned that their application for employment has not been dealt with in accordance with this policy should raise their concerns via the Academy complaints procedure.
- 7.3 All concerns raised with the Academy will be handled in a positive and sensitive matter and in accordance with the appropriate policy/procedure.

Appendix A of this policy contains definitions of the key terms referred to in this policy.

Appendix B of this policy contains guidance about its practical application.

Appendix C of this policy contains details of the legal framework to equal opportunities.

Appendix D of this policy lists organisations, policies, procedures and other relevant documents which complement this statement.

Appendix A

Definition of key terms

What is discrimination?

The very process of selection for recruitment, promotion or training and discipline, appraisal etc. necessarily require an element of “discrimination” between people. Equal opportunities does not necessarily mean equal treatment- it is sometimes necessary to treat people differently to meet their particular needs or circumstances but this does not mean treating them less or more favourably. People should be treated in an objective, fair and lawful way. There are two recognised forms of unfair discrimination, direct and indirect, which are unlawful and unacceptable personnel practice:

- “direct”, as it suggests, is when a person is treated less favourably, often quite openly, for example because of their sex or race;
- “indirect”, involves applying conditions or special requirements with which fewer people of one group can comply than another group, and where the condition or requirement cannot be justified for the performance of the job. There need not be any intention to discriminate for action to constitute unlawful indirect discrimination.

What are Harassment & Bullying?

Harassment can be defined as “improper, offensive and humiliating behaviour, practices or conduct, which may threaten a person’s job security, create an intimidating, unwelcoming and stressful workplace, or cause personal offence or injury.”(1)

Bullying may be defined as “the persistent (and often deliberate) misuse of power or position to intimidate, humiliate or undermine”(2)

Harassment can often be identified by a series of what seem to be ‘trivial’ incidents. Furthermore it is the impression of the harassed person, not the intentions or motivations of the harasser, which are important.

It should be noted that while harassment and bullying are often linked to some sort of discrimination (e.g. sexual harassment, racial bullying), this is not always the case.

(1) *The Industrial Society*

(2) *Association of Teachers and Lecturers (ATL)*

What is victimisation?

Victimisation in this context is where an individual is made to suffer less favourable treatment than others in the same circumstances, because he/she has brought proceedings or given evidence or information relating to such proceedings, or has alleged that discrimination occurred under relevant legislation.

Appendix B

Equal Opportunities in practice

Introduction

This Appendix gives guidance on some important equal opportunities matters. These are illustrative of how the Academy intends to achieve the objectives set out in its equal opportunities in employment policy and are not intended to be definitive.

The Academy will not apply any criteria or requirements which either unlawfully or unreasonably preclude any individual or section of the community. Decisions about appointments and promotions will be based on relevant and realistic criteria, which are essential to the performance of the role.

Access to training and development opportunities and the conduct of appraisal and performance management will be free from any direct or indirect discrimination as outlined above.

The initiation, implementation and outcomes of management procedures such as discipline, capability and grievance will be conducted equitably without indirect or direct discrimination. The Academy's bullying and harassment, discipline and/or grievance procedures will however be implemented to deal with any breaches of the Academy's equal opportunities in employment policy.

The Academy is committed to providing training for all staff on general equal opportunities matters and on issues specifically relevant to its workforce to facilitate communication and integration and to promote good relations.

Direct Discrimination

No-one will be excluded from appointment or promotion on the grounds of their:

- Sex or sexual orientation;
- Martial status, pregnancy, family circumstances;
- Ethnic origin; religion*, creed or nationality;
- Disability or health;**
- Age.

*other than as allowed for by legislation in Academy's with a religious character, whereby certain regard and preferences may be given in certain circumstances in respect of appointment, remuneration, promotion and termination.

**other than as required by legislation in respect of occupational health requirements.

Furthermore, no-one will be unreasonably precluded from appointment on the basis of their appearance, social circumstances, educational background, political views or lifestyle.

This commitment will include taking the following steps.

Using non-discriminatory language or terms in its documents and practices, for example:

- not using gender specific terminology e.g. headmaster;

- not asking questions at interview relating to child care or other domestic arrangements unless directly relevant (e.g. evening work or on-call required) in which case such questions will be asked consistently of all candidates;
- applying pre-employment procedures as required by the Asylum and Immigration Act and legislation relating to the employment of ex-offenders Acts equally to all applicants;
- removing monitoring forms prior to short-listing;
- not automatically excluding applicants on the basis of their absence record;
- making reasonable adjustments to documentation and procedures as appropriate for example to accommodate disabled applicants or those for whom English is not their first language;
- not using age as a criteria for selection or promotion;
- not applying inappropriate dress codes;
- not making assumptions about an applicant based on their name, address, educational background etc.
- always appointing on the basis of merit against objective, reasonable, realistic and necessary criteria;
- applying disciplinary and capability procedures and any sanctions based on objective evidence and not assumptions or prejudices.

Indirect Discrimination

The Academy will take all reasonable steps to avoid indirectly discriminating against individuals or groups within the Academy and the wider community. This commitment will include taking the following steps.

Ensuring that recruitment procedures (both for vacancies and promotions) are as inclusive as possible. This may be achieved through

- ensuring all vacancies are brought to the attention of staff employed in the Academy, including temporary and relief staff;
- where appropriate advertising posts more widely e.g. in Job Scene and where appropriate in the National Press and other publications;
- not insisting unnecessarily on full time work or on non-essential working time or patterns and inviting applications for part-time or job share where appropriate;
- being mindful of reasonable adjustments that may need to be made to meet the special needs of disadvantaged groups;
- asking questions which relate only to the requirements of the job.

Ensuring that criteria for appointments and promotions are relevant and realistic. This may be achieved through:

- ensuring that all stated criteria are essential for the effective performance of the job;
- where appropriate, accepting equivalent qualifications and experience where applicants do not have traditional academic qualifications;
- being cautious about the requirement for recent experience which may exclude sections of the workforce (e.g. those who may have had breaks in their employment history);
- the provision of accurate, fair and true references;
- ensuring non-discriminatory criteria for appraisals.

Ensuring that all staff have equal access to training and development opportunities and are treated equally and fairly in appraisal and staff development. This may be achieved through:

- arranging training and development, in discussion with staff, based on individual and Academy need and avoiding assumptions about people's interests or abilities;
- providing training in accordance with objective criteria and linked to the Academy development, and other relevant plans;
- ensuring, where possible, that applicants and employees are given the help they need to attain their full potential for the benefit of the Academy and themselves;
- keeping clear notes regarding decisions and providing honest and objective feedback.

Ensuring that all management policies and procedures are fairly and equitably applied. This may be achieved through;

- ensuring that all staff are aware of the policies and procedures and that managers and staff have appropriate training;
- monitoring the use of procedures to ensure consistency in their application;
- monitoring and reviewing policies and procedures which are enacted; identify inconsistencies in application and making appropriate adjustments.

Discrimination by others against employees

While an employer cannot be directly responsible for the actions of persons other than its own employees, there is a duty to protect employees from the actions and conduct of others. The Academy will use all appropriate means open to it to meet this duty.

Issues of harassment and bullying by persons other than employees is dealt with in the Academy's Bullying, Harassment and Victimisation Policy.

Appendix C

The Legal Framework to Equal Opportunities

The Academy recognises that effective equal opportunities in employment rely more on corporate and individual commitment and practice than to the background of legislation; nevertheless it is important for managers, employee and others to be aware of such legislation and a brief summary is set out below on the key Acts of Parliament and related legislation which relate to equal opportunities in employment.

Disability Discrimination Act 1995

The Act introduces, over a period of time, new laws and measures aimed at ending discrimination against disabled persons. The Act gives disabled persons more rights and makes it unlawful for employers with 15 or more staff to discriminate unjustifiably against current or prospective employees with disabilities because of a reason relating to their disability.

The Act protects disabled people, (and people who have had a disability, but have fully recovered) from discrimination in the field of employment. As part of this protection, employers may have to make "reasonable adjustments" if their employment arrangements or premises place disabled people at a substantial disadvantage compared with non-disabled people.

Equalities Bill 2002

Aspect of this Bill, if enacted, are likely to come into force between 2003 and 2006. The Bill extends the protection afforded to disabled people; makes discrimination on the grounds of sexual orientation, religion, belief and age unlawful and introduces a general requirement to promote equality of opportunity in all of these areas.

Equal Pay Act 1970 – Equal Pay (Amendment) Regulations 1993

The Act requires an employer to give equal treatment in respect of pay and other terms of the contract of employment to men and women doing the same, or broadly similar work, or work which is given similar value under job evaluation.

The Act was amended in 1993 to cover equal pay for work of equal value.

Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002

The Regulations require that fixed-term workers are not without objective justification treated less favourably than permanent workers.

Health and Safety at Work Act 1974

This Act places employers under a duty to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all employees.

Human Rights Act 1998

The Act affords all citizens certain rights and freedoms in relation to thought, conscience and religion which are not covered by specific discrimination legislation.

Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000

The Regulations require that part-time workers are not without objective justification treated less favourably than full-time time workers.

The Pensions Act 1995

This allows claims in relation to the terms of, and access to, occupational pension schemes.

Race Relations Act 1976

The Act makes it unlawful to discriminate against a person, directly or indirectly in the field of employment, on the grounds of race, colour, nationality (including citizenship), ethnic or national origins

Race Relations Amendment Act 2000

The Act places upon public bodies a general duty to have 'due regard', proportionately, to the means of eliminating unlawful racial discrimination and to promote equality of opportunity and good relations between people of different groups, when performing its functions, including the employment and management of staff. The Act also requires the provision of certain data with a view to fulfilling the general employment duty.

Rehabilitation of Offenders Act 1974

The Act states that an individual who has been convicted of an offence may be rehabilitated after a certain time. The conviction becomes "spent" and can be regarded as not to having occurred.

The Rehabilitation of Offenders (Exceptions) Order 1975 provides for some exceptions to the original Act which cover certain posts, particularly those working with children and vulnerable adults.

Sex Discrimination Acts 1975 & 1986

The Acts make discrimination on the grounds of sex, marital status or pregnancy unlawful in employment, including recruitment, promotion, training and related matters. The Acts also make discrimination on the grounds of sex unlawful in the provision of goods, facilities and services to the public.

Appendix D

Supporting organisations and documentation

CONTACT – Counselling service for Essex County Council (ECC) staff

CONTACT is a counselling service available for all Essex County Council employees who may be worried, under stress or perhaps have a difficult decision to make.

Disability and Employment – Guidelines for the employment of people with disabilities

This is a guide which provides details of the requirements of Disability Discrimination Act 1995 and advice and guidance about adopting best practice in employment.

Disability Services Teams

The Essex Disability Service Team operates from Colchester Business Park and provides support for disabled employees and those with a disability seeking employment. The regional helpline number is 0800 528 0462.

Employers Forum on Disability

Essex County Council is a member of this forum. The forum provides legal updates and briefing sheets on disability issues such as guides on adjustments for people with visual and hearing impairments, with progressive or fluctuating conditions, with mental health problems, with dyslexia and, a practical guide to Health and Safety and the Disability Discrimination Act.

Information or details of publications are available from the forum helpline on 0207 403 0320.

Employment of Ex-offenders Policy

This policy covers the procedures for checking the criminal records, and making decisions about the appointments of, applicants for posts.

Equal Opportunities in Employment Policy

This policy covers statement of intent, objectives, definitions, legal context, responsibilities and complaints procedures.

Fixed-term Employees - guidance

This is advice about the Fixed-term Employees Regulations 2002 which prevents unlawful discrimination against staff on the basis of their fixed-term status.

Harassment and Bullying Procedure

This is a procedure for dealing with allegations by members of staff of harassment or bullying.

Part-time Working – Legislative Framework and Best Practice Guidance

This is a guide about the Part-time Workers Regulations 2000 which provides advice and guidance for Academy about flexible working and fair and equal treatment of part-time staff.

Pay Policy

The Academy supports the principle of equal opportunities in employment and as part of that, male and female staff should receive equal pay for the same or broadly similar work and for work of equal value.

Copies of the relevant documents mentioned above are available from the Academy.