

The Sandon School



EQUALITY POLICY **Including Accessibility Plan and** **Public Sector Equality Duty**

- Appendix A – The Public Sector Equalities Duty
- Appendix B – The Accessibility Plan
- Appendix C – The Equality Objectives
- Appendix D – Equality & Diversity in Employment Policy (published by Juniper Education)

Last Adoption Date: July 2020
Next Review Date: Spring 2021

INTRODUCTION

1. The Sandon School (School) is committed to respecting human rights and to promoting fairness and equality in everything that the School does acknowledging the diversity of all people who make up our School community. Equality involves a fair environment in which everyone can participate and is given the opportunity to achieve. Diversity recognises and values differences between individuals and groups to create a positive and inclusive culture for the benefit of the community of the School. We foster positive attitudes and good practice.
2. The School believes that every member of the School community has the right to be treated with courtesy, consideration, dignity, understanding, tolerance, respect and fairness and to be in an environment free from abuse, offensive behaviour, prejudice, harassment, victimisation and unlawful discrimination. In seeking to eliminate unlawful discrimination and to promote equality of opportunity and fair treatment the School will actively promote policies and procedures aimed at realising the full potential of every individual. The School acknowledges the need for good practice and will eliminate those that are unfair, unjust or unlawful. The School will endeavour to maximise resources to ensure that opportunities are open to all. It is the objective of The School to comply with the spirit and intent as well as the letter of the law.
3. This policy intends to comply with all statutes and regulations and the present and future legislation will override this policy if appropriate.
4. There is annexed to this policy,

Appendix A - The Public Sector Equality Duty

Appendix B - The Accessibility Plan.
5. Appendix C - The Equality Objectives.

Appendix D - Equality and Diversity in Employment Policy published by Juniper Education in May 2018 deleting from that document references to a school with a religious character. That model policy takes priority over this general policy so far as employment issues are concerned.

PROTECTED CHARACTERISTICS

6. Are as follows: -
 - Age (For Students this applies to issues within the scope set out in Clause 17)
 - Disability
 - Gender Reassignment
 - Marital status or being in a civil partnership
 - Pregnancy and maternity
 - Race including nationality, ethnic origin, colour or National Origin
 - Religion or belief
 - Sex/Gender
 - Sexual orientation

GENERAL MATTERS

Unlawful discrimination covers in particular harassment and victimisation. The School also considers that unlawful discrimination includes stereotyping prejudice and bullying. There are three types of discrimination: -

7. Direct discrimination occurs when you treat a person less favourably than you treat (or would treat) another person because of a protected characteristic. This covers discrimination based on association or perception. In general, direct discrimination cannot be justified. There are exemptions for schools such as the content of the curriculum and provisions for single sex sport or a genuine occupational requirement for staff.
8. Indirect discrimination occurs if a provision, criterion or practice which applies to everyone across the board has the effect of disadvantaging people possessing a protected characteristic. This applies if it is intentional or not. It does not apply if it is a proportionate means of achieving a legitimate aim. For example, achieving higher academic standards or compliance with health and safety requirements.
9. Discrimination arising from disability occurs when you treat a disabled person unfavourably because of something connected with their disability and cannot justify such treatment by showing that it is a proportionate means of achieving a legitimate aim. Disability covers sensory, physical and mental impairment which has a long term and substantially adverse effect on a person's ability to carry out normal day to day activities. The School will seek to anticipate adjustments required prior to any specific diagnosis. The School accepts there is a duty to make reasonable adjustments by changing
 - provisions, criteria and practices that relate to the day to day running of the School.
 - auxiliary aid and services.
 - physical features such as providing better access for disabled people.
10. The School wishes to avoid so far as possible by reasonable means a long term (the impairment has lasted or is likely to last for at least 12 months or the rest of the affected person's life) and substantial (more than minor or trivial) disadvantage caused by disability. We can only make adjustments when we have information that enables us to do so or we have been able to anticipate the need. The School understands that some people choose not to disclose their difficulty whilst others are unaware that this amounts to a disability.
11. Unlawful discrimination will not be tolerated and may constitute a serious disciplinary offence. In extreme cases it may involve a criminal act which will be reported to the police.
12. This Policy does not mean that everybody will be treated equally. Different people need to be treated in different ways depending on their requirements. The School will take positive action to tackle particular disadvantages both in anticipatory and responsive care. We will recognise the disadvantages of any group having protected characteristics to see that their needs are met and they participate as fully as possible in the education and activities of the School.

EQUALITY DUTIES

13. The Equality Act 2010 provides one duty which covers all of the protected characteristics. This single public sector equality duty requires The Sandon School to
 - Eliminate discrimination harassment and victimisation
 - Advance equality of opportunity
 - Foster good relations
14. Harassment means violating someone's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. Victimisation means discriminating because of a previous complaint. People should not be afraid to raise genuine concerns about discrimination because of fear of retaliation.
15. Advancing equality of opportunity involves, removing or minimising disadvantages, taking steps to meet people's needs, encouraging participation in any activity in which participation by such people is proportionately low.
16. Fostering good relations involves, tackling prejudice and promoting understanding. We will take positive action when required.

SCOPE

17. This policy applies to all aspects of school life with the intent that there is no unlawful discrimination against people with a protected characteristic. The scope includes:
 - all employment practices. (see Appendix D which also covers volunteers so far as appropriate)
 - the delivery of curriculum, teaching and learning and classroom practice
 - student admissions and attendance
 - students' attainment and progress
 - student behaviour, discipline and exclusions
 - students' career guidance
 - students' personal development and pastoral care
 - students' academic options
 - school trips and all extra curriculum activities
 - uniform rules, dress codes and appearance rules
 - prospective students and former students if there is a continuous relationship based on them having been a student at the School
 - membership of the Governing Board
 - partnerships with parents, carers and communities
 - procurement

It is intended that this policy applies to the whole School community including visitors when appropriate.

TEACHING AND LEARNING

18. The School stresses the importance of equality as a dimension of teaching and learning and requires:
- Education that combats unlawful discrimination that may be caused by intolerance or ignorance.
 - Education that values diversity and promotes understanding and respect. In particular, we may misinterpret or fail to understand those who are different because of our own cultural conventions.
 - Fairness that is demonstrated by effective communication.
 - Prevention of stereotyping and lack of awareness and encouragement of positive attitudes towards the differences of individuals.
 - The use of its best endeavours to provide equal access to the curriculum for all students.
 - The use of the resources of the School and the teaching methods and styles that take account of the needs of students with different backgrounds.
 - That our school is educationally inclusive and recognises that each student has a voice and that we listen and respond appropriately.

RESPONSIBILITIES

19. The Governing Board will ensure that the School complies with the appropriate legislation and that this policy and any related procedures are implemented and monitored.
20. The Headteacher will implement this policy and any related procedures, ensuring that all staff are aware of their responsibilities. The Headteacher will arrange an annual report to the Governing Board on the operation and effectiveness of this policy and in particular with the progress on the Accessibility Plan and the Equality Objectives.
21. All staff with management roles have additional responsibility to ensure The School's commitment to equality is reflected in:
- The attitudes and behaviour of staff for whom they are responsible.
 - Arranging appropriate training.
 - Their willingness to acknowledge and tackle examples of unacceptable behaviour.
22. All staff and volunteers must:
- Deal with incidents, knowing how to identify failure to provide equality of opportunities and fair treatment
 - Eliminate unlawful discrimination, harassment and victimisation
 - Advance equality of opportunity
 - Foster good relations
 - Lead by example with their attitude and behaviour
 - Be willing to acknowledge and encourage good practice
23. All staff, volunteers and governors will undertake appropriate training.
24. Parents, carers, visitors and contractors should where appropriate be made aware of this policy.
25. All members of the School community must recognise that each individual has to uphold the law and the principles of fairness and equality.

MONITORING & ADVANCEMENT

26. The School recognises that genuine equality can only be achieved by monitoring what is actually happening and then using this information to improve and advance future action. The Headteacher will implement appropriate procedures necessary for the assessment of this policy. Advancing equality means having due regard to its duties. The School will consider equality implications before making decisions. There will be a staff equality manager (Mrs J Beavis until 31 August 2020 then Mrs H Newman from 1 September 2020) and a governor responsible for equality (Mrs D Francis).

COMPLIANCE & CONCERNS

27. All persons who do not comply with this policy, in particular staff and students, may be liable to disciplinary action. Staff will normal pursue concerns as a Grievance. Other adults only should pursue complaints using the Complaints Policy of The School. They are encouraged initially to pursue matters as a concern under that Policy. If matters cannot be resolved under the School's policies and procedures the Equality Advisory and Support Service may assist. Concerns relating to this policy should initially be raised with the Equality Manager. Complaints will be treated with discretion and in confidence wherever possible but anonymity cannot be guaranteed. All incidents will be managed having regard to Data Protection Legislation, Human Rights Law and United Nations Conventions.

POLICY REVIEW

The policy was developed in consultation with all stakeholders. This policy will be well publicised. It will be reviewed at least every year. It will be reviewed at least every year. It was adopted by the Governing Board on 6 July 2020.

Appendix A

The Sandon School (School) Public Sector Equality Duty 2020



1. The Public Sector Equality Duty has three general aims:
 - (i) To eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by statute. The School will aim to eliminate this by removing or minimising disadvantages suffered by people due to their protected characteristics.
 - (ii) To advance equality of opportunity between people who share a protected characteristic and those who do not. The School will take steps to meet the needs of people from protected groups where these are different from the needs of other people.
 - (iii) To foster good relations between people who share a protected characteristic and those who do not. The School will encourage people from protected groups to participate in public life or in other activities where their participation is disproportionately low. Integration is our objective.
2. Our School has considered how well we currently achieve these aims with regard to the nine protected equality groups: age, disability, gender reassignment, marital status (or being in a civil partnership), pregnancy and maternity, race, religion or belief, sex/ gender, sexual orientation. This is in relation to both any anticipatory and responsive adjustments required.
3. In compiling this equality information, we have:
 - (i) Identified evidence already in School regarding equality in our policies and practice. We will have due regard for this in policy development.
 - (ii) Consulted our stakeholders to identify any weaknesses.
 - (iii) Examined how our School engages with the protected groups and identified where our practice could be improved.
 - (iv) Reviewed our staff and governor training and considered the outcomes and feedback.
 - (v) Considered reports from our Equality Manager and Equality Governor and our analysis of school performance.
4. We have analysed this data and the needs of our school are reflected in our Accessibility Plan and Equality Objectives.

This statement is well publicised. It will be reviewed annually. It was adopted using Chair's Powers on 26 March 2020 and will be ratified formally by the Governing Board at the next Full Governors meeting.

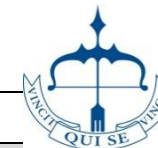


Targets	Outcome	Timeframe	Goals Achieved
Short Term			
To consider outside playground areas for visually impaired students, in particular drain covers, obstacles and uneven areas.	To consider improvements that would assist assess and safety, this is dependent on funding.	December 2020	A considerable amount of work has been done to improve playground areas, with removal of some gullies. This is a continuing target due to funding.
Improve external lighting.	Replaced or additional lighting in identified areas to improve safety at after school events.	December 2020	A full review of external lighting was undertaken and new lighting installed and older lighting repaired.
Medium Term			
To improve provision for partially sighted students	To discuss with curriculum areas resources to improve provision	December 2021	
To improve signage throughout the school for staff, students and visitors	To review all signage in school to improve access arrangements	December 2021	
Long Term			
Access to Astro pitches	To provide an even surface to allow all students to access astro pitches	December 2022	
To consider outside playground areas for visually impaired students, in particular drain covers, obstacles and uneven areas.	To consider improvements that would assist assess and safety, this is dependent on funding.	December 2022	

This plan should be read in conjunction with our Public Duty Equality Duty statement, Equality Policy, Equality Objectives and SEND Policy
 The plan was approved using Chair’s Powers on 26 March 2020 and will be ratified formally by the Governing Board at the next Full Governors meeting. It will be reviewed annually.

The Sandon School Equality Objectives

Appendix C



Targets	Outcome	Timeframe	Goals Achieved
Short Term			
Student Assemblies delivered by the LGBTQ support group	To raise awareness amongst students and the availability of weekly drop in sessions	January 2020	Assemblies delivered and well received as is take up to weekly drop in sessions
Staff Transgender training	Full training delivered to key staff	January 2020	Delivered
Medium Term			
Staff training on all equality issues	To increase staff awareness	December 2020	
Following staff training, curriculum teams to review text used, particularly language choices (e.g. pronouns)	Lessons to provide positive non-stereotyping information	December 2020	
External consultants to work with school to remove gender bias e.g., Physics	To increase participation in subjects typically taken by a specific gender	December 2020	
Long Term			
To consider further improvements to the accessibility of the curriculum for disabled students e, resources for students with impaired vision	Improved accessibility to all aspects of the curriculum for disabled students	December 2021	

These objectives should be read in conjunction with our Public Duty Equality Duty statement, Equality Policy, Accessibility Plan and SEND Policy. The objectives were approved using Chair's Powers on 26 March 2020 and will be ratified formally by the Governing Board at the next Full Governors Meeting. They will be reviewed annually.

Appendix D

Juniper Education

Equality and Diversity in Employment Policy
A model for Schools and Academies

Changes to the policy – May 2018

No material changes to procedures.

5.	Monitoring and Reporting	Insertion of new clause covering data protection.
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Please note that there is a paragraph on page 4 that only applies to schools with a religious character which should be deleted if not applicable.

This Model Policy was released in:	May 2018
School Staff were consulted on this document and it was accepted by the Personnel committee on :
It was ratified by the Governing board on:

Published by:
Juniper Education, Education HR
Boundary House, 4 County Place, Chelmsford
ESSEX CM2 0RE

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1. Objective

The purpose of this policy is to set out the school's commitment to equal opportunities in employment and to avoiding unlawful discrimination in all aspects of employment including recruitment, promotion, opportunities for training, pay and benefits, discipline and dismissal, performance and selection for redundancy.

This includes upholding its obligations under the Equality Act 2010 ("the Act") not to discriminate directly or indirectly in any of its activities against employees or applicants for employment on the grounds of the protected characteristics.

- Age
- Disability
- Gender re-assignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race (which includes ethnic origin, colour, nationality and ethnic or national origins)
- Religion or belief
- Sex
- Sexual orientation

It further includes fulfilling its Public Sector Equality Duty, in carrying out its functions, to have due regard to the need to:

- Eliminate discrimination and other conduct that is prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and people who do not share it.
- Foster good relations across all characteristics, between people who share a protected characteristic and people who do not share it.

Having due regard for advancing equality involves:

- Removing or minimising disadvantages suffered by people due to their protected characteristics.
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

Definitions of terminology are at Appendix A. Further information about protected characteristics can be found at Appendix C.

This Policy complements the general equalities policies and procedures within the school which set out the school's commitments and obligations to the wider school community.

Schools with a religious character *[Delete this paragraph and Appendix E if not applicable]*

As a school with religious character, certain exceptions can be applied in respect of appointments, remuneration, promotion and dismissal related to the religious tenets of the school. These are set out in Appendix E.

2. Policy Statement

The governing board is committed to:

- Promoting equality of opportunity and community cohesion where the diversity of different backgrounds and circumstances is appreciated and positively valued.

- Promoting the fundamental British values of democracy, the rule of law, individual liberty and mutual respect and tolerance for those with different faiths and beliefs.

We expect all staff, volunteers and other workers to share this commitment. It is recognised that this can only be achieved through sound procedures, good inter-agency co-operation and the recruitment and retention of competent, motivated employees who are suited to, and fulfilled in the roles they undertake.

The governing board recognises the value of, and seeks to achieve a diverse workforce which includes people from different backgrounds, with different skills and abilities. We are committed to ensuring that recruitment and selection is conducted in a manner that is systematic, efficient, and effective and which promotes equality of opportunity. Selection will be on the basis of merit and ability, assessed against the qualifications, skills and competencies required to do the job. We will uphold obligations under law and national collective agreements to not discriminate against applicants for employment on the grounds of age, sex, sexual orientation, marital status, disability, race, colour, nationality, ethnic origin, religion or belief.

An equality statement will be provided to all applicants for jobs. The school may, where appropriate, apply positive action to encourage applications from particular groups where they are underrepresented in the workplace. In exceptional legitimate circumstances the school may apply a genuine occupational qualification to particular role (see Appendix A).

The school:

- Will take positive steps to create a culture through its governing board, managers and other employees, workers and volunteers, in which everyone can feel confident of being treated with fairness, dignity and respect.
- Aims to create a work environment in which all individuals are able to give their best; where all decisions are based on merit and which is free of harassment, victimisation and bullying.
- Will provide appropriate training and support to employees to secure understanding of, and compliance with, its aim and expectations.
- Will ensure that equality issues are considered and regularly reviewed, including assessing implications for people with particular protected characteristics as an integral part of our policy development and decision making processes.

Behaviour or actions by members of staff against the spirit and/or the letter of the law or this policy, including but not limited to acts of discrimination, bullying or victimisation against employees or others in the school community will be considered disciplinary matters and will be dealt with under the school's Discipline and Dismissal Procedure and may, in some cases, lead to dismissal.

3. Policy in practice

The school has in place a range of employment related policies, procedures and practices which support and complement this Equality and Diversity in Employment Policy. These will be operated in a way which is consistent with the objectives of this Policy and Equality and Workload Impact Assessments on policies and procedures support this objective.

For the purposes of this Policy and the Act, the definition of 'employee' is extended to include:

- employees (those with a contract of employment);
- workers and agency workers (those with a contract to do work or provide services);
- self-employed people (where they have to personally perform the work).

The principles of this Policy also apply to Volunteers.

4. Responsibilities

It is recognised that everyone in the school community influences how equality and diversity is achieved and 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.

4.1 The governing board has responsibility for:

- Determining, monitoring, reviewing and supporting the implementation of the Equality and Diversity in Employment Policy in consultation with relevant stakeholders.
- Ensuring employment and recruitment policies and practice are non-discriminatory in word and operation.
- Analysing and monitoring policy and practice and initiating appropriate action.
- Ensuring complaints are investigated and dealt with effectively.
- Ensuring appropriate training takes place for governors and employees.

4.2 The headteacher and other managers have responsibility for:

- Ensuring that the Equality and Diversity in Employment Policy is implemented.
- Ensuring recruitment, employment and management policies and practices are undertaken in accordance with the Policy.
- Ensuring the Policy is brought to the attention of all employees and that they all receive appropriate training.
- Treating all employees with dignity and respect and recognising and valuing individual skills and contributions.
- Creating an environment in which employees are able to identify and share good practice, celebrate success and encourage positive attitudes towards diversity.
- Dealing appropriately with breaches of this policy.
- Ensuring a member of the senior management team is the nominated lead on equality and diversity issues.

4.3 All employees, volunteers and workers have a responsibility to:

- Act within equalities legislation and to comply with school Policy.
- Treat everyone with dignity and respect and recognising and valuing individual skills and contributions.
- Take part in training and 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/her or another person by another employee, pupil or another person connected with the business of the school.

Individuals can be held personally liable as well as, or instead of, the school for any act of unlawful discrimination. Individuals who commit serious acts of harassment may be guilty of a criminal offence. Where an act of harassment is alleged, the school will thoroughly investigate the alleged circumstances and provide additional training/support to individuals as considered appropriate.

5. Monitoring and reporting

The school will periodically monitor the application of its policies and procedures and their impact on staff and applicants to assess their effectiveness and revise them as necessary. The school is committed to engaging with relevant stakeholders in the review of policy and practice.

In particular, the school will monitor matters such as recruitment, promotion, training, pay, grievances, disciplinary action, leave of absence, flexible working, management of sickness absence and redundancy by reference to the protected characteristics of their employees. The school will consider and implement any appropriate action to address any issues that may be identified as a result of the monitoring process.

Information provided by job applicants and employees for monitoring purposes will be used only for these purposes. The school will publish such equality data as is required in accordance with the Equality Act and the Public Sector Equality Duty.

All data will be collected, held and processed in accordance with the school's data protection policy/policy on processing special categories of personal data. Any publication of data will preserve anonymity.

6. Complaints

The school will make every effort to protect employees from discrimination and all concerns raised with the school will be handled in a positive and sensitive manner and in accordance with the appropriate policy/procedure.

Employees

Existing employees who feel they have been unfairly discriminated against, harassed, bullied or victimised 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.

Employees should refer to the grievance procedure for further information. Employees will not be penalised for raising a grievance, even if the grievance is not upheld, unless their complaint is found to be both untrue and made in bad faith.

Applicants

Individuals 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 school complaints procedure.

Others

Visitors or other members of the school community who experience or witness discrimination, bullying, harassment or victimisation should report the matter to the headteacher in the first instance or via the school complaints procedure.

Appendix A – Definitions

1. Direct Discrimination

1.1 Direct discrimination occurs when someone is treated less favourably than another person because of a protected characteristic.

Direct discrimination could involve a decision not to employ someone, to dismiss them, withhold promotion or training, offer poorer terms and conditions or deny contractual benefits because of a protected characteristic.

Example: Not employing a woman because she is pregnant.

1.2 Discrimination by Perception

Discrimination by Perception 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. Discrimination by perception does not apply, in law to marriage and civil partnership or pregnancy and maternity.

Example: A heterosexual employee is taunted about his sexuality by colleagues who perceive him to be gay.

1.3 Discrimination by Association

Discrimination by Association is discrimination against a person because they have an association with someone with a particular protected characteristic. Discrimination by Association applies to race, religion or belief, sexual orientation, age, disability, gender reassignment and sex.

Example: Not offering a job to the parent of a disabled child because the employer thinks they will need more time off due to the child's disability and there is no evidence to support this.

2. Indirect discrimination

Indirect discrimination is where a provision, criteria, policy or practice in the school is applied to everyone but particularly disadvantages people who share a protected characteristic compared with people who do not. Indirect discrimination can be justified if the school can show it acted reasonably, for example that it is a 'proportionate means of achieving a legitimate aim' (see 2.1).

Indirect discrimination applies to age, race, religion or belief, sex, sexual orientation, marriage and civil partnership, disability discrimination and gender reassignment. Pregnancy and maternity are covered by indirect sex discrimination.

Example: Having a policy not to employ anyone with facial hair in a kitchen for health and safety reasons. This policy may indirectly discriminate against certain religious groups.

3. Positive Action

Positive action describes measures targeted at a particular group that are intended to redress past discrimination or to offset the disadvantages arising from existing attitudes, behaviours and structures. The school may use lawful measures which can include:

- Encouraging applications from people of particular racial groups or gender, who have been under-represented in certain occupations or grades during the previous 12 months.
- Providing facilities to meet any specific educational, training, or welfare needs identified for a specific racial group.
- Measures to provide training and special encouragement for returnees to the school after a period of time discharging domestic or family responsibilities.

Positive action is different from positive discrimination which is illegal. Positive discrimination generally means choosing (or not choosing) someone solely on the grounds of a protected characteristic (eg gender or racial group) and not on their abilities.

4. Genuine Occupational Requirements

Employers can exercise the powers available under the Equalities Act to appoint a person from a particular group, where there is a genuine occupational requirement.

An example of a genuine occupational requirement would be appointing a female to work in a shelter for female victims of domestic violence.

5. Harassment

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." (ACAS)

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

Harassment applies to all protected characteristics (see below) 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 the complainant need not possess the relevant characteristic themselves. Employees are also protected from harassment because of perception (see 1.2 above) and association (see 1.3 above).

6. Victimisation

Victimisation is where an employee is subjected to a detriment, such as being denied a training opportunity or a promotion because he/she is suspected of, or has:

- made, or supported, a complaint of discrimination;
- raised a grievance;
- brought proceedings under the Act; or
- done any other thing for the purposes of, or in connection with, the Act.

An employee is not protected from victimisation if they have maliciously made or supported an untrue complaint.

Appendix B – Equality and Pay

Equal pay

The Act provides that men and women should receive equal pay for equal work. This means that in most circumstances a challenge to pay inequality and other contractual terms and conditions still has to be made by comparison with a real person of the opposite sex in the same employment. However, the Act allows a claim of direct pay discrimination to be made, even if no actual comparator can be found. This means that a claimant who can show evidence that they would have received better remuneration from the school if they were of a different sex may have a claim, even if there is no-one of the opposite sex doing equal work with the school.

This would be a claim under sex discrimination.

Pay secrecy

The school will not prevent or restrict its employees from having discussions to establish if they believe pay differences exist that are related to a protected characteristic. The school may, in particular, require its employees to keep pay rates confidential outside the workplace e.g. a competitor organisation.

Gender pay gap reporting

The Government is introducing mandatory gender pay gap reporting for public sector employers with 250+ employees in April 2018.

The first publication of data is April 2018 but snapshot data must be collected on 5 April 2017. The data required is:

- mean and median hourly rates by gender;
- mean and median bonus payments (unclear what will constitute bonus pay) by gender;
- the proportions of each gender in each salary quartile.

Appendix C – The Protected Characteristics

Age

The Act protects people of all ages from unlawful discrimination.

Direct discrimination

Treating someone less favourably because of their actual or perceived age, or because of the age of

someone with whom they associate. For example, advertising for job applicants under 25 years old only. This treatment can only be justified if it is a proportionate means of achieving a legitimate aim.

Indirect discrimination

This can occur where there is a provision, criteria or practice which applies to all employees, but particularly disadvantages people of a particular age. For example, a requirement for job applicants for a teaching post to have 5 years teaching experience may disadvantage younger people. Indirect discrimination can only be justified if it is a proportionate means of achieving a legitimate aim, e.g. if the school can demonstrate this level of experience is necessary to achieve the desired knowledge and skills.

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. These include things like using a telephone, reading a book or using public transport. Long term means that the impairment has lasted or is likely to last for at least 12 months or for the rest of the affected person's life. Substantial means more than minor or trivial. In most circumstances, a person will have the protected characteristic of disability if they have had a disability in the past, even if they no longer have the disability. Individuals who are HIV positive, have cancer or MS are automatically protected.

Employers must make reasonable adjustments in the recruitment and employment of disabled people. This can include, for example, adjustments to recruitment and selection procedures, to terms and conditions of employment, to working arrangements and physical changes to the premises or equipment. In assessing the reasonableness of the adjustment, the employer should consider:

- proportionality and impact of the adjustment on the role;
- the costs/financial support available;
- medical opinion from the employee's doctor and the occupational health advisor; and
- impact on the operational requirements of the school.

Direct discrimination

For example not offering a job because someone is a wheelchair user.

Indirect discrimination

This is where a provision, criterion or practice is applied that is discriminatory in relation to individuals who have a particular disability such that it would be to the detriment of people who share that particular disability compared with people who do not, and it cannot be shown to be a proportionate means of achieving a legitimate aim.

Discrimination arising from disability - occurs where an individual has been treated unfavourably because of something arising in consequence of a disability. There is no need for a comparator, and the reason for the unfavourable treatment is irrelevant. For example, not considering a teacher for promotion as they have been diagnosed with depression without considering whether the condition would actually impact on their ability to do the job and if it would, whether reasonable adjustments could be made to negate that impact.

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.

There is an obligation on employers to make reasonable adjustments 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 the protected characteristic or disability. The duty to make reasonable

adjustments aims to make sure that a disabled worker has the same access to everything that is involved in doing and keeping a job as a non-disabled person.

All the relevant individual circumstances must be considered when deciding what adjustments to make and the individual must be involved in discussions to ensure they are as effective as possible.

Sharing health and absence information

In accordance with the Act, employers may not request information concerning an individual's sickness and attendance record prior to the selection stage. Once the preferred candidate has been selected, then sickness and attendance records can be obtained from the referee and applicant, as part of the pre-employment checks prior to a firm offer. The applicant must give their explicit consent for this information to be released. The interview panel may not ask general questions about the individual's sickness and attendance record but may ask relevant questions to establish whether the applicant will be able to carry out a function that is intrinsic (e.g. majority of the work involves manual handling) to the work concerned once reasonable adjustments are in place.

Gender reassignment

Gender reassignment is a protected characteristic under the Act. This applies to people who are proposing to undergo, are undergoing, or have undergone a process (or part of a process) to reassign their gender by changing physiological or other attributes of sex. Gender reassignment is a personal process, that is moving away from one's birth sex to the preferred gender, rather than a medical process. The law does not require a person to undergo a medical procedure to be recognised under the protected characteristic of gender reassignment.

Protection is provided where, as part of the process of reassigning their gender, an individual lives in a gender identity, which is different to the gender they were assigned at birth, for at least two years. Throughout this period they are protected by the Act.

In order to be protected under the Act, there is no requirement for an employee to inform their employer of their gender reassignment status or their gender at birth. However, if an employee is proposing to undergo gender reassignment or is still in the process of transitioning, they may want to discuss their needs with their employer so the employer can support them during the process. Once a transgender person has received gender reassignment surgery and is fully living in the gender they identify with there is no requirement to inform an employer of their gender at birth.

Direct discrimination

This is treating someone less favourably than other employees because of their gender reassignment, whether actual or perceived, or because they associate with someone who intends to undergo, is undergoing or has undergone gender reassignment.

Indirect discrimination

An example would be where an employer starts an induction session for new staff with an ice-breaker designed to introduce everyone in the room to the others. Each employee is required to provide a picture of themselves as a toddler. One employee is a trans woman who does not wish her colleagues to know that she was brought up as a boy. When she does not bring in her photo, the employer criticises her in front of the group for not joining in. It would be no defence that it did not occur to the employer that this employee may feel disadvantaged by the requirement to disclose such information. Indirect discrimination can only be justified if it is a proportionate means of achieving a legitimate aim.

Marriage and civil partnership

The Act protects employees from discrimination on the grounds of being married or in a civil partnership.

Marriage covers any formal union of a man and woman which is legally recognised in the UK as a marriage. It also covers same sex couples who opt for a marriage. A civil partnership refers to a registered civil partnership under the Civil Partnership Act 2004, including those registered outside the UK. This is only open to same sex couples.

Only people who are married or in a civil partnership are protected against discrimination on this ground. The status of being unmarried or single is not protected. People who only intend to marry or form a civil partnership, or who have divorced or had their civil partnership dissolved, are not protected on this ground.

Direct Discrimination

This is where someone is treated less favourably than other employees on the grounds of them being married or in a civil partnership, actual or perceived, or because they are associated with a person who is married or in a civil partnership. An example of this could be where an applicant for a job is treated less favourably because it is considered that they will not be as committed to the job as a single person because they have marital or partnership commitments

Indirect Discrimination

This occurs if an employer has a policy or way of working that puts people who are married or in a civil partnership at a disadvantage.

Pregnancy and maternity

A woman is protected against discrimination on the grounds of pregnancy and maternity during the period of her pregnancy and any maternity leave to which she is entitled. During this protected period, pregnancy and maternity discrimination cannot be treated as sex discrimination.

Direct discrimination covers the unfavourable treatment of a woman, during the "protected period" in relation to her pregnancy or any illness suffered by her as a result of that pregnancy. Unfavourable treatment during the protected period because a woman is on compulsory maternity leave or she is exercising or seeking to exercise, or has exercised or sought to exercise, the right to ordinary or additional maternity leave, is also covered. An example could be where an employee has been off work because of pregnancy complications since early in her pregnancy. Her employer has dismissed her in accordance with the sickness absence management policy. This policy is applied regardless of sex. The dismissal is unfavourable treatment because of her pregnancy and would be unlawful even if a man would be dismissed for a similar period of sickness absence, because the employer took into account the employer's pregnancy related sickness absence in deciding to dismiss.

Discrimination on the grounds of pregnancy/maternity can only be justified if it is a proportionate means of achieving a legitimate aim. For example it would be legitimate to dismiss a pregnant employee who had been found to have committed an act of gross misconduct as the reason for the dismissal was unconnected to the pregnancy.

Race

For the purposes of the Act, 'race' includes colour, nationality or ethnic or national origin. A person has the protected characteristic of race if they belong to a particular racial group. A racial group can be made up of two or more different racial groups (for example Black Britons).

Direct discrimination

Treating someone less favourably because of their actual. The less favourable treatment can also relate to the person's perceived race, even where the perception is wrong, or to the person's association with someone who has, or is perceived to have, the protected characteristic.

Indirect discrimination

This can occur where there is a provision, criterion or practice which applies to all employees, but particularly disadvantages people of a particular race. An example could be a requirement for all job

applicants to have GCSE Maths and English. People educated in countries which don't have GCSE's would be discriminated against if equivalent qualifications were not accepted. Indirect discrimination can only be justified if it is a proportionate means of achieving a legitimate aim.

Religion or belief

In the Act, religion includes any form of religion which has a clear structure and belief system. It also includes a lack of religion - in other words employees or jobseekers are protected if they do not follow a certain religion or have no religion at all. Discrimination because of religion or belief can occur even where both the discriminator and recipient are of the same religion or belief.

Belief means any religious or philosophical belief and also covers non-belief. To be protected, a belief must satisfy various criteria, including that 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. Political beliefs are not protected.

A belief need not include faith or worship of a God but must affect how a person lives their life or perceives the world. A belief which is not a religious belief may be a philosophical belief. Examples of philosophical beliefs include Humanism and Atheism. For a philosophical belief to be protected under the Act:

- it must be genuinely held;
- it must be a belief and not an opinion or viewpoint based on the present state of information available;
- it must be a belief as to a weighty and substantial aspect of human life and behaviour;
- it must contain a certain level of cogency, seriousness, cohesion and importance;
- it must be worthy of respect in a democratic society, not incompatible with human dignity and not conflict with the fundamental rights of others.

Direct discrimination

This is where, because of the protected characteristic of religion or belief, a person treats another person less favourably than that person treats or would treat other persons. The less favourable treatment can relate to the person's actual or perceived religion or belief, even where the perception is wrong, or to the person's association with someone who has, or is perceived to have, the protected characteristic.

Indirect discrimination

This can occur where there is a provision, criterion or practice which applies to all employees, but particularly disadvantages people of a particular religion or belief and which the employer cannot show to be a proportionate means of achieving a legitimate aim.

An example would be where an employer announces that staff cannot wear their hair in dreadlocks, even if the locks are tied back. A policy amounts to a provision, criterion or practice. The decision to introduce the policy could be indirectly discriminatory because of religion or belief, as it puts Rastafarian employees at a particular disadvantage. The employer must show that the provision, criterion or practice can be objectively justified and is a proportionate means of achieving a legitimate aim.

Sex

A person's sex refers to the fact that they are male and female.

Direct discrimination

Treating someone less favourably because of their actual or perceived sex, or because of the sex of someone with whom they associate.

Indirect discrimination

This can occur where there is a provision, criterion or practice that applies to all employees, but particularly disadvantages employees of a particular sex. For example, a requirement that job applicants must be six feet tall could be met by significantly fewer women than men.

Sexual orientation

Sexual orientation is a protected characteristic. It means a person's sexual orientation towards:

- persons of the same sex (i.e. the person is a gay man or a lesbian);
- persons of the opposite sex (i.e. the person is straight/heterosexual); or
- persons of either sex (i.e. the person is bisexual)

Sexual orientation relates to how people feel as well as to their actions. Sexual orientation discrimination includes discrimination because someone is of a particular sexual orientation and it also covers discrimination connected with manifestations of that sexual orientation. These may include someone's appearance, the places they visit or the people they associate with. It also includes a perception that someone has a particular sexual orientation based on their appearance, regardless of whether they do or do not.

Direct discrimination

Treating someone less favourably because of their actual or perceived sexual orientation, or because of the sexual orientation of someone with whom they associate.

Indirect discrimination

This can occur where there is a provision, criterion or practice which applies to all employees, but particularly disadvantages people of a particular sexual orientation and which the employer cannot show to be a proportionate means of achieving a legitimate aim.

An example would be a particular family friendly policy that does not apply to same sex couples.

Appendix D – Supporting organisations and documentation

Equality and Human Rights Commission

The Equality and Human Rights Commission is the independent advocate for equality and human rights in Britain. It aims to reduce inequality, eliminate discrimination, strengthen good relations between people, and promote and protect human rights. It provides guidance for employers and education providers.

<https://www.equalityhumanrights.com/en/advice-and-guidance> A detailed list of further sources of advice and information is available at Section 5 of the following guidance:

<https://www.equalityhumanrights.com/en/publication-download/good-equality-practice-employers-equality-policies-equality-training-and>

Department for Education Non-statutory Advice

Non-statutory Guidance is available from the Department for Education relating to the Equality Act in the following publication:

The Equality Act 2010 and schools. Departmental advice for school leaders, school staff, governing bodies and local authorities

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/315587/Equality_Act_Advice_Final.pdf

Other organisations offering support and information:

ACAS provides information, advice, training, conciliation and other services for employers and employees to help prevent or resolve workplace problems, include detailed guidance on Equality and Diversity at Work.

<http://www.acas.org.uk/index.aspx?articleid=1363>

Age - <http://www.ageuk.org.uk/>

Gender (sex) - <http://www.fawcettsociety.org.uk/>

Sexual orientation and gender identity - <http://www.stonewall.org.uk>

Disability

For more information on disability you may be interested in looking at the following websites:

- Essex Coalition for Disabled People www.ecdp.org.uk
- ECL Sensory Team www.eclsensoryservice.org
- Essex Sight www.esexsight.org.uk
- Support4sight www.support4sight.org.uk
- Deafblind UK www.deafblind.org.uk
- Hearing Help Essex www.hearinghelpessex.org.uk
- Disability Rights UK www.disabilityrightsuk.uk
- Scope www.scope.org.uk
- MIND www.mind.org.uk

Appendix E – Employment exceptions for schools with a religious character

Voluntary Aided Schools with a religious character

Teaching Staff

The governing board may give preference with regard to the appointment, remuneration and promotion of teachers at the school, to persons:

- whose religious opinions are in accordance with the tenets of the school; or
- who attend religious worship in accordance with those tenets; or
- who give, or are willing to give, religious education at the school in accordance with those tenets.

The governing board may have regard, in connection with the termination of the employment of a teacher, to any conduct by which is incompatible with the precepts of, or with the upholding of the tenets of the school.

Support staff

Voluntary aided schools may discriminate on religious grounds where being of a particular religion or religious denomination is a genuine occupational requirement (GOR) (It must not be assumed that a 'blanket' approach to GOR can be applied to all support staff. The governing board must be able to demonstrate that it is reasonable and proportionate for an employee to be of a particular religion or belief for the job in question.

The governing board cannot apply religious criteria in connection with the employment of a member of the school's support staff who was in employment at the school on 1 September 2008, for as long as they continue to be employed at the school.

When considering whether a GOR might apply, governing bodies should consider the following issues:

- Do the duties for which the GOR is claimed represent a substantial part of the post and would the objectives of the job be achieved without the application of the faith requirement?
- Does the school have sufficient employees who could carry out the duties without undue inconvenience?

A GOR cannot be used to maintain a balance or quota of employees of a particular religion or belief.

The governing board should periodically consider whether the requirement continues to apply, particularly when recruiting, as jobs may change over time.

Religious criteria may not be applied to any other posts in a VA school unless there is a genuine occupational requirement (Employment Equality (Religion or Belief) Regulations 2003). This would need to be justified but might, for example, apply to a member of staff required to give pastoral care to pupils

Foundation and voluntary controlled schools with a religious character

Headteachers

When appointing a headteacher who is not to be reserved teacher, the governing board of a school with a religious character may have regard to that person's ability and fitness to preserve and develop the religious character of the school. The headteacher may also be a reserved teacher.

Reserved teachers

Where the number of teachers at foundation and voluntary controlled schools with a religious character is more than two, the teachers shall include persons who are selected for their fitness and competence to teach religious education in accordance with the school's trust deed or with the tenets of the school

and are specifically appointed to do so. These are known as 'reserved teachers'. The number of reserved teachers must not exceed one fifth of the total number of teachers including the head teacher. The headteacher can be selected on these grounds but must count towards the one fifth quota (s 58 of the School Standards and Framework Act 1998).

Other teachers and support staff

Non-teaching staff and teachers other than those appointed as reserved teachers must not be treated unfavourably in any way because of their religious opinions or attendance at religious worship, they cannot be required to deliver RE and cannot be subjected to a detriment for not giving RE or attending worship.

Academies with a Religious Character

Academies, free schools and independent schools with a religious character generally operate under conditions which mirror those in VA schools. Specific terms will be set out in the Funding Agreement/Articles.

Reference documents

School Staffing Regulations 2009 (as amended)

The Equalities Act 2010 and Schools – Departmental advice May 2014

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Juniper Education
Boundary House, 4 County Place,
Chelmsford, CM2 0RE

t. 0345 200 8600

e. enquiries@junipereducation.org

w. junipereducation.org