ZENITH
MULTI ACADEMY
TRUST

Equality, Diversity & Inclusion in Employment

for use in:
All schools in the Trust
Central Team
Zenith Minds

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Updates since last edition:

General	"Inclusion" added
1. Objective	Additional words - not discriminating on any grounds
2. Policy Statement	Additional sentences highlighted Recruitment now under separate sub-heading re-worded
4. Responsibilities	New paragraphs on responsibilities and consequences of breaches
5.1 Sharing health information	Addition of section in relation to sharing health information
6.1 Complaints	Addition of section on support for employees
Appendix A - Definitions	5. Addition of specific definition of sexual harassment
Appendix C – Protected Characteristics	Disability: Encourage sharing information on disability for provision of support Sex and Gender – slight re-wording Addition of part-time and fixed-term worker protection
Appendix D - References	Some reference points removed

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1. Objective

The purpose of this policy is to set out the school's commitment to celebrating, valuing and promoting equal, diversity and inclusion in employment and to avoiding unlawful discrimination and eliminating unconscious bias 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 listed below or any other basis.

- Age;
- Disability;
- Gender re-assignment;
- Marriage and civil partnership;
- Pregnancy and maternity;
- Race (which includes ethnic origin, 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 Trust which set out the Trust's commitments and obligations to the wider Trust community.

2. Policy Statement

The Trust 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 Trust 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 Trust may, where appropriate, apply positive action to encourage applications from particular groups where they are underrepresented in the workplace. In exceptional legitimate circumstances the Trust may apply a genuine occupational qualification to particular role (see Appendix A).

The Trust:

- Will take positive steps to create a culture through its Trust, 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;
- Actively challenge stereotyping, bias and discrimination;
- 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;
- Will endeavour to minimise the possibility of any initial unconscious bias, to ensure equality, diversity and inclusion in all aspects of employment, such as recruitment and promotion;
- Will ensure that recruitment, promotion and other selection exercises such as redundancy selection will be conducted on the basis of merit, against objective criteria that avoid discrimination.

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 Trust community will be considered disciplinary matters and will be dealt with under the Trust's Discipline and Dismissal Procedure and may, in some cases, lead to dismissal.

3. Policy in practice

The Trust has in place a range of employment related policies, procedures and practices which support and complement this Equality, Diversity and Inclusion 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 Trust community influences how equality, diversity, and inclusion 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 Trust has responsibility for:

- Determining, monitoring, reviewing and supporting the implementation of the Equality, Diversity and Inclusion 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 Managers have responsibility for:

- Ensuring that the Equality, Diversity, and Inclusion in Employment Policy is implemented;
- Ensuring recruitment, employment and management policies and practices are undertaking 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 Trust 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 Trust.

Anyone engaged to work/volunteer at the school must not unlawfully discriminate against or harass other people including current and former employees, job applicants, parents, children, suppliers and visitors or other persons that have contact with the school. This applies in the school, outside the school, and on school-related trips or events including social events.

We take a strict approach to breaches of this policy, and 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, harassment, or victimisation against employees or others in the school

community will be dealt with under the school's Discipline and Dismissal Procedure and may, in some cases, lead to dismissal.

Individuals can be held personally liable as well as, or instead of, the Trust 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 Trust will thoroughly investigate the alleged circumstances and provide additional training/support to individuals as considered appropriate.

5. Monitoring and reporting

The Trust 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 Trust is committed to engaging with relevant stakeholders in the review of policy and practice.

In particular, the Trust 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 Trust 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 Trust 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 Trust's data protection policy/policy on processing special categories of personal data. Any publication of data will preserve anonymity.

5.1 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.

6. Complaints

The Trust will make every effort to protect employees from discrimination and all concerns raised with the Trust 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.

Support for Employees

Your employer will fulfil its obligations to protect their staff from inappropriate conduct and where it does occur, will offer and provide where needed, support to employees. Support may take the form of:

- Counselling;
- An Occupational Health referral;
- A period of leave of absence;
- Additional management support for a period;
- Assignment of a mentor;
- Training.

Assistance will be offered to any employee who has difficulty raising their grievance in writing due to disability and language barriers.

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 Trust complaints procedure.

Others

Visitors or other members of the Trust community who experience or witness discrimination, bulling, harassment or victimisation should report the matter to a senior manager, Governor or Trustee in the first instance or via the Trust 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 Trust 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 Trust 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 Trust 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 Trust 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)

This includes sexual harassment and other unwanted conduct related to a Protected Characteristic, which has the purpose or effect of violating someone's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

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.

7. Unconscious Bias

Unconscious bias occurs when people favour others who look like them and/ or share their values and we should be aware that everyone has an unconscious bias.

Where unconscious bias is against a protected characteristic, it can be unlawfully discriminatory. The school therefore aims to challenge stereotyping and prejudice openly and to minimise this through:

- being aware of unconscious bias;
- not rushing to make decisions and considering issues fully;
- justifying decisions based on evidence and recording the reasons for decisions, e.g. recruitment, promotion and disciplinary outcomes;
- encouraging staff to work with diverse groups of people and getting to know them as individuals, such as working within different teams, premises, etc wherever possible;
- focusing on positive behaviour of people and not the negative stereotypes; and
- implementing Policies and Procedures which limit the influence of individual characteristics and preferences.

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 Trust 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 Trust.

This would be a claim under sex discrimination.

Pay secrecy

The Trust 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 Trust may, in particular, require its employees to keep pay rates confidential outside the workplace e.g. a competitor organisation.

Gender pay gap reporting

The gender pay gap reporting duty for public-sector employers in England is set out in the Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017 which came into force on 31 March 2017.

The Regulations include a requirement for public sector employers with 250 or more employees to publish:

- the difference in mean and median pay between male and female employees;
- the difference in mean and median bonus pay between male and female employees and the proportions of male and female employees who were paid bonus pay; and
- the proportions of male and female employees in each quartile of their pay distribution

At their discretion, employers can also publish a supporting narrative and action plan to explain their gender pay gap. The snapshot date for gathering data each year is 31st March. Employers are required to publish their gender pay gap report within the period of 12 months (beginning with the snapshot date) on the GOV.UK website. Employers should also publish this information on their own website in an easily accessible format and in a prominent place. Once published the information must remain there for at least three years.

The Equality and Human Rights Commission is responsible for enforcing public sector equality duties including failure to comply with gender pay gap reporting duties.

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 Trust 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 Trust.

If you are disabled or become disabled, we encourage you to tell us about your condition so that we can consider what reasonable adjustments or support may be appropriate.

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 an individual identifies with another or no gender for at least two years.

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 person has an acquired gender there is no requirement to inform an employer of their sex 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

The current definition in the Equality Act is that 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.

Part-time and Fixed Term Workers

Part-time and fixed-term employees should be treated the same as comparable full-time or permanent employees and enjoy no less favourable terms and conditions (on a pro-rata basis where appropriate), unless different treatment is justified.

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 Trusts. Departmental advice for Trust leaders, Trust staff, governing bodies and local authorities

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