

JOINT NEGOTIATING COUNCIL EDUCATION AUTHORITY

04 November 2021

To JNC Council Members
MSO/TUSO

Joint Negotiating Council Circular No. 102 (Third Revision November 2021)

EQUAL OPPORTUNITIES POLICY

The Joint Secretaries of the Joint Negotiating Council have considered and agreed the updated Equal Opportunities Policy for issue as an EA policy. The main change is the inclusion of a new paragraph 5.3 in relation to the EU Exit.

The aim of the policy is to communicate the commitment of EA to the promotion of equality of opportunity, fair participation and good relations. It is an important component of EA's equality strategy and should be read in conjunction with the EA Dignity at Work Policy and Code of Practice.

A copy of the Equal Opportunities Policy is attached as an appendix to this circular.

This circular supersedes JNC Circular No 102 dated 05 July 2018 which should be destroyed.



Management Side Secretary
R McGreevy



Trade Union Side Secretary
A Law



Trade Union Side Secretary
A Speed



Trade Union Side Secretary
J Donley



Trade Union Side Secretary
K Ellison

EDUCATION AUTHORITY

EQUAL OPPORTUNITIES POLICY

1. GENERAL

1.1 The Education Authority (EA) is committed to the implementation of an equal opportunities policy which will enable it to:

- become a leading organisation for the promotion of equality of opportunity and good relations,
- challenge unlawful or unfair discrimination and harassment
- promote equality of opportunity in employment and service delivery;
- create an organisation which recognises and values the contribution of all employees, and which is supportive, fair, free from unlawful or unfair discrimination or harassment and promotes dignity at work; and
- ensures that EA is recognised as a great place to work.

1.2 The aim of this policy is to communicate the commitment of EA to the promotion of equality of opportunity, fair participation and good relations. The policy is an important component of EA's equality framework and should be read in conjunction with the EA Dignity at Work Policy and Code of Practice. It is EA's policy to provide equality of opportunity, to all, irrespective of:

- gender, (including transgender), marital status or civil partnership status;
- pregnancy, maternity or parenting status;
- sexual orientation;
- religious belief
- political opinion;
- race¹;
- age;
- disability;
- having dependants or not; and
- trade union membership or non-membership.

1.3 A person's criminal record will be seen in the context of the post, ability to do the job and the responsibility of employers for child protection, for the care of funds, resources, the public and other employees. Only offences relevant to the post in question will be considered.

¹ Throughout this document the word 'race' is to be understood, in line with the Race Relations (NI) Order 1997, to include colour, race, nationality or ethnic or national origin. Irish Travellers are recognised by the Order as being members of a racial group.

- 1.4** EA is opposed to all forms of unlawful or unfair discrimination or harassment. In line with the Dignity at Work Policy and Code of Practice, the EA considers all forms of bullying, discrimination and harassment as unacceptable behaviour. All job applicants, employees and others who work for EA will be treated fairly and will not be discriminated against on the grounds of his or her gender, including transgender, marital status, pregnancy, maternity or parenting status, civil partnership status, sexual orientation, religious belief, political opinion, race, disability, or age. Decisions about recruitment and selection, advancement, training or any benefit will be made objectively and without unlawful or unfair discrimination or harassment.
- 1.5** This policy applies to all Education Authority employees with the exception of teaching staff employed by EA for whom separate arrangements apply.
- 1.6** The Chief Executive, who is the Accounting Officer for EA, is accountable for equal opportunities in EA. Responsibility for equal opportunities in the EA, and the effective implementation of this policy, rests with the Head of Equality and Diversity.

2. LEGAL FRAMEWORK

- 2.1** This policy has been developed within the framework of current employment legislation and has been updated in light of immigration changes in relation to the UK's exit from the European Union on 31 December 2020. It is designed to build on the statutory position and to reflect the spirit as well as the letter of the legislation. However, the existence of law and agreed procedures cannot of themselves ensure that any policy of non-discrimination/non-harassment will work effectively. This will be achieved only when employees at all levels critically examine their attitudes and behaviours to others and ensure that no taint of unlawful or unfair discrimination or harassment is allowed to affect their judgement.
- 2.2** EA recognises its' obligations under the:
- Fair Employment and Treatment (NI) Order 1998 (as amended);
 - Sex Discrimination (NI) Order 1976 (as amended);
 - Equal Pay Act (NI) 1970 (as amended);
 - Disability Discrimination Act 1995 (as amended);
 - Race Relations (NI) Order 1997 (as amended);
 - Employment Equality (Sexual Orientation) Regulations (NI) 2003;
 - Employment Equality (Age) Regulations (NI) 2006;
 - The Immigration, Nationality and Asylum (EU Exit) Regulations 2019;
 - Section 75 of the Northern Ireland Act 1998; and
 - Trade Union and Labour Relations (Northern Ireland) Order 1995.
- 2.3** EA is committed to preventing any form of direct or indirect discrimination or victimisation against any applicant, potential applicant, employee, trainee, student or person on work placement on the grounds of his or her gender, including transgender, marital status, pregnancy, maternity or parenting status, civil partnership status, sexual orientation, religious belief, political opinion, race, disability, or age.

Direct Discrimination means treating an individual less favourably on any of the statutory anti-discrimination grounds.

Indirect Discrimination occurs where a particular provision, criterion or practice is applied to all, but is one which has the effect of placing people who share a particular equality characteristic at a particular disadvantage compared to other people.

Victimisation means treating a person less favourably than another because that person has exercised their rights under the anti-discrimination laws, or has assisted another person to do so.

Disability-related discrimination occurs where an employer, without justification, and for a reason which relates to a person's disability, treats that person less favourably than the employer treats (or would treat) other people to whom that reason does not (or would not) apply.

Failure to comply with a duty to make reasonable adjustments – this form of disability discrimination occurs where an employer has a duty to make reasonable adjustments for a person with a disability and fails to comply with it. A failure to comply with the duty cannot be justified and is always unlawful.

An employer will be under a duty to make reasonable adjustments for a person with a disability in his/her recruitment or employment if, as a result of the working environment and/or any provision, criterion or practice applied by the employer:–

- the person with a disability is placed at a substantial disadvantage compared to persons who do not have a disability, and
- the employer knows, or could reasonably be expected to know that the person has a disability and is suffering the said disadvantage, or is likely to.

Where the employer is under the duty, he/she is required to take such steps as are reasonable, in all the circumstances of the case, to prevent the person with a disability from suffering the said disadvantage.

Harassment means any behaviour, deliberate or otherwise, which is unwanted and offensive to an individual or group and which may violate an employee's dignity or create an intimidating, hostile, degrading, humiliating or offensive working environment. Harassment may constitute unlawful or unfair discrimination under current anti-discrimination legislation.

- 2.4** Workplace bullying is also a form of unlawful or unfair harassment which can take place for many reasons and can take many forms, both obvious and more subtle, on grounds which are not specifically covered by legislation. Bullying can be defined as: *“Offensive, intimidating, malicious, insulting or humiliating behaviour, abuse of power or authority which attempts to undermine an employee or group of employees and which may cause them to suffer stress”*. EA has in place a Dignity at Work Policy and Code of Practice.

2.5 There are more subtle and unconscious forms of unlawful or unfair discrimination or harassment which may not be easily identified. These may result from general assumptions about the capabilities, characteristics and interests of particular groups or individuals and influence the way in which they are treated. They may also take the form of applying conditions or requirements without considering whether they impact disproportionately to the disadvantage of particular groups.

3. WORKING ENVIRONMENT

3.1 EA will work with the trade unions in an effort to make the organisation a great place to work. We will ensure that our workplaces are harmonious and inclusive, where individual differences are valued and respected in line with the commitments provided for in existing policies and procedure e.g. equal opportunities, harassment and discipline.

3.2 EA's and the recognised Trade Unions' joint commitment to promoting a good and harmonious working environment is stated in our Joint Declaration of Protection for Dignity at Work and Inclusive Working Environment, and associated Workplace Policy.

4. IMPLEMENTATION

4.1 The Chief Executive and Senior Management of EA have a corporate responsibility for the promotion of equality of opportunity and good relations within the organisation. The Director of Human Resources has operational responsibility for the effective implementation of this policy. Each manager has responsibility for the day to day operation of this policy. All employees are expected to abide by the policy and contribute towards the creation of an environment in which equality is practised and valued.

4.2 In order to implement this policy EA will:

- communicate the policy to employees and new recruits as part of their induction programme. A summary of the policy will be included with all recruitment documentation;
- incorporate specific and appropriate duties in respect of implementing the equal opportunities policy into the job descriptions of employees as appropriate;
- provide equality training and guidance as appropriate, including training on induction and management courses;
- ensure that those who are involved in assessing candidates for recruitment or promotion will be trained in non-discriminatory selection techniques.

4.3 EA will regard breaches of this policy as misconduct which may result in disciplinary action under the Disciplinary Procedure.

5. RECRUITMENT, SELECTION, TRAINING AND TRANSFER

5.1 EA will ensure the implementation of systematic, fair and objective procedures for the recruitment, selection, training or transfer of its employees. Employees involved in all selection processes must follow the EA's Code of Procedures on Recruitment and Selection and its Policy and Guidance on the Employment of People with Disabilities.

5.2 As training and information plays a major part in the promotion of equality of opportunity, persons engaged in recruitment and selection will undergo training which will include guidance on the avoidance of unlawful or unfair discrimination or harassment.

5.3 EA is required by law to ensure that all employees are entitled to work in the UK. Assumptions about immigration status will not be made based on appearance or perceived nationality. All prospective employees, regardless of nationality, must be able to produce original documents before employment starts to satisfy current immigration legislation. The list of acceptable documents is available from Resourcing in the EA's Human Resources Directorate.

6. CAREER DEVELOPMENT

6.1 When carrying out staff appraisal, reviewers will base their reports on an objective assessment of the employee's capabilities, performance and potential. Appraisal reports will not reflect any assumption or prejudices of the reviewer about the appraised employee.

6.2 Employees will be given equal opportunity in training to enable them to develop the necessary skills to achieve their full potential.

7. FINDING THE BALANCE – WORK-LIFE POLICIES IN PRACTICE

7.1 It is in the interests of EA that it retains trained employees. EA, in consultation with recognised trade unions, should consider what steps can be taken, consistent with the justifiable needs of the service, to enable employees to reconcile their work with their domestic responsibilities. Employees will be made aware of time-off provisions such as maternity leave, paternity leave, parental leave, shared parental leave, adoption leave, job sharing, part-time working, term-time working, flexible retirement, flexible working hours, career breaks and special leave arrangements such as carer leave.

8. MONITORING AND AFFIRMATIVE ACTION

8.1 The composition of employees, applicants for employment and appointees will be monitored on the basis of age, gender, including transgender, community background, disability, marital status/civil partnership status, race, sexual orientation and caring responsibilities. The purpose of regular monitoring is to provide the information required to measure the effectiveness of this policy and provide an objective view on the existence and progress of equality of opportunity.

8.2 EA will take such affirmative action as is deemed lawful, appropriate and necessary to ensure equality of opportunity. Goals and timetables, where appropriate, will be set to measure progress which can reasonably be expected as a result of affirmative action.

8.3 Equal opportunities monitoring data, as part of the annual monitoring process, will be made available to the recognised trade unions.

9. COMPLAINTS

9.1 Employees who believe they have suffered any form of unlawful or unfair discrimination, harassment or victimisation are entitled to raise the matter through the Dignity at Work Policy and Code of Practice. A copy of the policy is available from the HR Directorate. All such complaints will be dealt with seriously, promptly and confidentially.

- 9.2** Employees are encouraged to use these internal procedures to pursue complaints under the current anti-discrimination legislation before exercising their right to commence legal action in an Industrial Tribunal, Fair Employment Tribunal, or in some circumstances through a civil court. Although this is not compulsory, a failure to do so may result in any compensation that is awarded by the Tribunals being reduced. Help and advice in regard to such complaints is available from the Equality Commission for Northern Ireland, your Trade Union, the Labour Relations Agency, a Solicitor or Citizen's Advice Bureau. External discrimination complaints are pursued in the Industrial Tribunal or Fair Employment Tribunal (N.B. an equal pay claim which constitutes sex discrimination can also be pursued through a civil court under the six year statute bar limitation). Individuals who feel they have been subjected to maladministration also have access to the Northern Ireland Ombudsman. Individuals should check the time limits under which such complaints should be brought as these are subject to change.
- 9.3** Employees should have the confidence to pursue a case of discrimination, bullying and harassment without fear of victimisation and every effort will be made to ensure that employees making complaints will not be victimised. Any complaint of victimisation will be dealt with seriously, promptly and confidentially. Victimisation will result in disciplinary action and may warrant dismissal.
- 9.4** Where claims of discrimination, bullying and harassment are found to be malicious or vexatious this will result in disciplinary action.

10. MONITORING AND REVIEW

- 10.1** EA will establish appropriate information and monitoring systems to assist the effective implementation of the equal opportunities policy. The actions outlined in this statement will be regularly reviewed to ensure that the objectives are being achieved. Any deficiencies identified in the policy will be reviewed in consultation with the Trade Unions.

11. AGREEMENT

- 11.1** This policy has been agreed with the recognised Trade Unions within EA. EA recognises the support of the Trade Unions for the principle of equality of opportunity and good relations and their commitment to the content and implementation of this policy.
- 11.2** This policy will be reviewed in three years.

Policy originally issued 30 July 2004

First Revision 7 December 2006
Second Revision 5 July 2018
Third Revision 04 November 2021