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## Askham Bryan College

# SINGLE EQUALITY POLICY

## HR12

### 1. Introduction to Policy

Askham Bryan College is committed to providing equality of opportunity and parity of treatment for all individuals, regardless of sex, age, disability, marital status, family / carer responsibilities, race, nationality, ethnicity, colour, religion/belief, political affiliation, gender reassignment, sexual orientation, political activity, unrelated criminal convictions and other irrelevant criteria, thereby engendering an environment in which people treat each other with mutual respect. This commitment is extended to past, present and future members of staff, Governors, students, applicants for employment/education and visitors to the College.

### 2. General Principles

- 2.1 Promote good practice in all areas of College activity through clear guidance regarding equality of opportunity and establishing key principles and monitoring arrangements.
- 2.2 Encourage mutual respect within a caring community through celebrating and valuing diversity and challenging and removing unfair practices.
- 2.3 Raise awareness through induction, training and sharing good practice.
- 2.4 Meet the legal obligations required by the relevant legislation (Appendix1). Review and update policies and procedures to ensure new and existing legislation is embedded.
- 2.5 Prevent circumstances arising which could result in claims of discrimination against an individual or the College as a whole through identifying, challenging and removing unfair practices. To provide procedures and forums, through which concerns and complaints can be raised and appropriate, speedy action taken.

### 3. Responsibilities

The College will monitor all policies, procedures and practices to ensure equality of opportunity.

All members of the College, together with all those involved in College activities are required to conduct themselves in accordance with this Equality & Diversity Policy. They are required to take personal responsibility in this area and work towards promoting respect for individuals. This will entail identifying and removing

inappropriate behaviour and changing practices which perpetuate inequality and taking the necessary action to challenge unfair practices.

#### **4. Implementation**

The College believes that the implementation of policies and practices that ensure equality of opportunity is an ongoing process and that it must ensure these are regularly reviewed and updated.

The College will promote and support the implementation of policies that underpin the commitment to equality of opportunity. It will plan, manage and monitor policies, activities and actions to ensure that they encompass the letter and spirit of the law. Equal opportunity will be promoted in ALL aspects of College functioning.

#### **5. Monitoring**

The College has established an Equality & Diversity Committee.

This Equality & Diversity Committee is chaired by the Director of Teaching & Learning, meetings are held on a half-termly basis.

The Equality & Diversity Committee will monitor the effectiveness and implementation of the Equality & Diversity Policy on behalf of the College.

It will assess the effectiveness of the policy by means such as:

- Requesting, receiving and reviewing reports from all sections of the College
- The monitoring of all new policies and procedures implemented in the College
- Ensuring that all documentation (policies, procedures, handbooks etc) is Equality Impact assessed.
- Identifying and discussing ways of improving equality of opportunity across the College and the Centres
- Providing a means by which people can talk informally in confidence about any aspect of equal opportunities
- Monitoring will be undertaken in accordance with best practice recommendations, particularly from bodies such as the Commission for Racial Equality (CRE), Equal Opportunities Commission (EOC), and the Disability Rights Commission (DRC), and with regard to data protection and DDA IV Confidentiality Principles.

#### **6. Grievance**

If an individual feels that this policy does not support them or that it is not being implemented adequately, they should report their grievance, where appropriate, to the Line Manager or a representative of Human Resources. Alternatively they may wish to use the forum of the Equality & Diversity Working Group to raise issues of general principle.

If students wish to raise a grievance or a complaint, this should be done through their Academic Support Tutor.

If an individual regards any matter as requiring formal resolution under this policy, then such matters should be referred to the respective Grievance Procedures for staff and students.

## **7. Positive Action**

The College undertakes to follow positive action measures allowed by law to rectify disadvantages in employment or education provision revealed by monitoring.

Positive action, allows the College to:

- Provide facilities or services (in the form of training, education, or welfare) to meet the particular needs of people from under-represented groups;
- Target job training at particular groups that are under-represented in a particular area of work;
- Encourage applications from groups that are under-represented in particular areas of work.

Positive action strategies will be kept under regular review, and they cannot be used once the particular needs have been met, or if under-representation no longer exists. The College will ensure that when using positive action as a strategy, it falls within the law.

## **8. Review**

The Equality & Diversity Committee will welcome feedback about the Policy and its effectiveness. Comments should be forwarded to the Chair of the Group. The policy will be normally reviewed and updated on an annual basis by the Equality & Diversity Committee and approved by SMT.

This policy is supported by:

- All policies and procedures
- Student Support Services
- The College Charter
- Positive about Disabled People
- Equality & Diversity Working Group

The policy will be reviewed annually in accordance with legislative developments and the need for good practice, using the local consultation / negotiation arrangement within the College.

## **9. Publicising our Policy**

The College's commitment to equality and diversity will be highlighted in College publications, including the prospectus, annual self assessment report and annual financial statement. In addition the College will publish its Race, Disability and Gender Equality Schemes and ensuing revised action plans.

## **LEGISLATIVE FRAMEWORK**

### **RACE**

#### **Race Relations Act 1976 (Amendment) Regulation 2000**

The Act makes it unlawful to discriminate on the grounds of colour, race and national or ethnic origin (including citizenship) in areas of employment, the provision of services and housing/accommodation. It also includes the concept of “indirect discrimination” to the area of race.

#### **Race Relations Act 1976 (Amendment) Regulation 2000**

The Race Relations Act 1976 (Amendment) Regulations 2003 enhanced the RRA by, for example, amending the definition of indirect discrimination, removing a number of exceptions from the legislation and extending protection from discrimination on the grounds of race and ethnic or national origin.

From May 2002 public authorities have a statutory duty to promote race equality and publish a Race Equality Scheme. The College has an action plan for the implementation of the Race Equality Policy.

### **SEX/GENDER**

#### **Sex Discrimination Act 1975 (UK), 1986 (UK) 2001 and (Amendment) Regulations 2003**

The Sex Discrimination Act applies equally to:

- Men, women and children
- Part-time and full-time workers
- Self employed people and employees
- Job applicants
- Contract workers
- Partners in a firm

Under these Acts, sex discrimination is against the law in the following areas:

- Employment and training
- Education
- The provision of goods, facilities and services to members of the public.

In employment, it is also against the law to discriminate against a person because that person is married.

The Sex Discrimination Act defines and makes unlawful two forms of discrimination – *direct* and *indirect*.

#### **Employment Equality (Sex Discrimination) Regulations 2005**

These regulations introduces new definitions of indirect discrimination and harassment, and explicitly prohibits discrimination on the grounds of pregnancy or maternity leave. They set out the extent to which it is discriminatory to pay a woman less than she would otherwise have been paid due to pregnancy or maternity issues.

### **Sex Discrimination (Gender Reassignment) Regulations 1999**

These regulations protect individuals from less favourable treatment by an employer on the grounds that he/she is undergoing, has undergone or intends to undergo gender reassignment.

### **Sex Discrimination (Indirect Discrimination and Burden of Proof) Regulations 2001**

These regulations are designed to protect against discrimination on the grounds of an individual's marital status.

### **Gender Recognition Act 2004**

This act means that transsexual people are afforded all the rights and responsibilities of their acquired gender. The Act gives transsexual people the right to marry, from the date of recognition, in their acquired gender; to be given birth certificates that recognise the acquired gender and to obtain benefits and state pension just like anyone else of that gender.

### **Sexual Harassment and the Law**

Under British law, sexual harassment at work may amount to unlawful sex discrimination under the Sex Discrimination Act 1975 (SDA) which provides that a person discriminates directly against a woman if "on the grounds of her sex he treats her less favourably than he treats or would treat a man" in comparable circumstances. (The Act also covers discrimination against men).

### **Equal Pay Act 1970 and amendment 2003**

This Act makes it illegal to discriminate between men and women in terms of payment and other contractual conditions, e.g. pensions. In other words, an employee is entitled to equal pay with an employee of the opposite sex if:

- They are doing work which is the same or broadly similar
- They are doing work which has been rated as equivalent by a job evaluation scheme

Amendments to the 1970 Equal Pay Act were brought about as a result of proceedings made against the UK government by the European Commission. The amendments brought the UK law into line with the Equal Pay Directive and made it possible to claim equal pay for work of equal value, i.e. if the demands made on the worker were the same.

### **Part-time Workers (Prevention of less favourable Treatment) Regulations 2000 (Amendment) Regulations 2002**

This directive is to provide removal of discrimination against part-time workers and to improve the quality of part-time work.

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

The purpose of these regulations is to secure that fixed-term employees are treated no less favourably than comparable permanent employees and to prevent the abuse arising from successive periods of fixed-term employment.

## **SEXUAL ORIENTATION**

### **Employment Equality (Sexual Orientation) Regulations 2003**

These regulations prohibit discrimination (direct or indirect) harassment or victimisation on the grounds of sexual orientation in employment and vocational training by:

Employers, Trade organisations, Training Providers, FE and HE institutions, bodies conferring professional and Trade qualifications and Employment agencies.

Sexual Orientation includes:

- Orientation towards persons of the same sex (lesbians and gay men)
- Orientation towards persons of the opposite sex (heterosexual)
- Orientation towards persons of the of the same sex and opposite sex (bisexual)
- This includes perceived as well as actual sexual orientation

### **Civil Partnership Act 2004**

Civil Partnership is a completely new legal relationship which can be formed by two people of the same sex and is distinct from marriage. It gives same sex couples the ability to obtain legal recognition for their relationship.

## **RELIGION OR BELIEF**

### **Employment Equality (Religion or Belief) Regulations 2003**

These regulations prohibit discrimination (direct or indirect) harassment or victimisation on the grounds of religion and belief in employment and vocational training by:

Employers, Trade organisations, Training Providers, FE and HE institutions, bodies conferring professional and Trade qualifications and Employment agencies.

A religion or belief is defined as:

'Being any religion, religious belief or similar philosophical belief. This does not include any philosophical belief unless it is similar to religious belief. It will be for the Employment Tribunal and other courts to decide whether particular circumstances are covered by the regulations'

## **AGE**

### **Employment Equality (Age) Regulations 2006**

The Regulations apply to employment and vocational training. They prohibit unjustified direct and indirect age discrimination, and all harassment and victimisation on grounds of age, of people of any age, young or old.

As well as applying to retirement they

- Remove the upper age limit for unfair dismissal and redundancy rights, giving older workers the same rights to claim unfair dismissal or receive a redundancy payment as younger workers, unless there is a genuine retirement;
- Allow pay and non-pay benefits to continue which depend on length of service requirements of 5 years or less or which recognise and reward loyalty and experience and motivate staff;
- Remove the age limits for Statutory Sick Pay, Statutory Maternity Pay, Statutory Adoption Pay and Statutory Paternity Pay, so that the legislation for all four statutory payments applies in exactly the same way to all;

- Remove the lower and upper age limits in the statutory redundancy scheme, but leave the current age-banded system in place.
- Provide exemptions for many age-based rules in occupational pension schemes

## **DISABILITY**

### **Disability Discrimination Act 1995 amended by the Special Educational Needs Act 2001 (SENDA) or (Part 4)**

- The Disability Discrimination Act introduces, over a period of time, new laws and measures aimed at ending the discrimination which many disabled people face.
- SENDA imposes on various providers of education a duty not to discriminate against students or potential students by reason of their disability.
- In addition, Colleges/providers have a duty to make reasonable adjustments so as to accommodate the needs of disabled students. In this respect the Act is anticipatory.

The Disability Discrimination Act covers disabled people and people who have had a disability in the past. The Act defines disability as:

*A physical or mental impairment which has a substantial and long-term effect on a person's ability to carry out normal day-to-day activities.*

Full information relating to the Act can be found in HR and with the Director for Quality and Customer Support.

### **Disability Discrimination Act (2005)**

Under this new legislation all public bodies, such as further education institutions, are required to:

- Eliminate unlawful discrimination against disabled people
- Promote equal opportunities for disabled people
- Eliminate disability-related harassment
- Promote positive attitudes towards disabled people.

The new legislation provides enforceable civil rights for disabled students and staff, and a tool for tackling institutional disability discrimination. Positive discrimination is allowed under the terms of the Disability Discrimination Act.

## **OTHER LEGISLATION**

### **Rehabilitation of Offenders Act 1974**

The purpose of the Act is to benefit those people who have been convicted of a criminal offence in civilian life or in the services (Army, Navy or Air Force) and who have since not committed any crimes.

According to the Act if a person is convicted of a criminal offence and receives a sentence of not more than 2½ years and is not convicted again during a specified period of time (known as the *rehabilitation period*) s/he becomes a rehabilitated person. The conviction for the offence committed then becomes “spent”, or forgotten, and the person in possession of a spent conviction can then have equal access to the same benefits as a person without the same conviction within the realms of employment, training and housing.

### **Police Act 1997 - section 122**

This section of the Act requires the College to publish a Code of Practice. This is to provide assurance to those applying for Standard Disclosures - (information contained in criminal record certificates) or Enhanced Disclosure (information contained in enhanced criminal record certificates), that the information released will be used fairly and stored securely.

### **Public Order Act 1986 and Criminal Justice Act 1994**

In some cases the offender may commit a criminal assault and criminal liability may arise under these Acts. It is an offence to intentionally cause harassment, harm or distress through using threatening, abusive, or insulting words, behaviour or displays of material. There is a penalty of up to 6 months in jail and/or a fine of up to £5,000.

### **Protection from Harassment Act 1997**

This imposes a criminal liability on the part of the offender. There is a penalty of up to 6 months in jail and/or a fine of up to £5,000.

### **Human Rights Act 1998**

Human Rights Act incorporates rights under the European Convention of Human Rights into domestic law. Individuals can bring claims under the HRA against public authorities for breaches of Convention rights. UK courts and tribunals are required to interpret domestic law, as far as possible, in accordance with Convention rights. Previous case law may be overturned if there is a breach of Convention rights and the relevant law can be re-interpreted in a way which is compatible with Convention rights. Convention rights include a right not to be discriminated against on non-exhaustive grounds, which include that of sex, where another Convention right is engaged.

### **European Legislation**

- The Pregnant Workers Directive
- Article 119 of the Treaty of Rome
- The Equal Treatment Directive
- The Equal Pay Directive

### **EQUALITY ACT 2006**

The Equality Act makes provisions to establish a single Commission, the Commission for Equality and Human Rights (CEHR), and define its purpose and functions, to replace the Equal Opportunities Commission (EOC), the Commission for Racial Equality (CRE) and the Disability Rights Commission (DRC).

The Equality Act 2006 also creates a duty on public authorities to promote equality of opportunity between women and men ('the gender duty'), and prohibit sex discrimination and harassment in the exercise of public functions (due in April 2007). This provision amends the Sex Discrimination Act of 1975 and the Equal Pay Act 1970 (as amended by the Employment Equality (Sex Discrimination) Regulations 2005).

The Equality Act also makes it unlawful to discriminate on the grounds of religion or belief in the provision of goods, facilities and services, the disposal and management of premises, education and the exercise of public functions.

The Equality Act also enables provision to be made to prohibit sexual orientation discrimination in the provision of goods, facilities and services, the disposal and management of premises, education and the exercise of public functions (due in 2007).