

Shepway District Council

**Equality and
Diversity Policy
2016 - 2020**

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1. Aims

In line with the Equality Act 2010¹, this policy aims to ensure **everyone has the right to be treated fairly at work or when using our services**. The law protects people from discrimination on the basis of nine **protected characteristics**, which are:

- Age
- Disability²
- Sex (gender)
- Gender reassignment³
- Marriage or civil partnership⁴
- Pregnancy or maternity
- Race (ethnicity)
- Religion or belief
- Sexual orientation

The Equality Act 2010 introduced a single Public Sector Equality Duty (PSED) on public bodies and this duty came into effect in April 2011. Its three main aims are to ensure that in carrying out their functions, public bodies **have due regard to the need to:**

- **Eliminate unlawful discrimination, harassment and victimisation** and other conduct prohibited by the Act.
- **Advance equality of opportunity** between people who share a protected characteristic and those who do not.
- **Foster good relations** between people who share a protected characteristic and those who do not.

To have **due regard** means consciously thinking about the Equality Duty's three aims. For example:

- Decision makers must be aware of the duty to have “due regard” when taking decisions which may have implications for people with particular protected characteristics.
- Councils should consider equality before and while developing policy and taking decisions, not afterwards and they need to keep it under continual review

¹ The Equality Act 2010 replaces a number of Acts and Regulations covering Race, Gender, Disability, Age, Sexual Orientation, and Religion and Belief.

² This includes people with mental health problems, learning disabilities and long-term or serious illnesses such as heart disease, cancer or HIV/AIDS.

³ A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex.

⁴ This protected characteristic only applies to employees.

- The equality duty must be integral to the council's activities and has to be carried out seriously, rigorously and with an open mind – it is not just a question of ticking boxes.

In view of the statutory requirements placed on the council this policy formalises the council's commitment to supporting and promoting Equality and Diversity and ensures that to that end the council will strive to:

- **Remove or minimise disadvantages suffered by people because of their protected characteristics;**
- **Take steps to meet the needs of people from protected groups where these are different from the needs of others;**
- **Encourage people from protected groups to participate in public life or in other activities where they are under-represented**

2. Responsibilities

Under the Equality Act 2010, all employers and service providers⁵ must treat their employees and service users fairly. For Shepway District Council:

- The council's **Cabinet** has overall responsibility for this Policy and ensuring adequate resources are provided for its implementation. Senior officers and Members will scrutinise progress against the principles set out in this Policy by consistently monitoring the Equality Objectives outlined in the supporting Action Plan (Appendix 1).
- The council's **Overview & Scrutiny Committee** is responsible for monitoring and scrutinising this policy and the supporting Action Plan in terms of the impact it has on the Council's relationship with its communities and in terms of the equality and diversity issues covered by the Policy, where they affect local communities.
- The council's **Corporate Management Team** is responsible for overseeing implementation of the Policy and monitoring progress in delivering the supporting Action Plan.
- **Managers** are responsible for ensuring that all aspects of their services comply with the Policy and all staff are informed of their responsibility towards the promotion of equalities. Heads of Service must complete Equality Impact Assessments (EIAs) when reviewing how council functions are delivered or when they develop new or review existing council policies or strategies.
- **Operational Management Team (OMT)**⁶ is responsible for advising on diversity and equalities issues across the council and ensuring these are reflected in strategy and policy development, and service improvements.

⁵ You are a service provider regardless of if the goods, facilities or services you provide are free or paid for.

⁶ OMT consists of Heads of Service and CMT Direct Reports

OMT is also responsible for co-ordinating and publishing the EIAs and monitoring progress against the Equality Action Plan.

- **All staff** must ensure fairness towards colleagues, service users and other members of the community in carrying out their duties. All staff should help to promote the Policy in the workplace in all aspects of service delivery and to work towards the elimination of discrimination. All staff have a duty to report instances of discrimination to their manager at the earliest opportunity so that appropriate action can be taken to remedy the situation.
- The council requires those who **provide services on its behalf** or organisations, which are funded by the council to ensure their service provision and employment practices are consistent with this Policy.

All elected Members and employees must adhere to this Policy. The consequences of non-compliance may include disciplinary action and/or legal action (see Section 6: Breaching this Policy).

3. Communication

Effective information, consultation and involvement are essential to the Policy's success, and the Council will:

- Inform, consult and involve the relevant people including elected Members, employees and stakeholders about decisions which affect them so that they have the opportunity to influence policies and practises;
- Ensure that people from different backgrounds and protected characteristics are able to fully participate in consultation and involvement activities;
- Give people a voice by promoting involvement in decision-making and review such structures so that any proposed changes are considered and adopted where appropriate.
- Ensure all staff and Members are aware of their duties under the Equality Act 2010 outlined in this Policy.

Our promise on equality monitoring

Whenever we seeking personal information needed for equality monitoring we will:- :

1. Only ask for the information we need;
2. Explain why we need the information and how it will be used;
3. Take care to ensure that individuals cannot be identified from the information collected, especially where the results of monitoring are made public or shared; and

4. Act legally in relation to confidentiality, data protection and freedom of information.

4. Implementation

In line with the Equality Act 2010, the council will prepare and publish in an Action Plan Equality Objectives which we believe we should achieve to help meet section 149 of the Equality Act 2010. The Action Plan will identify the equality objective, the part of the Equality Act it will help meet, the actions that are required to achieve it, who is responsible and when the actions should be completed.

To ensure this Policy's effectiveness we will:

- **Publish equality information** on an annual basis to demonstrate compliance with the duty imposed by section 149(1) of the Equality Act 2010;
- Set specific and measurable **equality objectives**, monitor their progress and review them at least every four years;
- Consider the equal opportunities implications of any changes to policies, functions, strategies or projects and undertake **Equality Impact Assessments** before implementation;
- **Identify barriers** that prevent fair access to our services and take measures to address them; and
- **Monitor the composition** of our workforce and the take-up of our services and take positive action to redress inequalities.

Progress updates will be prepared and published once a year as part of the Annual Equalities Report.

5. Reporting Procedures

- **Grievance Procedures** - While this Policy aims to ensure fair and equitable treatment of all staff in all aspects of employment including recruitment and selection, terms and conditions of work, training and development, performance, retirement or redundancy, individual employees who feel they have been unfairly treated should seek information and confidential advice from Human Resources. For more information: <http://intranet.shepway.gov.uk/files/hr-policies/Grievance%20Policy.doc>
- **Whistle Blowing Policy** - Where a member of staff has concerns over a policy, procedure, a practice or the culture within a service or work area, and where they feel unable to raise concerns with a senior member of staff, the Whistle Blowing Policy should be referred to. For more information: <http://intranet.shepway.gov.uk/files/fraud-and-corruption/Whistleblowing%20policy.pdf>

- **Complaints of Discrimination** – The council’s Complaints Procedure has been reviewed to enable service users to raise any concerns of discrimination, harassment or victimisation. For more information: <http://www.shepway.gov.uk/your-council/council-information/make-a-complaint-or-compliment>

6. Breaching this Policy

The council will take seriously any instances of non-adherence to this Policy by its staff, Members, contractors and partners. Any instances of non-adherence will be investigated and, where appropriate, disciplinary action will be considered. With regard to any breach of the Policy by partners, the council will take appropriate action in relation to the nature of the incident.

7. Monitoring and Reviewing

Operational Management Team (OMT) which comprises of all direct reports to Corporate Management Team will ensure the Policy and supporting action plan are monitored and reviewed effectively by:

- Reviewing the Policy and supporting action plan every four years and undertaking a light touch review each year to ensure it is consistent with current legislation and codes of practice;
- Developing and monitoring progress on the Equality Objectives set out in the supporting Action Plan;
- Ensuring the Equality Objectives are specific and measurable to enable the council to monitor progress;
- Ensuring consultation and engagement reviews take into account the views of elected members, staff, community and voluntary groups, and trade unions;
- Carrying out progress reviews and reports of Equality Impact Assessments.

8. Dissemination

- The Policy and supporting Action Plan will be public documents and made available on the council’s website;
- On request, the Policy will be made available in a range of formats and languages;
- Senior Managers will be asked to brief their teams on the Policy;
- The Policy will be available to all staff via the intranet;
- Managers of staff without computer access will be given copies of the Policy and Action Plan and instructed to make them available to their staff;

- Applicants for council posts will be made aware of the Policy and it will form part of the induction programme for new employees.

9. Further information

If you have any enquiries about this policy please contact:

Leadership Support Team

Shepway District Council

Castle Hill Avenue

Folkestone

Kent CT20 2QY

Tel: 01303 853436

Email: leadership.support@shepway.gov.uk

10. Appendices

Appendix 1: Equalities Action Plan

	Action	Lead officer	Deadline date
1.	Ensuring EIAs are completed where they are required (i.e. where the council introduces a new policy or service, or where there is a significant revision to an existing policy or service) and that they are carried out in the correct manner (e.g. with appropriate consultation with affected parties).	Leadership Support Assistant	Ongoing
2.	Continually improving the council's management information relating to equality matters including complaints and customer satisfaction.	Ayse Niazi	Ongoing
3.	Involving services users and local communities (including people with protected characteristics) in the design of council services. All managers undertaking stage 2 EIA exercise will consult appropriately and publish the results.	Heads of Service and service Managers All managers	Ongoing As required
4.	Routinely publishing the result of consultation exercises on the council website and disaggregating the results (where possible) for different equality groups.	All Managers	As required
5.	Continue with the 'Understanding our communities' programme including sessions like: <ul style="list-style-type: none"> • Living with dementia and how we can support customers with dementia, 100 staff and Councillors are trained as Dementia Friends. • Deafness awareness sessions to enable staff to more effectively support those with hearing impairments. • Inputs from the mental health charity Mind; and Rainbow centre regarding the Roma community. 	Learning and Development Officer	Ongoing
6	Equality and diversity training is part of our induction and for all staff to undertake a mandatory refresh e-learning module every 3 years.	Learning and Development Officer	Ongoing

Appendix 2: Forms of Discrimination (Equality Act 2010)

The legal definitions vary, but broadly speaking discrimination can occur either directly or indirectly:

Direct Discrimination occurs when a person is treated less favourably than others would be treated in the same circumstances on the grounds of having a protected characteristic, as referred to on page 2 (Aims of this Policy) of this document.

Indirect Discrimination occurs when applying a provision, criterion or practice which puts someone from a protected characteristic at a particular disadvantage.

Indirect discrimination may only be justified in exceptional circumstances if it can be shown that the action was reasonable in managing the business or organisation, i.e. that it is 'a proportionate means of achieving a legitimate aim.' A legitimate aim might be any lawful decision made in running the business or organisation, but if there is a discriminatory effect, the sole aim of reducing costs is likely to be unlawful. Being proportionate in this context means being fair and reasonable, including showing that 'less discriminatory' alternatives to any decision made have been considered.

Discrimination by Association is direct discrimination against someone because they associate with another person who possesses a protected characteristic. For example, disability discrimination against someone who is a carer of a disabled person.

Discrimination Linked to a Perceived Characteristic is direct discrimination against an individual because of a belief that they possess a particular protected characteristic. It applies even if the person does not actually possess that characteristic, for example, discrimination against someone because they are thought to be gay but are not.

Harassment is defined as being *"unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual"*.

Harassment applies to all protected characteristics, except for pregnancy and maternity and marriage and civil partnership.

Employees are able to 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 and association and from harassment by third parties.

Victimisation takes place where one person treats another less favourably because he or she has asserted their legal rights in line with the Equality Act 2010 or helped someone else to do so. This includes making a complaint, taking legal action, providing evidence related to proceedings or alleging that discrimination has taken place. There is no legal requirement to compare

treatment of a complainant with that of a person who has not made or supported a complaint.

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

Genuine occupational requirements – Under current legislation, any job may be restricted to a particular characteristic if the characteristic is a genuine occupational requirement (GOR) for the job, or for the context within which it is carried out. However, the circumstances in which this applies are very limited.

Appendix 3: Defining Equality and Diversity

By equality and diversity, we mean:

‘Equality’ is about ‘creating a fairer society, where everyone can participate and has the opportunity to fulfil their potential’⁷. For us as a council it means:

- providing everyone with equal and fair access to council services, no matter where they live and whatever their background;
- ensuring equality of opportunity so that everyone has the same chance to fulfil their potential and removing the barriers that stop people from getting on in life; and
- helping to tackle the root causes of inequality – the things like poor housing or low educational attainment that can mean some people have poorer life chances than others.

It does not mean political correctness or trying to treat everyone the same. It is about treating people as individuals and ensuring that we try to do the right thing to help people based on their own particular circumstances and needs.

But we know that some groups of people may need more help than others. For example, we know that children who grow up in poverty are less likely to gain qualifications or to go on to higher education. So we know that in some circumstances we have to help people to ensure they have the same opportunities in life to succeed.

‘Diversity’ literally means difference. When it is used as a contrast or addition to equality, it is about recognising individual as well as group differences, treating people as individuals, and placing positive value on diversity in the community and in the workforce. For us as a council, it is about providing services which respect, value and cater for the differences in the way people would like/need to have them delivered.

⁷ Department of Health, 2008.