

# **Equality and Diversity Policy 2021-25 (Draft)**

February 2021



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# 1. Aims

In line with the Equality Act 2010<sup>1</sup>, 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
- Disability<sup>2</sup>
- Sex (gender)
- Gender reassignment<sup>3</sup>
- Marriage or civil partnership<sup>4</sup>
- 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:

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

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

<sup>3</sup> 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.

<sup>4</sup> This protected characteristic only applies to employees.

- 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
- 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 providers (5) must treat their employees and service users fairly. For the 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.

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

- The council's **Corporate Leadership Team** is responsible for overseeing implementation of the Policy and monitoring progress in delivering the supporting Action Plan.
- Service Leads 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. Service Leads must also complete Equality Impact Assessments (EIAs) when reviewing how council functions are delivered or when they develop new or review existing council policies or strategies.
- **Senior Management Team (SMT)**<sup>6</sup> 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. SMT 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;

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<sup>6</sup> SMT consists of CLT and their Direct Reports

- 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.

*\*Data gathered for the purpose of equalities monitoring will often fall within the special categories of data under the General Data Protection Regulation (GDPR), i.e. where it relates to 'racial or ethnic origin, religious or philosophical beliefs, health or sexual orientation'. The Data Protection Act 2018, which supplements the provisions of the GDPR, explicitly provides that equalities monitoring is a lawful reason to justify the holding and processing of such special category data.*

## **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.
- **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.
- **Complaints of Discrimination** – The council's Complaints Procedure enables service users to raise any concerns of discrimination, harassment or victimisation.

Section 10 provides additional information on ways to report.

## **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.

Whilst this policy relates primarily to the groups listed above section 9 relates to our wider role in the community to address these important matters.

## **7. Monitoring and Reviewing**

Senior Management Team (SMT which comprises the Corporate Leadership Team and their direct reports 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;

- Service Leads will be asked to brief their teams on the Policy;
- The Policy will be available to all staff via the intranet;
- 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. Wider role in the community

This policy covers council staff, Members, contractors and others working directly on the council's behalf.

We recognise, however, that the council has a wider influence in the community and can help to promote equality and tackle discrimination through our work with partners, stakeholders and residents.

The council's Corporate Plan 2021-30, 'Creating Tomorrow Together', identifies 'Positive community leadership' as one of its four service ambitions.

This ambition states that, by 2030:

*"Local leadership in community services will be recognised for the vital contribution it plays in creating a sense of place, health and wellbeing. This will be a shared ambition with partners across our communities. Local leadership will address many of the inequalities that existing between our communities and we will have improved access to services in our most deprived neighbourhoods. A strong and distinctive sense of place will prevail."*

During the Covid-19 pandemic the council and its partners worked together to set up community hubs to support vulnerable and 'at risk' residents. Through this we developed stronger and deeper relationships with other partners and local communities that can be used to tackle discrimination and promote equality.

Creating safer communities will be a key part of this. The Corporate Plan highlights that the district's Community Safety Partnership will be at the forefront of this through its work to address crime and anti-social behaviour.

The council will not tolerate any form of discrimination and will continue to seek to eradicate racism, Islamophobia, sexual orientation discrimination, Anti-Semitism and

hate crime across the district through our work with our partners, developing initiatives that are actively inclusive and anti-racist.

The Council recognises and adopts in full, the International Holocaust Remembrance Alliance (IHRA) definition of Antisemitism defined as *“A certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities.”*

We will be supportive of groups and individuals that are seeking to address issues of discrimination as set out above through respectful and constructive dialogue. In order to ensure our workforce are aware of these issues, we will invite appropriate speakers to help with training developed for our councillors and staff.

## 10. Further information

If you have any enquiries about this policy please contact:

Strategy, Policy and Performance Team  
Folkestone & Hythe District Council  
Castle Hill Avenue  
Folkestone  
Kent CT20 2QY  
Email: [policy@folkestone-hythe.gov.uk](mailto:policy@folkestone-hythe.gov.uk)

If you have concerns of a criminal nature then please contact Kent Police:

- Kent Police report online – <https://www.kent.police.uk/ro/report/>

# 11. Appendices

## Appendix 1: Equalities Action Plan

	Action	Lead	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).	Performance and Improvement Specialist	Ongoing
2.	To introduce a dedicated complaints report that will focus on equality related issues that arise under the Council's corporate complaints policy and will reported to the Corporate Leadership Team on a six month basis to assist with identifying and addressing any equality related issues within a council service.	Case Management	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.	All Service Leads  All Service Leads	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.	Run training for staff on the particular issues faced by minority and vulnerable groups to support them to deliver appropriate services to ALL customers (e.g. Dementia awareness).	Organisational Development	Ongoing

6.	To ensure councillors and staff receive regular updates on Prevent <sup>7</sup> , Safeguarding vulnerable people and partnership working as part of the council's wider role.	Community Safety Specialist  Health, Wellbeing & Partnerships Senior Specialist	Ongoing
7	Equality and diversity training is part of our induction and for all staff to undertake a mandatory refresh e-learning module every 3 years.	Organisational Development	Ongoing
8.	Increase options for customers to connect and transact with us online to help focus resources on supporting customers who are not able to go online as defined within the Council's Customer Access Strategy.	All Service Leads	Ongoing
9.	Produce a 'Resident Involvement Strategy', ensuring that involved residents reflect the diversity of the council's tenants and leaseholders.	Housing Operations Lead Specialist	March 2021
10.	We will continue to evaluate our resourcing strategies, maximise accessible development opportunities, and promote flexible working approaches to support equality and diversity in our workforce.	Human Resources	Ongoing

<sup>7</sup> Prevent, which safeguards vulnerable people from being drawn into terrorism, is one of the 4 strands of the government's counter-terrorism strategy, CONTEST.

## 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’<sup>8</sup>. 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.

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<sup>8</sup> Department of Health, 2008.