

**REPORT TO:** Cabinet

**MEETING DATE:** 21 January 2025

**BY:** Executive Director for Council Resources

**SUBJECT:** Equal Employment Opportunities Policy

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## **1 PURPOSE**

- 1.1 To seek approval of the attached Equal Employment Opportunities Policy (see Appendix A), following full employee and Trade Union consultation and Corporate Management Team (CMT) endorsement.
- 1.2 The purpose of this Human Resources (HR) Policy is to:
- Outline the Council's commitment to equality of opportunity and the prevention of discrimination, victimisation, or harassment by fostering an open and inclusive working culture which supports an inclusive and collaborate work environment where differences are respected.
  - To create a workplace policy framework around which strategies and action plans can be developed regarding elimination of unlawful discrimination within employment, advancement of equal opportunities, fostering positive relations between all equality groups and promoting inclusion.
  - Outline the responsibilities of managers, employees, Trade Unions and HR in supporting an inclusive workplace and signposting to the appropriate internal and external information and support services.
  - Outline arrangements for raising concerns internally and externally.

## **2 RECOMMENDATIONS**

- 2.1 Cabinet is asked to approve the Equal Employment Opportunities Policy.

### **3 BACKGROUND**

- 3.1 This policy supersedes the current East Lothian Council (ELC) policy, supporting the publication of the Council's Equal Opportunities Statement in 2023.
- 3.2 The Equal Employment Opportunities Policy has been updated to reflect current equalities legislation and practice, recognising that further changes to equalities legislation and workforce is expected within the next year or so under the new Labour Government.
- 3.3 The Policy has been through formal consultation with all employees and Trades Unions and a summary of feedback is included at Appendix B.
- 3.4 The feedback received has informed changes to the original draft which include:
- Clarification of our complaints procedures for employees and non-employees.
  - Further clarification of the support available via HR and Trades Union Representatives.
  - Emphasising the Council's commitment to ensure all managers and employees undertake ongoing, related equalities training.
  - Further inclusion of definition of types of discrimination (i.e. direct, indirect, by association, by perception) and harassment and victimisation.
- 3.5 The feedback received has highlighted the importance of robust, ongoing training for managers to ensure employees and job applicants are supported at all stages of their engagement with ELC.
- 3.6 If approved by Cabinet, the updated policy will be communicated to all employees.

### **4 POLICY IMPLICATIONS**

- 4.1 The revised policy outlines and reinforces the Council's commitment to equality, diversity and inclusion in employment and application of this policy will have a positive impact on all employees and job applicants. The scope and breadth of the policy is inclusive and recognises the diversity of all potential and current employees.
- 4.2 Managers must ensure that equality and inclusion is an overarching consideration in recruitment, in managing and supporting employees, and to that end, it is essential that managers undertake regular training in this area, whilst ensuring that the employees training is also prioritised.

## 5 INTEGRATED IMPACT ASSESSMENT

5.1 An Integrated Impact Assessment has been completed and published on the Council's website:

[https://www.eastlothian.gov.uk/downloads/download/13965/integrated\\_impact\\_assessment\\_iaa\\_-\\_equal\\_opportunities\\_in\\_employment\\_policy](https://www.eastlothian.gov.uk/downloads/download/13965/integrated_impact_assessment_iaa_-_equal_opportunities_in_employment_policy)

## 6 RESOURCE IMPLICATIONS

6.1 Financial – There will be no significant costs to the Council.

6.2 Human Resources – Ongoing employee, management and Trade Union communications and signposting via MyHR regarding mandatory and essential training, along with delivery of bespoke training as required. Ensuring that managers undertake the Council's Recruitment and Selection training and refresh.

6.3 Other – n/a currently.

## 7 BACKGROUND PAPERS

7.1 Appendix A – Draft Equal Employment Opportunities Policy

7.2 Appendix B - Summary Consultation Feedback

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|----------------------|---|
| <b>AUTHOR'S NAME</b> | Zoe McFadzean<br>Gail Scott               |
| <b>DESIGNATION</b>   | Team Manager, HR Operations<br>HR Adviser |
| <b>CONTACT INFO</b>  | 01620 826772<br>01620 827717              |
| <b>DATE</b>          | 6 January 2025                            |



# **EQUAL EMPLOYMENT OPPORTUNITIES POLICY**

This policy applies to all Employees.

Date Approved: January 2025

This is an East Lothian Council Policy which has been subject to consultation with the Joint Trades Unions. Any review of amendment by the council will be following consultation with the Trades Unions.

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| <b>Policy Title</b>                               | <b>EQUAL EMPLOYMENT OPPORTUNITIES POLICY</b>   |
| <b>Policy Section</b>                             | HR Policies  |
| <b>Prepared By /Policy Author</b>                 | Human Resources  |
| <b>Version Number</b>                             | V 1.0  |
| <b>Equality Impact Assessment</b>                 | December 2024  |
| <b>Links to other Council Policies/ processes</b> | Recruitment & Selection Policy<br>Equal Opportunities Statement<br>Prevention of Bullying & Harassment at Work Policy<br>Disciplinary Procedures<br>Grievance Policy<br>Family & Maternity Leave Policy<br>Managing Attendance Policy                      |
| <b>Approved By</b>                                |  |
| <b>Date Approved</b>                              |  |
| <b>Review Date</b>                                | December 2024  |
| <b>Date of next Review</b>                        | This policy will be reviewed as necessary including, but not limited to, changes to legislation; agreement of new national terms and conditions of service or government policy, organisational change or changes agreed through trade union consultation. |
| <b>Policy Lead</b>                                | Team Manager, HR Operations  |

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## 1. Introduction

- 1.1 Here at East Lothian Council, we value and foster an open and inclusive working culture where everyone feels comfortable to be themselves. We focus on supporting an inclusive and collaborative work environment where we respect and value our differences.
- 1.2 The council works to eliminate discrimination, promote equality of opportunity, and foster good relations between all employees at work by raising awareness, and delivering regular equality, diversity, and inclusion training for all employees.
- 1.3 The council recognises that people from diverse backgrounds and experiences bring a range of talents, skills, knowledge, and perspectives and welcome those qualities and attributes within our workforce.
- 1.4 Central to the council's policy is the prevention of discrimination, victimisation, and harassment against employees on any grounds, particularly in relation to, the following **protected characteristics**, as outlined within the Equality Act 2010 (also see Appendix 1 for definitions):
  - Age
  - Disability
  - sex
  - gender reassignment
  - marriage and civil partnership
  - pregnancy and maternity
  - race
  - religion or belief, and
  - sexual orientation.
- 1.5 Additionally, to ensure the prevention of discrimination, victimisation, and harassment related to language, social origin, employment status, political belief, trade union membership or activity, or responsibility for dependants.

## 2. Purpose and Aims

- 2.1 The principal purpose of this policy is to confirm the council's commitment to equality of opportunity and the prevention of discrimination with the aim of creating a workplace policy framework around which strategies and action plans can be developed to:
  - Eliminate unlawful discrimination within employment.
  - Advance equality of opportunity.
  - Foster good relations between people of all equality groups.
  - Promote inclusion.

2.2 To achieve this, the council will:

- Strive to identify and remove barriers to employment and promotion opportunities.
- Develop appropriate measures to increase levels of representation of under-represented groups.
- Ensure compliance with the general and specific duties placed upon the authority by current and future equality legislation.
- Provide relevant workforce training, information, and raise awareness to ensure an inclusive and fair workplace.

### 3. Scope

3.1 This policy applies to all employees and workers, job applicants and former employees.

### 4. Definitions

4.1 Types of Discrimination includes:

- Direct discrimination: less favourable treatment directly because of a protected characteristic.
- Indirect discrimination: when everyone is treated the same but people with a protected characteristic are put at a disadvantage.
- Discrimination by association: unfair treatment because either someone they know or that they are associated with has a certain protected characteristic.
- Discrimination by perception: is unfair treatment because others believe they have a specific protected characteristic even if it is not true.
- Harassment: unwanted or offensive behaviour related to a protected characteristic.
- Victimisation: negative treatment because of being involved with a discrimination or harassment complaint.

4.2 There is no legal definition of 'putting someone at a disadvantage' (source Acas) however, it might include:

- Excluding someone from opportunities or benefits.
- Making it harder for someone to do their job.
- Causing someone emotional distress.
- Causing someone monetary loss.

**Note:** It can still be discrimination even if the less favourable treatment was not intended.



## **5. Implementation**

- 5.1 Implementation of this policy will be supported through other council policies and procedures including, for example, the Prevention of Harassment at Work, Recruitment and Selection, Disciplinary and Grievance, Family & Maternity Leave and Managing Attendance policies.
- 5.2 The council's published information sets out arrangements for meeting the current specific duties of the Public Sector Equality Duty which require authorities to:
- Report progress on mainstreaming the general equality duty.
  - Publish equality outcomes and report progress.
  - Assess and review the equality impact on policies and practices.
  - Gather, use, and publish employee information.
  - Publish gender pay gap information.
  - Publish an equal pay statement.
  - Consider award criteria and contract conditions in relation to public procurement; and
  - Publish in a manner that is accessible.

## **6. Recruitment, Selection and Employment**

- 6.1 The council's policy aims to ensure that:
- Everyone has equal access to jobs at every level of role and responsibility within the council.
  - Everyone has equal access to relevant training, career development and promotion opportunities.
  - All job applicants are treated fairly and with dignity and respect at every stage of their contact with the council during the recruitment, selection, and employment process and in relation to the terms and conditions of employment.
  - Reasonable adjustments will be put in place in line with the Equality Act 2010 and the council's Disability Confident status for disabled job applicants and employees.
  - Potential and current employees are made aware of support that they can apply for via Access to Work; a government employment support scheme that pays for adaptations to support employees who have a disability, or a physical or mental health condition to start or stay in work.
  - Employment policies are in place to ensure all employees are treated equally and fairly in all aspects of their work.

- All forms of discrimination are challenged, and reported, potentially leading to investigation under our disciplinary procedures.
- The council ensures equal pay for all employees, in line with the provisions of relevant local and national agreements and the associated codes of employment practice or legislation.

## **7. Roles And Responsibilities**

### **7.1 Corporate Management Team and Heads of Service**

The council's Corporate Management Team has overall responsibility for monitoring the implementation of this policy, in relation to both service delivery and employment throughout the council. Heads of Service are also responsible for ensuring that the policy is implemented within their own services in line with equality action plans and strategies.

### **7.2 Managers**

Managers are responsible for undertaking ongoing personal equality, diversity and inclusion training and development, communicating acceptable and inclusive work practices, raising awareness within their work areas, challenging unacceptable behaviour, and ensuring that concerns raised are taken seriously, responding positively and timeously to those concerns raised.

Managers will ensure that equality is a fundamental consideration as part of policy development, decision-making and delivery, employment, and staffing.

Managers are also responsible for considering the impact of what we do as an authority. They must undertake an integrated impact assessment on any new or revised policy, practice, or function and to ensure any identified changes and improvements are implemented.

Managers are also responsible for ensuring their employees undertake appropriate, regular training and development, including mandatory Equality, Diversity, and Inclusion learning modules.

### **7.3 Employees**

Employees are responsible for undertaking ongoing personal equality, diversity and inclusion training and development as all employees have a responsibility to ensure inclusive workplaces by eliminating, calling out and reporting discrimination, advancing equality of opportunity, and fostering good relations at work.

Employees must advise management or Human Resources of any suspected or witnessed discriminatory acts, practices or behaviours for example racist taunts, stereotypical language or discrimination related to any of the 9 protected characteristics namely, age, gender reassignment, being married or in a civil partnership, being pregnant or on maternity leave, disability, race including colour, nationality, ethnic or national origin, religion or belief, sex, and sexual orientation.

Anyone experiencing discrimination at work should speak with their line manager in the first instance. Your HR Adviser or Trade Union representative can also provide confidential support.

It is important to note that any discriminatory acts or omissions by council employees will be viewed seriously and could result in corrective or disciplinary action being taken, which may action up to and including dismissal.

#### **7.4 Trades Unions**

The Trades Unions are committed to promoting equality in the workplace and can advise and support members on issues relating to discrimination, harassment, or victimisation.

East Lothian Council recognises the following Trades Unions; GMB, EIS, SSTA, Unison and Unite the Union.

#### **7.5 Human Resources**

Human Resources will support employees and managers in relation to any issues arising due to discrimination and harassment in line with the application of this policy.

### **8. Monitoring**

8.1 Each service will undertake ongoing review of their policies, procedures, and work practices to ensure they promote equality and comply with legislative requirements.

8.2 The Head of Corporate Support (Council Resources) will ensure that the Corporate Management Team are updated regularly with the results of ongoing monitoring and the completion of relevant Integrated Impact Assessments, which identify gaps and recommend proposals for improvement, as necessary.

8.3 In keeping with the legal requirement to publish employee equality monitoring information, data gathered will be shared with the Corporate Management Team as part of a progress report on mainstreaming equality.

8.4 Monitoring information including actions taken to implement the outcome of Integrated Impact Assessments will also be shared on the council's website and in other approved publications.

## **9. Complaints**

9.1 The council will ensure that complaints relating to equality and alleged discriminatory employment practices are fully, and timeously investigated and appropriate action taken in line with relevant council policy.

9.2 Complaints raised by employees will be dealt with under the arrangements outlined within relevant HR policies, including Grievance, Prevention of Harassment at Work, Recruitment & Selection and in line with Equality Act 2010.

9.3 External parties can raise complaints via the Council's Complaints Procedure or where concerns relate to recruitment and selection, directly with the Human Resources Department.

## **10. Review**

10.1 This Policy is a formal council policy and may be reviewed by the council, in consultation with the Trade Unions, at any time and in the light of operational requirements.

**Head of Corporate Support**

December 2024

## GLOSSARY OF TERMS

For the purposes of this policy the Equality Act 2010 sets out protections on the grounds of specific characteristics (**source: Equality Human Rights Commission** [Protected characteristics | EHRC \(equalityhumanrights.com\)](https://www.equalityhumanrights.com) ) These are:

### **Age**

A person belonging to a particular age (for example 32-year-olds) or range of ages (for example 18- to 30-year-olds). There are some circumstances when being treated differently due to age is lawful. See [Age discrimination | EHRC \(equalityhumanrights.com\)](https://www.equalityhumanrights.com)

### **Disability**

A person has a disability if they have a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities. See [Disability discrimination | EHRC \(equalityhumanrights.com\)](https://www.equalityhumanrights.com)

### **Gender Reassignment**

Where a person undergoes, or proposes to undergo, a process for the purpose of reassigning their sex. See [Gender reassignment discrimination | EHRC \(equalityhumanrights.com\)](https://www.equalityhumanrights.com)

### **Marriage and civil partnership**

Marriage is a union between a man and a woman or between a same-sex couple. Same-sex couples can also have their relationships legally recognised as 'civil partnerships'. Civil partners must not be treated less favourably than married couples (except where permitted by the Equality Act). See [Marriage and civil partnership discrimination | EHRC \(equalityhumanrights.com\)](https://www.equalityhumanrights.com)

### **Pregnancy and Maternity**

Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth or placement of child and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding. See [Pregnancy and maternity discrimination | EHRC \(equalityhumanrights.com\)](https://www.equalityhumanrights.com)

### **Race**

A race is a group of people defined by their colour, nationality (including citizenship) ethnicity or national origins. A racial group can be made up of more than one distinct racial group, such as Black British. See [Race discrimination | EHRC \(equalityhumanrights.com\)](https://www.equalityhumanrights.com)

### **Religion or Belief**

Religion refers to any religion, including a lack of religion. Belief refers to any religious or philosophical belief and includes a lack of belief. Generally, a belief

should affect your life choices or the way you live for it to be included in the definition. See [Religion or belief discrimination | EHRC \(equalityhumanrights.com\)](#).

**Sex** A man or a woman. See [Sex discrimination | EHRC \(equalityhumanrights.com\)](#)

### **Sexual Orientation**

Whether a person's sexual attraction is towards their own sex, a different sex or to both sexes. See [Sexual orientation discrimination | EHRC \(equalityhumanrights.com\)](#)

### **Other Definitions**

#### **Language**

This covers community languages including British Sign Language, in service provision. In employment, all reasonable efforts will be made to accommodate other language requirements.

#### **Employment Status**

This includes people who have worked or work part time or full time, people who have been or currently are unemployed and people who have followed non-traditional employment patterns.

#### **Political Belief**

Political views, ideals, activities, or background. Where a post is politically restricted in terms of the Local Government and Housing Act 1989 and the Local Government Officers (Political Restrictions) Regulations 1990, restrictions will apply to the political activities of post holders.

#### **Trade union membership or activity**

Trade union membership or non-membership. Participation in legitimate Trade Union activities.

#### **Responsibility for dependants**

This covers people with responsibility for an adult or child who is dependent on them for their day-to-day care.

### **Further Information**

Equality Act 2010 Guidance [Equality Act 2010: guidance - GOV.UK \(www.gov.uk\)](#)

Equality and Human Rights Commission [Homepage | EHRC \(equalityhumanrights.com\)](#)

Equality & Rights Scotland [Equality and rights - gov.scot \(www.gov.scot\)](#)

Discrimination & The Equality Act (Acas) [Discrimination and the Equality Act 2010 - Discrimination at work - Acas](#)

## Equal Employment Opportunities Policy Formal Consultation Feedback Summary

The formal consultation asked respondents to read the policy and respond to the following questions:

**Q1. *Is the policy clear and easy to understand?***

A1. Yes x 119; No x 3.

**Q1a. *If not, what could be added or clarified to make the policy clearer?***

A1. With less than 5 responses, themes included concern that managers would not actively apply the policy, that the policy could be open to interpretation, employee's fear of disclosing disability in case of being disadvantaged and more detail requested on how people are accommodated within the policy.

**Q2. *Are there any gaps or omissions within the policy or any additional information you would like to see included?***

A2. No x 101; Yes x 20; no response x 1.

**Q2a. *If yes, please provide details.***

A2a. A variety of feedback and requests provided covering Management and Reporting, Conditions, Definitions & Clarifications, Carer Responsibilities and Recruitment & Selection.

**Q3. *Is there any information/content in the policy which you feel is unhelpful and/or unnecessary? If yes, please provide details.***

A3. No x 118 and Yes x 4 (however, no further detail provided).

**Q4. *Please add any further feedback you have on the Equal Employment Opportunities policy in the comments box below.***

A4. There were 21 feedback comments with summary themes that included:

- Policy positively received, with employees appreciative of commitments made.
- Concerns raised regarding the role and support of managers with views that managers may not actively apply the commitments within the policy due to inexperience in dealing with equality matters and/or due to work priorities/pressures.
- Positive feedback in retaining sex as a protected characteristic rather than conflation with other gender identities; conversely, feedback also received to challenge definition of sex being only male/female.

- Fear of disclosing disability in case job offers be withdrawn and a request that the council makes clear that successful disabled applicants will be supported.
- The perceived need that all managers should receive in-depth training to enforce this policy and actively apply the spirit of the policy.
- Positive feedback regarding the introduction of the mandatory Equality, Diversity, and Inclusion, Learnpro module and management commitment to ensuring it is undertaken by all employees annually.
- Interest shown in the publication of the gender pay gap within ELC.
- Concerns that equality of opportunity in employment will not happen due to perceptions that council jobs advertised externally are earmarked for current council employees, which is thought unfair on external candidates.