

ROYAL LEAMINGTON SPA TOWN COUNCIL

Equality and Diversity Policy



Equality and Diversity Policy 2020

Introduction

Royal Leamington Spa Town Council recognises that it functions at a fundamental level of democracy and that its services affect, both directly and indirectly, the lives of all those who work for the Council and all those who visit the Council's Offices and receive services that it provides. The Council will seek to ensure that no-one is disadvantaged by the application of other conditions or requirements which cannot be shown to be justified. In doing so, the Council will strive to work within its resources and the appropriate legislative framework.

The Council acknowledges that it has a role in the pursuit of opportunity for all and it seeks to work within the context of the Equality Act 2010. In that regard this Policy replaces and supplements the Equal Opportunities Policy adopted by the Town Council in 2005.

The Council acknowledges that certain groups and individuals within society are discriminated against and therefore declares its commitment to working towards equality in employment and via the delivery of its services. In particular, the Council will work to combat discrimination and to ensure that prospective and present employees and those who may seek access to any of its services are not treated less favourably on the following grounds which are the identified Protected Characteristics * as identified in the Equality Act.

The Protected Characteristics are –

- Age
- Disability
- Gender Reassignment
- Race
- Religion or Belief
- Sex
- Sexual Orientation
- Marriage and Civil Partnership
- Pregnancy and Maternity.

* In section 4 of the 2010 Act, the above are referred to as 'protected characteristics.' Further guidance as to their definitions is given in the relevant paragraphs that follow.

1. Age

Individuals of any age or apparent age are protected from discrimination. Less favourable treatment of a person because of age is not lawful. From 6th April 2011, retirement of an employee constitutes age discrimination unless it can be justified as a proportionate means of achieving a legitimate aim. There are some key exemptions: minimum wage levels, benefits of service provisions – such as holiday entitlement and statutory redundancy pay.

2. Disability

Section 6 and Schedule 1 to the 2010 Act relates. A person is disabled if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day to day activities (for example using a telephone, walking, lifting, and reading). An impairment is long-term if –

- It has lasted for at least 12 months,
- It is likely to last for at least twelve months, or
- It is likely to last for the rest of the life of the person affected.

The Equality Act 2010 (Disability) Regulations 2010 (the 2010 Regulations), issued pursuant to the 2010 Act came into force on 1 October 2010. The 2010 Regulations confirm that those certified as blind, severely sight impaired, partially sighted, or sight impaired by a consultant ophthalmologist will be deemed to have a disability. They also confirm that persons with cancer, HIV infection or multiple sclerosis are deemed to have a disability.

The 2010 Regulations confirm a number of exemptions of groups of people who do not fall within the category of disabled. These include, for example, people suffering from an addiction to alcohol or nicotine. Notably pursuant to section 13 (3) of the 2010 Act, if a person (e.g. an employer or a service provider) treats a disabled person **more favourably** than a non-disabled person, this does not constitute direct discrimination.

The Equality Act 2010 protects disabled persons from discrimination; this includes a duty on employers to make reasonable workplace adjustments to prevent disabled employees and job applicants from being placed at a disadvantage compared to non-disabled people. An example of a reasonable adjustment may be a special type of chair for a disabled employee with a back condition.

The Council, as the Employer, has a duty to make reasonable adjustments but can decline to make adjustments that it considers to be unreasonable, viz:

- Will the proposed adjustment resolve the problem?
- Is it a practical solution?

- How much will the overall cost be in making the change and is it affordable?

These reasonable adjustments may include some of the following:

- Making adjustments to premises.

For example, structural or other physical changes such as: widening a doorway, providing a ramp or moving furniture for a wheelchair user; relocating light switches, door handles or shelves for someone who has difficulty in reaching; providing appropriate contrast in décor to help the safe mobility of a visually impaired person.

- Altering the person's working hours.

This could, for example, include allowing the disabled person to work flexible hours to enable additional breaks to overcome fatigue arising from the disability, or changing the disabled person's hours to fit with the availability of a carer.

- Allowing the person to be absent during working hours for rehabilitation, assessment or treatment.

For example, if a person were to become disabled, the employer might have to allow the person more time off during work, than would be allowed to nondisabled employees, to receive physiotherapy or psychoanalysis or undertake employment rehabilitation.

- Acquiring or modifying equipment.

For example, an employer might have to provide special equipment (such as an adapted keyboard for a visually impaired person or someone with arthritis), or an adapted telephone for someone with a hearing impairment or modified equipment.

- Providing supervision

For example, this could involve the provision of a support worker, or help from a colleague, in appropriate circumstances, for someone whose disability leads to uncertainty or lack of confidence.

The Council has been admitted into the Disability Confident Employer Scheme by the Department of Work and Pensions having demonstrated that it has:

- undertaken and successfully completed the Disability Confident self-assessment
- taken all of the core actions to be a Disability Confident employer; and
- offered at least one activity to get the right people for its business and at least one activity to keep and develop its employees.

3. Gender Reassignment

Under Section 7 of the Act, gender reassignment is a protected characteristic that applies to a transsexual person who is proposing to undergo, is undergoing or has undergone a process (or part of a process) to change their sex (by physiological or other attributes of sex).

Section 16 of the 2010 Act provides that it is discrimination against transsexuals to treat them less favourably for being absent from work because they propose to undergo, are undergoing or have undergone gender reassignment than they would be treated if they were absent because they were ill or injured.

4. Race Equality

The Council has a general duty to:

- Eliminate unlawful racial discrimination.
- Promote equality of opportunity.
- Promote good race relations between people of different racial groups.

5. Religion or Belief

Section 10 (1) of the Act refers. It does not make reference to a particular religion but it also relates to a lack of religion. The Act does not mean that people's faith must be taken into account so that they can, for example, wear signs of their faith and not be expected to act in contradiction to their beliefs. The beliefs must be:

- Genuinely held.
- A belief not simply a viewpoint or opinion.
- Relevant to weighty and substantial aspect of human life and behaviour.
- Able to attain a certain level of cogency, seriousness, cohesion and importance.
- Worthy of respect in a democratic society, not incompatible with human dignity and not in conflict with the fundamental rights of others.

6. Sex

- (i.) A reference to a person who has a particular protected characteristic is a reference to a man or to a woman.
- (ii.) A reference to persons who share a protected characteristic is a reference to persons of the same sex.

An example is that to discriminate against a breast feeding woman is unlawful and she could breast-feed in the Council Chamber and in Council meetings.

7. Sexual Orientation

Section 12 of the Act protects a person's sexual orientation towards:

- (i.) People of the same sex as him or her (ie. a gay man or a lesbian).
- (ii.) People of the opposite sex from him or her.
- (iii.) People of both sexes.

8. Marriage & Civil Partnership

Section 8 of the 2010 Act affords protection to people who have or share the characteristics of being married or being a civil partner. By contrast, a person who is engaged, a divorcee or a person whose civil partnership has been dissolved are not protected under the 2010 Act.

9. Pregnancy & Maternity

S17 of the Act deals with the treatment of pregnant people in non-work situations and covers the period of her actual pregnancy and for the ensuing period of 26 weeks commencing on the day of delivery. Notwithstanding other employment provisions which attach to pregnancy and maternity via a vis leave etc, S18 confirms that a person discriminates against a woman if, in the protected period as identified above, he/she treats her unfavourably because of

- The pregnancy
- Illness suffered as a result
- The exercising of her rights to compulsory, ordinary or additional maternity leave.

10. Public Sector Equality Duty

Section 149 of the 2010 Act, which came into force on 5 April 2011, imposes on public authorities (which as specified in Schedule 19 includes principal authorities, parish councils and parish meetings without a separate parish council and, in Wales, community councils) in the exercise of their functions, a duty to take into account:

- The need to eliminate discrimination and harassment, victimisation and any other conduct that is prohibited by or under the Act;
- To advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- To foster good relations between those who share protected characteristics and those who do not.

The protected characteristics of marriage and civil partnership are not covered by the provisions of Section 149.

11. Equal Opportunity

The Council is committed to achieving equality of opportunity both for those who use its services and for the employees who provide them.

Equal opportunities, fairness in the workplace and providing good quality services to the local community are all inter-linked. It is recognised that individuals and groups continue to be unfairly discriminated against and it is the Council's responsibility to promote good community relations, equality of opportunity and to tackle unlawful discrimination in all of its forms.

This new and comprehensive statement is to demonstrate the Council's wholehearted commitment to action in tackling inequality. Such action is the responsibility of members and all employees of the Council.

12. Commitment

- To provide services that are equally accessible to all people, free from prejudice and discrimination and sensitive to the needs of all sections of the community.
- Value people and their differences and enable all employees to achieve their full potential, creating vitality within our organisation and the services we deliver.
- Seek to influence the work and contribution of partner organisations from all sectors by ensuring that equality issues and considerations are fully taken into account when developing strategies.
- Work actively towards eliminating all forms of discrimination, both of a direct and indirect nature.
- Encourage partnership and participation in the development and application of council policy and practices.

13. Policy into Practice

- Ensure that all policies and practices are in line with relevant employment legislation, anti-discrimination legislation and good practice guidelines.
- Integrate equality of opportunity into all aspects of local authority activity.
- Recruit and value a workforce that reflects the make-up of the community.
- Ensure all employees/members understand the values and expectations of the Council and the standards of behaviour that is expected from each of them.
- Make clear the action an employee who feels unfairly treated may take.
- Provide training to relevant employees/members so that they can actively put this policy into practice.
- Provide equal access to all service users and potential service users according to need.
- Give people who use or might use Council services the opportunity to influence the way their needs are met.
- Seek to influence partner organisations in a collective commitment to equality of opportunity.
- In line with Government guidance, encourage voluntary organisations to provide evidence of their commitment to equality in terms of their personnel

policies and delivery of their services, as a criterion in determining the award of grant aid from the Council.

- Ensure that the Council has policies that result in services sensitive to the needs of all sections of the community.
- Use socio-economic data to ensure compliance with the policy, where appropriate
- Monitor and evaluate the effectiveness of policy and practice on a regular basis as determined by law
- Develop a well-defined complaints procedure in dealing with alleged contraventions.

In **employment** the aim is to provide a non discriminatory working environment where discrimination, harassment or bullying is unacceptable and which will not be tolerated. Employment policies, procedures and practices will promote equality of opportunity an all decisions regarding recruitment, selection, training, promotion and career management will be based solely on objective and job related requirements.

In **access to services** the aim is to ensure that all those who receive from the Council or wish to use a Council service can do so without fear of discrimination or disadvantage.

All people are entitled to be treated fairly, in a consistent manner and with dignity and respect.

14. Employees & Recruitment

1. The Council shall provide an environment free from discrimination and harassment and it recognises the contribution made by staff from all backgrounds especially from those within the above Protected Groups.
2. The Council will take full account of the provisions of the Equality Act 2010 when recruiting staff. Section 60 of the 2010 Act relates to the recruitment process and specifically covers the enquiries that can be made **before** employment. An employer is not permitted to ask questions about a job applicant's health before offering work or, where not in a position to offer work, before including the applicant in a pool of applicants from whom the employer intends (when in a position to do so) to select a person to whom to offer work. If an employer does ask health questions before a job is offered and subsequently does not offer the person a job, the burden of proof will be on the employer to prove that there was no discrimination. An applicant cannot bring an action solely on the grounds that a prohibited question on health was asked. However the Commission for Equality on Human Rights (CEHR) has powers under the Equality Act 2006 to enforce a breach of these provisions.
3. Advertisements for recruitment will not request applicants from a particular age range; neither will application form request dates of birth or other age related details.

4. All application forms shall state that the Council encourages applications from all, including and especially those from the Protected Groups.
5. In order not to discriminate against younger people, all application material will emphasise the importance of skills and potential, as well as experience.
6. The Council will ensure that there is no age discrimination in relation to the dismissal of staff.
7. Any age discrimination shown to staff by other Staff Members, the Public or by the Council Members will be treated as a serious offence.
8. A job description and person specification must be drawn up for every vacancy and be provided to all prospective employees. Person and job specifications shall be strictly limited to those requirements which are necessary for the effective performance of the job.
9. Information about job vacancies must be made available to all sections of the community (except in situations where, in line with relevant employment legislation and the Council's Employment Policy, external advertising of vacancies is restricted).

15. Service Provisions to the Public

1. All Members of the Public will be treated fairly and consistently
2. All services shall be provided without unlawful discrimination, harassment or victimisation.
3. Those using Council properties and facilities will be afforded all possible assistance so as to ensure that they can access these, with special attention being given to those who find it difficult to access facilities on the grounds of their age or disability or other Protected Characteristic.
4. All application forms – including Conditions of Use forms – made to the Council shall state that the Council will treat all applications equitably and take due consideration of those with Protected Characteristics.
5. All licence agreements – including allotment tenancy agreements – shall refer to this Equality Information statement.

16. Training and Development Opportunities

1. The Council is committed to ensuring equality of opportunity in the development of both its staff and councillors.
2. All employees / members will be supported to undertake the training and development which they need to help them achieve and maintain a high standard of performance and will be given encouragement and support to achieve their full potential.
3. Where employees / members with disabilities undertake training and development, appropriate arrangements will be made as necessary to ensure that all opportunities are equally accessible.

17. REMEDY

The Council regards complaints as an opportunity to examine the quality and delivery of its services and to proactively address the issues that have been raised. If a service user or resident has a complaint against the Council in respect of this Policy, they can exercise their right to complain through the Council Complaints Procedure. A copy of this procedure is available from the Town Clerk, Town Hall, Parade, Leamington Spa, CV32 4ATP.

If a member of staff feels that he or she has been discriminated against, victimised or harassed they should, in the first instance, raise their concerns in accordance with the Council's Grievance Policy.

This Policy was adopted by the Policy and Resources Committee on