



WEST MONKTON PARISH COUNCIL

EQUALITY POLICY

West Monkton Parish Council has adopted the advice note published by SLCC (see copyright note at end of document).

The law on equality has been consolidated into the Equality Act 2010, which took effect on 1 October 2010. The law prohibits discrimination on certain grounds.

To discriminate against someone means to treat them less favourably, to harass or victimise them, or to subject them to a provision, criterion or practice which puts them at a disadvantage. This is unlawful if it is on certain grounds, known as “protected characteristics”.

These are:

- Age
- Race (including segregation)
- Religion or belief
- Sex
- Sexual orientation
- Gender reassignment: protection for transsexuals, including less favourable treatment because of an absence related to reassignment compared to absence because of sickness or injury etc
- Pregnancy and maternity: protection from discrimination applies during pregnancy from conception to the end of the maternity leave. The protection is against discrimination because of pregnancy or maternity, or illness suffered as result of pregnancy; and discrimination because a woman is on maternity leave, or is exercising or seeking to exercise a right to take maternity leave. Discrimination on the grounds of pregnancy or maternity cannot be justified.
- Disability: refers to a physical or mental impairment which has (or is likely to have) a substantial effect on a person’s ability to carry out day to day activities for a period of a year or more. Certain medical conditions, such as cancer, Multiple Sclerosis and HIV are a disability from the outset, whatever their impact on day-to-day activities. Protection from discrimination covers a person who has had a disability in the past.

In the case of disability discrimination, there is no unfavourable treatment if the “discriminator” did not know or could not reasonably have known the person had a disability. More favourable treatment of disabled persons is not unlawful discrimination against non-disabled people. As well as

the usual forms of discrimination, the Act protects people from unjustified discrimination 'arising in consequence of' a disability, which is very broad. There is also a duty on an employer to make 'reasonable adjustments' where a "provision, criterion or practice" puts a disabled person at a substantial disadvantage compared to nondisabled persons. Then a duty arises on the employer to take such reasonable steps as are necessary to avoid the disadvantage; for example, to remove, alter or provide means to avoid a physical feature; to provide an auxiliary aid or service; or to adjust a working pattern or role etc. The adjustment must be made at no charge to the employee.

An employer must not ask and act on answers about the health of an applicant before offering work except where this is necessary for:

- establishing requirements or adjustments needed for an interview or assessment
- establishing the person's ability to carry out a function intrinsic to the work
- monitoring diversity
- checking the person has a disability which is required for the job.

Marriage and civil partnership: it is unlawful to discriminate against a colleague or employee on the ground that they are married or in a civil partnership. As previously, there is no protection of single people.

Defences to claims of discrimination

Certain types of discrimination (but not less favourable treatment) can be defended on the basis that they are "justified" as being a "proportionate means of achieving a legitimate aim". This means that the employer has a business need which the otherwise discriminatory act is needed to fulfil (such as a rule that only male Prison Officers can hold certain posts as the role involves searching male prisoners, or offering a higher rate of pay to a highly-qualified and experienced individual). But the defence will only apply if there is no lesser measure the employer can put in place which is not discriminatory and which has the same impact in fulfilling the business need.

Employers are liable for the discriminatory acts of their employees done in the course of their duties.

There is a defence available to employers, however, who can show that they took all reasonable steps to prevent the employee from carrying out the acts of discrimination. The reasonable measures will include equalities training, having clear policies in place and consistent practices of disciplining employees for acts of discrimination etc.

Equal Pay

A sex "equality clause" is to be read into a contract of employment under which an employee and a comparator of the opposite sex are employed where the two people are employed in equal work (like work, work rated as equivalent in a job evaluation study or work of equal value). This means the terms relating to pay or other benefits are amended to ensure the male and female have the same rights and terms. This does not apply if the person responsible for their pay shows the difference is because of a material factor not involving sex and is a proportionate means of achieving a legitimate aim. A similar 'sex equality rule' is implied into pension schemes so that men and women are given equal terms. And a 'maternity equality clause' takes effect during maternity leave so that a woman's

pay during maternity leave in certain circumstances is increased in line with those doing equal work who are not on maternity leave.

Contractual terms prohibiting discussions about pay:

- Any term in a contract of employment which prevents or restricts people from discussing or disclosing details about pay is unenforceable if the purpose of the restriction is to deter an employee from finding out whether he/she may have a discrimination claim.
- Those protected by equality laws: Those protected are employees and job applicants as well as contract workers. Discrimination and harassment is also unlawful if it arises out of a relationship that used to exist. So former employees are also protected from discrimination, for example in terms of a job reference. National Agreement on Pay and Conditions of Service ('Green Book') provisions The Green Book refers to Equality at Part 2, paragraph 1 as follows:
 - "1.1 Employees will be afforded equal opportunities in employment irrespective of disability, gender, race, religion, age, sexuality, marital status, parental status, caring responsibilities and hours of work.
 - 1.2 Local authorities will ensure that discriminatory practices are identified and removed and non-discriminatory practices introduced in all areas of employment including recruitment, training and promotion. Lawful positive action initiatives should be taken to achieve and maintain a representative workforce. 1.3 The National Council has agreed an Equal Opportunities Guide which is intended for use in all local authorities. The Guide is reproduced in Part 4 of this national agreement." The NJC has specifically negotiated an Equal Opportunities Guide entitled "The Equality Standard for Local Authorities". This was published before the Equality Act came into force in October 2010. It can be found at:
<http://www.idea.gov.uk/idk/aio/6531086>.

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