

Brixham College

Equal Opportunities in Employment Policy

April 2021

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A Values Led College

1 Introduction

The Trust is committed to addressing employment equality in a positive, practical and meaningful way. Through this policy we will ensure that:

- Employees feel confident to raise any concerns about discriminatory practice and we will respond robustly.
- Allegations of unlawful discrimination and harassment are handled with sensitivity, giving appropriate support to the alleged victim(s).
- Best practice is achieved in the application of equality in all our recruitment and employment practices.
- Disciplinary procedures include unlawful discrimination and harassment as disciplinary offences.
- Employees are managed fairly and appropriately, ensuring that there is no unlawful discrimination on any grounds in terms of employment activities such as work allocations, consultations and communication, development and training opportunities, appraisals, granting of leave where appropriate, redundancy exercises, or grievance, capability and disciplinary matters.
- Individuals will be selected for interview, appointed and promoted on the basis of objective criteria, such as job requirements, competencies and performance.
- Managers and employees are aware of their responsibilities and given information, advice, guidance and training on carrying them out.
- Employees are protected from harassment and we will provide an effective response to deal with perpetrators under an Acceptable Behaviour Policy.
- Our policies and practices promote equality of opportunity and good relations as well as eliminate unlawful discrimination.
- Our training and development activities will support the Trust's policies on Equality and Inclusion and will involve community representatives (such as disabled people or people from minority ethnic communities) in training delivery where possible.
- Our workforce profiles aim to reflect local and national statistics of economically active people.
- Positive action is taken to remedy the under-representation of groups of people at all levels and activities in its workforce e.g. with regard to recruitment, training, job share, and career development.
- The obligations imposed by Legislation, including the Equality Act 2010 and relevant Codes of Practice are complied with.

We are committed to ensuring that no employee or potential employee is treated less favourably than another on the grounds of the following protected characteristics:

- Age
- Disability
- Sex
- Marriage and civil partnership
- Gender reassignment
- Race/ethnicity
- Religion or belief

- Responsibility for dependants
- Sexual Orientation
- Pregnancy and maternity
- Any condition or requirement which cannot be objectively justified.

1.1 Equality of Opportunity in Our Policies

Recruitment, Pay and Development Policies will ensure this policy is embedded into core employment activities. It is a condition of their employment that all Trust employees adhere to this policy and all policies concerning Equality and Inclusion. All Job descriptions must state an obligation towards equality of opportunity and anti-discriminatory practice.

The Trust wishes to engage fully with its employees and welcomes suggestions and challenges on how to improve employee relations, policies and practices in the context of Equality and Inclusion.

Our employment policies and practices will be kept under review to ensure that they are non-discriminatory and treat individuals equally and fairly.

1.2 Scope

This policy will apply to all Trust employees and also includes Directors / Governors and agency/supply teaching staff. [Include Visitors/Volunteers/Contractor staff – delete as appropriate].

1.3 Equality Statement

This policy applies equally to all Trust employees regardless of their age, disability, sex, race, religion or belief, sexual orientation, gender reassignment, pregnancy and maternity, marriage or civil partnership. Care will be taken to ensure that no traditionally excluded groups are adversely impacted in implementing this policy. Monitoring will take place to ensure compliance and fairness.

2 Types of Discrimination

There are many forms of discrimination that are recognised in Employment Law and as such are something that can be challenged, often from the first day of employment.

2.1 Direct Discrimination

Treating a person less favourably than others on the grounds of their age, disability, sex, gender reassignment, race, religion or belief, pregnancy and maternity, sexual orientation, marriage and civil partnership. For example, refusing a person employment on the grounds that colleagues would be unwilling to work with someone of that race or sexual orientation.

2.2 Indirect Discrimination

Applying a provision, criteria or practice which, although applied equally to all persons, is such that a considerably smaller proportion of persons of a particular age, disability, sex, race, religion or belief, sexual orientation or undergoing gender reassignment cannot comply with it and it cannot be shown to be necessary for the satisfactory performance of the job. For example, requiring applicants for a job to be six feet tall would, in effect, reject a greater proportion of women than men.

2.3 Associative Discrimination

Directly discriminating against someone because they associate with another person who possesses a protected characteristic. For example, an employee may be overlooked for job promotion if the employer believes that they will not be able to dedicate time to their job if they are caring for a disabled dependant. This would amount to discrimination because of the employee's association with a disabled person.

2.4 Perceptive Discrimination

Directly discriminating against an individual because others think they possess a particular protected characteristic even if he/she does not. Examples would include a perception that a person is of a particular religion or belief, or that a person is of a particular sexual orientation and are treated less favourably because of this. This would amount to discrimination based on perception.

2.5 Dual Discrimination

Introduced under the Equality Act in April 2011 - a person may make a discrimination claim based on unfavourable treatment against them because of a combination of two protected characteristics. For example, an employee may believe they have been discriminated against on the basis of their sex and age.

2.6 Victimisation

Treating a person less favourably than other persons because that person has made or supported a compliant or raised a grievance under the Equality Act; or because they are suspected of doing so. An employee is not protected from victimisation if they have maliciously made or supported an untrue complaint.

2.7 Less Favourable Treatment

- if an employer discriminates for a reason related to a disabled person's ability, and that disabled person is treated less favourably than others to whom the reason does or would not apply
- the employer cannot show that this treatment is justified

2.8 Failure to make "reasonable adjustments"

- E.g. an employer discriminates if s/he fails to comply with the duty imposed to take reasonable steps to counteract disadvantages which a disabled person may experience within, or in gaining access to, their employment
- discrimination is unlawful unless an employer can provide justification

3 Harassment

A definition of harassment: "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"

ACAS, 2010

The determining factor in harassment is how the conduct is perceived by the recipient rather than the conduct itself.

Unwanted conduct' can range from extreme forms such as violence, bullying and serious assault to verbal abuse, compromising invitations, offensive language or visual displays to isolation or non co-operation at work and exclusion on the perpetrator's part. In some cases, it may be unintentional.

People can be subject to harassment related to their age, disability, sex, race, religion or belief, sexual orientation or gender reassignment, marriage or civil partnership status, pregnancy or maternity.

3.1 Third Party Harassment

Third party harassment refers to harassment where a third party (e.g. customer or client) harasses an employee in the course of their employment and the employer is aware that the employee has been harassed before but fails to take reasonable steps to prevent it. It does not matter whether the third party is the same or a different person on each occasion. An example would be where a customer repeatedly abuses a member of staff and that staff member reports it to their manager but nothing is done to protect them from the ongoing abuse.

Third party harassment applies to all protected characteristics:- sex, age, disability, gender reassignment, race religion or belief, sexual orientation, marriage and civil partnership and pregnancy and maternity.

3.2 Preventing Harassment

In order to avoid liability and as good practice to promote a safe working environment, this Trust will take a '**zero tolerance**' approach towards third party harassment and will take practical steps to ensure that employees are protected against it. This may include but not be restricted to the following actions:-

- Putting up notices at the Trust about acceptable and unacceptable behaviour towards employees
- Speaking to the perpetrator(s) and telling them their behaviour is unacceptable
- Refusing entry to premises/access to services wherever necessary
- Undertaking risk assessments and recording these risks and taking action to eliminate or reduce the risks. (Advice on risk assessments and training is available from the Health and Safety Team).
- Agree within the Trust how third party harassment will be dealt with and how individual instances will be recorded.
- Where employees are lone workers, and the risk of harassment is particularly high, consideration will be given to the issuing of personal alarms, mobile phones etc or using a buddy system. A booking in/out procedure and out-of-hours communication system may also be established.

Harassment can also occur where an individual on the receiving end of the unwanted conduct does not have the protected characteristic themselves, are not associated with someone who has it and are not perceived to have it, but they find that the treatment violates their dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment.

Harassment may be a major barrier to employees fulfilling their potential at work and is, therefore, a crucial equal opportunity issue. It may also be unlawful and therefore as an employer committed to equal opportunities the Trust does not tolerate harassment in **any form**.

3.3 Dealing with Cases of alleged Discrimination / Harassment

- External job applicants who think that they have been treated unfairly will be advised to contact the Principal in the first instance and will have the right to process their complaint through the Trust's Complaints Procedure.
- An employee who thinks they have been treated unfairly should first discuss the matter with their Principal / Line Manager and they will have the right to process their complaint through the Trust's Grievance Procedure or through the Acceptable Behaviour Policy. Employees may also approach the Trust's Human Resources provider for help and advice. Employees who are Trade Union members may also wish to approach their Trade Union for support and advice.
- If an employee wishes to make a complaint of harassment and does not feel able to approach their Principal / Line Manager, eg: because of the sensitive nature of the complaint or because the alleged harasser is a more senior member of staff, they should approach {INSERT WHO} or Human Resources. Any employee who is a member of a Trade Union may also wish to approach their Trade Union for support and advice.

In cases of alleged harassment, an investigation will be undertaken in the first instance. If it becomes necessary to invoke formal proceedings, the Trust's disciplinary procedure will then be used.

Employees and job applicants also have the right to apply to an Employment Tribunal under the Statutory Provisions.

4 Disciplinary Matters

Any disciplinary matter arising from the Equal Opportunities Policy will be investigated thoroughly under the Trust's Disciplinary Procedure.

Because of the importance of Equal Opportunities and the strength of the Trust's commitment to equality of opportunity, all employees must be aware that any breach of the Policy may result in disciplinary action being taken against them which could lead to their dismissal.

5 Recruitment & Selection

The way the Trust recruits and selects its employees is of crucial importance to our Equal Opportunities Policy. Everyone involved in the recruitment and selection of employees must

be aware of, and comply with, the Trust's policy on Equal Opportunity and wherever possible, training will be provided in these matters. A copy of the Trust's Statement of Equal Opportunities Policy will be sent to all job applicants.

Recruiting and selecting employees is a matching process. The aim is to select the most suitable available person for the job on the basis of their ability to fulfil the requirements of the position. Research has shown that discrimination in recruitment and selection is most likely to occur:

- Where there are no clear objective criteria being applied and/or
- Where there is informality in the selection procedure

The key to a fair recruitment and selection procedure which affords Equality of Opportunity for all is the use of an objective, systematic, consistent approach. In order to guard against either direct or indirect discrimination the Trust has adopted the following fair procedures:

5.1 Job Descriptions

All recruitment by the Trust will begin with the preparation, or review, of the Job Description. The Job Description sets out the duties of the job – what is to be done. It contains:

- Job Title
- Department
- Salary Grade
- The person the Postholder reports to
- Post(s) which report to the Postholder
- Objective (ie: main purpose) of the job
- Main duties and responsibilities
- Any special additional information
- Date when the job description was prepared or last revised.

Every job must have a clear Job Description. Job titles must be accurate and not gender biased. Before the Trust advertises a job the Principal will review the Job Description.

5.2 Person Specifications

The Person Specification sets out the specific skills, qualifications, knowledge, experience and personal qualities which the employee will need to do the job. These are split into "essential" and "desirable" elements.

"Essential" Elements are those which the employee must have to fulfil the duties

"Desirable" Elements are those which it would be desirable for the employee to have to fulfil the duties

The Person Specification

- Ensures that the skills, qualifications, knowledge, experience and personal qualities required are really necessary to do the job
- Means that candidates will be assessed against clearly identified requirements rather than on the basis of assumptions, stereotypes or traditional practices which may operate to the disadvantage of some candidates
- Forms the basis of any recruitment advertisements (within the limits of financial constraints)
- Provides those shortlisting with objective criteria to use to screen out applications
- Enables interviewers to decide objectively who to select and who to reject

When drawing up a Person Specification the Trust will:

- Only specify criteria which are required to perform the tasks set out in the Job Description
- Define criteria clearly and specifically so that everyone interprets them in exactly the same way
- Use measurable criteria wherever possible
- Guard against discrimination and stereotyping

A copy of the Job Description and Person Specification will be sent to all job applicants to help them assess their suitability for the position.

5.3 Recruitment Advertisements

All vacancies which are cleared for filling must be advertised and open to competition, unless it is within six months of the filling of a similar vacancy which has been publicly advertised – in which case one of the former applicants may be appointed without further advertising.

The Trust will draw up all recruitment advertisements using the information contained in the job description and person specification.

Advertisements will be prepared to encourage applications from suitable candidates from all sections of the community and will avoid stereotyping.

All advertisements will be presented in a clear and unambiguous way and subjective adjectives will be used with caution to avoid possible direct or indirect discrimination.

Decisions about where advertisements should be placed will be made having regard to the nature of the vacancy, cost, potential for promotion etc.

5.4 Shortlisting

In order to safeguard against discrimination at the shortlisting stage, the Trust will:

- Treat all applications in the same way

- Assess each applicant purely on the basis of the extent to which the information they have provided on their application form matches the job description and person specification.
- Give due and equal consideration to relevant, recent experience as well as formal academic or professional qualifications
- Safeguard against assumptions that certain people will only do certain types of work

When shortlisting, managers must be clear in their own minds as to why they have (or have not) shortlisted a candidate and must be aware that they may be asked to explain their reasons.

5.5 Selection Interviews

The interview is the most widely used method of selection. However it can be very susceptible to interviewer bias and stereotyped perceptions.

To safeguard Equality of Opportunity, the Trust will:-

- Provide guidance and/or training for all those who have to conduct selection interviews
- Ensure, as far as is reasonably practicable, that only trained interviewers conduct selection interviews
- Ask the same or similar questions of all candidates
- Collect factual information and avoid making assumptions
- Ensure that candidates with specific requirements are given a fair interview and selection and, if necessary, obtain advice from Human Resources prior to the interview.
- Ask questions which will assess the apparent attributes of the candidate against the known requirements of the job as set down in the job description and person specification
- Only ask questions about personal circumstances when they will affect performance of the job (eg: if it involves unsocial hours). Such questions will be objective and will be asked without making assumptions about the candidate.
- Ensure that the notes which interviewers keep of interviews make it clear why candidates were, or were not, appointed so that interviewers can explain their decision if necessary.

5.6 Selection Tests and Practical Exercises

- Selection Tests and Practical Exercises will be used when they are an appropriate means of assessing the skills and attributes necessary for the job
- If such tests are used they must measure an individual's actual or inherent ability to do, or train for, the work
- If tests are to be used, all candidates will be informed prior to the interview
- If psychometric tests are used they will be administered by a trained tester

6 Training

All staff should have access to training (within the limitations of budgetary constraints and operational requirements) to improve their performance in their jobs and develop their potential and there must be no discrimination in the choice of people for training opportunities.

In order to safeguard against either direct or indirect discrimination, the Trust will ensure that:

- Employees afforded training opportunities will be reviewed to ensure that there is no direct or indirect discrimination
- All employees will be encouraged to take advantage of suitable opportunities for training
- Any consideration given by management to the training of an employee be based upon the requirements of the job and the employee's individual capabilities, performance and potential, and will not be influenced by unwarranted generalised assumptions, eg: about length of service, domestic responsibilities etc.
- Access to training will be closely scrutinised to ensure that any unnecessary stated or apparent age requirements are not applied
- If there is found to be any imbalance in training, between different categories or groups of staff, the cause will be identified to ensure that it is non discriminatory
- Part time employees will have the same opportunities for training as full time employees

7 Appraisal

In order to safeguard against either direct or indirect discrimination in performance review and assessment of potential, the Trust will ensure that:

- The operation of the Staff Performance Management Scheme will be continually kept under review to ensure that it does not discriminate, either directly or indirectly
- Any assessment of an appraisee will continue to be based upon an objective assessment of the way the job has been done and the appraisee's capabilities, performance and potential and will not be influenced by unwarranted generalised assumptions, e.g. about length of service, domestic responsibilities etc
- Appraisal interviews will continue to be used to encourage employees to maintain or improve their performance and develop their abilities and not refer to an employee's personal or domestic circumstances unless it will affect their ability to do the job.

8 Employing people with Disabilities

The Trust promotes equality and ensures that discrimination is prohibited against **all** of the protected characteristics. Further information about discrimination and the legal framework is contained within the Trust's Acceptable Behaviour Policy.

Under equality law, further protection is given to people with disabilities to ensure the removal of physical barriers in employment and to offer them further support. The duty to make reasonable adjustments aims to make sure that disabled people have, as far as is reasonable, the same access to everything that is involved in getting and doing a job as a non-disabled person.

This could mean, for example, ensuring that a fully accessible room is available for interviewing a disabled candidate or providing extra/modified equipment or aids to disabled employees, such as providing an adapted keyboard for someone with arthritis or a large screen for a visually impaired person.

Reasonable adjustments might also include altering hours of work or training to enable additional breaks or assigning the employee to a different place of work or for training to ensure accessibility.

In meeting its obligations under the duty and to ensure that disabled people are given the same opportunities as non-disabled people, the Trust will therefore take the following steps:

- Full and fair consideration will be given to disabled people for all types of vacancies
- Reasonable adjustments will be made to the recruitment and selection process for a disabled candidate, upon request.
- Selection interviews will concentrate on the applicant's abilities – not on their disability.
- Full use will be made of the various organisations dealing with specific matters relating to the employment of disabled people – particularly the Disability Employment Adviser based at Job Centre Plus.
- Disabled employees will be given equal opportunity for training, transfer, career development and promotion
- If an employee becomes disabled, whether by accident or illness, every effort will be made to retain them in their job, or failing this, to provide a suitable alternative job by utilising retraining and redeployment
- The adaptation of premises, modifications to equipment, use of special aids and other reasonable adjustments will be considered for disabled employees where necessary, in close co-operation with the Disability Employment Advisor.