

# Equality Policy

## (Appendix L – Local Conditions of Service)



A copy of this document can be found on our website: [www.bury.gov.uk](http://www.bury.gov.uk)  
Copies are also available upon request in other languages, **large print**,  
Braille, audio tape and disc.

If you require this document in another format or would like any other further  
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## Our Commitment

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The Council is committed to achieving it's equality vision of: -

**Bury being an equal society  
that recognises values and embraces all people,  
regardless of any differences,  
for the skills, abilities and experiences they bring into the workforce  
and the wider community.**

In respect of employment, this means that we are striving to have a workforce which is representative of our diverse community where everyone is treated with dignity and respect.

We want to ensure that everyone has equality of opportunity in employment, so that all employees are able to give of their best and do not suffer discrimination of any kind.

To reach this end the Council has made the following equality commitments: -

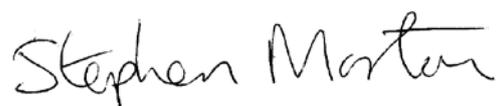
- We will recognise and value the differences, skills, abilities and experiences that people bring into the workplace.
- We are committed to the workplace being free of harassment, bullying and discrimination and where people are treated with respect and allowed to develop their full potential.
- We are committed to having a workforce which is reflective of the local population.
- We will provide all staff with the training and development they need to enable us to achieve our equality objectives.
- We will monitor and act upon adverse trends or inequalities in employment.
- We will ensure that equal pay is fully implemented.
- We will have high satisfaction levels across all staff groups.
- We will develop and monitor innovative employment practices.

This policy is intended to help the Council put these commitments into practice, and also ensure that we comply with relevant employment, equality and human rights legislation.

Breaches of this Equality Policy will be regarded as misconduct and could lead to disciplinary proceedings.



**Tracy Murphy**  
Assistant Director of  
Resources & Regulation (HR & OD)



**Steve Morton**  
UNISON Branch Secretary

## The Scope of this Policy

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### Who is covered by this policy?

This Policy applies to all Council 'employees' with the exception of staff employed in schools. However, Governing Bodies of all schools are encouraged to adopt this Policy.

By 'employees' this policy includes in various parts people who are: -

- employed by the Council
- seeking work with the Council
- working for the Council, but not under a contract of employment
- and in some cases, those who were previously employed by the Council

### Which equality characteristics are covered?

Under the Equality Act 2010 the following equality characteristics are regarded as "protected characteristics": -

- race
- disability
- sex (gender)
- gender reassignment
- age
- religion or belief
- sexual orientation
- marriage and civil partnership
- pregnancy and maternity.

The Council does however go beyond what is prescribed by law, and also recognises the equality characteristic of 'caring responsibilities'.

For full definitions of these equality characteristics, see **Appendix 1**.

### Which employment practices are covered?

This policy covers all aspects of employment, including recruitment and selection, terms and conditions of work, pay and benefits, the availability of facilities eg. multi faith rooms, dress codes, training and development, grievance and disciplinary issues, and the treatment of employees when their contract ends.

### Review

This policy was published in January 2011 and will be reviewed annually, but fully refreshed every 3 years. It will also be revised in the light of any new legislation or government guidance.

## **Legislation and Guidance**

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This policy complies with current employment, equality and human rights legislation, including: -

Equality Act 2010  
Equal Pay Act 1970  
Employment Rights Act 1996  
Employment Act 2008  
Work and Families Act 2006  
Human Rights Act 1998

It also takes account of appropriate guidance, such as the Equality and Human Rights Commission's Employment Statutory Code of Practice, and ACAS's guidance 'Delivering equality and diversity'.

## Responsibilities

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Everyone at Bury Council has a responsibility for the effective implementation of this Equality Policy, which will help to create and maintain an environment where everyone: -

- is treated fairly. with dignity and respect
- has equality of opportunity in employment
- does not suffer discrimination
- and can give of their best

### The Council

The Council will: -

- Accept it's legal and moral responsibility to ensure that all employees are treated fairly and are afforded equality of opportunity in employment using this policy in conjunction other appropriate policies, such as the Dignity at Work Policy, Recruitment and Selection Policy and the Disciplinary Toolkit.
- Afford reasonable consideration, where appropriate and practical, to employees with particular needs.
- Ensure that this policy is available to all employees – for example by publishing it on the internet and intranet
- Provide guidance and training to all employees to raise the awareness of equality issues

### Managers

It is the responsibility of every manager to: -

- Implement the Equality Policy and ensure that employees are aware of their responsibilities under the policy
- Ensure all employees are appropriately trained on equality issues
- Ensure that all employees are treated fairly, and are afforded equality of opportunity
- Behave in a way that shows dignity and respect for all other people
- Treat complaints of discrimination seriously, sensitively and confidentially.

### Employees

It is the responsibility of every employee to: -

- Respect the personal dignity of all colleagues
- Behave in a way that is fair to others
- Support the Council in its efforts to eradicate any such behaviour that may threaten the Council's commitment to ensuring that all employees are treated fairly and given equal opportunities at work.
- Report any instances of discrimination or harassment to line managers, Departmental or Corporate HR Teams to enable appropriate action to be taken.

It is the right of every employee to: -

- Be treated fairly, with respect and dignity in the workplace.
- Challenge discrimination and raise issues of concern to them under this policy without fear of reprisal

## **Trade Unions**

Trade Unions recognised within the Council will: -

- Support the Council in its efforts to provide a fair working environment which is free from discrimination
- Help inform the workforce of this Equality Policy and encourage employees who may have a problem to use the procedures available to them
- Advise members of their rights and responsibilities under the policy and to represent members as and when appropriate.

## Prohibited Conduct

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Everyone has the right to be treated fairly, and with dignity and respect in the workplace. The Council will not tolerate any form of prohibited conduct relating to employment on the grounds of a person's equality characteristic (ie. race, disability, gender, gender identity, age, sexual orientation, religion or belief, pregnancy or maternity, marriage or civil partnership, or caring responsibilities).

This includes: -

- direct discrimination
- combined discrimination
- discrimination arising from a disability
- indirect discrimination
- failing to make reasonable adjustments for disabled people
- harassment
- victimisation

Any complaints will be investigated under existing policies and procedures and may lead to disciplinary action being taken.

## Definitions

**Direct Discrimination** occurs when a person treats or would treat another person less favourably than others and the treatment is because of an equality characteristic.

There can only be any justification for direct discrimination in certain circumstances and when the equality characteristic is age.

A person's motive or intention is generally irrelevant, and discrimination can be conscious or unconscious.

A person is treated "less favourably" if they are put at a disadvantage compared with others – even if no adverse consequences are suffered.

**Example** – Whilst being interviewed for a job, a female applicant mentions she has a same sex partner. Although she is the most qualified candidate and has all the skills and competencies for the role, the employer decides not to offer her the job. This decision may be an act of less favourable treatment because of her sexual orientation.

**Example** – An employee's appraisal duties are withdrawn following complaints about her appraisal reports. Her male colleagues at her grade continue to carry out appraisals. Although she did not get demoted or suffer any financial disadvantage, she feels demeaned in the eyes of those she managed and in the eyes of her colleagues, once it was known that part of her duties were taken away following a complaint. The removal of her appraisal duties may be an act of less favourable treatment.

The treatment must be less favourable than the way another person without the same equality characteristic would be treated. It is therefore necessary to identify a comparator – even if it is a hypothetical comparator.

The need for a comparator does not however apply to cases of racial segregation or pregnancy or maternity. For discrimination because of pregnancy or maternity, this is because the test is *unfavourable* rather than less favourable treatment.

“Because of an equality characteristic” means that the equality characteristic is an effective cause of the less favourable treatment – but it need not be the only or the main cause.

The person experiencing the less favourable treatment “because of an equality characteristic” may, but does not necessarily have to, possess that characteristic. Rightly or wrongly that person may either: -

- be perceived (discrimination by perception) to have it , or
- be associated with someone who has – or is believed to have – the characteristic (discrimination by association).

Direct discrimination on the grounds of marriage or civil partnership only covers less favourable treatment because a person is married or a civil partner. Single people, or people in relationships outside of marriage or civil partnership (even if they are co-habiting) are not protected on this ground.

Direct discrimination can be lawful in certain circumstances, such as: -

- treating a disabled person more favourably than a non-disabled person
- treating a person less favourably because of their age – providing the less favourable treatment is a proportionate means of achieving a legitimate aim. (“A legitimate aim” could include employment policy, labour market and vocational training objectives or health and safety – but it is unlikely to include reducing costs or improving competitiveness.)
- where there are genuine Occupational Requirements that a post holder is of a particular sex, race, disability, age, sexual orientation or religion or belief. Again this would need to be a proportionate means of achieving a legitimate aim. (See page 24)

**Combined Discrimination** is occurs when because of a combination of two relevant equality characteristics a person is treated less favourably than others are or would be treated.

For combined discrimination there is no protection under the equality characteristics of marriage and civil partnership or pregnancy and maternity.

Where a person has more than one disability, the characteristic of disability can still only be counted once.

**Example** – A DIY company does not shortlist a young woman for interview for a role on the shop floor. The company believe that she is unlikely to give the impression of having the necessary skills and knowledge to advise and sell DIY goods to customers. The company's shop floor staff are mostly older men with some older women and some younger men. The reason for the less favourable treatment would appear to be a combination of the applicant's sex and age.

Combined discrimination is often based on stereotypes, assumptions and prejudices.

It must be the "combination" of two equality characteristics that causes the less favourable treatment – if, for example, a disabled lesbian is treated less favourably because of her sexual orientation and also less favourably because of her disability then she should submit 2 claims of direct discrimination. This is because it would not be the combination of the two equality characteristics that caused the less favourable treatment.

**Discrimination arising from disability.** Treatment of a disabled person amounts to discrimination if: -

- The Council treats the disabled person unfavourably
- This treatment is because of something arising in consequence of the disabled person's disability, and
- The Council cannot show that this treatment is a proportionate means of achieving a legitimate aim.

Discrimination arising from disability is different from direct discrimination. Direct discrimination occurs because of the equality characteristic of disability. By contrast, in the case of discrimination arising from disability the reason for the treatment does not matter. The question is whether the disabled person has been treated unfavourably because of something arising in consequence of their disability.

**Example** – A building society asks an employee to move to a new branch it is opening in a neighbouring town. The society is entitled to move the employee under the terms of her contract of employment. Unfortunately the move requires a slightly longer journey to work which adds 30 minutes to her travelling time each way. This interferes with her established eating patterns for breakfast and evening meal which she uses to control her diabetes. Unlike direct discrimination she does not have to show that the reason for her treatment is her diabetes. To show discrimination arising from disability she must instead show that the relocation decision results in unfavourable treatment because of something arising in consequence of her diabetes. The legal analysis then moves to consider whether the decision to move her can be justified and whether the society has made reasonable adjustments eg. through Access to Work.

Similarly it also differs from indirect discrimination, and there is no need for a comparator.

“Unfavourable treatment” means that someone has been put at a disadvantage.

“Something arising in consequence of a disability” could be any result, effect or outcome of a disability. It could be something obvious like an inability to walk unaided, or it could be something less obvious such as the need for regular rest or toilet breaks, slower typing speeds, difficulties using public transport or regular hospital appointments.

Unfavourable treatment will not amount to discrimination arising from disability if the Council can show that the treatment is a “proportionate means of achieving a legitimate aim”.

**Example** – If communicating with people on the telephone was the main part of the job, ensuring that callers could easily understand the person doing this work would be a legitimate aim as there would be a real need for clear speech.

Whether the Council has complied with the duty to make reasonable adjustments will often be relevant in deciding whether or not the treatment of a disabled person is a proportionate means of achieving a legitimate aim.

If the Council can show that they

- did not know that the disabled person had the disability in question, and
- could not reasonably have been expected to know the disabled person had the disability

then the unfavourable treatment does not amount to unlawful discrimination. NOTE: This means that nobody in the Council was aware, eg Department, HR records, Occupational Health, line managers etc.

**Gender reassignment** – it is unlawful to treat a transsexual person less favourably for being absent from work because they propose to undergo, are undergoing or have undergone gender reassignment or part of that process than they would be treated if they were ill or injured.

It is also unlawful to treat a transsexual person less favourably than they would be treated when they are absent for reasons other than sickness or injury (eg time off for hormone treatment) if it would be unreasonable to treat them that way.

It is therefore good practice for managers to discuss with transsexual staff how much time they will need in relation to the gender reassignment process and accommodate these needs where possible in accordance with their normal practice and procedures.

**Pregnancy and maternity** – it is unlawful direct discrimination to treat a woman unfavourably because of her pregnancy or a related illness, or because of exercising her right to maternity leave.

This protection applies from the time when a woman becomes pregnant until her maternity leave entitlements cease. Discrimination outside of this period would be gender/sex discrimination.

The Council must be aware – formally or informally – about the woman's pregnancy.

Any unfavourable treatment must relate to a woman's own pregnancy, and does not extend to association – for example if a partner of a pregnant woman is treated less favourably because of his partner's pregnancy, it may be sex discrimination, but would not be pregnancy discrimination by association.

The Council must not demote or dismiss an employee, or deny any training or promotion opportunities, because of pregnancy or maternity leave. Pregnancy-related sickness absence should not be counted when monitoring sickness or making decisions about future employment.

Further information can be found in the Council's **Guide for Expectant and New Mothers**, and on the **Work Life Balance intranet page**.

**Indirect Discrimination** occurs when a provision, criterion or practice is applied equally to everyone, but it: -

- puts, or would put, people who share a certain common equality characteristic at a particular disadvantage, when compared with people who do not have that characteristic; and
- puts a particular person who has that equality characteristic at that disadvantage; and
- cannot be justified as a proportionate means of achieving a legitimate aim.

A "provision, criterion or practice" could include many things, including policies, rules, practices, arrangements, criteria, prerequisites, qualifications or provisions. It could also be proposals for these.

A "disadvantage" is perhaps best described as something that any person would complain about – such as a denial of an opportunity, denial of choice, rejection or exclusion.

There need not be any motive or intention to justify unlawful indirect discrimination.

**Failing to make reasonable adjustments for disabled people.** The Council is obliged to make reasonable adjustments for disabled people. This duty applies where: -

- a provision, criterion or practice applied by the Council ; or
- any physical feature of premises occupied by the Council
- puts a disabled person at a substantial disadvantage compared with people who do not have that particular disability.

The duty also arises where: -

- but for the provision of an auxiliary aid a disabled person would be put at a substantial disadvantage compared with people who do not have that particular disability.

When the duty to make adjustments arises, the Council must take such steps as it is reasonable for it to have to take in all the circumstances to avoid that disadvantage or to provide the auxiliary aid.

“Substantial” means more than minor or trivial.

It could be decided whether something is a “reasonable step” by considering: -

- whether the step would be effective in preventing the disadvantage
- the practicability of the step
- the financial and other costs of making the adjustment and the extent of any disruption caused
- the extent of the employers financial or other resources
- the availability to the employer of financial or other assistance to help make an adjustment (eg. Access to Work)
- the type and size of the employer.

If the Council fails to make a reasonable adjustment we would be committing an act of unlawful discrimination.

Advice and assistance (which may include financial assistance) in relation to making adjustments may be available from the Access to Work scheme. For more information, contact Occupational Health or the Job Centre Plus.

**Harassment** occurs when a person engages in unwanted conduct which is related to one or more of the equality characteristics and which has the purpose or the effect of violating the dignity of another person, or creating for that person an intimidating, hostile, degrading, humiliating or offensive environment.

The harassment of any employee will be dealt with under the Council's appropriate existing policies (including Dignity at Work Policy, Anti Social Behaviour Policy and Domestic Violence Policy).

**Victimisation** occurs when someone subjects a person to a detriment because they have - or are believed to have - complained that someone else has harassed them or discriminated against them or has supported others who have done this. It also applies where it is believed that someone may do such a thing in the future.

Victimisation cannot be justified.

A "detriment" is anything which may reasonably be said to have changed someone's position for the worse, or put them at a disadvantage.

**Example** – A non-disabled employee gives evidence on behalf of a disabled colleague at an Employment Tribunal hearing. If the non-disabled employee is subsequently refused a promotion because of that action they would have suffered victimisation.

## **Liability**

Both the Council and employees can be found liable for unlawful acts.

## Recruitment

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The Council is committed to ensuring that employees and potential employees have equal opportunities for employment with, and advancement within, the Council. At the same time, the Council wants to ensure that it has the right people with the appropriate skills for now and the future. To this end, we have devised a fair and consistent **Recruitment and Selection Code of Practice** for use at all times, which enables us to avoid discrimination, make reasonable adjustments where appropriate, and objectively select the best candidates for vacancies.

### **Job descriptions and person specifications**

Job descriptions and person specifications will be regularly reviewed to ensure they are not discriminatory in any way and do not exclude any members of the community unnecessarily.

They should be concise and must not include any overstated or unnecessary requirements, criteria or conditions.

Managers should be clear about what skills they actually need for the post, differentiating them from those which are merely desirable or reflect the personal preferences of the selector.

Career graded positions should be structured to ensure that they do not put potential applicants at a disadvantage due to the length of experience required. They should be structured in numerous levels, each level with a specific job description and person specification. It is recommended that progression through various levels is qualification and/or ability based, and can be objectively tested. Wherever possible, request a qualification or its equivalent to avoid discriminating against people of different ages or nationalities.

### **Job advertisements**

In the first instance all vacancies will be advertised internally, with preference given to employees at risk of redundancy. Where there are no suitable internal candidates vacancies will be advertised on the Bury Council and Your Council Jobs websites. Jobs will only be advertised where there is no suitable redeployee. Adverts will be reviewed to ensure that: -

- they do not present jobs in a stereotypical way – for instance, showing images of women carrying out caring roles, and men doing engineering
- that they avoid language that may suggest we are looking for someone with a particular characteristic – for example by using job titles such as “waitress” or terms such as “mature” or “recent graduate”. Even apprentice/training schemes should not be limited to applicants within a certain age range unless there is a justifiable reason for doing so.
- they are clear about what the post actually entails. This should give applicants the opportunity to consider fully whether there is any chance the job might conflict with their religious or belief convictions, enabling them to make an informed decision about whether to apply.

The only exceptions to our non-discriminatory approach will be if: -

- the job has a genuine occupational requirement for someone with a particular equality characteristic
- we state on our advert that we welcome applications from groups of people who are under represented in the workforce
- we lawfully advertise a job as open to disabled applicants only

### **Application process**

The Council uses standard application forms, to ensure consistency.

It is a reasonable adjustment for application forms, if requested, to be made available and their return accepted in different formats - for example, Braille.

The section of the application form that requests personal information – including equality monitoring data – is removed prior to the short-listing process, and held confidentially.

### **Selection, assessment and interview process**

At least one member of every short-listing and interview panel must have undergone formal training in the Council's Recruitment and Selection Code of Practice. Where appropriate, safeguarding training must also be undertaken.

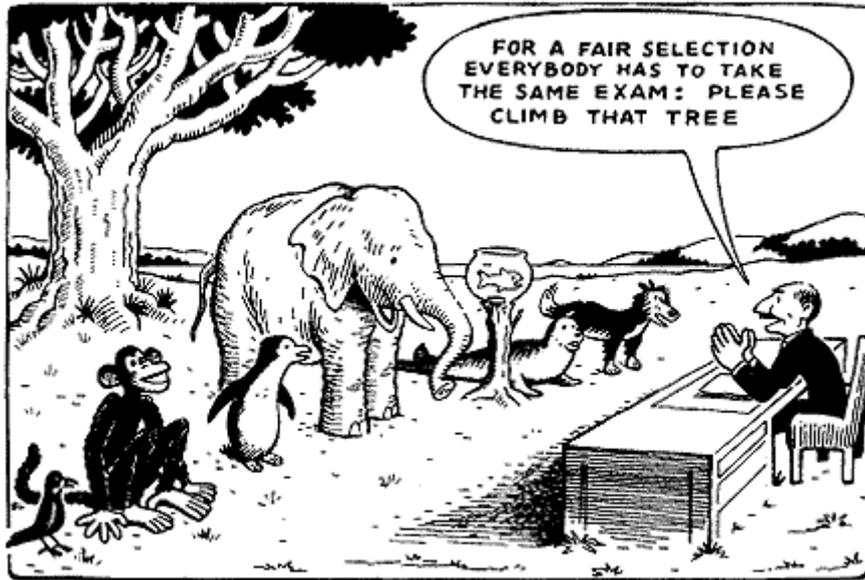
Appointment to all posts will be on merit. Scoring and reasons for rejection will be recorded at both short-listing and interview stages. Equally this will apply if other selection methods are employed, such as occupational testing. Human Resources Officers will randomly monitor both of these recruitment stages.

The Council operates an interview guarantee scheme for disabled candidates who meet all the essential criteria.

We will as far as practicable ensure that we do not put any candidates at a disadvantage in connection with a protected characteristic – for example by insisting on holding interviews on a date which coincides with a religious festival or observance, or first thing in a morning if someone has caring responsibilities.

Applicants should be given the opportunity to say whether any special provisions or facilities are required at interview stage or when taking occupational tests, and in particular reasonable adjustments should be made for disabled applicants.

Where occupational testing is used we will ensure tests are free from any unjustifiable bias and follow our Code of Practice for Occupational Testing.



## References

References will not form part of the selection process, and will only be circulated to the selection panel after a selection decision has been made. The only exception to this is when panels are required to view references prior to appointment for safeguarding purposes. In these instances the panel will not have access to health information in the references in line with the Equality Act

## Eligibility to work in the UK

Under the Immigration, Asylum and Nationality Act 2006, employers have to carry out checks to ensure that an applicant is eligible to work in the UK. This should be done in the final stages of the selection process to ensure that selection is by merit alone.

Some transsexual people may not have any identification documents in their acquired gender and so may have to disclose their transsexual status. This information must be kept confidential.

## Criminal Record Checks

The Criminal Records Bureau (CRB) has a separate application procedure allowing transsexual people to exclude previous names from the Disclosure Application Form, although they will still have to send details of their previous identity in a separate letter to enable the CRB to check both identities. If a conviction has been recorded in a previous name it will be revealed on the disclosure (and therefore the previous identity will be disclosed). Confidentiality issues apply in these cases. If no convictions are recorded previous names will not be revealed in the disclosure.

The law relating to gay men has changed considerably over time. It is possible that a job applicant may have acquired a criminal conviction many years ago for

a matter no longer unlawful (such as consensual adult gay sex). This is unlikely to have any bearing on the individual's suitability for the job.

### **Medical Checks**

If a medical check is required, it should be relevant to whether the preferred candidate could do the job. It is only appropriate to obtain medical information once a job has been offered.

It is appropriate to undertake medical checks on a disabled person, however, it is not appropriate to insist on a medical check for a disabled person and not for others without justification. Reasonable adjustments should then be considered in an effort to overcome any disability related issues identified by the medical.

### **Recruitment of ex-employees**

Ex-employees that have left the Council on the grounds of ill health retirement or voluntary early retirement will not be eligible to apply for vacancies. Only in the following exceptional circumstances will the Council consider re-employment: -

- Provision of clear evidence that the work cannot be undertaken by someone else, either internal, external or through agency staff.
- If the individual is self-employed or a consultant the Director of Finance and E- Government must be satisfied that they meet the criteria laid down by the Inland Revenue.
- An ex-employee should not be re-engaged unless agreement has been given by the Cabinet Member for Resources and/or the Spokesperson for Human Resources.
- If the employee qualifies in light of the conditions of the tiered retirement scheme.

### **Job Offer**

In general, a job offer should not be made less favourably to someone because of their equality characteristic. For example – it would be unreasonable to extend a probationary period from 3 months to 6 months because the preferred candidate was disabled.

### **Induction**

Managers should consider whether any changes should be made to induction procedures to ensure that there is no discrimination against an employee because of a protected characteristic and to decide whether any adjustments need to be made to ensure they are accessible to all.

**Example** – An employee with a learning disability may require more time, personal support or assistance in relation to the induction procedure. It is likely to be a reasonable adjustment to provide that time, support or assistance.

All employees should be given information at induction on: -

- equality and diversity principles and their rights and responsibilities
- what is acceptable and unacceptable conduct in the workplace
- information on the Council's procedures for dealing with bullying, harassment, victimisation and discrimination
- information on the Council's work life balance, maternity and family leave entitlements

Managers, supervisors and working colleagues need to be suitably briefed if a disabled employee is appointed. They need to understand the nature of the adjustments to be made but may not always need to know details of the disability. It should be established if the disabled person wishes to maintain confidentiality on these matters, and this should be respected.

### **Reasonable Adjustments in the Workplace**

The Equality Act places a duty on employers to make reasonable adjustments to accommodate people with disabilities in order to help overcome the practical effects of their disabilities. This is one of the cornerstones of the legislation as it obliges an employer to consider removing the disadvantage caused by the nature of any individual disability, both for job applicants and employees.

For full details see page 14.

### **Two Ticks Symbol**

We will promote the Two Ticks symbol, which is a recognition by Jobcentre Plus of our commitment to:-

- Interview all disabled applicants who meet the minimum criteria for a job vacancy and consider them on their abilities
- Ensuring there is a mechanism in place to discuss, at any time but at least once a year, with disabled employees what we can do to make sure they stay in employment
- Make every effort when employees become disabled to make sure they stay in employment
- Take action to ensure that all employees develop the appropriate level of disability awareness needed to make our commitments work
- To review each year the above commitments and what has been achieved, to plan ways to improve and let employees and Jobcentre Plus know about progress and future plans

## **Access to Work**

Access to Work is an initiative managed by Job Centre Plus available to provide additional help and support to enable disabled employees to fulfil their potential at work. Assistance can be for both disabled persons about to take up a post, and also those in existing employment.

Further advice and assistance can be obtained from the Occupational Health Unit (0161 253 5156), or the local Job Centre Plus office (01204 516480).

Employees are responsible for making their own applications for Access to Work.

It would be the responsibility of the Council to purchase any equipment that is recommended, and then reimbursement can be claimed from Access to Work.

Access to Work can provide various types of support for people within their working environment, including: -

- office equipment
- communication equipment
- specialized computer software
- travel to work
- a support worker
- adaptations to the working environment

## Positive Action

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Where appropriate, the Council will take positive action in employment to achieve greater equality for people with a shared equality characteristic who have faced the consequences of past or present discrimination or disadvantage.

Positive action is not the same as positive discrimination or affirmative action. They both involve preferential treatment to benefit members of under-represented groups – and this is unlawful.

Under the Equality Act 2010, the Council can – subject to service requirements - take proportionate action to achieve one of 3 legitimate aims: -

### **1. Enabling or encouraging people to overcome or minimise disadvantage**

Disadvantage for people of a certain equality characteristic could be exclusion, rejection, lack of opportunity or barriers to accessing employment opportunities.

For example the requirement to work full time may be a barrier to women applying for a job if they need flexible working to have time off for child care responsibilities. The Council has in place a number of flexible working policies to encourage more women to apply for jobs.

Other remedies to disadvantage could be targeting training at specific groups or mentoring.

### **2. Meeting different needs**

A need is something that is required or essential to someone with a certain equality characteristic.

Proportionate action to meet needs could be for example, providing English language classes to employees who first language is not English.

### **3. Enabling or encouraging participation**

Positive action could be taken to improve the participation rates of people with certain equality characteristics if their participation is low compared to other groups, or low compared to what would reasonably be expected.

For example: -

If the Council were advertising for the position of gardener and that role has been traditionally undertaken by men, a statement encouraging women to apply can be included in the advertisement.

If the Council has a low number of Jewish employees compared to the profile of the residents of the Borough then we could work with Jewish organisations or attend open days at Jewish Schools to offer advice or information about working for the Council in an effort to encourage more Jewish people to apply for jobs.

## **Recruitment and Selection**

In cases where positive action is taken in recruitment, selection will still always be on merit. The only exception permitted by the Equality Act is in respect of disabled people.

However from April 2011 employers will, in defined circumstances, be able to recruit or promote a person with one protected characteristic in preference to another person who does not have the protected characteristic, provided that they are equally qualified for the post. Section 159 of the Equality Act 2010 permits employers in their recruitment or promotion processes to treat individuals with a protected characteristic more favourably when faced with two or more candidates of equal merit, if the more favourable treatment is intended to address under-representation in the workforce or a disadvantage that is connected to the protected characteristic.

## Occupational Requirements

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An Occupational Requirement (OR) provides a general exception to what would otherwise be unlawful direct discrimination in relation to work. In certain circumstances, an employer is permitted to discriminate against someone, if that employer can show that being of a particular race, disability, gender, age, sexual orientation or religion/belief – or not being a transsexual person or married or a civil partner – is an occupational requirement. The nature and context of the work must be considered, and the OR must be a proportionate means of achieving a legitimate aim.

The OR must be crucial to the post, and not merely one of several important factors.

**Example** – A Women’s Refuge may employ only women counsellors because its client base is women fleeing violence in the home. This would be a lawful OR because there would be a legitimate aim of ensuring the women living in the refuge are in a non-threatening environment, and having an all female workforce would be a proportionate means of achieving this.

ORs can only be used in employment in respect of: -

- recruitment and selection
- provision of access to opportunities for promotion, transfer, training or other benefit/service/facility
- dismissal or termination of employment

**Example** – A local council decides to set up a health project to encourage older people from the Somali community to make more use of health services. The council wants to recruit a person of Somali origin for the post because it involves visiting elderly people in their homes and it is necessary for the post-holder to have a good knowledge of the culture and language of the potential clients. The council does not have a Somali worker already in post who would be able to take on the new duties. The council could rely on the OR exception to recruit a health worker of Somali origin.

Managers should bear in mind the following:

- ORs should be identified at the beginning of the recruitment process, before the vacancy is advertised. Advertisements and material sent to potential applicants, should clearly show that an OR applies and the point should be reiterated during the selection process.
- If a manager wishes to claim an OR, they must consider what the duties are for which an exemption is to be claimed. They must be crucial to the post, and not merely one of several important factors.
- In an organisation, an OR exemption cannot be claimed in relation to particular duties if the employer already has sufficient employees who are capable of taking on those duties without causing them any unreasonable inconvenience. Therefore managers should consider if the duties that apply can be carried out by someone else already employed.

- Where the organisation has a religious ethos, an OR exemption cannot be claimed if the nature of the role and the context within which it is carried out is not of sufficient profile or impact within the organisation to affect the overall ethos of the organisation. Therefore each job for must be considered individually and it should not be assumed that because an OR exists for one job it also exists for jobs of a similar nature or in a similar location.
- An OR must be reassessed on each occasion a post becomes vacant to ensure that it can still be validly claimed. Circumstances may have changed, rendering the OR inapplicable.
- An OR cannot be used to establish or maintain a balance or quota of employees of a particular equality characteristic.

## **During Employment**

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The Council will ensure that all elements of the employment relationship are fair and do not discriminate against any employees because of a protected characteristic.

### **Terms and Conditions**

We will: -

- ensure that local and national conditions of service are interpreted consistently and fairly for all employees
- ensure our employment policies and procedures are fair and accessible to all employees
- ensure equality of access to training and career development opportunities
- ensure that all employees are aware of their responsibilities for equality in terms of both employment, training and service delivery
- continue to promote greater awareness of equality issues
- afford reasonable consideration to employees with particular needs

In order to ensure that all of our policies and procedures are fair and accessible to all employees, we will: -

- continue to regularly review, update, monitor and evaluate all of our policies and procedures in employment from an equality perspective to ensure that they conform with new legislation, are fair and reflect current best practice
- investigate any claims of harassment in accordance with appropriate harassment policies
- continue to develop and promote work/life balance initiatives which include various policies to enable employees to achieve a better balance between home and work responsibilities
- develop the Council's intranet and internet pages to include all policies and procedures so that they are easily accessible to all employees

### **Pay and Benefits**

The Council will use equitable and transparent job evaluation schemes and pay structures to ensure that employees are paid fairly for the work that they do.

We will monitor this through annual equal pay audits, and work to eliminate any identified discrimination because of a protected characteristic.

Employees who work less than full time hours will receive pay and benefits in proportion to the hours they work, in order that they are not placed at a disadvantage. (Equality Act 2010 and Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000)

One lawful exception to this could be young employees who are paid in accordance with the National Minimum Wage Regulations 1999.

All benefits and benefit policies will be inclusive and will not discriminate because of a protected characteristic, unless in the limited cases where there are permitted exceptions.

### **Working Hours**

The Council does, where possible and should, subject to service requirements, try to give employees the opportunity to adopt working arrangements that help them balance their commitments at work with their life outside of work.

In particular, employees with certain caring responsibilities are entitled to request flexible working under the Employment Rights Act 1996, Flexible Working (Procedural Requirements) Regulations 2002 and the Flexible Working (Eligibility, Complaints and Remedies) Regulations 2002. Full details on this are set out in our **Work Life Balance Booklet**.

The Work Life Balance Booklet includes a comprehensive set of initiatives which go beyond legislation to provide options for support and flexibility for all employees, subject to service requirements. Work life balance is about adjusting working patterns and offering choices so that all employees can find a pattern that enables them to more easily combine work with their other responsibilities and aspirations, whilst meeting the needs of the organisation. This helps employees achieve a better balanced life. The Council actively encourages applications from all employees, whether for caring reasons, to meet religious needs or for other personal objectives.

**Example** – If an employee suddenly becomes a carer they will require support and flexibility – for example use of the extended flexitime scheme to go home at lunch to prepare a meal for the person they care for, special leave to accompany that person for hospital appointments or even voluntary reduced hours, job sharing or a career break to allow them extra time at home.

Managers should always consider requests for flexible working seriously, and should only refuse a request where there is a clear business reason. Failure to do so could, in some circumstances, result in claims of indirect discrimination.

**Example** – An employee's contract states her hours of work are 9am-3pm. The employee has asked to change these hours to 10am-4pm to accommodate her child care responsibilities. Her employer refuses on the grounds that they would incur extra cost to provide staff cover in the mornings. The refusal will be unlawful discrimination unless the employer can show that it is based on a legitimate aim, such as ensuring there is sufficient staff cover before 10am, and that refusing the request is a proportionate means of achieving that aim. Given the impact of refusal on the employee, the employer should look at what other options are available to cover between 9-10am before refusing.

**Example** – Where employees request cessation of Sunday working on the grounds of their religion or belief, managers should consider whether Sunday working can be justified as a legitimate business need and whether it is proportionate to apply that justification to the individual. Refusal to adjust the individual's working pattern may be indirect discrimination if adequate justification cannot be shown.

It is also important to remember that the Council has a duty to make reasonable adjustments to working hours for disabled people.

**Example** – An employee with a learning disability has a contract which says he will attend work during normal office hours (which are 9am to 5pm in this particular office). He wishes to adjust these hours because a friend is no longer available to accompany him to work during the rush hour. This is likely to be a reasonable adjustment for the employer to make.

### **Time Away from Work**

- **Rest breaks and prayer times** – Some disabled employees may need to take additional regular breaks as a reasonable adjustment.

**Example** – A woman has recently been diagnosed with diabetes. She finds she gets extremely tired at different times during the working day as a consequence of her new medication and dietary requirements. It is likely to be a reasonable adjustment to allow her extra paid rest breaks during the period that is needed to control the effects of her impairment.

Employees with other protected characteristics may request additional breaks because of their protected characteristic. For example, an employee may request breaks to practice their religion or belief. If such requests are granted, employees own time should be used. Employees may request that their rest breaks coincide with their religious obligations to pray at certain times of the day. Managers may however be justified in refusing such a request if, for example, it conflicts with legitimate service needs that they are unable to meet in any other way, although failure to justify such a refusal may be discrimination. Managers should try to be flexible about when rest breaks are taken and may wish to consider that the time taken for prayer is rarely longer than that of a tea or coffee break. Although no organisation is expected to accept unreasonable disruption to its activities, where an employee's request causes difficulties to the operation of the service, managers should meet with employee (and representative where relevant) to discuss the issues for the purpose of achieving a compromise.

- **Festival or spiritual observance days** – An employee may request time off in accordance with annual leave procedures or appropriate leave of absence schemes in order to celebrate festivals or attend ceremonies. Managers should consider these requests sympathetically where it is reasonable and practical for the employee to be away from work. Consideration should also

be given to any requests for unpaid leave or use of the extended flexitime scheme for religious purposes. Should a manager receive similar requests from a number of employees, the matter should be discussed with the employees concerned (and representatives where relevant) with the aim of balancing the needs of the service and those of other employees. Care should be taken over deciding who can/can't take time off to ensure against indirect discrimination.

When accommodating requests for leave for religious holidays, the impact on other staff should always be considered. All decisions need to be fair and proportionate, and not disadvantage workers who do not hold any specific religion or belief.

**Example** – An employee has booked a week off work to take care of his children over the school half term holidays. His colleague has recently become aware that the religious festival of Eid will fall in the same week and also wants three days off. He is not sure which three days he will need as the exact date of the festival is based on the lunar calendar. Managers should discuss the matter with the employees affected in order to balance the needs of the business and those of other employees.

- **Annual leave** – Managers should not discriminate because of a protected characteristic when considering requests for annual leave. For example, if an employee wants to use annual leave for a religious occasion or to visit family overseas, managers should consider the request sympathetically and, if the employee has sufficient holiday entitlement and where it is reasonable and practicable for the employee to be away from work, and the absence can be accommodated within the service the Manager should seek to accommodate the request.

Provisions for leave during the Christmas period are set out in the **Local Conditions of Service (Hours and Leave)**.

- **Sickness absence** – Full details on this can be found in the **Managing Attendance Policy**. Essentially it is important that absences relating to an employee's disability or pregnancy are recorded separately from other sickness absences. This allows managers, for the purpose of attendance management action, to:-
  - disregard all pregnancy related absences, including sickness absences associated with a miscarriage
  - consider whether it would be reasonable to disregard absences related to a disability. The Council is not obliged to disregard disability related absences automatically, but consideration should be given to whether it is reasonable to disregard some or all of the absences by way of an adjustment.

Managers should also consider disregarding absences relating to gender reassignment in terms of managing attendance (see Appendix 3).

Similarly, managers should treat requests for time off for in vitro fertilisation (IVF) and fertility treatment sympathetically. Less favourable treatment of a woman because she is undergoing IVF is likely to be sex discrimination, although it would not amount to pregnancy discrimination until the point at which the fertilised embryos were implanted within her. Full guidance on time off and sickness relating to IVF can be found in the Council's **IVF Guidance** document.

In all cases it is important that there is no discrimination because of a protected characteristic.

- **Time off for medical appointments** – Managers should ensure that requests are dealt with fairly as per the **Local Conditions of Service (Hours and Leave)**.

Pregnant employees are entitled to paid time off for antenatal care (see **Guide for New and Expectant Mothers**).

Employees with a disability may need to attend medical appointments specifically relating to their disability. This should be accommodated as far as reasonably possible, and regarded as a reasonable adjustment.

- **Maternity, paternity, adoption and parental leave** - Managers should ensure that when dealing with requests for maternity, paternity, adoption or parental leave that they do not discriminate against an employee because of a protected characteristic. Full details on these types of leave can be found in the Council's **Guide for Expectant and New Mothers, Maternity Support Leave Policy, Adoption Leave Booklet, Parental Leave Policy and Paternity Leave and Pay** document.
- **Special leave** – The Council has comprehensive **Special Leave** arrangements which exist for genuinely difficult circumstances when an employee may be required to be absent from work. Managers must not discriminate against any employee requesting special leave because of a protected characteristic.

## **Discipline, Capability and Grievance**

When using the Council's Disciplinary, Capability and Grievance processes, there should be no discrimination against any employee because of a protected characteristic.

Complaints of prohibited conduct because of a protected characteristic (see pages 9-15) should be properly investigated in line with the Council's procedures.

When instigating disciplinary, capability or grievance procedures it is essential that managers make appropriate reasonable adjustments so that they do not put disabled employees at a substantial disadvantage or fail to accommodate employees at home on maternity leave.

It is also important when taking disciplinary action against a disabled employee that careful consideration be given to any reasons related to their disability, which may have contributed to them behaving in the way that has led to the disciplinary action.

It is vital to ensure that the disabled person is treated fairly in terms of having time to prepare for any such proceedings, so that they are not placed at a disadvantage to non disabled employees.

Dismissal of a disabled employee on the grounds of capability should generally only be made after careful exploration of all the possibilities of whether reasonable adjustments could be made.

## **Dress**

Some staff may welcome the opportunity to wear clothing consistent with their religion, and where it is practical and safe this should be accommodated. This guidance should be similarly applied to items of jewellery and body markings (such as a red spot on the forehead) which are culturally specific to religions.

In service areas where staff are required to adopt a specific dress code/wear a uniform, managers should carefully consider an employee's request to comply with their religious requirements.

In general, dress codes which have the effect of conflicting with religious requirements may constitute indirect discrimination unless they can be justified for example, on the grounds of health and safety.

There are sometimes legitimate reasons that prevent people dressing in a certain way – for example the health and safety of employees or service users, or the interference of some types of dress with the performing of certain functions. If restrictions are in place as a result such reasons, managers should try to be flexible where possible but must still ensure that they meet the required standards.

Managers should be as flexible and open minded as their service area permits. This will encourage staff to be equally flexible and open minded, and is the best way of making sure that both the needs of the organisation and those of the individual can be met.

## **Language in the Workplace**

Whilst English is the common language in the workplace, many employees may also use other languages for specific business requirements or for casual conversations with colleagues. It is however a matter of courtesy, conducive to good working relations, not to exclude employees from conversations which may concern them when they are present. Failure to do so may also in some circumstances contravene the Dignity at Work Policy

## **Understanding an employee's needs and confidentiality**

Managers need to ensure the confidentiality of procedures and management information systems and reassure staff that policies to ensure confidentiality are in place.

By their very nature, some matters are private and confidential. For example, although some people are comfortable talking about their sexuality or partner, many people do not share such information with their colleagues. It is regarded as harassment under the **Dignity at Work Policy** to out someone as gay or a lesbian without their consent.

It is also a criminal offence if a person discloses information about the gender history of someone with a gender recognition certificate without that person's consent.

That said, it is however good practice for managers to discuss any needs or changes in an employee's situation which come to their attention - if the employee is happy to do so. For instance: -

- if disabled employees discuss their disability, any reasonable adjustments they require can be put in place
- discussing the requirements of an employee's religion will enable managers to try to accommodate religious observances, such as prayer time, wherever possible and avoid embarrassment.

### **Quiet Rooms**

Some religions require their followers to pray at specific times during the day. Managers may receive requests for access to an appropriate quiet place or prayer room to undertake their religious observance. Employers are not required legally to provide a prayer room, however, if a quiet place is available and allowing its use for prayer does not cause problems for other workers, managers may wish to agree to this request. If a prayer room is established, then managers should also consider providing separate storage facilities for any ceremonial objects.

**Multi-faith rooms** are available in the Town Hall and Knowsley Place and can be used by employees of all religions/beliefs or those who do not follow any.

### **Food and Fasting**

- **Specific dietary requirements** – some employees may wish to bring food into the workplace that they may need to store and heat separately from other food. It is good practice for managers to consult employees on such issues and find a mutually acceptable solution to any dietary issues. Employees attending internally held meetings with specific dietary requirements should make these known to the organiser of the meeting.

- **Fasting** – some religions require extended periods of fasting. This can involve no food, drink, chewing or smoking from dawn until dusk. Managers should try to support employees through such a period. However, managers should ensure that in doing so they do not place unreasonable extra demands upon other employees.

**Example** – A teacher is fasting for Ramadan which is an integral part of her religion. To make the time easier for her, the school, in consultation with the other teachers, have agreed a change in the dinnertime rota so during her fasting period she does not have to monitor the dining hall. This is a fair adjustment as it does not disproportionately burden any other members of staff.

## **Washing and Changing Facilities**

Some religions or beliefs require a person to wash before prayer. This can often be done symbolically or by using existing facilities.

In addition, some religions and beliefs do not allow employees to undress or shower in the company of others. Certain jobs within the Council may require staff to change their clothing and/or shower at some point of the working day for reasons of health and safety. Insistence upon same sex communal showers and changing facilities could constitute indirect discrimination, as it may disadvantage or offend staff of a particular religion or belief whose requirement for modesty may extend to changing their clothing in the presence of others, even the same sex.

Employers are not required to enter into significant expenditure, such as building alterations, to meet religious needs. However it is good practice for managers to consult with employees and to consider if there is anything reasonable and practicable that can be done to help staff meet the ritual requirements of their religion.

Use of facilities and gender reassignment is covered in detail by Appendix 3.

## **Breastfeeding**

Breastfeeding is covered in detail by the Council's **Guide for New and Expectant Mothers**. Although there is no legal right for employees to take time off to breastfeed or express, managers should try to accommodate employees who wish to do so bearing in mind that:-

- they have duty of care to remove any hazards
- if an employee needs to breastfeed because her baby has a medical condition that is exacerbated by not breastfeeding, attempts should be made to try to accommodate the employee in terms of time off

## **Training and Development**

All employees will be made aware of appropriate training and development opportunities, including those absent from the office for a disability related reason or those on maternity, paternity, adoption or parental leave.

As the Council is entitled to take positive action, it is possible to provide training opportunities for employees with a particular protected characteristic where those employees are underrepresented in the workforce.

Managers should ensure they understand their responsibilities under the Equality Act 2010 and this policy, and how they apply to matters of training and development. They should recognise the training needs of employees regardless of any protected characteristics, and encourage employees to apply for training and development in accordance with their individual needs and those needs associated with their job.

Training and Development opportunities will be advertised widely throughout the organisation on the intranet and notice boards.

The take up of training will be monitored by equality characteristic, as will internal applications for promotion.

All employees should undertake the Council's mandatory equality and diversity training course, 'Respect for People'.

Employees will be given the opportunity to discuss their training and development needs at their employee review.

Managers should consider whether employees who have had time away from work for childcare purposes will need additional training and support on their return to work.

Training programs may need to take account of any particular or additional needs of disabled people. For instance:

- individual training for a disabled person to use any adaptations or special equipment provided
- training over a longer period, for example, for someone with a learning disability or where a condition, such as chronic back pain, means attendance can only be for shorter periods of time
- re-training to enable someone who becomes disabled to remain in their present job or take a redesigned job. (About 12% of people in employment can expect to become disabled at some point in their working lives.)

If outside training providers are used, it should be ensured that the service they offer to staff is accessible to disabled people; in terms of where the training takes place, the processes used and the equipment provided.

It is very important not to make assumptions about a person's ability to undertake or benefit from training so that they are not overlooked for promotion because they are disabled. Managers should check and talk with the person and discuss if they will need adjustments to participate fully in any development opportunities in order that they are not excluded.

When training courses are organised it is important that managers are mindful of:-

- the dates of courses, having regard to religious holidays, festivals or occasions

- the hours which a course is delivered, for example if employees have caring commitments
- special dietary requirements if food is to be provided
- inappropriate ice breakers, such as games that cause personal embarrassment
- the content of the training
- training activities that use language or physical contact that might be inappropriate for some employees
- exercises that require the exchange of sensitive personal information – for example a gay or lesbian employee may not be comfortable revealing the name of their partner
- related social activities to ensure employees are not excluded by choice of venue

Employees have a responsibility to ensure that their managers and training departments are aware of their individual needs in good time so that there is an opportunity for them to be met.

Training and development programmes will be reviewed regularly to ensure they meet the needs of employees.

Opportunities for training and development will be allocated on a non-discriminatory basis.

### **Employee Reviews**

All employees are entitled to annual employee reviews so that everyone knows what they need to achieve and what skills they will need to develop over the coming year. Managers must take care to avoid discriminating against an employee because of a protected characteristic.



## Termination of Employment

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The employment relationship can come to an end in a variety of ways and for a variety of reasons. In all cases it is essential to avoid discriminating because of a protected characteristic.

### Dismissal

The Equality Act 2010 makes it unlawful for an employer to discriminate against or victimise an employee by dismissing him or her for a reason relating to a protected characteristic.

Managers responsible for deciding whether an employee should be dismissed should: -

- be aware of the contents of this Equality Policy, and the Council's **Disciplinary Toolkit**.
- consider whether, if the employee has a disability, any reasonable adjustments should be made
- follow the Council's procedures in a fair, objective and consistent manner
- consult with the relevant HR officer
- keep written records of all decisions

The Council will monitor by protected characteristic the numbers of Disciplinary and Grievance investigations, and also the number of leavers.

### Capability

Where the dismissal of a disabled person is being considered for a reason relating to that person's ability to do the work, the employer should consider whether any reasonable adjustments need to be made to the performance management or dismissal process. If the performance issue in question is related to the employee's disability, the employer should consider whether a reasonable adjustment could be made to help improve the performance or to transfer the employee to a suitable alternative role.

For further information see the Council's **Capability Procedure**.

### Conduct

If the conduct in question is related to the employee's disability, it may be relevant in determining the sanction which it is appropriate to impose.

### Redundancy

Selection criteria should be objective and should not discriminate directly or indirectly. If any criteria would adversely affect disabled employees, reasonable adjustments may be necessary.

For further information see the Council's **Employee Consultation Toolkit**.

## **Redeployment**

The Council aims to retain employees wherever possible, and operates a non discriminatory approach. For full details see the Council's **Redeployment Policy** and **Retention on the Grounds of Ill Health and Disability Policy**.

## **Retirement**

The default retirement age of 65 is to be phased out from 6 April 2011.

The associated statutory retirement processes, including the employer's duty to provide notice of retirement and the employee's right to request to work beyond normal retirement age, will also be removed.

From 1 October 2011 the default retirement age of 65 can no longer be used to justify a dismissal for a compulsory retirement unless it can be shown that it is a proportionate means of achieving a legitimate end. To dismiss an older employee the Council will need to follow a fair dismissal procedure that relies on a reason other than retirement.

No new notifications of retirement using the default retirement age can be issued from 6 April 2011.

Employees will have more choice on whether to retire upon reaching pensionable age or to continue working.

It is recommended that managers have discussions with all employees – ideally as part of the annual Employee Review process – to ask open questions about their plans for the short, medium and long term. This will avoid any risk of discrimination in the questioning, but still allow managers to organise training and development, and appropriate workforce plans.

## **After the employment relationship has ended**

The Equality Act states that former employees must not be unlawfully discriminated against or harassed by the Council if the discrimination or harassment arises out of the employment which has come to an end and is closely connected to it.

It is also unlawful for the Council to victimise a former employee after the employment relationship has ended.

**Example** – Refusing to provide a reference for an employee because the employee brought an Employment Tribunal claim against the employer alleging unlawful discrimination, is very likely to be victimisation.

## **References for former employees**

References should be factual, fair and non-discriminatory. Managers should be aware that discrimination, harassment or victimisation following the end of a working relationship covers issues such as references either written or verbal.

If an employee who has gone through gender reassignment applies for a new job, the reference given should be in the acquired name and gender. It is up to individuals to disclose a previous identity.

## **Pensions**

Pensions should be non discriminatory. Up to date guides for both the Local Government and Teacher's Pension Schemes are available on request from Central Payroll: -

- for an LGPS Guide contact 0161 253 5017
- for a Teachers Guide contact 0161 253 5012.

Alternatively contact the Council's Pensions Officer for advice or call in at the Pay Services Enquiry Counter, Ground Floor, Town Hall.

## Monitoring

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Monitoring the equality characteristics of job applicants and employees is an important way of ensuring that equality of opportunity exists within the Council, and making sure that our anti discrimination measures are effective.

Currently the Council monitors employees at the following stages of the employment lifecycle: -

- recruitment (both internal and external)
- take up of Work Life Balance initiatives
- disciplinaries/grievances
- training
- leavers

Additionally, records are updated at periodic intervals – for example by workforce audits.

All monitoring is carried out using the questions on the Corporate Monitoring Form for Employment (see **Appendix 2**). The results are published annually in the Annual Equalities Monitoring Report on the Council's equality internet page <http://intranet/index.aspx?articleid=12924>

We also carry out regular Equal Pay Audits which analyse pay data in terms of equality characteristic.

All monitoring data is treated confidentially, and is collected, stored, analysed and published in accordance with the Data Protection Act 1998.

The results of the monitoring are analysed to identify any differences in treatment and to monitor trends. Targets and actions to address any concerns will then be set and monitored through the Council's procedures.

This will allow the Council to meet it's aim of having a workforce which is representative of our diverse community where everyone is treated fairly, with dignity and respect.

## Appendix 1: Equality Characteristic Definitions

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Bury Council bases its definitions of equality characteristics, wherever possible, upon those used in the Equality Act 2010: -

<p><b>Race</b></p>	<p>Race can include colour, nationality (including citizenship) and ethnic or national origin.</p> <p>Being of an <b>ethnic origin</b> will depend upon whether a person belongs to an ethnic group. An ethnic group must have 2 essential characteristics – a long shared history and a cultural tradition of its own. Other relevant characteristics may be a common language, a common literature, religion or a common geographical origin or a sense of being a minority or an oppressed group. This is quite a wide definition, and has included Sikhs, Jews, Romany Gypsies and Irish Travellers.</p> <p><b>National origin</b> means that a person must come from a national group with identifiable elements, both historic and geographic, which at least at some point in time indicates the existence of a nation.</p> <p>National origin is distinct from nationality, but often the two will be the same. For example people of Chinese national origin may be citizens of both China and the UK.</p> <p>A racial group can be a group of people who share a colour, or ethnic or national origin or a group with the same nationality.</p>
<p><b>Disability</b></p>	<p>Disability is a protected characteristic under the Equality Act 2010. A person has a disability if he/she has a physical or mental impairment (including sensory impairments) which has both a substantial <u>and</u> long term adverse effect on his or her ability to carry out normal day-to-day activities.</p> <p>A substantial adverse effect is something which is more than minor or trivial. It is a limitation which goes beyond the normal differences in ability which might exist among people.</p> <p>A long term effect is an impairment which: -</p> <ul style="list-style-type: none"> <li>- has lasted at least 12 months, or</li> <li>- where the total period for which it lasts is likely to be at least 12 months, or</li> <li>- which is likely to last for the rest of the life of the person affected.</li> </ul> <p>Normal day-to-day activities are those which most people carry out on a fairly regular and frequent basis, such as</p>

	<p>walking, driving, cooking, eating, lifting and carrying every day objects, writing, continence, taking part in normal social interaction and forming social relationships.</p> <p>Where a person is taking measures to treat or correct an impairment, and, but for those measures, the impairment would have a substantial adverse effect on the ability to carry out normal day-to-day activities, it is still to be treated as though it does have such an effect.</p> <p>“Hidden” impairments are also covered – for example, mental illness or mental health problems, and conditions such as diabetes and epilepsy.</p> <p>Cancer, HIV infection and multiple sclerosis are deemed disabilities under the Act. as is severe disfigurement.</p> <p>Progressive and recurring conditions will amount to disabilities in certain circumstances.</p>
<b>Gender or Sex</b>	<p>Sex is a protected characteristic under the Equality Act 2010, and refers to a man or a woman of any age. It does not include gender reassignment or sexual orientation.</p>
<b>Gender Reassignment</b>	<p>Gender reassignment is a protected characteristic under the Equality Act 2010. It includes people who are proposing to undergo, are undergoing or have undergone a process (or part of a process) to reassign their sex by changing physiological or other attributes of sex. This includes people who are referred to as transsexual.</p> <p>Under the Equality Act, gender reassignment is a personal process rather than a medicalised process. As soon as a person can show that they have reached a definitive point where they are ‘proposing’ to undergo gender reassignment, they are protected. Therefore it does not necessarily involve any medical treatment, and may just be that someone has made their intention known to someone or started to dress in a different way.</p>
<b>Age</b>	<p>Age is a protected characteristic under the Equality Act, and is defined by reference to a person’s age group.</p> <p>An age group can mean people of the same age or people of a range of ages. Age groups can be wide (eg. people under 50), or relatively narrow (eg. people in their mid 40s) or relative (eg. older than me).</p> <p>The notion of age group is rooted in chronological age, but some age related terms can have different meanings depending upon the context (eg. whether someone is seen as youthful can depend upon their role – compare a youthful bar</p>

	tender with a youthful Chief Exec). Age groups can also be linked to physical appearance (eg. grey haired workers).
<b>Sexual Orientation</b>	<p>Sexual orientation is a protected characteristic under the Equality Act 2010, and means a person's orientation towards:-</p> <ul style="list-style-type: none"> <li>- persons of the same sex (ie. the person is a gay man or a gay woman/lesbian)</li> <li>- persons of the opposite sex (ie. the person is straight or heterosexual)</li> <li>- persons of either sex (ie. the person is bisexual).</li> </ul> <p>It does not include gender reassignment.</p>
<b>Religion or Belief</b>	<p>Religion or belief is a protected characteristic under the Equality Act 2010. It includes any religion and any religious or philosophical belief. It also includes any lack of such religion or belief.</p> <p>The meaning of religion or belief is broad, and is consistent under both the Equality Act and Article 9 of the European Convention on Human Rights.</p> <p><b>Religion</b> means any religion and includes a lack of religion. A religion need not be mainstream, but it must be identifiable and have a clear structure and belief system. Denominations or sects within religions (eg. Methodists within Christianity or Sunnis within Islam) may be considered a religion. Cults and new religious movements may also be religions.</p> <p><b>Belief</b> means any religious or philosophical belief, and includes a lack of belief. It need not include faith or worship, but must affect how a person lives their life or perceives the world. For a belief to be protected under the Equality Act it must:-</p> <ul style="list-style-type: none"> <li>- be genuinely held</li> <li>- be a belief and not an opinion or viewpoint based on information available at the moment</li> <li>- be a belief as to a weighty and substantial aspect of human life and behaviour</li> <li>- attain a certain level of cogency, seriousness, cohesion and importance</li> <li>- be worthy of respect in a democratic society</li> <li>- be compatible with human dignity and not conflict with the fundamental rights of others.</li> </ul> <p>Examples of people who follow beliefs are Humanists, Atheists and Vegans. Political beliefs are not included.</p>
<b>Caring Responsibility</b>	Caring responsibilities affect both men and women. They exist when someone – such as a child, a disabled child or

	adult, or an elderly relative - relies upon a person for care and attention, and assistance with their daily routine.
<b>Marriage/Civil Partnership</b>	<p>Marriage and civil partnership are protected characteristics under the Equality Act 2010.</p> <p>A marriage covers any formal union of a man and a woman which is legally recognised in the UK as a marriage.</p> <p>A civil partnership refers to a registered civil partnership under the Civil Partnership Act 2004.</p> <p>Unlike most other protected characteristics there is no protection under the Equality Act for discrimination based upon association or perception.</p>
<b>Pregnancy/Maternity</b>	<p>In respect of employment, the Equality Act states that it is unlawful direct discrimination to treat a woman unfavourably because of her pregnancy or a related illness, or because she is exercising, has exercised or is seeking or has sought to exercise her right to maternity leave.</p> <p>This is not considered to be sex discrimination.</p>

## Appendix 2: Corporate Monitoring Form for Employment

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Bury Council is committed to offering equality of opportunity in employment, training and development. We aim to ensure that the workplace is free from discrimination, victimisation and harassment of any kind.

However for us to be able to do this, we must fully understand how our workforce is made up, and how different groups of staff are affected in different ways. We gather information on our employees in respect of the main equality strands - these are race, disability, gender, gender reassignment, age, sexual orientation, religion or belief and caring responsibilities.

We are therefore asking you to please answer the following questions to make sure that we are doing this, and treating all employees and potential employees fairly.

Your answers will be kept confidentially by HR and used solely to provide a statistical check on the fairness of our employment policies and opportunities. All information will be stored in accordance with the Data Protection Act 1998. The information will allow us to identify how the workforce is made up and help us to improve opportunities for everyone in the workplace and make the workforce more representative of the local community.

**Ethnic Origin:** Please choose one section, and then tick the box that best describes your ethnic background.

### White

- British
  - Irish
  - Traveller of Irish heritage
  - Gypsy/Roma
  - Other white European
  - Any other White background - please specify below
- 

### Asian or Asian British

- Indian
  - Pakistani
  - Bangladeshi
  - Any other Asian background - please specify below
- 

### Black or Black British

- Black Caribbean
  - Black African
  - Black British
  - Any other Black background - please specify below
- 

### Mixed Race

- White and Black Caribbean
- White and Black African
- White and Indian
- White and Pakistani
- White and Bangladeshi
- Any other Mixed Race background – please specify

### Other Ethnic Groups

- Chinese
- Unknown
- Any other ethnic group - please specify below

**Disability:** The Disability Discrimination Act 1995 (DDA) defines a disabled person as someone with a physical or mental impairment which has a substantial and long term adverse effect on his or her ability to carry out normal day to day activities. (ie. has lasted or is expected to last over 12 months)

Do you consider yourself to be disabled according to this definition?

- Yes  No

**Type of Impairment:** If you answered yes to the question above, how would you define your disability?

- Physical disability (eg. using a wheelchair to get around or having difficulty using your arms)
- Learning disability (eg. Downs syndrome or dyslexia)
- Mental health condition (eg. depression or schizophrenia)
- Head injury or other cognitive impairment (eg. autism)
- Visual disability
- Hearing disability
- Musculoskeletal disability
- Cardio-vascular disability (eg. chronic heart disease)
- Other long standing illness or health condition (eg. diabetes, cancer, HIV, or

**Gender:**

- Male  Female

**Gender Identity:** Do you live and work full time in the gender role opposite to that assigned at birth?

- Yes  No

**Age (in years):**

- 16-24  25-34  
 35-44  45-54  
 55-64  65+

**Sexual Orientation:**

- Heterosexual/Straight  
 Bisexual  
 Lesbian/Gay Woman/Gay Man  
 Prefer not to say

**Religion or Belief:**

- Buddhist  Christian  
 Hindu  Jewish  
 Muslim  Sikh  
 No Religion

**Caring Responsibilities:** Is there anyone who relies upon you for care and attention AND that you assist with their daily routine?

- Yes  No

If yes, please indicate who you provide such care for?

- Adults (18 or over)  Children

## Appendix 3: Gender Reassignment – Guidance for Managers

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### Our commitment

The Council is committed to ensuring that all employees are treated with respect and that it does not discriminate unlawfully in respect of gender reassignment. This commitment is an important aspect of its overall commitment to providing equal opportunities in employment.

This guidance is intended to assist managers to put this commitment into practice and to help deal with any practical issues that may arise. Compliance with this guidance should also ensure that employees do not commit unlawful acts of discrimination.

Striving to ensure that the work environment is free of harassment and bullying and that everyone is treated with dignity and respect is an important aspect of ensuring equal opportunities in employment. The Council has a separate Dignity at Work Policy that deals with these issues.

### Gender reassignment

Gender reassignment is a protected characteristic under the Equality Act 2010. It includes people who are proposing to undergo, are undergoing or have undergone a process (or part of a process) to reassign their sex by changing physiological or other attributes of sex. This includes people who are referred to as transsexual.

Under the Equality Act, gender reassignment is a personal process rather than a medicalised process. As soon as a person can show that they have reached a definitive point where they are 'proposing' to undergo gender reassignment, they are protected. Therefore it does not necessarily involve any medical treatment, and may just be that someone has made their intention known to someone or started to dress in a different way.

### The law

The **Gender Recognition Act 2004** allows transsexual people who have undergone gender reassignment to apply for a gender recognition certificate as of April 2005. When a full gender recognition certificate has been issued, the person is considered in the eyes of the law to be of the acquired gender. There is no obligation on an individual to apply for a gender recognition certificate and there may be good personal reasons, such as an existing marriage, why someone has not applied for one.

There are special laws protecting the privacy of someone who has a gender recognition certificate: a person may commit a criminal offence if he/she discloses information about the gender history of someone with a gender recognition certificate without that person's consent.

Gender reassignment is one of the protected characteristics under the **Equality Act 2010**, which replaces the Sex Discrimination Act 1975 in providing protection in employment and the Sex Discrimination (Amendment of Legislation) Regulations 2008 in providing protection in the use of goods, services, facilities and premises.

## **Recruitment**

A job applicant's gender identity status is irrelevant to the recruitment process, except in the rare circumstances where a genuine occupational qualification applies to the job. If the Council is relying on a genuine occupational qualification, it will make this clear in the recruitment material.

Any details disclosed on the equality monitoring questionnaire which accompanies the application form will be removed prior to the shortlisting process by HR and remain confidential.

If during the recruitment process information is disclosed about a job applicant's gender history in another way, for example because certain documents are in a previous name, the Council will keep the applicant's gender history confidential and will not take this into account in the selection process, unless a genuine occupational qualification makes this relevant. In accordance with its Equality Policy, the Council will assess candidates for employment objectively against the requirements that are necessary for the effective performance of the job.

If disclosure from the Criminal Records Bureau (CRB) is required as part of the recruitment process, applicants must disclose any previous names and/or gender to the CRB. Transsexual applicants may make use of the special application procedure established by the CRB so that their previous name is not disclosed to the Company.

## **Employment**

It will not normally be necessary for the Council to be made aware of the gender history of an employee who has undergone gender reassignment. If it becomes aware of information relating to an employee's gender history, it will keep this information confidential. It will not disclose information about an employee's gender history to a third party without the employee's consent. Any records that the Council needs to keep that relate to an employee's previous gender, for example relevant qualifications in a previous name, will be kept confidential, with only specified staff having access to them. When the Council no longer needs to keep those records, it will destroy them.

The Council will not take account of an employee's gender identity status or history in making employment decisions except where necessary and permitted by law.

The gender history of an employee with a gender recognition certificate will never be relevant to employment decisions. An employee with a gender recognition certificate will be treated in accordance with his/her acquired gender for all employment benefits including pensions and insurance.

An employee who has undergone gender reassignment but does not have a gender recognition certificate may be required to disclose his/her gender history for insurance or pension purposes. This information will be passed only to those people who require it for these purposes and will be kept confidential.

### **Dignity at work**

The Council has a separate Dignity at Work Policy concerning issues of bullying and harassment on any ground, and how complaints of this type will be dealt with. Disciplinary action will be taken against employees who bully or harass other employees.

### **Dealing with transition**

The Council will be supportive of any employee who expresses an intention to undergo gender reassignment and will work with him/her to try to ensure as smooth a transition at work as possible.

The Council will appoint, in consultation with the employee, a manager to be the employee's principal point of contact. That manager will agree with the employee an action plan for managing the transition at work. Matters to be addressed may include the following: -

**The employees' job:** Consideration will be given to whether the employee wishes to stay in the same job and location or be re-deployed, temporarily or permanently. In the rare cases where a genuine occupational qualification applies to the post, a change of job may be required. This should be discussed with the employee.

**Time off:** The employee may require time off for medical or other treatment relating to gender reassignment. Time off for these purposes should not be treated less favourably than time off for illness or other medical appointments, and consideration should be given to disregarding such absences in terms of managing attendance. Records referring to gender reassignment are classed as sensitive data under the Data Protection Act and access should be strictly restricted. Permission should always be sought by the person prior to disclosure.

**Records:** Unless a person holds a Gender Recognition Certificate (GRC), it is not possible for them to alter their birth certificate, however, other documents can be obtained in the new identity, for example: -

- passport
- driving licence
- National Insurance number

It should be discussed with the employee when/if they wish to change their name, personal details and gender on their employment records, and due consideration given to such a request.

Once a person holds a GRC, it is unlawful to disclose their transgendered status without their consent, and all records relating to the transition should be destroyed.

**Change of social gender:** In order to successfully manage an employee's transition from one sex to another, it is important to deal with it sensitively and with discretion. Discuss with the employee how they want to plan for various stages in the transition. The following issues should be discussed: -

- when the employee expects to change name and to start presenting at work in the new gender
- how work colleagues and clients are to be informed of the change
- whether the employee wishes to inform colleagues and clients of the change or have someone from the Council do this
- what information or training is to be given to managers and work colleagues. Care should be taken when planning this and it should include general information on transsexualism, the employees personal situation and how it affects them, practical arrangements involving the employee and other staff members

**Facilities:** The point at which the employee will start to use any single-sex facilities, such as toilets, in his/her new gender needs to be discussed.

For pre-operative transsexuals this will most probably be when the employee begins to permanently present themselves in their new gender. It is not acceptable to insist that a person presenting as a woman must use the male toilets and vice versa. The use of other facilities will depend on which stage of the gender reassignment process the person is up to and what facilities they are requesting to use. For example it may not be appropriate to use shower or changing facilities of their preferred gender for privacy reasons and individual cubicles may have to be considered.

Employees who have undergone the gender reassignment process will use the toilets and facilities of their reassigned sex.

Support should be given including any necessary discussions with other staff.

It is not acceptable to insist that a transsexual employee uses separate facilities, for example a disabled toilet on a long-term basis.

**Dress codes:** If there is a dress code applying to the job done by the employee consideration will be given to what, if any, flexibility may be required to accommodate the transition.

**Pensions/AVC's/Insurance:** Once an employee has undergone gender reassignment and they have indicated that they wish to change their name, personal details and social gender on their records, the Pensions Officer should be informed. When an employee retires, in order to withdraw their pension they have to produce their official documents, including birth certificate. Following the introduction of the Gender Recognition Act, people who have a full gender recognition certificate and were born in the UK will be issued a new birth certificate in their acquired name and gender.

Advice should be obtained from the Pensions Officer regarding death in service and survivor's benefits.

Travel Insurance taken out for individual officers requires a medical questionnaire to be completed and any previous or current medical conditions, including gender reassignment, will have to be declared. The employees prior consent should always be obtained. Failure to disclose this could invalidate the cover provided. This does not apply if the person holds a GRC.

**Retirement:** For state pension purposes, once a person holds a GRC they will be eligible for a state retirement pension and other benefits appropriate to their acquired gender. If a person does not hold a GRC then they retain their state pension rights in accordance with the gender recorded on their birth certificate.

## Appendix 4: HIV/AIDS – Guidance for Managers

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### Our commitment

The Council recognises that HIV is a workplace issue. While it is not a directly work-related medical condition, having guidance on HIV helps to ensure that the workplace is free from prejudice, discrimination, unfounded fears and misconceptions. The Council also recognises that people living with HIV can lead normal working lives, are entitled to privacy and dignity at work, and do not present a risk to people around them.

The Council aims to provide a fair and supportive working environment that is free from discrimination and prejudice for employees living with HIV. Any discrimination against job applicants or employees on the basis of their actual or perceived HIV status will not be tolerated and will be dealt with in accordance with the Council's disciplinary procedure. Acts of discrimination include harassment, spreading rumours about a person's supposed HIV status, and refusal to associate with or work with a person living with or affected by HIV.

### Definitions

The **Human Immunodeficiency Virus (HIV)** is a virus that damages the immune system.

The term **AIDS (Acquired Immune Deficiency Syndrome)** is used to describe a range of illnesses (that can include severe infections and cancers) that attack an individual's immune system after they have been exposed to HIV infection for a prolonged period.

**Blood borne Viruses (BBV's)** are mainly found in blood or bodily fluids. The main BBV's are HIV, hepatitis B and hepatitis C.

The majority of people living with HIV and other BBV's are of working age. Advances in treatment means that more and more people with HIV and other BBV's will continue to work or want to return to work.

The Council recognises it's employees as a valuable investment and acknowledges that it makes good business sense to ensure that we are equipped to respond to issues surrounding HIV and BBV's.

### HIV testing

Blood tests can detect the antibodies that are produced against the HIV virus. If these are present, the person concerned is said to be HIV positive. However, it can take at least three months from the time of infection for the test to show as being positive.

The only positively identified routes of HIV infection have resulted from:

- unprotected sexual contact with an infected partner
- shared use of syringes or needles with an infected person, and

- transmission from an infected mother to her baby

Since 1986 the UK has treated all blood products to destroy HIV so there is no longer any risk in giving blood.

HIV infection cannot be passed on through normal workplace activities. It cannot be transmitted by sharing crockery, sneezing, sharing toilet facilities, hugging or through food preparation. Although a few specialised jobs involve an extremely low risk of transmission there is generally no danger in working with someone who is living with HIV.

### **The law**

Under the **Equality Act 2010**, it is unlawful to discriminate against someone with a disability or fail to make reasonable adjustments for someone with a disability. The Act deems HIV to be a disability.

Reasonable adjustments for people living with HIV will usually involve flexibility around working hours, for example, flexible break times for taking medication at regular times throughout the day, time off for hospital appointments, access to a private area for taking medication, and access to a canteen or kitchen facilities to prepare and eat food at regular times as required by some HIV treatments. In addition, as diarrhoea is one of the most frequently reported side effects of HIV treatments, a reasonable adjustment may involve providing the person concerned with a work station located near to toilet facilities.

Under the **Health and Safety at Work Act 1974** employers have a legal duty to ensure, so far as it is reasonably practicable, the health, safety and welfare at work of their employees and anyone else, for example members of the public, who may be affected by its work activities, or who are on its premises at any time.

The **Management of Health and Safety at Work Act 1999** states that employers must assess the risk to all employees and others affected by work activities, to make arrangements for their Health and Safety ensuring that:

- a risk assessment of the organisation is carried out for occupational health and safety to protect the health of all employees and this should include HIV and other BBV's.
- all first aid training covers HIV and BBV's

The **Data Protection Act 1998** requires employers to safeguard the confidentiality of personal and medical information about employees and job applicants. It specifies that written consent is needed for personal sensitive information to be passed on. This covers mental and physical health conditions.

The **Control of Substances Hazardous to Health Regulations 2002** deals with hazards that arise from working with biological agents, such as blood-borne viruses (including HIV). There is a legal duty to assess the risk of infection for employees and others affected by the work carried out by the Council.

## **Discrimination**

HIV and BBV's are recognised as disabilities under the Equality Act 2010 and therefore any issues involving discrimination should be dealt with in line with the Council's Equality Policy.

## **Harassment**

Issues arising concerning other employees' attitudes and behaviour about HIV or other BBV's should be handled carefully, and reference made to the Council's Dignity at Work Policy.

## **Recruitment**

The organisation aims to recruit an effective and high quality workforce. It therefore recruits on the basis of the ability to do the job, and does not discriminate on the basis of a candidate's real or perceived HIV status.

Although there is no cure for HIV, medical treatment known as anti-retroviral therapy (ART) can help people living with HIV to remain fit and healthy and prevent them from developing advanced HIV infection for many years.

The Council will not require job applicants to disclose their HIV status at any stage of the recruitment, assessment and selection procedure. The Council will ask candidates about any disability only in relation to the need to provide reasonable adjustments in the recruitment process or once they are in the post; and to carry out equal opportunities monitoring [in which case a detachable questionnaire will be provided].

All prospective new recruits are required to be health screened and in some cases have a medical examination. It is appropriate to include a disabled person in this process, and this includes people who have HIV or other BBV's. However, it is not appropriate to insist on a medical check for a disabled person and not for others without justification. The crucial question is whether he or she would be fit for the job if a reasonable adjustment was made. Confidential health questionnaires or medical examinations would only be triggered after a preferred candidate had been identified, and any issues dealt with by an occupational health specialist. Applicants who are deemed to be "medically fit" at the time of interview will not be rejected an offer of work because of HIV or AIDS. No employee or applicant will ever be required to take the test for HIV antibody.

There will be no discrimination in recruitment against applicants internally or externally on the grounds that the applicant has HIV or AIDS.

Employees will only be redeployed to alternative employment at their own request and will not be prevented from continuing work, except where they are deemed not medically fit through the standard procedures.

## **Disclosure and confidentiality**

There is no legal obligation for someone living with HIV to inform their employer of their HIV status. However, the Council encourages staff to approach their manager to disclose their status so that they can request any reasonable adjustments that they may require.

Where an employee does disclose his/her HIV status, this information will be treated in confidence. Only people in the Council with a genuine need to know, for example line managers, HR personnel or occupational health professionals, will be informed and only with the consent of the person concerned.

The Council will safeguard the confidentiality of an employee's personal and medical information as required by the Data Protection Act 1998. Any breach of confidentiality will be treated very seriously and dealt with under the Council's disciplinary procedure.

### **Support for employees**

The management of employees affected by HIV or AIDS will be consistent with the management of employees living with any other serious or potentially progressive condition.

The Council recognises that people living with HIV can lead full and active working lives, and that they successfully work in a range of occupations across the economy. It is therefore committed to supporting the continued employment of any employees living with HIV for as long as they are able to work safely and to acceptable standards. Every reasonable effort will be made to enable employees living with HIV to work for as long as they can.

The Council recognises that HIV is a disability under the Equality Act 2010 and that people living with HIV are protected from discrimination in the workplace. They are entitled to ask for reasonable adjustments under this legislation. These are changes to the workplace, working practices and/or job role that take into account a person's disability and allow them to continue to do their job with dignity.

In addition to making reasonable adjustments, the Council will take the following steps to support people living with HIV in the workplace: -

- provide a sympathetic working environment, for example by allowing employees to store and take medication in private or advising them in advance of any change to their normal work routine, such as a training day or the closure of a canteen, so that they can plan around this.
- offer counselling and advice to all employees affected by HIV and AIDS who may require it.
- encourage people living with HIV to approach their manager for help if they require it, but recognise that there is no obligation on them to do so.

### **Time off for medical screening**

In the case of medical screening for HIV and BBV's, authorised absence can be granted with prior agreement with the employee's manager.

## **Pensions and other staff benefits**

The Council will not discriminate in the provision of pensions or any other benefit, facility or service that it provides or administers, on the basis of HIV status.

## **Special Leave**

Consideration will be given to requests for special leave by those who have responsibility for caring for people with AIDS related diseases.

## **Hygiene**

All employees and managers should strive to ensure good hygienic practice is adhered in those areas where work involves handling infected waste, bodily fluids or the possibility of a sharps injury.

## **Health and safety**

The Council will carry out a risk assessment to examine whether or not employees are at risk of exposure to HIV infection. If any such risk is identified, the Council will put into place procedures for controlling the risk and for reporting and recording incidents of exposure. If the risk assessment shows it to be necessary, the Council will draw up contingency plans for medical treatment and advice for employees who may have been exposed to HIV infection at work.

## **First-aid procedures**

There has never been a case of HIV transmission through the administration of first aid including mouth-to-mouth resuscitation. There is therefore no need to inform staff responsible for first aid about a person's HIV status.

As more than a third of people living with HIV are not aware of their status, trained first aiders should treat everyone as potentially having a blood-borne virus and should always use universal precautions, ie infection control procedures used to minimise the risk of blood-borne infections.

First aiders will receive training in these basic hygiene procedures which will protect them against a range of infections, including HIV. They should take precautions recommended by the Health and Safety Executive to reduce the risk of infection, which are to:

- cover any cuts or grazes with a waterproof dressing;
- wear suitable disposable gloves when dealing with blood or any other body fluids;
- use suitable eye protection and a disposable plastic apron where splashing is possible;
- only use devices such as face shields when giving mouth-to-mouth resuscitation if training has been given; and
- wash hands after each procedure

## Appendix 5: Useful Contacts and Websites

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### General

Equality and Human Rights Commission (EHRC)

Helpline – 0845 604 6610

Website – [www.equalityhumanrights.com](http://www.equalityhumanrights.com)

Government Equalities Office

Website – [www.equalities.gov.uk](http://www.equalities.gov.uk)

DirectGov

Website – [www.direct.gov.uk](http://www.direct.gov.uk)

UNISON

Website – [www.unison.org.uk/equality/index.asp](http://www.unison.org.uk/equality/index.asp)

ACAS

Website – [www.acas.org.uk](http://www.acas.org.uk)

Citizens Advice Bureau

Website - [www.adviceguide.org.uk/index/your\\_rights/discrimination.htm](http://www.adviceguide.org.uk/index/your_rights/discrimination.htm)

### Race

BME Community Forum

Website -

<http://intranet/index.aspx?keyword=BME+community+forum&returnarticleid=12924&articleaction=newsearch&articleid=12277>

### Disability

BADDAC (Bury and District Disabled Advisory Council)/ DAIF (Disability and Access Involvement Forum)

Helpline – 0161 253 6901 (contact – Ron Shambley)

### Gender

Fawcett Society

Website - [www.fawcettsociety.org.uk](http://www.fawcettsociety.org.uk)

### Gender Reassignment

Press for Change

Website – [www.pfc.org.uk](http://www.pfc.org.uk)

TransEquality

Helpline – 0161 432 1915

Website – [www.transequality.co.uk](http://www.transequality.co.uk)

## **Age**

Age UK

Helpline – 0800 169 6565

Website – [www.ageuk.org.uk](http://www.ageuk.org.uk)

## **Sexual Orientation**

Stonewall (Bury Council are Stonewall Diversity Champions)

Helpline – 08000 502020

Website – [www.stonewall.org.uk](http://www.stonewall.org.uk)

Lesbian and Gay Foundation (LGF)

Helpline – 0845 3 30 30 30

Website – [www.lgf.org.uk](http://www.lgf.org.uk)

## **Religion or Belief**

Employers Forum on Belief

Website – [www.efbelief.org.uk](http://www.efbelief.org.uk)

BBC Guide to Religions and Interfaith Calendar

Website - [www.bbc.co.uk/religion/religions](http://www.bbc.co.uk/religion/religions)

## **Caring Responsibilities**

Carers UK

Helpline - 0808 808 7777

Website – [www.carersuk.org](http://www.carersuk.org)

## **HIV/AIDS**

Ensuring positive futures

Website - [www.e-pf.org.uk](http://www.e-pf.org.uk)

National AIDS Trust

Website - [www.nat.org.uk](http://www.nat.org.uk)

UK Coalition of People Living with HIV and AIDS

Website - [www.ukcoalition.org](http://www.ukcoalition.org)

Terrence Higgins Trust

Website - [www.tht.org.uk](http://www.tht.org.uk)