

# Equality, Diversity, and Inclusion Policy.

**Service Area: Organisational Development and Performance**

**Date - February 2024**

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## 1.0 Introduction

Equality, diversity, and inclusion (EDI) are an integral part of everyday life for us at South Derbyshire District Council as service provider, employer and through our partnership working. We are committed to putting EDI at the centre of our decision-making processes to ensure we can best meet the needs of our residents and community.

We have new values in our Council Plan 2024-28 that sets out how we deliver services and communicate with our customers and through our ambitious Equality, Diversity, and Inclusion Strategy and Action Plan, the Council will embed this in everything we do.

The Council is working towards a community for all people who live, work and visit South Derbyshire where difference is acknowledged and valued and harassment, discrimination and victimisation are confidently challenged and not tolerated.

We recognise and accept that some people may have not had equal access to services, employment or fair chances in life. We take the view that it will be necessary to develop or create some services or opportunities that specifically meet the different needs of our community.

We understand that discrimination can be institutionalised. We are committed to combating any unintended institutional discrimination by developing an anti-discriminatory organisational culture, placing EDI at the centre of all our activities and celebrating diversity.

Elected Members, Leadership Team, and our workforce will lead by example, ensuring that this commitment is embedded in policies and day to day working practices with our residents, customers, colleagues and partners.

## 2.0 Purpose

The Equality, Diversity, and Inclusion Policy sets out how the Council will treat people fairly, reduce inequalities in South Derbyshire, and comply with statutory and other obligations under the Equality Act 2010 and other relevant legislation covering equality and human rights.

Prejudice, inequality and discrimination can affect anyone, but some people/groups are affected more than others. Some people/groups receive unfair treatment or worse outcomes as a result of negative stereotyping, assumptions, ignorance, invisibility, abuse of power or intolerance. This could be because of their personal or religious beliefs, ethnicity, disability, age, gender reassignment, sex, pregnancy and maternity, marriage or civil partnership or sexual orientation – identities that are intrinsic to them. This means that they are not provided with the same opportunities as others or are not treated with dignity and respect because of who they are or who they identify as.

Discrimination is often unintentional and occurs when someone does not realise that their actions are inappropriate and potentially unlawful. It is important that organisations and their workforce develop policies and practices that positively consider the needs of other people, irrespective of their level of contact or interaction with them.

The Council acknowledges and welcomes its legal obligations as the minimum standard to achieve and through this Policy and EDI Strategy 2021-2025 and Action Plan will work toward improving and maintaining standards and be accountable to the community we serve.



The Equality Act 2010 does not recognise ignorance as a defence and understanding the needs of communities in South Derbyshire will help us to become more customer focused and provide high quality accessible and inclusive services.

### 3.0 Objectives

The overall objectives of the Equality, Diversity, and Inclusion Policy (the Policy) are to:

- Support the delivery of the Equality, Diversity, and Inclusion Strategy and Action Plan
- Enable the achievement of the five corporate equality objectives;
  - Enable a diverse workforce
  - Be a leader in equality, diversity, and inclusion
  - Involve our diverse communities in decision-making
  - Deliver services that are accessible and inclusive to individual's needs
  - Understand our diverse communities

### 4.0 Scope

The policy applies to all Elected Members, employees and other workers, such as agency workers, temporary workers, contractors and anyone otherwise engaged in Council activities such as volunteers.

### 5.0 Performance and monitoring

#### Equality, Diversity, and Inclusion Strategy 2021 – 25 and Action Plan

Progress against our five key equality objectives and action plan as detailed in our Equality, Diversity, and Inclusion Strategy are reported on a quarterly basis to the Equality, Diversity, and Inclusion Steering Group with an annual report submitted to Full Council.

All the details are published on the website and are accessible to residents, customers and partners to track and challenge the progress being made by the Council.

#### Legislative context

##### The Human Rights Act 1998

The Human Rights Act 1998 was introduced to ensure people are treated with dignity and respect. Respect for the rights of individuals or groups is fundamental to their quality of life. The Human Rights Act has at its core the principles of FRED A – Fairness, Respect, Equality, Dignity, and Autonomy.

##### The Equality Act

The Equality Act 2010 was introduced to bring together different pieces of equality legislation with the aim of protecting people from discrimination, victimisation or harassment. The Equality Act places specific responsibilities on public sector organisations and as such, local authorities must consider all individuals when carrying out their day-to-day work – in shaping policy, in delivering services and in relation to their own workforce.



It also requires that public sector organisations:

- have due regard to the need to eliminate discrimination;
- advance equality of opportunity; and
- foster good relations between different people when carrying out their activities.

Having due regard requires taking into consideration these three aims as part of the corporate decision-making process. This means that these issues must influence the decisions reached by the Council in ways that include how we act as employers; how policies are developed, evaluated, and reviewed; how services are designed, delivered, and evaluated and how services are commissioned and procured.

Advancing equality of opportunity involves considering the need to remove or minimise disadvantage suffered by people due to any protected characteristic, to meet their needs and encourage them to participate in public life where participation is low from people within the protected characteristics.

Fostering good relations involves tackling prejudice and promoting understanding between people who share a protected characteristic and others that don't. The Council will work with all communities and groups to understand how our services can be delivered to meet their needs and sustain effective and positive relationships that are built on mutual trust, respect and understanding.

To ensure transparency, and to assist in the performance of this duty, the Equality Act 2010 (Specific Duties) Regulations 2011 require public authorities, named on, to publish:

- equality objectives, at least every four years.
- information to demonstrate our compliance with the public sector equality duty.

### **Equality Impact Assessments**

Equality Impact Assessments (EIA's) are the most effective way of demonstrating compliance against our statutory responsibilities set down in legislation and our own objectives.

The Council will undertake an EIA on new projects, strategies, policies, or procedures or when major changes are made to existing ones. This process will help to ensure that:

- Strategies, policies and procedures and services are free from discrimination;
- The Council complies with current equality legislation;
- Due regard is given to inclusivity in decision making and subsequent processes;
- Opportunities for promoting inclusivity and diversity are identified and progressed.

All completed EIA's will be presented alongside the project or strategies, policies or procedures before any approval is given. The EIA will identify any opportunities to improve the outcome from the project or implementation of any project, strategy, policy and procedure and actions to mitigate any identified risks to people under the nine protected characteristics.

Where risks are identified, the Council will put in place and monitor these actions and assess their impact. These will be monitored by the appropriate service area and reported to the EDI Steering Group for further review and assessment.



All completed EIA's, with actions to either improve or mitigate the potential for any equality issues to arise are published on the Council's website.

## Gender Pay Reporting

As an employer with more than 250 employees, the Council has an obligation to report on our gender pay gap. We monitor pay equality across different groups and operate a comprehensive job evaluation scheme to assess each job role.

The annual report is published on the Council's website and presented to the EDI Steering Group for consideration of any additional actions that may be required to address any trends in the data.

## 6.0 Meeting our responsibilities

### Council as a direct provider of services

Our customers and potential customers can expect the Council to:

- treat customers with dignity and respect
- provide accessible and clear information about services in appropriate formats that meet people's language and communication needs.
- continue to make physical and other reasonable adjustments to Council premises, facilities and services so that they are accessible.
- provide services that consider the needs of different customers and to include protected characteristics as defined by the Equality Act 2010.
- promote and encourage people to report all forms of discrimination, harassment and victimisation and continue to work with partner organisations to make South Derbyshire a great place to live, work and visit.
- hold meetings in accessible venues or make arrangements to meet access requirements.
- consider the needs of those actively engaged in religious or cultural observances when planning events to avoid exclusion or disadvantage. This can include timing or dietary requirements.
- respond positively to any complaints that we receive about our services including those of discrimination, harassment and victimisation.
- provide training for our workforce to develop their skills, knowledge and awareness when providing services to customers.
- ensure that any organisation who works with/provides a service on our behalf comply with our equality, diversity, and inclusion key objectives and the requirements of the Equality Act 2010.
- promote and facilitate digital inclusion.
- use objective criteria to award grants and to allocate services.
- monitor our services to ensure equal access and outcomes and take action to address any inequalities.
- engage and consult with local communities and stakeholders to address inequalities and to better understand our customers' needs and shape future service delivery.



## Council working in partnership with other providers of services and contractors

The Council will ensure that any service providers and contractors engaged to undertake work on our behalf adopt the same standards in relation to equality, diversity, and inclusion. In particular to ensure:

- residents, customers and partners have a right to expect that the money spent by us on goods, works and services meet the diverse needs of the customers we serve.
- our customers deserve a high quality of service regardless of who provides the service. If any organisation wants to do business with the Council, they must comply with our standards and all the relevant equality legislation.
- the awarding of any contracts will be subject to a clear and evidenced based commitment to equality, diversity, and inclusion.
- the Contract Procedure Rules commits the Council to making sure that contractors, suppliers and organisations who provide goods and services, goods or works on our behalf comply with equality legislation and our EDI objectives.
- they develop and deliver services, goods, works and facilities that are appropriate and accessible and to have, and implement EDI policies for employment and service delivery.
- that private or third sector organisations who are carrying out a public function on behalf of a public authority or in their own right will have to comply with the public sector equality duties under the Equality Act 2010.
- procurement and commissioning employees will incorporate equality, diversity, and inclusion considerations, where appropriate, into contracts, managed premises agreements, service level agreements and monitoring agreements.
- part of the contract monitoring arrangements will include performance information on equality, diversity, and inclusion as appropriate.
- any contractors that are unable to fulfil the above obligations or have been subject to corrective or enforcement actions relating to their approach to equality, diversity, and inclusion matters will have their contract terminated.

## Partnerships

The Council works with many different partners to support the delivery of services to our communities. Each partnership arrangement will be subject to;

- agreed terms of reference that embed equality, diversity, and inclusion within strategies, plans, and projects undertaken by the partnership.
- clear criteria to ensure decision making is open and transparent where awards or funding or other support is provided to external organisations.
- establishing partnering bodies with representatives that are reflective of the community where possible.
- review and take action to address any equality, diversity, and inclusion issues arising from the partnership or any of its members.
- work together with our partners to embed inclusion within our ways of working and align our strategies, funding, and other support.
- provide information on equality, diversity, and inclusion as part of any performance reporting or monitoring of projects.



## Positive action

Lawful positive action, training and encouragement will be considered in areas where particular groups are underrepresented.

Positive action may involve treating members of a group who share a particular protected characteristic more favourably than other groups and will be lawful in certain circumstances. It is not the same as positive discrimination which is unlawful.

## Workforce

The Council understands and accepts that it needs to equip its workforce with the resources and environment to embed equality, diversity and inclusion into its day to day service provision, employment practices and ensure that everyone is treated with respect and dignity – either as an employee or members of the public.

## The Council will

- ensure we tackle inequalities and discrimination in the workplace and that equality, diversity, and inclusion underpin our employment strategies, policies, procedures, and practices.
- provide access to training and other resources to equip the workforce with the skills, knowledge, and awareness to respond appropriately to all services users and colleagues
- review and monitor the completion of training on different activities related to equality, diversity, and inclusion and take positive action to address any areas of underperformance.
- ensure our employment policies and practices comply with this Policy and do not intentionally or unintentionally discriminate against any group or individual.
- promote a culture of openness, fairness, and respect through all our policies and practices and ensure all employees are aware of their personal responsibility to comply with this Policy.
- provide forums and resources to support employees with different protected characteristics who want to share experiences, build networks, and enhance their working environment.
- develop our employment offering to be as inclusive and supportive for our current and future workforce.
- work with employee representatives and Trade Unions to review our approach and explore different options to promote equality, diversity, and inclusion.
- take positive and robust action to protect employees from discrimination, harassment, or victimisation through the continued development of employment policy and procedure
- take positive action to support employees both at work and whilst absent through the provision of flexible working practices, reasonable adjustments, and provision of equipment and other resources.
- develop and review fair pay and reward structures.
- monitor and report on our performance on equality, diversity, and inclusion
- establish and support working groups with both internal and external representatives to monitor and progress work on equality, diversity, and inclusion.
- benchmark our performance on equality, diversity, and inclusion with relevant organisations and industry standards.
- promote and sustain recruitment and retention initiatives to support different groups of people throughout the recruitment and employment cycle. This will include the Disability Confident accreditation and the commitment to the Armed Forces Covenant that guarantees interviews for these groups of people where they meet the minimum essential criteria for the post



- ensure that no prospective employee or current employee receives less favourable treatment on any grounds that cannot be shown to be justified. This applies to all terms and conditions including recruitment and selection, training, promotion, pay, employee benefits, employee grievances and disciplinary procedures
- provide learning, development and training opportunities for all employees to have an equal chance to contribute and to achieve their potential.

## 7.0 Roles and responsibilities

### Elected Members

Elected Members will provide resources, support, and receive information on the Council's performance in relation to equality, diversity, and inclusion and provide Officers with continued support for the work being progressed.

Elected Members will act as role models and positively promote the Council's work in the achievement of the corporate equality objectives.

### Leadership team

Have strategic responsibility for the implementation and monitoring of the Equality, Diversity, and Inclusion Policy across all services areas and to take positive action to address any areas of underperformance and promote positive action in the achievement of the Council stated equality objectives.

### Heads of Service

Heads of Service have responsibility for implementing the Policy within their service areas by;

- integrating Equality, Diversity, and Inclusion in service plans including equality targets in the business planning process and monitoring progress
- ensuring equality impact assessments are undertaken on new project or strategies, policies or procedures

### Managers and supervisors

All managers and supervisors have responsibility for:

- contributing towards the Equality, Diversity, and Inclusion Strategy and Action Plan.
- ensuring that employees are familiar with, and act in accordance with this Policy and have received the appropriate training, resources and access to information.
- ensuring services are accessible and meet the needs of our community.
- providing reasonable adjustments for disabled employees and customers.
- undertaking equality impact assessments.
- monitoring take up of services to identify over /under representation and set equality targets and actions to redress any potential or actual inequalities.
- supporting employee networks.



## Employees

The successful implementation of the Policy lies with every individual taking personal responsibility. All employees have a responsibility to:

- treat employees, customers, contractors, and visitors to the Council with dignity, courtesy and respect
- be aware of the effect of their own behaviour and language has on others.
- use behaviour and language that does not cause offence or is discriminatory.
- be sensitive to the diverse needs of employees and colleagues.
- respect the right of colleagues not to disclose their protected characteristics.
- take prompt action to address discrimination, victimisation, and harassment including third party harassment.
- identify and challenge discriminatory practices and behaviour.
- act as a role model and lead by example.

In addition, all employees and anyone engaged in Council activities such as volunteers have a right to:

- be treated with dignity, courtesy, and respect by other employees and customers.
- work in an environment where inappropriate and offensive behaviour and language is not tolerated.
- be treated fairly and consistently in all employment procedures.
- access training and development opportunities to develop skills and knowledge to support the achievement of corporate goals.
- have requests for work, life and wellbeing (for example, religious or caring responsibilities) recognised and sensitively considered and balanced with organisational needs.
- request and be given positive consideration to work flexibly, adjust their work patterns or have any equipment provided to undertake their duties.
- be protected from discrimination, victimisation, and harassment including third party harassment
- not disclose any condition, treatment or other actions that relate to changing their personal identity or gender.
- request the Council to respect their right to change their identity and provide appropriate support

### 8.0 Sustainability Impact Assessment

Our Environment	Potentially positive impact (Y/N)	Potentially negative impact (Y/N)	No disproportionate impact (Y/N)	Sustainable Assessments findings
Improve the Environment of the District			N	
Tackle Climate Change			N	



Enhance the attractiveness of South Derbyshire			N	
<b>Our People</b>				
Engage with Communities	Y			Promotes equality, diversity, and inclusion across the community.
Supporting and safeguarding the most vulnerable	Y			Promotes the continued development of services and employment opportunities to align with the needs and aspirations of people with barriers to service provision and employment.
Deliver Excellent Services	Y			Promotes the continued development of services to align with the needs and aspirations of people with barriers to service provision
<b>Our Future</b>				
Develop Skills and careers	Y			Provides access to training resources and other learning opportunities to develop the skills and knowledge of the current and future workforce.
Support economic growth and infrastructure			N	
Transforming the Council	Y			Underpins the key objectives and values of the Council

### 10.0 Dealing with complaints of discrimination

The Council will respond positively and robustly to all complaints received about our services, service providers and from employees relating to any matter that could be viewed as discrimination, victimisation or harassment.

The Council will ensure the complaint is recorded and an appropriate resolution sought. Each complaint will be taken seriously, and action taken where the actions of the Council, its employees, or service providers are viewed to have been in breach of the Equality, Diversity, and Inclusion Policy or any other service policy or procedure.

#### Breaches of the Policy

The Council will, on receiving a complaint or allegation that this Policy has been breached, investigate the matter and take the appropriate action in line with its current procedures

It will be a condition of service that employees adhere to the Equality, Diversity, and Inclusion Policy and failure to do so will result in formal disciplinary action being taken.



## Customers and residents

If you have experienced discrimination, victimisation or harassment whilst using one of our services, then you should use the Council's complaints procedure. This information is available on the Council website.

If you have been harassed in the community because of a protected characteristic and consider you are a victim of Hate Crime this can be reported in several ways:

1. To Derbyshire Police, by calling 101. You do not have to be the victim to report it. Derbyshire Police officers will do all they can to help you deal with what's happened to you. They can arrange to meet you at a place of your choice where you feel comfortable and safe. They work with you and provide help, including making a statement explaining what has happened.
2. In an emergency, always dial 999.
3. You can also contact the police anonymously via [Crimestoppers](#) on 0800 555 111.

We recognise that not everyone wants, or is able, to report hate crime directly to the police. In Derbyshire, independent charity [Stop Hate UK](#) offers initial support and advice.

Stop Hate UK operates a 24-hour freephone service (0800 138 1625) for victims and witnesses. The organisation is totally independent of the police and will not pass on callers' details without explicit consent. If a caller wishes, however, Stop Hate UK will report the incident to the police on their behalf.

Stop Hate UK also has facilities for [online reporting](#), as well as via text message to 0771 798 9025.

Those with hearing difficulties can use Text Relay on 18001 0800 138 1625.

## Employees

If an employee experiences discrimination, harassment or victimisation from another employee or third party, they should report the matter to their line manager who will take appropriate action in line with the Council's employment procedures.

At all times support will be provided to the employee either from the line manager, human resources or external support. Alternatively, the employee may also wish to have a confidential discussion with the Human Resources Team or a Trade Union representative.

## Job applicants

Job applicants who feel they have grounds for complaint should initially discuss the matter with the recruitment manager and if not resolved then use the Complaints Procedure available on the Council website.

## Elected Members

Elected Members will be treated as a breach of the Code of Conduct and be reported as a complaint to the Monitoring Officer and/or Public Services Ombudsman.



## Contractors

Any breach of the contract by a Contractor delivering a service with, or on behalf of the Council, will be addressed in accordance with the terms of that Contract.

### 10.0 Policy Review

The Equality, Diversity and Inclusion Policy will be reviewed every three years.

Minor changes to the Policy such as job titles resulting from organisational changes can be updated at any time

### 11.0 Associated Documentation

Description of Documentation
Equality, Diversity and Inclusion Strategy 2021- 25 and Action Plan
Corporate Plan 2020-2024
South Derbyshire Sustainable Community Strategy

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**Appendix****Glossary****Access To Work**

An Access to Work grant is money for practical support to help disabled people do their job. The money can pay for specialist equipment and travel.

**Disability**

The Equality Act 2010 says that a person has a disability if they have a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on a person's ability to do normal daily activities.

**Equality impact assessment**

An equality impact assessment is a systematic method to assess implications of an organisation's decisions on people from different backgrounds. Impact assessments should take place when considering a new policy, strategy or revising an existing policy or reviewing a function, service or procedure.

**Equality Act 2010**

The Equality Act 2010 outlaws 'unfair treatment of people because of protected characteristics they have. The Act applies to the workplace, when providing goods, facilities and services, when exercising public functions, in the disposal and management of premises, in education and by associations (such as private clubs).

**Equality Act 2010: Public sector equality duty**

The Public Sector Equality Duty of the Equality Act requires public bodies to consider all individuals when carrying out their day to day work – in shaping policy, in delivering services and in relation to their own employees. There are two parts, the general duty and the specific duty.

**General Duty**

This requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different people when carrying out their activities.

Public sector bodies must comply with a set of Specific Duties which are designed to assist them in meeting the General Duty. This includes developing and publishing equality objectives.

**Equality Targets**

Equality targets are designed to improve outcomes for all people.

Every person falls into one or more protected characteristic; they are important as they help ensure :

- progress is being made in relation to promoting diversity and equality



- services reflect the communities they serve
- improvements are being made for customers
- people who use our services experience equal outcomes
- the inequalities experienced by some groups of people are reduced
- resources are being targeted

## Monitoring

Equality monitoring is the process to collect, store and analyse data about people's backgrounds, examples of characteristics to monitor include ethnicity, gender, age, religion, disability. Monitoring can be used to:

- highlight potential or actual inequalities;
- investigate their underlying causes ; and
- remove any unfairness or disadvantage.

## Protected Characteristics

These are the grounds upon which discrimination is unlawful.

The characteristics are:

- Age:- referring to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds).
- Disability:- a person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.
- Gender reassignment:- The process of changing or transitioning from one gender to another.
- Transsexual person - Refers to a person who has the protected characteristic of gender reassignment. This may be a woman who has transitioned or is transitioning to be a man, or a man who has transitioned or is transitioning to be a woman. The law does not require a person to undergo a medical procedure to be recognised as a transsexual
- Marriage and civil partnership:- The Act protects employees who are married or in a civil partnership against discrimination. Single people are not protected.
- Pregnancy and maternity:- A woman is protected against discrimination on the grounds of pregnancy and maternity. With regard to employment, the woman is protected during the period of her pregnancy and any statutory maternity leave to which she is entitled. Also, it is unlawful to discriminate against women breastfeeding in a public place.
- Race:- This includes colour, ethnic / national origin or nationality
- Religion or belief:- Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.
- Sex :- male or female; and Sexual orientation:- Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.

## Provision, criterion or practice

This includes any formal or informal policies, rules, practices, arrangements, criteria, conditions, prerequisites, qualifications or provisions.



A provision, criterion or practice may also include decisions to do something in the future such as a policy or criterion that has not yet been applied, as well as a 'one-off' or discretionary decision.

### Reasonable adjustments

Where a person with a disability is at a substantial disadvantage in comparison with people who are not disabled, there is a duty to take reasonable steps to remove that disadvantage by

- (i) changing provisions, criteria or practices e.g. providing flexible working, removing core time ,
- (ii) altering, removing or providing a reasonable alternative means of avoiding physical features e.g. offering home visits, making physical alterations to the workplace/ customer contact points and
- (iii) providing auxiliary aids e.g. a specialist piece of equipment e.g. specialist telephone IT equipment or support worker.

### Types of Discrimination Direct Discrimination

**Direct discrimination** occurs when a person treats another less favourably than they treat or would treat others because of a protected characteristic.

*Example: An employer believes that someone's memory deteriorates with age. He assumes, wrongly, that a 60-year-old manager in his team can no longer be relied on to undertake her role competently. An opportunity for promotion arises, which he does not mention to the manager. The employer's conduct is influenced by a stereotyped view of the competence of 60 year olds. This is likely to amount to less favourable treatment because of age.*

*Example: A Gypsy couple are refused service in a pub that displays on its door a 'No Gypsies or Travellers' sign. It is obvious from the notice on the door and the treatment the Gypsy couple receive that their less favourable treatment is because of race.*

*Example: An employer offers 'death in service' benefits to the spouses and civil partners of their staff members. A worker who lives with her partner, but is not married to him, wants to nominate him for death in service benefits. She is told she cannot do this as she is not married. Because being a cohabitee is not a protected characteristic, she would be unable to make a claim for discrimination.*

**Indirect Discrimination** – Indirect discrimination may occur when an employer or service provider applies an apparently neutral provision, criterion or practice which puts persons sharing a protected characteristic at a particular disadvantage.

*Example: An employer has a 'no headwear' policy for its staff. Unless this policy can be objectively justified, this will be indirect discrimination against Sikh men who wear the turban, Muslim women who wear a headscarf and observant Jewish men who wear a skullcap as manifestations of their religion.*

**Discrimination by association** - it is discrimination if an employer/service provider treats a person less favourably because of their association with another person who has a protected characteristic.

*Example: A lone father caring for a disabled son has to take time off work whenever his son is sick or has medical appointments. The employer appears to resent the fact that the worker needs to care for*



*his son and eventually dismisses him. The dismissal may amount to direct disability discrimination against the worker by association with his son.*

*Example: A boy wishes to join his local football club, but he is rejected because his parents are a lesbian couple. This is direct discrimination by association because of sexual orientation because of the boy's association with his parents.*

**Discrimination by perception** – it is discrimination if an employer/ service provider treats a person less favourably because they mistakenly thinks that the employee/service user has a protected characteristic. However, this does not apply to pregnancy and maternity or marriage and civil partnership.

*Example: An employer rejects a job application form from a white woman whom he wrongly thinks is black, because the applicant has an African-sounding name. This would constitute direct race discrimination based on the employer's mistaken perception*

*Example: A woman with a medical condition that makes her appear 'masculine' is wrongly perceived to be undergoing gender reassignment and refused entry to a women-only sauna session at her local leisure centre. This is likely to be less favourable treatment because of gender reassignment.*

**Harassment** – This type of harassment occurs when an employer/ service provider engages in unwanted conduct which is related to a relevant protected characteristic and which has the purpose or the effect of:

- violating the service user's dignity; or
- creating an intimidating, hostile, degrading, humiliating or offensive environment for the service user.

*Example: A worker is subjected to homophobic banter and name calling, even though his colleagues know he is not gay. Because the form of the abuse relates to sexual orientation, this could amount to harassment related to sexual orientation.*

*Example: A publican continually refers to a transsexual woman as 'Sir' and 'he' when serving him in a pub, despite her objections. It is likely that the woman would succeed in a harassment claim if she were able to persuade the court that the conduct had the purpose or effect of violating her dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for her.*

**Third Party harassment** - employers may be liable for harassment by a third party, such as a customer or client. Employers have a duty to prevent third party harassment; where the employee has been harassed on two different occasions, the employer must take reasonable steps to prevent harassment by a third party happening again.

*Example: A Ghanaian shop assistant is upset because a customer has come into the shop on Monday and Tuesday and on each occasion has made racist comments to him. On each occasion the shop assistant complained to his manager about the remarks. If his manager does nothing to stop it happening again, the employer would be liable for any further racial harassment perpetrated against that shop assistant by any customer.*

### **Discrimination arising from a disability**

The Equality Act (2010) says that treatment of a disabled person amounts to discrimination where:



- a service provider treats the disabled person unfavourably;
- this treatment is because of something arising in consequence of the disabled person's disability; and
- the service provider cannot show that this treatment is a proportionate means of achieving a legitimate aim, unless the employer/service provider does not know, and could not reasonably be expected to know, that the person has the disability.

*Example: An employer dismisses a worker because she has had three months' sick leave. The employer is aware that the worker has multiple sclerosis and most of her sick leave is disability related. The employer's decision to dismiss is not because of the worker's disability itself. However, the worker has been treated unfavourably because of something arising in consequence of her disability (namely, the need to take a period of disability-related sick leave).*

*Example: A mother seeks admission to a privately run nursery for her son who has Hirschsprung's disease, which means that he does not have full bowel control. The nursery says that they cannot admit her son because he is not toilet trained and all the children at the nursery are. The refusal to admit the boy is not because of his disability itself; but he is being treated unfavourably because of something arising in consequence of his disability.*

In addition, **The Equality Act 2010 introduces a Duty to make reasonable adjustments**, this requires:-

- service providers to take positive steps to ensure disabled people can access services. It involves service providers anticipating the needs of potential customers for reasonable adjustments.
- employers to take positive steps to ensure disabled people can access and progress in employment.

It means taking additional steps to which nondisabled employees and applicants are not entitled. A disabled person is discriminated against when an employer/ service provider fails to make reasonable adjustments. What is considered "reasonable" may vary.

*Example: An adviser with a visual impairment is sometimes required to make home visits to clients. The employer employs a support worker to assist her on these visits. Example: An ombudsman has a policy that all complaints must be made in writing. This policy places some disabled people - for example, those with learning disabilities or visual impairments - at a substantial disadvantage in making a complaint. The ombudsman amends the policy to permit disabled people and others who cannot use a written complaints procedure to make their complaint over the telephone. This is likely to be a reasonable step to take.*

**Victimisation** – treating people less favourably because of action they have taken under or in connection with the equality law.

*Example: An employer threatens to dismiss a staff member because he thinks she intends to support a colleague's sexual harassment claim. This threat could amount to victimisation, even though the employer has not actually taken any action to dismiss the staff member and may not really intend to do so.*

*Example: A. complains to the staff at a children's centre that her daughter's physical and social needs are not being properly met. As the centre is provided by the local 20 authority children's services*



*department, the mother also complains to her councillor and to the Director of Children’s Services. The centre’s staff invite her to a meeting, after which the care of her daughter improves. The following summer she applies to go on a trip to the seaside for parents with their disabled children organised by the department but is turned down. She believes that she has been victimised because of her complaint about the care of her daughter. Although she did not refer explicitly to the Act when she complained, she asserted that her daughter had been treated less favourably because of a protected characteristic. That is sufficient for her complaint to be a protected act.*

Sources: Equality and Human Rights Commission – Services, public functions and associations  
Statutory Code of Practice Equality and Human Rights Commission- Employment Statutory Code

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