

Equal Opportunities Management Guidelines

Version 2
3 December 2003

1.

Introduction

The Equal Opportunities policy was approved by the Highland Council on 30th October 1996 and updated on 3rd December 2003. The policy statement confirms that the Highland Council, as a corporate organisation is committed to the promotion of equality of opportunity in its employment practices. Through the policy statement, and approved Action Plan, the Council has stated that it intends that no job applicant or employee shall receive less favourable treatment because of sex, marital or family status, age, ethnic origin, disability, race, colour, nationality, religion, belief, sexual orientation or any other non job related factor. Equal Opportunities means making the best possible use of the organisation's most important resource - its employees. These guidelines provide a clear message in terms of the economic benefits gained in having an effective equal opportunities policy in the Highland Council.

The purpose of the guidelines is to provide advice to managers on the implementation of the Council's policy. Implementation is not dependant on special or unusual measures, but rather on fair and effective employment practices across a whole range of employment decisions, whether or not such decisions are subject to specific legislation.

The guidelines stress that decisions made about individuals should be objective. Every individual has the right to be assessed for his/her own personal qualities and against carefully thought out criteria. Each manager should concentrate on the requirements of the job and the unique aptitudes and abilities of people as individuals.

These guidelines address the main areas for the application of the policy. They do not attempt to be an exhaustive guide to equal opportunities in employment. Your Area Personnel office will provide advice and guidance on any employment issue.

2.

Legislation

The following laws govern Equal Opportunities in the UK:

- Equal Pay Act 1970 (amended 1983) which covers all contractual terms, not simply those relating to pay. Claims can be made up to 6 months after leaving the employer to which the claim refers.
- Sex Discrimination Acts 1975 (amended 1986 and in the Employment Act 1989) which makes it unlawful to discriminate in terms of who is offered the job; opportunities for promotion, transfer and training.
- Race Relations Act 1976 which forbids racial discrimination in employment.
- Disability Discrimination Act 1995 which gives a new definition of disability - 'someone who has a physical or mental impairment which has a substantial long term (at least 12 months) adverse effect on his/her ability to carry out normal day to day activities'. There is no longer a need to be registered as disabled the application of the definition is all that is required. The Act requires employers to introduce measures aimed at ending discrimination, and offers disabled people new rights in areas of Employment; Access to goods, facilities or services; and in Buying or renting land or property.
- Rehabilitation of Offenders Act 1974 which states that generally persons with a record of previous convictions are regarded as rehabilitated after a given period of time, but these periods vary according to type and length of conviction. If a conviction is spent, employers are not allowed to discriminate except in exempting circumstances e.g. in access or work with children/elderly/sick or people with mental or physical disabilities.
- Employment Equality (Religion or Belief) Regulations 2003 and Employment Equality (Sexual Orientation) Regulations 2003.

There are three statutory agencies which exist to help ensure the laws governing sex discrimination and race relations are applied in the workplace. They are statutory bodies with legal powers and financial backing from Government:

- Equal Opportunities Commission - aims to prevent discrimination on grounds of gender and marital status
- Commission for Racial Equality - aims to prevent discrimination on grounds of colour, race, nationality, ethnic origin and national origin.
- Disability Rights Commission aim to prevent discrimination on grounds of disability.

3.

Discrimination

These guidelines aim to establish good employment practice in the recruitment and management of staff within the Highland Council. The employment practices adhere to the above legislation and the approved Highland Council policy statement but have been developed by addressing the key element within legislation which is the elimination of discrimination.

Discrimination in the context of equal opportunities means:

- using inappropriate, biased or subjective criteria

or

- establishing conditions that cannot be justified

which result in one group of people being treated less favourably than others.

The law recognises two main kinds of discrimination:

Direct discrimination

This occurs when people are treated less favourably in their employment because of prejudice against the particular group to which they belong. For example:

- Direct sex discrimination - not considering the application of a woman for a job that requires occasional evening work, assuming she has home care responsibilities.
- Direct marital status discrimination - not employing a married person with children because the job involves working away from home a percentage of the time
- Direct racial discrimination - not considering the application of an Asian person for a supervisors post, because the staff may not accept them in that role.

Indirect discrimination

This occurs when a condition or requirement is applied equally to men and women but the condition makes it harder for one particular group, which is significantly smaller to comply with them, and so they are put at a disadvantage. Indirect discrimination need not be meant or obvious. For example:

- Indirect sex discrimination - advertising for a post requiring manual dexterity, stating that the post requires 'nimble fingers' without providing a test which assesses the candidate's ability. This could be seen as discriminating against men because of the terminology used.

- Indirect marriage discrimination - asking people to be fully mobile in their job, when they are rarely required to travel far - therefore criteria not justified.
- Indirect racial discrimination - insisting on a dress code for women consisting of a blouse and skirt, which Muslim women could not comply with because, for religious reasons, their legs have to be covered.

Indirect discrimination is far more common, largely because people can practice it without realising it is illegal. However, ignorance of the law is not taken as a valid defence.

Genuine Occupational Requirement

Discrimination on the grounds of sex, race, disability, religion, belief or sexual orientation is only lawful in certain circumstances, where genuine occupational requirement (GOR) rules are applicable to the posts where, for example, an employer can show that:

- they recruited a man/woman to preserve decency/privacy
- the job is situated in a single sex establishment
- the employee must live in and there are no separate sleeping/toilet facilities etc.

In applying the rules as above, it is important to ensure that the criteria set down by the law are met.

Other forms of Discrimination

Direct and Indirect Discrimination are not the only forms of discrimination. There are others, which are often more frequent.

Victimisation has a legal definition and means treating a person less favourably than others because that person has asserted, or intends to assert, his or her statutory rights under discrimination law. For example:

- sacking a person who has made a complaint on the grounds that they are a troublemaker.
- taking responsibility away from a person who has made a complaint and ensuring they are given menial tasks.

Stereotyping is attributing certain characteristics to people because they belong to a particular group. For example:

- believing that people with disabilities take more time off with illness.
- believing that people over age of 50 are not flexible with regard to new working practices.

Harassment is behaviour which causes offence or makes a person feel uncomfortable. The Highland Council has approved a policy on Harassment at Work to inform staff that it will not be condoned in any form within the organisation. There are several forms of harassment, the most common are sexual, racial and bullying.

For example:

- displaying sexually suggestive pictures, objects, literature or videos in the workplace.
- making offensive or derogatory remarks about a person's work, attitudes, character or personal life.

4.

Practical Application of the Equal Opportunities Policy by Managers

Council's policy statement on its own will achieve little or nothing. It must be supported by action to put the theory and good intentions into day-to-day management practice. This means:

- understanding the subject - attending the awareness raising seminars/training on Equalities and Diversity and updating managerial skills with a view to ensuring that equality of opportunity is applied.
- realising that equal opportunities is something that applies to all employees.
- initiating and developing fair practices to provide a positive environment within which employees can use and develop their abilities to the full

These guidelines focus on key areas of management practice and responsibility, and provide direction in terms of standards of good equal opportunities practice.

The information given is not all encompassing in terms of providing knowledge and practical ability, e.g. to effectively construct a person specification or conduct a selection interview. Directed training on these aspects of management practice should be addressed through your Line Manager.

5.

Recruitment and Selection

Recruiting and selecting staff is a matching process. The aim must be to select the best person for the job.

It is therefore important that existing procedures and practices are reviewed regularly and changed if they fail to meet this principle. The key to successful recruitment and selection is the adoption of a systematic and objective approach. There must be clear and justifiable job criteria. This is achieved through the development of a job description leading to the person specification.

The job description sets out the specific duties and responsibilities of the job. The person specification sets out the specific skills, qualifications, knowledge and personal qualities which are necessary to perform the duties effectively and safely. There should be no requirements which are not clearly related to duties. The skills, qualifications, knowledge and personal qualities of the candidates can be compared with the person specification and the one who fits it best can be identified. Careful use of this approach avoids the risk of inadvertently discriminating against any particular group of people. It is a crucial tool in avoiding biased or poor selection practices. These two instruments are now covered in more detail.

Job Description

The Supervisor or Manager of the job, in consultation with others as necessary, will be best placed to prepare the job description or to provide the information. It is necessary to go through the various duties in some detail to ensure that all the significant tasks are identified. It is important that the job description relates to the demands of the job, identifying the key duties, responsibilities and accountable areas. It should be written in clear language, easily understood.

Person Specification

Again, the Supervisor or Manager of the job will be the best placed to produce this. The skills qualifications, knowledge and personal qualities which are necessary to perform the duties should be specific and related solely to the requirements of the job. The person specification should be applied consistently throughout the selection process. A person specification should contain criteria which are:

- Job Related - there should be a direct link between the person specification and the job description. It's the person's ability to do the job which is important, not unrelated personal characteristics.
- Ability Based - define clearly the abilities required to do the job. Do not include unnecessary stipulations e.g. high educational standards etc.
- Measurable/Observable - the person specification should be described in terms measurable and observable facts that are not liable to be distorted by personal feelings or prejudices.

- Objectively Weighted - some aspects of the job may be more important than others and the weighting given to each aspect should be carefully considered and noted. The fundamental question to ask is "what skills, knowledge, experience, qualities, attributes are essential to perform the duties to an acceptable standard?" These are the essential criteria necessary for the post holder. Do not use desirable requirements - they are a source of bias and potentially off-putting to otherwise appropriate applicants.

Advertising

Once you have established your job criteria you must take steps to ensure that the vacancy reaches as wide a pool of potential applicants as practicable. The Sex Discrimination Act makes unlawful any advertisement 'which indicates or might reasonably be understood as indicating an intention' to discriminate.

You must ensure that vacancies are publicised to both sexes and recruitment is not aimed at individuals. In the advertisement you must not use wording or illustrations which could be taken to indicate a preference for members of one sex, and, when placing the advert ensure that it is not placed in newspaper/journal which is intended primarily for men or primarily for women.

The image of the Highland Council as an organisation establishing an equal opportunities policy will help attract a wider range, and better quality of potential employees from among all those available.

Selection process

Throughout the selection and interview process rely on the job description and person specification as your standard tools. Be methodical, and ensure that assessment of the candidate is done only against the clearly identified requirements for the job. This will avoid judgement on the basis of assumptions or stereotypes.

Ensure that all staff involved in the recruitment process are given adequate training to reduce the risk of possible discriminatory practice which affects decision making.

6.

Terms and Conditions of Employment

All staff are to be treated equally in terms of their pay and other conditions of employment. You should check:

- that differential rates of pay between men and women are justifiable on grounds other than the difference of sex.
- that where salary increases occur, that they are based on written criteria, and that the criteria themselves are free of bias.
- that where there is unequal access to overtime, bonus payments, unsocial hours payments, that the difference is justifiable.
- that where part-timers perform similar work to full-time employees they receive pro-rata the same terms and conditions
- that if shift working etc. is offered it is offered to all members of the relevant section. Check whether conditions could be improved by means of flexible working arrangements and the use of part-time work, job sharing etc.

7.

Training and Development

Training and career development should be addressed in line with a fair assessment of abilities and potential for development.

This may mean taking initiatives and using training programmes to remove disadvantages that may be experienced by groups of employees, for example women-only training or keyboard skills training for men could take place where it helps women and men to compete on equal terms for jobs.

Equality of Opportunity in career development and training can be achieved in the following ways:

- Individual assessment - assessing ability and potential objectively on an individual basis will mean that misplaced assumptions and stereotyped thinking can be more easily avoided.
- Individual development - means encouraging individuals to develop to their full capability by opening training, promotion and development opportunities to all those who qualify in terms of skills, experience and qualifications.
- Performance management - linking performance management to personal development planning and associated training for all staff will reinforce good practice in developing staff and ensuring equality of opportunity.

Detailed guidance on these issues is available from the Training and Development Unit.

8.

Redundancy and Resignation

Redundancy and Redeployment

The Highland Council has a Redundancy and Redeployment Policy. Where reduction in employment levels is necessary the Council will seek, through the policy, to apply a fair and equitable process to achieve this. The policy stresses the consultation process and recognises its importance in terms of minimising redundancy. The selection procedure and criteria stated within the policy emphasise consultation with the Trade Unions where this becomes necessary. The criteria and procedure chosen should not adversely affect employees predominately of one sex. Part-timers should not be expected to go first unless procedures have been reviewed to remove any disproportionate and unjustifiable effects.

Resignation

Check the reason why people leave. Measures such as exit interviews or questionnaires might be used to establish whether the Council is unnecessarily wasting talent and in turn incurring recruitment and training costs. It may be that full time working is becoming too onerous or there has been some discriminatory behaviour which has led to their resignation e.g. lack of personal development opportunities etc.

9.

Conclusion

Equal Opportunities, its acceptance and development within the Council, depends on the implementation and understanding of the policy and action plan.

Each member of staff needs to be aware of the implications of adhering to the policy and meeting legislative requirements.

Personnel HQ and your Area Personnel Adviser, are able to give advice and guidance on the application of the policy. Staff will be supported on effective implementation through awareness raising, directed training and in the review and monitoring of employment policies and procedures.

Your post, as a Manager, involves ensuring the success of the policy through:

- being aware of the law relating to Equal Opportunities and the type of action which can result in discrimination. Use your Personnel Adviser for information, advice and support regarding the interpretation of legislation - remember there has been 25 years worth of case law

- trying to recognise your own prejudices and accept that we all have the capacity to change
- being aware of your own assumptions which may cause harm to others
- encouraging others to question their own prejudices and assumptions
- aiming to find out more about how minority groups can be given practical help in the workplace e.g. how specialised equipment helps disabled people to work effectively. Remember to consult with disadvantaged groups - don't assume you know their problems or work related issues
- contacting your Line Manager or Personnel if you feel a working practice or procedure could be made fair or is discriminatory in application

10.

Contacts

Your contacts in Personnel are:

- John Batchelor, Head of Personnel - 01463 702056
- Elaine Barrie, Personnel Manager - 01463 702003
- Murdo MacDonald, Personnel Manager, (Policy) - 01463 702028
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- Amy Miller, Area Personnel Adviser (Ross & Cromarty/Skye & Lochalsh) - 01349 868588
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Links

- **Equal Opportunities Policy** [Equal Opportunities Policy](#)
- **Job Share Policy** [Job Share Policy](#)
- **Harassment at Work Policy** [Harassment at Work Policy](#)