

# Equality Policy

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## Duties under the Equality Act 2010

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## Glossary and abbreviations

Term used	Explanation
<b>The Act</b>	The Equality Act 2010
<b>The Commissioner</b>	The Scottish Information Commissioner
<b>HOCS</b>	Head of Corporate Services

## Introduction

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1. The Equality Act 2010 (the Act) came into force on 1 October 2010. It replaced previous anti-discrimination laws with a single Act, making the law easier to understand and strengthening protection in some situations. It sets out the different ways in which it's unlawful to treat someone.
2. The Scottish Information Commissioner (the Commissioner) must comply with the general requirements of the Act. However, the Commissioner is not included in the list of public authorities which are subject to the specific Public Sector Equality Duties set out in the Act. The Commissioner is also not listed<sup>1</sup> as a public authority with a duty to report under the public sector specific equality duty.
3. This policy sets out how the Commissioner intends to:
  - (i) fulfil their duties, as a public official, under the Act
  - (ii) promote equality through the performance of their functions of promoting and enforcing freedom of information law.

## The Policy

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### Equality Objectives

4. The Commissioner is committed to enhancing equality and diversity and aims to be an effective and accessible regulator and service provider.
5. The Commissioner will consider how to positively contribute to a more equal society through advancing equality and good relations in the work carried out by their office. Where possible, this will include taking effective action on equality, ensuring appropriate practices are in place, being as transparent, accessible and accountable as possible and delivering improved outcomes for all. To achieve these objectives the Commissioner will:

#### **Raise awareness of freedom of information rights**

6. The Commissioner will raise awareness of freedom of information rights in Scotland and take regulatory action to ensure that organisations fulfil their obligations. In doing this the Commissioner will aim to:
  - (i) raise awareness where knowledge gaps may cause information rights inequalities or vulnerabilities
  - (ii) ensure that actions as a regulator do not create inequalities or discriminate.

#### **Accessible services**

7. The Commissioner, as far as possible, will ensure that services and information will be accessible for users and potential users of our services. In doing this, the Commissioner will:
  - (i) provide members of their staff with the skills and knowledge they need to provide high quality services for all

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<sup>1</sup> [Schedule 19](#)

- (ii) try to anticipate the needs of service users and act to remove barriers to our services when possible.

### **Encouraging others**

- 8. The Commissioner will use their status as a regulator, advisory body and purchaser of services to influence improvements in equality by other organisations and across society.

### **Employer**

- 9. The Commissioner's workplace and practices will be accessible, flexible, fair and inclusive. The diversity, skills, backgrounds and experience of their staff are valued by the Commissioner who will seek to enable them to perform to their best in a welcoming and supportive environment.
- 10. All of the Commissioner's staff are entitled to be treated with respect and dignity and the Commissioner will not tolerate any less favourable treatment of any person on the grounds of the protected characteristics described below. Staff have a personal responsibility for the implementation of this policy to ensure that they treat others with the respect and dignity that they expect to be treated with themselves.
- 11. This policy will assist the Commissioner and their staff to prevent discrimination on the grounds of the following protected characteristics as set out in the Act, and to foster a culture of equality which recognises the positive contribution that each individual can make irrespective of:

- |  |   |
|--|---|
| (i) age                                  | (vi) race (which includes colour, nationality and ethnic or national origins) |
| (ii) disability                          | (vii) religion or belief  |
| (iii) gender reassignment                | (viii) sex  |
| (iv) marital or civil partnership status | (ix) sexual orientation   |
| (v) pregnancy or maternity               |   |

## **The Policy in Operation**

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### **Types of Unlawful Discrimination**

- 12. Discrimination may be direct or indirect and it may occur intentionally or unintentionally.
  - (i) **Direct discrimination** occurs where someone is treated less favourably because of one or more of the protected characteristics set out above. (An example of direct discrimination would be refusing to employ a person because they are pregnant.)
  - (ii) **Indirect discrimination** occurs where someone is disadvantaged by an unjustified provision, criterion or practice that also puts other people with the same protected characteristic at a particular disadvantage.
  - (iii) **Associative discrimination** is where someone is directly discriminated against or harassed for association with another person who has a protected characteristic (although it does not cover harassment because of marriage and civil partnership, and pregnancy and maternity).

- (iv) **Perceptive discrimination** is where someone is directly discriminated against or harassed based on a perception that they have a particular protected characteristic when they do not, in fact, have that protected characteristic (other than marriage and civil partnership, and pregnancy and maternity).
- (v) **Harassment** related to any of the protected characteristics is prohibited. Harassment is unwanted conduct that has the purpose or effect of violating someone's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.
- (vi) **Sexual harassment** occurs when a staff member is subjected to harassment which is of a sexual nature. The conduct need not be sexually motivated, only sexual in nature.
- (vii) **Third-party harassment** related to gender, sexual orientation, gender reassignment, race, religion or belief, age or disability is also unacceptable.
- (viii) **Victimisation** is also prohibited under this policy. This is less favourable treatment of someone who has raised or supported a complaint or raised a grievance under the Act for discrimination or harassment, or because they are suspected of doing so

### **Application of this Policy**

- 13. This policy also applies to our engagement with all of our stakeholders including our service users, suppliers, members of staff, job applicants and former members of staff.

### **Remedies**

- 14. The Commissioner and heads of department will take responsibility for monitoring the implementation of this policy. However, if any member of staff believes that they have been discriminated against, harassed or victimised on any of the grounds referred to above, they can raise the matter informally with his or her immediate line manager, or the Head of Corporate Services (HOCS).
- 15. If the member of staff (including a former member of staff) wishes to raise the matter further, and the issue relates to harassment, bullying, victimisation or dignity at work they should follow the grievance procedure detailed in the Employee Handbook ([which is published here on the Commissioner's website](#)) setting out in detail the basis of the complaint. All such complaints will be taken seriously, treated in confidence (as far as possible) and investigated in accordance with the grievance procedure
- 16. If a member of staff is found to have discriminated against, harassed, bullied or victimised another member of staff they may be subject to disciplinary proceedings and, depending on the seriousness of the incident, may be dismissed for gross misconduct. Where appropriate in serious cases, the police may also be involved.
- 17. If any stakeholder including a service user, supplier or unsuccessful job applicant believes that they have been discriminated against, harassed or victimised as regards any of the protected characteristics set out above they can make a complaint to the Commissioner using the Commissioner's Complaints Procedure, details of which are provided on the Commissioner's [website](#).

### **Disability**

18. The Commissioner has obligations under the Act in relation to employment practices and the provision of goods, facilities and services. The sections below summarise some of the key provisions of the Act that apply to the Commissioner:

### *Employment*

19. No employer should discriminate against or harass an employee who has a disability. The Act requires an employer (or potential employer) to make reasonable adjustments to arrangements for work/recruitment, where these arrangements put a disabled person at a disadvantage.
20. Where a disabled person would otherwise be placed at a substantial disadvantage compared with people who are not disabled, the Commissioner, as far as reasonably possible, will:
- (i) change the way things are done so that any employee is not put at a substantial disadvantage by a provision, criterion or practice of their employer)
  - (ii) make changes to overcome barriers created by the physical features of your workplace
  - (iii) provide extra equipment or arrange for someone to do something to assist the disabled person
21. If a member of staff is disabled or becomes disabled, they are encouraged to tell us about their condition so that the Commissioner may support them as appropriate.
22. If a member of staff experiences difficulties at work because of their disability, they can contact the HOCS (or in the absence of the HOCS, the Finance and Administration Manager) to discuss any reasonable adjustments that would help to overcome or minimise the difficulty. The HOCS may wish to consult with the member of staff and their medical adviser(s) about possible adjustments and seek independent occupational health advice (as appropriate).
23. The Commissioner will consider the matter carefully and seek to make reasonable adjustments to the member of staff's role based on the medical and/or occupational health advice.

### *Access to goods, facilities and services*

24. No provider of a service should discriminate against a disabled person in the provision of those services. The Commissioner is committed to making our services easily accessible and if a service user, stakeholder, supplier or contractor has specific needs, the Commissioner will make reasonable adjustments and take reasonable steps to adjust any policy, practice or physical feature of our workplace that makes it impossible or unreasonably difficult to use our services. Such steps could include altering physical features of our premises, providing printed materials in alternative formats (e.g. audio tape or Braille), making available a sign language translator at a meeting and ensuring our website meets accessibility requirements, as far as possible.

## **Equality Training**

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25. This policy will be supported by a range of training activities, as appropriate, to ensure that all barriers, procedures, attitudes and behaviours that prevent equal opportunity are removed.

26. As a minimum, all staff will be required to attend annual equality training, and the induction process for new staff will include training on the Commissioner's equality policy, practices and values.
27. Additional training will also be arranged from time to time, in line with organisational need. For example, this may include training on the law covering any and/or all of the protected characteristics and what behaviour is and is not acceptable, or training on a specialist area such as sexual harassment or mental health.

## **Equality Monitoring**

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28. The Commissioner will monitor how many people with a particular protected characteristic apply for each job are short-listed and are recruited.
29. On an annual basis, the Commissioner monitors how many people in the workforce have a particular protected characteristic and the levels that they are employed at.

## **Annual Review and Actions**

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30. This policy will be reviewed annually to ensure it is kept up to date with statutory requirements and good practice. An Action Plan will be developed each year, or as required, setting out the activities which will be undertaken to support effective implementation of any changes to this policy, with regard to the needs of employees and stakeholders including our service users, suppliers and former members of staff. The HOCS is responsible for the development and implementation of the Action Plan.
31. Mandatory equality training will be included in the annual Learning and Development Plan





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