



1.0 PURPOSE

Constance Care considers it appropriate as a good employer to introduce an equalities policy to bring about a changing climate in which equality of opportunity for all will be able to flourish within the company.

The policy is to ensure that no job applicant, person who works for the company whether directly employed or not (e.g., contractors) receives less favourable treatment on the grounds of sex, gender re-assignment, race, colour, nationality, ethnic or national origins, marital status, disability, sexual orientation, age, trade union activity, political or religious belief, unless these directly conflict with all legislation.

2.0 SCOPE

The Policy aims that no employee, job applicant or person we provide a service to receives less favourable treatment than another on the grounds of sex, gender re-assignment, race, colour, nationality, ethnic or national origins, marital status, disability, sexual orientation, age, trade union activity, political or religious belief.

That no-one is placed at a disadvantage by requirements or conditions which have a disproportionately adverse effect on his or her racial or sexual group, sexual orientation, age group or on people with disabilities and which cannot be shown to be justifiable on other grounds approved by the Directorate of the company.

That any age limits should be kept only if they are imposed by statute or are necessary for the job. An unjustifiable upper age limit could constitute unlawful indirect discrimination, for example, against women who have taken time out of employment for child-rearing. Any upper or lower age limits would breach The Employment Equality (Age) Regulations unless there is objective justification.

When recruiting or interviewing for employment, each individual should be assessed according to his or her capability to carry out a given job. Any decision to appoint should be taken solely on the basis of the skills and aptitude necessary to effectively carry out the duties of the post unless that decision can be objectively justified. It should not be assumed that people from certain groups or age groups will be not be able to do certain kinds of work, or that people with disabilities are restricted to a limited number of jobs.

That action is taken to provide increased employment opportunities for people with disabilities, where possible.

That equality of promotion opportunities will be encouraged, taking into account work experience as well as academic achievement.

That it should be recognised that job applicants and employees may face discrimination on a number of these grounds and that the form which discrimination takes may vary greatly in degree and nature as a result. In recognition of this, the Equalities Policy is constructed in such a way as to both minimise the possibility of discrimination and find means of combating it whenever it arises.

3.0 REQUIREMENTS

3.1 Constance Care Responsibilities As Employers

- 3.1.1 To ensure all employees and job applicants are aware of our Equalities Policy and to take appropriate action in accordance with established procedures against employees who are found to infringe it.
- 3.1.2 To examine and review regularly procedures and criteria and change them where they are found to be actually or potentially discriminatory, including when they fail to meet the needs of the groups specified by the policy.
- 3.1.3 To monitor the ethnic and sexual composition of the workforce and of job applicants on a regular basis and to monitor applications from people with disabilities in order to evaluate the progress of the policy.

4.0 RELATED DOCUMENTS

Equal Opportunity Recruitment Monitoring Form CCF-049

5.0 METHOD

- 5.1 While the main responsibility for providing equality of opportunity is that of the employer, individual employees at all levels have responsibilities too. The elimination of discrimination depends as much on them as on management.
- 5.2 They must co-operate with measures introduced by management to make sure there is equal opportunity and non-discrimination.
- 5.3 They must not themselves discriminate for example, persons responsible for selection decisions in recruitment, promotion, training or providing care.
- 5.4 They must draw the attention of management to suspected discriminatory acts or practices.
- 5.5 They must not victimise individuals on the grounds that they have made complaints or provided information about discrimination or harassment.
- 5.6 They must not harass, abuse or intimidate other employees or people on any grounds including those of disability, race, age or sex, or being lesbian or gay, or political or religious beliefs.
- 5.7 Where employees in positions of authority in the course of their employment commit acts of discrimination this is considered as a particularly serious offence and will render the employee liable for disciplinary action.

6.0 Sex Discrimination (Sex Discrimination Act 1975)

Direct sex discrimination occurs where a person of one sex is treated less favourably on grounds of sex, than a person of the other sex would be in the same, or not materially different, circumstances. Indirect sex discrimination can occur even where a requirement or condition of employment is applied equally to men and women. Such a requirement or condition may discriminate indirectly because the proportion of

one sex which can comply with it is much smaller than the proportion of the other sex which can comply with it.

7.0 Disability

The Disability Discrimination Act 1995 provides that, in all employment matters (including recruitment, training, promotion and dismissal), it will be illegal to treat a disabled person less favourably than someone else because of their disability, unless there is a good reason.

The Act defines disability as a physical or mental impairment which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities. People who have a disability, and people who have had a disability but no longer have one, are covered by the Act.

7.1 Racial Discrimination (Race Relations Act 1976 & Race Relations (Amendment) Act 2000)

7.1.1 The Race Relations Act 1976 makes it unlawful to discriminate against a person, directly or indirectly, in the field of employment.

7.1.2 Additionally, the Race Relations (Amendment) Act 2000 outlaws race discrimination in all public functions.

7.1.3 Direct discrimination consists of treating a person, on racial grounds, less favourably than others are or would be treated in the same circumstances.

7.1.4 Racial grounds are the grounds of race, colour and nationality - including citizenship, or ethnic or national origins - and groups defined by reference to these grounds are referred to as racial groups.

7.1.5 Segregating a person from others on racial grounds constitutes less favourable treatment.

7.1.6 Indirect discrimination consists of applying, in any circumstances covered by the Act, a requirement or condition which, intentionally or not, has a disproportionately adverse effect on a particular racial group and cannot be shown to be justifiable on other than racial grounds.

Examples of indirect discrimination would be recruiting from sources which exclude areas of high settlement of racial minority groups or setting language tests or educational qualification levels above the minimum needed for a job or post.

7.2 Employment Equality (Age) Regulations

The regulations make it unlawful on the grounds of age to:

7.2.1 Discriminate directly against anyone – that is, to treat them less favourably than others because of their age – unless objectively justified

7.2.2 Discriminate indirectly against anyone – that is, to apply a criterion, provision or practice which disadvantages people of a particular age unless it can be objectively justified

7.2.3 Subject someone to harassment. Harassment is unwanted conduct that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for them having regard to all the

- circumstances including the perception
- 7.2.4 Victimise someone because they have made or intend to make a complaint or allegation or have given or intend to give evidence in relation to a complaint or allegation or have given or intend to give evidence in relation to a complaint of discrimination on grounds of age
- 7.2.5 Discriminate against someone, in certain circumstances, after the working relationship has ended.

7.3 Discrimination Based on Preconception

It is essential that all staff making decisions affecting access to jobs, training, promotion etc guard against discrimination based on assumptions that individuals because of their age, disability, sex, race, sexual orientation, religion or belief or possess characteristics which make them unsuitable for employment in certain types of jobs.

The Employment Equality (Religion or Belief) Regulations 2003

The Employment Equality (Sexual Orientation) Regulations 2003

Definitions:

7.3.1 Religion or Belief

The Regulations explain that the term “religion or belief” means “any religion, religious belief, or similar philosophical belief”. The Regulations also cover those without religious or similar beliefs.

7.3.2 Sexual Orientation

The term “sexual orientation” means a sexual orientation towards persons of the same sex (homosexuality), persons of the opposite sex (heterosexuality) or to persons of the same sex and the opposite sex (bisexuality). (Under the Regulations, gender reassignment is a separate issue unrelated to sexual orientation and is covered by the Sex Discriminations (Gender Re-assignment) Regulations 1999.)

- 7.4 The above Employment Equality Regulations apply to all employment and vocational training including recruitment, terms and conditions, promotion, transfers, dismissals and training and in certain circumstances after the employment has finished for example in refusal to provide a reference.
- 7.5 Every job applicant, every person who works for the company whether directly employed, work under some other kind of contract or are Agency, has the right not to be discriminated against either directly or indirectly, victimised, harassed or subjected to any other detriment because of his or her sexual orientation, religion or belief. The law also safeguards those who suffer because of the sexual orientation, religion or belief of their family and friends. The company is also responsible for the behaviour of its staff towards an individual working for someone else but on its premises.
- 7.6 The Regulations make it unlawful on the grounds of sexual orientation, religion or similar belief (perceived or otherwise) to:
- 7.6.1 Discriminate directly against anyone. That is, to treat them less favourably than

others because of their sexual orientation, religion or belief or because they do not follow a particular religion or belief;

- 7.6.2 Discriminate indirectly against anyone. That is, to apply a criteria, provision or practice which disadvantages people of a particular sexual orientation, religion or belief unless it can be objectively justified (i.e., that it is a legitimate aim and that the practice is proportionate to that aim and that there is no alternative means available).
- 7.6.3 Harass anyone. Harassment includes behaviour that is offensive, frightening or in any way distressing. It may involve nicknames, teasing, name calling or other behaviour which may not be intended as malicious but is nevertheless upsetting. What is important is that the action had the effect it had, regardless of whether the harasser intended to offend. It may be about the individual's sexual orientation, religion or belief or it may be about the sexual orientation, religion or belief of those with whom the individual is associated. It may also consist of a general culture which, for instance, appears to tolerate the telling of religious or homophobic jokes or the general demeanour both physical and verbal of the person. In addition the company being held responsible for the actions of its employees, individual employees may also be held responsible for their own actions and ordered to pay compensation. If harassment takes place in the workplace or at a time and/or place associated with the workplace, for example a work related social gathering, Constance Care may be liable and may be ordered to pay compensation unless it can show that it took reasonable steps to prevent harassment. The company also has a responsibility to protect employees from harassment by people who use or service where practicable and reasonable given the complexity of some people's conditions (circumstances).
- 7.6.4 Victimisation anyone. That is to treat someone detrimentally because they have made a complaint or intend to make a complaint about discrimination or harassment or have given evidence or intend to give evidence relating to a complaint about discrimination or harassment.

The Regulations exempt anything which prevents or restricts access to a benefit by reference to marital status. This means that if a policy refers to spouse, wife or husband, then that policy would not be unlawful.

7.7 Genuine Occupational Requirement

Exceptions may be made in very limited circumstances if there is a Genuine Occupational Requirement for the worker to be of a particular sexual orientation, religion or belief in order to do the job or to comply with the religion or belief ethos of the organisation for example to fulfil the spiritual needs of the person we provide a service to. It is important therefore that job applicants are clear about what the duties of the job are to enable them to reach an informed decision about whether a particular job might conflict with their religion or belief before applying. It is not the intention of the regulations that people are appointed to posts whose religion or belief mean that they are unable to undertake essential parts of the job.

8.0 Religious Observance

It is anticipated that requests for time off in respect of religious festivals or spiritual observance be accommodated through the companies terms and conditions covering requests for annual leave/unpaid leave. As normal, in granting such requests consideration should be given to the needs of the service and other employees.

9.0 Dress Code

Other than for reasons of Health and Safety the Council will try to be flexible where it can to enable staff to dress in accordance with their religious beliefs but still meet the company's requirements to protect its image.

10.0 Rehabilitation of Offenders Act 1974

Under the Rehabilitation of Offenders Act 1974 certain convictions become "spent" after a special period of time and those with spent convictions are not required to disclose the conviction on application forms if asked to do so, as any failure to disclose a "spent" conviction is not a lawful reason for dismissing or excluding a person from any office, profession, occupation or employment. Examples of rehabilitation periods under the Act are shown in the table below.

Where a person has made a sincere and successful attempt to live down a conviction, then both justice and the need to remove a barrier to rehabilitation of offenders demands that his/her efforts should not be prejudiced by the unwarranted disclosure of that earlier conviction. The Act provides rehabilitation periods, which vary depending on the type and length of conviction originally incurred.

11.0 Good Employment Practices

This section of the Policy describes those good employment practices which will help eliminate discrimination. It recommends the establishment and use of consistent and justifiable criteria for selection, training, promotion, redundancy, grievance, discipline and career development. Without consistency, decisions can be subjective and leave the way open for discrimination to occur.

12.0 Recruitment

12.1 Attracting a Field of Candidates

It is unlawful for the company to discriminate when recruiting employees in any of the following ways:-

- 12.1.1 Advertising a job in a place where only one sex would have the opportunity of seeing the advertisement:
- 12.1.2 In relation to any terms offered (for instance, in respect of pay or holidays). For example, it is unlawful to offer a job (whether or not the candidate accepts it), where the terms would be a breach of the Equal Pay Act should an employment contract be established;
- 12.1.3 By refusing or deliberately omitting to offer a person employment on

- grounds of sex, marital status or age, for example, by rejecting an applicant or deliberately refusing consideration of an application;
- 12.1.4 By refusing or omitting to offer a suitably qualified registered disabled person employment without justifiable reason, or by deliberately refusing consideration of an application by such a person.
 - 12.1.5 Publicity information such as career brochures will reflect the Equalities Policy.
 - 12.1.6 Applications from people with a disability, or people with a mental health impairment will be treated with equality.
 - 12.1.7 Advertisements must be clear and unambiguous so applicants will be able to determine their own suitability;
 - 12.1.8 A standard statement will be inserted in all job advertisements, which fully reflects the company's Equalities Policy;

Where advertisements state "for further information please contact", this should be strictly limited to giving candidates factual information about qualifications/experience required of candidates in accordance with the personnel specifications and must not be used as an informal sorting procedure.

12.2 Applications and Short listings

No information which could be used in a discriminatory manner should go before a shortlisting or interviewing panel; and shortlisting must be based only on the information contained in the application form using the job and skills description etc as the criteria.

The criteria for initial selection must be consistently applied to all applicants.

12.3 Interviews

- 12.3.1 Candidates with disabilities should be offered any facilities necessary for a fair interview.
- 12.3.2 Interviewers should not imply discrimination by asking questions either about personal circumstances which are unrelated to the requirements of the job, or else designed to test more rigorously certain candidates on the basis of age, sex, race, sexual orientation, religion or belief or disability.

12.4 Promotion and Transfer

- 12.4.1 The Equalities Policy applies equally to the selection of internal candidates.
- 12.4.2 When selecting internally, care should be taken not to perpetuate past discriminatory practices, for example, by continually selecting or promoting men in a section hitherto staffed by men where an equally suitable female candidate is available.
- 12.4.3 Vacancies will be effectively published to make sure that appropriate employees have full access to information about promotion opportunities.

12.5 Contracts of Appointment

Appointment letters should include the following statement:



“As an employee of the Constance Care, you will be required actively to pursue Constance Care policies including those on equal opportunities and race relations and to undergo any training associated with this.”