



Joint Equality and Diversity Policy for Service Delivery

October 2016



We speak your language

Polish

Mówimy Twoim językiem

French

Nous parlons votre langue

Spanish

Hablamos su idioma

Slovak

Rozprávame Vaším jazykom

Chinese

我们会说你的语言

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CONTROL SHEET FOR EQUALITY POLICY

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1. Introduction

Bolsover and North East Derbyshire District Councils are committed to equalities as employers and in delivering the services they provide to all sections of the community. We believe that no person should be treated unfairly and are committed to eliminating all forms of discrimination, advancing equality and fostering good relations between all groups in society.

1.1 Legal obligations

The [Equality Act 2010](#) aims to reduce inequality by extending protection across a range of 'protected characteristics'. These are:

- Age
- Disability
- Race
- Sex (or Gender)
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Religion or belief
- Sexual orientation

The Equality Act 2010 makes employers legally responsible for acts of discrimination, harassment or victimisation committed by their employees in the course of employment unless they can show that they took reasonable steps to prevent such acts. The Councils are also liable for such acts committed by anyone authorised to carry out public functions on their behalf. It does not matter whether the employer knows about or approves of the acts.

The Equality Act 2010 defines the following as prohibited behaviours.

Direct discrimination

Direct discrimination occurs when a person treats another less favourably than they treat or would treat others because of a protected characteristic. For example, denying a customer a service because of their ethnicity or disability.

Direct discrimination is generally unlawful. However, it may be lawful in the following circumstances:

- In relation to the protected characteristic of disability, where a disabled person is treated more favourably than a non-disabled person;
- Where the Equality Act 2010 provides an express exception which permits directly discriminatory treatment that would otherwise be unlawful. For example, providing a single sex swimming session to encourage more women to participate in an activity where they are underrepresented, where such positive action can be objectively justified.

Direct discrimination by association

It is direct discrimination if a service provider treats a service user less favourably because of the service user's association with another person who has a protected characteristic.

Direct discrimination by perception

It is also direct discrimination if a service provider treats a service user less favourably because the service provider mistakenly thinks that the service user has a protected characteristic.

Indirect discrimination

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

Indirect discrimination occurs under the following four conditions:

- The service provider applies (or would apply) the provision, criterion or practice equally to everyone within the relevant group including a particular service user
- The provision, criterion or practice puts, (or would put), people who share the service user's protected characteristic at a particular disadvantage when compared with people who do not have that characteristic
- The provision, criterion or practice puts, (or would put), the service user at that disadvantage
- The service provider cannot show that the provision, criterion or practice is justified as a proportionate means of achieving a legitimate aim.

Harassment

Employees of the Councils should not discriminate against or harass a member of the public in the provision of services or goods. Harassment occurs when a person engages in unwanted conduct relevant to a protected characteristic and that conduct has the purpose or effect of violating the other's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. The Equality Act 2010 specifically prohibits:

- Harassment related to a 'relevant protected characteristic';
- Sexual harassment; and
- Less favourable treatment of a service user because they submit to or reject sexual harassment or harassment related to sex or gender reassignment.

Unwanted conduct covers a wide range of behaviour, including spoken or written words or abuse, imagery, graffiti, physical gestures, facial expressions, mimicry, jokes, pranks, acts affecting a person's surroundings or other physical behaviour.

For example:

- Criticising a gym customer who is unable to perform certain activities because of their age
- Making unwanted advances to a customer (sexual harassment)
- Mocking or laughing at a customer with a stammer
- Making any jokes about gay or lesbian people when a person with that characteristic is present
- Mocking people with a mental or physical impairment
- Egging on others at a local football match to make animal noises at a black player

Victimisation

Employees of the Councils should not victimise any member of the public in the provision of services or goods. Victimisation occurs when an individual is subjected to a detriment because they made or supported a complaint under the Equality Act 2010, or because he or she is suspected of doing so. However, an individual is not protected from victimisation if he or she acted maliciously or made or supported an untrue complaint.

It is unlawful to instruct someone to discriminate against, harass or victimise another person because of a protected characteristic or to instruct a person to help another person to do an unlawful act. Such an instruction would be unlawful even if it is not acted on.

There are two further key legal requirements within the Equality Act 2010 which the Councils must observe: the general equality duty and the public sector equality duty.

General Duty

The general equality duty sets out the broad aim to advance equality by requiring public bodies to consider equality issues in every aspect of their work. The public sector duty helps public sector organisations to implement the general duty by setting out what they should do to achieve compliance and to advance equality.

To meet the general equality duty, the Councils must demonstrate due regard to the need to:

- Eliminate discrimination, harassment, victimisation and any other prohibited conduct
- Advance equality of opportunity
- Foster good relations between different groups

The duty to have due regard is a continuing duty which cannot be delegated to any organisation exercising public functions on behalf of either or both authorities.

The law requires that public authorities demonstrate that they have had 'due regard' to the three aims of the equality duty in their decision-making. Assessing the potential impact on equality of proposed changes to policies, procedures and practices where relevant and proportionate is one of the key ways in which the Councils demonstrate that they have had 'due regard'. This is to ensure that the

authorities can identify and then mitigate or objectively justify any adverse impact resulting from the policy or practice.

The Brown principles derive from case law and define what having ‘due regard’ means in practice for public authorities, as set out in s.2.21 of the Equality & Human Rights Commission’s *Technical Guidance on the Public Sector Equality Duty: England* (August 2014). The Councils have regard to the Brown principles in exercising due regard to their obligations under the Equality Act 2010:

- Those responsible for the duty to have due regard must consciously bring it to mind when considering the duty. If they do not or if their appreciation of the duty is incomplete or mistaken, the courts will deem that due regard has not been applied.
- The due regard duty must be fulfilled before and at the time that a particular policy is being considered. Compliance with the duty should not be treated as a rearguard action after a decision to implement the policy in question. It must be exercised with rigour and with an open mind. Due regard involves more than a tick box exercise. The “substance and reasoning” of the decision must be examined.
- A failure to make explicit reference to the relevant positive equality duty will not, of itself, be fatal to a court’s decision.
- The due regard duty cannot be delegated to a third party by the public authority charged with it.
- The duty is ongoing.
- It is good practice for public authorities to keep an adequate record showing that they have considered their equality duties and pondered relevant questions.
- When applying the “due regard” test, the public authority must take into account whatever countervailing factors are relevant in the circumstances.

Specific Duty

To meet the public sector specific duty as specified in the [Equality Act \(Specific Duty\) Regulations 2011](#), the Councils must:

- Publish information to demonstrate how they are complying with the Public Sector Equality Duty; and
- Prepare and publish equality objectives at least every four years.

The specific duty requires the Councils to provide clear information about the equality results they achieve. This requires the publication of data with regard to:

- Their workforce
- Their service provision
- Setting equality objectives with a focus on outcomes
- Their engagement with protected groups in setting their equality objectives.

This policy reinforces our responsibilities under the Equality Act 2010 to ensure equality of opportunity for all sections of the community and in particular our due regard to the general and specific equality duties.

The equality objectives contained within the Corporate Plans and Single Equality Schemes for each authority outline the specific steps the Councils will take to achieve these duties. These can be found on each of the Councils' websites:

<http://www.ne-derbyshire.gov.uk>

<http://www.bolsover.gov.uk>

Reasonable adjustments

[Part 2, Chapter 2, S.20 of the Equality Act 2010](#) requires public bodies to consider reasonable adjustments as a way of ensuring that disabled people can access services. This goes beyond simply avoiding discrimination. It requires service providers to anticipate the needs of potential disabled customers for reasonable adjustments. Specifically:

- Where a provision, criterion or practice puts disabled people at a substantial disadvantage compared with those who are not disabled, to take reasonable steps to avoid that disadvantage
- Where a physical feature puts disabled people at a substantial disadvantage compared with people who are not disabled to avoid that disadvantage or adopt a reasonable alternative method of providing the service or exercising the function
- Where not providing an auxiliary aid puts disabled people at a substantial disadvantage compared with people who are not disabled, to provide that auxiliary aid
- Where the provision, criterion or practice, or the need for an auxiliary aid or service, relates to the provision of information, the steps which it is reasonable to take include steps to ensure that the information is provided in an accessible format.

The Councils aim to make reasonable adjustments to enable disabled people to access information and services. However, as public service providers, while we are not expected to anticipate the particular needs of every individual who may use our services, we are required to think about and take reasonable steps to overcome barriers that may impede people with different kinds of disability.

The Councils' approach to reasonable adjustments:

- We aim to make sure that our public access areas are accessible to disabled customers or that reasonable adjustments are available to support disabled customers
- Where we use alternative premises for public events, we will check that these are suitable for disabled customers where possible
- We offer a registration system whereby disabled customers can register their specific information needs, such as large print documents. The Customer Specific Information Needs form is available on the intranet and corporate websites.

2. Scope

This policy applies to elected Members, officers and those carrying out public functions on behalf of either or both of the authorities.

We will work to deliver our commitments by tackling inequality arising out of:

- Age
- Disability
- Gender re-assignment
- Marital status and civil partnership
- Pregnancy and maternity
- Race
- Religion and belief, including non-belief
- Sex or gender
- Sexual orientation

- Other forms of disadvantage such as rural deprivation and isolation
- Responsibility for dependents
- Or any other reason which cannot be shown to be justified

This policy does not apply to our employment functions. The Councils have comprehensive employment policies and monitor their employment practices to ensure that no-one is treated unfairly at any stage when applying for jobs or following appointment.

3. Principles

The Councils aim to:

- Treat our customers fairly
- Make our buildings and services accessible
- Make our public information accessible through providing alternative formats, interpretation and sign language services as required
- Work with our partners and stakeholders to tackle all forms of bullying, harassment and intimidation
- Work with our communities to tackle disadvantage and discrimination through consultation and involvement
- Consider the needs of all communities in the methods we use for communicating with those who visit, live or work in the Districts
- Identify the potential impacts of major consultation proposals on the protected categories of service users or citizens and make this available to stakeholders and consultees to inform the process
- Consider the potential impact and assess the effect on customers and communities of our policies and practices and take action to improve them
- Consider the potential impact on customers and communities before making important decisions
- Carry out equality impact assessments and set objectives as required
- Consult with relevant groups to help shape our future plans, decisions and changes
- Promote equality and diversity within partnership working and in our dealings with the media
- Require any company or business that wishes to be one of our contractors or suppliers to have developed policies on equalities, proportionate to their size of operation.

4. Statement

The following section sets out the approach of the Councils to meeting their respective equality duties, the steps they will take to deliver their equality objectives, and the mechanisms in place to support this.

4.1 Single Equality Scheme

Each Council has a Single Equality Scheme which sets out their equality objectives and the steps they will take to achieve them. These Schemes also contain information about our communities which helps inform our service planning.

The Single Equality Schemes are supported by associated Action Plans which set out the steps each Council will take to deliver their equality objectives. These Action Plans are updated regularly and made available to the public via each Council's website.

Progress on delivery of the Single Equality Schemes is reported to Executive at Bolsover District Council and Cabinet at North East Derbyshire District Council and through internal Improvement Groups at each authority. The Improvement Groups are responsible for ensuring that departments are engaged with driving forward continuous improvement and ensure that the Councils are delivering against recognised national quality standards. Progress reports also inform the corporate and service planning process.

Schemes can be found on the Councils' websites.

4.2 Equality Impact Assessment

The Councils carry out Equality Impact Assessment (EIA) of relevant policies, plans and procedures to ensure that they do not impact unfairly on individuals and/or groups because of their equality characteristics. The impact assessment process is an important driver for improving our services and actions to achieve these improvements are incorporated into service plans. An internal reference group ensures that our assessments are robust and we take the opportunity to consult more widely with interest groups and stakeholders as required.

As part of our joint approach to delivering better public services with limited resources, we have streamlined impact assessment processes and documentation to support joint services and reduce the volume of EIAs by taking a proportionate approach. Joint Equality Impact Assessment template and guidance are available to staff via the intranet and we have undertaken joint Equality Impact Assessments with partners where appropriate.

Approved Equality Impact Assessments are published in the Equality and Diversity section on each Council's website.

4.3 Equality monitoring

The Councils undertake equality monitoring to enable us to better understand who is accessing our services as well as their experiences and outcomes. For example, when we undertake consultation, we collect monitoring data (when

appropriate to do so) to check that any feedback on our services is representative of the people we serve.

Whenever we ask members of the public for information for equality monitoring purposes, we will take care that this is relevant and appropriate. The Councils will:

- Only ask for the information we need
- Provide an explanation of why we need the information and how it will be used
- Take care to ensure that individuals cannot be identified from the information collected, especially where the results of monitoring are made public or shared
- Comply with the law in relation to confidentiality, data protection and freedom of information.

Our customer satisfaction measurement may also gather data on equality and diversity to enable us to better understand who is accessing our service, the types of requests/complaints that they bring forward, their experiences and outcomes.

4.4 Consultation and engagement

Consultation is the process by which the Councils seek comments, information and opinions about our strategies, policies and services to inform and evidence our decision-making and design good services. This includes many familiar activities such as surveys, public meetings and user and resident forums. We make decisions influenced by the knowledge we have gathered through consultation.

Each authority has an Engagement Plan and Consultation Policy which sets out how we will consult with and involve people in our decision-making processes.

With regard to equality matters, the Councils engage and consult with local equalities interest groups and with our own reference groups - the Equality Panel and Tenants Participation Group at Bolsover District Council and the Disabled People's Joint Consultative Committee at North East Derbyshire District Council. Where relevant, we also consult these groups on our Equality Impact Assessments and take their feedback into account by amending our policies or plans or by inclusion of mitigating actions to address any issues raised.

Consultation Policies can be found on the Councils websites.

Current and past consultations by both Councils can be found on the [Ask Derbyshire](#) website.

4.5 Specific information needs

The Councils do not routinely provide printed information in languages other than English except where those communications are of a legal nature or concern public safety.

Our 'We speak your language' statement is prominent on all corporate communications and we can offer a telephone interpretation service or officer support to customers with communication or other individual needs.

As a reasonable adjustment for disabled customers, the Councils will provide communications in alternative formats (such as large print, Braille) on request.

Disabled customers in Bolsover and North East Derbyshire can also register their specific information needs with us. Any personal sensitive details about customers' specific information needs will be stored securely in line with data protection principles (Data Protection Act 1998). The Customer Specific Information Needs form is available via the intranet and corporate websites.

4.6 Customer Service Standards

The Councils have adopted a Joint Customer Service Code of Practice and Standards outlining how we deal with customers by telephone, letter, face-to-face, email and other forms of communication. Our promise to customers, together with the standards, can be found on our websites.

4.7 Equality and diversity training

The Councils are committed to developing and managing their workforce to ensure each organisation is able to deliver high quality and effective services.

Equality and diversity training is mandatory for all new employees at each Council. In line with guidance from the Equality and Human Rights Commission, our corporate training includes:

- The law covering all the protected characteristics and what behaviour is and is not acceptable
- The risk of ignoring or seeming to approve inappropriate behaviour and personal liability
- How discrimination can affect the way an employer functions and the impact that generalisations, stereotypes, bias, and inappropriate language in day-to-day operations can have on people's chances of obtaining work, promotion, recognition and respect
- Monitoring arrangements
- Our equality policy, why it has been introduced and how it will be put into practice.

We routinely evaluate our corporate training to ensure that it meets quality standards as well as the learning aims and objectives of individual staff. Individual learning needs are identified through the staff appraisal process and any additional specialist equality-related training for frontline employees is identified through the Single Equality Schemes.

Equality and diversity training needs for Elected Members are identified through the Member Development Working Group.

4.8 Hate incidents and hate crime

The Councils are committed to tackling hate crime and harassment arising from perceptions of difference and to fostering good relations between different groups. We take hate crime and hate incidents very seriously. The police are responsible for investigating criminal offences and for gathering evidence.

The definition of a **hate crime** is:

Any **criminal offence** which is perceived, by the victim or any other person, to be motivated by a hostility or prejudice based on a persons' race, religion, sexual orientation, disability or transgender status or based on perception of a persons' race, religion, sexual orientation, disability or transgender status.

The definition of a **hate incident** is:

Any **non crime incident** which is perceived, by the victim or any other person, to be motivated by a hostility or prejudice based on a persons' race, religion, sexual orientation, disability or transgender status or based on perception of a persons' race, religion, sexual orientation, disability or transgender status.

It is worth noting that all hate crimes are also hate incidents, but some hate incidents may not constitute a criminal offence. To report or record hate incidents evidence is not needed. Evidence is not the test - **perception** on the part of anyone is all that is required.

The Councils will when appropriate to do so:

- Work in partnership with the police and all relevant external agencies to deal with incidents of harassment and hate crime
- Take reports of harassment and hate incidents / crimes seriously and encourage reporting
- Ensure complainants/witnesses are dealt with sympathetically
- Signpost victims and witnesses to specialist support and advice services where appropriate
- Keep victims and witnesses informed on their complaints about harassment and hate incidents / crimes
- Deal with perpetrators of harassment or hate incidents / crimes effectively and appropriately. For example, seeking remedies such as injunctions or seeking possession of council property using our powers under the Anti-social Behaviour, Crime and Policing Act 2014 and the Housing Act 1985 and 1996.
- Send out a clear message that the Councils will not tolerate harassment or hate incidents /crimes.

Any hate incident witnessed by or reported to a council employee will be recorded and where appropriate, investigated by relevant officers at the Councils and/or reported to police. Anyone witnessing or reporting a hate incident should

be treated with sensitivity with regard to the protected characteristics specified in section 1.1 above.

The Councils have produced separate guidance to assist employees in the reporting and recording of hate incidents.

4.9 Safeguarding Children and Vulnerable Adults

The Councils have a statutory duty to safeguard children and vulnerable adults:

- The welfare of children, young people and vulnerable adults is the primary concern
- It is the responsibility of all employees, Councillors and volunteers to report any concerns regarding suspected abuse against children and young people or vulnerable adults
- All children and young people, whatever their age, culture, disability, gender, language, racial origin, religious beliefs and/or sexual identity have the right to protection from abuse
- All incidents of suspected poor practice and/or allegations should be taken seriously and responded to quickly and appropriately. This includes allegations of poor practice against employees, volunteers and Councillors.

A network of designated Link Officers has been established at both Councils to act as contact points for any employee that needs to report any incidents or concerns they may have.

There is also a Child Protection Safeguarding Lead Officer and Strategic Alliance Management Team Lead.

A joint Corporate Safeguarding Group meets bi monthly to ensure that activity around safeguarding is co-ordinated and that all staff and members are aware of the process.

As part of the process for publicising our Child Protection and Vulnerable Adult Policies, staff are made aware via information published on the intranets and receive briefings and awareness training as required.

The Councils recognise that Derbyshire County Council's Children's Social Care Service and the police are the lead agencies with regard to child protection. The Councils also recognise that everyone has a responsibility for child protection, including all employees and Councillors who come into contact with children and young people. Young people and families within our community also have a role to play as well as the community at large.

The Councils' Safeguarding policies can be found on our websites.

4.10 Breastfeeding

Under the Equality Act 2010 ([s.13 \(6a\)](#)) treating a woman unfavourably because she is breastfeeding, when this treatment occurs within the period of 26 weeks beginning with the day on which she gave birth ([s.17 \(4\)](#)), it is discriminatory. Outside of the 26 week period of protection specified in [s.17 \(4\)](#), sex discrimination provisions may still apply to breastfeeding mothers. However, the Act does allow exceptions where there are genuine health and safety reasons.

The Councils encourage breastfeeding in our Council buildings except where there are genuine health and safety reasons for not doing so.

5. Responsibility for Implementation

This Policy applies to every Elected Member and employee of Bolsover District Council and North East Derbyshire District Council, and any other person or organisation employed by the Council to work or to deliver services on its behalf.

A good understanding of the policy will ensure that equality considerations are given due regard and applied consistently throughout the Councils.

The Customer Service and Improvement Departmental responsibilities are:

- To provide advice and guidance on equality matters to Officers, Managers and Elected Members
- To set, review and deliver the equality objectives within the Single Equality Schemes for each authority
- To collate and publish equality information in line with our statutory equality duties
- To deliver equality and diversity training for staff and Elected Members
- To co-ordinate the agreed corporate programmes of Equality Impact Assessments and any ad hoc assessments as required
- To deliver and support the Equality Panel and Disabled People's Consultative Group
- To support the reporting and recording of hate crime incidents.

Departmental service area responsibilities are:

- To undertake Equality Impact Assessments on relevant policies, plans and procedures, as agreed by the Strategic Alliance Management Team and noted in the corporate guidance
- To ensure staff receive equality and diversity guidance and training to undertake their role effectively
- To undertake equality monitoring at a service/function level where appropriate to do so
- To support the reporting and recording of hate crime incidents.

Decision Maker responsibilities are:

- To give genuine and conscientious consideration to equality issues and to take into account any equality impact when considering any proposals and making decisions.

Improvement Group responsibilities are:

- To receive regular reports on performance towards the equality objectives within each Council's Single Equality Scheme
- To receive briefings on relevant case law rulings and best practice in mainstreaming equality and diversity
- To consider issues raised by the Council's Equality Panel / Disabled Peoples Joint Consultative Group and take appropriate action to address any concerns.

If you think we are not providing a service in line with this policy or you think you have been treated unfairly in any way, you can make a compliment, comment or complaint about us or any of our services by:

- Completing the on-line **Compliments, Comments and Complaints form** [Bolsover](#) / [North East Derbyshire District Council](#)
- Writing to the relevant council -

Bolsover District Council, The Arc, High Street, Clowne, Derbyshire S43 4JY

NE Derbyshire District Council, 2013 Mill Lane, Wingerworth, Chesterfield, Derbyshire S42 6NG

- Calling in at one of our **Contact Centres**
- Asking one of our employees to put it in writing for you.

This policy draws extensively on the [statutory Codes of Practice and non-statutory guidance](#) of the Equality & Human Rights Commission:

Employment: Statutory Code of Practice, January 2011

Good equality practice for employers: equality policies, equality training and monitoring, April 2014

Guidance for Employers: Your rights to equality from local councils, government departments and immigration, updated June 2015

Services, Public functions and Associations: Statutory Code of Practice, January 2011

Supplement to the Statutory Code of Practice on Services, Public Functions and Associations, May 2014

Technical Guidance on the Public Sector Equality Duty: England, August 2014