

Equal Opportunities Policy

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Version 1.2

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Document Control

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| 1.1 | July 2017 | | Jeff Quinn | Revision |
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PART ONE

Statement of Policy

The basic concept of managing diversity accepts that the workforce consists of a diverse population of people. Diversity consists of visible and non-visible differences which include factors such as gender, transgender, social and economic background, race, disability, religion, age, sexual orientation, personality and work style. It is founded on the premise that recognising, respecting and valuing these differences will create a productive inclusive culture and environment in which everybody feels valued, where their talents are being fully utilised, and in which organisational and business goals are met.

VisitScotland's Business Statement to support Diversity Management

To support culture change in the organisation through a business focused Diversity and Equality strategy that encourages and empowers managers to take decisions and, when required, face up to making hard choices. Recognising and valuing the different and varied skills and talents our staff bring to the workplace, and integrating diversity management into their key leadership skills, enabling line managers to develop their teams to the benefit of VisitScotland's corporate and business agenda, thus giving us the edge over our competitors.

Our Commitment

We believe that our commitment to ensure equality to all groups will have a positive business benefit, as our customers, stakeholders and staff will have an assurance that we will take action, within our remit, to meet and treat society as it stands. This will ensure diversity and equality is at the heart of our service delivery and policy making objectives.

VisitScotland will apply the same level of commitment to uphold and challenge any acts that would, or could appear to be discriminatory to all groups as named in this policy document.

Our Aim

VisitScotland is opposed to all forms of unlawful and unfair discrimination. All job applicants, employees and others who work for us will be treated fairly and will not be discriminated against on any of the grounds as stated in our Statement of Policy, above, or as set out in the Equality Act 2010 as Protected Characteristics (see part two below).

VisitScotland also recognises that there are groups in society who are discriminated against and therefore aims to make sure that all the people it serves have equal access to all facilities and services.

VisitScotland is an equal opportunity employer and employs people solely on the basis of their merit, skills, aptitude and attitude for the job. All existing and prospective employees of VisitScotland will be treated fairly and have equal access to all employment opportunities.

Service Delivery

All of VisitScotland's customers, both internal and external, are entitled to the same quality and level of service, irrespective of age, disability, gender re-assignment, marriage & civil partnership, pregnancy & maternity, race, religion or belief, sex or sexual orientation. VisitScotland will promote equality of opportunity by:

Providing services to meet customer's actual, rather than presumed, needs;

- Providing accessible information about the holidays and opportunities available to them;
- Ensuring all staff are trained to provide an appropriate and informed response to all customers and stakeholders;
- Delivering services in ways which are appropriate to their needs and, wherever possible, removing barriers which may deny access;
- Ensuring any complaints of discrimination are dealt with speedily and fairly;
- Requiring that those who provide services on behalf of VisitScotland, and or request funding from VisitScotland, to have policies in place that result in services that are sensitive to the needs of all sections of the community and that they abide by this equality policy, or one of equal value which they own as an equal opportunities employer or provider.

To whom does the policy apply?

This Diversity and Equality Policy applies to all those who work for, or apply to work for VisitScotland. This will include:

- Job applicants and potential applicants
- Permanent and temporary employees
- Contract & Seasonal workers
- Agency workers
- Trainee workers and students on work experience or placements

This policy also covers all our external customers and stakeholders, with whom we do business or have a working relationship.

Implementation & Equality Commitments

The Chief Executive has specific responsibility for the effective implementation of this policy. However each Director, Head of Department, all line managers and staff, also have responsibilities in meeting the requirements of this policy. We expect all our employees to abide by the policy and help create an inclusive equality based environment in support of VisitScotland's business and corporate objectives.

In order to implement this policy we are committed to:

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- Working within the legislation as set out in the Equality Act 2010
- Providing equality of opportunity for all employees in the workplace including recruitment, selection, promotion and retention processes
- Taking lawful, supportive or positive action, where appropriate
- Treating all employees fairly, whether full-time, part-time, permanent or temporary
- Encouraging, valuing and managing diversity in the workplace
- Providing a working environment free from harassment, bullying and discrimination
- Regarding all breaches of this Equality Policy as misconduct, and which may then lead to disciplinary proceedings
- Creating an inclusive organisational culture where everyone knows that their contribution is valued and where they feel able to reach their full potential
- We will ensure that in our procurement procedure, and when working with outside agencies that we obtain evidence that they own and abide by their own Equality Policies, or that they will comply with VisitScotland's equality policy in their dealings with our organisation and our workforce. VisitScotland will however apply this policy within the bounds of reasonable, proportionate and appropriate means.

This policy is fully supported by the Chief Executive and the Leadership Group and has been agreed with the Trade Unions.

PART TWO

The Foundation of our Equality Policy

The Equality Act 2010

The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. The Equality Act covers the same groups that were protected by earlier equality legislation and extends protections to groups with specific characteristics not previously covered, and also strengthens particular aspects of equality law.

It is our policy to provide employment and service delivery equality to all, irrespective of:

- age;
- disability;
- gender reassignment;
- marriage and civil partnership;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;
- sexual orientation.

These are now called ‘protected characteristics’

Age

The Act protects people of all ages. However, different treatment because of age is not unlawful direct or indirect discrimination if you can justify it, i.e. if you can demonstrate that it is a proportionate means of meeting a legitimate aim. Age is the only protected characteristic that allows employers to justify direct discrimination.

Disability

The Act has made it easier for a person to show that they are disabled and protected from disability discrimination. Under the Act, a person is disabled if they have a physical or mental impairment which has a substantial and longterm adverse effect on their ability to carry out normal day-to-day activities, which would include things like using a telephone, reading a book or using public transport.

The Act puts a duty on VisitScotland as an employer to make reasonable adjustments for your staff to help them overcome disadvantage resulting from an impairment (e.g. by providing assistive technologies to help visually impaired staff use computers effectively).

The Act includes protection from discrimination arising from disability. This states that it is discrimination to treat a disabled person unfavourably because of something connected with their disability (e.g. a tendency to make spelling mistakes arising from dyslexia). This type of

discrimination is unlawful where the employer or other person acting for the employer knows, or could reasonably be expected to know, that the person has a disability. This type of discrimination is only justifiable if an employer can show that it is a proportionate means of achieving a legitimate aim.

Additionally, indirect discrimination covers disabled people. This means that a job applicant or employee could claim that a particular rule or requirement you have in place disadvantages people with the same disability. Unless you could justify this, it would be unlawful.

The Act also includes a provision which makes it unlawful, except in certain circumstances, for employers to ask about a candidate's health before offering them work. (see pre-employment health checks below).

Gender reassignment

The Act provides protection for transsexual people. A transsexual person is someone who proposes to, starts or has completed a process to change his or her gender. The Act no longer requires a person to be under medical supervision to be protected – so a woman who decides to live as a man but does not undergo any medical procedures would be covered.

It is discrimination to treat transsexual people less favourably for being absent from work because they propose to undergo, are undergoing or have undergone gender reassignment than they would be treated if they were absent because they were ill or injured.

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 during the period of her pregnancy and any statutory maternity leave to which she is entitled. During this period, pregnancy and maternity discrimination cannot be treated as sex discrimination.

Employers must not take into account an employee's period of absence due to pregnancy-related illness when making a decision about their employment.

Race

For the purposes of the Act 'race' includes colour, nationality and ethnic or national origins.

Religion or belief

In the Equality Act, religion includes any religion. It also includes a lack of religion, in other words employees or jobseekers are protected if they do not follow a certain religion or have

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no religion at all. Additionally, a religion must have a clear structure and belief system. Belief means any religious or philosophical belief or a lack of such belief. To be protected, a belief must satisfy various criteria, including that it is a weighty and substantial aspect of human life and behaviour. Denominations or sects within a religion can be considered a protected religion or religious belief.

Discrimination because of religion or belief can occur even where both the discriminator and recipient are of the same religion or belief.

Sex

Both men and women are protected under the Act.

Sexual orientation

The Act protects bisexual, gay, heterosexual and lesbian people.

THE EQUALITY ACT – WHAT’S NEW FOR EMPLOYERS?

Some key changes that affect our policy:

Positive action

As with previous equality legislation, the Equality Act allows us to take positive action if we think that employees or job applicants who share a particular protected characteristic suffer a disadvantage connected to that characteristic, or if their participation in an activity, job role, or grade is disproportionately low. This is now extended to cover all the protected characteristics, previously this just covered gender, race and disability.

Pre-employment health-related checks

The Equality Act limits the circumstances when we can ask health-related questions before we have offered the individual a job. Up to this point, we can only ask health-related questions to help us to:

- decide whether we need to make any reasonable adjustments for the person to the selection process
- decide whether an applicant can carry out a function that is essential ('intrinsic') to the job
- monitor diversity among people making applications for jobs
- take positive action to assist disabled people
- assure ourselves that a candidate has the disability where the job genuinely requires the jobholder to have a disability

Equal pay – direct discrimination

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The Equality Act retains the framework that was previously in place. This means that in most circumstances a challenge to pay inequality and other contractual terms and conditions still has to be made by comparison with a real person of the opposite sex in the same employment.

However, a change in the Equality Act allows a claim of direct pay discrimination to be made, even if no real person comparator can be found.

Types of discrimination as set out in the Equality Act 2010

Direct discrimination

Direct discrimination occurs when someone is treated less favourably than another person because of a protected characteristic they have or are thought to have (see perception discrimination below), or because they associate with someone who has a protected characteristic (see discrimination by association below).

Discrimination by association

Applies to age, race, religion or belief, sexual orientation, disability, gender reassignment, and sex. This is direct discrimination against someone because they associate with another person who possesses a protected characteristic.

Perception discrimination

Applies to age, race, religion or belief, sexual orientation, disability, gender reassignment, and sex. This is direct discrimination against an individual because others think they possess a particular protected characteristic. It applies even if the person does not actually possess that characteristic.

Indirect discrimination

Applies to age, race, religion or belief, sex, sexual orientation, marriage and civil partnership, disability and gender reassignment. Indirect discrimination can occur when you have a condition, rule, policy or even a practice in your company that applies to everyone but particularly disadvantages people who share a protected characteristic. Indirect discrimination can be justified if you can show that you acted reasonably in managing your business, i.e. that it is 'a proportionate means of achieving a legitimate aim'. A legitimate aim might be any lawful decision you make in running your business or organisation, but if there is a discriminatory effect, the sole aim of reducing costs is likely to be unlawful.

Being proportionate really means being fair and reasonable, including showing that you've looked at 'less discriminatory' alternatives to any decision you make.

Harassment

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Harassment is “unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual”.

Harassment applies to all protected characteristics except for pregnancy and maternity and marriage and civil partnership. Employees will now be able to complain of behaviour that they find offensive even if it is not directed at them, and the complainant need not possess the relevant characteristic themselves.

Employees are also protected from harassment because of perception and association.

Victimisation

Victimisation occurs when an employee is treated badly because they have made or supported a complaint or raised a grievance under the Equality Act; or because they are suspected of doing so. An employee is not protected from victimisation if they have maliciously made or supported an untrue complaint.

A complainant will not need to compare their treatment with that of a person who has not made or supported a claim under the Act.

PART THREE

The General Duty of the Equality Act 2010 sets out a Public Sector Duty (Section 149) for all public bodies: The duty to have due regard to the need to:

- Eliminate discrimination, harassment, victimisation or any other prohibited conduct
- Advance equality of opportunity by
- Removing or minimising disadvantage
- Meeting the needs of particular groups that are different from the needs of others
- Encouraging participation in public life
- Foster good relations
- S149 sets out that regulations can be passed by each of the three GB governments to enable the better performance of the Public Sector Duty (PSD)
- Specific Duties (Scotland) Regulations 2012 the regulations came into effect on 27th May 2012. The requirements are much more detailed and prescriptive than England, they make it very clear what public authorities need to do to meet their legal obligations under the general duty. It gives a power to Scottish Ministers to set specific duties for Scottish public authorities that are listed in Schedule 19 List of Public Authorities; VisitScotland is one of them.

The Specific Duties are;

- Equality outcomes
- Mainstreaming equality
- Assessment and review
- Employment information
- Gender pay gap information
- Equal pay statement
- Procurement
- Scottish Ministers duty
- Publication duty

Meeting the Specific Duties

VisitScotland in order to meet all the above mentioned Specific Duties will be preparing Equality Outcomes that will be contained within the Mainstreaming report due to be published by April 2019. This document will outline how VisitScotland is meeting its duties under the Equality Act 2010. It will be published on our web-site April 2019.

Monitoring

The effectiveness of this Equality Policy will be monitored by gathering and analysing information on and from employees and from service users. Ongoing monitoring, analysis and subsequent policy review provides the basis of eliminating discrimination and promoting equality of opportunity for VisitScotland's employees and customers.

Complaints

Employees who believe that they have suffered any form of discrimination, harassment or victimisation are entitled to raise the matter through the agreed procedures (a copy of these procedures is available on the Hub and further advice can be obtained from the Equality & Diversity Manager, Chris McCoy).

All complaints of discrimination will be dealt with seriously, promptly and confidentially.

Further information for staff and managers about what may constitute bullying, harassment, or discriminatory behaviour in the workplace, can be found in the Resolution Policy.

Mediation

VisitScotland has a team of fully trained externally accredited workplace mediators available.

This procedure is entirely independent of HR and is totally confidential. Mediation falls under third party confidentiality rules, which means nothing about the content of the mediation can be used for any resulting formal internal complaints or external Employment Tribunals.

If managers or staff require any further information about the mediation service please contact Chris McCoy. Any enquiries will also be covered under the confidentiality process.

External Complaints

Customers who believe that they have been discriminated against by VisitScotland or that we have not by our actions fulfilled our commitment to equality & diversity then in the first instance please write to:

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| Business Affairs Executive: | Douglas Keith | |
| Postal address: | VisitScotland 94 Ocean Drive Edinburgh EH6 | 6JH |

Or by email at: customer.feedback@visitscotland.com

If you have any questions or comments about this Equal Opportunities Policy, or wish to discuss any part of VisitScotland's commitment to diversity & equality please contact:

Chris McCoy
Equality Diversity & Well Being Manager
8th Floor
Ocean Point One
94 Ocean Drive
Edinburgh EH6 6JH

[Type here]

Tel: 0131 472 2259

Mob: 07776 245490

Email: chris.mccoy@visitscotland.com