



Arolygiaeth Ei Mawrhydi dros Addysg a Hyfforddiant yng Nghymru
Her Majesty's Inspectorate for Education and Training in Wales

Equal opportunities policy

Information sheet

Information box

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This and other Estyn publications are available on our website: www.estyn.gov.uk

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Section One: Introduction

Equality statement

- 1 Estyn is committed to creating an inclusive working environment to maximise the potential of all its workers by providing equal opportunities. We will ensure that our organisation is free from any form of unlawful discrimination, victimisation, bullying or harassment because of age; disability; gender; gender identity (transgender); gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; sexual orientation; responsibilities for dependents; working patterns (such as the need, or desire, to work part-time hours); or other irrelevant considerations.
- 2 No person should receive less favourable treatment because of any of the protected characteristics listed above. Furthermore, we will ensure that no person is disadvantaged by conditions or requirements that we cannot show to be justifiable.
- 3 Employees, secondees, and others who undertake work on our behalf, are expected to act in accordance with our equal opportunities policy both in terms of their dealings with members of the public and relationships with colleagues.
- 4 We will not tolerate discrimination, victimisation, bullying or harassment, direct or indirect, intentional or unintentional, against any person on any grounds whatsoever including, but not limited to, those mentioned above.

Purpose

- 5 Estyn is committed to
 - promoting equality of opportunity
 - promoting an inclusive culture, fostering good relations across the workforce and with partners
 - respecting and valuing differences of everyone
 - treating people fairly
 - preventing and eliminating discrimination, victimisation, bullying and harassment throughout our activities and management of the organisation
 - fulfilling our legal obligations under the equality legislation and associated codes of practice
- 6 Our policy is governed by the Equality Act 2010, which makes it unlawful to discriminate directly or indirectly, in recruitment, employment or service delivery because of a protected characteristic. Further information on the Act and its provisions are detailed in Appendix 1. The basic principles of discrimination law, including definitions of the different types of discrimination, victimisation or harassment covered by the Act are detailed in Appendix 2.
- 7 Discrimination, victimisation and harassment are unlawful in the UK on the grounds of the protected characteristics of age, disability, gender reassignment, marriage or

civil partnership, pregnancy and maternity, race, religion or belief, sex (gender) and sexual orientation. Breaches of the legislation may result in legal action being taken against the individual concerned and Estyn.

- 8 In addition to any legal action that may be taken against individuals who discriminate, victimise, bully or harass, to further reflect the importance Estyn attaches to providing equality of opportunity, breaches of this policy could result in disciplinary action being taken against our permanent staff; secondment agreements being ended, agency staff being released or other contracts being terminated.

Scope of the policy

- 9 This policy covers conduct by all those engaged in business on our behalf, including, but not limited to:
- employees;
 - secondees
 - temporary workers
 - external inspectors engaged by Estyn
 - contractors
- 10 Organisations or people not directly employed by Estyn but who are engaged to carry out work on our behalf, such as secondees, agency staff, external inspectors and contractors are required to observe and act in accordance with this policy when undertaking work on our behalf. Employees who engage such organisations or people are responsible for ensuring that they are made aware of the policy and for monitoring their compliance.

Section Two: Implementation

- 11 All our employees and others who undertake work on our behalf share responsibility for ensuring that our equal opportunities policy is promoted and implemented fairly, consistently and effectively.

Employment

- 12 All employees have the right to work in an environment which promotes equal opportunity and prohibits discriminatory practices. We aim to promote a working environment that provides for open communication and constructive, informal discussion (and resolution) of work-related concerns between staff and managers. We do not tolerate any form of unfair treatment or discrimination, victimisation, bullying or harassment by or against our employees. All employees will be treated fairly and consistently.
- 13 We work to ensure that individuals and groups who are employees or potential employees are not disadvantaged by conditions or requirements that cannot be shown to be justified.
- 14 Estyn will consider any possible indirectly discriminatory effect of its standard working practices, including the number of hours worked, the time at which these are worked and the place at which work is to be done, when considering requests for variations to these standard working practices and will refuse requests only if Estyn considers it has good business reasons, unrelated to any protected characteristic. Estyn will also make reasonable adjustments to its standard working practices to overcome barriers caused by disability.

Recruitment and selection

- 15 Recruitment for all grades up to and including into the Senior Civil Service is governed by the Civil Service Commission's Recruitment Principles and regulated by the Civil Service Commission. Appointments must be made on merit on the basis of fair and open competition. Estyn recruitment decisions are based on person and job specifications and grade related criteria and competencies. Candidates for employment or promotion will be assessed objectively against requirements for the job, taking account of any reasonable adjustments that may be required for candidates with a disability. Disability and personal or home commitments will not form the basis of employment decisions.
- 16 The Civil Service Commission undertakes regular audits of the recruitment policies and practices of departments and agencies in order to ensure compliance with appointment on merit through fair and open competition and the Recruitment Principles.
- 17 We give careful consideration to membership of interview panels to take account of the principles of equal opportunities. The selection board will usually include at least one person from an external organisation.

- 18 Our recruitment and selection guidelines and procedures provide detailed information on how we ensure equality of opportunity throughout the recruitment and selection process.
- 19 Estyn has adopted the 'two ticks' symbol to demonstrate our commitment to supporting disabled staff. Applicants with disabilities who apply under this scheme, and who satisfy the essential criteria for the advertised post, will be offered a guaranteed interview. Reasonable adjustments may also be made at interview and / or assessment centres.

Training

- 20 Opportunities for appropriate training and development are made equally available to all our employees and secondees. All members of staff and secondees are encouraged to take advantage of suitable opportunities for training and development.
- 21 In order to ensure that this policy is implemented effectively, appropriate training in equal opportunities is provided for all employees and secondees to ensure they are fully informed of the implications of equal opportunities legislation. All staff are required to complete the Equality and Diversity e-learning on the Civil Service Learning website (<https://civilservicelearning.civilservice.gov.uk>)
- 22 A comprehensive induction programme is provided for all new staff and secondees, which includes an introduction to equal opportunities. Guidance and training is available to all employees and secondees to help them understand the policy's scope and purpose, and legislation relating to equal opportunities.
- 23 We provide training for those who undertake inspection activity with us or on our behalf, which includes equality.

Physical environment

- 24 Our physical environment (e.g. buildings and facilities) is regularly maintained and every reasonable step is taken to ensure that our offices are accessible and welcoming to all.
- 25 The needs of staff, secondees, and agency staff who use our ICT equipment during the course of their duties will be assessed through an Online Workstation Training Test and Assessment. Where appropriate, reasonable adjustments will be made after the assessment has been undertaken. Depending on the adjustments required, expert advice and/or a further assessment may be necessary. This further advice or assessment may be provided by reference to our occupational health advisors, a GP/Specialist, Access to Work, and/or others (as appropriate).
- 26 Workstation assessments will be undertaken:
- when a new member of staff starts work for Estyn;
 - when a substantial change is made to a workstation; or
 - if there are health or welfare reasons.

Inspection activities

- 27 Estyn is committed to the implementation of our equal opportunities policy by all our employees and those working on our behalf when undertaking inspections, and other activities, e.g. remit work.
- 28 When considering the introduction of the new inspection arrangements we are committed to improving our inspection services through effective consultation which engages our staff and those who use our services or who have an interest in our work.
- 29 Our inspection arrangements put an emphasis on listening to learners; which means we will focus on the experiences of the users of our services including parents, governors, teachers, managers and especially learners. We will continue to seek greater involvement from learners in our inspection activities.
- 30 In providing information about our services, we will make sure that any information and publicity materials are clear and understandable, and free from offensive language and images. Reasonable provisions will be made for materials to be made available in accessible formats, where appropriate, on request

Monitoring

- 31 We are committed to ensuring that this policy is implemented effectively. We will monitor progress and report as part of our Strategic Equality Plan annual reports. We will take all necessary steps to prevent or eliminate any unfair treatment, discrimination, victimisation, bullying or harassment that becomes apparent.
- 32 The Human Resources team will produce regular, accurate and accessible reports to enable effective monitoring and evaluation of this policy to take place. We collect, analyse and publish monitoring data in respect of recruitment, training and staff in post in respect of each protected characteristic, the results of which are published annually on our website: www.estyn.gov.uk.
- 33 Equality impact assessments will be monitored to ensure they continue to ask the right questions and undertaken on all our functions, policies and practices including recruitment and selection, terms and conditions of employment, training, and grievance and disciplinary procedures. Guidance on how to undertake an Equality Impact Assessment is available on our Equality and Diversity intranet page.

Communication and publication of this policy

- 34 We will ensure that this policy is brought to the attention of all employees, secondees, prospective employees, contractors and any other people who undertake work on our behalf.
- 35 This policy will be communicated to all staff and secondees through internal staff notices and be accessible to all on our Equality and Diversity intranet page. The Strategic Equality Plan provides more detail about the activities undertaken which enables Estyn to realise its diversity and equality commitments.

- 36 New employees and secondees will be advised of the policy and their responsibilities in respect of it on induction.
- 37 Our conditions of contract for goods and services include provisions for those who enter into a contract with Estyn to be aware of this policy and the need to adhere to its principles.

Accountability

- 38 Her Majesty's Chief Inspector of Education and Training in Wales has overall responsibility for Equal Opportunities within Estyn. Our Diversity and Equality Lead Officers will manage the implementation, monitoring and review of the policy throughout the organisation.
- 39 Our Strategic Equality Plan sets out our aims and plans for achieving these aims over a four year cycle to ensure Estyn continues to embed equality values in an everchanging environment. Reviews of our Strategic Equality Plan will be undertaken annually to ensure we are continuing to make progress against our planned activities and the results published on our website.

Section Three: Dealing with discrimination, victimisation, bullying and harassment

- 40 We will not tolerate breaches of our equal opportunities policy by any of our employees, or other persons undertaking work on our behalf. Complaints of discrimination, victimisation, bullying or harassment will be taken seriously, and dealt with promptly, fairly and thoroughly.
- 41 Behaviour that could be interpreted as discriminatory, which takes place at events outside of normal working hours where individuals can be identified as representing or associated with Estyn, e.g. training events, conferences, Christmas lunches, dinners etc., may be subject to investigation and, potentially, disciplinary action if it is considered to have a link with Estyn.
- 42 Any Estyn worker experiencing or concerned about discrimination, victimisation, bullying or harassment in the workplace is encouraged to bring the matter to the attention of their line manager in the first instance. If the issue cannot be raised with the line manager, it can be raised with another relevant manager, Human Resources or their Trade Union representative.
- 43 Estyn aims to promote an open and supporting environment for all staff. Individuals are encouraged to make clear to their colleagues if conduct or comments are offensive to them and to challenge any inappropriate behaviour. Estyn's Policy to combat bullying and harassment at work provides examples of behaviour that may be deemed inappropriate.
- 44 Any individual who witnesses an act of discrimination, victimisation, bullying or harassment against a fellow colleague or visitor should report this to their line manager or other relevant manager, Human Resources or their Trade Union representative. We understand that it may be difficult for someone who witnesses discrimination, victimisation, bullying or harassment to speak out against such actions. We will ensure that anyone who comes forward as a witness, and is acting in good faith, will be supported by their line manager and Estyn without fear of reprisal. Witnesses may be required to give evidence to an investigating officer, where appropriate.
- 45 Managers should be made aware of any problem developing at an early stage and take prompt corrective action to ensure that the situation is resolved in a conciliatory and effective manner. Managers should also be responsive to and manage the concerns of the person who is being complained about. Advice and guidance may be sought from our Diversity and Equality Lead Officer, or Human Resources at any time.
- 46 Estyn's Employee Assistance Programme (EAP) may be able to offer useful advice or support, which will always be given confidentially. The EAP can be accessed using the following number 0800 174 319 or via the website <http://www.welshframework-zest.co.uk/>. An approach to our EAP is, however, an informal step. To help resolve issues, staff are encouraged to approach their line manager or other relevant manager, Human Resources or their Trade Union representative in the first instance.

Employees

- 47 Any complaints or allegations of discrimination, victimisation, bullying or harassment made by or against our employees, will be treated seriously and investigated by reference to our Grievance Policy and Procedure. Where an allegation of discrimination, victimisation, bullying or harassment made against an Estyn employee is found to be substantiated, the issue may be treated as a disciplinary matter in accordance with our Discipline Policy and Procedure. Both policies are available on our intranet (HR > HR and Employment Matters > Policies and Procedures).

Secondees, temporary agency personnel, contractors and others who undertake work on our behalf

- 48 Estyn's grievance and discipline policies do not apply to secondees, temporary agency personnel, contractors and others who undertake work on our behalf. Nevertheless, allegations of discrimination, victimisation, bullying or harassment made by or against such persons will be taken seriously and investigated before decisions are made about whether any further action should be taken. Acting in this way will ensure a fair and consistent approach across the organisation in dealing with such allegations.
- 49 Where an allegation of discrimination, victimisation, bullying or harassment is made against a secondee, agency worker, contractor or other individual undertaking work on our behalf is found to be substantiated, the secondment agreement / contract will be terminated with immediate effect and, where appropriate, their employer will be notified of the reasons for the termination.

Unfounded allegations

- 50 Unfounded allegations of discrimination, victimisation, bullying or harassment can be distressing to the individual being complained about and as such are regarded as a serious matter. Should such an allegation be raised that is subsequently found to have been brought mischievously, inappropriately, as an attempt to misuse our procedures or to frustrate any other legitimate management process in Estyn, then appropriate action, including appropriate disciplinary action, may be taken under our Discipline Policy and Procedure.
- 51 Unfounded allegations of discrimination, victimisation, bullying or harassment made by a secondee or an agency worker may result in the secondment agreement / contract being terminated with immediate effect and the secondee's / agency worker's employer notified of the reasons for the termination.

Complaints

- 52 Any employee who feels that this policy has not been applied correctly has the right to have their case considered in accordance with our grievance procedure.

- 53 Complaints in respect of our recruitment and selection activities will be dealt with under our Complaints Procedure, details of which are published in all recruitment information packs.
- 54 Complaints from non-employees and external organisations, groups or individuals will be dealt with under our Complaints Procedure, details of which can be found on our website.
- 55 All complaints will be investigated fully and treated in confidence.

Appendix 1 – Equality Act 2010

The Equality Act brings together previous legislation such as the Race Relations Act and the Disability Discrimination Act. The purpose of the Equality Act is that everyone has the right to be treated fairly at work or when using services. It protects people from discrimination on the basis of certain characteristics, known as protected characteristics.

The protected characteristics are:

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

The Act creates a single approach to discrimination against people with different protected characteristics, where this is appropriate. However there are some important differences in the way that discrimination is defined, particularly for disability. There are also some circumstances that would amount to discrimination against people with some protected characteristics, but not with other characteristics. Further details are provided in Appendix 2.

Under the Act, it is unlawful to discriminate directly or indirectly because of any of the protected characteristics set out above. The Act also covers victimisation and harassment and introduces two new forms of discrimination: combined discrimination and discrimination arising from disability.

The Equality Act extends liability for third-party harassment to all protected characteristics (with the exception of pregnancy/maternity and marriage/civil partnerships), and prohibits three types of harassment:

1. harassment related to some, but not all, of the protected characteristics (excludes pregnancy/maternity and marriage/civil partnership)
2. sexual harassment
3. less favourable treatment of an employee where he or she submits to or rejects sexual harassment, or harassment related to gender or gender reassignment

Appendix 2 – Basic principles of discrimination law

There is consistency of approach in each of the protected characteristics of discrimination.

Discrimination legislation in the UK prohibits direct discrimination, indirect discrimination, combined discrimination, discrimination arising from disability, victimisation, and harassment.

Who is protected?

Discrimination legislation covers employees, prospective employees, former employees; secondees, some self-employed workers, and agency, temporary and contract workers.

Who is liable for discrimination?

Both Estyn and the individual may be held liable for acts of discrimination, victimisation, or harassment.

Liability for discrimination or harassment depends on several questions:

- Who was the employer?
- Who was the employee?
- Was the discrimination or harassment committed in the course of employment?
- Had the employer taken reasonable steps to prevent it?

The answers to these questions are not always immediately obvious. For example, the definition of 'employer' is wider in discrimination cases than it is in cases of unfair dismissal, and 'in the course of employment' might include circumstances such as Christmas parties, where someone is off duty but still in a work-related situation.

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, or because they associate with someone who has a protected characteristic.

Direct discrimination also includes less favourable treatment of a person based on a stereotype relating to a protected characteristic, whether or not the stereotype is accurate. Such treatment involves a conscious motive or decision to discriminate.

Discrimination by association

Associative discrimination is direct discrimination against someone because they associate with another person who possesses a protected characteristic.

Perception discrimination

Perception discrimination is direct discrimination against an individual others think they possess a particular protected characteristic. It applies even if the person does not actually possess that characteristic.

Occupational requirement (previously known as genuine occupational requirement) In limited circumstances, employers can directly discriminate against an individual for a reason related to any of the protected characteristics where there is an occupational requirement. The occupational requirement must be crucial to the post and be a proportionate means of achieving a legitimate aim. Decisions are made on a case by case basis.

Indirect discrimination

Indirect discrimination can occur when a condition, rule, policy or practice that applies to everyone but particularly disadvantages people who share a protected characteristic.

Combined discrimination

Combined discrimination refers to people who have been directly discriminated against because of a combination of two relevant protected characteristics (excluding pregnancy/maternity, and marriage/civil partnerships).

Discrimination arising from disability

Discrimination arising from disability refers to people who are treated less favourably than other people for a reason relating to their disability unless such treatment could be justified as a “proportionate means of achieving a legitimate aim”, or the accused could not reasonably have been expected to know of the disability. This type of discrimination is only applicable to disabled people.

Victimisation

Victimisation occurs when a person 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.

Bullying and harassment

Bullying and harassment means any unwanted behaviour or conduct related to a relevant protected characteristic, or any personal characteristic of the individual, which has the purpose (intentionally) or effect (unintentionally) of violating an individual’s dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. It may be persistent, a repeated action or an isolated incident or remark. Unwanted conduct can include any kind of behaviour, including spoken or written words or abuse (by phone or email not just face-to-face actions), imagery, graffiti, physical gestures, facial expressions, mimicry, jokes,

pranks, acts affecting a person's surroundings or other physical behaviour. It is not necessarily always obvious or apparent to others, so it can happen in the workplace without an employer's awareness.

Bullying or harassment can be between two individuals or it may involve groups of people. It might be obvious or it might be more subtle. It involves someone behaving towards another in a way that is likely to embarrass, humiliate, intimidate, or anger.

The question of whether or not behaviour constitutes bullying or harassment depends largely on the perception of the person on the receiving end. Behaviour that is acceptable to one person might cause offence or distress to another. It is not necessary for the particular behaviour to be targeted at the individual who finds it offensive.

Current discrimination legislation and the Protection from Harassment Act 1997 provide protection from harassment for employees 'in the course of their employment' and from harassment by third parties. Third-party harassment is where an employee is harassed and the harassment is related to a protected characteristic, by people (third-parties) who are not employees of Estyn, for example external trainers, additional inspectors or visitors to Estyn. The phrase 'in the course of employment' includes any discriminatory behaviour or harassment that takes place in the workplace or while performing, or in connection with, the employee's job responsibilities. It has also been interpreted more widely to include work-related social events, for example a Christmas party or an organised trip to the pub after work in honour of someone who is leaving the organisation. It does not matter whether the event is employer-sponsored as long as it is work-related. The term 'third party' means anyone other than the employer or one of its employees' (for example, contractors, visitors and suppliers).

In cases of alleged bullying or harassment, account must be taken of whether a reasonable person would consider the conduct in question to be bullying or harassment but also that the individual's own perception of the conduct should be taken into account. There will be a subjective as well as an objective element to the test of whether bullying or harassment has taken place.

Further details and examples will be set out in Estyn's 'Policy to counter bullying and harassment'.