

# Equity, Equality, Diversity and Inclusion Policy & Objectives



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## Policy Review Schedule

<b>Policy</b>	OLT Equity, Equality, Diversity and Inclusion Policy & Objectives
<b>Review schedule</b>	Annual (unless changes in guidance and legislation require an immediate update)
<b>Statutory Policy</b>	Yes
<b>Policy owner</b>	CEO
<b>Lead Reviewer</b>	CEO (Diverse Matters every 3 <sup>rd</sup> review/change in legislation)
<b>Approver and date of last approval</b>	OLT Board, May 2025
<b>Key review dates</b>	<b>Changes made</b>
February 2019	Written
November 2020	Strictly noted: Your policy is well written. I included some bits which you may have to cover the area broadly. They are suggestions only. It would be your discretion to keep/remove them
June 2021	Changed wording of governors to directors, and governing body to Trust Board
November 2022	Reference to DfE requirements added. Approved by OLT Board 29.11.22
May 2023	Reviewed and approved by the OLT Board after review by external firm Diverse Matters
March 2024	Appendices added with updated definitions etc. (updated from Juniper model policy) – Juniper Education are the Trust’s external HR providers (previously Strictly Education)
October 2024	Updated to include new legal duties effective from 26 <sup>th</sup> October 2024 as part of the Worker Protection (Amendment of Equality Act 2010) Act 2023
May 2025	No further updates recommended from Juniper HR
Date of next review: May 2026	

### 1. Aims

- a. The Omnia Learning Trust aims to meet its obligations under the public sector equality duty by having due regard to the need to:
  - i. Eliminate all forms of discrimination; specifically discrimination and any other conduct that is prohibited by the Equality Act 2010.
  - ii. Advancing equitable opportunities for all our people to thrive regardless of their characteristics. The Trust’s Disability and Reasonable Adjustments Policy acknowledges that people require different levels of support and assistance depending on their specific needs or abilities.
  - iii. Create a positive and inclusive culture that fosters good relations between all our people where they feel respected and included.

- iv. This commitment to equity and inclusion is embedded in the Trust's Strategic Development Plan which forms part of the Trust's Governance Handbook.
- b. It is the policy of all Omnia Learning Trust Academies and Head Office to create a workplace free from all forms of discrimination. Specifically, it is our policy to ensure that all employees and workers associated with our organisation:
  - i. **Are** treated fairly regardless of their, or a person with whom they are associated, age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
  - ii. **Experience** a working environment that is welcoming, inclusive, supportive and constructive.
- c. As an employer we will **not tolerate**:
  - i. Behaviours that create, or seek to create, an intimidating, hostile, offensive or disturbing environment; this includes zero tolerance of all and any unwanted verbal or physical abuse and/or advances and/or behaviour, which an employee finds offensive and which causes them to feel threatened, humiliated, patronised, distressed or harassed.
  - ii. Behaviours by individuals who consciously or unconsciously misuse their power or position to intimidate, humiliate or undermine others. We recognise that these behaviours can make people feel humiliated and undermine their confidence such that they become fearful, losing confidence and belief in themselves.
- d. We are committed to embedding our commitment to equity, diversity and inclusion throughout the employment life cycle. We understand the implicit business case to take action to remove all forms of discrimination and are morally committed to making this a reality. The Trust provides unconscious bias training to line managers and equality and diversity training to all staff as part of this commitment.
- e. Discrimination is wasteful of talent and harmful to both individuals and the organisation. It has the effect of reducing employment prospects and preventing full consideration of abilities, potential and experience. We will adopt equitable and inclusive working practices within:
  - i. Recruitment and selection practices.
  - ii. Promotion decisions.
  - iii. Access to Learning and Development.
  - iv. Selection for redundancy.
  - v. Grievance case management (however if discrimination is observed or there is a prima facie case, then an investigation will be launched by a member of the Senior Leadership Team).
  - vi. Decision making within formal procedures including but not limited to conduct, performance, attendance and absence.
- f. The specific legislation to which this policy relates is the Equality Act (2010). Harassment under the Equality Act must relate to relevant protected characteristics, whilst other forms of harassment can be dealt with under the OLT Disciplinary Policy if it relates to conduct and not discrimination.
- g. Failure to comply with this policy will be taken seriously and may result in disciplinary action. This policy forms part of the contract of employment

- h. Definitions of terminology can be found in Appendix A. Further information about protected characteristics can be found in Appendix C.

## 2. Legislation and guidance

This document meets the requirements under the following legislation:

- [The Equality Act 2010](#), which introduced the public sector equality duty and protects people from discrimination.
- [The Equality Act 2010 \(Specific Duties\) Regulations 2011](#), which require schools to publish relevant information to demonstrate how they are complying with the public sector equality duty and to set themselves and publish measurable equality objectives.
- This document is also based on Department for Education (DfE) guidance: [The Equality Act 2010 and schools](#).

## 3. Roles and responsibilities

The Trust Board will:

- Ensure that the equality information and objectives as set out in this statement are published and communicated throughout the school, including to staff, pupils and parents, and that they are reviewed and updated at least once every four years.
- Delegate responsibility for monitoring the achievement of the objectives on a daily basis to the Principal.

The Principals will:

- Ensure compliance with this policy, role modelling the required behaviours, standards and expectations.
- Promote knowledge and understanding of the equality objectives amongst staff and pupils.
- Monitor success in achieving the objectives and report back to Directors.

All school staff are expected to have regard to this document and to work to achieve the objectives as set out in section 8.

## 4. Employee and workers

All employees and workers:

- i. **Will not** treat people unfairly on the grounds of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- ii. **Will** adopt personal standards of behaviour and attitudes that demonstrate their commitment to treating all colleagues and co-workers with dignity and respect.
- iii. **Will** adopt personal standards of behaviour and attitudes that foster a culture of inclusion and respect within the workplace towards all colleagues.
- iv. **Will** attend learning and development interventions relating to equity, equality, diversity and equal opportunities where directed.
- v. **Will** speak with their line manager, or another member of the Senior Leadership Team if they observe behaviours inconsistent with this policy.

- vi. **Appendix A:** Equality and Discrimination: understand the basics (<http://www.acas.org.uk/media/pdf/d/8/Equality-and-discrimination-understand-the-basics.pdf>) or the most up to date guidance available on [www.acas.org.uk](http://www.acas.org.uk).

## 5. Line Managers

- a. Line managers have a specific responsibility to:
- Monitor the working environment for any signs of inappropriate conduct or harassment.
  - Take immediate action to address any behaviors that could escalate to harassment.
  - Report incidents or observations to the HR department within 24 hours of noticing them.
  - Ensure that their teams are regularly reminded of the zero-tolerance policy on harassment.
- b. In addition, Line managers will ensure that they maintain sound and up to date understanding of anti-discrimination current legislation and its application to the workplace through their programme of continuous professional development, attending learning and development interventions where directed. Line managers, including members of the Senior Leadership Team, are reasonably expected to take personal responsibility for accessing credible online, free at the point of use, materials such as those provided by ACAS on an annual basis and recording such CPD in their annual appraisal.
- c. Line managers have a duty under this policy to act on behaviours observed by them, or reported to them, inconsistent with this policy which may include ensuring the relevant policy (grievance, bullying and harassment and or disciplinary) is followed in dealing with allegations of discrimination and or other behaviour inconsistent with the spirit of this policy.
- d. Line managers, including members of the Senior Leadership Team, are required to read Appendices A to E which are good practice documents available from the ACAS website.
1. **Appendix A:** Equality and Discrimination: understand the basics (<http://www.acas.org.uk/media/pdf/d/8/Equality-and-discrimination-understand-the-basics.pdf>) or the most up to date guidance available on [www.acas.org.uk](http://www.acas.org.uk).
  2. **Appendix B:** Prevent discrimination: support equality (<http://www.acas.org.uk/media/pdf/2/e/Prevent-discrimination-support-equality.pdf>) or the most up to date guidance available on [www.acas.org.uk](http://www.acas.org.uk).
  3. **Appendix C:** Discrimination: what to do if it happens (<http://www.acas.org.uk/media/pdf/o/l/Discrimination-what-to-do-if-it-happens.pdf>) or the most up to date guidance available on [www.acas.org.uk](http://www.acas.org.uk).
  4. **Appendix D:** Social media, discipline and grievances (<http://www.acas.org.uk/index.aspx?articleid=3378>) or the most up to date guidance available on [www.acas.org.uk](http://www.acas.org.uk).
  5. **Appendix E:** Social Media and Bullying (<http://www.acas.org.uk/index.aspx?articleid=3379>) or the most up to date guidance available on [www.acas.org.uk](http://www.acas.org.uk).

## 6. Senior Leadership Team

Members of the Senior Leadership Team, under the direction of the Principals, are responsible for creating, maintaining, monitoring and evaluating progress against, a continuous improvement plan to ensure the school reviews and improves its practice in all aspects of the employment life cycle for the purposes of:

- i. Eliminating and preventing direct and indirect discriminatory practices on any grounds. .
- ii. Developing a culture of welcome, support, inclusion, respect and constructive feedback.
- iii. The Senior Leadership Team will take seriously and ensure the timely investigation of concerns raised where an individual feels that they have been subject to discrimination or experienced behaviours inconsistent with the spirit of this policy.

## **7. Trust Board**

The Trust Board has ultimate responsibility for developing and maintaining this policy document, monitoring and reporting as required, compliance with this policy, and ensuring the implementation, by the Senior Leadership Team of all academies of this policy and associated improvement plans, by ensuring sufficient resources are made available to the Senior Leadership Team for purposes of ensuring employees and workers are aware of, and fulfil, their responsibilities under this policy.

## **8. Duty to Prevent Sexual Harassment**

The Trust has a legal duty to take proactive measures to prevent sexual harassment within the workplace. This duty includes:

- Conducting regular sexual harassment prevention training for all staff and managers.
- Reviewing and reinforcing the zero-tolerance stance on harassment through regular communications.
- Performing harassment risk assessments annually to identify areas of potential vulnerability.
- Ensuring that reporting mechanisms are accessible, well-publicized, and provide options for anonymity.
- Supporting employees who raise concerns, including ensuring a safe environment free from retaliation.

## **9. Eliminating discrimination**

The school is aware of its obligations under the Equality Act 2010 and complies with non-discrimination provisions.

Where relevant, our policies include reference to the importance of avoiding discrimination and other prohibited conduct.

Staff and Directors are regularly reminded of their responsibilities under the Equality Act, for example during meetings. Where this has been discussed during a meeting it is recorded in the meeting minutes.

New staff receive training on the Equality Act as part of their induction, and all staff receive refresher training every year.

## **10. Third party harassment**

The Trust is committed to protecting staff from harassment by third parties, including contractors, clients, or visitors. Any incidents involving third-party harassment must be reported

following the same procedures outlined in this policy. The Trust will take appropriate steps, including contacting the third-party employer or implementing additional safety measures for employees.

## **11. Staff training**

**Annual Training Requirement:** All employees must complete annual sexual harassment prevention training to reinforce the Trust's zero-tolerance policy.

**Enhanced Manager Training:** Managers and senior leaders must complete advanced training modules focusing on:

- Handling harassment complaints.
- Providing support and resources to affected employees.
- Monitoring the work environment and maintaining a harassment-free workplace.

### **Protection Against Retaliation**

- Retaliation against employees who report sexual harassment or participate in related investigations is strictly prohibited. Any act of retaliation, including negative changes to employment status, threats, or hostile behaviour, will be subject to immediate disciplinary action, up to and including dismissal.

## **12. Advancing equality of opportunity**

As set out in the DfE guidance on the Equality Act, the school aims to advance equality of opportunity by:

- Removing or minimising disadvantages suffered by people which are connected to a particular protected characteristic they have (e.g. pupils with disabilities, or pupils who are being subjected to homophobic bullying due to their gender or sexual orientation).
- Taking steps to meet the particular needs of people who have a particular protected characteristic (e.g. enabling pupils to pray at prescribed times).
- Encouraging people who have a particular protected characteristic to participate fully in any activities (e.g. encouraging all pupils to be involved in the full range of school societies).

## **13. Fostering good relations**

The schools aim to foster good relations between all colleagues and stakeholders regardless of their backgrounds and characteristics by:

- a. Promoting tolerance, friendship, belonging and understanding of a range of religions and cultures through different aspects of our curriculum. This includes teaching in RE, citizenship and personal, social, health and economic (PSHE) education, but also activities in other curriculum areas. For example, as part of teaching and learning in English/reading, pupils will be introduced to literature from a range of cultures.
- b. Holding assemblies dealing with relevant issues. Pupils will be encouraged to take a lead in such assemblies and we will also invite external speakers to contribute.

- c. Working with our local community. This includes inviting leaders of local faith groups to speak at assemblies, and organising school trips and activities based around the local community.
- d. We have developed links with people and groups who have specialist knowledge about particular characteristics, which helps inform and develop our approach.

#### **14. Equality considerations in decision-making**

Each Academy ensures it has due regard to equality considerations whenever significant decisions are made.

Each Academy always considers the impact of significant decisions on particular groups. For example, when a school trip or activity is being planned, the school considers whether the trip:

- Cuts across any religious holidays.
- Is accessible to pupils with disabilities.
- Has equivalent facilities for boys and girls.

Each Academy keeps a written record (known as an Equality Impact Assessment) to show we have actively considered our equality duties and asked ourselves relevant questions. This is recorded at the same time as the risk assessment when planning school trips and activities. The record is completed by the member of staff organising the activity and is stored electronically with the completed risk assessment.

#### **15. Equality objectives**

- a. To ensure that all staff and directors are aware of current legislation relating to equality and diversity and that all governors and staff understand the Trust's responsibility in this area.
- b. To monitor and analyse pupil achievement by race, gender and special educational needs or disability and act on any trends or patterns in the data that require additional support for pupils.
- c. To promote cultural understanding and awareness and tolerance of different religious beliefs between different ethnic groups within our academy communities.
- d. To raise levels of parental and pupil engagement in learning and academy life, across all activities, including regular attendance to ensure equity and fairness in access and engagement. We will aim to raise aspirations among children and parents and raise awareness of career options for all children, challenging gender stereotypes.
- e. To promote mental health awareness and develop appropriate interventions where necessary.
- f. Close gaps in progress between all groups of pupils, especially students eligible for the pupil's premium and others. Ensure rates of progress for other groups such as pupils with special educational needs and disabilities, looked after children and pupils from minority ethnic groups are at least good.
- g. Monitor the incidence of the use of homophobic, sexist and racist language by pupils in our academies.

- h. To support each academy to annually review, revise and develop the curriculum so that it represents a diverse culture and society and encourages tolerance and respect.

## **16. Raising concerns**

- a. If you feel that you have been treated unfairly on the grounds of your age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation, please work with the Academy to resolve the situation at the very earliest opportunity.
- b. There are many different ways that complaints and concerns about discrimination can be brought to the attention of the relevant Academy. These include:
  - i. An employee raising the matter quietly with the person who has made them feel uncomfortable if they feel able to do so.
  - ii. An employee raising the matter quietly with their line manager or any member of the senior leadership team.
  - iii. An employee raising the matter through another contact - for example, their Union representative or a work colleague.
  - iv. An employee raising an issue through the Trust's Staff Grievance Policy and Procedure.
  - v. A member of staff observing behaviour of an employee or worker that concerns them and telling a member of the Senior Leadership Team.
  - vi. A line manager or member of the Senior Leadership Team observing behaviour of an employee, worker or peer that concerns them taking the appropriate action (e.g. talking with the employee concerned or ensuring the correct procedure is followed).
- c. There are ways of dealing with complaints in some circumstances which do not involve moving straight into a formal approach, such as the informal stages of the grievance procedure. These include informal discussions and mediation.
- d. If complaints cannot be satisfactorily dealt with in these less formal ways, it would usually be appropriate to move into the grievance policy or another relevant procedure such as the Staff Grievance Policy.

## **17. Anonymous Reporting**

The Trust recognises that some employees may wish to report incidents of sexual harassment anonymously. To support this, a confidential reporting mechanism is available via CPOMS StaffSafe. All reports will be treated with the same seriousness and confidentiality as identified reports.

Employees may submit anonymous complaints without fear of exposure or negative consequences. This mechanism is intended to encourage reporting while maintaining employee safety and privacy.

## **18. Investigation Timelines**

Once a sexual harassment complaint is received, the following timeline applies:

- Acknowledgement: The Trust will acknowledge receipt of the complaint within 5 business days.
- Initiation: An investigation will commence within 10 business days of receiving the complaint.
- Resolution/Update: The Trust will aim to provide an update or resolution to the complainant within 30 business days.

## **19. Monitoring of equality and diversity data**

- a. Equality and diversity information will be captured, analysed and monitored to help us devise positive action plans to address under representation in our workforce, schools and providers.
- b. Our workforce, service users and all stakeholders are encouraged to voluntarily disclose equality and diversity information.
- c. Equality and diversity information is confidentially recorded and anonymized when centrally analysed for monitoring purposes.
- d. We will maintain records of the details, number and outcome of complaints of discrimination made by our workforce, service users and other third parties.
- e. We will maintain records of any disciplinary action (if any) taken against members of our workforce because of failure to comply with this policy

## **20. Harassment Risk Assessment**

An annual harassment risk assessment will be conducted to identify potential areas of concern within the Trust's premises. This assessment will include:

- Reviewing anonymous survey data.
- Consulting with staff representatives.
- Identifying any high-risk areas or practices that may contribute to harassment.

## **21. Monitoring and Reporting**

The Trust will review and monitor all incidents of sexual harassment on an annual basis. This will include:

- Maintaining a confidential record of complaints and outcomes.
- Analysing the data for patterns or trends.
- Reporting to the Trust Board on the number and nature of incidents, actions taken, and recommendations for further improvements.

This data will inform the ongoing training and policy review to ensure a safe and supportive workplace environment.

## **22. Links with other policies**

This document links to the following policies:

- Three Year Accessibility plan

- *Grievance Policy*: Outlines the procedure for filing and addressing sexual harassment complaints.
- *Disciplinary Policy*: Details the consequences for staff members found to have engaged in sexual harassment or retaliatory conduct.

## APPENDIX A – DEFINITIONS

### 1. Direct Discrimination

#### 1.1 Direct discrimination occurs when someone is treated less favourably than another person because of a protected characteristic.

Direct discrimination could involve a decision not to employ someone, to dismiss them, withhold promotion or training, offer poorer terms and conditions or deny contractual benefits because of a protected characteristic. Direct discrimination protections are extended to include statements expressing an unwillingness to recruit individuals with certain protected characteristics, applicable even in the absence of an active recruitment process and without the presence of an identifiable victim.

Example: Not employing a woman because she is pregnant.

#### 1.2 Discrimination by Perception

Discrimination by Perception is where an individual is directly discriminated against or harassed based on a perception that he/she has a particular protected characteristic when he/she does not, in fact, have that protected characteristic. Discrimination by perception does not apply, in law to marriage and civil partnership or pregnancy and maternity.

Example: A heterosexual employee is taunted about his sexuality by colleagues who perceive him to be gay.

#### 1.3 Discrimination by Association

Discrimination by Association is discrimination against a person because they have an association with someone with a particular protected characteristic. Discrimination by Association applies to race, religion or belief, sexual orientation, age, disability, gender reassignment and sex.

Example: Not offering a job to the parent of a disabled child because the employer thinks they will need more time off due to the child's disability and there is no evidence to support this.

### 2. Indirect discrimination

2.1 Indirect discrimination is where a provision, criteria, policy or practice in the school is applied to everyone but particularly disadvantages people who share a protected characteristic compared with people who do not. Indirect discrimination can be justified if the school can show it acted reasonably, for example that it is a 'proportionate means of achieving a legitimate aim'.

2.2 Indirect discrimination applies to age, race, religion or belief, sex, sexual orientation, marriage and civil partnership, disability discrimination and gender reassignment. Pregnancy and maternity are covered by indirect sex discrimination.

Example: Having a policy not to employ anyone with facial hair in a kitchen for health and safety reasons. This policy may indirectly discriminate against certain religious groups.

#### 2.3 Indirect discrimination by Association

Indirect discrimination by association occurs when a person is treated unfairly not because of their own characteristic, but because they are linked or associated with someone who has a protected characteristic.

Example: An employer introduces a new policy requiring all employees to work on Saturdays. This policy could indirectly discriminate against a Jewish employee who observes the Sabbath and cannot work on Saturdays. If an employee is disadvantaged

because they have to care for a family member who observes the Sabbath, this could be considered indirect discrimination by association.

### 3. Positive Action

Positive action describes measures targeted at a particular group that are intended to redress past discrimination or to offset the disadvantages arising from existing attitudes, behaviours and structures. The school may use lawful measures which can include:

- Encouraging applications from people of particular racial groups or gender, who have been under-represented in certain occupations or grades during the previous 12 months.
- Providing facilities to meet any specific educational, training, or welfare needs identified for a specific racial group.
- Measures to provide training and special encouragement for returnees to the school after a period of time discharging domestic or family responsibilities.

Positive action is different from positive discrimination which is illegal. Positive discrimination generally means choosing (or not choosing) someone solely on the grounds of a protected characteristic (e.g. gender or racial group) and not on their abilities.

### 4. Genuine Occupational Requirements

Employers can exercise the powers available under the Act to appoint a person from a particular group, where there is a genuine occupational requirement.

An example of a genuine occupational requirement may be appointing a female to work in a role providing intimate care for an older female student.

### 5. Harassment

Harassment can be defined as “improper, offensive and humiliating behaviour, practices or conduct, which may threaten a person’s job security, create an intimidating, unwelcoming and stressful workplace, or cause personal offence or injury.” (ACAS)

This includes sexual harassment and other unwanted conduct related to a Protected Characteristic, which has the purpose or effect of violating someone's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

Harassment can often be identified by a series of what seem to be trivial incidents. It is the impression of the harassed person, not the intentions or motivations of the harasser, which are important.

Harassment applies to all protected characteristics except for pregnancy and maternity and marriage and civil partnership. Employees can 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 (see 1.2 above) and association (see 1.3 above).

### 6. Victimisation

Victimisation is where an employee is subjected to a detriment, such as being denied a training opportunity or a promotion because he/she is suspected of, or has:

- made, or supported, a complaint of discrimination;
- raised a grievance;
- brought proceedings under the Act; or
- done any other thing for the purposes of, or in connection with, the Act.

An employee is not protected from victimisation if they have maliciously made or supported an untrue complaint.

**7. Unconscious Bias**

Unconscious bias occurs when people favour others who look like them and/ or share their values and we should be aware that everyone has an unconscious bias.

Where unconscious bias is against a protected characteristic, it can be unlawfully discriminatory. The school therefore aims to challenge stereotyping and prejudice openly and to mitigate this through:

- being aware of unconscious bias;
- not rushing to make decisions and considering issues fully;
- justifying decisions based on evidence and recording the reasons for decisions, e.g. recruitment, promotion and disciplinary outcomes;
- encouraging staff to work with diverse groups of people and getting to know them as individuals, such as working within different teams, premises, etc. wherever possible;
- focusing on positive behaviour of people and not the negative stereotypes; and
- implementing Policies and Procedures which limit the influence of individual characteristics and preferences.

**8. Sexual Harassment**

Sexual harassment is defined as any unwelcome conduct of a sexual nature, including but not limited to:

- Unwelcome sexual advances or propositions
- Inappropriate comments about someone's body or appearance
- Sexually suggestive jokes or innuendoes
- Displaying or sharing inappropriate sexual images or content
- Physical contact, such as touching, groping or patting
- Comments or actions that create an intimidating, hostile, degrading or offensive environment.

This conduct is considered sexual harassment if it has the purpose or effect of violating a person's dignity or creating a distressing environment.

## APPENDIX B – EQUALITY AND PAY

### 1.1 Equal Pay

The Act provides that men and women should receive equal pay for equal work. 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, the Act allows a claim of direct pay discrimination to be made, even if no actual comparator can be found. This means that a claimant who can show evidence that they would have received better remuneration from the school if they were of a different sex may have a claim, even if there is no-one of the opposite sex doing equal work with the school.

This would be a claim under sex discrimination.

In terms of the “same employment”, the concept of the “single source” of terms and conditions is significant. This test is used to the comparator (the person being compared for the purposes of the claim) and can potentially include a comparator who works for a different organisation so long as the body responsible for setting terms is the same, so may include maintained schools which operate under national terms and conditions.

### 1.2 Pay Secrecy

The school will not prevent or restrict its employees from having discussions to establish if they believe pay differences exist that are related to a protected characteristic. The school may, in particular, require its employees to keep pay rates confidential outside the workplace e.g. a competitor organisation.

### 1.3 Gender pay gap reporting

The gender pay gap reporting duty for public-sector employers in England is set out in the Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017 which came into force on 31 March 2017.

The Regulations include a requirement for public sector employers with 250 or more employees to publish:

- the difference in mean and median pay between male and female employees;
- the difference in mean and median bonus pay between male and female employees and the proportions of male and female employees who were paid bonus pay; and
- the proportions of male and female employees in each quartile of their pay distribution.

At their discretion, employers can also publish a supporting narrative and action plan to explain their gender pay gap. The snapshot date for gathering data each year is 31 March. Employers are required to publish their gender pay gap report within the period of 12 months (beginning with the snapshot date) on the GOV.UK website. Employers should also publish this information on their own website in an easily accessible format and in a prominent place. Once published the information must remain there for at least three years.

The Equality and Human Rights Commission is responsible for enforcing public sector equality duties including failure to comply with gender pay gap reporting duties.

## APPENDIX C – THE PROTECTED CHARACTERISTICS AS DEFINED BY THE EQUALITY ACT

### Age

The Act protects people of all ages from unlawful discrimination.

#### Direct discrimination

Treating someone less favourably because of their actual or perceived age, or because of the age of someone with whom they associate. For example, advertising for job applicants under 25 years old only. This treatment can only be justified if it is a proportionate means of achieving a legitimate aim.

#### Indirect discrimination

This can occur where there is a provision, criteria or practice which applies to all employees, but particularly disadvantages people of a particular age. For example, a requirement for job applicants for a teaching post to have 5 years teaching experience may disadvantage younger people. Indirect discrimination can only be justified if it is a proportionate means of achieving a legitimate aim, e.g. if the school can demonstrate this level of experience is necessary to achieve the desired knowledge and skills.

### Disability

Under the Act, a person is disabled if they have a physical or mental impairment which has a *substantial* and *long-term* adverse effect on their ability to carry out normal day-to-day activities. These include things like using a telephone, reading a book or using public transport. Long term means that the impairment has lasted or is likely to last for at least 12 months or for the rest of the affected person's life. Substantial means more than minor or trivial. In most circumstances, a person will have the protected characteristic of disability if they have had a disability in the past, even if they no longer have the disability. Individuals who are HIV positive, have cancer or MS are automatically protected.

Employers must make reasonable adjustments in the recruitment and employment of disabled people. This can include, for example, adjustments to recruitment and selection procedures, to terms and conditions of employment, to working arrangements and physical changes to the premises or equipment. In assessing the reasonableness of the adjustment, the employer should consider:

- proportionality and impact of the adjustment on the role;
- the costs/financial support available;
- medical opinion from the employee's doctor and the occupational health advisor; and
- impact on the operational requirements of the school.

If you are disabled or become disabled, we encourage you to tell us about your condition so that we can consider what reasonable adjustments or support may be appropriate.

#### Direct discrimination

For example not offering a job because someone is a wheelchair user.

#### Indirect discrimination

This is where a provision, criterion or practice is applied that is discriminatory in relation to individuals who have a particular disability such that it would be to the detriment of people who share that particular disability compared with people who do not, and it cannot be shown to be a proportionate means of achieving a legitimate aim.

Discrimination arising from disability - occurs where an individual has been treated unfavourably because of something arising in consequence of a disability. There is no need for a comparator, and the reason for the unfavourable treatment is irrelevant. For example, not considering a teacher for promotion as they have been diagnosed with depression without considering whether the condition would actually impact on their ability to do the job and if it would, whether reasonable adjustments could be made to negate that impact.

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.

There is an obligation on employers to make reasonable adjustments where a physical feature or a provision, criterion or practice puts a disabled person at a substantial disadvantage compared with someone who does not have the protected characteristic or disability. The duty to make reasonable adjustments aims to make sure that a disabled worker has the same access to everything that is involved in doing and keeping a job as a non-disabled person.

All the relevant individual circumstances must be considered when deciding what adjustments to make and the individual must be involved in discussions to ensure they are as effective as possible.

### **Gender reassignment**

Gender reassignment is a protected characteristic under the Act. This applies to people who are proposing to undergo, are undergoing, or have undergone a process (or part of a process) to reassign their gender by changing physiological or other attributes of sex. Gender reassignment is a personal process, that is moving away from one's birth sex to the preferred gender, rather than a medical process. The law does not require a person to undergo a medical procedure to be recognised under the protected characteristic of gender reassignment.

Protection is provided where an individual identifies with another or no gender for at least two years.

In order to be protected under the Act, there is no requirement for an employee to inform their employer of their gender reassignment status or their sex recorded at birth. However, if an employee is proposing to undergo gender reassignment or is still in the process of transitioning, they may want to discuss their needs with their employer so the employer can support them during the process. Once a person has an acquired gender there is no requirement to inform an employer of their sex at birth.

### **Direct discrimination**

This is treating someone less favourably than other employees because of their gender reassignment, whether actual or perceived, or because they associate with someone who intends to undergo, is undergoing or has undergone gender reassignment.

### **Indirect discrimination**

An example would be where an employer starts an induction session for new staff with an icebreaker designed to introduce everyone in the room to the others. Each employee is required to provide a picture of themselves as a toddler. One employee is a trans woman who does not wish her colleagues to know that she was brought up as a boy. When she does not bring in her photo, the employer criticises her in front of the group for not joining in. It would be no defence that it did not occur to the employer that this employee may feel disadvantaged by the requirement to disclose such information. Indirect discrimination can only be justified if it is a proportionate means of achieving a legitimate aim.

### **Marriage and civil partnership**

The Act protects employees from discrimination on the grounds of being married or in a civil partnership.

Marriage covers any formal union of a man and woman which is legally recognised in the UK as a marriage. It also covers same sex couples who opt for a marriage. A civil partnership refers to a registered civil partnership under the Civil Partnership Act 2004, including those registered outside the UK.

Only people who are married or in a civil partnership are protected against discrimination on this ground. The status of being unmarried or single is not protected. People who only intend to marry or form a civil partnership, or who have divorced or had their civil partnership dissolved, are not protected on this ground.

### **Direct Discrimination**

This is where someone is treated less favourably than other employees on the grounds of them being married or in a civil partnership, actual or perceived, or because they are associated with a person who is married or in a civil partnership. An example of this could be where an applicant for a job is treated less favourably because it is considered that they will not be as committed to the job as a single person because they have marital or partnership commitments

### **Indirect Discrimination**

This occurs if an employer has a policy or way of working that puts people who are married or in a civil partnership at a disadvantage.

### **Pregnancy and maternity**

A woman is protected against discrimination on the grounds of pregnancy and maternity during the period of her pregnancy and any maternity leave to which she is entitled. During this protected period, pregnancy and maternity discrimination cannot be treated as sex discrimination.

Direct discrimination covers the unfavourable treatment of a woman, during the "protected period" in relation to her pregnancy or any illness suffered by her as a result of that pregnancy.

Unfavourable treatment during the protected period because a woman is on compulsory maternity leave or she is exercising or seeking to exercise, or has exercised or sought to exercise, the right to ordinary or additional maternity leave, is also covered. An example could be where an employee has been off work because of pregnancy complications since early in her pregnancy. Her employer has dismissed her in accordance with the sickness absence management policy. This policy is applied regardless of sex. The dismissal is unfavourable treatment because of her pregnancy and would be unlawful even if a man would be dismissed for a similar period of sickness absence, because the employer took into account the employer's pregnancy related sickness absence in deciding to dismiss.

Discrimination on the grounds of pregnancy/maternity can only be justified if it is a proportionate means of achieving a legitimate aim. For example, it would be legitimate to dismiss a pregnant employee who had been found to have committed an act of gross misconduct as the reason for the dismissal was unconnected to the pregnancy.

### **Race**

For the purposes of the Act, 'race' includes colour, nationality or ethnic or national origin. A person has the protected characteristic of race if they belong to a particular racial group. A racial group can be made up of two or more different racial groups (for example Black Britons).

### **Direct discrimination**

Treating someone less favourably because of their actual race. The less favourable treatment can also relate to the person's perceived race, even where the perception is wrong, or to the person's association with someone who has, or is perceived to have, the protected characteristic.

### **Indirect discrimination**

This can occur where there is a provision, criterion or practice which applies to all employees, but particularly disadvantages people of a particular race. An example could be a requirement for all job applicants to have GCSE Maths and English. People educated in countries which don't have GCSE's would be discriminated against if equivalent qualifications were not accepted. Indirect discrimination can only be justified if it is a proportionate means of achieving a legitimate aim.

### **Religion or belief**

In the Act, religion includes any form of religion which has a clear structure and belief system. 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 no religion at all. Discrimination because of religion or belief can occur even where both the discriminator and recipient are of the same religion or belief.

Belief means any religious or philosophical belief and also covers non-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. Political beliefs can be protected.

A belief need not include faith or worship of a God but must affect how a person lives their life or perceives the world. A belief which is not a religious belief may be a philosophical belief. Examples of philosophical beliefs include Humanism and Atheism. For a philosophical belief to be protected under the Act:

- it must be genuinely held;
- it must be a belief and not an opinion or viewpoint based on the present state of information available;
- it must be a belief as to a weighty and substantial aspect of human life and behaviour;
- it must contain a certain level of cogency, seriousness, cohesion and importance;
- it must be worthy of respect in a democratic society, not incompatible with human dignity and not conflict with the fundamental rights of others.

### **Direct discrimination**

This is where, because of the protected characteristic of religion or belief, a person treats another person less favourably than that person treats or would treat other persons. The less favourable treatment can relate to the person's actual or perceived religion or belief, even where the perception is wrong, or to the person's association with someone who has, or is perceived to have, the protected characteristic.

### **Indirect discrimination**

This can occur where there is a provision, criterion or practice which applies to all employees, but particularly disadvantages people of a particular religion or belief and which the employer cannot show to be a proportionate means of achieving a legitimate aim.

An example would be where an employer announces that staff cannot wear their hair in locks, even if the locks are tied back. A policy amounts to a provision, criterion or practice. The decision to introduce the policy could be indirectly discriminatory because of religion or belief, as it puts

Rastafarian employees at a particular disadvantage. The employer must show that the provision, criterion or practice can be objectively justified and is a proportionate means of achieving a legitimate aim.

### **Sex**

The current definition in the Equality Act is that a person's sex refers to the fact that they are male and female.

#### **Direct discrimination**

Treating someone less favourably because of their actual or perceived sex, or because of the sex of someone with whom they associate. For example, discrimination against an individual on the grounds of breastfeeding is recognised as a form of sex discrimination, and thus falls under the protected characteristic of sex

#### **Indirect discrimination**

This can occur where there is a provision, criterion or practice that applies to all employees, but particularly disadvantages employees of a particular sex. For example, a requirement that job applicants must be six feet tall could be met by significantly fewer women than men.

#### **Sexual orientation**

Sexual orientation is a protected characteristic. It means a person's sexual orientation towards:

- persons of the same sex (i.e. the person is a gay man or a lesbian);
- persons of the opposite sex (i.e. the person is straight/heterosexual); or
- persons of either sex (i.e. the person is bisexual)

Sexual orientation relates to how people feel as well as to their actions. Sexual orientation discrimination includes discrimination because someone is of a particular sexual orientation and it also covers discrimination connected with manifestations of that sexual orientation. These may include someone's appearance, the places they visit or the people they associate with. It also includes a perception that someone has a particular sexual orientation based on their appearance, regardless of whether they do or do not.

#### **Direct discrimination**

Treating someone less favourably because of their actual or perceived sexual orientation, or because of the sexual orientation of someone with whom they associate.

#### **Indirect discrimination**

This can occur where there is a provision, criterion or practice which applies to all employees, but particularly disadvantages people of a particular sexual orientation and which the employer cannot show to be a proportionate means of achieving a legitimate aim.

An example would be a particular family friendly policy that does not apply to same sex couples.

#### **Part-time and Fixed Term Workers**

Part-time and fixed-term employees should be treated the same as comparable full-time or permanent employees and enjoy no less favourable terms and conditions (on a pro-rata basis where appropriate), unless different treatment is justified.

## **APPENDIX D – REFERENCES**

### **Equality and Human Rights Commission**

The Equality and Human Rights Commission is the independent advocate for equality and human rights in Britain. It aims to reduce inequality, eliminate discrimination, strengthen good relations between people, and promote and protect human rights. It provides guidance for employers and education providers.

<https://www.equalityhumanrights.com/en/advice-and-guidance>

A detailed list of further sources of advice and information is available at Section 5 of the following guidance:

<https://www.equalityhumanrights.com/en/publication-download/good-equality-practice-employers-equality-policies-equality-training-and>

### **Department for Education Non-statutory Advice**

Non-statutory Guidance is available from the Department for Education relating to the Equality Act in the following publication:

The Equality Act 2010 and schools. Departmental advice for school leaders, school staff, governing bodies and local authorities

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/315587/Equality\\_Act\\_Advice\\_Final.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/315587/Equality_Act_Advice_Final.pdf)