

AUTISM AT KINGWOOD

EQUAL OPPORTUNITIES POLICY & POSITIVE WORK ENVIRONMENT POLICY

EQUAL OPPORTUNITIES POLICY

It is unlawful to discriminate directly or indirectly in recruitment or employment as a result of any of the nine 'protected characteristics' as outlined in the Equality Act 2010. These are; age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, region or belief, sex and sexual orientation *see appendix A in this section for further information on protected characteristics

The policy applies to recruitment and selection, terms and conditions of employment including pay, promotion, training, transfer and every other aspect of employment.

Autism at Kingwood will regularly review its procedures and selection criteria to ensure that individuals are selected, promoted and otherwise treated according to their relevant individual abilities and merits. This policy has been reviewed and updated following the Equality Act 2010 which came into force on 1 October 2010.

Autism at Kingwood is committed to creating a working environment where all staff at all levels are valued and respected, and where discrimination, bullying and harassment are not tolerated.

Scope

This policy applies to all employees regardless of length of service or type of contract.

Definitions:

Direct Discrimination

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

Associative Discrimination

Discriminating against an individual or harassing them for their association with another individual who has a protected characteristic is not acceptable and is considered associative discrimination.

The Equality Act 2010 does not include marriage and civil partnerships, and pregnancy and maternity as protected characteristics in situations of associative discrimination.

Perceptive Discrimination

The Equality Act 2010 includes specific reference to discrimination against individuals for a perceived protected characteristic that they don't have.

The Equality Act 2010 does not include marriage and civil partnerships, and pregnancy and maternity as protected characteristics in situations of perceptive discrimination.

Indirect Discrimination

Indirect discrimination can occur when an employer has a rule, policy, procedure or practice in the company that applies to everyone but particularly disadvantages people who shared a protected characteristic.

Indirect discrimination can in some instances be justified if the employer can show it acted reasonably in managing its business i.e. that it is 'a proportionate means of achieving a legitimate aim'.

The Equality Act 2010 does not include pregnancy and maternity as protected characteristics in situations of indirect discrimination.

Referrals and Refusals (provision of goods)

The Equality Act 2010 makes it unlawful for staff to discriminate directly or indirectly, or harass customers (people we support) or clients (commissioners and families) because of the protected characteristics of disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation in the provision of goods and services.

An example of goods and services provided by Kingwood is the provision support in the home or supporting someone to access an activity in the community. Although 'age' is not included as a protected characteristic in the provision of goods and services in the Equality Act 2010, Kingwood considers any discrimination to be unacceptable and applies the same approach.

Implementing Equal Opportunities

Autism at Kingwood is committed to the implementation of this policy and believes every employee has an individual responsibility.

All staff are required to comply with the policy and to act in accordance with its objectives so as to remove any barriers to equal opportunity. Specific responsibilities of staff members include:

- not discriminating against fellow employees, service users, families or members of the public with whom you come into contact during the course of your duties
- not inducing or attempting to induce others to practise unlawful discrimination; and
- reporting any discriminatory action as soon as practically possible

Recruitment and Selection for Employment

Autism at Kingwood will treat all applicants fairly, whether recruiting internally or externally. Candidates with protected characteristics will not be treated more favourably; selection criteria will be strictly related to job requirements and consistently applied to all applicants.

The terms and conditions of employment, benefits, facilities and services are determined with regard to the needs of the business and will not be based on unfair or discriminatory criteria.

Training will be provided to all staff who make recruitment and selection decisions.

In line with the Equality Act 2010, pre-employment health related checks can only be asked in certain circumstances prior to a job offer or during the short listing process. Employers may ask health-related questions for the purposes of:

- establishing whether or not reasonable adjustments are necessary to the interview and/or assessment process
- establishing whether or not the applicant can carry out a function essential to the work concerned
- taking positive action in relation to disabled people
- establishing whether or not the applicant has a particular disability that is a requirement for the job

Discrimination in Pay

Autism at Kingwood applies equal pay to all employees; where an employee believes they are being unfairly discriminated against by receiving a different salary to another member of staff undertaking the same role the employee is able to make a relevant pay disclosure to a colleague, including former colleagues.

Training Opportunities

Access to training will be in accordance with Kingwood Policy. Access to training will be available to employees based on business need and be irrespective of their gender, race, ethnic or national origin, religious, cultural or political beliefs, sexual orientation, age, marital or civil partnership status, disability, current or future responsibility for children or dependents, gender reassignment, or trade union membership.

Appraisal

Appraisals must fair and equal for all staff. Appraisers should be aware of their responsibilities not to discriminate on any of the grounds identified in this policy in the way they conduct the appraisal. They should also be aware of the danger of stereotyped expectations, which result in a biased approach. Appraisal should be used positively to support diversity and promote equal opportunities.

Breaches of the policy

Autism at Kingwood will not tolerate any form of discrimination by employees to employees, clients, suppliers and will ensure any breach of the Policy is treated seriously. A failure to adhere to this policy or the Positive Working Environment Policy may result in disciplinary action that could lead to termination of employment.

POSITIVE WORK ENVIRONMENT POLICY

Autism at Kingwood is committed to creating a harmonious working environment, which is free from harassment and bullying and in which every employee is treated with respect and dignity.

Harassment and bullying are unacceptable behaviour at work and will be treated as misconduct, which may include gross misconduct warranting dismissal. While implementing and upholding the policy is the duty of all managers, all employees have a responsibility to ensure that harassment has no place in the workplace.

Scope

This policy applies to all employees regardless of length of service or type of contract.

Definitions

Kingwood employees are able to complain of harassment and 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 protected from harassment that has occurred because of perception and/or association (see EOP - Discrimination for definitions).

Harassment

Harassment is unwanted conduct that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for them. It may be related to a protected characteristic and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient.

Harassment can take many forms. It can range from extreme forms such as violence to less obvious actions such as persistently ignoring someone at work. The following, though not an exhaustive list, may constitute harassment:

- physical contact ranging from touching to serious assault
- verbal and written harassment through jokes, offensive language, gossip and slander, letters (including posts on social networking sites and/or blogs)
- isolation or non-cooperation at work, exclusion from social activities, intrusion by pestering, spying, following etc.

The Equality Act 2010 does not include pregnancy and maternity as a protected characteristic in situations of harassment. However Kingwood is committed to ensuring that every member of staff does not experience harassment in the workplace.

Third Party Harassment

Third party harassment occurs where an employee is harassed by third parties such as customers (people we support) and clients (commissioners and families) and the harassment is related to a protected characteristic (the Equality Act 2010 does not include marriage and civil partnership, and pregnancy and maternity as protected characteristics in instances of third party harassment).

In order for Kingwood to take the appropriate action it is essential that the Chief Executive, Deputy Chief Executive or HR Department is informed that the harassment is taking place.

Where harassment has occurred on two previous occasions, Kingwood has a responsibility to take reasonable steps to prevent it from happening again.

Autism at Kingwood takes all such instances very seriously and will ensure that the procedure for dealing with alleged harassment or bullying is followed.

Please read Kingwood's policy 'Refusal of a support worker by someone Autism at Kingwood supports'.

Workplace Bullying

Workplace bullying is repeated inappropriate, offensive behaviour, which is often an abuse of power or position. It can be direct or indirect, either verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment, which could reasonably be regarded as undermining the individual's right to dignity at work.

The following examples may constitute bullying:

- threats, abuse, teasing, gossip and practical jokes
- humiliation and ridicule either in private, at meetings or in front of other people
- name calling, insults, devaluing with reference to age, physical appearance
- setting impossible deadlines
- imposing excessive workloads
- making unjustified criticisms
- excessive monitoring
- removing responsibilities
- allocating menial and pointless tasks
- withholding information
- refusing requests for leave, holiday or training without justification.

It should be noted that it is the impact of the behaviour which is relevant and not the motive or intent behind it.

Victimisation

Victimisation occurs when an employee is subjected to a detriment, such as being denied a training opportunity or a promotion because he or she raised a complaint or grievance under the Equality Act, or because they are suspected of doing so, or because they are about to begin the process of doing so.

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

Impact of Bullying and Harassment

Harassment and bullying can extract a high price on our employees and Kingwood alike. The damage, tension and conflict that harassment and bullying creates should not be underestimated. The result is not just poor morale, but higher staff turnover, reduced productivity, divided teams, poor service and poor product quality and the risk of damage to Autism at Kingwood's reputation.

Responsibilities and Accountabilities

Employees

All employees have a responsibility to help create and maintain a working environment that respects the dignity of others.

Staff should be aware of the serious and genuine problems which harassment and bullying can cause, and ensure that their behaviour is not brought into question and could not be considered in any way to be harassment or bullying.

When a member of staff observes what might be considered bullying, harassment or discrimination they should discourage such behaviour by making it clear it is unacceptable and by supporting colleagues. Any incident should be reported to a manager to enable Kingwood to deal with the matter quickly.

Managers

Managers have a responsibility to ensure that harassment or bullying does not occur in work areas for which they are responsible.

Managers also have a responsibility to explain Kingwood's policy to their staff and take steps to positively promote it. They will be responsive and supportive to any member of staff who makes a complaint, provide full and clear advice on the procedure to be adopted, maintain confidentiality in all cases and ensure that there is no further problem or any victimisation after a complaint has been resolved.

Kingwood will provide training to ensure that all Managers and staff are fully aware of this policy and the procedures for dealing with harassment and bullying.

Procedure for dealing with alleged harassment or bullying

If an employee believes that they have been the subject of harassment or bullying, they should, in the first instance, ask the person responsible to stop the behaviour, stating clearly that it is unacceptable. Kingwood suggests asking a colleague or manager to support them in doing this. Person to person reproof at an early stage will often be sufficient to stop the behaviour which is causing the offence.

Where this method fails or where the employee does not feel able to raise the concerns with the perpetrator then they should raise their concerns to their line manager.

Any concern raised will be thoroughly investigated following the grievance procedure and might include consideration to practices such as mediation as a helpful step towards resolving differences. Where the investigation finds evidence to support the allegations of bullying and harassment, the matter will be addressed with the perpetrator under the provisions of the Disciplinary Procedure.

It is important to note that this policy has been designed to assist genuine victims of harassment or bullying. Where an employee raises complaints which are proven to be deliberately vexatious, that might become subject to proceedings under the Disciplinary Procedure.

The Protected Characteristics

Age

The Act protects people of all ages. However, different treatment because of age is not unlawful, direct or indirect discrimination if it can be justified 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

Under the Equality 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, which could include things like using a telephone, reading a book or using public transport.

The Act puts a duty on the employer to make reasonable adjustments for staff to help them overcome disadvantage resulting from an impairment.

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 (eg 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.

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

The Act also includes a new provision which makes it unlawful, except in certain circumstances, for employers to ask about a candidate's health before offering them work.

Gender reassignment

The Equality Act provides protection for transgender people. A transgender 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 transgender 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.

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

Race

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

Religion or belief

The Equality Act includes any religion and it also includes a lack of religion. For example, an employee or jobseeker is protected if they do not follow a certain religion or have 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.

Gender

Both men and women are protected under the Act.

Sexual orientation

The Act protects bisexual, gay, heterosexual and lesbian people from acts of discrimination.

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