

# West Dunbartonshire Council Equality Scheme 2009-12

## Appendix A: Equality Legislation

The appendix summarises the current equality legislation in relation to race, disability, gender, transgender status, sexual orientation, age, and religion and belief.

### Race

The **Race Relations Act 1976** makes it unlawful to discriminate against a person, directly or indirectly on racial grounds in: employment; education; housing; and in the provision of goods, facilities and services.

Discrimination takes direct and indirect forms. Direct discrimination consists of treating a person on racial grounds, less favourably than others in the same or similar circumstances. Segregation of a person on racial grounds is regarded as less favourable treatment.

Indirect discrimination occurs when a person applies a requirement or condition which is such that the proportion of persons from the same racial group who can comply is considerably smaller than persons who are not of that racial group; and it cannot be shown that the condition is justified irrespective of the racial origins of the person concerned; and it is to that person's detriment that he cannot comply.

The **Race Relations (Amendment) Act 2000** extends the requirements under the 1976 Act to all public authority functions, and assigns public authorities general duties to promote race equality and specific duties to support the general duties. These are set out in Appendix B.

The **Racial and Religious Hatred Act 2006** seeks to stop people from intentionally using threatening words or behaviour to stir up hatred against someone because of what they believe.

## Disability

The **Disability Discrimination Act (1995)** is the core legislation establishing the duties of employers and service providers toward disabled people. The Act has three main sections which impact on local authorities; the definition of disability, employment, and the provision of goods and services.

A person is defined as being disabled if they have a condition or impairment which has a substantial or long term effect on their ability to carry out day to day activities. Long term is defined as a year or more. Day to day activities include mobility, manual dexterity, physical co-ordination, continence, speech, hearing, eyesight, memory, concentration, understanding, confidence and assertiveness.

It is illegal for an employer to treat a disabled person less favourably, because of disability, in terms of recruitment, conditions, training, promotion, or dismissal. Employers are required to make 'reasonable adjustments' to the workplace or work practices to enable a disabled person to gain or maintain employment.

Under the Act, providers of goods and services:

- Must not refuse to provide a service to a disabled person, or provide a service of a lesser standard or on worse terms.
- Must make reasonable adjustments to the service to ensure that it is not impossible or unreasonably difficult for a disabled person to use, or must offer an alternative method of delivering the service.
- Must make the buildings from which services are provided accessible, or provide the service by a reasonable alternative method.

The **Disability Discrimination Act, 2005** introduced of the general duty of public authorities to promote disability equality and the specific duties required to support the general duty. These are set out in Appendix B.

## **Gender**

The **Equal Pay Act 1970** gives an individual a right to the same contractual pay and benefits as a person of the opposite sex in the same employment, where the man and woman are doing:

- the same or broadly similar work
- work which has been rated as equivalent under an analytical job evaluation study
- work that is of equal value (work of equal value is where the work done is different but considered to be of equal value or worth in terms of demands such as effort, skill and decision-making).

The **Sex Discrimination Act 1975** prohibits sex discrimination against individuals in the areas of employment, education and the provision of goods, facilities and services.

The Act prohibits direct and indirect sex discrimination or harassment. Direct discrimination occurs where a woman or man is treated less favourably than a person of the opposite sex in comparable circumstance is, or would be because of her or his sex.

Indirect discrimination occurs where a provision, criterion or practice is applied to both sexes but puts one sex at a particular disadvantage and cannot be shown to be a proportionate means of meeting a legitimate aim. For example, a requirement to work full-time might be unlawful discrimination against women who may be expected to be more likely to require flexibility in hours.

Sexual harassment occurs when there is unwanted conduct which is sexual in nature – such as a person making unwelcome sexually explicit comments or giving verbal sexual abuse, sending sexually explicit emails or inappropriate physical contact.

The **Employment Equality (Sex Discrimination) Regulations 2005** prohibit discrimination on the grounds of pregnancy or maternity leave, and set out the extent to which it is discriminatory to pay a woman less than she would otherwise have been paid due to pregnancy or maternity issues.

The **Equality Act 2006** gives public authorities the general duty to promote disability equality and specific duties to support this general duty. The general and specific duties are set out in Appendix B.

## **Transgender Status**

The **Sex Discrimination (Gender Reassignment) Regulations 1999** prohibit sex discrimination on the grounds of gender reassignment, clarifying the law in relation to equal pay and treatment in employment and training.

The **Gender Recognition Act 2004** provides transsexual people with legal recognition of their acquired gender following from the issue of a Gender Recognition Certificate.

## **Sexual orientation**

The **Employment Equality (Sexual Orientation) Regulations 2003** protect against discrimination on the grounds of sexual orientation in employment, vocational training, promotion, and working conditions.

The **Civil Partnership Act 2004** provides legal recognition and parity of treatment for same-sex couples and married couples, including employment benefits and pension rights.

## **Age**

The **Employment Equality (Age) Regulation 2006** protects against discrimination on the grounds of age in employment and vocational training. It prohibits direct and indirect discrimination, harassment, victimisation and instructions to discriminate.

## **Religion and Belief**

The **Employment Equality (Religion and Belief) Regulation 2003** protect against discrimination on the grounds of religion and belief in employment, vocational training, promotion and working conditions. It protects them from discrimination on the grounds of their religion and on the grounds of not having a religion.

The **Equality Act 2006** protects against discrimination on the grounds of religion and belief in terms of access to goods, facilities and services.