

# Todmorden Learning Centre and Community Hub (TLCCH)

## Equality & Diversity Policy

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### **1 Policy Approval and Commitment**

This Equality & Diversity Policy carries a commitment to its principles at the highest level and has been agreed, approved and authorised for use by the Board of Trustees.

Amendments or additions relating solely to factual content or changes in legislation will be incorporated into a revised version of the document, while substantive changes to content or policy provisions will be issued as a new version requiring further Board authorisation.

#### **1.1 Policy Statement**

TLCCH is an equal opportunities employer and is committed to equality of opportunity and to providing a service, and following practices, which are free from unfair and unlawful discrimination. We value people as individuals with diverse opinions, cultures, lifestyles and circumstances. We aim to create an environment in which personal differences and the contributions of all individuals are recognised and valued, so that they feel respected and able to give of their best.

This policy applies to all staff, paid or unpaid; all employees, learners and visitors including

apprentices and trainees, board members, volunteers, students, job applicants, anyone working on behalf of TLCCH and customers and visitors accessing TLCCH's facilities or services.

The right to equality of opportunity, fair treatment and protection from discrimination applies across all areas of TLCCH's activity in its capacity as an employer and service provider. These policies and practices will be amended as necessary to ensure that no unfair or unlawful discrimination, intentional, unintentional, direct or indirect, overt or latent exists.

We fully support, and will ensure, compliance with all relevant legislation.

## **1.2 Policy Aims**

The aim of this policy is to ensure that no individual or group of individuals is discriminated against on the basis of one of the nine protected characteristics in law, namely age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. It seeks also to ensure that no person is victimised or subjected to any form of bullying or harassment.

In addition, TLCCH expects that no individual should suffer prejudice or disadvantage as a result of any other characteristic, such as employment status, fixed-term or part-time working, status in regard to unrelated criminal convictions, caring arrangements, socio-economic status and so on.

## **1.3 Related Policies**

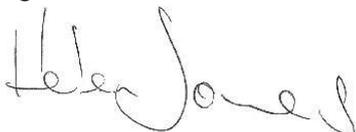
Whistle Blowing, Data Protection, Code of Conduct, Behaviour, and Confidentiality, Discipline & Grievance policies and procedures.

## **1.4 Background Principles and Aims**

The main single piece of legislation, which applies to this policy, is the Equality Act 2010, the provisions of which came into force primarily in October 2010 and April 2011. The Equality Act defines nine 'protected characteristics', which carry protection from discrimination.

The Act also imposes a general Equality Duty on public bodies and other organisations carrying out public functions or work on behalf of public bodies. This aims to ensure that public bodies consider the needs of all individuals in their day-to-day work – in shaping policy, in delivering services, and in relation to their own employees. TLCCH has a duty to comply with this Equality Duty.

Signed



Date 25 01 2019

Chair of the Board

## **2 Responsibilities**

All individuals have a responsibility to treat others with dignity and respect, to behave in a non-discriminatory way and to comply with this policy, promoting the principles outlined within it. Whilst specific responsibility for eliminating discrimination and providing equality of opportunity lies with the operations manager, or course leaders and individual postholders as appropriate, the personal commitment of every member of staff, paid or unpaid, to this policy and application of its principles are essential to eliminate discrimination and provide equality for all at TLCCH.

This policy will be actively communicated and promoted to all new and existing members of staff, members of the Board and other third parties with an interest in the activities of TLCCH.

### **3 Protected Characteristics**

#### ***Age***

Age equality law relates to people of all ages. Age itself is not a genuine employment criterion, a relevant measure of performance or an indicator of mental and/or physical ability in a role. The law extends to all employment and organisational practices, including occupational pensions.

State pensions are not covered by the legislation and particular rules apply to certain group insured benefits which are also exempt once an employee reaches state retirement age.

There is no legally enforceable default retirement age, meaning older employees will leave TLCCH in the same way as any other employee, either voluntarily or via one of the standard fair reasons for dismissal.

#### ***Disability***

For the right to protection from disability discrimination a person is considered to be 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. The law does not define 'normal day-to-day activities' though the phrase has a wide application.

Long-term means that the condition lasts, or is likely to last, for more than 12 months, or that it is terminal. Individuals with cancer, multiple sclerosis or HIV/ AIDS are covered from the date of diagnosis regardless of the impact that the illness is having on their life at the time of diagnosis.

A mental illness does not have to be clinically well-recognised. The emphasis is on the impact of the symptoms rather than the name given to them.

There is also a protection from discrimination 'arising from' disability, where it would be discriminatory to treat a disabled person less favourably because of something connected with their disability, for example a tendency to make spelling mistakes arising from dyslexia.

TLCCH has a duty to make reasonable adjustments to help people overcome disadvantage resulting from a disability.

#### ***Gender Reassignment***

Gender reassignment is a process which is taken under medical supervision for the purpose of reassigning a person's sex by changing physiological or other characteristics of sex, and includes any part of such a process. A transsexual person is someone who proposes to, starts or has completed a process to change his or her gender. Individuals do not need to be under medical supervision to be protected from discrimination so, for example, a woman who decides to live as a man but does not undergo any medical procedures would be protected.

## ***Marriage and Civil Partnership***

People who are married or in a civil partnership are protected from discrimination (direct or indirect) and victimisation. Links with other protected characteristics relating to sex, sexual orientation and gender reassignment mean individuals may be protected under more than one characteristic depending on the particular circumstances. Single people are not protected under this strand of equality law.

## ***Pregnancy and Maternity***

A woman is protected from unfavourable treatment on any grounds related to pregnancy, childbirth or maternity for the duration of her pregnancy and any statutory maternity leave to which she is entitled. Protection in these circumstances is not the same as protection from sex discrimination and so it is not necessary for the woman to show that she was treated less favourably than somebody else, rather it is a stand-alone protection. Periods of absence due to a pregnancy-related illness are not taken into account when making decisions relating to a female's employment.

## ***Race***

For the purposes of equality law the term 'race' encompasses colour, nationality, ethnic and national origins, including citizenship. It is usual to have a racial group that is made up of more than one of these characteristics, for example Black Britons, and it is important to avoid assumptions or stereotypes that one characteristic is an indicator of another.

## ***Religion or Belief***

Equality law provides protection from discrimination on the basis of a religion (defined as any religion with a clear structure and belief system) or a lack of religion. An individual could be discriminated against if there is a requirement to be of a particular religion and the individual has another faith or no religious belief at all.

A belief is any religious or philosophical belief satisfying various criteria, including that it is a weighty and substantial aspect of human life and behaviour. As with religion the protection from discrimination also applies to the lack of such a belief.

TLCCH recognises that there may be a fundamental conflict between the doctrines of some religions and the protected characteristic of sexual orientation when individuals come together in the workplace. TLCCH aims to ensure that every individual is treated with equal respect and can work in a non-offensive environment. Should an individual of a particular religion feel compromised in this way consideration would be given to the core purpose of the activity and whether any adjustments to job design and delivery could be justified in the circumstances. The rights of the other individual to be protected from sexual orientation discrimination would remain.

## ***Sex***

Both men and women have protection against sex discrimination across all workplace practices, including the right to equal pay for the same work or work of an equivalent value.

## ***Sexual Orientation***

Sexual orientation is defined as having a sexual attraction to people of the same sex (homosexual), the opposite sex (heterosexual) or both sexes (bisexual). Individuals of any orientation are protected from discrimination under this characteristic. The law makes a clear distinction in terms of the scope of its protection that sexual orientation has nothing to do with types of sexual practices.

## **4 Types of Discrimination**

### ***Direct Discrimination***

This applies to all protected characteristics. Someone is treated less favourably than another person because of a protected characteristic that they have.

#### *Example*

A female employee is not given training because she is pregnant. The course lasts 3 months and the employer says they will not get a sufficient return on their investment before the woman takes maternity leave. This is direct pregnancy and maternity discrimination.

### ***Associative Discrimination***

This is a particular type of direct discrimination where someone is treated less favourably because they have an association with an individual who has a protected characteristic.

#### *Example*

A non-disabled employee is disciplined for taking too much time off to care for a disabled dependant. This could be direct disability discrimination by association.

### ***Discrimination by Perception***

This is a particular type of direct discrimination where someone is treated less favourably because it is perceived that they have a protected characteristic, even if they do not have that characteristic.

#### *Example*

A male employee is not promoted because the interviewing manager believes he is gay and as some colleagues in the team are known to be homophobic the employee may struggle to gain their respect. This is direct sexual orientation discrimination by perception.

### ***Indirect Discrimination***

This can occur when a rule or policy applies to everyone, but puts a group (or individual within that group) with a protected characteristic at a disadvantage when compared with another group. It is likely to be indirect discrimination if the employer cannot show it to be a proportionate means of achieving a legitimate aim.

#### *Example*

Part-time working is not allowed in a particular role, making it harder for individuals with caring responsibilities to apply. Statistically this has an impact on more women than men. One woman is an excellent candidate for promotion to the role but cannot work full-time hours,

and the employer cannot justify why full-time working is an essential requirement. This could be indirect sex discrimination.

### ***Harassment***

Harassment is unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual, or violating a person's dignity. This includes unwanted conduct of a sexual nature (sexual harassment). The perceptions of the recipient of harassment are very important and harassment can be deemed to have occurred even if that was not the intention of the other party. An individual may experience harassment even if they don't possess the protected characteristic or the harassment is not directed at them, if the effect created is still a hostile or offensive working environment.

#### *Example*

Colleagues of a Muslim employee are insensitive to her religion and choice to observe Sharia law in relation to fasting, dress and prayer, frequently commenting on her 'fashion sense' and complaining behind her back about her receiving extra time off for prayer (even though they know the employee makes the time up at other times). The employee herself brings a complaint of harassment against both her colleagues and the manager who has failed to control the situation. Another colleague works closely with her and although he is not a Muslim is horrified by the treatment of the employee and also finds the office environment uncomfortable. He has challenged the perpetrators several times but they claim it is merely office banter and continue unabated. He too brings a claim of harassment against the employer.

### ***Third Party Harassment***

The law also covers harassment of staff by non-employees. This applies to any third party irrespective of their status or relationship, so this could be a customer or a strategic partner for example. If the harassment has occurred on at least two occasions, the employer knows that it has happened and has not taken reasonable steps to prevent it happening again, the employer itself could be liable for third party harassment.

#### *Example*

An employee is asked to attend a local steering group meeting. It is generally considered a useful meeting to attend, though is not compulsory for the organisation to send a delegate. One member of the steering group makes racist remarks about the people he feels are responsible for the high crime rate in his local area. The employee is offended by these remarks and reports it to his manager. The manager takes steps to try and resolve the situation, including speaking to the chair of the steering group, to ensure the individual is challenged about his behaviour. The manager considers following this up with a letter to withdraw support from the steering group if it happens again or offers to take the employee's place on the group if he still has concerns. He discusses his actions with the employee and believes he is taking reasonable steps to prevent his employee from third party harassment.

## ***Victimisation***

Victimization occurs when someone is treated less favourably because they have actually made or supported a complaint, are thought to have made a complaint, or have raised a grievance under equality law. Victimisation can continue after employment (for example, refusing to give someone a reference because they had exercised their rights under equality law).

### ***Example***

A young employee, recently graduated, is frequently given menial tasks to do because her manager believes her young age implies inexperience. She asks for more responsibility and the chance to be able to prove her ability, but is not trusted with more challenging work. Eventually the employee makes a formal complaint against her manager. The complaint is resolved through the internal grievance procedures, however the employee is subsequently ostracised by the manager and fears her future pay and promotion prospects have been damaged by the grievance. She could claim victimisation.

## **Related Key Concepts**

### ***Justification for direct discrimination***

In limited and specific circumstances an employer may be able to justify discrimination as a proportionate means of achieving a legitimate business aim. The employer would have to prove that the business aim could not be achieved in another way that could avoid the need for discrimination.

Occasionally equality law will not take precedence over competing laws, for example in matters of health and safety, or where national security is believed to be compromised.

### ***Positive action***

The Equality Act allows employers to take positive action if they think that employees or job applicants who share a particular protected characteristic suffer a disadvantage connected to that characteristic, or if their participation in an activity is disproportionately low.

### ***Occupational requirement***

Where there is an occupational requirement to employ a person with a particular protected characteristic, certain limited exceptions from the law are permitted covering selection, promotion and training, but the employer must be able to show that there is a genuine need taking account of the type of work or the context in which the work is carried out. Examples which may be considered reasonable include;

- A priest of an organised religion being expected to hold and practice that particular religious belief. It would be unlikely that it could be justified as an occupational requirement of the cleaner or other ancillary staff however.
- A support worker for a mental health charity being required to have a mental health disability as it is necessary that the person has shared experiences and empathy with the customers.

## **5 Equality in Practice**

The right to equality of opportunity, fair treatment and protection from discrimination applies across all areas of TLCCH's activity in its capacity as an employer and service provider.

### ***Employment Practices***

TLCCH will ensure that employment practices promote equality and diversity in line with this policy, enabling managers to make fair and consistent decisions to protect individuals from discrimination throughout their employment. Employees have a right to expect fair treatment in actions and decisions regarding:

- Recruitment, selection and promotion;
- Pay and benefits;
- Training and development;
- Capability/performance management;
- Absence management;
- Job design/ workplace adaptations;
- Flexible working;
- Time off;
- Discipline and grievance;
- Redundancy and dismissal.

In addition TLCCH will take steps to protect an individual's health, safety and wellbeing, including the right to enjoy dignity at work and protection from bullying and harassment in the workplace.

### ***Volunteering***

TLCCH recognises that volunteers make a significant contribution providing skills, expertise and additional capacity for planning and delivering a wide range of activities. TLCCH aims to ensure that volunteers are protected from discrimination by:

- Treating volunteers with respect and dignity, enabling equal access to TLCCH activities and relevant communications, recognising achievements and providing opportunities for appropriate training and development.
- Working with individuals to understand, and exceed, their desired outcomes from volunteering, whether these are for personal development, work experience, skills and training, achievement of qualifications, social integration, community development or to break a cycle of unemployment.

### ***Provision of Facilities and Services to the Public***

TLCCH aims to ensure that no individual or group of individuals suffers discrimination on the basis of a protected characteristic as a result of services provided by TLCCH. Customers accessing any such services can expect an environment free from harassment by staff of TLCCH.

To make services equally accessible to customers it may be necessary to deliver the service in a different way, recognising that equality of opportunity does not always flow from the same treatment.

This relates to any facilities or services provided by TLCCH irrespective of location, including but not limited to:

- Customers accessing community, youth or education services,
- Apprenticeship/ trainee programmes,
- Visitors to TLCCH premises attending meetings and events.

### ***Activities and Events***

TLCCH recognises its activities will be more effective if they promote inclusion and support can be derived from all areas of the workforce and sectors of the community. In order to achieve this TLCCH will ensure that:

- Action is taken to provide equal access for the relevant people in line with this policy in planning meetings, events, activities or training, and in the delivery of other services. Consideration will need to be given for example to accessible venues, caring responsibilities, part-time working and religious and cultural observances.
- People from all areas of the community are encouraged to join events and that no individuals or groups are discriminated against.

Community cohesion and development activity targeted at under-represented groups will be used to promote social inclusion and wider engagement in TLCCH's activities and volunteering opportunities.

- The range of activities undertaken will aim to reflect the diversity of the workforce and local communities and utilise the skills and experiences of the individuals within them.

### ***Communications***

TLCCH recognises the importance of good internal and external communications in promoting equality and diversity, and the positive impact this has on TLCCH's reputation as an equal opportunities employer and service provider. Examples of this include:

- The use of images on the website and in printed publications showing the positive contribution made to TLCCH's activities by people from all areas of the community.
- Positive use of all types of media to challenge stereotypes and commonly held assumptions about certain individuals or groups of individuals, for example that young people don't volunteer.
- The use of project evaluation, case studies, press releases and celebration of achievements to promote the benefits of ongoing engagement and participation within under-represented groups in our communities.
- Communication via social networking sites and mobile technologies to plan activities and engage and retain individuals or groups of people who may be less responsive to other methods of communication and for whom social networking is the norm.

### ***Tendering and Procurement***

Managers involved in tendering and procurement activity will take reasonable steps to ensure TLCCH can protect its workforce and customers from potential discrimination which may arise as a result of these processes. This means working whenever possible with ethical organisations whose commitment to equality and diversity is in line with TLCCH's own approach.

While large organisations or entities delivering or managing contracts on behalf of government will themselves be subject to the Public Sector Equality Duty, it may be necessary to establish the equality and diversity credentials of parties not already known to TLCCH. In practice this does not need to be onerous and would involve simple steps such as:

- Looking at a company's website to establish its mission and objectives,
- Asking how a commitment to equal opportunities can be demonstrated, obtaining a copy of the

policy if one exists

Undertaking the actions above cannot guarantee protection from discrimination but are reasonable to establish an acceptable level of confidence, whereas a failure to make such enquiries can leave the employer liable for third party harassment should this arise.

## **6 Approach to Eliminating Discrimination**

### ***Training and Awareness***

Adherence to the TLCCH's Equality & Diversity policy is a contractual requirement and it is important that everyone understands their responsibilities and the behaviours expected of them. A copy of the policy will be provided as part of the induction process for paid staff and long term volunteers, and the principles explained. At this stage people should understand why a policy is necessary and what it is intended to achieve.

TLCCH will strive to raise awareness of equal opportunities issues and encourage individuals involved in its activities to be sensitive to the needs of others. Staff may from time to time identify a training need relating to a specific area of equality or diversity, which they wish to understand in more detail in order to apply it in their role. This type of training will be provided on a needs/benefit basis.

Occasionally managers will be required to attend training on a specific area of equality and cascade this information to staff.

### ***Challenging Negative Behaviours***

Incidences of bullying and harassment or use of other discriminatory or threatening language and behaviour must be challenged. It is only through challenge that people will understand the consequences of their actions and can start to change their behaviour. Ideally any individual witnessing an incident first-hand should challenge the perpetrator directly and make clear that their actions are unacceptable.

TLCCH understands that individuals may not feel confident making a direct challenge, or that they would not be listened to or may even potentially put themselves at risk. In these circumstances the individual should make a written record of the incident as soon as possible and report it in the first instance to their line manager.

TLCCH will not tolerate harassment and bullying in the workplace, and any such behaviour may be treated as a disciplinary offence.

### ***Remedy through Discipline and Grievance Procedures***

TLCCH:

- expects that all individuals will respect the rights of others to be treated in a fair and equal way, and it is the responsibility of everyone in TLCCH to uphold the equality and diversity policy. Any

breaches of this policy are regarded as misconduct and may result in disciplinary action being taken under the agreed disciplinary procedure.

- will ensure that any individual who feels that they are being treated unfairly and contrary to the principles of this policy will have their case heard under the agreed grievance procedure, and that they will suffer no less favourable treatment as a result of bringing a grievance.

## **7 Diversity**

### ***What is Diversity?***

Diversity refers to any differences between individuals that make them unique, for example background, culture, personality, work-style, physical attributes, accent, language and so on. People also have diverse interests, hobbies, preferred music styles, ambitions and fears. Practically any characteristic makes people diverse. Unlike the nine protected characteristics covered by equality legislation, designed to redress the effects of past discrimination, these other differences are not protected by law.

TLCCH recognises that certain groups or individuals may experience prejudice arising from their socio-economic status and related social disadvantage(s) which may include:

- Lack of access to training and education, health facilities and public transport;
- Housing issues, debt, poverty, addiction;
- The effects of crime or a criminal record;
- Caring responsibilities, lone parenting;
- Language barriers; long-term unemployment and dependence on benefits, low skill/ low pay jobs, lack of job prospects;
- Low self esteem and lack of confidence.

It is important to recognise differences exist in order to be able to value everyone as an individual. Using the example of social disadvantage it can be seen that treating everybody the same is unlikely to result in equality of opportunity. The social justice argument for diversity that people should have equal access to employment and services further highlights the need to be flexible in achieving this fair and consistent treatment and ensuring individuals are not 'mainstreamed' outside normal society. People need to be treated differently in ways that are tailored to their needs but aligned to business needs and objectives.

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