



TFS Healthcare

EQUALITY & DIVERSITY POLICY (incorporating the Equality Act 2010)

1. INTRODUCTION

Employees rightly expect to be treated fairly and consistently and this expectation is supported by the law.

Fair treatment is a moral and legal duty and it is also a business imperative. TFS Healthcare Limited (“the Company”) is committed to providing equal opportunities in employment. This means that all candidates, job applicants and employees will receive equal treatment regardless of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation and ex-offender.

The Company is also committed to monitoring equal pay and positive action.

2. POLICY STATEMENT

The Company is committed to achieving a working environment which provides equality of opportunity and freedom from unlawful discrimination on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation and ex-offender (where context allows). This policy aims to address and remove unfair and discriminatory practices within the Company and to encourage full contribution from its external stakeholders and the wider community. The Company is committed to actively opposing all forms of discrimination.

The Company will, therefore, promote equal opportunity through the application of employment policies which will ensure that individuals receive treatment which is fair, equitable and consistent with their relevant aptitudes, potential, skills and abilities. All Directors will seek to ensure that all employees comply with these principles. The Company also recognises that it is the duty of all employees to accept their personal responsibility for fostering a fully integrated community at work by adhering to the principles of equal opportunity.

The Directors are constantly striving to gain certain statuses to assist us in people development and high staff retention, to win and secure new business, help us to evidence our quality credentials and to carry on our business reputation improvement.

The Company also aims to provide a service that does not discriminate against its clients and customers in the means by which they can access the services and goods supplied by the Company. The Company believes that all employees and clients are entitled to be treated with respect and dignity.

3. OBJECTIVES OF THIS POLICY

- To reduce, stop and prevent all forms of unlawful discrimination.
- To ensure that recruitment, promotion, training, development, assessment, redundancy



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and service provision are determined only on the basis of capability, qualifications, experience, skills and productivity.

- To be proactive in promoting equality and diversity by working consistently and in an ongoing manner via the equality and diversity action plan and in the staff handbook where most of the policies and the recruitment procedures are documented.

4. DESIGNATED MANAGER

Name:	Sam Blake
Position:	Director
Telephone	020 7407 6999 or 0207407 1111

5. TYPES & DEFINITIONS OF DISCRIMINATION

Discrimination is unequal or differential treatment which leads to one person being treated more or less favourably than others are, or would be, treated in the same or similar circumstances on the grounds of the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. There are many types of discrimination:

5.1 Direct Discrimination

This occurs when someone is treated less favourably than another person because of a protected characteristic they have or are thought to have (see perception discrimination below), or because they associate with someone who has a protected characteristic (see discrimination by association below).

Example: A senior manager turns down an employee's application for promotion to a supervisory position. The employee is gay and learns that the manager did this because they believe the team to be managed are homophobic. The manager thought that the employee's sexual orientation would prevent the employee gaining the team's respect and the ability to manage them effectively. This is direct sexual discrimination against the employee.

5.2 Discrimination by Association

This discrimination applies to race, religion or belief and sexual orientation, age, disability, gender reassignment and sex. This is direct discrimination against someone because they associate with another person who possesses a protected characteristic.

*Example: An employee works as a project manager and is looking forward to a promised promotion. However, after the employee tells the boss that their parent, who lives at home, has had a stroke, the promotion is withdrawn. This may be discrimination against the employee because of their **association** with a disabled person.*

5.3 Perception Discrimination



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Applies to age, race, religion or belief and sexual orientation, disability, gender reassignment and sex. This is direct discrimination against an individual because others think they possess a particular protected characteristic. It applies even if the person does not actually possess that characteristic.

Example: An employee looks much younger and many people assume they are in their mid 20s, when in fact they are 45 years of age. A manager decides the employee is not allowed to represent the company at an international meeting because they think the employee is too young. The employee has been discriminated against on the perception of a protected characteristic.

5.4 Indirect Discrimination

Applies to age, race, religion or belief, sex, sexual orientation and marriage and civil partnership, disability and gender reassignment.

Indirect discrimination occurs when someone has a condition, when there is a rule, policy or even a practice in the Company that applies to everyone, but particularly disadvantages people who share a protected characteristic. Indirect discrimination can be justified if it can be shown that the Company acted reasonably in managing the business, i.e. that it is 'a proportionate means of achieving a legitimate aim'. A legitimate aim might be any lawful decision made in running the business, but if there is a discriminatory effect, the sole aim of reducing costs is likely to be unlawful.

Being proportionate really means being fair and reasonable, including showing that the Company has looked at 'less discriminatory' alternatives to any decision it has made.

Example: A small company needs its staff to work late on a Friday afternoon to undertake a task which involves collating information from different time zones. The information for the task arrives late on a Friday and during the winter some staff would like to be released early on Friday afternoons in order to be home before sunset – a requirement of their religion. The employees propose to make up the time later during the remainder of the week.

The company is not able to agree to this request because the information is a necessity for the business and needs to be worked on immediately and the company is too small to have anyone else able to do the work.

The requirement to work on Friday afternoon is not unlawful indirect discrimination as it meets a legitimate business aim and there is no alternative means available.

5.5 Harassment

Harassment is "unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual".



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Harassment applies to all protected characteristics except for pregnancy and maternity and marriage and civil partnership. Employees will now be able to complain of behaviour that they find offensive even if it is not directed at them, and the complainant need not possess the relevant characteristics themselves. Employees are also protected from harassment because of perception and association.

Example: An employee is continually being called gay and other related names by a group of employees at work. Homophobic comments have been posted on the staff notice board about the employee by people from the group. The employee was recently physically pushed to the floor by one member of the group. The employee is too scared to take action. The employee is not gay, but heterosexual; furthermore the group know the employee is not gay. This is harassment because of sexual orientation.

5.6 Third Party Harassment

Applies to sex, age, disability, gender reassignment, race, religion or belief and sexual orientation.

The Company may potentially be liable for the harassment of their employees by people (third parties) who are not employees of the Company, such as customers and clients. The Company will only be liable when harassment has occurred on at least two occasions, and if the Company were aware that it had taken place and had chosen not to take reasonable steps to prevent it from happening again.

Example: An employee is gay and mentions to his manager that he is feeling unhappy after a client made a homophobic remark within his earshot. The manager is concerned and monitors the situation. Within a few days the client makes further offensive remarks. The manager reacts by speaking to the client, pointing out that this behaviour is unacceptable. The manager considers following it up with a letter pointing out that the business will no longer work with the client if it happens again. The manager keeps the employee in the picture with regards to the actions undertaken and believes the company has taken reasonable steps to protect the employee from third party harassment.

5.7 Victimisation

Victimisation occurs when an employee is treated badly because they have made or supported a complaint or raised a grievance under the Equality Act; or because they are suspected of doing so. An employee is not protected from victimisation if they have maliciously made or supported an untrue complaint.

There is no longer a need to compare treatment of a complaint with that of a person who has not made or supported a complaint under the Act.

Example: An employee makes a formal complaint against their manager because they feel they have been discriminated against. Although the complaint is resolved through the company's grievance procedures, the employee is subsequently ostracised by their colleagues, including the manager. The employee could claim victimisation.



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6. PROTECTED CHARACTERISTICS

- Age
- Disability
- Gender Reassignment
- Marriage and Civil Partnership
- Pregnancy and Maternity
- Race
- Religion or Belief
- Sex
- Sexual Orientation

6.1 Age

People of all ages are protected. However, different treatment, because of age is not unlawful direct or indirect discrimination if you can justify it, 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.

There is now no default retirement age of 65.

This does not currently apply to the calculation of redundancy payments.

6.2 Disability

It is now easier for a person to show they are disabled and protected from disability discrimination. 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 would include things like using a telephone, reading a book or using public transport.

The duty is on an employer to make reasonable adjustments for their employees to help them overcome disadvantage resulting from an impairment, e.g. by providing assistive technologies to help visually impaired staff use computers effectively.

The Company has a duty to make reasonable adjustments to facilitate the employment of a disabled person. These may include:

- Making adjustments to premises;
- Re-allocating some or all of a disabled employee's duties;
- Transferring a disabled employee to a role better suited to their disability;
- Relocating a disabled employee to a more suitable office;
- Giving a disabled employee time off work for medical treatment or rehabilitation;
- Providing training or mentoring for a disabled employee;
- Supplying or modifying equipment, instruction and training manuals for disabled employees;

or



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- Any other adjustments that the Company considers reasonable and necessary provided such adjustments are within the financial means of the Company.

If an employee has a disability and feels that any such adjustments could be made by the Company, they should contact the Designated Manager (Sam Blake, Director).

It is discrimination to treat a disabled person unfavourably because of something connected with their disability, e.g. 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. This type of discrimination is only justifiable if an employer can show that it is a proportionate means of achieving a legitimate aim.

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

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

6.3 Gender Reassignment

A transsexual person is someone who proposes to, starts, or has completed the process to change his or her gender. It is no longer a requirement for a person to be undertaking medical procedures, i.e. a woman who decides to live as a man, but does not undergo any medical procedures would be covered.

It is discrimination to treat transsexual people less favourable 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.

6.4 Marriage and Civil Partnership

Employees who are married or in a civil partnership are protected against discrimination. Single people are not protected.

6.5 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.

Example: An employee is pregnant and the manager knows this but still disciplines the employee for taking too many toilet breaks as they would another member of staff. This is discrimination because of pregnancy and maternity as this characteristic does not require the normal comparison of treatment with other employees.

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



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6.6 Race

'Race' includes colour, nationality and ethnic or national origins.

It is not permissible to treat a person less favourably because of their race.

6.7 Religion or Belief

Religion includes any religion. It also includes no religion, in other words employees or jobseekers are 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.

6.8 Sex

Both men and women are protected under the Equality Act 2010.

It is not permissible to treat a person less favourably because of their sex.

6.9 Sexual Orientation

Bisexual, gay, heterosexual and lesbian people are protected.

It is not permissible to treat a person less favourably because of their sexual orientation.

7. KEY CHANGES

7.1 Positive Action

The new Act allows an employer to take a protected characteristic into consideration when deciding who to recruit or promote. However, this is only applicable if the candidates are "as qualified as" each other for a particular vacancy. This does not mean they have to have exactly the same qualifications as each other, it means that the selection assessment on a range of criteria rates them as equally capable of doing the job

There would also need to be some evidence to show that people with that characteristic, face particular difficulties in the workplace or are disproportionately under-represented in the workforce or in a particular job for which there is a vacancy. In these circumstances, an employer can choose to use the fact that a candidate has a protected characteristic as a 'tie-breaker' when determining which one to appoint.



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The policy does not automatically treat job applicants who share a protected characteristic more favourably in recruitment and promotion. This means consideration must always be given to the abilities, merits and qualifications of all of the candidates in each recruitment or promotion exercise. Otherwise, any actions could be unlawful and discriminatory.

7.2 Pre-employment Health Related Checks

The new Act limits the circumstances when an employer can ask health-related questions before an individual is offered a job. Up to this point, an employer can only ask health-related questions to help them to:

- Decide whether there is a need to make any reasonable adjustments for the person as part of the selection process;
- Decide whether an applicant can carry out a function that is essential ('intrinsic') to the job;
- Monitor diversity among people making applications for the jobs;
- Take positive action to assist disabled people;

A jobseeker cannot take an employer to an Employment Tribunal if they think they are acting unlawfully by asking questions that are prohibited, though they can complain to the Equality and Human Rights Commission. However, if the employer does ask prohibited questions and the candidate is not employed they may bring a claim of discrimination against the employer and the burden of proof would be on the employer to demonstrate they had not discriminated.

Once a person has passed the interview and offered the job (whether this is an unconditional or conditional job offer) the employer is permitted to ask appropriate health-related questions.

7.3 Extension of Employment Tribunal Powers

The new Act extends the power of an Employment Tribunal to make recommendations to an organization to eliminate or reduce the effect of discrimination on other employees, not only on the claimant, .e.g. a tribunal might specify that an employer needs to train all staff about the organisation's bullying and harassment policy. This power does not apply to equal pay cases.

7.4 Equal Pay – Direct Discrimination

The new Act allows a claim of direct pay discrimination to be made, even if no real person comparator can be found. This means that a claimant who can show evidence they would have received better remuneration from their employer if they were of a different sex may have a claim, even if there is no-one of the opposite sex doing equal work in the organization. This would be a claim under sex discrimination.

7.5 Pay Secrecy



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The new Act makes it unlawful for the Company to prevent or restrict employees from having a discussion to establish if differences in pay exist that are related to restricted characteristics. It also makes terms of the contract of employment that require pay secrecy unenforceable because of these discussions. However, an employer can require their employees to keep pay rates confidential from some people outside the workplace, e.g. a competitor organization.

8. RESPONSIBILITY FOR THE IMPLEMENTATION OF THIS POLICY

It is the individual responsibility of all employees to co-operate fully and is essential for the success of this Policy. However, the ultimate responsibility for achieving the objectives of this Policy, and for ensuring compliance with relevant Legislation and Codes of Practice, lies with the Company. If an individual contravenes this policy both they and the Company will be liable. All employees are expected to follow this Policy and ensure that all employees, subcontractors and agents do the same.

All employees, subcontractors and agents of the Company are required to act in a way that does not subject any other employees or clients to direct, associative, perception, indirect discrimination, harassment, third party harassment or victimisation on the above stated grounds or protected characteristics.

Employees may be held independently and individually liable for their discriminatory acts by an Employment Tribunal and ordered to pay compensation to the person who has suffered as a result of discriminatory acts.

9. ACTING ON DISCRIMINATORY BEHAVIOUR

In the event that an employee is the subject or perpetrator of, or witness to, discriminatory behaviour, please refer to the Grievance Procedure. If anyone makes a discriminatory request to an employee they must refuse to accept such an instruction and explain to the person making the discriminatory request that it is in fact illegal. Such a request must not be accepted on any grounds as it would break the law.

10. ADVICE AND SUPPORT ON DISCRIMINATION

Employees may contact a Director or the HR Manager or a trade union representative if access to such an individual is possible.

11. THE EXTENT OF THE POLICY

The Company seeks to apply this Policy in the recruitment, selection, training, appraisal, development, promotion and redundancy of all employees. The Company seeks to ensure that all sub-contractors and agents act in accordance with this Policy. The Company accepts no liability for the actions of sub-contractors and agents. The Company offers goods and services in a fashion that complies with the spirit of this Policy.



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This Policy does not form a part of any employment contract with any employee and its contents are not to be regarded by any person as implied, collateral or express terms to any contract made with the Company.

The Company reserves the right to amend and update this policy at any time. The Company will review the policy annually. Next review date is October 2015.

12. FURTHER INFORMATION

Acas website

www.acas.org.uk

The Equalities and Human Rights Commission

www.equalityhumanrights.com

The Government Equalities Office

www.equalities.gov.uk