

## Thanet District Council (TDC) Equality policy

### 1.0 Introduction

1.1 The Equality Act 2010 came into force in October 2010, consolidating and extending previous anti-discrimination legislation into one overarching policy. The Act also contains a “**public sector equality duty**” consisting of a general equality duty and specific duties which are imposed by secondary legislation on public authorities. The new duties cover nine protected characteristics of:

- i. Age;
- ii. Disability;
- iii. Gender reassignment;
- iv. Pregnancy and maternity;
- v. Race;
- vi. Religion and belief,
- vii. Sex (formerly referred to as gender)<sup>1</sup>;
- viii. Sexual orientation; and
- ix. Marriage and civil partnership<sup>2</sup>

1.2 The Act requires that a disabled person's disability be considered. The term ‘disability’ covers many different physical, mental and emotional conditions. Every disability has different adaptations and support requirements and these should be considered for example, when making reasonable adjustments in the workplace.

1.3 Within section 149 of the Equality Act 2010 you will find the Public Sector Equality Duty (PSED). This is the part of the Equality Act that places responsibility upon public sector organisations such as the Council to lead, influence and shape policy and services around the communities they serve.

1.4 Thus as a public authority, Thanet District Council (“the Council”) is under legal obligations as an employer and as a service provider to ensure our services and employment practices are fair and inclusive. To this end, the Council is actively working to ensure everyone has the same opportunities by reducing inequalities in the area and improving life for all.

### 2.0 Policy Statement

2.1 Thanet District Council is proud of its diverse community; it is what makes this area a great place to live, work and visit.

2.2 This Policy seeks to promote and uphold the principles of equality, diversity, fairness and inclusion within our employment practices, service design and delivery, procurement and partnership working. The policy also sets out how we will comply with the Equality Act 2010 and Public Sector Equality Duty.

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<sup>1</sup> This is an important distinction as the change is backed by law (Equality Act) and an incorrect reference can lead to legal implications such as report to the ICO.

<sup>2</sup> only in respect of the requirement to have due regard to the need to eliminate discrimination

2.3 As a public authority, we will not tolerate discrimination, harassment or victimisation and will strive to promote equality of opportunity, understanding and foster good relations within our organisation and our community.

2.4 The Equality Policy will also help guide and inform the design of some departmental specific policies and strategies to ensure they meet the changing needs of our diverse community.

### 3.0 Scope and Purpose of the Policy

3.1 This policy sets out Thanet District Council's commitment to valuing diversity and promoting equality of opportunity in all of its activities. It sets out how the Council will meet its legal responsibilities as defined within the Equality Act 2010 and Public Sector Equality Duty both as an employer and public service provider.

3.2 As a '**public authority**', we will integrate this document into our every activity. Thus, this policy is applicable to:

- i. All Council's employees including volunteers, work experience, contract and interim employees;
- ii. All members (elected, past and prospective);
- iii. The Council's partners such as members of the East Kent Services;
- iv. Third party service providers such as Civica, Capita, The Action Manager health and safety software provider (TAM) etc; and
- v. Any contractor (sole trader or a company) who has procured a contract from the Council should we wish to refer to our Equalities policy.

### 4.0 Statutory Requirements, Monitoring and Analysis

#### 4.1 The Public Sector Equality Duty (PSED)

The PSED is divided into two parts: the General Duty and the Specific Duties.

#### 4.1 General Duties

4.1.1 The General Duty has three aims (also known as the three arms of the Duty). It requires public bodies, when exercising their functions, to have **due regard** to:

- i. Eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act.
- ii. Advance equality of opportunity between people who share a protected characteristic and people who do not share it by:
  - removing or minimising disadvantages suffered by people due to their protected characteristics;
  - meeting the needs of people with protected characteristics; and
  - encouraging people with protected characteristics to participate in public life or in other activities where their participation is low.
- iii. Foster good relations between people who share a protected characteristic and people who do not share it by:
  - tackling prejudice and promoting understanding between people with a protected characteristic and others.

#### 4.1.2 What does due regard mean?

This means consciously thinking about the three aims of the Duty as part of the process of decision making.

This means that equality issues must be considered (proportionately) as part of the decisions officers and Members make to satisfy the duty. Examples would be:

- how we act as an employer;
- how we develop, evaluate and review our policies;
- how we design, deliver and evaluate our services;
- how we commission and procure from others.

## **4.2 Specific Duties**

4.2.1 The Specific Duties support the General Duty by helping the Council comply with the general duty. We need to set equality objectives to show how we plan to progress our equality agenda, to do this we need good quality data to base them on.

4.2.2 To achieve this, we must:

- i. Publish information to demonstrate our compliance with the general equality duty by 31 January each year. The information we publish must include information relating to persons who share a relevant protected characteristic who are:
  - employees, and;
  - other persons affected by our policies and practices (such as service users, contractors, residents and visitors)
- ii. Prepare and publish one or more objectives we should achieve, to deliver the aims of the general duty.
- iii. The objectives must be published at least every four years and this requirement commenced 6 April 2012. Objectives must be specific and measurable.

## **4.3 Monitoring and Analysis**

4.3.1 The Council will undertake regular monitoring of its policies, procedures and services, proportionate to their relevance to the Duty and analyse them against the most up to date demographic, staff and service user data to ensure that they remain accessible, inclusive and effective. This will be reported in an 'action plan'.

4.3.1 We will collect and publish anonymous equality data on our staff and service users in accordance with statutory timescales.

4.3.2 All data will be collected, stored, analysed and published within the strict controls of the General Data Protection Act ("GENERAL DATA PROTECTION REGULATIONS") and the Data Protection Act 2018. Individuals' personal information will be processed lawfully within the data protection legislations, and where appropriate, their data will be pseudonymised or anonymised within the Council's publications.

4.3.3 We will prepare and publish one or more objectives we should achieve, to deliver the aims of the general duty within statutory timescales. Objectives will arise from:

- Service plans;
- Corporate projects (new and existing);
- Customer feedback;
- Results of public engagement;
- Central Government initiatives;
- Emerging best practice;

- Outcomes of equality/service user impact analysis; and
- Ongoing service activity

4.3.4 We will have due regard for the aims of the Public Sector Equality Duty in the decisions that we make proportionate to their relevance to arising Duty.

4.3.5 The action plan will be reported upon annually to enable Members and stakeholders to see how projects and actions are progressing. This approach will allow for greater Member and public scrutiny.

4.3.6 In order to implement this policy, where the need has been identified, we will undertake an 'equality Impact assessment' to establish whether any new process will have a positive or negative impact on people. The details of how we will carry out these assessments are attached at **Appendix A** as the '**Equality impact assessment toolkit**'. And instances where we would require an equality impact assessment would be at the design and development stage of the following:

- New or existing strategy;
- New or existing policy;
- New or existing service;
- New or existing project; or
- New or existing activity or decision.

## 5.0 Forms of Inequality

Inequality can manifest in numerous ways. It can take the form of discrimination, harassment or victimisation.

### 5.1 Discrimination

5.1.1 The Council irrevocably disapprove the unlawful discrimination against or harassment of people including current and former employees, job applicants, clients, customers, suppliers and visitors. This applies in the workplace, outside the workplace (when dealing with customers, suppliers or other work-related contacts, and on trips or events including social events involving the community.

5.1.2 The following forms of discrimination are prohibited under this policy and are unlawful:

- i. **Direct discrimination:** treating someone less favourably because of a Protected Characteristic. For example, rejecting a job applicant because of their religious views or because they might be gay.
- ii. **Indirect discrimination:** a provision, criterion or practice that applies to everyone but adversely affects people with a particular Protected Characteristic more than others, and is not justified. For example, requiring a job to be done full-time rather than part-time would adversely affect women because they generally have greater childcare commitments than men. Such a requirement would be discriminatory unless it can be justified.
- iii. **Harassment:** 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.
- iv. **Victimisation:** retaliation against someone who has complained or has supported someone else's complaint about discrimination or harassment.
- v. **Disability discrimination:** this includes direct and indirect discrimination, any unjustified less favourable treatment because of the effects of a disability, and failure to make reasonable adjustments to alleviate disadvantages caused by a disability.

- 5.1.3 Further information on the various forms of inequality can be found in the Council's [Dignity at Work Policy](#) and on [Gov.uk](#).

## **6.0 Public Service Provision**

- 6.1 As evidence of compliance with the Public Sector Equality Duty (PSED), the Council commits to the following:

- i. We will ensure equal access, fair treatment and appropriate provision to the whole community regardless of service users' protected characteristics as defined within the Equality Act 2010. This includes making reasonable adjustments for disabled people.
- ii. We will deliver services without discriminating against, stigmatising or patronising people. Every service user will be treated in a professional manner, with courtesy, respect, dignity and confidentiality.
- iii. We will promote equal access to services, including producing clear information about how to access our services. Where necessary we will offer information in various accessible formats.
- iv. We will seek the views of our service users to inform the development of our policies, strategies and services to ensure we are continually improving.
- v. We expect Members and officers to demonstrate due regard to the aims of the Public Sector Equality Duty in the decisions that they make, proportionate to their relevance to the Duty.
- vi. We will regularly quality check our services and policy documents to ensure they are relevant, inclusive and accessible.
- vii. We will provide clear information on how service users can comment upon or complain about the services they have received.

## **7.0 Partners and Third Party Service Providers**

- 7.1 As an organisation we will always seek to promote equality throughout the district. And this responsibility extends to our partners and any third party service providers. To this end, we will ensure the following:

- i. We will work with our partners and other organisations on equality issues that affect the district and to encourage equality and diversity policies and plans similar to our own are adopted and implemented more widely.
- ii. We will promote inclusion, fairness, equality and diversity within partnership working and our internal and external communications.
- iii. We will seek to ensure that any partners or bodies providing services on our behalf provide those services in compliance with the Equality Act 2010 and Public Sector Equality Duty.
- iv. We will encourage our partners and third party service providers to have policies and procedures in place to comply with the Equality Act 2010 and Public Sector Equality Duty on the services they provide on our behalf.

## **8.0 Commissioning and Procurement**

- 8.1 We will seek to ensure that our procurement activity promotes equality of opportunity for all. The Council expects suppliers, contractors and those delivering services on behalf of the Council to share these values.

- 8.2 Full details of equality arrangements and standards on our commissioning and procurement activities are within our Procurement Strategy.

## 9.0 Recruitment and Employment

- 9.1 Thanet District Council is an equal opportunities employer and is committed to the principles of equality of opportunity within its employment practices.
- 9.2 All employees and applicants for employment will be treated fairly and not discriminated against based on any of the protected characteristics as defined within the Equality Act 2010 or any other reason which cannot be shown to be justified.
- 9.3 **For recruitment:** Vacancies should generally be advertised to a diverse section of the labour market. Advertisements should avoid stereotyping or using wording that may discourage particular groups from applying. We take steps to ensure that our vacancies are advertised to a diverse labour market and where relevant, to particular groups that have been identified as disadvantaged or underrepresented in our organisation.
- 9.3.1 Job applicants should not be asked questions which might suggest an intention to discriminate on grounds of a Protected Characteristic. For example, applicants should not be asked whether they are pregnant or planning to have children.
- 9.3.2 Job applicants should not be asked about health or disability before a job offer is made. There are limited exceptions which should only be used with the approval of the Human Resources Department. For example:
- i. Questions necessary to establish if an applicant can perform an intrinsic part of the job (subject to any reasonable adjustments).
  - ii. Questions to establish if an applicant is fit to attend an assessment or any reasonable adjustments that may be needed at interview or assessment.
  - iii. Positive action to recruit disabled persons.
  - iv. Equal opportunities monitoring (which will not form part of the selection or decision-making process).
  - v. Where necessary, job offers can be made conditional on a satisfactory medical check.
- 9.3.3 We are required by law to ensure that all employees are entitled to work in the UK. Assumptions about immigration status should not be made based on appearance or apparent nationality. All prospective employees, regardless of nationality, must be able to produce original documents (such as a passport) before employment starts, to satisfy current immigration legislation. The list of acceptable documents is available from the Human Resources Department or UK Visas and Immigration.
- 9.3.4 To ensure that this policy is operating effectively, and to identify groups that may be underrepresented or disadvantaged in our organisation, we monitor applicants' ethnic group, sex, disability, sexual orientation, religion and age as part of the recruitment procedure. Provision of this information is voluntary and it will not adversely affect an individual's chances of recruitment or any other decision related to their employment. The information is removed from applications before shortlisting, and kept in an anonymised format solely for the purposes stated in this policy. Analysing this data helps us take appropriate steps to avoid discrimination and improve equality and diversity.
- 9.4 **For promotion and other selection exercises such as redundancy selection:** This will be conducted on the basis of merit, against objective criteria that avoid discrimination. Shortlisting should be done by more than one person and with the involvement of the East Kent Human

Resources Department (EKHR), where possible. Our recruitment procedures should be reviewed regularly to ensure that individuals are treated on the basis of their relevant merits and abilities.

- 9.4.1 Training and development opportunities will be made available according to business requirements and will be allocated fairly to staff. We will ensure that development and learning opportunities are inclusive in their own right and reasonable adjustments will be made according to individual need. All promotion decisions will be made on the basis of merit.
- 9.4.2 Workforce composition and promotions will be regularly monitored to ensure equality of opportunity at all levels of the organisation. Where appropriate, steps will be taken to identify and remove unjustified barriers and to meet the special needs of disadvantaged or underrepresented groups.
- 9.4.3 Our conditions of service, benefits and facilities are reviewed regularly to ensure that they are available to all of you who should have access to them and that there are no unlawful obstacles to accessing them.
- 9.5 We will also ensure that disciplinary procedures and penalties are applied without discrimination, whether they result in disciplinary warnings, dismissal or other disciplinary action.
- 9.6 **Disabilities:** We will monitor the physical features of our premises to consider whether they might place anyone with a disability at a substantial disadvantage. Where necessary, we will take reasonable steps to improve access as much as possible.
- 9.7 **Part-time and Fixed term Work:** Part-time and fixed-term staff should be treated the same as comparable full-time or permanent staff and enjoy no less favourable terms and conditions (on a pro-rata basis where appropriate), unless different treatment is justified.

## 10.0 Data Protection

- 10.1 The Council is under legal obligations to comply with the requirements of the General Data Protection Regulations (GDPR) and Data Protection Act 2018 when collecting, processing and storing individuals' personal information for any purpose.
- 10.2 Data protection legislations exist to protect individuals against the misuse of their personal data, and all records (manual or computerised). Thus, the Council will need to meet the requirements of the General Data Protection Regulations and Data Protection Act 2018. If an individual can be traced to the monitoring figures, care must be taken to anonymise or at least pseudonymised the data.
- 10.3 For the purpose of equality monitoring, the Council processes various categories of personal information which can be classed as '**personal data**' and '**special categories of data**' in order to comply with its statutory obligations i.e. Equality Act 2010 and Public Sector Equality Act.
- 10.4 These include personal information relating to the protected characteristics under the Equality Act 2010 including religion, race, ethnic origin, politics, trade union membership, health, sex life or sexual orientation, genetics or biometrics where used for ID purposes. Notably sex, formerly known as gender is not specifically listed under General Data Protection Regulation (GDPR) as a special category of data.
- 10.5 However, under '**Section 22 of the Gender recognition Act 2004**', **data** relating to an **individual's gender reassignment** (which includes a change of gender status and name) is classed as '**sensitive information**', and therefore attracts a higher degree of protection than usual, especially where a Gender Recognition Certificate is held. This is designed to protect a persons' right to

privacy and makes it a criminal offence to disclose information relating to a persons' gender history where this information has been gained in an official capacity.

10.6 It is a General Data Protection Regulation (GDPR) requirement that data collected for equality and monitoring purpose cannot be used for any other purpose than what it was collected for. However, the requirements of the GDPR should not be a barrier to the collection of equality monitoring data, but will require sensitivity and clarity. Therefore, in order to comply with the GDPR, it is advised that monitoring forms contain the following:

- An explanation of why the Council is carrying out equality monitoring, i.e. what is its purpose, and how the information will be used;
- A statement that the information collected will be treated with the strictest confidence and access/use of it will be restricted to the purposes it was collected for;
- Who the information will be shared with;
- An indication of how long we are going to store the information for and how it will be held e.g. electronically.

10.7 Where an individual can be identified:

- A statement signed by the service user, customer, employee, etc., giving written consent to the collecting, storing, and use of the data collected

10.8 When collecting information relating to equality, this data should be separated from any personal information immediately on receipt. It should be held separately, and in a way that would mean that it could not be attributed to any individuals. This should be clearly explained when the information is being asked for, either in writing or verbally. Where a service is required to keep equality related information with personal details, normal data protection obligations apply which can be found in the Council's [data protection policy](#) and [privacy notices](#).

10.9 All personnel, members, contractors should read and consider the Council's Privacy Notice on Equality Monitoring to further understand how we process individuals' personal information for equality monitoring. Additional information on about how we use personal information or on how to exercise individuals' rights can be found in the Council's [Data Protection Policy](#) and the [Council's Privacy Notice](#).

10.10 It will be the policy of the Council to add a privacy statement before any monitoring questions such as "completion of all monitoring data is necessary for the Council to perform a public task in the public interest; to comply with our legal obligations under the Equality Act 2010 and Public Sector Equality Duty 2011; and for reasons of substantial public interest (equality of opportunity or treatment)", with a link to the Council privacy notice on equality monitoring. See templates of equality monitoring questions at **Appendix D**.

## **11.0 Corporate Responsibility**

11.1 The Corporate Management Team (CMT) has overall responsibility for the effective operation of this policy and for ensuring compliance with the Equality Act 2010 and Public Sector Equality Duty 2011. Day-to-day operational responsibility for this policy including regular review of this policy has been delegated to the Director of Corporate Governance.

11.2 All Council Personnel and associated persons/organisations must set an appropriate standard of behaviour, lead by example and ensure they adhere to this policy and promote the Council's aims and objectives with regard to equal opportunities. Managers will be given appropriate training on



equal opportunities awareness and equal opportunities recruitment and selection best practice. The Director of Corporate Governance has overall responsibility for equal opportunities training.

11.3 All reasonable steps will be taken to ensure the effective communication of this policy to all Members and personnel. If you are involved in management or recruitment, or if you have any questions about the content or application of this policy, you should contact the Director of Corporate Governance to request training or further information.

11.4 Members and staff will be offered skills training to enable them to meet the requirements of this policy. We will ensure that training in this regard is accessible and reasonable adjustments are made according to individual need.

## **12.0 Conduct and breaches of this policy**

12.1 Members, staff and any other applicable person as stated at 3.2 will conduct themselves in accordance with this policy. Each Member and employee has a responsibility to challenge and report inappropriate behaviour which may breach this policy. Detailed guidance on unlawful conduct under the Equality Act 2010 can be found in the Codes of Practice accompanying the Act.

### **12.2 Staff**

12.2.1 It is a condition of employment that all employees adhere to this policy. Action under the Council's Disciplinary Policy and Gross Misconduct Policy may be taken against any employee who breaches this policy. Each employee has a responsibility to challenge and report inappropriate behaviour which may breach this policy.

12.2.2 If a member of staff feels they have been treated unfairly in employment and wishes to make a complaint, this should be brought under the terms of the Grievance Policy and Procedure.

12.2.3 We take a strict approach to breaches of this policy, which will be dealt with in accordance with our Disciplinary Policy. Serious cases of deliberate discrimination may amount to gross misconduct resulting in dismissal.

12.2.4 If you believe that you have suffered discrimination you can raise the matter through our Grievance Procedure or through our Dignity at Work Policy as appropriate. Complaints will be treated in confidence and investigated as appropriate.

12.2.5 There must be no victimisation or retaliation against staff who complain about discrimination. However, making a false allegation deliberately and in bad faith will be treated as misconduct and dealt with under our Disciplinary Policy.

### **12.3 Members**

12.3.1 Action may be taken against an elected Member through the Members' Complaints Process if they do anything which causes the council to breach this policy. Each Member has a responsibility to challenge and report inappropriate behaviour which may cause the Council to breach this policy.

12.3.2 The Member Lead for Equality and Inclusion will report to the Cabinet Member responsible for Equality and Inclusion. The Member Lead for Equality and Inclusion will undertake duties as determined by the Cabinet Member and will champion the council's equality and inclusion agenda.

12.4 Where not specifically stated in this document, any conduct which is prohibited by the Equality Act 2010 is regarded as a breach of this policy.

13.0 This policy is affiliated to the following other policies and procedures:

- Equality Impact Assessment Toolkit and form;
- Dignity At Work (Anti-Harassment and Bullying) Policy;
- Grievance Policy;
- Grievance Procedure for Staff;
- Disciplinary and Performance Policy;
- Code of Conduct Policy;
- Gross Misconduct and Summary Dismissal Policy;
- Some Other Substantial Reason for Termination Procedure;
- Flexible Working Arrangements Policy and Procedure;
- Maternity, Paternity, Adoption Leave Policy;
- Parental Leave Policy;
- Shared Parental Leave Policy;
- Time Off for Dependants Policy;
- Absence Management Policy;
- Homeworking Policy;
- Career Break Policy;
- Data Protection policy;
- The (general) Council Privacy Notice and some specific notices such as the Councillors (Members) Notice; and
- Subject access policy.

13.1 All the above documents are easily accessible to current personnel including interim staff and staff that work off site. They are also available upon request to other applicable stakeholders.

**14.0 Review**

14.1 This Policy will be periodically reviewed or amended to ensure it aligns with any applicable change in legislation.