

Equality Policy for Employment

February 2024

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1. Aim

Bury Council is committed to championing equality, diversity and inclusion across our workforce, and eliminating all forms of discrimination, harassment, victimisation and bias.

The aim is for our workforce to be truly representative of all sections of community and our customers at all levels, and for all our colleagues to feel respected and comfortable to be themselves at work where they are able to give their best and reach their full potential.

In the provision of services and facilities, the Council is also committed to eliminating any and all unlawful discrimination, harassment and victimisation of customers or the public.

Everyone at the Council has a responsibility for ensuring the effective implementation of this policy. Any breaches of the policy will be regarded as misconduct and could lead to disciplinary proceedings.

2. Scope

This policy applies to all Council colleagues with the exception of colleagues employed by schools. However, Governing Bodies of all schools are encouraged to adopt this policy.

It complies with current employment, equality and human rights legislation, including:

- Equality Act 2010
- Equal Pay Act 1970
- Employment Rights Act 1996
- Employment Act 2008
- Work and Families Act 2006
- Human Rights Act 1998

It also takes account of appropriate guidance, such as the Equality and Human Rights Commission's Employment Statutory Code of Practice, and ACAS's guidance 'Delivering equality and diversity'.

3. Equality Characteristics

Under the Equality Act 2010 the following equality characteristics are regarded as protected characteristics:

- Age
- Disability
- Gender Reassignment (Inclusive of gender identity)

- Marriage and Civil Partnership
- Pregnancy and Maternity
- Race
- Religion and Belief
- Sex (sometimes known as gender)
- Sexual Orientation

In addition, Bury Council recognises four additional characteristics which we regard as protected characteristics/ We include these in our Equality Impact Analysis process and our equalities work. These are:

- Carers
- Our looked after children and care leavers
- Military veterans
- Socio-economically vulnerable

For full definitions of these equality characteristics, see [Appendix 1](#).

4. Purpose

The purpose of this policy is to support equality, fairness and respect for all colleagues.

It also seeks to set out our approach to avoiding all forms of discrimination in all aspects of employment, including but not limited to:

- Recruitment and selection
- Terms and conditions of employment
- Pay and benefits,
- Dismissal
- Redundancy
- Requests for flexible working
- Family friendly initiatives
- The availability of facilities e.g., multi-faith rooms
- Dress codes
- Employee review
- Training and development
- Grievance and disciplinary issues
- The treatment of colleagues when their contract ends

5. Our Commitments

The Council will ensure that all elements of the employment relationship are fair and do not discriminate against any colleagues because of a protected characteristic.

We will seek to:

- Ensure that our policies and Local and National Conditions of Service are interpreted consistently and fairly for all colleagues.
- Ensure our employment policies and procedures are fair and accessible to all colleagues. To achieve this we will regularly review, update, monitor and evaluate all of our employment policies and procedures from an equality perspective to ensure that they conform with new legislation, are fair and reflect current best practice.
- Create a working environment free of bullying, harassment, victimisation and discrimination, promoting dignity and respect for all, and where individual differences and the contributions of all colleagues are recognised and valued.
- We will take seriously and investigate claims of behaviour or prohibited conduct using appropriate workplace policies. For definitions of prohibited conduct see [Appendix 2](#).
- Ensure equality of access to training and career development opportunities
- Ensure that all colleagues are aware of their responsibilities for equality in terms of employment, training, and service delivery.
- Continue to promote greater awareness of equality issues.
- Afford reasonable consideration to colleagues with particular needs and make appropriate adjustments.
- Make decisions concerning colleagues based on merit (apart from in any necessary and limited exemptions and exceptions allowed under the Equality Act)
- Continue to develop and promote agile working, work/life balance and wellbeing initiatives which include various policies to enable colleagues to achieve a better balance between home and work responsibilities.
- Monitor our workforce demographics such as age, disability, gender reassignment, race, religion or belief, sex and sexual orientation to inform and take positive actions in meeting the aims and commitments set out in the Inclusion Strategy.

6. Detailed Guidance

More detailed guidance is set out for certain aspects of the employment lifecycle:

Positive action

Where appropriate, the Council will take positive action in employment to achieve greater equality for people with a shared equality characteristic. This is not the same as positive discrimination or affirmative action, which both involve giving unlawful preferential treatment to benefit members of under-represented groups.

Under the Equality Act 2010, the Council can, subject to service requirements, take proportionate positive action to achieve 1 of 3 legitimate aims:

1. Enabling or encouraging people to overcome or minimise disadvantage
Disadvantage for people of a certain equality characteristic could be exclusion, rejection, lack of opportunity or barriers to accessing employment opportunities. For example, the requirement to work full time may be a barrier to women applying for a job if they need flexible working to have time off for childcare responsibilities.

2. Meeting different needs

A need is something that is required or essential to someone with a certain equality characteristic. Proportionate actions to meet needs could include, providing English language classes to colleagues whose first language is not English.

3. Enabling or encouraging participation

Positive action could be taken to improve the participation rates of people with certain equality characteristics if their participation is low compared to other groups, or low compared to what would reasonably be expected. For instance, if the Council were advertising for the position of a gardener and that role has been traditionally undertaken by men, a statement encouraging women to apply can be included in the advertisement. Alternatively, if the Council has a low number of Jewish colleagues compared to the profile of the residents of the Borough, then we could work with Jewish organisations or attend open days at Jewish Schools to offer advice or information about working for the Council in an effort to encourage more Jewish people to apply for jobs.

In cases where positive action is taken in recruitment, selection will still always be on merit. Section 159 of the Equality Act 2010 permits employers in their recruitment or promotion processes to treat individuals with a protected characteristic more favourably when faced with two or more candidates of equal merit, if the more favourable treatment is intended to address under-representation in the workforce or a disadvantage that is connected to the protected characteristic. However, this approach must be made clear at the outset of any recruitment activity and only ever undertaken in consultation with HR.

Occupational requirements

An Occupational Requirement (OR) provides a general exception to what would otherwise be unlawful direct discrimination in relation to work. In certain circumstances, an employer is permitted to favour a person from a protected characteristic, if that employer can show that having, or belonging to a particular characteristic is an essential occupational requirement. The nature and context of the work must be considered, and the OR must be a proportionate means of achieving a legitimate aim, examples can include:

- Being of a particular age or level of experience and/or qualification for a role
- Having a specific disability, neurodiversity or long term health condition required for a role
- Being able to speak a specific language required for the role
- Being from a specific race or ethnic background required for the role
- Having a specific gender or gender identity required for a role
- Having specific lived experience through having, or belonging to, a protected characteristic required for the role

The OR must be essential to the post, and not merely one of several important factors.

ORs can only be used in employment in respect of: -

- Recruitment and selection

- Provision of access to opportunities for promotion, transfer, training, or other benefit/service/facility
- Dismissal or termination of employment

The application of an OR must only ever be made following approval from the Head of HR.

Time away from the workplace

Rest breaks and prayer times – Some disabled colleagues may need to take additional regular breaks as a workplace adjustment. Colleagues with other protected characteristics may request additional breaks because of their protected characteristic. For example, an employee may request breaks to practice their religion or belief. If such requests are granted, colleague's own time should be used.

Colleagues may request that their rest breaks coincide with their religious obligations to pray at certain times of the day. Managers should ordinarily look to support such requests. However, they may be justified in refusing a request if, it conflicts with essential service requirements that they are unable to meet in any other way. Failure to justify such a refusal may be seen as discrimination.

Managers should be flexible about when rest breaks are taken where this is possible. Consideration should be given that the time taken for prayer is rarely longer than that of a tea or coffee break. Although the Council is not expected to accept unreasonable disruption to its activities, where a colleague's request causes unmanageable difficulties to the operation of the service, managers should meet with the colleague (and representative where relevant) to discuss the issues for the purpose of achieving an agreeable compromise.

Festival or spiritual observance days – A colleague may request time off in accordance with the Council's leave or flexitime policies to observe religious festivals and periods. Managers should support such requests wherever possible. Consideration should also be given to any requests for unpaid leave for religious purposes. Should a manager receive similar requests from several colleagues, the matter should be discussed with the colleagues concerned (and representatives where relevant) with the aim of balancing the needs of the service and those of other colleagues. Managers are advised to be aware of religious periods where high levels of leave may be requested and to plan work, staffing and leave well in advance so as many leave requests can be accepted without disruption to the provision of services. Care should be taken over deciding who can and cannot take time off to ensure against indirect discrimination.

When accommodating requests for leave for religious holidays, the impact on all colleagues should be considered. All decisions need to be fair, proportionate and not disadvantage colleagues who do not hold any specific religion or belief.

Dress

Some colleagues may welcome the opportunity to wear clothing consistent with their religion, and where it is practical and safe this should be accommodated. This

guidance should be similarly applied to items of jewellery and body markings which are culturally specific to religions.

In service areas where colleagues are required to adopt a specific dress code/wear a uniform, managers should carefully consider a colleague's request to comply with their religious requirements.

In general, dress codes which have the effect of conflicting with religious requirements may constitute indirect discrimination unless they can be justified, for example on the grounds of health and safety.

There are sometimes legitimate reasons that prevent people dressing in a certain way – for example, the health and safety of colleagues or service users, or the interference of some types of dress with the performing of certain functions. If restrictions are in place as a result of such reasons, managers should try to be flexible where possible but must still ensure that they meet the required standards.

Consideration should also be given to transgender, non-binary and genderfluid colleagues. Where possible colleagues should be able to wear clothing consistent with their gender expression.

Managers should be as flexible and open minded as their service area permits.

Multi-faith rooms

Some religions require their followers to pray at specific times during the day. Managers may receive requests for access to an appropriate quiet space or prayer room to undertake their religious observance. Employers are not required legally to provide a prayer room, however, managers should endeavour to provide a quiet and suitable space for colleagues to take part in prayer and reflection.

Multi-faith rooms are available in the Town Hall and 3 Knowsley Place and can be used by colleagues of all religions/beliefs or those who do not follow any.

Food and Fasting

- Specific dietary requirements – some colleagues may wish to bring food into the workplace that they may need to store and heat separately from other food. It is good practice for managers to consult colleagues on such issues and find a mutually acceptable solution to any dietary issues. Colleagues attending internally held meetings with specific dietary requirements should make these known to the organiser of the meeting.
- Fasting – some religions require extended periods of fasting. This can involve no food, drink, chewing or smoking from dawn until dusk. Managers should support colleagues through such a period. However, managers should bear in mind health and safety considerations, for example when using machinery or vehicles, and are advised to have positive discussions around how colleagues can fast and carry out their work tasks safely.
- Expressing Milk – colleagues who have returned to work following the birth of a child may need a private and hygienic space to express milk and have adequate storage facility provided for the expressed milk. Managers should work with

colleagues who request these facilities to ensure appropriate facilities are provided.

Washing and Changing Facilities

Some religions or beliefs require a person to wash before prayer. This can often be done symbolically or by using existing facilities.

Furthermore, some religions and beliefs do not allow colleagues to undress or shower in the company of others. Therefore, where colleagues are required to change their clothing and/or shower at some point of the working day for reasons of health and safety appropriately modest and private facilities should be made available.

The Council is not required to enter into significant expenditure, such as building alterations, to meet religious needs. However, it is good practice for managers to consult with colleagues and to consider if there is anything reasonable and practicable that can be done to help staff meet the ritual requirements of their religion.

Appendix 1: Equality Characteristics

Bury Council bases its definitions of equality characteristics, wherever possible, upon those used in the Equality Act 2010: -

Age

Age is a protected characteristic under the Equality Act and is defined by reference to a person's age group.

An age group can mean people of the same age or people of a range of ages. Age groups can be wide (eg. people under 50), or relatively narrow (eg. people in their mid-40s) or relative (eg. older than me).

The notion of age group is rooted in chronological age, but some age-related terms can have different meanings depending upon the context (eg. whether someone is seen as youthful can depend upon their role – compare a youthful bar tender with a youthful Chief Exec). Age groups can also be linked to physical appearance (eg. grey haired workers).

Disability

Disability is a protected characteristic under the Equality Act 2010. A person has a disability if he/she has a physical or mental impairment (including sensory impairments) which has both a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities. - A substantial adverse effect is something which is more than minor or trivial. It is a limitation which goes beyond the normal differences in ability which might exist among people.

A long term effect is an impairment which:

- has lasted at least 12 months, or
- where the total period for which it lasts is likely to be at least 12 months, or
- which is likely to last for the rest of the life of the person affected.

Normal day-to-day activities are those which most people carry out on a fairly regular and frequent basis, such as walking, driving, cooking, eating, lifting and carrying everyday objects, writing, continence, taking part in normal social interaction and forming social relationships.

Where a person is taking measures to treat or correct an impairment, and, but for those measures, the impairment would have a substantial adverse effect on the ability to carry out normal day-to-day activities, it is still to be treated as though it does have such an effect.

“Hidden” impairments are also covered – for example, mental illness or mental health problems, and conditions such as diabetes and epilepsy. Cancer, HIV infection and multiple sclerosis are deemed disabilities under the Act. As is severe disfigurement.

Progressive and recurring conditions will amount to disabilities in certain circumstances.

The social model of disability helps recognise barriers that make life harder for disabled people. Removing these barriers creates equality and offers disabled people more independence, choice and control.

Gender Reassignment (inclusive of gender identity)

Gender reassignment is a protected characteristic under the Equality Act 2010. It includes people who are proposing to undergo, are undergoing or have undergone a process (or part of a process) to reassign their sex by changing physiological or other attributes of sex. This includes people who are referred to as transgender.

Under the Equality Act, gender reassignment is a personal process rather than a medicalised process. As soon as a person can show that they have reached a definitive point where they are 'proposing' to undergo gender reassignment, they are protected. Therefore, it does not necessarily involve any medical treatment, and may just be that someone has made their intention known to someone or started to dress in a different way.

The Council recognises that the current legislation is under review and therefore recognises the wider definition of Gender Identity which also includes 'trans' people whose sense of their own gender does not match the sex that society assigned to them at birth, this can include non-binary identities where a person's gender identity is outside binary male/female identities. It can also include genderfluid identities where a person's sense of gender identity isn't fixed to a specific identity and changes from time to time or is situational.

Marriage/civil partnership

Marriage and civil partnership are protected characteristics under the Equality Act 2010.

A marriage covers any formal union of a man and a woman which is legally recognised in the UK as a marriage.

A civil partnership refers to a registered civil partnership under the Civil Partnership Act 2004.

Unlike most other protected characteristics there is no protection under the Equality Act for discrimination based upon association or perception.

Pregnancy/ maternity

In respect of employment, the Equality Act states that it is unlawful direct discrimination to treat a person unfavourably because of their pregnancy or a related illness, or because they are exercising, has exercised or is seeking or has sought to exercise their right to maternity leave. - This is not considered to be sex discrimination.

National origin

National origin is where a person comes from a national group with identifiable elements, both historic and geographic, which at least at some point in time indicates the existence of a nation. - National origin is distinct from nationality, but often the two will be the same. For example, people of Chinese national origin may be citizens of both China and the UK. A racial group can be a group of people who share a colour, or ethnic or national origin or a group with the same nationality.

Race

Race can include skin colour, nationality (including citizenship) and ethnic or national origin.

Being of an **ethnic origin** will depend upon whether a person belongs to an ethnic group. An ethnic group must have 2 essential characteristics – a long shared history and a cultural tradition of its own. Other relevant characteristics may be a common language, a common literature, religion or a common geographical origin or a sense of being a minority or an oppressed group. This is quite a wide definition, and has included Sikhs, Jews, Romany Gypsies and Irish Travellers.

Religion or belief

Religion or belief is a protected characteristic under the Equality Act 2010. It includes any religion and any religious or philosophical belief. It also includes any lack of such religion or belief.

The meaning of religion or belief is broad and is consistent under both the Equality Act and Article 9 of the European Convention on Human Rights.

Religion

The term 'religion' means any religion and includes a lack of religion. A religion need not be mainstream, but it must be identifiable and have a clear structure and belief system. Denominations or sects within religions (eg. Methodists within Christianity or Sunnis within Islam) may be considered a religion. Cults and new religious movements may also be religions.

Belief

The term 'belief' means any religious or philosophical belief and includes a lack of belief. It need not include faith or worship but must affect how a person lives their life or perceives the world. For a belief to be protected under the Equality Act it must: -

- be genuinely held
- be a belief and not an opinion or viewpoint based on information available at the moment
- be a belief as to a weighty and substantial aspect of human life and behaviour
- attain a certain level of cogency, seriousness, cohesion and importance
- be worthy of respect in a democratic society
- be compatible with human dignity and not conflict with the fundamental rights of others.

Examples of people who follow beliefs are Humanists, Atheists and Vegans. Political beliefs are not included.

Sex (sometimes known as gender)

Sex is a protected characteristic under the Equality Act 2010 and refers to a man or a woman of any age. It does not include gender reassignment or sexual orientation.

Sexual orientation

Sexual orientation is a protected characteristic under the Equality Act 2010, and means a person's orientation towards: -

- persons of the same sex or gender identity
- persons of the opposite sex or a different gender identity
- persons of either sex or any gender identity

It does not include gender reassignment.

Working carer

The Carers Trust defines a carer as “anyone who cares, unpaid, for a friend or family member who due to illness, disability, a mental health problem or an addiction cannot cope without their support”. This could include short term or long-term care. Furthermore, the Equality Act 2010 protects a person who experiences discrimination because they are associated with someone who has a disability. For example, it would be unlawful if the partner of someone who has cancer was refused promotion because of concerns that they would be unable to give sufficient attention to the job. The Act also allows workplace adjustments to be requested for caring responsibilities.

Looked after child/care leaver

A child who has been in the care of their local authority for more than 24 hours is known as a looked after child. A care leaver is a young person aged 16-25 years old who has been “looked after” at some point since they were 14 years old and were in care on or after their 16th birthday.

Veterans

Veterans are defined as anyone who has served for at least one day in His Majesty’s Armed Forces (regular or reserve)

Socially economically vulnerable

Socially-economically vulnerable are people or groups of people who are disadvantaged due to a range of factors which could include being at risk of, or experiencing poverty and health inequalities, people who are income deprived, people who live in a deprived area, people who live in poor housing or experiencing social exclusion due to other characteristics such as their age, disability, gender identity, race or sexual orientation.

Appendix 2: Prohibited Conduct

Direct discrimination occurs when a person treats or would treat another person less favourably than others and the treatment is because of an equality characteristic.

Combined discrimination occurs because a combination of two relevant equality characteristics results in a person being treated less favourably than others are or would be treated.

Discrimination arising from disability

Treatment of a disabled person amounts to discrimination if:

- the Council treats the disabled person unfavourably
- this treatment is because of something arising in consequence of the disabled person's disability, and
- the Council cannot show that this treatment is a proportionate means of achieving a legitimate aim.

Indirect discrimination occurs when a provision, criterion or practice is applied equally to everyone, but it:

- puts, or would put, people who share a certain common equality characteristic at a particular disadvantage, when compared with people who do not have that characteristic; and
- puts a particular person who has that equality characteristic at that disadvantage; and
- cannot be justified as a proportionate means of achieving a legitimate aim.

Failing to make reasonable or workplace adjustments for disabled people

The Council is obliged to make reasonable adjustments for disabled people or workplace adjustments for disabled colleagues. This duty applies where:

- a provision, criterion or practice applied by the Council; or
- any physical feature of premises occupied by the Council
- puts a disabled person at a substantial disadvantage compared with people who do not have that particular disability.

The duty also arises where: -

- but for the provision of an auxiliary aid a disabled person would be put at a substantial disadvantage compared with people who do not have that particular disability.

When the duty to make adjustments arises, the Council must take such steps as it is reasonable for it to have to take in all the circumstances to avoid that disadvantage or to provide the auxiliary aid.

Harassment occurs when a person engages in unwanted conduct which is related to one or more of the equality characteristics and which has the purpose or the effect of violating the dignity of another person, or creating for that person an intimidating, hostile, degrading, humiliating or offensive environment.

Victimisation occurs when someone subjects a person to a detriment because they have - or are believed to have - complained that someone else has harassed them or discriminated against them or has supported others who have done this. It also applies where it is believed that someone may do such a thing in the future.

Bury
Council