



Internal Staff Equal Opportunities - Procedural Document

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1. EQUAL OPPORTUNITIES POLICY STATEMENT

The National Archives aims to be an inclusive organisation where everyone is treated with respect and dignity, and where there is equal opportunity for all. The National Archives respects and values the diversity of its staff and users.

This means that all The National Archives' staff and users should understand and respect that there is a diverse work force and user community and that everyone has the right to be treated with dignity and equality. This includes the legal and ethical requirement for The National Archives to provide public services and conditions of employment that are appropriate to the needs of a diverse society.

Valuing diversity means that we recognise that we all have complex identities made up of many strands. These can include, but are not limited to, ethnicity, gender, sexual orientation, age, physical and mental aptitudes, nationality, socio-economic status, and religious, political or other beliefs. This means we embrace and celebrate our differences in a positive environment, and are committed to engage with the needs of our diverse staff and users to enable us, both individually and corporately, to achieve our aims.

The National Archives will tackle barriers to participation and create a culture in which equal opportunities and equal treatment are a priority for all staff and users. In the recruitment, training, pay and management of staff, and in all our day-to-day work with both colleagues and users, we seek to create an environment where attitudes and biases that hinder the progress of individuals and groups are dismantled and where we work together in mutual respect and tolerance.

Management Responsibilities

It is the responsibility of all managers from directors and departmental heads to junior supervisors to:

- ⇒ ensure that the standards established within this policy are adhered to within their own area of responsibility
- ⇒ familiarise themselves with the procedures in all Equal Opportunities documentation
- ⇒ ensure that they are not instructing employees to act in a discriminatory manner
- ⇒ ensure they are not putting pressure on employees to discriminate

- ⇒ bring the details of the policy and procedure documents to the attention of all staff
- ⇒ ensure that information on equal opportunities is incorporated in all induction processes for new or temporary staff and is supported by ongoing training

Staff Responsibilities

It is the responsibility of employees at all levels to:

- ⇒ co-operate with any measures introduced to ensure equality of opportunity
- ⇒ report any discriminatory acts or practices
- ⇒ not induce or attempt to induce others to practice unlawful discrimination
- ⇒ not victimise anyone as a result of them having reported or provided evidence of discrimination
- ⇒ not harass, abuse, bully or intimidate others

Legal Responsibilities

Over and above the provisions set out in its own policy and procedures, the Office is also bound by certain legal responsibilities in the field of equal opportunities. These are set out in full in the Procedural document but include:

- ◆ **The Race Relations Act 1976 (as amended)**
- ◆ **The Equal Pay Act 1970, Equal Pay (Amendment) Regulation 1983 and Sex Discrimination Act 1975 and 1986 (as amended)**
- ◆ **Disability Discrimination Act 1995**
- ◆ **European Law**

ADDITIONAL INFORMATION

The Equal Opportunities Procedure Document explains in detail where individuals can get help and how to complain about discrimination and harassment. The Office undertakes to assure individuals that allegations will be taken seriously, treated confidentially and investigated quickly. Employees will be protected against victimisation for making a complaint or supporting a complainant in making a complaint.

This policy statement will be displayed on notice boards and in public folders on the PRONTO system. Any queries about the policy or associated procedure should be made to the Personnel Department. This policy will be reviewed annually together with the Trade Unions.

2. USEFUL DEFINITIONS

What is Discrimination?

Discrimination in employment happens as a result of prejudice, misconception and stereotyping which in turn hinders the proper consideration of an individual's talents, skills, abilities, potential and experience. It can be direct or indirect, intentional or not intentional. What is most important is that certain forms of discrimination are not just unfair - they are illegal!

The following are terms which may be used when discussing matters of equal opportunities:

Direct Discrimination

Direct discrimination takes place when a person is treated less favourably than others (in the same circumstances) on the grounds of their race, sex, disability etc.

For example, a job advertisement which states that "Only those who have English as their first language may apply".

Indirect Discrimination

Indirect discrimination means applying a condition, or requirement, which adversely affects one particular group more than another, and cannot be justified in terms of the requirements for performing a job.

For example, a line manager who only offers overtime to full time members of staff (the group being directly discriminated against will be part timers but where female part timers form the majority of the part time group they would be eligible to claim indirect discrimination on the grounds of gender).

Victimisation

Victimisation consists of taking action against a person for asserting their rights under the law.

For example, a member of staff who has spoken to their line manager about being the subject of racial harassment by another member of staff and who is subsequently ignored by a group of staff within the section.

Harassment/Bullying

Harassment and bullying take many forms, occurs on a variety of grounds and may be directed at one person or many people. In general terms it can be described as persistent unwanted behaviour which a person finds intimidating, upsetting, embarrassing, humiliating or offensive. Chapter 5 deals with harassment and bullying in more detail.

Positive Action

Positive Action is allowed by law to encourage employees who are members of disadvantaged groups which have been under-represented in particular work areas to receive special training programmes so as to enable them to compete equally for jobs.

Positive Discrimination

Positive Discrimination is where an employer discriminates in favour of a certain group with the intent of raising the profile of that particular group. It is illegal in this country but used widely in the USA and allows employers to limit activities to specific under-represented groups.

For example, a company advertises for Asian staff due to the fact they are under-represented in the workforce.

Genuine Occupational Qualification

The law recognises that there will be occasions when it is necessary to restrict certain jobs to certain categories or groups of people. This is rare and an employer would have to demonstrate that they have researched the requirement thoroughly

before setting it. These are referred to as genuine occupational qualifications or GOQs.

For example, an employer whose work requires them to recruit a female to work in a woman's refuge may place this requirement as part of the selection criteria.

3. LEGAL RESPONSIBILITIES

Over and above the provisions set out in its own policy and procedures, The National Archives is also bound by certain legal responsibilities in the field of equal opportunities. The key areas of these are as follows:

Equal Pay Act 1970:

http://www.womenandequalityunit.gov.uk/legislation/equal_pay_act.htm

Sex Discrimination Act 1975:

http://www.womenandequalityunit.gov.uk/legislation/equal_pay_act.htm

Race Relations Act 1976, Race Relations (Amendment) Act 2000, Race Relations Act 1976 (Amendment) Regulations 2003:

<http://www.cre.gov.uk/legal/rra.html>

Disability Discrimination Act 1995:

<http://www.drc-gb.org/thelaw/thedda.asp>

Employment Rights Act 1996:

<http://www.opsi.gov.uk/acts/acts1996/1996018.htm>

Employment Act 2002:

<http://www.dti.gov.uk/employment/employment-legislation/employment-act-2002/index.html>

Religion or Belief Regulations 2003, Sexual Orientation Regulations 2003, Age Discrimination Regulations 2006:

<http://www.dti.gov.uk/employment/discrimination/index.html>

European Law

There has been various legislation relevant to equality of opportunity which has emanated from Brussels. This includes Article 119 - Treaty of Rome (), the Equal Pay and Equal Treatment Directives of 1975 and 1976 and the European

Commission recommendation and Approved Code of Practice on the Dignity of Women and Men at Work 1991.

Codes of Practice

Additionally, evidence of non compliance with the Codes of Practice (incorporated in this policy and procedural document) issued by the Cabinet Office is admissible before an Employment Tribunal and will usually lead the Tribunal to draw the inference that an unlawful act of discrimination has occurred.

Contracts

All PRO contracts will include wording which ensures that those undertaking the contract understand the stance taken by the Office. The following wording will be incorporated:

“1.1 The contractor shall not unlawfully discriminate within the meaning and scope of the provisions of the Race Relations Act 1976 or any statutory modification or re-enactment of that Act or any other relating to discrimination in employment.

1.2 The Contractor shall take all reasonable steps to secure that all servants, employees or agents of the Contractor and all sub contractors employed in the performance of the contract do not unlawfully discriminate as set out in Condition 1.1.
“

4. THE NATIONAL ARCHIVES CODES OF PRACTICE

The following are a number of specific areas which everyone should be aware of:

Attracting suitable applicants

The National Archives will:

- Review Job Descriptions to ensure they do not contain any potentially discriminatory criteria that are not essential for the role.
- Advertise vacancies so that they are likely to reach all potential applicants.
- Encourage the participation of relevant staff in drafting suitably open advertisements.
- Ensure that recruitment literature and advertisements make it clear that applications are welcome from all suitably qualified candidates and that they avoid stereotypical images.
- Include in any advertising details of flexibilities such as childcare vouchers, job share and flexi time where they are available.
- Advise any agencies, job centres, career offices etc. of our equal opportunities policy and practices and ask them to convey these to potential applicants.
- Ensure that agencies assisting in recruitment operate appropriate diversity policies and procedures when acting on behalf of TNA.
- Ensure that copies of the Diversity and Equal Opportunities Statement is sent out to applicants together with job specifications.
- Incorporate a welcome statement in any adverts.
- Monitor returns of application forms to identify any concerns in failing to attract a broad range of individuals.

- Operate the Guaranteed Interview Scheme for disabled applicants.

Learning & Development

The National Archives will:

- Ensure equal opportunity of access to, and benefit from, all forms of learning and development activity.
- Train all those in delivering learning and development across TNA in equal opportunities and diversity issues.
- Ensure that all staff receive induction training which covers their rights and responsibilities under the Diversity and Equal Opportunity Policy and Procedures.
- Ensure that diversity and equal opportunities issues are addressed fairly and equitably in all management-related courses such as performance management, selection interviewing, managing attendance and conduct and efficiency, as well as customer care training.
- Provide flexibilities to accommodate the needs of staff on flexible working patterns.
- Provide flexibilities to accommodate cultural or religious needs of staff e.g. days of worship, diet etc.
- Provide flexibilities to accommodate any special arrangements e.g. wheelchair access, signing etc.
- Monitor who takes part in training in terms of age, gender, ethnic origin and disability.
- Ensure external training providers are provided with a copy of TNA Diversity Statement.
- Monitor learning activities across departments to ensure staff are not excluded.

Recruitment and Selection (including promotion)

The National Archives will:

- Ensure that selection decisions are based on objective, non discriminatory, job related criteria, consistently applied to all candidates.
- Ensure that nationality requirements are applied correctly.
- Invite applicants to identify any special arrangements they may need at interview.
- Ensure that all those involved in recruitment and selection have had appropriate training in recruitment interviewing, diversity and equal opportunities or receive the appropriate guidance from Human Resources.
- Ensure that selection decisions for any post are taken by more than one person.
- Ensure that membership of recruitment boards takes into account, so far as possible, the range of candidates being seen.
- Ensure that selection criteria and reasons for the selection or rejection of individual candidates are recorded.
- Ensure that decisions in relation to promotion opportunities including temporary promotion are non-exclusive and that extended use of temporary promotion is discouraged where it will give one individual an unfair advantage over others.
- Monitor the results of recruitment processes with particular regard for decisions which appear to be inconsistent.

Performance Management

The National Archives will:

- Quality assure completed performance agreements, interim reviews and main reviews to ensure that performance targets are fairly set and progress fairly assessed and there is no indication of the use of stereotypical assumptions.

- Monitor annual main review assessments in relation to age, gender, ethnic origin and disability and take action to remedy practice which contravenes TNA policy on Diversity and Equal Opportunities.
- Act on learning and development needs identified in personal development plans.

TNA Processes

The National Archives will:

- Ensure that any written communications are produced in a clear and accessible format minimum size 12 typeface. This will include producing documents in Arial font and in a form which can be increased in size by the reader if necessary.
- Ensure that oral communications are produced in a form which is supported for those with hearing impairments. This may include subtitles for videos and sign language interpreters for meetings.
- Ensure that access to work requirements for those with any form of disability are considered in a fair and open manner.
- Ensure that, where possible, information is available in respect of age, gender, ethnic origin and disability across pay bands. (This may not be possible where there is only a very small number of people in the band so that confidentiality would be broken by providing specific statistics)

ADDITIONAL INFORMATION

The procedure will be reviewed annually or as required by legislative or policy changes. Other sources which individuals may want to reference are Diversity and Equal Opportunity Review papers and other publications relating to Diversity and Equal Opportunities (held in the Library and in Human Resources). The Staff Handbook has a summary of this document with some additional examples.

Associated policies and procedures include “Harassment allegations involving those who are not members of staff” (Currently being drafted), “Flexible Working Hours”, “Childcare Vouchers”, “Career Breaks” and others.

5. HARASSMENT AND BULLYING

What is Harassment?

Harassment is any behaviour which is unwelcome, unreciprocated or offensive to the individual receiving it. It can include comments, actions, jokes and suggestions. It is often intimidating and threatening. Sometimes it can be persistent and sometimes it can take the form of an isolated incident. It can be directed to one person or a group of people. It can involve physical contact or be verbal, written or silent.

Most forms of harassment are based on race or sex but it can also occur because one individual takes a dislike to another. It is of particular concern if the harasser is in a position of authority over the recipient.

Many individuals who are accused of harassment claim that they only intended the remark or action as a joke - this is no excuse. Harassment (as defined) is never a joke or harmless fun.

Individuals can be harassed for a number of reasons including:

- gender
- sexual orientation
- religious or political convictions
- membership or non-membership of a trade union
- disability
- physical appearance
- status
- age

It should be clearly understood that harassment of any form is contrary to The National Archives' Equal Opportunities Policy and that where evidence of it taking place is found, the disciplinary procedure for gross misconduct will be invoked. It should also be noted that harassment on the grounds of race, sex or disability is illegal.

What is Bullying?

Bullying is often a form of harassment and may manifest itself in many ways. It is usually persistent and can be done by a manager, colleague or group of people to another individual. It is insidious and often undermines the ability and confidence of the person who is suffering it. It can lead to fear, demotivation, isolation, poor concentration, reduced output, symptoms of stress and high sickness absence levels.

Both harassment and bullying are about an abuse of power whether by physical strength, force of personality or position of authority. If bullying involves issues of gender, race or disability then legislation may apply. As with any form of harassment, it is contrary to The National Archives' Equal Opportunities Policy and as such disciplinary action may be invoked.

Examples of Harassment and Bullying:

- **Sexual Harassment**

Male line manager repeatedly touches a female junior member of staff against her wishes

Pictures of scantily clad males or females which cause offence to either sex

Use of explicit sexual language either in jokes or general conversation in a way that may give offence.

- **Racial Harassment**

Junior members of staff persistently use stereotypical gestures when dealing with a black manager

Racist graffiti

Racist jokes, derogatory nicknames or offensive T-shirt comments

- **Disability Harassment**

Colleagues repeatedly making fun of a deaf person behind their back, throwing objects at them to gain their attention

Deliberate use of comments such as "Are you blind" to someone with visual impairments

Deliberately making it difficult for a person in a wheel chair to leave the room by placing bulky packages in their path

- Bullying

Shouting at individuals in a public environment

Consistently targeting a single member of staff whose work has to be checked

One group of staff refusing to talk to an individual

Consistently undermining a line manager

These examples are not exhaustive but provide a cross section of non-verbal, verbal and physical ways in which an individual or group of individuals can be harassed or bullied. More details of unacceptable behaviour are available in the Staff Handbook (Chapter 5) together with some of the common reasons why individuals may be harassed in the workplace.

How to deal with complaints

It is important to recognise that many victims of discrimination, harassment and bullying do not complain. This may be because they hope it will go away, they are embarrassed, they don't want to be seen as a troublemaker, they fear they will be told it was self-provoked, they fear they won't be believed and for many more reasons. The most common reasons for not complaining are because the offender is a more senior manager, individuals fear for their job security or they do not want to upset colleagues.

Any complaints about such behaviour must be treated seriously. Individuals who are suffering harassment or bullying but who do not wish to make any formal complaints initially should consider speaking to their trade union representative, department equal opportunity representative, welfare officer or a colleague who they feel they can trust. This may help them to gain some perspective of the problem they are facing. Those who wish to make a formal complaint should use The National Archives' Grievance Procedure.

Line managers who are seen informally in such instances should seek the advice of Personnel as soon as possible.

