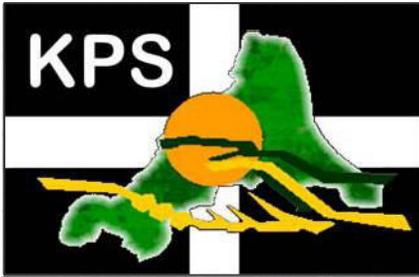


# Equal Opportunities

Kernow Positive Support



SPECIALISED HIV INFORMATION,  
SUPPORT, RESPITE & RETREAT

POLICY DOCUMENT 2013  
Revised 2017

# EQUAL OPPORTUNITIES

## 1. INTRODUCTION

Kernow Positive Support (KPS) recognises the diversity of people in society and aims to use the differences that exist to enrich its activities. KPS recognises that prejudices exist and will aim, through training, to encourage its clients (*service users*) and members\* to be aware of their prejudices, in order to be in a better position to counteract discrimination.

## 2. PRINCIPLES UNDERLYING THE EQUAL OPPORTUNITIES POLICY

2.1 KPS aims to ensure that the membership of the organisation, whether it be as a client (service user), accessing our services, or volunteer or employee, is accessible to everyone regardless of-

- age
- disability (including HIV status)
- gender reassignment
- marriage and civil partnership
- race
- religion or belief
- sex
- sexual orientation
- unrelated criminal convictions
- class
- political belief

and that once someone is a member and/or a service user, trustee, volunteer, employee, that they will not suffer any form of discrimination.

2.2 KPS commits itself to take positive action in situations where discrimination occurs.

## 3. THE EQUAL OPPORTUNITIES POLICY

3.1 KPS will look at the breakdown of the general clients and membership of KPS on a yearly basis and identify any part of the community, which is not represented or poorly represented. KPS will aim, in such cases, to explore the reasons why and identify ways of increasing the accessibility of its service provision and membership.

3.2 KPS will research the numbers and breakdown of people living with HIV in the county of Cornwall and work towards having a HIV-positive client base which reflects the nature of the positive community in that area.

3.3 KPS will promote its activities in a wide range of papers and venues.

3.4 KPS will work with organisations involved with particular groups of society in order to maximise accessibility to the organisation.

## 4. DEALING WITH DISCRIMINATION

Where discrimination occurs KPS will use the Complaints Procedure (*see Complaints Procedure*) to address the problem.

These are the categories covered by The Equality Act 2010:

### **1. Age:**

The Act protects people of all ages. However, different treatment because of age is not unlawful direct or indirect discrimination if you can justify it. Age is the only protected characteristic that allows employers to justify direct discrimination.

### **2. Disability:**

What is a disability?

Disability has a broad meaning. It is defined as a physical or mental impairment that has a substantial and long-term adverse effect on the ability to carry out normal day-to-day activities. 'Substantial' means more than minor or trivial. 'Impairment' covers, for example, long term medical conditions such as asthma and diabetes, and fluctuating or progressive conditions such as rheumatoid arthritis or motor neurone disease. A mental impairment includes mental health conditions (such as bipolar disorder or depression), learning difficulties (such as dyslexia) and learning disabilities (such as autism and Down's syndrome). Some people, including those with cancer, multiple sclerosis and HIV/AIDS, are automatically protected as disabled people by the Act. People with severe disfigurement will be protected as disabled without needing to show that it has a substantial adverse effect on day-to-day activities.

To qualify for protection from discrimination, a disabled person no longer has to show that their impairment affects a particular 'capacity' such as mobility or speech, hearing or eyesight.

The Act makes it easier for a person to show that they are disabled and protected from disability discrimination. Under the Act, 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.

It is the duty of KPS to make reasonable adjustments for staff to help them overcome disadvantages resulting from an impairment (e.g. by providing assistive technologies to help visually impaired staff use computers effectively).

The Act includes protection from discrimination arising from disability. This states that 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 could claim that a particular rule or requirement you have in place disadvantages people with the same disability. Unless you could justify this, it would be unlawful. The Act also includes a new provision which makes it unlawful for employers to ask about a candidate's health before offering them work, except in certain the following circumstances:

- Reasonable adjustments need to be made for the person to the selection process.
- In deciding whether the applicant can carry out a function that is essential ('intrinsic') to the job.
- To monitor diversity among people making applications for jobs.
- In order to take positive action to assist disabled people.
- The job genuinely requires the jobholder to have a disability.

The Act also protects people from being discriminated against and harassed because of a disability they do not have. For example, it protects people who are mistakenly perceived to be disabled. It also protects a person from being treated

less favourably because they are linked or associated with a disabled person.

### **3. Gender Reassignment :**

The Act provides protection for transsexual people. A transsexual person is someone who proposes to, starts or has completed a process to change his or her gender. The Act no longer requires a person to be under medical supervision to be protected – so 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 favourably 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.

### **4. Race:**

For the purposes of the Act 'race' includes colour, nationality and ethnic or national origins.

The Equality Act 2010 makes it illegal to treat a person less favourably due to their colour, nationality and ethnic or national origins.

Race discrimination covers all aspects of employment – from recruitment to pay, and training to the termination of a contract.

Discrimination covers four areas:

- Direct discrimination – treating someone less favourably on racial grounds
- Indirect discrimination – applying practices that might favour one racial group over another
- Harassment – unwanted conduct that violates a person's dignity and creates a hostile or degrading environment
- Victimisation – unfair treatment of an employee who has made a complaint about racial discrimination.

However, a job may be restricted to people of a particular race or ethnic or national origin, if one of these characteristics is a genuine occupational requirement. A genuine occupational requirement or qualification may apply in limited circumstances for reasons of authenticity – for example, to achieve authenticity a theatre company may need black actors to depict certain scenes.

### **5. Religion or belief**

In the Equality Act, religion includes any religion. It also includes a lack of 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.

The Regulations mean that an organisation's recruitment and selection procedures, as well as employment practices, must treat everyone fairly regardless of religion or belief.

### **6. Sex Discrimination**

Both men and women are protected under the Act. Employers should not discriminate on grounds of sex. Sex discrimination covers all aspects of employment – from recruitment to termination of a contract, and training and pay.

It also includes applying requirements, conditions or practices which, though applied equally to all, have a disproportionate effect on one sex which cannot be shown to be justifiable (for instance to be job-related). There are limited exceptions: the Act permits employers, under certain conditions, to train employees of one sex in order to fit them for particular work in which their sex has recently been under represented; they may also encourage the under-represented sex to take up opportunities to do that work.

Equal pay

Employers must give men and women equal treatment in the terms and conditions of their employment contract if they are employed on:

- 'Like work' – work that is the same or broadly similar
- Work rated as equivalent under a job evaluation study, or
- Work found to be of equal value.

A woman is employed on 'like work' with a man if her work is of the same or a broadly similar nature. It is for the employer to show that there is a genuine reason for any difference in pay for this 'like work', which is not based on the sex of an individual.

Individuals may complain to an employment tribunal up to six months after leaving the employment to which their claim relates. Normally, they may claim arrears of remuneration (which includes sick pay, holiday pay, bonuses, overtime etc., as well as 'pay') for a period of generally up to six years (five years in Scotland) before the date of their tribunal application.

The Equality Act 2010 makes it unlawful to prevent or restrict employees from having a discussion to establish if differences in pay exist. However, an employer can require their employees to keep pay rates confidential from people outside the workplace.

**Part-time employees**

The Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 aim to ensure that part-time workers are not treated less favourably than comparable full-timers. Principally, this means they should:

- Receive the same rates of pay
- Not be excluded from training simply because they work part-time
- Receive holiday entitlement pro rata to comparable full-timers
- Have any career break schemes, contractual maternity leave and parental leave made available to them in the same way as for full-time workers
- Not be treated less favourably when selecting workers for redundancy.

## **7. Sexual Orientation**

The Act protects bisexual, gay, heterosexual and lesbian people. The Regulations mean that an organisation's recruitment and selection procedures, as well as employment practices, must treat everyone fairly regardless of their sexual orientation.

## **8. Marriage and Civil Partnership**

The Act protects employees who are married or in a civil partnership against discrimination. Single people are not protected.

## **9. 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.

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

Additionally:

### **Trade union membership**

Employees have various rights to be protected against discrimination because they belong or do not belong to a trade union. For example, it is unlawful to:

- Specify union membership in advertising a job
- Limit recruitment to trade union members
- Be refused employment or the services of an employment agency because of membership or non-membership of a trade union
- Be dismissed or chosen for redundancy because of membership or non-membership of a trade union.

## Definitions within the Act

From October 2010 The Equality Act came into effect. It is now unlawful to discriminate against workers (or treat them less favourably) as set out below.

This new legislation covers seven types of discrimination:

1. Direct Discrimination: Someone is treated less favourably than another person because of a protected characteristic (PC).

Applies to: Categories 1-9

2. Discrimination by Association: Direct discrimination against someone because they associate with another person who possesses a PC.

Applies to Categories 1-7

3. Discrimination by Perception: Direct discrimination against someone because others think they possess a particular PC.

Applies to Categories 1-7

4. Indirect Discrimination: Occurs when a rule or policy that applies to everyone disadvantages a particular PC.

Applies to Categories 1-8

5. Harassment: Employees can now complain of behaviour they find offensive even if it is not directed at them.

Applies to Categories 1-7

6. Harassment by a Third Party: Employers are potentially liable for harassment of their staff by people they do not employ.

Applies to Categories 1-7

7. Victimisation: Someone is treated badly because they have made/supported a complaint or grievance under the Act.

Applies to Categories 1-9

## Who Has These Rights?

Most people are entitled these statutory rights, although, in many cases, qualifying conditions must be fulfilled before a right may be claimed. Some rights apply to all employees as soon as they start work; others depend on factors such as length of service, continuity of employment and activities in addition to the job (e.g. union work). For certain rights, various groups of people are excluded. Most rights apply only to employees but some apply to wider groups of workers.

Employers must give employees a written statement of the main particulars of employment within two months of the beginning of the employment. It should include, among other things, details of pay, hours, holidays, notice period and an additional note on disciplinary and grievance procedures.

Age: Employment equality act 2006 Amended 2011

<http://www.legislation.gov.uk/uksi/2011/1069/contents/made>

All others replaced by Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15/contents>

All KPS policies and procedures are reviewed annually; this EQUAL OPPORTUNITIES POLICY has been reviewed and ratified by the KPS Board of Trustees commencing 1<sup>st</sup> March 2017 (*under 'policies' as shown in the KPS Annual Report and Accounts*).

\*Members of KPS in this document are; volunteers/trustees, employees, practitioners, clients (*service users*).

**Ref: EQUALOP2010.**