

The Bedford Charity
(The Harpur Trust)

EQUAL OPPORTUNITIES POLICY

EQUAL OPPORTUNITIES POLICY

Policy Statement

1. ***The Bedford Charity (The Harpur Trust)*** (“the Charity”) is an equal opportunities employer. This document sets out The Charity’s Equal Opportunities Policy (“the Policy”). The Charity is committed to the Policy in its employment practices, including vacancy advertising, recruitment, training and promotion, terms and conditions of employment and reasons for termination. The Policy aims to ensure that no employee, contractor, temporary recruit, worker or job applicant receives less favourable treatment than another on the grounds of, for example age, colour, family responsibilities, gender reassignment, marital status, nationality, national extraction, social origin, pregnancy, medical record, race, sex, sexual orientation, transexualism, religion, religious belief or similar philosophical belief, political conviction, mental disability, physical disability, psychiatric disability impairment, physical features or on the grounds that they are a member or non-member of a trade union (“the Grounds”). (This is a non-exhaustive list of examples. The Charity may at any time modify or add to this list). The Charity is committed to ensuring this Policy is followed within all its schools, Almshouses and the Harpur Trust Offices (“the Operating Units”). The Charity intends to follow the principles of equal opportunities in all its activities as an employer.

➤ Advertising, Selection and Recruitment

Wherever possible, all vacancies that require an additional person to be employed will be advertised internally throughout the Charity. Where a vacancy requires selection of an internal candidate to fill a role within one of the Charity’s Operating Units but which does not require an additional person to be recruited, that opportunity will be advertised within the Operating Unit concerned. The Charity aims to ensure that, in every case, it appoints the best qualified person for the job without discriminating on any of the Grounds. Wherever possible, more than one person will be involved in the selection and recruitment process.

➤ Training and Promotion

Employees will be appraised and promoted on the basis of objective assessment of performance and potential. All decisions will be made without discrimination. Under represented groups will be encouraged to apply for training and employment opportunities at the Charity. Wherever possible, special training will be provided for such groups to prepare them to compete on genuine equal terms for jobs and promotions. However, actual recruitment, training and promotion will be strictly on merit.

➤ **During Employment**

The Charity aims to maintain a workplace free of any discrimination or harassment whatsoever. The Charity will also be aware of changing values and attitudes of employment and aims to ensure that its workforce reflects that of the community.

2. In order to ensure that the Policy is operating effectively (and for no other purpose) the Charity will maintain records of employees' and job applicants', racial origin, religion, sexual orientation, gender and disability (if applicable).
3. The Chief Executive of the Charity is responsible for ensuring that the Policy is adhered to at all times. Any queries regarding the contents of the Policy should be addressed to the HR Coordinator in the first instance.

Unlawful Discrimination

4. It is unlawful to discriminate against any employee, contractor, temporary recruit, worker or job applicant on the grounds of sex, race, sexual orientation, religion or belief, or disability either directly (i.e. treating them less favourably on the basis of the person's sex, race, disability etc) or indirectly.

Sex and Race Discrimination

5. Sex and race discrimination occurs when someone treats a fellow employee or worker less favourably on the grounds of their race or sex or due to a characteristic or assumption about their race or sex. For example, if someone assumes that a female employee with children cannot work as well as male members of a team and therefore gives her less quality work than others, this would constitute direct discrimination. The Charity will not tolerate any form of discrimination.

Indirect discrimination is:-

- a. in the case of sex discrimination:-
 - (i) applying a provision, criterion or practice which is applied or would apply equally to a man, but which is such that it would be to the detriment of a considerably larger proportion of women than of men,
 - (ii) which cannot be justified irrespective of the sex of the person to whom it is applied; and
 - (iii) which is to the person's detriment.

- b. and in the case of colour or nationality:-
 - (i) applying a requirement or condition which is applied or would be applied equally to persons not of the same racial group as that other but which is such that the proportion of persons of the same racial group as that other who can comply with it is considerably smaller than the proportion of persons not of that racial group who can comply with it; and
 - (ii) which cannot be shown to be justifiable; and
 - (iii) which is to the detriment of that other; *or*
- c. in the case of race, ethnic or national origins:-
 - (i) applying to that other a provision, criterion or practice which he applies or would apply equally to persons not of the same race or ethnic or national origins as that other, but which puts or would put persons of the same race or ethnic or national origins as that other at a particular disadvantage when compared with other persons,
 - (ii) which puts that other at that disadvantage, and
 - (iii) which he cannot show to be a proportionate means of achieving a legitimate aim.

Disability Discrimination

6. Discrimination against people with disabilities can take two forms; namely less favourable treatment for a reason relating to the disabled person's disability which an employer cannot justify or a failure to make reasonable adjustments to accommodate someone with a disability. Examples of unlawful discrimination may include refusing to offer a person employment or certain employment opportunities such as a promotion, training or transfer and may include dismissal.

Discrimination also occurs if on the grounds of the disabled person's disability a person treats the disabled person less favourably than he treats or would treat a person not having that particular disability whose relevant circumstances, including his abilities are the same as, or not materially different from those of a disabled person. Such discrimination based solely on an individual's disability as opposed to a manifestation of the disability cannot be justified in law.

7. It is important that we all realise that it is not only people with visible disabilities who fall within the definition of people who are disabled. The definition extends to

anyone who has a serious physical or mental impairment which has lasted, or which may last, for a long time and which has a substantial adverse effect on their normal daily activities. People who have conditions such as diabetes and epilepsy may be covered and so it is essential that you do not treat these people any differently if you are aware or ought to be aware of their condition.

8. Also, if you are a supervisor or manager and realise that someone is having difficulties due to a disability, you have an obligation to discuss this with them to see if any assistance can be offered to them by the Charity. The Charity will not tolerate disability discrimination.

9. From 1 October 2004, there are due to be changes in relation to the disability discrimination laws and one of these changes specifically is in relation to the duty to make reasonable adjustments:-

a. Where:-

(i) a provision, criterion or practice applied by or on behalf of the Charity, or

(ii) any physical feature of premises occupied by the Charity,

places the disabled person concerned at a substantial disadvantage in comparison with persons who are not disabled, it is the duty of the Charity to take such steps as it is reasonable, in all the circumstances of the case, for it to have to take in order to prevent the provision, criterion or practice, or feature, having that effect.

“The disabled person concerned” means in the case of a provision, criterion, or practice for determining to whom employment should be offered, any disabled person who is, or has notified the Charity that he may be, an applicant for that employment.

In any other case, the *“disabled person concerned”* means a disabled person who is an applicant for the employment concerned, or an employee of the Charity.

There is no duty on the Charity in relation to a disabled person if the Charity does not know, and could not reasonably be expected to know, in the case of an applicant or potential applicant, that the disabled person concerned is, or may be, an applicant for the employment; or in any case, that the person has a disability and is likely to be affected in the way mentioned above.

Harassment (sex, race and disability)

10. Sex, race and disability discrimination can also take the form of harassment, some examples of sexual, racial and disability harassment include the following;

a. Sexual harassment

“Sexual harassment” may be defined as follows: *“where any form of unwanted verbal, non-verbal or physical conduct, improper or inappropriate or unreasonable behaviour or practices or conduct of a sexual nature or other conduct based on sex occurs, with the purpose or effect of violating the dignity of a person or causing personal offence or hurt, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment”*.

From this definition, it can be seen that sexual harassment at work is unwelcome physical, verbal or non-verbal conduct of a sexual nature and which may include for example:-

demeaning comments about a person’s appearance; indecent remarks; questions about a person’s sex life; sexual demands by a member of the same sex or opposite sex; name-calling with demeaning terminology which is gender specific; and generally any unwelcome physical contact and other verbal or non-verbal conduct of a sexual nature.

The essential characteristic of sexual harassment is that it is unwanted by the recipient. Behaviour that may be acceptable if the recipient welcomes it (such as inviting someone for a private drink after work) can be harassment if the recipient indicates that the approach is unwelcome and the person who made it persists, or indicates that access to promotion or training, continued employment, salary or any other employment decision is dependent on the employee or applicant agreeing. One incident of harassment may constitute sexual harassment if sufficiently serious.

b. Racial harassment

“Racial harassment” is defined as follows: *“unwanted conduct of a racial nature, or other conduct based on race or ethnic or national origins which has the purpose or effect of violating the dignity of women and men at work or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person”*. Racial harassment may also be defined as such conduct based on colour or nationality.

Examples of racial harassment at work may include for example:-

racist ‘jokes’, banter, insults, taunts, gibes, literature and graffiti; shunning a person because of their race, colour, nationality or ethnic background; excluding

a person from conversations; making racist insinuations; being condescending or deprecating about the way a person dresses or speaks; and picking on people unnecessarily.

c. Disability harassment

“Disability harassment” is where a person subjects a disabled person to harassment where, for a reason which relates to the disabled person’s disability, he engages in unwanted conduct which has the purpose or effect of violating the disabled person’s dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for him. Conduct will have such an effect if having regard to all the circumstances, including in particular the perception of the disabled person, it should reasonably be considered as having that effect.

Examples of disability harassment at work may include for example:-

disabled “jokes”, banter, insults, taunts, gibes, literature and graffiti; shunning a person because of their disability, excluding a person from conversations, being condescending or deprecating about the way a person speaks, acts or moves; and picking on people unnecessarily.

11. Conduct which can constitute harassment (of any type) can include the following types of behaviour:

- unwanted physical contact;
- unwanted oral or written abuse including offensive language, suggestive remarks, suggestive whistling or e-mails containing material of a sexual or racial nature or relating to an individual’s disability (whether you consider this material to be amusing is not relevant);
- visual display of offensive posters, graffiti, suggestive gestures or use of pornographic or inappropriate internet sites; and
- conduct such as sexual or racial ridicule, offensive flirting, leering, intimidation or abuse because of an individual’s sex, race or disability.

12. In considering incidents of harassment and deciding whether conduct is unacceptable, the Charity will have regard to all the circumstances including the perception of the individual who is affected by the behaviour regarding that behaviour. An important factor therefore is what behaviour an individual finds acceptable to them and what is offensive or unwelcome to them. It is therefore not necessarily what you consider to be offensive but what the person to whom you say or do something considers offensive. Individuals will have different perceptions about this. Behaviour that you personally may not find offensive could be so to another individual. So, if an individual complains a colleague has sexually or racially harassed or harassed them because they are disabled or on any other unacceptable grounds then it should not be

ignored or dismissed on the grounds that the behaviour would not have been offensive to other individuals or that the individual did not intend for it to be offensive.

13. Although the Policy refers specifically to sexual, racial and disability harassment (and harassment on the grounds of an individual's sexual orientation or religion or belief later in this Policy), which is unlawful, it also applies to conduct relating to an individual's personal characteristics (for example on any of the Grounds listed above). All employees have a right not to be harassed and a responsibility not to harass other people. All sexual, racial and disability harassment (together with harassment on the grounds of an individual's sexual orientation and religion or belief) is unlawful and will not be tolerated by the Charity.

14. The Charity expects all employees to conduct themselves in a professional manner with respect and concern for their fellow employees. Any harassment based on an individual's disability, sexual orientation, religion or belief or of a sexual or racial nature, (or on any of the Grounds listed above) will be considered to be misconduct and may result in dismissal.

Complaints of Harassment

15. If you think that you are being harassed, you should make a complaint in accordance with Operating Unit's grievance procedure as soon as possible. If however you wish to use a more informal method you may wish to explain to the person engaging in the unwanted conduct that the behaviour is unwelcome, offends you or makes you uncomfortable and interferes with your work. It is recognised that this may be too difficult or embarrassing so as an alternative you may wish to seek support or ask for an initial approach to be made by a sympathetic friend. If, however, the conduct continues or if it is not appropriate to resolve the problem informally, please use relevant grievance procedure. The Charity will, through its Operating Unit in the first instance:

- a. thoroughly and promptly investigate any allegation of sexual, racial or any other type of harassment, in order to determine the truth of the situation;
- b. following an investigation, take the appropriate action up to, and including, summary dismissal;
- c. at all appropriate times, keep the individual concerned informed as to the progress of the investigation;
- d. report the conclusions of any investigations to the individual concerned.

16. The Charity recognises that for a person making a complaint, the situation can be very awkward and unpleasant. The Charity will always aim to put the person at ease and be sympathetic to them and ensure that their complaint will be treated seriously, expeditiously and confidentially. A complaint of harassment will never be treated lightly

or dismissed “out of hand”. Each and every case will be treated sensitively. There will be no reprisals against any individual making a genuine complaint. The Charity will endeavour to protect employees who make such complaints against victimisation or retaliation. Disciplinary action will be considered where there is any such victimisation or retaliation against an employee where that complaint has been brought in good faith.

17. Employees should also note that harassment can take place away from the workplace at work-related events and so you should behave responsibly towards colleagues at all times.

Sexual Orientation Discrimination and Harassment

18. It is unlawful to discriminate against or harass a person on the grounds of sexual orientation (whether heterosexual, gay, lesbian or bi-sexual).

19. Discrimination occurs if on the grounds of sexual orientation, a person (A) treats another (B) less favourably than he treats or would treat other persons. An example of this is where A refuses to promote B because he is gay. Discrimination on the grounds of perceived (including erroneously perceived) sexual orientation is also unlawful. Further examples of such unlawful discrimination are, on the grounds of somebody’s sexual orientation (including perceived, even if wrongly perceived, sexual orientation), deciding not to employ them, dismissing them, refusing to provide them with training, giving them adverse terms and conditions and/or denying them access to benefits available to individuals of different sexual orientation (unless the benefits are dependent on marital status).

20. Discrimination may also occur where a person (A) applies to another person (B) a provision, criterion or practice that A applies or would apply equally to a person of different sexual orientation to B but which:

- a. puts or would put persons of the same sexual orientation as B at a particular disadvantage when compared with other persons;
- b. which puts B at a disadvantage ; and
- c. which A cannot show to be a proportionate means of achieving a legitimate aim.

For example, an organisation requires a married couple for a job. That preference would be a “provision, criterion or practice” which would put a homosexual couple at a disadvantage. The organisation would have to show it was pursuing a legitimate aim and it was proportionate (ie appropriate and necessary).

21. Harassment occurs where on the grounds of sexual orientation, A engages in unwanted conduct which has the purpose or effect of violating B’s dignity or creating an

intimidating, hostile, degrading, humiliating or offensive environment for B. Regard will be had to all the circumstances including in particular the perception of B, to see whether it should reasonably be considered as having the effect of violating B's dignity or creating a hostile environment.

22. Types of conduct constituting harassment are detailed in pages 6 to 8 inclusive above of the Policy and apply equally where such conduct is carried but in respect of an individual's sexual orientation. It can include using nicknames, teasing, name calling, or other such unacceptable behaviour. The conduct can be aimed at the individual's sexual orientation or that of somebody with whom the individual associates.

23. If you think that you are being harassed please refer to the Complaints section in this Policy.

Discrimination and Harassment on the Grounds of Religion or Belief

24. It is unlawful to discriminate against workers on the grounds of religion or belief. Religion or belief means any religion, religious belief or similar philosophical belief. For example, it is unlawful to decide not to employ someone, dismiss them, refuse to provide them with training, deny them promotion or give them adverse terms and conditions because they do not follow a particular religion or belief.

25. Direct discrimination is where on the grounds of religion or belief, A treats B less favourably than he or she would treat other persons. This includes discrimination because of a perception by A of B's religion or belief, even if that perception is incorrect. It also includes where B associates with somebody of particular religion or belief.

26. Indirect discrimination occurs where A applies to B a "provision, criterion or practice" which he applies or would apply equally to persons not of the same religion or belief as B:

- a. which puts or would put persons of the same religion or belief as B at a particular disadvantage when compared to other persons;
- b. which puts B at that disadvantage; and
- c. the provision, criterion or practice cannot be shown to be a proportionate means of achieving a legitimate aim."

27. The Charity will therefore seek to ensure that it does not have selection criteria, policies, employment rules or other practices which despite being applied to all employees, have the effect (whether intentional or not) of disadvantaging people of a particular religion or belief unless the practice can be justified. Also, having regard to what is practical and reasonable the Charity will endeavour to accommodate religious

observations in practice in relation to dress codes, break policies, recruitment and job applications, flexible scheduling and religious leave.

28. It is also unlawful discrimination where A subjects B to harassment on grounds of religion or belief. Such harassment is where on grounds of religion or belief, A engages in unwanted conduct which has the purpose or effect of:

- a. violating B's dignity; or
- b. creating an intimidating, hostile, degrading, humiliating or offensive environment for B.

As for all types of harassment, regard will be had to all the circumstances including particularly the perception of B in deciding whether the conduct can reasonably be said to have either or both of the effects in (a) and/or (b) above. Unintentional harassment may be discriminatory. Harassment can include various types of conduct including teasing, tormenting, name-calling making sectarian "jokes", verbal abuse and violence.

29. If you believe you are being harassed, please refer to the Complaints section in this Policy.

General

30. Unlawful discrimination (including harassment) against any employee, contractor, temporary recruit, worker or job applicant on the Grounds set out above can not only have serious repercussions on the individuals concerned, including for example causing them to become ill, it can also lead to an unpleasant working environment for all employees. Discrimination could also have implications for the Charity such as financial penalties and adverse publicity. In addition to the sanctions that the Charity would impose on any such individual found to be discriminating against any employee, contractor, temporary recruit, worker or job applicant, the person responsible for the discrimination could incur personal liability as well as financial penalties.

31. The welfare of the Charity's employees is paramount. It is therefore very important that all staff comply with the Policy at all times when managing staff and dealing with each other.

This is particularly important when:

- a. recruiting staff;
- b. making decisions on promotion, pay rises and allocations of training;
- c. dealing with requests for part-time working;
- d. managing pregnant workers and working parents;
- e. making selections for redundancy; and

- f. dealing with colleagues on a daily basis, particularly in e-mail correspondence.

Victimisation

32. It is a discriminatory act to treat anyone less favourably if they have either made a complaint about discrimination during present or previous employment, they intend to make a complaint, or they have assisted someone else's complaint by giving evidence or corroborating a story. If, for example, someone informs you that they have previously brought a claim for discrimination at a tribunal, you should not use this information to treat that person less favourably than others, eg by assuming that they are a troublemaker or expressing such views in any way.

Bullying

33. Whilst there is no specific law against bullying at present (unless the bullying is actually discrimination or harassment), the Charity considers bullying to be a serious matter and will not tolerate bullying. Bullying is any persistent behaviour, directed against an individual or a group of employees, which is intimidating, cruel, offensive, humiliating or malicious and which undermines the confidence and self-esteem of the recipient(s).

34. These persistently negative attacks on personal and professional performance are typically unpredictable, irrational and often unseen. Bullying is therefore capable of identification, not merely by what has actually been done but also by the effect it has on the recipients of the behaviour. Bullying is often, though not exclusively, linked to an abuse of power.

35. Legitimate, constructive and fair criticism of an employee's performance or behaviour at work is not bullying. An occasional raised voice or argument is not bullying.

36. If you believe that you are being bullied, you should bring a grievance complaint within the appropriate grievance procedure.

Breaches of the Equal Opportunities Policy

37. We all have a responsibility to apply the principles of equal opportunity and not to be offensive to colleagues or to condone harassment or discrimination by others. Harassment, discrimination or victimisation of any kind is treated as serious or gross misconduct by the Charity. Formal disciplinary proceedings (in accordance with the Charity's disciplinary procedures) will be taken against anyone suspected of any form of

discrimination or harassment of any kind whatsoever and this may lead to summary dismissal from the Charity's employment.

38. Managers and supervisors who have particular responsibility for managing other employees have a specific responsibility to ensure that the Policy is complied with.

39. If you feel you have been discriminated against for any reason you should raise your grievance through the appropriate formal grievance procedure.

40. Employees may also be personally liable to an Employment Tribunal or Court claim being brought against them for either an act of discrimination or for allowing discrimination to occur or to continue without taking appropriate action. This could lead to an award of damages being made against an individual.

M A H Cook
Chairman of the Bedford Charity

29 June 2004

P:\megoha\Bedford School\harpurtrustEqualopps20041802.doc