

CARDIFF COUNCIL

SEXUAL ORIENTATION IN EMPLOYMENT POLICY

PURPOSE

1. The Council is committed to creating an inclusive community in which every person is treated with dignity and respect and appropriately to their individual circumstances. This includes respect for a person's sexual orientation and for any partners they may have. Through this policy, the Council will ensure that all employees, including past and prospective employees, are not subject to less favourable treatment as a result of their sexual orientation or perceived sexual orientation.
2. This policy underpins the Council's commitment to developing a culture of personal and managerial integrity and professionalism, in which dignity, courtesy and respect are valued, and where employees behave in ways that are sensitive and respectful to others regardless of their sexual orientation or perceived orientation.
3. Where employees are treated with dignity, courtesy and respect, there is an enriching effect on the quality of life for all concerned that cannot be over emphasized. As well as the personal benefits to individuals, the Council's reputation as a desirable place to work is enhanced. This can lead to higher levels of staff morale and retention.

SCOPE

4. This policy is focussed around the employees of Cardiff Council, rather than around our customers and service users. The Council's Single Equality Scheme incorporates equality on the basis of sexual orientation in relation to accessing Council services and facilities.
5. This policy will apply to all employees of the Council irrespective of their age, disability, gender identity/reassignment, language, race, religion or belief, sex, sexual orientation, marital or civil partnership status, pregnancy or maternity and welsh language. A separate version of this Policy has been adapted for use in Schools and is commended to School Governing Bodies.
6. The Council's sexual orientation policy applies to all employees who are lesbian, gay, heterosexual or bisexual.

LEGAL CONTEXT

7. There have been significant changes to UK law to protect people of all sexual orientations from being discriminated against in their employment. The Equality Act 2010 replaces all previous anti-discriminatory laws with a single piece of legislation. It makes it unlawful to discriminate against a person on the grounds of their actual or perceived sexual orientation in all aspects of employment, including: recruitment and selection, terms and conditions, promotions and transfers, pay, training, dismissals and employment references. It protects bisexual, gay, heterosexual and lesbian people against direct, associative and indirect discrimination and discrimination by perception. It provides legal protection from harassment, harassment by a third party and victimisation due to a person's actual or perceived sexual orientation.
8. Under the 'Occupational Requirement' provision in the Equality Act 2010, there is scope to recruit someone on the basis of their sexual orientation if this can be proven to be an essential requirement of the role.
9. The Civil Partnership Act 2004 came into effect in December 2005. It allows same sex couples to obtain legal recognition for their relationship and to have equal treatment to married couples in a wide range of legal matters. The Council welcomes the requirement to provide facilities for giving notice of intention to register a civil partnership, and for the formation of civil partnerships. The Council also offers a choice of ceremonies as part of the legal process, although this is not a statutory requirement.
10. The Equality Act 2010 protects employees who are married or in a civil partnership against direct and indirect discrimination and victimisation due to their marital or civil partnership status.
11. The Equality Act 2010 provides protection for bisexual, gay, heterosexual and lesbian people by making it unlawful to discriminate on the grounds of sexual orientation in the provision of goods, facilities and services, education, disposal and management of premises and exercise of public functions.
12. The Council welcomes these statutory requirements, and aims to go beyond these requirements in positively promoting equality and diversity in both employment and service delivery.

POLICY CONTEXT

13. The Council is proud to be a member of the Stonewall Diversity Champions Scheme. The programme is a good practice forum in which employers can work with Stonewall to promote lesbian, gay and bisexual equality in the workplace. For further information about the Stonewall Diversity Champions Scheme: www.stonewallcymru.org.uk
14. The Council is required to complete equality impact assessments for all policies including its Sexual Orientation Policy. These will assess policies, practices or decisions to ensure that they do not impact upon employees less favourably because of their sexual orientation.
15. Cardiff Council asks for details of the sexual orientation of its employees to assess the needs of the workforce. However, employees do not have to give this information. The Council undertakes and publishes an annual equality monitoring report using research data from its Employee Survey and its employee database to identify and correct any potential patterns of exclusion or under-representation. Sexual orientation is one of the fields that are monitored.
16. The Council has supported the development of an LGBT+ Employee Network for lesbian, gay, bisexual and transgender employees. The group is a useful and confidential resource for employees wishing for support on issues surrounding their sexual orientation or gender identity. The Group's e-mail address is lgbtemployeegroup@cardiff.gov.uk. Council employees also have access to an Employee Counselling Service which provides a support service based on the principals of person-centred counselling, irrespective of an employee's sexual orientation.

KEY PRINCIPLES

17. For the purpose of this Policy the Council defines sexual orientation as orientation/attraction towards persons of the same sex, the opposite sex, or the same and opposite sex. It should be recognised that sexual orientation does not apply to sexual practices and neither is any sexual practice implied through an individual's sexual orientation.
18. The Council values all its employees equally regardless of their sexual orientation. It recognises that lesbian, gay and bisexual (LGB) and heterosexual employees come from diverse backgrounds and will strive to ensure that they do not face discrimination on the grounds of their sexual orientation.

19. The Council will provide a supportive environment for employees who wish to be open about their sexuality. It is the right of the employee to choose whether they wish to share information about their sexuality. However it is also important not to assume that because an employee has informed one person of their sexuality, that they have informed others, or that they wish their private life to be disclosed to others. If a situation arises in which an employee's sexual orientation is made known to others, it is important that this is kept confidential to the parties involved and not disclosed to any other individuals.
20. All employees irrespective of their perceived sexual orientation are entitled to equal access to the suite of family friendly policies, such as Special Leave, Maternity Leave, Adoption Leave, Maternity Support Leave and to apply for flexible working arrangements etc. Requests will be dealt with sensitively and where the employee concerned wishes to keep their personal life confidential they will be able to do so.
21. Assumptions will not be made that partners of employees are always of the opposite sex. Access to facilities that are available to partners of opposite sex couples will always be made available to same sex couples. If Service Areas offer the opportunity for social gatherings which extend to the partners of employees, care should be taken with the wording of invitations, posters etc, to ensure inclusivity for those with same sex partners.
22. Legislation similar to that which protects employees from discrimination on the grounds of sexual orientation exists to protect employees from discriminations on the grounds of religion, belief or non-belief. Some concerns have been raised regarding possible conflicts which may arise from upholding both legislations. The Council is planning to develop a dialogue between non-belief and belief groups and LGB groups to prevent such conflicts. If problems do arise, it may be necessary to use formal disciplinary proceedings.
23. It is the responsibility of all employees to act in an inclusive manner. It is the responsibility of all line managers to familiarise themselves with this policy and to raise awareness of the staff that they manage and ensure that the policy is implemented.
24. The Council is committed to providing a caring and supportive working environment, which is free from all forms of discrimination, bullying and intimidation. Harassment or bullying on the grounds of someone's sexual orientation, perceived sexual orientation or their association with someone of a certain sexual orientation (discrimination by association) may lead to a grievance or disciplinary action. Such cases will be dealt with under the Council's Resolution Policy and Disciplinary Policy Procedures.

25. **Examples of Harassment on the Grounds of Sexual Orientation include:**
- Persistent questioning employees about their sexual orientation or gossiping or speculating about employee's sexual orientation.
 - Using homophobic language or jokes.
 - Disclosing an employee's sexual orientation in the workplace.
26. Please read Appendix 1 of the Resolution Policy for further examples of harassment.

SUPPORT SERVICES

27. Further advice and support for managers and employees who require additional information on this Policy can be obtained from:

- i) Cardiff Council Equalities Team
equalityteam@cardiff.gov.uk
- ii) LGBT+ Employee Network
lgbtstaffgroup@cardiff.gov.uk
- iii) Employees within HR People Services
HRPeopleservices@cardiff.gov.uk
- iv) Line Managers within the Service Area, or the relevant Director/Assistant Director/Chief Officer;
- v) The employee's Service Area or specialist trade union representative;
- vi) By referral to appropriate external agencies, for example:

Stonewall Cymru

Transport House, 1 Cathedral Road, Cardiff, CF11 9SB

Tel: 029 2023 7744

Email: cymru@stonewallcymru.org.uk

www.stonewall.org.uk/cymru

LGBT Excellence Centre (Wales) Ltd

60 Walter Road, Swansea, SA1 5PZ

Tel: 017 9264 5325

www.ecwales.org.uk

28. This policy will be monitored and reviewed in light operational experience, or sooner if the need arises.

RELATED POLICIES

Strategic Equal Opportunities Policy Statement

Religion & Belief Policy

Equality & Diversity Awareness Handbook

Resolution Policy

Discipline Policy & Procedure

Appendix A

Definitions

- **Sexual Orientation** This is an umbrella term which describes the whole spectrum of sexual and emotional attraction, including the four most commonly used terms, lesbian, gay, bisexual and heterosexual.
- **Sexual Identity** A person's sense of identity defined in relation to the categories of sexual orientation, usually only using the four main terms, lesbian, gay bisexual and heterosexual. Someone's sexual identity may not necessarily match their sexual behaviour.
- **Gay** A person who is sexually and emotionally attracted primarily to people of the same sex. The term is more commonly applied to men who self-identify as same sex attracted, rather than men who have sex with men but do not self identify as gay.
- **Lesbian** While many women identify as gay, the term lesbian is commonly used to describe same sex (emotionally and sexually) attracted women.
- **Bisexual** A person who is sexually and emotionally attracted to people of both sexes.
- **Transgender** An all-embracing term for people whose gender identity or gender expression conflicts with the 'norms' expected by their society. It can also be used to define a person who is undergoing, or intending to undergo, gender reassignment surgery, in order that their physical gender is corrected.
- **Heterosexual** A person who is sexually and emotionally attracted to people of the opposite sex.
- **Homophobia** A disapproval, dislike or negative view of lesbian, gay or bisexual people. Homophobia can range from a general view that being lesbian, gay or bisexual is less favourable than being heterosexual, up to an active dislike or hatred of lesbian, gay or bisexual people.
- **Heterosexism** The belief that sexual identities other than heterosexual are bad and unacceptable. It can also include the assumption that anyone whose sexual orientation is unknown will be heterosexual.
- **Transphobia** Discrimination against transsexuality and transsexual or transgender people, based on the expression of their internal gender identity.

- **Direct discrimination** Employer treats employees less favourably because of an employee's sexual orientation or perceived sexual orientation.
- **Associative discrimination** Direct discrimination against someone because of the sexual orientation of a person they associate with.
- **Perceptive discrimination** Direct discrimination against an individual because others think they are a particular sexual orientation, even if the person is not actually that sexual orientation.
- **Indirect discrimination** When there is a condition, rule, policy or practice that applies to everyone but particularly disadvantages people because of their actual or perceived sexual orientation. Indirect discrimination can only be justified if the employer can show that they acted reasonably and that it is a proportionate means of achieving a legitimate aim.
- **Harassment** Unwanted conduct at work or in a work related setting that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment. Employees are protected from harassment due to their actual or perceived sexual orientation or harassment because they associate with someone who is, or is perceived to be, a particular sexual orientation. Employees are also protected from harassment if they find behaviour offensive even if it is not directed at them.
- **Third Party Harassment** Employees are protected from third party harassment (for example customers or clients) if harassment occurs on at least two occasions. Employers must take reasonable steps to prevent it from happening again.
- **Victimisation** When an employee is treated less favourably because they have made or supported a complaint or raised a grievance under the Equality Act about sexual orientation discrimination; or because they are suspected of doing so.