

DIVERSITY AND INCLUSION POLICY

This document applies to all Council employees

This document may not be applicable to employees who transferred into LCC under TUPE legislation and remain on the terms and conditions of their previous organisation.

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DIVERSITY AND INCLUSION POLICY

Purpose

Lincolnshire County Council (LCC) encourages a supportive and inclusive culture which actively values difference, and recognises that people from different backgrounds, cultures and experiences can bring valuable insights both to the workplace and the Council generally which enhance the way we work and the services we provide. We believe that diversity and inclusion brings benefits and that people work better and services are improved if we operate in a supportive environment, where people are individually valued. We recognise everyone has visible and non-visible differences and by respecting this, everyone can feel valued.

This policy covers how we treat everyone; colleagues, customers, communities and other stakeholders. It should be applied in the exercise of our functions generally including whenever policies are being planned and services are being provided or commissioned and when we recruit or otherwise fulfil our role as employer.

LCC is actively opposed to all forms of unlawful discrimination, and no form of intimidation, bullying or harassment will be tolerated. We have a separate Harassment and Bullying Policy that deals with these issues.

Principles

LCC is committed in respect of its workforce to:

- Providing equality and fairness to all in our employment, and to those applying to work for LCC, and to not provide less favourable facilities or treatment on the grounds of any of the following 'protected characteristics':¹
 - Age
 - Disability
 - Gender reassignment
 - Marriage and Civil Partnerships
 - Pregnancy & Maternity
 - Race (which includes colour, nationality and ethnic or national origins)
 - Religion or Belief
 - Sex
 - Sexual orientation
- Creating an environment in which individual differences and the contributions of all team members are recognised and valued; and stereotypical assumptions or bias, conscious or otherwise, are avoided.
- Ensuring that when we select candidates for employment, promotion, training, or any other benefit, it will be on the basis of their aptitude and ability.
- Creating a working environment that promotes dignity and respect for every employee, including identifying and addressing issues affecting their health, wellbeing and ability to deliver good performance.

¹ See Section 4, Chapter 1 Equality Act 2010

- Not tolerating any form of discrimination on the basis of any protected characteristic and to consider disciplinary action against those that breach this.
- Not tolerating any form of intimidation, harassment or bullying, and to consider disciplinary action against those that breach this.
- Developing training programmes to meet employees' needs, learning styles and ability.
- Ensuring that our learning and development offer includes training on matters relating to diversity and inclusion.
- Promoting equality in the workplace, and ensure our approach recognises key life stages and life events and takes into account caring responsibilities of employees.
- Encouraging anyone who feels they have been subject to discrimination to raise their concerns so we can apply corrective measures.
- Regularly keeping in touch with employees who are 'not fit for work' during periods of sickness absence, including people with a chronic health condition or a progressive illness or disability covered by the Equality Act 2010;
- Except in exceptional defined circumstances, a job applicant's gender identity is irrelevant. There is no requirement for a trans person to disclose their status as a condition of employment. If a disclosure is made as part of the recruitment process this will be kept confidential by all those involved. Refer to the **Recruitment Policy** for further information.

Employees can be held personally liable as well as, or instead of, LCC for any act of unlawful discrimination.

Public Sector Equality Duty

Section 149 of the Equality Act 2010 requires that public authorities, when carrying out their public functions, should have regard to the need to take positive steps to eliminate discrimination, harassment and victimisation, advance equality of opportunities and foster good relations between those who share a protected characteristic and those who do not.

Public authorities are required to publish information to demonstrate its compliance with the general equality duty, in particular, information about those who share a protected characteristic, who are (i) employees (ii) people affected by LCC's policies or practices.

In order to help in demonstrating how LCC complies with Section 149, we use an Equality Impact Analysis process to identify the impact or likely impact a project, proposed service change, commissioning, decommissioning or policy will have on people with protected characteristics.

Types of Discrimination

Direct Discrimination:

- Where a person is treated less favourably than another because of a protected characteristic. By way of example, refusing to promote a pregnant employee on the basis that she is shortly due to go on maternity leave would be direct discrimination on the protected characteristic of the employee's sex / maternity.
- Other types of direct discrimination are:
 - **Associative Discrimination:** Where an individual is directly discriminated against or harassed for association with another individual who has a protected characteristic
 - **Perceptive Discrimination:** Where an individual is directly discriminated against or harassed based on a perception that he/she has a particular protected characteristic when he/she does not, in fact, have that protected characteristic.

Indirect Discrimination:

- Indirect discrimination happens when there is a policy that applies in the same way for everybody but disadvantages a group of people who share a protected characteristic, and you are disadvantaged as part of this group. If this happens, the person or organisation applying the policy must show that there is a good reason for it. A 'policy' can include a practice, a rule or an arrangement. It makes no difference whether anyone intended the policy to disadvantage you or not.

Justification of Discrimination:

- In very limited circumstances, direct discrimination may be justified by an employer where there is an **occupational requirement**. The occupational requirement must be crucial to the post and a proportionate means of achieving a legitimate aim.
- Indirect discrimination may possibly be justified if it is a proportionate means of achieving a legitimate aim.
- There are very strict conditions that must be met for these defences, and if we ever applied this, the Council would have the burden of proving the justification.
- Managers considering whether or not either of these justifications could be applied must always discuss this with HR in the first instance who will advise on whether or not it is appropriate, recognising that there are very limited circumstances in which it might be.

Harassment

- Unwanted conduct, related to one of the protected characteristics that has the purpose or effect of violating a person's dignity; or creating an intimidating, hostile, degrading, humiliating or offensive environment.
- Employees or the public will be able to complain of behaviour that they find offensive even if it is not directed at them, and the complainant need not possess the relevant characteristic themselves.
- Those who commit serious acts of harassment may be guilty of a criminal offence.
- Bullying an individual related to a protected characteristic can be unlawful behaviour. Bullying is offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means which undermine, humiliate, denigrate or injure the individual or a group of employees. This type of conduct is usually sustained.

Victimisation

- Occurs where an individual is subjected to a detriment, such as an employee being denied a training opportunity, a promotion or a member of the public being denied the provision of services because they made or supported a complaint or raised a grievance, or because they are suspected by the Council of doing so. However, it will not be victimisation if the person claiming to have been victimised acted maliciously or made or supported an untrue complaint.

Failure to make a reasonable adjustment

- LCC is committed to helping all our employees perform to their full potential and members of the public to access our services, and supporting individuals who have a disability by agreeing and making reasonable adjustments. Failure to make reasonable adjustments may constitute unlawful discrimination.
- Under the Equality Act (2010), the duty to make reasonable adjustments comprises a series of responsibilities falling into three areas:
 - changing practices, policies and procedures where they put disabled people at a substantial disadvantage in comparison with those who are not disabled;
 - overcoming barriers created by the physical features of the workplace or other spaces, where a physical feature puts a disabled person at a substantial disadvantage in comparison with persons who are not disabled;
 - providing extra equipment (which equality law calls an auxiliary aid) or getting someone to do something to assist you (which equality law calls an auxiliary service) where a disabled person would, but for the provision of an auxiliary aid or service, be put at a substantial disadvantage in relation to a relevant matter in comparison with persons who are not disabled.

- Examples of reasonable adjustments include, but are not limited to:
 - re-arranging seating or furniture in the office space;
 - provision of a reader, interpreter or signer;
 - additional or modified equipment, such as specialised seating, anti-glare screen filter, or specialised software;
 - flexibility in working practice, such as additional breaks or the ability to work from home;

Where an employee requires or may require an adjustment to their working arrangement or environment, they should discuss this with their manager as soon as possible.

Disability Confident Scheme

LCC has committed to the Disability Confident Scheme and has also been accredited as a Disability Confident employer (i.e. level 2 of the scheme). As such, we agree to take action on the following commitments:

- Ensure the recruitment process is inclusive and accessible
- Communicate and promote vacancies
- Offer an interview to disabled people if they meet the minimum criteria for the post
- Anticipate and provide reasonable adjustments as required when disabled employees are applying for and doing their jobs

Further information about the Disability Confident scheme can be found on the Gov.UK website. It is also referenced in our **Recruitment Policy**, and in our **Guide to Supporting Disabled Employees in the Workplace**.

Race and Religion or Belief

LCC will not tolerate racism of any form. On 15 September 2017 the Council adopted a Declaration condemning extremism and racist behaviour in all its forms. That Declaration is incorporated in this Policy and is attached at Appendix A.

LCC will not tolerate any discrimination based on a person's religion or belief.

Any behaviour or use of language which incites racism or targets or intimidates members of ethnic or religious communities, including anti-Semitism, will be unacceptable conduct.

In understanding what anti-Semitism is, LCC applies the working definition provided by the International Holocaust Remembrance Alliance (IHRA) as follows:

“Anti-Semitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of anti-Semitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities”.

Trans Equality

LCC is committed to promoting an environment in which people feel safe in being open about their identity. As part of this commitment, we encourage the freedom of individuals to self-identify and to express their preferences in a safe environment. We are committed to equality of opportunity for trans people through recruitment and employment, including supporting employees through any transitioning process. Employees who are seeking to transition, or going through the transitioning process, are encouraged to discuss this openly with their manager, as soon as reasonably practicable, so that any relevant support mechanisms can be put in place.

Definitions

Using inappropriate language and terminology can cause offence and distress and undermines our efforts to create an inclusive workplace and environment for **trans** people. 'Trans' describes people whose gender identity differs from their sex assigned at birth. They are umbrella terms covering people who:

- identify as having a gender different from that which they were assigned at birth and are planning or have had medical interventions such as hormones or surgery;
- identify as having a gender different from that which they were assigned at birth, but who are not planning any medical intervention;
- may be intending to undergo, are undergoing, or have undergone gender reassignment at any stage;
- are non-binary – that is, they are not solely male or female. They may define themselves as both, neither or something entirely different. They may or not have medical interventions to align their body with their non-binary gender identity.

These are not mutually exclusive alternatives.

LCC recognises that definitions and terminology regarding trans people are evolving and interchangeable. The list below provides a glossary of commonly used terms; however, managers and employees should be aware that this list is not exhaustive and individuals may **self-identify**, which will be respected by managers and colleagues. Rather than assume, it is best to ask someone how they wish to be addressed. We encourage trans people to be open with the organisation, to enable any appropriate levels of support, and education and training, to be put in place.

- **Transitioning:** The steps a trans person may take to live in the gender with which they identify. Each person's transition will involve different things. For some this involves medical intervention, such as hormone therapy and surgeries, but not all trans people want or are able to have this. Transitioning also might involve things such as telling friends and family, dressing differently and changing official documents.
- **Acquired Gender:** Used in the Gender Recognition Act 2004 to describe a person's gender after transitioning.
- **Gender Identity:** A person's deeply felt internal and individual experience of gender, which may or may not correspond to the sex assigned to them at birth.

- **Gender expression:** How a person chooses to outwardly express their gender, within the context of societal expectations of gender. A person who does not conform to societal expectations of gender may not, however, identify as trans.
- **Gender binary:** The classification of sex and gender into two distinct and disconnected forms of masculine and feminine.
- **Non-binary person:** An umbrella term for a person who does not identify as solely male or female. They may identify as both, neither or something entirely different.
- **Gender fluid:** Having a gender identity which varies over time.
- **Cross dresser:** Someone who chooses to wear clothes not conventionally associated with their assigned gender. Cross dressers may be comfortable with their assigned gender and may not intend to transition.
- **Transsexual person:** Legal/medical term for someone who lives (or wishes to live) permanently in the 'opposite' gender to that assigned at birth.
- **Legal sex:** The sex recorded on a person's certificate. Currently binary in the UK and can be changed by applying to the Gender Recognition Panel.
- **Gender dysphoria:** Medical term for deep-rooted and serious discomfort or distress because of a mismatch between a person's biological sex and gender identity; overwhelming desire to live in a different gender to that assigned at birth.
- **Gender reassignment:** The process of transitioning from the gender assigned at birth to the correct gender. Gender reassignment can include undergoing some sort of medical intervention, but it can also mean changing names, pronouns, dressing differently and living in their self-identified gender. Gender reassignment is a characteristic that is protected by the Equality Act 2010, and it is further interpreted in the Equality Act 2010 approved code of practice.
- **Gender Recognition Certificate:** Issued by the Gender Recognition Panel – signifies full legal rights in acquired gender and allows the issuing of a replacement birth certificate.

Equality Act 2010

Gender reassignment is one of the nine protected characteristics covered by the Equality Act 2010. The Act protects a person from discrimination, harassment and victimisation if they are "proposing to undergo, are undergoing, or have undergone a process (or part of a process) of gender reassignment". **There is no requirement for the person to be under medical supervision and the Act makes it clear that it is not necessary for people to have any medical diagnosis or treatment to gain this protection;** it is a personal process of moving away from the gender assigned at birth.

People discriminated against because they are wrongly perceived to be trans, or who are discriminated against because of their association with trans people or issues, are also protected.

Gender Recognition Act 2004

The Gender Recognition Act 2004 allows trans people to apply for a gender recognition certificate (GRC), which will give them legal recognition in their acquired gender and enables them to obtain a new birth certificate. The Act safeguards the privacy of an individual with a GRC by defining information relating to the gender recognition process as "protected information" and, except "in certain specific circumstances" (for example, for the purpose of preventing or investigating crime), **it is a criminal offence to disclose such information without the individual's consent.**

Trans people are not required to apply for a GRC and many choose not to for various reasons. Employment rights do not depend on whether a person has a GRC. LCC will not ask for a person's GRC - it will not be a pre-condition for transitioning at work and requesting it could be considered harassment.

Supporting Employees through transition

LCC will provide support to an employee's transition. The type and level of support will take account of the individual's view on how they wish to proceed. In order for this to be facilitated, a manager will agree with an employee the process of support they require, and will develop an action plan / checklist for this support. Further guidance is available to managers and employees on how to agree a process and action plan for support, in the **Guide to Transitioning at Work**, and support is available from HR.

Pension

Pension records will need to be amended to reflect a change in gender. There may be some implications surrounding the GRC, marital status and nominations for benefits. For further information, employees are advised to contact pensions@wypf.org.uk.

Raising an issue

Where an employee considers that they have been unlawfully discriminated against based on any of the protected characteristics, or if they have a complaint involving alleged bullying or harassment, they may use the LCC Grievance Policy and Procedure to make a complaint.

Where a member of the public considers that they have been unlawfully discriminated against based on any of the protected characteristics, or if they have a complaint involving alleged bullying or harassment, they may use the LCC Complaints Policy to make a complaint.

LCC Employee Support

In order to maintain an inclusive and supportive environment which promotes a culture of participation, and celebrates diversity and employee voice, LCC has a number of employee support groups in place. In addition, LCC has management groups that review and consider matters in relation to **Diversity and inclusion**, based on open communication and inclusion. These groups include but are not limited to:

- Organisational Development Steering Group
- LGBT Staff Engagement Group
- Disability Staff Engagement Group
- Black and Minority Ethnic Networking Group
- Corporate Diversity Steering Group

Employees may also use the **Employee Support and Counselling Service** and the **Employee Assistance Programme** for support and guidance.

A number of external organisations exist to provide advice, guidance and support, examples of which are:

- **Equality and Human Rights Commission (EHRC)** - a statutory body with responsibility for protecting, enforcing and promoting equality across all protected characteristics.
- **The Gender Trust** - recognised as an authoritative centre for professional people who encounter gender identity-related issues in the course of their work.
- **The Beaumont Society** i- support network that promotes better understanding of the conditions of trans, transvestism and gender dysphoria.
- **Gender Identify Research and Education Society** - initiates, promotes and supports research, particularly to address the needs of people who have a strong and ongoing desire to live and be accepted in the gender in which they identify.
- **Stonewall** - a charity that works with organisations to support LGBT staff by offering inclusive, equal and inspiring working environments.

APPENDIX

LINCOLNSHIRE COUNTY COUNCIL DECLARATION

We, in Lincolnshire, are proud of our diverse and multi-racial heritage, which we regard as a source of cultural, social and economic strength. We will work vigorously to combat all forms of racism to rid Lincolnshire of racial discrimination and to enshrine the principle that individuality and universality are the foundations of justice and peace.

We declare that:

- We value the contribution that all communities make to the quality of life in Lincolnshire and recognise ethnic and cultural diversity as a source of cultural, social and economic enrichment.
- We endorse the principles of the Universal Declaration of Human Rights and are opposed to racism in all its forms.
- We will encourage a changing culture within the public services and the wider community that recognises the unacceptability of all forms of racism and takes action to combat it.
- We acknowledge that progress towards a more just society may not always be smooth, but as partners we are committed to maintaining dialogue and resolving our differences.
- We accept that without transparency and openness in the public services, progress towards a successful multi-cultural community will be hampered.
- We believe that the composition of the public services workforce should reflect that of wider community, and will work to break down perceptions and barriers that prevent equal access to employment.
- We believe that all citizens should have the right to expect equal protection and equal treatment from all public services.
- We believe that children from all backgrounds are entitled to an education free from discrimination and harassment.
- We understand the essential role of the education system in Lincolnshire in developing the future of our multi-cultural community and commit ourselves to supporting and enhancing this work.
- We believe that our success will properly be measured not by our policies but by our actions in promoting equality for all the people of Lincolnshire.
- We call upon the residents of Lincolnshire to support us in this by respecting the dignity of all people and by constant vigilance for any expression of racism or racial discrimination.