

THE SHROPSHIRE GATEWAY EDUCATIONAL TRUST
Equality and Diversity Policy

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| Author | Matthew Hayes |
| Review Cycle | Three Years |
| Date Approved | Feb 2017 |
| Approved By | SGET Board |
| Next Review Date | Feb 2020 |

1.0 Statement of intent

The Shropshire Gateway Educational Trust (SGET) recognises the value of, and seeks to achieve, a diverse workforce which includes people from differing backgrounds, with different skills and abilities. The trust will take positive steps to create an employment culture through its Board of Directors, Local Governing bodies, managers and other employees, workers and volunteers, in which people can feel confident of being treated with fairness, dignity and tolerance, irrespective of their individual differences. This commitment extends to the whole SGET community and others connected with it. This policy complements other equalities policies within the SGET.

2.0 Objectives of the policy

The SGET will uphold its obligations under law not to discriminate in any of its activities against employees or applicants for employment on the grounds of their sex, sexual orientation, marriage and civil partnership, disability, race (which includes colour, nationality and ethnic or national origins) age, religion or belief. The protected characteristics within the Equality Act 2010 are given in Section 5.

The SGET further seeks to ensure fair treatment to all jobseekers and employees on employment matters whether or not their personal circumstances and differences are covered by the law and to consider the practicality of accommodating the particular needs of all groups.

The SGET has in place a range of policies, procedures and practices in relation to recruitment, selection, employment, training and development which support and compliment its Equality and Diversity Policy and it will operate these in a way which is consistent with the objectives of this Policy. The SGET will provide training to ensure that everyone understands the Equality and Diversity Policy and the legal position underpinning it.

This policy deals with matters of employment in the broadest sense, and this includes the protection of staff from harassment, discrimination or victimisation by any member of the SGET or other persons connected with it.

3.0 Responsibilities

It is recognised that everyone influences how equality is achieved and that everyone has a responsibility to uphold the law and principles of equality of opportunity. In addition to these general responsibilities, there are other specific responsibilities.

The Board of Directors is responsible for:

- supporting the implementation of the equality and diversity policy;
- ensuring employment and recruitment policies and practice are non- discriminatory in word and operation.

Local Governing Bodies are responsible for:

- Ensuring, in conjunction with the Headteacher, that the equality and diversity policy is implemented within their school;
- collating, analysing and monitoring policy and practice, initiating appropriate action;
- ensuring complaints are investigated and dealt with effectively;
- ensuring appropriate training takes place for governors and employees.

Headteacher/Principal and other managers have responsibility for:

- ensuring that the equality and diversity policy is implemented in employment and management practices;
- ensuring the policy is brought to the attention of all employees/workers/volunteers and that they all receive appropriate training;
- encouraging good practice and dealing appropriately with breaches of this policy;
- monitoring the operation of relevant policies and procedures;
- a member of the senior management team is the nominated lead on equalities issues.

All employees, volunteers and workers have a responsibility to:

- act within equal opportunities legislation and to comply with the SGET policy;
- take part in training and comply with measures introduced to ensure equal opportunities and non-discrimination;
- report to their line manager, or other appropriate person, any breaches of this policy enacted against him/herself or another person by another employee, pupil or another person connected with the business of the SGET.

4.0 Monitoring

The SGET recognises that equality of opportunity can only be achieved by monitoring what is actually happening and then using this information to modify and improve future practice. The SGET will monitor the application of its policies and procedures and their impact on staff and applicants and revise them as necessary.

In accordance with the general duty, the school will be proactive in the elimination of discrimination, harassment, victimisation and any other conduct that is unlawful under the Act; the advancement of equality of opportunities and fostering good relations between employees.

5.0 Legal Definitions

5.1 Direct discrimination

Direct discrimination occurs when someone is treated less favourably than another person because of a protected characteristic they have or are thought to have (perceptive discrimination) or because they associate with someone who has a protected characteristic (associative discrimination).

No-one will be directly or indirectly discriminated against on the grounds of their:

- Age
- Disability or health
- Gender re-assignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race (which includes ethnic origin; colour or nationality)
- Religion or belief
- Sex
- Sexual orientation

5.2 Associative discrimination

Associative discrimination is discrimination against a person because they have an association with someone with a 'particular protected characteristic'. Associative discrimination applies to race, religion, belief and sexual orientation age, disability, gender reassignment and sex.

5.3 Perceptive discrimination

Perceptive discrimination is discrimination against a person because the discriminator thinks the person possesses that characteristic, even if in fact, they do not. Perceptive discrimination applies to age, race, religion, belief, sexual orientation, disability, gender reassignment and sex.

5.4 Proportionate means of meeting a legitimate aim

Indirect discrimination can be justified if you can show that you acted reasonably in managing your school i.e. that it is 'a proportionate means of achieving a legitimate aim'.

A legitimate aim might be any lawful decision you make in running your school, but if there is a discriminatory effect, the sole aim of reducing costs is likely to be unlawful.

Being proportionate really means being fair and reasonable, including showing that you have looked at 'less discriminatory' alternatives to any decision you make.

Example - the long term aim of reducing inequality between men's and women's pay is always to be regarded as a legitimate aim for the purposes of justifying pay practices that indirectly discriminate against women. Therefore, short term pay protection schemes introduced with the aim of removing long-term inequalities in pay may be capable of being objectively justified, provided that their use is a proportionate way of achieving that aim.

5.5 Indirect discrimination

Indirect discrimination can occur when a condition, rule, policy or even a practice in the SGET is applied to everyone but particularly disadvantages people who share a protected characteristic. Indirect discrimination can be justified if the SGET can show it acted reasonably, for example that it is a 'proportionate means of achieving a legitimate aim'.

Indirect discrimination applies to age, race, religion or belief, sex, sexual orientation, marriage and civil partnership, disability discrimination and gender reassignment.

6.0 The Protected Characteristics

While the SGET is committed to not discriminating on any grounds, there are “certain protected characteristics” in law. The following defines the protected characteristics under the Equality Act.

Age

The Act protects people of all ages from unlawful discrimination,

Direct discrimination - treating someone less favourably because of their actual or perceived age, or because of the age of someone with whom they associate. e.g. advertising for job applicants less than 25 years only. This treatment can only be justified if it is a proportionate means of achieving a legitimate aim.

Indirect discrimination – can occur where there is a policy, practice or procedure which applies to all employees, but particularly disadvantages people of a particular age. For example, a requirement for job applicants to have worked in a particular industry for 10 years may disadvantage younger people. Indirect discrimination can only be justified if it is a proportionate means of achieving a legitimate aim.

Disability

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. Long term means that the impairment has lasted or is likely to last for at least 12 months or for the rest of the affected person’s life. Substantial means more than minor or trivial. In most circumstances, a person will have the protected characteristic of disability if they have had a disability in the past, even if they no longer have the disability.

Employers must make reasonable adjustments in the recruitment and employment of disabled people. This can include, for example, adjustments to recruitment and selection procedures, to terms and conditions of employment, to working arrangements and physical changes to the premises or equipment. In assessing the reasonableness of the adjustment, the employer will consider:

- proportionality and impact of the adjustment on the role;
- the costs/financial support available;
- medical opinion from the employee's doctor and the occupational health advisor;
- impact on the operational requirements of the school.

Direct discrimination – treating someone less favourably than other employees due to an actual or perceived disability, or because they associate with a disabled person.

Indirect discrimination – An example would be where an individual has 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. Indirect discrimination can only be justified if it is a proportionate means of achieving a legitimate aim.

Gender reassignment

The Act defines gender reassignment as a protected characteristic. This applies to people who are proposing to undergo, are undergoing, or have undergone a process (or part of a process) to reassign their sex by changing physiological or other attributes of sex. Gender reassignment is a personal process, that is moving away from one's birth sex to the preferred gender, rather than a medical process.

Protection is provided where, as part of the process of reassigning their sex, someone is driven by their gender identity to cross-dress, but not where someone chooses to cross-dress for some other reason.

In order to be protected under the Act, there is no requirement for a transsexual person to inform their employer of their gender reassignment status. However, if an employee is proposing to undergo gender reassignment or is still in the process of transitioning, they may want to discuss their needs with their employer so the employer can support them during the process.

Where an individual has been diagnosed as having 'gender dysphoria' or 'gender identity disorder' and the condition has a substantial and long term adverse impact they may also be protected under the disability discrimination provisions of the Act.

Direct discrimination – treating someone less favourably than other employees because of their gender reassignment, whether actual or perceived, or because they associate with someone who intends to undergo, is undergoing or has undergone gender reassignment.

Indirect discrimination – An example would be where an employer starts an induction session for new staff with an ice-breaker designed to introduce everyone in the room to the others. Each employee is required to provide a picture of themselves as a toddler. One employee is a transsexual woman who does not wish her colleagues to know that she was brought up as a boy. When she does not bring in her photo, the employer criticises her in front of the group for not joining in. It would be no defence that it did not occur to the employer that this employee may feel disadvantaged by the requirement to disclose such information. Indirect discrimination can only be justified if it is a proportionate means of achieving a legitimate aim.

Marriage and civil partnership

The Act protects employees from discrimination on the grounds of being married or in a civil partnership.

Marriage will cover any formal union of a man and woman which is legally recognised in the UK as a marriage. A civil partnership refers to a registered civil partnership under the Civil Partnership Act 2004, including those registered outside the UK.

Only people who are married or in a civil partnership are protected against discrimination on this ground. The status of being unmarried or single is not protected. People who only intend

to marry or form a civil partnership, or who have divorced or had their civil partnership dissolved, are not protected on this ground.

Direct Discrimination - treating someone less favourably than other employees on the grounds of them being married or in a civil partnership, actual or perceived, or because they are associated with a person who is married or in a civil partnership.

Indirect Discrimination – An example of this could be where an applicant for a job is treated less favourably because it is considered that they will not be as committed to the job as a single person because they have marital or partnership commitments.

Pregnancy and maternity

A woman is protected against discrimination on the grounds of pregnancy and maternity during the period of her pregnancy and any maternity leave to which she is entitled. During this period, pregnancy and maternity discrimination cannot be treated as sex discrimination.

Direct discrimination – treating someone less favourably because of their actual pregnancy or perceived pregnancy, or because of the pregnancy of someone with whom they associate.

Indirect discrimination - An example could be where an employee has been off work because of pregnancy complications since early in her pregnancy. Her employer has dismissed her in accordance with the sickness absence management policy. This policy is applied regardless of sex. The dismissal is unfavourable treatment because of her pregnancy and would be unlawful even if a man would be dismissed for a similar period of sickness absence, because the employer took into account the employer's pregnancy related sickness absence in deciding to dismiss. Indirect discrimination can only be justified if it is a proportionate means of achieving a legitimate aim.

Race

For the purposes of the Act, 'race' includes colour, nationality and ethnic or national origin. A person has the protected characteristic of race if they belong to a particular racial group. A racial group can be made up of two or more different racial groups (for example Black Britons).

Direct discrimination – treating someone less favourably because of their actual or perceived race, or because of the race of someone with whom they associate.

Indirect discrimination – can occur where there is a policy, practice or procedure which applies to all employees, but particularly disadvantages people of a particular race. An example could be a requirement for all job applicants to have GCSE Maths and English: people educated in countries which don't have GCSE's would be discriminated against if equivalent qualifications were not accepted. Indirect discrimination can only be justified if it is a proportionate means of achieving a legitimate aim.

Religion or belief

In the Equality Act, religion includes any form of religion which has a clear structure and belief system. 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. Discrimination because of religion or belief can occur even where both the discriminator and recipient are of the same religion or belief.

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. Examples of philosophical beliefs include Humanism and Atheism. Political beliefs are not protected.

A belief which is not a religious belief may be a philosophical belief. A belief need not include faith or worship of a God but must affect how a person lives their life or perceives the world.

For a philosophical belief to be protected under the Act:

- It must be genuinely held;
- It must be a belief and not an opinion or viewpoint based on the present state of information available;
- It must be a belief as to a weighty and substantial aspect of human life and behaviour;
- It must contain a certain level of cogency, seriousness, cohesion and importance;
- It must be worthy of respect in a democratic society, not incompatible with human dignity and not conflict with the fundamental rights of others.

Direct discrimination – treating someone less favourably because of their actual or perceived religion and belief, or because of the religion or belief of someone with whom they associate.

Indirect discrimination – An example would be where a school announces that from next month staff cannot wear their hair in dreadlocks, even if the locks are tied back. This is an example of a policy that has not yet been implemented but which still amounts to a provision, criterion or practice. The decision to introduce the policy could be indirectly discriminatory because of religion or belief, as it puts the employer's Rastafarian employees at a particular disadvantage. The employer must show that the provision, criterion or practice can be objectively justified. Indirect discrimination can only be justified if it is a proportionate means of achieving a legitimate aim.

Sex

A person's sex refers to the fact that they are male and female.

Direct discrimination – treating someone less favourably because of their actual or perceived sex, or because of the sex of someone with whom they associate.

Indirect discrimination – can occur where there is a policy, practice or procedure that applies to all employees, but particularly disadvantages employees of a particular sex. For example, a requirement that job applicants must be six feet tall could be met by significantly fewer women than men. Indirect discrimination can only be justified if it is a proportionate means of achieving a legitimate aim.

Sexual orientation

Sexual orientation is a protected characteristic. It means a person's sexual orientation towards:

- persons of the same sex (ie the person is a gay man or a lesbian);
- persons of the opposite sex (ie the person is heterosexual); or
- persons of either sex (ie the person is bisexual)

Sexual orientation relates to how people feel as well as their actions. Sexual orientation discrimination includes discrimination because someone is of a particular sexual orientation and it also covers discrimination connected with manifestations of that sexual orientation.

These may include someone's appearance, the places they visit or the people they associate with.

Direct discrimination – treating someone less favourably because of their actual or perceived sexual orientation, or because of the sexual orientation of someone with whom they associate.

Indirect discrimination – an example would occur if an employer only placed a job advert in newspapers aimed at gays and/or lesbians as heterosexuals tend not to read such publications. Indirect discrimination can only be justified if it is a proportionate means of achieving a legitimate aim.

7.0 Equal pay

The Equality Act retains the Equal Pay Act 1970 that was previously in place which provides that men and women should receive equal pay for equal work. This means that in most circumstances a challenge to pay inequality and other contractual terms and conditions still has to be made by comparison with a real person of the opposite sex in the same employment. However, the Equality Act allows a claim of direct pay discrimination to be made, even if no real person comparator can be found. This means that a claimant who can show evidence that they would have received better remuneration from the school if they were of a different sex may have a claim, even if there is no-one of the opposite sex doing equal work with the school. This would be a claim under sex discrimination.

8.0 Pay secrecy

The school will not prevent or restrict its employees from having discussions to establish if they believe pay differences exist that are related to a protected characteristic. The school may, in particular circumstances, require its employees to keep pay rates confidential from outside the workplace e.g. a competitor organisation.

9.0 Occupational requirements

The SGET may where appropriate, exercise the powers available to appoint a person from a particular group, where there is a genuine occupational requirement.

10.0 Positive action

Positive action describes measures targeted at a particular group that are intended to redress past discrimination or to offset the disadvantages arising from existing attitudes, behaviours and structures. The school may use lawful measures which can include:

- Targeting job training at people of particular racial groups, or either gender, who have been under-represented in certain occupations or grades during the previous 12 months, or encouraging them to apply for such work;
- Providing facilities to meet any specific educational, training, or welfare needs identified for a specific group;
- Measures to provide training and special encouragement for returnees to the labour market after a period of time discharging domestic or family responsibilities;
- Special encouragement such as targeted advertising and recruitment literature, reserving places for one gender training courses or providing taster courses in non-traditional areas;

Positive discrimination generally means choosing someone solely on the grounds of their gender or racial group etc. and not on their abilities. The trust will not use positive discrimination as this is illegal under UK anti-discrimination law.

11.0 Complaints

Existing employees of the SGET who feel they have been unfairly discriminated against, harassed, bullied or victimised should raise it in the first instance with their line manager or other manager where their own line manager is the subject of the complaint. Employees should refer to the grievance procedure for further information.

Members of the public who may be concerned that their application for employment has not been dealt with in accordance with this policy should raise their concerns via the SGET complaints procedure.

Visitors or other members of the SGET who experience or witness discrimination, bullying, harassment or victimisation should report the matter to the Head teacher.

All concerns raised with the SGET will be handled in a positive and sensitive matter and in accordance with the appropriate policy/procedure.

Appendix I - Implementation Plan

Is training required to implement this policy?

Yes No

If Yes, how will this be delivered and by whom?

To which groups of staff does this policy need to be issued?

All school staff, potential school staff and Trustees.

How will the policy be issued and by whom?

Via email from Head teachers
Via Chairs of LGB

Date adopted by Local Governing Body:

Signed (Chair of LGB)

Name of School

Appendix ii - Equality impact assessment screening form

| | | | | |
|---|-----------------|--------------------|-----------|--|
| Section one: screening for impact | | | | |
| Name of policy | | Equality Statement | | |
| Project lead completing assessment: | | Matt Hayes | | |
| Position: | | Business Manager | | |
| | | | | |
| 1. What is the main purpose of the strategy/project/policy? | | | | |
| States the trust’s approach to equality and diversity, particularly in relation to employment practices. | | | | |
| 2. Who will be the main stakeholders/users of the policy? Please consider the impact of the policy on the different groups of stakeholder /users. | | | | |
| Trustees, staff, pupils, parents, community | | | | |
| 3. Use the table to show: | | | | |
| <ul style="list-style-type: none"> ■ Where you think that the policy could have a negative impact on any of the equality strands, that is, it could disadvantage them – if no impact please note the evidence for this. ■ Where you think that the strategy/project/policy could have a positive impact on any of the groups or contribute to promoting equality, equal opportunities or improving relationships within equality characteristics. | | | | |
| | Positive impact | Negative impact | No impact | Reason and evidence (provide details of specific groups affected even for no impact) |
| Age | ✓ | | | The policy is explicitly aimed at eliminating all form of inequality. |

| | | | | |
|--------------------|---|--|--|---|
| Disability | ✓ | | | The policy is explicitly aimed at eliminating all form of inequality. |
| Gender | ✓ | | | The policy is explicitly aimed at eliminating all form of inequality. |
| Gender identity | ✓ | | | The policy is explicitly aimed at eliminating all form of inequality. |
| Sexual orientation | ✓ | | | The policy is explicitly aimed at eliminating all form of inequality. |
| Race | ✓ | | | The policy is explicitly aimed at eliminating all form of inequality. |
| Religion or belief | ✓ | | | The policy is explicitly aimed at eliminating all form of inequality. |

| | | |
|---|-------------------------------|------------------------------|
| 4. If you have indicated there is a negative impact on any group, is that impact: | | |
| Legal? (not discriminatory under anti-discriminatory legislation) | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| Intended? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| Level of impact? | High <input type="checkbox"/> | Low <input type="checkbox"/> |
| If the negative impact is possibly discriminatory and not intended and/or of high impact you must complete a full equality impact assessment. If not, complete the rest of section one below. | | |
| 5. Could you minimise or remove any negative impact that is of low significance? Could you add any additional action to have a positive impact rather than no impact? | | |
| Policy can be available in large print or different language if required; however, it is not considered that this will make any material difference. | | |
| 6. If there is no evidence that the strategy, project or policy promotes equality, equal opportunities or improved relations – could it be adapted so that it does? If so, explain how. | | |
| 7. Please list the outcome following this equality impact assessment (this could be no changes, some changes, further work needed around particular groups or cease development of the policy). | | |
| Policy can be available in large print or different language if required; however, it is not considered that this will make any material difference. | | |
| Signed: | Date: | |