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# CAIRNGORMS NATIONAL PARK AUTHORITY EQUAL OPPORTUNITIES POLICY

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## PURPOSE & SCOPE

1. The Cairngorms National Park Authority (CNPA) is committed to the development of positive action to promote equal opportunities.
2. The aim of this policy is to put this commitment into practice and to ensure that no service user, job applicant, employee, volunteer or board member is discriminated against.
3. Striving to ensure that the work environment is free of harassment and bullying and that everyone is treated with dignity and respect is an important aspect of ensuring equal opportunities in employment. The CNPA has a separate Dignity at Work policy, which deals with these issues.
4. Acts of discrimination, harassment, bullying and or victimisation by employees towards members of staff, board members, volunteers or customers are disciplinary offences and will be dealt with under CNPA's disciplinary policy.

## PRINCIPLES

5. Through the implementation of this policy CNPA will focus on the eradication of discrimination, whether direct or indirect, in its own structures, employment practices and the provision of services. Equality of opportunity is a key policy objective of CNPA. The promotion of equality is an integral part of its values and vision for the area.
6. In order to ensure that the equal opportunities goals are being met, the impact and implementation of this policy will be monitored.
7. Every employee is required to assist CNPA to meet its commitment to provide equal opportunities in employment and avoid unlawful discrimination. Employees, as well as CNPA, can be held personally liable as for any act of unlawful discrimination and may be guilty of a criminal offence.

## THE LAW

8. It is unlawful to discriminate directly or indirectly in recruitment or employment because of age, disability, sex, gender reassignment, pregnancy, maternity, race (which includes colour, nationality and ethnic or national origins), sexual orientation, religion or belief, or because someone is married or in a civil partnership. These are known as "protected characteristics".
9. Discrimination after employment may also be unlawful, e.g. refusing to give a reference for a reason related to one of the protected characteristics.

10. It is unlawful for an employer to fail to make reasonable adjustments to its requirements, working practices or the physical features of the workplace where these put a disabled job applicant or employee at a substantial disadvantage. It is also unlawful discrimination where a disabled employee is at a substantial disadvantage due to the employer's unreasonable failure to provide an auxiliary aid or service to the disabled employee.

## **TYPES OF UNLAWFUL DISCRIMINATION**

### **Direct Discrimination**

11. This is where a person is treated less favourably than another because of a protected characteristic. For example, rejecting an applicant on the grounds of their race because they would not “fit in” would be direct discrimination. In limited circumstances CNPA can directly discriminate against an individual for a reason related to any of the protected characteristics where there is an occupational requirement. The occupational requirement must be crucial to the post and a proportionate means to achieve a legitimate aim.

### **Indirect Discrimination**

12. This is where a provision, criterion or practice is applied that is discriminatory in relation to individuals who have a relevant protected characteristic (although it does not explicitly include pregnancy and maternity, which is covered by indirect sex discrimination) such that it would be to the detriment of people who share that protected characteristic compared with people who do not and it cannot be shown to be a proportionate means of achieving a legitimate aim. For example, a requirement to work full time puts a woman at a particular disadvantage because they generally have greater childcare commitments than men. Such a requirement would need to be objectively justified.

### **Harassment**

13. This is where there is unwanted conduct, related to one of the protected characteristics (other than marriage and civil partnership, and pregnancy and maternity which are covered by direct discrimination provisions in the Equality Act 2010) that has the purpose or effect of violating a person's dignity; or creating an intimidating, hostile, degrading, humiliating or offensive environment. It does not matter whether or not this effect was intended by the person responsible for the conduct.

### **Perceptive Discrimination**

14. This is where an individual is directly discriminated against or harassed based on a perception that they have a particular protected characteristic when he/she does not, in fact, have that protected characteristic (other than marriage and civil partnership, pregnancy and maternity). For example, an employer wrongly thinks that an employee is suffering from depression and dismisses them as a result.

## **Associative Discrimination**

15. This is where an individual is directly discriminated against or harassed for association with another individual who has a protected characteristic (although it does not cover harassment because of marriage and civil partnership, and (according to guidance from the Government and ACAS) pregnancy and maternity).

## **Third-party Harassment**

16. This occurs where an employee is harassed and the harassment is related to a protected characteristic by third parties such as clients or customers. For example, if a waitress of Asian origin has complained on several occasions to her employer that a particular customer has been making racist remarks to her, the employer should take steps to protect the employee from such third-party harassment, such as banning the customer from the restaurant.

## **Victimisation**

17. This occurs when an employee is subjected to a detriment such as being denied a training opportunity or a promotion because they made or supported a complaint or raised a grievance under the Equality Act 2010, or because they are suspected of doing so. However, an employee is not protected from victimisation if they acted maliciously or made or supported an untrue complaint in bad faith. There is no need for a complainant to compare their treatment with someone who has not made or supported a complaint under the Equality Act 2010. For example, if a blind employee raises a grievance that the employer is not complying with its duty to make reasonable adjustments, and is then systematically excluded from all meetings, such behaviour could amount to victimisation.

## **Failure to make Reasonable Adjustments**

18. This is where a physical feature or a provision, criterion or practice puts a disabled person at a substantial disadvantage compared with someone who does not have that protected characteristic and the employer has failed to make reasonable adjustments to enable the disabled person to overcome the disadvantage.

## **EMPLOYMENT**

19. The CNPA will seek to avoid unlawful discrimination in all aspects of employment including recruitment, promotion, opportunities for learning and development, pay and benefits, discipline and selection for redundancy.
20. The CNPA positively welcomes applications for employment from all sections of the community. The CNPA is committed to promoting greater equality by employing people from disadvantaged groups at all levels of the workforce. All those involved in employee selection will receive appropriate equal opportunity guidance/training. This will ensure that the principle of equality applies to all selection and promotion practice. The CNPA wishes to encourage all employees to contribute to improved services through consultation.

21. Person and job specifications will be limited to those requirements that are necessary for the effective performance of the job. Candidates for employment or promotion will be assessed objectively against the requirements for the job, taking account of any reasonable adjustments that may be required for candidates with a disability. Disability and personal or home commitments will not form the basis of employment decisions except where necessary.
22. The CNPA will consider any possible indirectly discriminatory effect of its standard working practices, including the number of hours to be worked, the times at which these are to be worked and the place at which work is to be done, when considering requests for variations to these standard working practices and will refuse such requests only if CNPA considers it has good reasons, unrelated to any protected characteristic, for doing so. The CNPA will comply with its obligations in relation to statutory requests for contract variations. The CNPA will make reasonable adjustments to its standard working practices to overcome barriers caused by disability.
23. The CNPA will monitor the ethnic, gender and age composition of the existing workforce and of applicants for jobs, including promotion, and the number of people with disabilities within these groups, and will consider and take any appropriate action to address any problems that may be identified as a result of the monitoring process. The CNPA cannot directly discriminate in the selection of employees for recruitment or promotion, but CNPA may use appropriate lawful methods, including lawful positive action to address under-representation of any group that CNPA identifies as being under represented in particular types of jobs.

## **DIGNITY AT WORK**

24. The CNPA has a separate Dignity at Work Policy concerning issues of bullying and harassment on any ground and how complaints are dealt with.

## **SERVICE DELIVERY**

25. Employees should not discriminate against or harass a member of the public in the provision of service or goods.
26. It is unlawful to fail to make reasonable adjustments to overcome barriers to using services caused by disability. The duty to make reasonable adjustments include the removal, adaption or alteration of physical features if the physical features make it impossible or unreasonably difficult for disabled people to make use of services. In addition service providers have an obligation to think ahead and address any barriers that may impede disabled people from accessing a service. The CNPA aims to provide the best value for money for its service users. It welcomes comments, complaints or suggestions about how to improve its services or compliments about its work.
27. The CNPA will ensure that all employees receive information on its Equal Opportunities Policy. The policy will be implemented to ensure that all those with

whom employees come in contact are treated in a fair and equitable way.

28. Acts of discrimination by members of the public who are receiving Authority services, either towards other members of the public or Authority employees, are unacceptable. Employees should report any bullying or harassment by customers, suppliers, visitors or others to their manager who will take appropriate action.

## **RELATIONSHIPS WITH OUTSIDE ORGANISATIONS/CONTRACTORS**

29. The CNPA will not discriminate unlawfully against customers using or seeking to use goods, facilities or services provided.
30. Employees should report any bullying or harassment by customers, suppliers, visitors or others to their manager who will take appropriate action.
31. The CNPA will promote its Equal Opportunities Policy with outside groups, organisations, contractors and suppliers. This will be done in order to demonstrate its commitment to equality for all by working towards the eradication and the development of real equality.

## **COMMUNICATION**

32. The CNPA will aim to ensure that board members, employees and volunteers are able to communicate effectively at all levels with employees and service users. This will include developing systems to communicate effectively with all disadvantaged groups, including physically and sensory impaired people and those whose first language is not English.

## **CONSULTATION**

33. The CNPA will consult with all groups regarding employee related issues, and in accordance with its Equal Opportunities Policy ensure that contact is made to take account of the diversity of the community. Contact will be maintained with individuals and groups which represent minority groups as well as other groups within the community in order to maintain up-to-date information as to their needs and requirements.

## **BREACHES OF THIS POLICY**

34. If an employee believes that they may have been discriminated against, they are encouraged to raise the matter through CNPA's Grievance Procedure. If an employee believes that they may have been subject to harassment, they are encouraged to raise the matter through CNPA's Dignity at Work Policy. If an employee is uncertain which applies or needs advice on how to proceed, they should speak to their line manager or to HR.
35. Allegations regarding potential breaches of this policy will be treated in confidence and investigated in accordance with the relevant procedure. Employees who make such allegations in good faith will not be victimized or treated less favourably as a result. False allegations which are found to have been made in bad faith will,

however, be dealt with under the CNPA's Disciplinary Procedure.

36. Any member of staff who is found to have committed an act of discrimination or harassment will be subject to disciplinary action. Such behaviour is likely to constitute gross misconduct and, as such, may result in summary dismissal. The CNPA takes a strict approach to serious breaches of this policy.

## **MONITORING AND REVIEW**

37. The Equal Opportunities Policy will be regularly reviewed, monitored and evaluated.

## **LAWS RELATING TO THIS DOCUMENT**

Protection from Harassment Act 1997  
Equality Act 2010  
Data Protection Act 2018  
General Data Protection Regulation (2016/679 EU)

## **Final Policy Adopted on 7 June 2012**

**V2.0 – reviewed March 2020 to include section on ‘The Law’, updates to wording in Types of Unlawful Discrimination including removal of employer liability in Third Party Harassment, inclusion of ‘Laws Relating to this Document’ section and minor grammatical adjustments, removal of consultation with recognized Trade Union (not applicable).**