Policy

Shaftesbury
All together better for disability

August 2024

Equality, Diversity and Human Rights Policy

This document relates to	
Shaftesbury Care Operational Staff	✓
Central Support Services	✓
Shaftesbury Education	✓
Shaftesbury Children and Young People Services (non educational)	✓
Livability Contracting Services	✓

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Introduction

The Equality Act 2010 legally protects people from discrimination in the workplace and wider society.

Shaftesbury is committed to achieving a working environment that provides equality of opportunity and freedom from discrimination on the grounds of race, religion and belief, sex, sexual orientation, age, disability, marriage and civil partnership, pregnancy and maternity, and gender reassignment. The organisation is also committed to building a workforce that is diverse and reflects the community around us.

The Human Rights Act 1998

The Act sets out the fundamental rights and freedoms that everyone in the UK is entitled to. It incorporates the rights set out in the European Convention on Human Rights (ECHR) into domestic British law. The Human Rights Act came into force in the UK in October 2000.

The Act sets out your human rights in a series of 'Articles'. Each Article deals with a different right. These are all taken from the ECHR and are commonly known as 'the Convention Rights':

- Article 2: Right to life
- Article 3: Freedom from torture and inhuman or degrading treatment
- Article 4: Freedom from slavery and forced labour
- Article 5: Right to liberty and security
- Article 6: Right to a fair trial
- Article 7: No punishment without law
- Article 8: Respect for your private and family life, home and correspondence
- Article 9: Freedom of thought, belief and religion
- Article 10: Freedom of expression
- Article 11: Freedom of assembly and association
- Article 12: Right to marry and start a family
- Article 14: Protection from discrimination in respect of these rights and freedoms
- Protocol 1, Article 1: Right to peaceful enjoyment of your property
- Protocol 1, Article 2: Right to education
- Protocol 1, Article 3: Right to participate in free elections
- Protocol 13, Article 1: Abolition of the death penalty

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Our focus on human rights ensures that people receive good care and helps us fulfil our duties and purpose by meeting our legal obligations under the Health and Social Care Act 2008. It helps us prevent failures in care that are usually related to risks to human rights. Our residents:

- Have access to respectful and dignified care where their needs are fully understood and supported, particularly for those most likely to have a poorer experience of care
- Are cared for in ways where restrictive practices are used only as a last resort, for example when there is no other option to keep people safe
- Have any conflicting rights balanced and considered appropriately, especially in terms of positive risk taking

The organisation is committed to supporting our workforce which is diverse and ensuring that their legal rights are protected.

The policy

The Equality and Human Rights Commission (EHRC) from time to time, publish guidance and develops different codes of practice, in line with a timetable set by the government.

The basis upon which the Equality Act 2010 is structured is the protected characteristics and how they apply both in the workplace and in everyday life.

Shaftesbury is committed to promoting equality, diversity and human rights throughout its operations through robust policies and procedures, training, and ongoing review to ensure our service is accessible to all.

Accessibility

Shaftesbury strives to ensure that its services are accessible to all people. This includes a commitment to the accessible information standard, where information will be provided in the format of choice to ensure people can make informed decisions and feel free from discrimination.

Improving the accessibility of standard information documents is vitally important. Removing jargon, keeping the language simple, developing Easy Read, etc., all assist staff by education and awareness-raising and are the foundation of good accessibility. The following ‘Top Tips’ are intended to support the organisation and our staff to make their information and communication more accessible and inclusive.

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- Clear face-to-face communication.
- Printed information provided in an accessible format i.e. Language of choice or easy read.
- Key Word signing systems such as Makaton and British Sign language.

People are treated as individuals and not discriminated against and this will be supported by staff training, awareness, and ongoing review of our policies and procedures.

Age

Age means a person or persons belonging to a particular age group. An age group includes people of the same age and people of a particular range of ages. When people fall in the same age group, they share the protected characteristics of age.

The Equality Act 2010 protects people of all ages. However, different treatment because of age is not unlawful direct or indirect discrimination if it can be justified. i.e. if it can be demonstrated as a proportionate means of meeting a legitimate aim. Age is the only "Protected Characteristic" that allows employers to justify direct discrimination.

Disability

Within the Equality Act 2010, a person has a disability, if they have a physical or mental impairment and the impairment has a substantial and long-term adverse effect on their ability to perform normal day-to-day activities. For the act, these words have the following meanings:

Substantial means more than minor or trivial.

Long-term means that the effect of the impairment has lasted or is likely to last for at least twelve months (there are special rules covering recurring or fluctuating conditions).

Normal day-to-day activities include everyday things like eating, washing, walking, and going shopping. It also includes the person's ability to participate fully and effectively in working life on an equal basis with other workers.

People who have had a disability in the past that meets this definition are also protected by the Equality Act 2010.

The Act puts a duty on you as an employer to make reasonable adjustments for your staff to help them overcome the disadvantage resulting from an impairment

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(e.g., providing assistive technologies to help visually impaired staff use computers effectively).

The Act includes protection from discrimination arising from disability. This states that it is discrimination to treat a disabled person unfavorably because of something arising from or in consequence of their disability (e.g. a tendency to make spelling mistakes arising from dyslexia). This type of discrimination is unlawful where the employer or other person acting on behalf of the employer knows, or could reasonably be expected to know, that the person has a disability.

Disabled people are also protected from indirect discrimination. This means that a job applicant or employee could claim that a particular rule or requirement an employer has in place disadvantages persons with a disability. Unless this can be justified, it would be unlawful.

The Act also includes a provision that makes it unlawful, except in certain circumstances, for employers to ask questions about a candidate's health before offering them work.

Progressive Conditions Considered to be a Disability

There are additional provisions relating to people with progressive conditions. People with HIV, cancer, or multiple sclerosis are protected by the Equality Act 2010 from the point of diagnosis. People with some visual impairments are automatically deemed to be disabled. When people share disability, they share the protected characteristics of disability.

Gender Reassignment

This is defined by the Equality Act 2010 as when a person has proposed, started, or completed a process to change their sex. A transsexual person has the protected characteristics of gender reassignment.

A woman making the transition to be a man and a man making the transition to be a woman share the characteristic of gender reassignment, as does a person who has only just started changing their sex and a person who has completed the process. Another example would be a person taking steps to identify as non-binary. We do not discriminate against any person on the grounds of their gender, including whether a person is an intersex, non-binary or transgender.

At present, the Gender Recognition Act of 2004 allows people to gain full recognition of their new gender. This legal recognition enables people to obtain a new birth

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certificate that shows their new gender allowing them to adopt almost all the legal rights which are given to that sex, including equal marriage rights.

Once a trans person has received a Gender Recognition Certificate they can change their birth certificate and are treated as that gender. A Gender Recognition Certificate exists to change someone's birth certificate and the Act specifies that it is unlawful to request to see a Gender Recognition Certificate for any other means. As a professional, it is also unlawful to disclose that a person has or has applied for a Gender Recognition Certificate except in very exceptional circumstances (such as medical emergencies or where the information is essential for investigating a crime).

Marriage and Civil Partnership

This refers to people who have the common characteristics of being married or of being civil partners. A heterosexual man and a heterosexual woman who are married to each other and a man and another man who are civil partners and a woman and another woman who are civil partners all share the protected characteristic of marriage and civil partnership.

- People who are not married or have civil partners do not have this protected characteristic.
- A person who is engaged to be married is not married and therefore does not have this protected characteristic.

A divorcee or a person whose civil partnership has been dissolved is not married or in a civil partnership and therefore does not have this protected characteristic

Pregnancy and Maternity and Breast Feeding

An employee remains protected in their employment during the period of the pregnancy and any statutory maternity leave to which they are entitled. This is separate from protection on grounds of sex and discrimination in connection with pregnancy and maternity would be brought under this ground. It is unlawful to treat an employee unfavorably because of any period of absence due to pregnancy-related illness when making decisions about their employment. Less favourable treatment on grounds of breastfeeding constitutes direct discrimination on grounds of sex, and this applies in the workplace as in other settings covered by the 2010 Act.

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Race

For the Equality Act 2010, race includes nationality ethnicity inc, or national origins. People who have or share characteristics of colour, nationality, or ethnic or national origins can be described as belonging to a particular racial group. Examples include:

- Colour includes black or white.
- Nationality includes being British, Australian, or Swiss.
- Ethnic or national origins include being from a Roma background or of Chinese heritage.
- A racial group could be Black Britons, which would encompass those people who are both black and British citizens.

Religion or Belief

This covers people with religious or philosophical beliefs. To be considered a religion within the meaning of the Equality Act 2010, it must have a clear structure and belief system. The act includes the following examples: the Baha'i faith, Buddhism, Christianity, Hinduism, Islam, Jainism, Judaism, Rastafarianism, Sikhism, and Zoroastrianism.

To be considered a philosophical belief for the Equality Act 2010, it must be:

"Genuinely held; be a belief and not an opinion or viewpoint; be a belief as to a weighty and substantial aspect of human life and behaviour; attain a certain level of cogency, seriousness, cohesion, and importance; and be worthy of respect in a democratic society, compatible with human dignity and not conflict with the fundamental rights of others."

The Act cites as examples of philosophical beliefs, humanism, and atheism.

A cult involved in illegal activities would not satisfy these criteria nor would allegiance to a particular football team.

People who are of the same religion or belief share the protected characteristic of religion or belief.

Ethical Veganism

In January 2020 an employment tribunal found that ethical veganism was a philosophical belief and therefore comes under the scope of the legal protection of the Equality Act 2010. Ethical veganism is not just about choices of diet, but rather is where the person has chosen to live, as far as possible, without the use of animal

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products - for example in what they wear, what personal care products they use, and in their hobbies.

Sex

For the Equality Act 2010, sex means being a man or a woman. Men share sex characteristics with other men and women with other women.

Sexual Orientation

This is defined by the Equality Act 2010 as a person's sexual orientation towards:

- People of the same sex as them (in other words a person is a gay man or a lesbian).
- People of the opposite sex from them (the person is heterosexual).
- People of both sexes (the person is bisexual).

The list for sexual orientation can be extended to include:

- Biromantic – a person who experiences romantic attraction to more than one gender but little or no sexual attraction
- Demisexual – a person who only experiences sexual attraction to people they have a close emotional connection with.
- Pansexual – a person of any gender who is attracted to people of all genders.
- Questioning – a person who is uncertain about and/or exploring their sexual orientation (and /or gender identity).

People sharing a sexual orientation mean that they are of the same sexual orientation and therefore share the characteristics of sexual orientation.

We do not discriminate on the grounds of any form of sexual orientation.

Types of Discrimination

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 (see perception discrimination below), or because they associate with someone who has a protected characteristic (see discrimination by association below).

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Example: Paul, a senior manager, turns down Angela's application for promotion to a supervisor position. Angela, who is a lesbian, learns that Paul did this because he believes that the team she applied to manage is homophobic. Paul thought that Angela's sexual orientation would prevent her from gaining the team's respect and managing them effectively. This is direct sexual orientation discrimination against Angela.

Discrimination by Association

This applies to all characteristics apart from marriage/civil partnership. This is direct discrimination against an individual because they associate with another person who possesses a "Protected Characteristic".

Example: June works as a project manager and is looking forward to a promised promotion. However, after she tells her boss that her mother, who lives at home, has had a stroke, the promotion is withdrawn. This may be discrimination against June because of her association with a disabled person.

Perception Discrimination

This applies to all characteristics apart from marriage/civil partnership. This is direct discrimination against an individual because others think they possess a particular "Protected Characteristic". It applies even if the person does not possess that characteristic.

Example: Jim is 45 years old but looks much younger. Many people assume that he is in his mid-20s. He is not allowed to represent his organisation at an international meeting because the Managing Director thinks that he is too young. Jim has been discriminated against on the perception of a "Protected Characteristic".

Indirect Discrimination

Indirect discrimination can occur when you have a condition, rule, policy, or even a practice in your organisation that applies to everyone but particularly disadvantages people who share a "Protected Characteristic". Indirect discrimination can be justified if you can show that you acted reasonably in managing your organisation, 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 organisation, but if there is a discriminatory effect, the sole aim of reducing costs is likely to be unlawful.

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

An individual with the same disadvantage as those with a protected characteristic can claim indirect discrimination, even though they do not have that protected characteristic allowing them to bring an indirect discrimination claim.

Example: A small finance organisation needs its staff to work late on a Friday afternoon to analyse stock prices in the American finance market. The figures arrive late on Friday because of the global time differences. During the winter some staff would like to be released early on a Friday afternoon to be home before sunset – a requirement of their religion. They propose to make the time up later during the remainder of the week.

The organisation is not able to agree to this request because the American figures are necessary to carry on the business, they need to be worked on immediately and the organisation is too small to have anyone else able to do the work.

The requirement to work on Friday afternoon is not unlawful indirect discrimination as it meets a legitimate business aim and there are no alternative means available

Harassment

Harassment is "unwanted conduct related to a relevant "Protected Characteristic", which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual."

Harassment applies to all Protected Characteristics except for pregnancy and maternity, and marriage and civil partnership. Employees will now be able to complain of behaviour they find offensive even if it is not directed at them, and the complainant need not possess the relevant characteristic themselves. Employees are also protected from harassment because of perception and association.

Example 1: Paul is disabled and is claiming harassment against his line manager after she frequently teased and humiliated him about his disability. Richard shares an office with Paul and he too is claiming harassment, even though he is not disabled, as the manager's behaviour has also created an offensive environment for him.

Example 2: Steve is continually being called gay and other related names by a group of employees at his work. Homophobic comments have been posted on the staff notice board about him by people from this group. Steve was recently physically pushed to the floor by one member of the group but is too scared to take action.

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Steve is not gay but heterosexual; furthermore, the group knows he isn't gay. This is harassment because of sexual orientation.

Victimisation

Victimisation occurs when an employee is treated badly because they have made or supported a complaint; raised a grievance under the Equality Act 2010, or are suspected of doing so. An employee is not protected from victimisation if they have maliciously made or supported an untrue complaint.

There is no longer a need to compare the treatment of a complaint with that of a person who has not made or supported a complaint under the Equality Act 2010.

Example: Anne makes a formal complaint against her manager because she feels that she has been discriminated against because of her marriage. Although the complaint is resolved through the organisation's grievance procedures, Anne is subsequently ostracised by her colleagues, including her manager. She could claim victimisation.

Recruitment & Selection

Shaftesbury practices an equal opportunities policy and wishes to recruit and employ those people who are best suited for the vacancies for which they have applied, regardless of sex, sexual orientation, religion and belief, race, disability, maternity and pregnancy, age, gender reassignment, marriage, and civil partnership. This will include making reasonable adjustments for interviews for disabled candidates.

To monitor the equal opportunities policy all applications (and their ultimate selection or rejection) are thoroughly reviewed.

Please refer to the separate Recruitment and Selection Policy

Guiding Principles

Shaftesbury has a dynamic and inclusive Christian Ethos which is the organisation's DNA. Welcoming people from all faiths and none, we work together towards the good of the whole community. We partner with local churches and faith groups as agents of community change. Our ethos commits us to using all of our resources to make this world a place where everyone can find their place and take part. Because of our Ethos we choose to be open, enabling, inclusive and courageous. As words and value

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choices they inform all areas of our work and our approach to all that we do. These values are reflected in this policy and our workplace culture.

Shaftesbury aims to treat all staff, people who use our services, volunteers, job applicants, suppliers and other stakeholders, fairly and equally, paying due regard to any barriers they may face.

Shaftesbury has a duty and responsibility to ensure our staff operate in an environment that embraces and encourages equality and diversity.

It is Shaftesbury's policy that no person acting on our behalf shall discriminate in any situation against another individual or group, directly, indirectly, because of a protected characteristic.
Shaftesbury will seek to meet the needs of people with protected characteristics and other groups we seek to serve, to encourage their involvement and participation in our services and in the wider community

Shaftesbury operates within a Christian ethos. Staff and people that use our services of all faiths and none will be supported to meet their spiritual needs in ways appropriate to them. We do not seek to impose our beliefs on others but respect the unique worth of all individuals to make choices.

Shaftesbury recognises there are other forms of discrimination not specifically mentioned in this policy, and commits itself to applying general principles of fairness, justice and equality for all.

The principles of this policy will be appropriately considered during the development and review of other policies.

This policy covers all Shaftesbury staff, regardless of position or status.

Responsibilities

The Board of Trustees of Shaftesbury are responsible for ensuring governance of Shaftesbury's equality, diversity and human rights policy and objectives and ensuring that the impact on equality and diversity is considered in strategy development and review.

The Chief Executive and Directors are responsible for the effective promotion and implementation of this policy and any other policies and procedures associated with it, and specifically for ensuring that the impact on groups with protected characteristics is

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actively considered when developing and reviewing organisational strategy and business plans.

The People Team are responsible for the effective implementation and regular review of this policy and related staffing policies, considering legislative developments or amendments as well as ensuring that advice and support given to managers champions diversity across the charity.

Managers are responsible for considering the impact of practice and plans on groups with protected characteristics and ensure their staffs are confident about equality and diversity. All Managers should promote, respect and encourage each employee to reach their full potential and deal appropriately with any breach of this policy.

Staff and volunteers are required to comply with this policy and, in line with the values of the organisation, to act to remove any barriers to equality of opportunity and help create a positive working environment that is open, diverse, friendly and welcoming.

The Policy in action

Shaftesbury aims to create and sustain an inclusive environment that provides equality of opportunity for everyone and reflects the diversity of the communities we serve. Shaftesbury has a rich and vibrant heritage of creating choices for disabled and disadvantaged people, and believes that everyone should have the freedom to live their life and the chance to use their abilities.

We will challenge 'institutional prejudices' where we find historic evidence of unwitting prejudice, ignorance, thoughtlessness or stereotyping in our policies, procedures or practices.

Staff

Training and Development

Shaftesbury's Performance Review procedure (PRP) ensures that all Shaftesbury staff have an individual plan designed to promote their opportunities and career advancement.

PRPs are carried out in accordance with a clear criterion in order to ensure that its application is free from discrimination at every stage.

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Internal Selection Processes

Whenever undertaking processes to select between groups of staff, for instance in secondment, promotion or redundancy scenarios, Shaftesbury will apply a fair and consistent selection criteria, free of discrimination and based on objective assessments of competence.

Pay Reviews/Awards

Where the financial position allows Shaftesbury allocates a percentage of the pay bill towards an annual pay award/review.

This award is divided amongst staff fairly but may differ, dependant on any legislative changes or requirements. The award is discrimination free and protected characteristics are not taken into account.

Flexible Working

Shaftesbury recognises that its staff may also be carers for family members, and where operationally viable, seeks to support staff through flexible working policies and procedures.

Staffing Policies

Specifically, we will seek to understand and consider the effect of our policies and services on people with the protected characteristics.

Staffing policies will be Equality Impact Assessed by a trained member of the HR team in order to ensure that they do not adversely impact staff with protected characteristics as outlined in the Equality Act 2010.

Grievance and Bullying and Harassment Policy (Employees)

Any staff member who believes they have been discriminated against, feels they are a victim of bullying and harassment or has witnessed such behaviour, should raise the matter under the relevant policy and procedure with their Line Manager or HR Business Partner.

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By having clear and well-publicised staff grievance and bullying and harassment procedures, Shaftesbury ensures that every opportunity is given to address any area or situation where discrimination is perceived to have arisen.

Disciplinary and Investigation

Dependant on findings from an initial fact finding exercise, a formal investigation into the allegation may be instigated.

Shaftesbury takes a serious view on breaches of this policy. Where an investigation reveals evidence which supports an allegation of discrimination or bullying and harassment; Shaftesbury will pursue disciplinary action against the staff member.

Monitoring

Shaftesbury will endeavour to monitor, in particular age, ethnicity, sexual orientation disability and religion and belief and seek to address any underrepresentation where possible.

People that use Shaftesbury's services

Through a wide range of disability, education, training and community services, Shaftesbury promotes inclusion and wellbeing for all.

Shaftesbury aims to involve the people that use Shaftesbury's services at the heart of everything we do and to support them to increase the opportunities for choice in the way they live their lives.

Shaftesbury embraces the beliefs of the Equality Act 2010 and this legislation has been pivotal in the creation of several policies related to people that use Shaftesbury's services.

Key Workers are expected to demonstrate and proactively promote work that values diversity. All staff recognise diversity by valuing and respecting people who use Shaftesbury services.

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As outlined in the Personal Relationships and Sexuality policy, Shaftesbury staff will not impose their personal beliefs and values on people they support.

Shaftesbury believes that the people that use our services, their families and their carers have the right to be treated with dignity and respect. To ensure a consistent approach to combat bullying and harassment, the charity has a dedicated policy which details how staff should deal with cases of bullying or alleged bullying of a person that the charity supports.

Additionally, if a person who uses Shaftesbury's services or a family member feels that there has been a breach of this policy, then Shaftesbury has a complaints procedure that can be used to raise the concern.

Volunteers

Volunteers have an important contribution to make to the achievement of Shaftesbury's mission and vision. Shaftesbury is committed to equality of opportunity, diversity and inclusion for all volunteers who engage with the charity.

Shaftesbury staff and managers will ensure that all volunteers are treated with respect and dignity and will endeavour to create an environment where volunteers feel integrated and engaged.

Volunteers who have an issue relating to their volunteering are able to raise it and have it addressed on a fair and consistent basis and should discuss the situation with the local manager or the Volunteering Co-ordinator.

Related Policies and Procedures

This policy has no dedicated procedure attached to it due to the number of areas on which it impacts and it is therefore integrated with all key policies and procedures affecting service users, students, applicants, volunteers and employees which are available via Shaftesbury's intranet.

- Code of conduct
- Admissions
- Care Practice Policy
- Bullying and Harassment Policy for service users

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- Key Working Policy
- Personal Relationships and Sexuality Policy
- Flexible Working and time off in lieu Policy and Procedure
- Recruitment and Selection Policy and Procedure
- Volunteer Policy and Procedure
- Capability Policy and Procedure
- Complaints and Compliments Policy and Procedure
- Disciplinary Policy and Procedure
- Grievance Policy and Procedure
- Investigation (Employment) Policy and Procedure
- User Involvement Policy
- Learning and Development Policy and Procedure
- Bullying and Harassment Policy (employees)

Please note that this list is not exhaustive, the list in paragraph 54 highlights some of the policies which have been referred to and referenced in this policy.

Further Information

If you require any further information about any aspect of his policy, please refer to the toolkit or contact your HRBP.

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Policy Ownership

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Executive Director for Care Operations	*Jane Percy*	August 2024

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