

## **TCF 104 Equality and Diversity Policy**

### **Statement of Intent**

The Counselling Foundation (The Foundation) recognises that many people in our society experience discrimination or lack of opportunity for reasons which are not fair. The Foundation is committed to providing equal opportunities in employment and to avoid unlawful discrimination. The Foundation does not tolerate any form of discrimination or harassment.

Our commitment to equal opportunities is enhanced by the belief that creating a diverse and inclusive workplace brings many benefits for the organisation over and above legal compliance including:

- Increased creativity
- Better decision making
- Faster problem solving
- Retention of employees
- Attracting top talent
- Higher employee wellbeing
- Enhanced employee engagement
- Better reputation for the organisation

The Foundation has a separate Bullying and Harassment policy which deals with issues of bullying and harassment and will never victimise anyone who makes a legitimate complaint about these issues.

### **The Law**

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, caste 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".

Discrimination after employment may also be unlawful, e.g. refusing to give a reference for a reason related to one of the protected characteristics.

It is unlawful to discriminate against or harass a member of the public or service user in the provision of services or goods or fail to make reasonable adjustments. The duty to make reasonable adjustments includes the removal, adaptation, 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.

Examples of reasonable adjustments could include:

- Changing the recruitment process so that a candidate can be considered for the job.

- Providing a special keyboard for someone with arthritis
- Allowing staff who become disabled a phased return to work.

The Foundation aims to create a culture that respects and values each other's differences. The Foundation sees these differences as an asset to our work as they improve our ability to meet the needs of the people we serve.

All volunteers, employees, trainers, counsellors, supervisors, Board members and trustees must declare their support for the objectives of this Equality and Diversity policy. Failure to do so may result in disciplinary action.

## 1. What is discrimination?

The Foundation believes that discrimination can take one or more of the forms set out below.

**Direct discrimination** is treating one person less favourably than another because of a protected characteristic in the same or similar circumstances or segregating them from others solely because they are, for example, a lesbian, a gay man or because they have a disability or illness. Refusing to employ someone who has the required skills because, for example, they are deaf, or because they are pregnant, would constitute such discrimination.

In limited circumstances, employers 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 of achieving a legitimate aim.

**Indirect discrimination** occurs where a provision, criterion or practice is applied that is discriminatory in relation to individuals who have a relevant protected characteristic, 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, an unnecessary physical or age requirement can discriminate against women or disabled people. The setting of language tests, where language skills or fluency are not really needed for a job, is another example.

**Abuse and/or harassment** is where there is unwanted conduct, related to one of the protected characteristics (other than marriage and civil partnership, and pregnancy and maternity) 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.

**Associative discrimination** 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).

**Perceptive discrimination** is 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 (although it does not cover harassment because of marriage and civil partnership, and pregnancy and maternity).

**Third-party harassment** occurs where an employee is harassed and the harassment is related to a protected characteristic (other than marriage and civil partnership, and pregnancy and maternity), by third parties such as service users.

**Victimisation** occurs when a person is subjected to a detriment, such as being denied a training opportunity or a promotion because he/she made or supported a complaint or raised a grievance under the Equality Act 2010, or because he/she is suspected of doing so. However, an employee is not protected from victimisation if he/she acted maliciously or made or supported an untrue complaint.

**Failure to make reasonable adjustments** 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.

### **Equal Opportunities in Employment**

The Foundation will avoid unlawful discrimination in all aspects of employment including recruitment, promotion, opportunities for training, pay and benefits, discipline, and selection for redundancy.

#### Recruitment and Selection

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.

The Foundation believes that no person or group should be treated less favourably in employment because of the reasons given in the Statement of Intent.

Staff appointments will be monitored to ensure no discrimination is occurring at the point of selection.

#### Working practices

The Foundation 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 the Foundation considers it has good reasons, unrelated to any protected characteristic, for doing so. The Foundation will comply with its obligations in relation to statutory requests for contract variations. The Foundation will also make reasonable adjustments to its standard working practices to overcome barriers caused by disability.

#### Equal Opportunities Monitoring

The Counselling Foundation 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.

Examples of discrimination in the workplace:

#### **Institutional racism (Macpherson Report, 1999)**

This describes the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin. It can be seen in the processes or attitudes and behaviour, which amount to discrimination, to unwitting prejudice, ignorance, thoughtlessness, and racist stereotyping which disadvantages minority ethnic people.

## **Racist incident (Macpherson Report, 1999)**

This describes any incident which is perceived to be racist by the victim or any other person. If the victim doesn't want to complain, another person may do so.

Discrimination in any of the forms stated above is unacceptable, regardless of whether there was any intention to discriminate or not.

## **2. Staff development**

The Foundation will provide training where appropriate in equal opportunities to managers and others likely to be involved in recruitment or other decision making where equal opportunities issues are likely to arise.

The Foundation will provide training where appropriate to existing and new employees and others engaged to work at the Foundation to help them understand their rights and responsibilities and what they can do to help create a working environment free of bullying and harassment. The Foundation will provide additional training where appropriate to managers to enable them to deal more effectively with complaints of bullying and harassment.

## **3. Service provision**

All the Foundation operations are covered by this policy. The Foundation will promote equality and diversity in its work with individuals.

All trainers, facilitators, counsellors, supervisors, and consultants contracted to work for the Foundation will be required to support our Equality and Diversity Policy.

The Foundation will not discriminate unlawfully against service users using or seeking to use the services provided by The Foundation.

You should report any bullying or harassment by service users, suppliers, visitors, or others to your manager who will take appropriate action.

## **Your responsibilities**

Every employee is required to assist the Foundation to meet its commitment to provide equal opportunities in employment and avoid unlawful discrimination. Employees can be held personally liable as well as, or instead of, the Foundation for any act of unlawful discrimination. Employees who commit serious acts of harassment may be guilty of a criminal offence.

Acts of discrimination, harassment, bullying or victimisation against employees or customers are disciplinary offences and will be dealt with under the Foundation's disciplinary procedure. Discrimination, harassment, bullying or victimisation may constitute gross misconduct and could lead to dismissal without notice.

In our employment practices and in providing services, we expect all employees to:

- Support a working environment free of bullying, harassment, victimisation and unlawful discrimination, promoting dignity and respect for all, and where individual differences and the contributions of all staff are recognised and valued.
- Act fairly and, provide equality of opportunity.
- Recognise that everyone is different and that these differences must be equally respected.

- Be aware that you must not treat people less favourably because of a protected characteristic.
- Challenge discrimination so that we demonstrate our commitment to equality and diversity and do not exclude people or make them feel isolated.
- Not unlawfully discriminate, for example, as staff responsible for decisions on recruitment, selection, promotion, or transfer
- Not induce or attempt to induce others to practice discrimination, nor yield to pressure from others to discriminate.
- Not victimise or attempt to victimise individuals on the grounds that they have made complaints under the Equality Act or provided information about discrimination.
- Not harass, abuse or intimidate other employees, member organisations, partners etc; where employees commit such action, they will be liable to disciplinary action.
- Draw to the attention of management apparent breaches of this Code of Practice
- Line Managers and supervisors have a particular responsibility for ensuring that staff act appropriately.

#### **4. Miscellaneous**

##### Office accommodation

The Foundation will make every effort where practical to ensure that premises used in relation to its work are accessible and inviting for all members of the community.

##### Purchasing

The Foundation reserves the right not to purchase goods and services from agencies whose activities are contrary to the principles outlined in this policy.

##### Promotion of policy

Copies of this policy will be freely available to staff, volunteers, counsellors, supervisors and trainees and any other interested parties.

##### Travel

The Foundation recognises that not everyone has access to personal transport or is able to use it and will plan its services and activities with this in mind.

#### **Grievances**

If you consider that you may have been unlawfully discriminated against, you should use the Foundation's grievance procedure to make a complaint.

The Foundation will take any complaint seriously and will seek to resolve any grievance that it upholds. You will not be penalised for raising a grievance, even if your grievance is not upheld, unless your complaint is both untrue and made in bad faith.

#### **5. Implementation and monitoring**

Monitoring of the Equality and Diversity Policy and its implementation is the responsibility of the Executive Committee through the CEO. The policy will be updated in accordance with changes in the law.

In particular, the Foundation will monitor the ethnic and gender composition of the existing workforce and of applicants for jobs (including promotion), and the number of people with disabilities within these groups and will review this policy in accordance with the results shown by the monitoring. If changes are required, the Foundation will implement them.

Information provided by job applicants and employees for monitoring purposes will be used only for these purposes and will be dealt with in accordance with the Data Protection Act 1998.

Induction for Board members and new staff will include a briefing on the Equality and Diversity policy.

A copy of the Equality and Diversity policy will be made available to all new staff, counsellors, trainee counsellors, supervisors, committee members and trustees.

Training will be provided where appropriate for employees, trustees and volunteers on cultural awareness, disability awareness and other subjects that will develop regarding equality and diversity.

## **6. The Board (Trustees)**

All members will affirm their commitment to the Equality and Diversity policy.

The Board (trustees) membership (including co-opted members) should aim to reflect a fair balance and representation of the local community and should endeavour to redress any imbalance of under-represented groups.

## **7. The Foundation policies and procedures**

Other Foundation policies support our commitment to equality and diversity. These include, parental and dependants leave, annual leave, recruitment, discipline, grievance, and harassment.

*This is a non-contractual procedure which will be reviewed as appropriate.*

## **Legislation**

Equality Act 2010

Other legislation:

- Rehabilitation of Offenders Act 1974
- The Fixed Term Employees (Prevention of less favourable treatment) Regulations 2002.
- Part-time Workers (prevention of less favourable treatment) Regulations 2000 and 2002
- Flexible Working (Procedural Requirements) Regulations 2002.
- Employment Act 2002 (making provision for flexible working)
- Human Rights Act 1998
- Management of Health and Safety at Work Regulations 1999
- Maternity and Paternal Leave Regulations 1999, 2001 and 2002
- Protection from Harassment Act 1997
- Nationality, Immigration & Asylum Act 2002