

**This policy applies to all:**

- **Employees (includes agency workers and those on placement)**
- **Volunteers**
- **Agency workers**
- **Those on placement**

**The scope of this policy extends to third parties, e.g. service users where appropriate. CHSS will not discriminate unlawfully against external parties (e.g. service users, partners, contractors) using or seeking to use goods, facilities or services provided by CHSS.**

In line with our commitment to equal opportunities, this policy can be made available in a variety of formats, including large print, translated into another language or other media. Reasonable adjustments will also be made to assist individuals who have a disability.

## **1. Statement of Intent**

- 1.1 Chest Heart & Stroke Scotland (CHSS) improves the quality of life for people in Scotland affected by chest, heart and stroke illness, through medical research, influencing public policy, advice and information, and support in the community. We will endeavour to develop fair and consistent policies, procedures and practices to support our aims, values and objectives, helping people live longer, stronger lives.
- 1.2 This policy is fully supported by the Board of Trustees and the Executive Team. Everyone is expected to comply with this policy. CHSS also has a Code of Conduct and Dignity at Work Policy which further explains our expectations of how people should conduct themselves in their involvement with CHSS.
- 1.3 The policy's purpose is to ensure equality, fairness and respect for all. CHSS will:
  - Not allow any person to unlawfully discriminate because of the Equality Act 2010 protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race (including colour, nationality, and ethnic or national origin), religion or belief, sex (gender) and sexual orientation.
  - Ensure all forms of unlawful discrimination to avoided in all of CHSS's activities.
  - Acknowledge that there may be occasions where a genuine occupational requirement allows an exemption from the Equality Act 2010.

## **2. Protected Characteristics**

- 2.1 The Equality Act 2010 defines nine protected characteristics:
  - Age
  - Disability
  - Gender reassignment
  - Marriage and civil partnership
  - Pregnancy and maternity
  - Race
  - Religion or belief
  - Sex

- Sexual orientation

2.2 In the Equality Act, no one protected characteristic has a higher priority than any other. Discrimination claims can be made on the grounds of:

- a single protected characteristic
- a number of single, but unrelated, characteristics

### 3. Types of Discrimination

3.1 Under the Equality Act, there are four main types of discrimination:

- Direct discrimination
- Indirect discrimination
- Harassment
- Victimisation.

#### Direct discrimination

3.2 Direct discrimination occurs where someone is treated less favourably directly because of a protected characteristic:

- they possess – this is direct discrimination; and/or
- of someone they are associated with, such as a friend, family member or colleague – this is direct discrimination by association; and/or
- they are thought to have, regardless of whether this perception by others is actually correct or not – this is direct discrimination by perception.

3.3 Direct discrimination in all its forms could involve a decision not to employ someone, to dismiss them, withhold promotion or training, offer poorer terms and conditions or deny contractual benefits because of a protected characteristic.

#### Indirect Discrimination

3.4 This type of discrimination is usually less obvious than direct discrimination and can often be unintended. Indirect discrimination is where a policy, practice, procedure, provision or criteria that applies to everyone in the same way may disadvantage an individual or group with protected characteristics.

#### Harassment

3.5 Harassment is defined as ‘unwanted conduct’ and must be related to a relevant protected characteristic or be ‘of a sexual nature’. It must also have the purpose or effect of violating a person’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. Generally, harassment:

- includes bullying, nicknames, threats, jokes, ‘banter’, gossip, inappropriate questions, excluding a person (for example - ignoring them or not inviting them to meetings), insults or unwanted physical contact
- can be verbal, written or physical
- is based on the victim’s perception of the unwanted behaviour rather than that of the harasser, and whether it is reasonable for the victim to feel that way
- can also apply to a person who is harassed because they are perceived to have a protected characteristic, whether they actually have it or not
- can also apply to a person who is harassed because they are associated with someone with a protected characteristic

- can also apply to a person who witnesses harassment because of a protected characteristic and which has a negative impact on their dignity at work or the working environment, irrespective of whether they share the protected characteristic of the employee who is being harassed.

### **Victimisation**

3.6 Victimisation is when a person is treated less favourably than others for:

- making an allegation of discrimination, and/or
- supporting a complaint of discrimination, and/or
- giving evidence relating to a complaint about discrimination, and/or
- raising a grievance concerning equality or discrimination, and/or
- doing anything else for the purposes of (or in connection to) the Equality Act 2010

3.7 Victimisation may also occur because a person is suspected of doing one or more of these things. A person is protected under the Equality Act if they make, or support, an allegation of victimisation in good faith – even if the information or evidence they give proves to be inaccurate. However, a person is not protected if they give, or support, information or evidence in bad faith (maliciously).

### **Lawful Discrimination**

3.8 In addition to the above, in certain and rare circumstances, it may be lawful for CHSS to specify that applicants for a job must have a particular protected characteristic under the Equality Act. This is also known as an ‘occupational requirement’. The requirement must:

- be crucial to the post, and not just one of several important factors and
- relate to the nature of the job and
- be ‘a proportionate means of achieving a legitimate aim’.

3.9 If there is any reasonable and less discriminatory way of achieving the same aim, it is unlikely that the employer could claim an occupational requirement. All three points apply to an occupational requirement, not just one or two of them.

## **4. General Principles**

4.1 CHSS aims to ensure that:

- All people are treated fairly and with respect at all stages of their association with CHSS.
- People work in an environment in which individual differences and the contributions of all people are recognised and valued
- Training, development and progression opportunities are available to all people.
- All people have the right to be free from harassment and bullying of any description, or any other form of unwanted behaviour.
- Inequality, prejudice and discrimination are challenged by all.

4.2 In all areas of CHSS work, decisions concerning people will be based on merit (apart from in any necessary and limited exemptions and exceptions allowed under the Equality Act)

4.3 Contractors and consultants are expected to either have an Equality & Diversity Policy or endorse this policy before carrying out any services for CHSS.

## **5. Commitment and Understanding of this Policy**

### 5.1 CHSS commits to:

- encourage equality and diversity in the workplace as they are good practice and make business sense
- create 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

5.2 This commitment includes training managers and all other people about their rights and responsibilities under this policy. Responsibilities include people conducting themselves to help CHSS provide equal opportunities in employment or volunteering, and prevent bullying, harassment, victimisation and unlawful discrimination.

5.3 All people should understand they, as well as CHSS, can be held liable for acts of bullying, harassment, victimisation and unlawful discrimination, in the course of their employment or volunteering, against fellow employees, volunteers, customers, suppliers and the public.

5.4 Line managers, supervisors and Board of Trustee members should:

- encourage concerns to be expressed openly and honestly;
- set an example to all people of appropriate conduct in the workplace; and
- eradicate any misconduct from happening;

5.5 CHSS will take seriously complaints of bullying, harassment, victimisation and unlawful discrimination.

5.6 Sexual harassment may amount to both an employment rights matter and a criminal matter, such as in sexual assault allegations. In addition, harassment under the Protection from Harassment Act 1997 – which is not limited to circumstances where harassment relates to a protected characteristic – is a criminal offence.

5.7 Should any person breach this policy, it will be considered as misconduct. The procedure to be applied will depend on whether they are:

- An employee – this will be dealt with under CHSS's grievance and/or disciplinary procedures and any appropriate action will be taken. Particularly serious complaints could amount to gross misconduct and lead to dismissal without notice. Use of the organisation's grievance and/or disciplinary procedures does not affect an employee's right to make a claim to an employment tribunal within three months of the alleged discrimination.
- An agency worker or an individual on placement – this will be dealt with through the relevant agency/placement provider.
- A Volunteer – this will be dealt with under CHSS's Volunteer Complaints Policy. A potential consequence may be the removal of the Volunteer.

## **6. Role of Departments**

6.1 The Executive Team will be responsible for ensuring this policy is adhered to within their own departments and across the services they provide.

6.2 The Corporate Services Department includes the Director of Corporate Services, the Head of Volunteering and the Head of Human Resources & Organisational Development. They are available to give advice and interpretation on any aspect of this policy.

## **7. Monitoring and Review**

7.1 CHSS monitoring of this policy will ensure compliance with the Confidentiality & Data Protection Policy.

7.2 The Head of Human Resources & Organisational Development will:

- Review employment practices and procedures when necessary to ensure fairness, and also update them and the policy to take account of changes in the law.
- monitor the make-up of the workforce regarding information such as age, gender, ethnic background, sexual orientation, religion or belief, and disability in encouraging equality and diversity, and in meeting the aims and commitments set out in this policy

7.3 The Head of Volunteering will:

- Review volunteering practices and procedures when necessary to ensure fairness, and also update them and the policy to take account of changes in the law.
- Monitor the make-up of the volunteer workforce regarding information such as age, gender, ethnic background, sexual orientation, religion or belief, and disability in encouraging equality and diversity, and in meeting the aims and commitments set out in this policy.

7.4 There may be occasions where, through monitoring, an under representation of specific groups in CHSS's people workforce may be identified. This may result in CHSS targeting specific sections of the community. This is called 'Positive Action' and is permissible practice under the Equality Act.

7.5 The policy will be reviewed every 3 years or earlier if deemed appropriate. In the event that this policy is not reviewed within the above timescale, the latest approved policy will continue to apply.