EQUALITY AND DIVERSITY POLICY

Policy Control/Monitoring

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Approved by: **(Name/Position in Organisation)** **Date:**	**Alison Williams, Director – Corporate Services**
Accountability: **(Name/Position in Organisation)**	Lindsay Murray HR Manager
Author of policy: **(Name/Position in organisation)**	Lindsay Murray HR Manager
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Associated Policies: **(insert hyperlinks)** **Associated National Guidance**	
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Equality Impact Assessment

This document forms part of Percy Hedley's commitment to create a positive culture of respect for all staff and service users. The intention is to identify, remove or minimise discriminatory practice in relation to the protected characteristics (race, disability, gender, sexual orientation, age, religious or other belief, marriage and civil partnership, gender reassignment and pregnancy and maternity), as well as to promote positive practice and value the diversity of all individuals and communities.

As part of its development this document and its impact on equality has been analysed and no detriment identified.

Version Control Tracker

Version Number	Date	Author/ Title	Status	Comment/Reason for Issue/Approving Body
V0.1	September 2012	Unknown	Approved/archived	Business requirement
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Roles & Responsibilities

Role	Responsibility
Director – Corporate Services	Final approval of any changes to this policy.
Human Resources Manager	To ensure that this policy is kept up to date in accordance with current regulations, legislation and guidance.
Head of Service/Head of department	To ensure the appropriate the deployment of this policy.

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1 Introduction

The Percy Hedley Foundation is committed to providing equal opportunities in employment and to avoiding unlawful discrimination in employment and against customers.

This policy is intended to assist the Foundation to put this commitment into practice. Compliance with this policy should also ensure that all employees and other persons who work with the Foundation do not commit unlawful acts of discrimination.

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 Foundation has a separate dignity at work policy, which deals with these issues.

2 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 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, eg refusing to give a reference for a reason related to one of the protected characteristics.

Staff should not discriminate against or harass a member of the public in the provision of services or goods. It is unlawful to fail to make reasonable adjustments to overcome barriers to using services caused by disability. 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.

3 Types of unlawful discrimination

Direct discrimination is where a person is treated less favourably than another because of a protected characteristic. An example of direct discrimination would be refusing to employ a woman because she is pregnant.

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. It is extremely rare for this to happen and any decision of this type cannot be made without the input of the Head of Human Resources.

Indirect discrimination is where a provision, criterion or practice, which is applied to everyone, adversely affects people with a particular Protected Characteristic more than others, and is not justified. For example, requiring a job to be done full-time rather than part-time would adversely affect women because they generally have greater childcare commitments than men. Such a requirement would be discriminatory unless it can be justified. Even then, it can only be justified where the difference in treatment is a proportionate means of achieving a legitimate aim. For example, a decision to commence the working day at 8am is more likely to adversely impact woman more than men given that more women than men have childcare responsibilities. However, if the Foundation's service users are on site at 8am, then this requirement will be justified so, as to ensure that the Foundation's aim of providing appropriate care is maintained. The requirement will be proportionate if the Foundation has looked at alternative options for a woman who may struggle to start work at this time, such as, alternative hours.

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. Harassment is dealt with further in our Anti-harassment and Bullying Policy.

Associative discrimination is where an individual is directly discriminated against or harassed because of their association with another individual who has a protected characteristic (although it does not cover harassment because of marriage and civil partnership). By way of example, someone could be offended by an inappropriate joke about a specific racial group if their partner is part of that racial group and they are not.

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 (other than marriage and civil partnership). By way of example, a person is not offered a job because they are married to a person who is disabled and the employer is concerned that they will have too much time off work as a consequence.

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 clients or customers. For an employer to be liable:

- the harassment must have occurred on at least two previous occasions (although not necessarily by the same harasser or suffering the same type of harassment);

- it must be aware that the previous harassment has taken place; and

- it must have failed to take reasonable steps to prevent harassment from happening again on the grounds of the employee's protected characteristic.

Victimisation occurs where a worker 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 or she is suspected of doing so. However, a worker is not protected from victimisation if he or she acted maliciously or made or supported an untrue complaint. There is no longer a need for a complainant to compare his or her 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 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.

4 Recruitment and selection

Recruitment, promotion, and other selection exercises, such as, redundancy selection will be conducted on the basis of merit, against objective criteria that avoid discrimination. Shortlisting should be done by more than one person and with the involvement of the Human Resources Department, where possible. The Foundation's recruitment procedures should be reviewed regularly to ensure that individuals are treated on the basis of their relevant merits and abilities.

Vacancies should generally be advertised to a diverse section of the labour market. Advertisements should avoid stereotyping or using wording that may discourage particular groups from applying.

Job applicants should not be asked questions which might suggest an intention to discriminate on grounds of a Protected Characteristic. For example, applicants should not be asked whether they are pregnant or planning to have children.

Job applicants should not be asked about health or disability before a job offer is made. There are limited exceptions which should only be used with the approval of the Human Resources Department. For example:

- questions necessary to establish if an applicant can perform an intrinsic part of the job (subject to any reasonable adjustments);

- questions to establish if an applicant is fit to attend an assessment or any reasonable adjustments that may be needed at interview or assessment;

- equal opportunities monitoring (which will not form part of the selection or decision-making process).

Where necessary, job offers can be made conditional on a satisfactory medical check.

The Foundation is required by law to ensure that all Staff are entitled to work in the UK. Assumptions about immigration status should not be made based on appearance or apparent nationality. All prospective employees and other workers, regardless of nationality, must be able to produce original documents (such as a passport) before employment starts, to satisfy current immigration legislation. The list of acceptable documents is available from the Human Resources Department or UK Visas and Immigration.

5 Equal opportunities in employment

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

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 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.

The 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.

6 Training and promotion and conditions of service

Training needs will be identified through regular appraisals. Staff will be given appropriate access to training to enable them to progress within the organisation and all promotion decisions will be made on the basis of merit.

Workforce composition and promotions will be regularly monitored to ensure equality of opportunity at all levels of the organisation. Where appropriate, steps will be taken to identify and remove unjustified barriers and to meet the special needs of disadvantaged or underrepresented groups.

The Foundation's conditions of service, benefits and facilities are reviewed regularly to ensure that they are available to all employees and other workers who should have access to them and that there are no unlawful obstacles to accessing them.

7 Termination of employment

The Foundation will ensure that redundancy criteria and procedures are fair and objective and are not directly or indirectly discriminatory.

The Foundation will also ensure that disciplinary procedures and penalties are applied without discrimination, whether they result in disciplinary warnings, dismissal or other disciplinary action.

8 Disabilities

If employees or other workers are disabled or become disabled, we encourage them to tell us about their condition so that we can support them as appropriate.

If employees or other workers experience difficulties at work because of their disability, they may wish to contact the Human Resources Department to discuss any reasonable adjustments that would help overcome or minimise the difficulty. The Human Resources Department may wish to consult with their medical adviser about possible adjustments. The Foundation will consider the matter carefully and try to accommodate the needs within reason. If we consider a particular adjustment would not be reasonable, the Foundation will explain its reasons and try to find an alternative solution, where possible.

The Foundation will monitor the physical features of our premises to consider whether they might place anyone with a disability at a substantial disadvantage. Where necessary, The Foundation will take reasonable steps to improve access.

9 Part-time and fixed-term work

Part-time and fixed-term staff should be treated the same as comparable full-time or permanent staff and enjoy no less favourable terms and conditions (on a pro-rata basis where appropriate), unless different treatment is justified.

10 Customers, suppliers and other people not employed by the Foundation

The Foundation will not discriminate unlawfully against customers using or seeking to use goods, facilities or services provided by the Foundation.

Employees and other workers should report any bullying or harassment by customers, suppliers, visitors or others to their manager who will take appropriate action.

11 Equality Training

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

12 Employee's responsibilities

Every employee is required to assist the Foundation to meet its commitment to provide equal opportunities in employment and avoid unlawful discrimination.

Employees and other workers can be held personally liable as well as, or instead of, the Foundation for any act of unlawful discrimination. Employees and other workers who commit serious acts of harassment may be guilty of a criminal offence.

Acts of discrimination, harassment, bullying or victimisation against employees or other workers 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.

13 Grievances

If you consider that you may have been unlawfully discriminated against, you may use the Foundation's grievance procedure to make a complaint. If your complaint involves bullying or harassment, the grievance procedure is modified as set out in the bullying and harassment policy.

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.

Use of the Foundation's grievance procedure does not affect your right to make a complaint to an employment tribunal. Complaints to an employment tribunal must normally be made within three months beginning with the act of discrimination complained of.

14 Monitoring and Compliance

Overall responsibility for the operation of this procedure lies with the Head of HR & Organisational Development. The effectiveness of the procedure will be formally reviewed and monitored at least on a bi-annual basis to ensure that it continues to meet the requirements of The Foundation and that it reflects HR good practice and statutory legislation as appropriate.

The Foundation takes a strict approach to breaches of this policy, which will be dealt with in accordance with our Disciplinary Procedure. Serious cases of deliberate discrimination may amount to gross misconduct resulting in dismissal.

If anyone believes that they have suffered discrimination, they can raise the matter through our Grievance Procedure or through our Anti-harassment and Bullying Policy as appropriate. Complaints will be treated in confidence and investigated as appropriate.

There must be no victimisation or retaliation against staff who complain about discrimination. However, making a false allegation deliberately and in bad faith will be treated as misconduct and dealt with under our Disciplinary Procedure.

15 Related policies

This policy is supported by the following other policies and procedures:

- Bullying and Harassment Policy.
- Grievance Procedure.
- Disciplinary Procedure.

- Flexible Working Procedure.
- Maternity, Paternity, Adoption and Shared Parental Leave Policies.
- Parental Leave Policy.
- Time Off for Dependants Policy.