



## EQUAL OPPORTUNITIES POLICY

<b>Procedure Profile</b>	
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## **MANAGING DIVERSITY**

In order to promote an environment within which GCE can call upon the widest range of knowledge, skills and experience, as well as ensuring compliance with the relevant legislation and codes of practice, we are committed to treating all applicants and employees in the same way regardless of race or colour, nationality or ethnic origin, sex or marital status, disability or age.

This policy applies to the advertisement of jobs, recruitment and appointment to them, training, conditions of work, pay and to every other aspect of employment. The policy also applies to the treatment of our customers.

We will monitor and review the operation of our equal opportunities policy to ensure that no applicant or employee is advantaged by conditions or requirements, which cannot be shown to be justifiable. It will be revised as appropriate to take account of changes in legal requirement.

This policy statement is supported by detailed policies and procedures; all GCE employees are required to ensure that the equal opportunities policy is successfully implemented.

## **EQUAL PAY**

GCE operates under the Equal Pay Act, which was enacted in 1970. The Equal Pay Act came into force at the same time as the Sex Discrimination Act in 1975. Morris and Nott (1991: 114) note that 'the five year-delay was intended to allow a period of voluntary compliance by employers'.

The purpose of the Equal Pay Act is to eliminate discrimination between men and women in basic rates of pay and other terms of their contracts of employment (for example, payments for overtime, bonus and piecework), as well as other conditions of work such as working hours, holidays and sick leave entitlement.

The Equal Pay Act allows an individual to claim equal pay with a member of the opposite sex in one of three ways:

- Where the employee is doing the same work of a broadly similar nature to that of a member of the opposite sex;
- Where the employee's job, although different from that done by a member of the opposite sex, has been given an equal value under a proper job evaluation scheme.
- (From 1 January 1984) where the employee is doing work of equal value to that of a member of the opposite sex in the same employment in terms of the demands made (for instance under such headings as effort, skill and decision)

It is important to mention that the above does not apply:

If the employer can prove that there is a 'material difference' between the woman's case and the man's or some other 'material factor' (provided that this is in no way connected, directly or indirectly, with the difference in sex), which justifies the difference in pay. Such differences may, for example, be reflected in say a London Weighting Allowance or a long service payment.

## **SEX DISCRIMINATION**

Under the Sex Discrimination Act of 1975 (as amended 1986), It is unlawful to discriminate against someone because of his or her sex or marital status. The following include different forms of discrimination:

- **Direct discrimination** – Arises where an individual is treated less favourably than others are or would be treated in the same or similar circumstances on grounds of sex or marital status.
- **Indirect discrimination** – Arises where a requirement is applied to both gender groups or marital statuses but the ability of one group to comply with it is considerably smaller than that of another, and cannot be shown to be justifiable on grounds other than sex or marital status.
- **Victimisation** – Arises where in any of the situations in which the Sex Discrimination Act or Equal Pay Act apply, a person (the discriminator) treats another person (the victimised) less favourably than he or she treats, or would treat other persons on the ground that the person victimised has done (or intends to do, or is suspected of having done or intending to do any) any of the following:
  - Brought proceedings against the discriminator or anyone else under the Sex Discrimination Act or Equal Pay Act;
  - Given evidence or information in connection with proceedings brought under the Act by another person against the discriminator or anyone else;
  - Done anything else under the Acts such as giving evidence or information to the Equal Opportunities Commission or helping another person to present a case at an Industrial Tribunal;
  - Alleged that the discriminator or anyone else has contravened the Acts.
- **Positive action** – In particular circumstances of under representation in employment; training bodies, employers and professional organisations can take positive action in the form of providing training facilities and encouragement for a particular group to take advantage of opportunities to do particular work. Positive action is also allowed to afford persons of a particular group access to facilities or services to meet the special needs of that group in regard to their education, training, or welfare or any ancillary benefits.
- **Genuine Occupational Qualification-** A specific exemption from the employment provisions of the Act is allowed where the holder of a job provides members of a particular group with personal services promoting their welfare and a person of that group can most effectively provide these services.

## **RACE RELATIONS**

GCE complies with the Race Relations Act 1976 and Amendment Act 2000, which has the following key points:

- Racial discrimination is “unacceptable” and is outlawed in all public authorities, and in those functions or public authorities run by the private sector.
- Public bodies will have a general duty to promote race equality – they will have no discretion to decide “whether the promotion of race equality is an ‘appropriate activity.’”
- They must promote equality of opportunity and “good relations” between people of different racial groups.

- The general duty to promote race equality is a “positive one” requiring public authorities to be pro-active in seeking to avoid unlawful discrimination before it occurs.
- Organisations covered by the act must monitor their workforce and take steps to ensure that ethnic minorities are treated fairly.
- They must assess how policies and programmes can affect ethnic minorities, and take remedial action where any potential for “adverse differential impact” on ethnic minority communities is identified.
- Bodies must monitor the implementation of policies and programmes to ensure that they meet the needs of ethnic minorities.
- Each organisation must have a “publicly stated policy on race equality”.
- The commission for racial equality has powers under the act to issue a compliance notice to a public body, which it believes is not fulfilling its duties to promote race relations.
- On employment issues, public bodies will be expected to ethnically monitor staff in post and applicants for jobs, promotion and training. They must analyse grievances, disciplinary action, dismissals and other reasons for leaving, particularly among senior employees.
- The results of ethnic monitoring should be published each year by each public body covered by the act

It is therefore unlawful to discriminate with regard to ‘racial grounds’ defined in terms of colour, race, nationality (including citizenship) or ethnic or national origins.

The Race Relations Act is similar to the Sex Discrimination Act, covering the same terms:

- Direct Discrimination
- Indirect Discrimination
- Victimisation
- Positive Action
- Genuine Occupational Qualification

## **THE DISABILITY DISCRIMINATION**

### **Key Concepts**

The disabled person must not be treated **less favourably** than a non-disabled person in the provision of **goods, facilities and services; in employment; in the selling and buying of houses and land**

### **Reasonable adjustments must be made to working arrangements**

Examples are:

- Adjustments to premises
- Allocating some of the disabled person’s duties to another
- Transfer to an existing vacancy
- Altering working hours
- Assigning to a different workplace
- Allowing absence for rehabilitation, assessment or treatment

- Providing training, a reader or interpreter, supervision
- Acquiring equipment
- Modifying equipment, instructions, reference manuals, procedures for testing or assessment

Like the race and sex laws, positive action is permitted

The Disability, Discrimination Act represents a Government response to continuing attempts to disabled people to secure legislation, which would extend to disabled people the protection from discrimination, which women and minority ethnic communities have achieved.

In particular the Government was responding to a fear that a backbench revolt would lead to the enactment of the Civil Rights (Disabled Persons) Bill, a private member's bill supported by the disability movement.

The Government's opposition to the Civil Rights (Disabled Persons) Bill was based on a belief that it would place too high a burden on businesses and would thus inhibit their ability to compete within the market place – a view that the disability lobby disputes.

(RADAR 1996: 12)

The Government argued that the new legislation represented 'a comprehensive package of anti-discrimination legislative proposals and measures' (Minister for Disabled People 1995: Foreword), a fundamental advance...the foundation upon which we can build to achieve the end of discrimination' (Minister for Disabled People quoted in Gooding 1996). However, RADAR argue that whilst the Act is:

A step in the right direction...it falls short of the full anti-discrimination legislation that disabled people have demanded on three vital counts: it is not effective, comprehensive or enforceable.

(RADAR 1996: 12)

The Act does specify situations in which discrimination may be justifiable and these are large loopholes in creating equality for disabled people. These include unreasonable greater cost of provision, a lower standard of service if it is reasonably necessary in order to be able to provide the service to the disabled person or the public and refusal to provide a service where it is deemed necessary in order to provide a service to other members of the public.

The definition of reasonable is still being tested in court.

What may be reasonable to a disabled person wanting a service and to the non disabled people in power refusing etc. A service may seem different. The adjustment duty still appears to provide scope for segregation and differential treatment.

The Act defines disabled people as those with a physical or mental impairment, which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities.

The Act also covers progressive conditions where impairments are likely to become more substantial, for example cancer, HIV infection and multiple sclerosis. The Act covers people with these conditions from the moment that there is a noticeable effect on normal day-to-day activities, however slight.

The Act provides:

- A statutory right of non-discrimination against disabled people in the field of employment.
- A right of redress against discrimination in occupational pension schemes and insurance services.
- A statutory right of access to goods and services, including the removal of barriers and provision of aids, where reasonable and readily achievable.
- A right of access to transport infrastructure, such as railways and bus stations together with provisions which allow the Government to set minimum access criteria for new public transport vehicles (including buses, trains and taxis) to enable disabled people to use public transport more easily.
- A requirement that schools, colleges and universities provide information to disabled people about the accessibility of their facilities.
- The creation of National Disability Council to advise the Government on issues and measures relating to the elimination of discrimination.

The employment provisions took effect from December 2, 1996. From that date registration on the Department for Education and Employment's register for the disabled ceased. The '3% quota' employment scheme also ended from this date.

Within the employment provisions of the DDA 1995, all UK employers of 20 or more employees are legally liable for discriminating against disabled persons in all areas of employment.

Employers are able to justify less favourable treatment of a disabled person in specified circumstances such as suitability. However, this defence will be subject to a new duty on the employer to make reasonable adjustments to working conditions or the physical working environment where that would help overcome the practical effects of a disability.

The housing provisions of the Disability Discrimination Act came into effect on 2 December 1996. These make it unlawful to discriminate against a disabled person.

Victimisation is unlawful against disabled people bringing a complaint under the legislation and it is unlawful against non-disabled people supporting a complaint.

### **THE PROTECTION FROM HARASSMENT**

The Act (1997) does not define harassment as such. Instead it prohibits the conduct by reference to the effect that it has on the victim.

According to the Home Secretary this definition was adopted specifically to widen the Act's scope from merely dealing with stalking to cover "conduct that causes racial harassment" and other "anti-social behaviour".

There is nothing to suggest that sexual harassment or harassment on other grounds such as sexual orientation or disability is not covered by the prohibition.

Harassing a person included a course of conduct "alarming the person or causing the person distress".

These provisions are noteworthy in that they do not require proof of the intention of the harasser.

### **REHABILITATION OF OFFENDERS**

This Act (1974) seeks to protect the employment interests of rehabilitated offenders by not requiring them to disclose facts about themselves, which would prevent them from obtaining jobs.

This Act introduced the concept of 'spent conviction' meaning that certain rehabilitated offenders can 'hide' their conviction. The Act made it unlawful for employers to deny employment on the grounds that a conviction was 'spent' or in fact to obtain details of the conviction. The Act, however, makes provisions for an exemption order under which protection does not extend to application for certain categories of jobs.

### **AGE DISCRIMINATION**

GCE operates under the Employment Equality (Age) Regulations that were enacted on 1<sup>st</sup> October 2006. This regulation makes it unlawful to discriminate against workers, employees, job seekers and trainees because of their age.

GCE employees are covered in the regulations and in this guidance. Fairness at work and good job performance go hand in hand. Tackling discrimination helps to attract, motivate and retain staff and enhances your reputation as an employer. Eliminating discrimination helps everyone to have an equal opportunity to work and to develop his or her skills.

Employees who are subjected to discrimination, harassment or victimization may:

- Be unhappy, less productive and less motivated
- Resign
- Make a complaint to an employment tribunal

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