

# **St.Helens Borough Council Comprehensive Equality Policy**

**Eliminate discrimination,  
harassment and victimisation  
Advance equality of opportunity  
Foster good relations between  
people in a diverse community**



**ST HELENS**  
BOROUGH COUNCIL



**EQUALITY  
FRAMEWORK  
FOR LOCAL  
GOVERNMENT**  
ACHIEVING



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## ST.HELENS BOROUGH COUNCIL ACCESSIBILITY CHARTER

St Helens Borough Council recognises its obligations under the Equality Act 2010, which legally protects people from discrimination, harassment and victimisation in the workplace and in wider society on the grounds of the following protected characteristics: age, disability, gender reassignment, pregnancy and maternity, race including ethnic origin, religion or belief, sex, sexual orientation, and marriage and civil partnership. We also recognise that poverty, while not one of the protected characteristics, means that equality of access to basic human rights is not a given for some.

The Public Sector Equality Duty requires St Helens Borough Council when carrying out its functions and policies to have due regard to the need to:

- eliminate discrimination, harassment and victimisation
- advance equality of opportunity, and
- foster good relations between different people

This Accessibility Charter is a set of principles which St Helens Borough Council will adopt in recognition of the 150-year anniversary of this Borough. It will act as a legacy to our commitment to establish an environment based on equality of access, fair entitlement, concern for the wellbeing of others, and respect for individual dignity. Council Members, people who work for the council and people who make use of council services should expect as a minimum standard:

- That the needs of the most vulnerable will come first
- Access to clear and easy to follow information about council job opportunities, council services and service entitlements
- The right to access the services to which they are entitled
- 'Reasonable adjustments' to remove or lessen barriers for disabled people (i) in access to employment with the council, and (ii) in access to service information, and the services to which they are entitled
- Individuals must behave with respect towards the protected characteristics of others
- The right to be treated with respect in relation to protected characteristics
- The right to experience an environment where dignity is valued
- The right to experience an environment that is not harmful, hostile, threatening, degrading, offensive or abusive
- Action will be taken against those who do not respect the dignity of others
- Action will be taken against those who exhibit harmful, hostile, threatening, degrading, offensive or abusive behaviour
- To know that decisions will be based on merit and not influenced by prejudice or bias towards protected characteristics
- The right to challenge decisions or make a complaint
- Information is easily accessible on how to challenge a decision or make a complaint

Dignity is wellbeing based on that which a person feels worthy of value and respect in themselves  
Respect is concern for the feelings and dignity of others

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**St. Helens Borough Council's Equality Policy Statement, Legal Duties and Objectives**

**St. Helens Borough Council Equality Policy Statement**

St. Helens Borough Council recognises that disadvantage and discrimination exist in society and that people may experience more than one form of discrimination. The Council is committed to striving to eliminate these inequalities and aims to be fair, reasonable, and just in its responsibilities. St. Helens Borough Council values the diversity of its workforce and the people and communities both resident and visitors to the Borough. The Council is constantly working towards ensuring that service delivery and employment practices are of the highest possible equality standard.

The Council commits itself to make its services, facilities, and resources accessible and responsive to residents and visitors to the Borough. The Council will work towards ensuring that individual human rights are supported within its decisions, policies, and practices.

Under this Policy, the terms 'St. Helens Borough Council' and 'the Council' means Council Members, staff, employees, agents, and any organisation delivering goods, works, services or carrying out public functions on behalf of the Council.

**Partnerships**

St. Helens Borough Council operates in partnership with other organisations at a Borough, Liverpool City Region, and North West Regional level. The Council is committed to using its influence to promote equality through these partnerships, and through partnership.

**Scope of the Policy**

This Policy covers all of St Helens Borough Council functions (commissioning, procurement, employment, service delivery, events, projects, processes, and practices) and policies (policy documents, strategies, plans, decisions, guidelines, standards, regulations and rules).

This Policy applies to Council employees and candidates for employment, with the exception of teaching staff, who are subject to the equality policies of their own specific schools.

The principles of this Policy apply to the provision and use of all services. It also applies to contractors and partners who are commissioned to provide public services on behalf of the Council.

The Comprehensive Equality Policy provides a clear framework within which Council Members, employees, managers, partners, contract providers, and trade unions must work.

The Policy is holistic: structured to be read, understood and worked with as a whole.

**Legal duties**

This document sets out St. Helens Borough Council's policy in relation to

- The Human Rights Act 1998
- The Equality Act 2010
- The Public Sector Equality Duties 2011
- The Care Act 2014

The Care Act 2014 and the Human Rights Act 1998 have separate policy statements on pages 15 and 26 respectively.

**Equality Act 2010 Public Sector Duty**

The Public Sector Duty of the Equality Act 2010 requires public authorities, in the exercise of their functions and decisions, to have due regard to the need to:

- Eliminate discrimination, harassment and victimisation (known as the General Duty of the Equality Act 2010)
- Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it
- Foster good relations between persons who share a protected characteristic and persons who do not share it.

**Protected Characteristics**

The Equality Act 2010 covers nine characteristics

- Age
- Disability
- Gender Reassignment
- Marriage and Civil Partnership
- Pregnancy and Maternity
- Race
- Religion
- Sex
- Sexual Orientation

## St. Helens Borough Council Comprehensive Equality Policy 2018-21

**NB** “Due regard” means a substantial, rigorous, and open-minded consideration of the needs of the different protected groups within the Council decision making and policy processes, and in the delivery of its statutory functions, and its employment, and service delivery arrangements.

In addition, this Policy also sets out St. Helens Borough Council’s policy on the following related areas

- Carers
- Community Cohesion
- Education Accessibility
- Fair Employment and Equal Pay
- Hate Crime
- Human Rights
- Systemic Institutional Racism

### **Equality Act 2010, Accessibility for Disabled Pupils**

Schedule 10 of the Equality Act 2010 requires Local Authorities to prepare and maintain an Accessibility Strategy with the outcome over a prescribed period of:

- a) Increasing the extent to which disabled pupils can participate in the schools’ curriculums;
- b) Improving the physical environment of the schools for the purpose of increasing the extent to which disabled pupils are able to take advantage of education and benefits, facilities or services provided or offered by the schools;
- c) Improving the delivery to disabled pupils of information which is readily accessible to pupils who are not disabled.  
The delivery of information must be:
  1. within a reasonable time;
  2. in ways which are determined after taking account of the pupils’ disabilities and any preferences expressed by them or their parents.

St. Helens Borough Council’s Education Accessibility Strategy Statement is set out on page 20 of this policy

### **Equality Act 2010, Specific Duty 2011**

The Specific Public Sector Equality Duty requires public bodies to set measurable equality objectives and to publish information about their performance on equality, so that the public can hold them to account.

In order to meet the Specific Public Sector Duty, St. Helens Borough Council will

1. Publish sufficient information to demonstrate compliance with the general equality duty across its functions annually from the first date of publication.
2. Prepare and publish equality objectives to demonstrate how the general equality duty will be met.

### **Corporate Equality Objectives**

The Corporate Equality Objectives of this Policy are based on the Public Sector Duty of the Equality Act 2010:

- Eliminate discrimination, harassment and victimisation
- Advance equality of opportunity
- Foster good relations between people within a diverse community

Since 2003, St. Helens Borough Council has worked to achieve Corporate Equality Objectives based on the duties of equality legislation. In this way, any actions that contribute to achieving Corporate Equality Objectives will also provide evidence to demonstrate that the Council is meeting its Equality Duties.

The Council uses staff and community engagement, complaint monitoring, and Equality Impact Assessments to identify improvements to policies and to make services fair and accessible. The Council makes use of ‘equality profiles’ (e.g. an individual’s race, sex, disability etc) to identify if people who share different protected characteristics have a comparable or less favourable experience when accessing services or employment.

### **Measurable Equality Objectives**

St. Helens Borough Council has set the following Measurable Equality Objectives

- To ensure Equality Impact Assessments inform 100% of Delegated Executive Decisions and Key Decisions.
- To maintain a 90% achievement rate in service equality access targets for protected characteristics.
- To publish information relating to employees and customers who share protected characteristics.

The outcomes of the measurable equality objectives are published in the Council’s Annual Equality Monitoring Report.

### **Implementing the Comprehensive Equality Policy**

Since 2003, St. Helens Borough Council has complied with the duties of equality legislation by using the following three mechanisms through which its equality objectives are implemented within its business and management processes.

1. Equality Impact Assessments: must be used to demonstrate that St Helens Borough Council has given “due regard” to the general equality duty within its decision-making, commissioning, employment, procurement and service delivery functions.
2. Equality Monitoring: equality profiles must be used appropriately within consultation, complaints and other monitoring process to demonstrate equality of opportunity in access, quality and outcome across service delivery and employment.
3. Procurement Equality Standard: must be used within the Council’s procurement functions to ensure that contract bidders demonstrate that they give “due regard” to the general equality duty within their employment practices.

The Council uses training, published corporate standards and one to one support to ensure that staff, management and elected members understand the Comprehensive Equality Policy and their responsibilities.

The outcomes of the equality impact assessments and equality monitoring are published in the Council’s Annual Equality Monitoring Report.

### **Annual Equality Monitoring Reports**

Since 2003 St. Helens Borough Council has produced Annual Equality Monitoring Reports. These demonstrate the effect that the Council’s policies and practices have had on different sections of the community through analysis of:

- Consultation, satisfaction and complaints
- Workforce equality profile monitoring
- Service access equality profile monitoring
- Equality impact assessments of decisions
- Equality impact assessments of policies
- Equality training
- Support for schools
- Improvements and awards

Annual Equality Monitoring Reports are published on the Council’s website and shared with local voluntary and community group that represent people who share different protected characteristics.

Through this process, St. Helens Borough Council makes evident the progress that has been made towards

- Publishing sufficient information to demonstrate compliance with the general equality duty across its functions annually.
- Publishing the outcomes of its measurable equality objectives to demonstrate how the general equality duty is being met.

## Definitions from the Public Sector Duty

### Eliminating Discrimination

Discrimination in its simplest terms means being subject to “less favourable treatment”

Discrimination under the Equality Act 2010:

- Direct discrimination
- Discrimination by association
- Discrimination by perception
- Combined discrimination: dual discrimination
- Gender reassignment discrimination: cases of absence from work
- Pregnancy and maternity discrimination: non-work cases
- Pregnancy and maternity discrimination: work cases
- Indirect discrimination
- Discrimination arising from disability
- Failure to make a reasonable adjustment

Unlawful discrimination is unacceptable to St. Helens Borough Council and it is our policy to eliminate it whether it occurs in relation to policy, service delivery or employment.

All discrimination is unlawful unless there is a justified reason for it; based on legal, moral or health and safety requirements; like a genuine occupational requirement in employment.

For example, it is justifiable to restrict applications for a Ladies Toilet Attendant’s job to women, on the grounds of decency, even though this directly discriminates against men.

Likewise, it is justifiable to add “proficient British Sign Language Skills” to a job description for a member of staff who is likely to deal with deaf customers, even though this prevents a larger proportion of people from applying.

### Direct Discrimination

Direct discrimination occurs when a person treats another less favourably than they treat (or would treat) others, and this treatment is because of a protected characteristic e.g. age, disability, gender reassignment, race, religion, sex, sexual orientation, marriage and civil partnership or pregnancy and maternity.

Under the provisions of the Equality Act 2010, it is not discrimination to treat a disabled person more favourably than a non-disabled person. Under certain circumstances, the Council may provide services on terms that are more favourable to a disabled person compared to a non-disabled person.

St. Helens Borough Council will not discriminate by deliberately segregating employees or services users by race or ethnicity. To be discriminatory, racial segregation must be a deliberate act or policy rather than a situation that has occurred inadvertently

### Discrimination by association

The Council will not discriminate against a person because of their association with another person who possesses a protected characteristic. NB pregnancy and maternity is not protected from discrimination by association

### Discrimination by perception

St. Helens Borough Council will not tolerate or ignore discrimination against an individual because of a perception or assumption that the individual possesses particular protected characteristics. NB pregnancy and maternity is not protected from discrimination by perception.

### Combined discrimination: dual discrimination

The Council will not discriminate against an individual because of a combination of two protected characteristics. NB marriage and civil partnership, and pregnancy and maternity, are not protected from dual discrimination

### Gender reassignment discrimination: cases of absence from work

St. Helens Borough Council will not discriminate against transsexual staff in relation to work absence that arises because they propose to undergo, are undergoing or have undergone the process (or part of the process) of gender reassignment

### Pregnancy and maternity discrimination: non-work cases

St Helens Borough Council, will not treat any woman less favourably because:

- She is, or has been, pregnant;
- She has given birth, and the unfavourable treatment occurs within a period of 26 weeks beginning with the day on which she gave birth; or
- She is breastfeeding, and the unfavourable treatment occurs within the period of 26 weeks beginning with the day on which she gave birth.

**Pregnancy and maternity discrimination:  
work cases**

The Council will not discriminate against a female member of staff because:

- Of a pregnancy of hers
- Of illness suffered by her as a result of it
- She is on compulsory maternity leave,
- She is exercising or seeking to exercise, or has exercised or sought to exercise, the right to ordinary or additional maternity leave.

St Helens Borough Council will not discriminate against a female member of staff during the protected period of her pregnancy and maternity, through taking or implementing a decision that has a less favourable outcome for that member of staff.

St Helens Borough Council will not discriminate against a female member of staff by taking into account any period of absence due to pregnancy-related illness when making a decision about her employment

NB The protected period, in relation to a woman's pregnancy, begins when the pregnancy begins, and ends

- (i) if she has the right to ordinary and additional maternity leave, at the end of the additional maternity leave period or (if earlier) when she returns to work after the pregnancy, or
- (ii) if she does not have that right, at the end of the period of 2 weeks beginning with the end of the pregnancy.

**Indirect Discrimination**

Indirect discrimination is unacceptable to St. Helens Borough Council.

Indirect Discrimination occurs when a rule, provision, criterion, practice or condition that is applied equally to everyone

- Puts or would put people who share a protected characteristic at a particular disadvantage when compared with people who do not have that characteristic
- Is or would be to the disadvantage of that group
- Cannot be justified as a proportionate means of achieving a legitimate aim.

An example of indirect discrimination: A blanket policy requiring all job applicants to hold a full

driving licence, even jobs where no driving is required, will result in an indirect discrimination against disabled people. This is because:

1. A considerably smaller proportion of disabled people hold driving licences compared to non-disabled people,
2. It is to the disadvantage of disabled people as they cannot apply for employment, and
3. It cannot be justified if there is not a genuine occupational requirement to hold a driving licence for a particular job.

Examples of legitimate aims include:

- Ensuring that services and benefits are targeted at those who most need them
- The fair exercise of powers
- To maintain a standard, such as an academic, musical, sporting or other standard, merited given the circumstances
- Ensuring the health and safety of those using the service provider's service or others, provided risks are clearly specified
- Preventing fraud or other forms of abuse or inappropriate use of services provided by the service provider
- Ensuring the wellbeing or dignity of those using the service

**Discrimination Arising From Disability**

Discrimination arising from disability is unacceptable to St. Helens Borough Council.

Discrimination arising from disability occurs when:

- A disabled person is treated unfavourably;
- That treatment is because of something arising in consequence of the disabled person's disability; and
- It cannot be shown that the treatment is a proportionate means of achieving a legitimate aim

...unless the employer or service provider does not know, and could not reasonably be expected to know, that the person has the disability.

St. Helens Borough Council will not deliberately treat disabled employees or service users unfavourably because of something arising in consequence of their disability.

If St. Helens Borough Council knows that a service user or employee is disabled it will make reasonable adjustments to eliminate the risk of discrimination arising from a disability.

### **Reasonable Adjustments**

A reasonable adjustment removes or avoids as far as possible, by reasonable means, the substantial disadvantage which a disabled person experiences because of their disability where:

- A provision, criterion, or practice; or
- A physical feature; or
- The lack of an auxiliary aid or service, or
- The lack of accessible information on how to access Council employment or services ...is shown to put disabled people at a substantial disadvantage compared with non-disabled people.

In meeting this duty, the Council will:

- Making changes to a provision, criterion, or practice.
  - This applies to Council policies and rules as well as the way in which services, information and other Council functions are delivered.
  - Provide translation and interpretation in different formats for the purpose of promoting access to employment and services for disabled people
  - Promote a positive attitude towards disability or disabled people, through such means as staff training and staff/service user awareness-raising.
- Providing extra aids, adaptations, and services.
  - This includes equipment and support, such as a specific piece of computer software, or extra staff assistance.
  - Ensuring that any auxiliary aid provided is properly maintained.
  - Where reasonable make contingency arrangements in case of an unexpected failure of an auxiliary aid.
- Making changes to overcome barriers created by the physical features of the service environment.
  - This applies to entrances, exits, fixtures, fittings furnishings, furniture, equipment, and material in the Council's premises, in any extended grounds and carparks, and open spaces such as cemeteries, parks and leisure areas.
  - Seek written consent from the Landlord if the duty requires it to make reasonable adjustment to a building's leased from a third party.

In meeting the duty to make reasonable adjustments the Council will not take any steps that are beyond its powers to take, or would fundamentally alter the nature of a service, or a job description.

### **Discrimination through a failure to make a Reasonable Adjustment**

A failure to comply with a duty to make reasonable adjustments is discriminates against a disabled person requiring it

Under the Equality Act 2010 a failure to make a reasonable adjustment cannot be justified.

If an adjustment is reasonable then it must be made and there can be no justification for why it is not made.

### **Harassment**

Harassment in its simplest terms means being subject to "unwanted behaviour"

Unlawful harassment is unacceptable to St.Helens Borough Council. It is our policy to eliminate harassment whether it occurs in policy, service delivery or employment.

Harassment occurs when a person is subject to unwanted conduct that is related to a relevant protected characteristic and which has the purpose or the effect of:

- Violating the person's dignity; or
- Creating an intimidating, hostile, degrading, humiliating or offensive environment for the person.

Unwanted conduct covers a wide range of behaviour, including spoken or written words or abuse, imagery, graffiti, physical gestures, facial expressions, mimicry, jokes, pranks, acts affecting a person's surroundings or other physical behaviour.

The unwanted conduct does not have to be directed at any particular person and a person does not have to share the protected characteristic order to find the unwanted conduct intimidating, hostile, degrading, humiliating or offensive.

'Unwanted' does not mean that express objection must be made to the conduct before it is deemed unwanted. A serious one-off incident can amount to harassment.

The following types of harassment are covered under this Policy:

- Harassment of staff by other staff
- Harassment of service users
- Sexual harassment

Age, religion and belief, race, sex, sexual orientation, disability and gender reassignment are protected from harassment.

Marriage and civil partnership, pregnancy and maternity are not protected directly under the harassment provisions. However, pregnancy and maternity harassment would amount to harassment related to sex.

### **Sexual Harassment**

Sexual harassment, where a person engages in unwanted conduct that is of a sexual nature, which is related to sex (gender), or gender reassignment, and the unwanted conduct creates intimidating, hostile, degrading, humiliating or offensive environment, is unacceptable and will not be tolerated by St. Helens Borough Council.

Conduct 'of a sexual nature' can cover verbal, non-verbal or physical conduct including unwelcome sexual advances, touching, forms of sexual assault, sexual jokes, displaying pornographic photographs or drawings or sending emails with material of a sexual nature.

### **Victimisation**

Victimisation in the simplest terms means subjecting another person to detrimental treatment because they have made allegations or given evidence in relation to unlawful discrimination or harassment.

Victimisation also covers the situation where no allegation or evidence has been given, but a person is subject to detrimental treatment because it is believed they have done so or may do so in the future.

Under this Policy an individual need not have a particular protected characteristic in order to be protected against victimisation. However, to be unlawful, victimisation must be linked to a "protected act" as stated in the Equality Act 2010.

A "protected act" is any of the following:

- Bringing proceedings under the 2010 Equality Act;
- Giving evidence or information in connection with proceedings brought under the 2010 Equality Act;
- Doing anything which is related to the provisions of the 2010 Equality Act;
- Making an allegation (whether expressed or not) that another person has done something in breach of the 2010 Equality Act.

### **Instructing, Aiding, Causing or Inducing Discrimination**

St. Helens Borough Council will not tolerate any circumstances where elected members, employees or service users instruct, aid or help, induce or persuade a person or persons, to discriminate, harass or victimise another because of a protected characteristic. Nor to instruct, aid or help induce or persuade a person to help another person to do an unlawful act. Such an instruction would be unlawful even if it were not acted on.

### **Preventing Discrimination, Harassment and Victimisation**

St. Helens Borough Council will take all possible reasonable steps to eliminate discrimination, harassment, and victimisation.

This includes training staff and members on the duties and responsibilities of the Equality Act 2010 and informing staff and service users of the Council's relevant policies.

- Codes of Conduct
- Bullying and Harassment Policy
- Assaults at Work Policy
- Disciplinary Procedures
- Grievance Procedure
- Complaints Policy
- Hate Crime Policy
- Comprehensive Equality Policy

Discrimination, harassment, and victimisation of employees by other employees will be dealt with under the Council's Grievance Procedure.

Discrimination, harassment, or victimisation of Service Users will be dealt with under the Council's Complaints Policy.

Discrimination, harassment, or victimisation of staff from someone outside of the Council e.g. a service user, resident, or member of the public, will be dealt with under the Council's Assaults at Work Policy.

Discrimination, harassment, or victimisation by staff may result in disciplinary proceedings.

Discrimination, harassment, and victimisation by elected members may result in conduct proceedings.

Discrimination, harassment, and victimisation against staff, elected members or the public may be reported to the Police, which may lead to prosecution.

### **Advancing Equality of Opportunity**

Equality of opportunity is set out under the Equality Act 2010 as having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- (a) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- (c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Where necessary to advance equality of opportunity St. Helens Borough Council will provide assistance or make changes to policy and practice in order that people who share a relevant protected characteristic may achieve an equal level of service or employment opportunity. For example

- Making reasonable adjustments
- Providing translation and interpretation
- Providing service information in easy read or pictorial formats

The relevant protected characteristics for equality of opportunity are: age; disability, gender reassignment; sex, pregnancy and maternity; race; religion; and sexual orientation.

### **Monitoring outcomes with Equality Profiles**

St. Helens Borough Council will monitor the following areas in order to demonstrate that its policies and practices advance equality of opportunity in employment and service delivery:

- Equality of access - can I get in?
- Equality of quality – once in, will I be respected as an individual?
- Equality of outcomes - will decision about me be based on merit?

St. Helens Borough Council monitors equality of opportunity in access, quality and outcome through the collection and analysis of equality profiles within employment and service user monitoring processes.

The Corporate Standard for Equality Monitoring sets out the guidance by which services successfully and effectively integrate and use equality profiles to demonstrate equality of opportunity.

Equality of Opportunity does not necessarily mean that all individuals should or can be treated the same. It may be necessary for some people to receive information or support in a different way to others in order to achieve an equal level of service or employment opportunity.

Where there is evidence of under representation of a particular protected characteristic, the Council may take “positive action” to improve representation.

### **Fostering Good Relations – The Cohesion Objective**

Good relations exist in a community where people from diverse and different backgrounds have a sense of belonging, are valued, appreciated, and have similar life opportunities.

St. Helens Borough Council works with its partners to promote cohesion by using Equality Impact Assessments to identify opportunities for people from different background to develop strong and positive relationships; be it in the workplace through a diverse workforce, through inclusive education in schools and colleges or through neighbourhood partnerships. For a definition of cohesion, see the Community Cohesion Policy Statement on page 16.

**Policy Implementation Responsibilities**

**ELECTED MEMBERS**

**All Council Members**

Council Members must comply with the Council's Comprehensive Equality Policy whilst acting on behalf of St. Helens Borough Council. Members must deal with constituents' enquiries and representations fairly, without discrimination. Members must behave without discrimination, harassment or victimisation towards fellow Members, staff or service users, and ensure they treat others fairly and with respect. All Members must attend appropriate equality training.

**NB** If any Council Member knows or suspects that discrimination, harassment, or victimisation is happening they must inform the Council's Monitoring Officer.

**The Council Leader**

The Leader will nominate the portfolio responsibility for equality and will ensure that resources and leadership challenge are available to implement the Comprehensive Equality Policy.

**The Cabinet**

Cabinet Members are responsible for applying the Comprehensive Equality Policy to the setting of strategic direction and decisions on funding prioritisation. Cabinet Members will ensure that all proposed decisions, policies, and strategies within their portfolio have undergone an equality impact assessment.

**Overview & Scrutiny Commission Members**

Overview & Scrutiny Commission Members will ensure that they take into consideration the equality implications of items on their work programmes and their 'called-in' items.

**Chairs of Regulatory Committees**

Chairs of Regulatory Committees will ensure that all committee decisions are free from discrimination, harassment and victimisation.

**COUNCIL OFFICERS AND STAFF**

**All Staff**

All staff must comply with the Council's Comprehensive Equality Policy whilst acting on behalf of the Council. Staff must behave without discrimination, harassment, or victimisation towards elected members, fellow staff or service users, and treat people fairly and with a respect for other's dignity. All staff must attend appropriate equality training.

**All Staff continued...**

**NB** If any member of staff knows or suspects that discrimination, harassment, or victimisation is happening they must inform their Line Manager, Human Resources, or the Council's Equalities Officer.

**The Chief Executive**

Has ultimate responsibility for equal opportunities within St. Helens Borough Council and will ensure that adequate resources and leadership challenge are available to fully implement the Comprehensive Equality Policy.

**Assistant Chief Executive**

Has lead responsibility for equal opportunities within St. Helens Borough Council and will ensure that the objectives of the Comprehensive Equality Policy are integrated within the Council's Business and Planning processes.

**Executive Directors, Deputy Director, Assistant Directors and Heads of Service**

Are responsible and accountable for ensuring Services are accessible and delivered in an environment free from discrimination, harassment, and victimisation. They are expected to lead by example and follow the Council's Comprehensive Equality Policy. They must ensure that

- All reasonable adjustments for disabled staff and services users are authorised and implemented
- Equality impact assessments inform all decisions, policies, service functions and commissioning undertaken by their department, division, services or sections

**Service Managers, Line Managers, Team Leaders and Officers in Charge**

Service Managers, Line Managers, Team Leaders, Officers in Charge must ensure that

- All reasonable adjustments for disabled staff and services users are implemented
- Staff have received appropriate equality training

**Equalities Officer**

The Equalities Officer must develop and oversee the implementation and maintenance of the Council's Comprehensive Equality Policy and ensure that it is compatible with statutory Equality Duties.

## Age Equality Policy Statement

### Legislation

The implications for age in relation to the Equality Act 2010 are set out in the "Definitions of the General Equality Duty" section of this Policy.

### Employment

#### Recruitment and Selection

Age and date of birth details do not appear on the main application form but are included in the diversity monitoring form, which is retained by the HR Section in line with data protection duties.

All job descriptions and specifications are reviewed to ensure that they do not include criteria that would discriminate against a candidate on the grounds of age.

#### Pay and Benefits

In general, entitlement to benefit and annual leave are not based on service criteria that extend beyond the 5-year continuous service criteria that are permissible under law.

Exemptions to this rule are allowed where it is possible to show that the exemption fulfils a reasonable business need, e.g. encouraging loyalty.

Under this exemption, St Helens Borough Council retains a Long Service Award open to any employee who retires after completing 20 years continuous service.

#### Redundancy

Selection for redundancy in accordance with St. Helens Borough Council's Redundancy Policy is not based on age related criteria.

St. Helens Borough Council's redundancy payments are based on age and length of service criteria. This is not 'unlawful' as the criteria mirror the payments that are set out in the statutory scheme and are therefore exempt from age discrimination legislation.

### Retirement

Retirement is a matter of employee choice, as St Helens Borough Council does not have a set retirement age.

### External Agencies and Suppliers

Through its Procurement Policy, St Helens Borough Council ensures that any external agency or supplier that it engages to provide services, goods or works complies with the requirements of age legislation.

### Service Delivery

St. Helens Borough Council makes every effort to promote equality in service delivery for people of all ages.

St. Helens Borough Council does restrict certain services by age, however this is only where services are legally designated for a particular group, such as with Children's, Adults' or Older People's Health or Social Care Functions.

St. Helens Borough Council includes children, young people and older people as specific groups within its Equality Impact Assessment process. This means that it considers the needs of these groups within its policies, decisions and when delivering its services.

St. Helens Borough Council monitors service access, satisfaction and complaints by age and it ensures appropriate age representation in all consultations. Any identified age related issues are fed back into service planning processes, helping to improve services to meet the needs of people of all ages.

## Carers' Equality Policy Statement

### Legislation

The Care Act 2014 Section 10 places a duty on local authorities to carry out Carer Assessments to identify if the Carer has needs for support (or is likely to do so in the future), and, if the Carer does, what those needs are (or are likely to be in the future).

“Carer” means an adult who provides or intends to provide care for another adult (aged 18 +). A person is not to be regarded as a Carer if they provide or intend to provide care under or by virtue of a contract or as voluntary work.

The Carer's Assessment must include:

1. Whether the Carer is able, and is likely to continue to be able, to provide care for the adult needing care
2. Whether the Carer is willing, and is likely to continue to be willing, to do so
3. The impact of the Carer's needs for support on their wellbeing
4. The outcomes that the Carer wishes to achieve in day-to-day life, and
5. Whether, and if so to what extent, the provision of support could contribute to the achievement of those outcomes

St. Helens Borough Council, in carrying out a Carer's assessment will,

- Take account of whether the Carer works or wishes to do so, and whether the Carer is participating in or wishes to participate in education, training or recreation
- Involve the Carer, and any person whom the Carer asks to be involved
- Consider whether, and if so to what extent, matters other than the provision of support could contribute to the achievement of the outcomes that the Carer wishes to achieve in day-to-day life
- Consider whether the Carer would benefit from any provision in place to reduce, prevent or delay the development of support needs
- Consider whether the Carer support needs may be best met by providing care to the adult they support, or support to the Carer directly

The national eligibility threshold for Carers is set out in the Care and Support (Eligibility Criteria) Regulations 2014.

This national eligibility threshold is based on the impact that caring for another adult has on the Carer's wellbeing.

Under the legislation, “Well-being” means any of the following:

- personal dignity (including treatment of the individual with respect)
- physical and mental health and emotional well-being
- protection from abuse and neglect
- control by the individual over day-to-day life (including over care and support, or support, provided to the individual and the way in which it is provided)
- participation in work, education, training or recreation
- social and economic well-being
- domestic, family and personal relationships
- suitability of living accommodation
- the individual's contribution to society

Key benefits from the legislation

- Increased employability of Carers who wish to return to work
- Improved work life balance enabling Carers to remain in employment
- More opportunities for Carers to access learning and training opportunities
- More opportunities for Carers to lead a more fulfilled life

### Employment

Council employees who are carers are supported through flexible and agile working policies.

### Service Delivery

St. Helens Borough Council includes Carers as a specific group within its Equality Impact Assessment process. This means that the Council considers the needs of carers

- When developing or reviewing its policies
- In every decision it takes, and
- When assessing its service functions.

The Council promotes the needs of Carers by:

- Working with partners to identify Carers
- Producing information and holding events to raise awareness of Carer rights
- Ensuring that Council staff receive appropriate training and information to be able to inform Carers of their rights and signpost people to appropriate support.

### Young Carers

St. Helens Borough Council also recognises that children and young people can be left with the role of carer for family members and will act to ensure that Young Carers are identified so that their families receive appropriate support.

## Community Cohesion Policy Statement

### Legislation

The Equality Act 2010 places a general duty on local authorities to foster good relations between persons who share a protected characteristic and persons who do not share it.

The Education and Inspections Act 2006 places a duty on governing bodies of schools in England to promote community cohesion.

St. Helens Borough Council recognises that an integrated and cohesive community is one where:

1. There is a clearly defined and widely shared sense of the contribution of different individuals and different communities to a future vision for a neighbourhood, city, region or country
2. There is a strong sense of an individual's rights and responsibilities when living in a particular place – people know what everyone expects of them and what they can expect in turn
3. Those from different backgrounds have similar life opportunities, access to services and treatment
4. There is a strong sense of trust in institutions locally to act fairly in arbitrating between different interests and for their role and justifications to be subject to public scrutiny
5. There is a strong recognition of the contribution of both those who have newly arrived and those who already have deep attachments to a particular place, with a focus on what they have in common
6. There are strong and positive relationships between people from different backgrounds in the workplace, in schools and other institutions within neighbourhoods.

St. Helens Borough Council has set a specific Community Cohesion Objective within this Policy, to foster good relations between people in a diverse community.

St. Helens Borough Council recognises that communities are not homogenous. Different communities and individuals in the communities have different needs. Needs should not be defined by stereotyping or presumptions.

### Employment

St. Helens Borough Council supports community cohesion through the employment of a diverse workforce, which reflects the diversity of the community its services are provided to.

Working with a diverse range of colleagues helps to challenge discriminatory values by giving staff and members the opportunity to learn about different cultures, lifestyles, and experiences whilst coming to recognise that each individual, although they belong to wider communities or group, is unique a person.

Training programmes are designed to be reflective of the diversity of the community and seek to challenge stereotypical beliefs, ignorance, prejudice, and discriminatory attitudes by the use of non-discriminatory language, images and information.

Homophobia, disablism, sexism, transphobia, racism, and religious bigotry may result in disciplinary proceedings under this Policy.

### Service Delivery

St. Helens Borough Council works with partners to identify and address areas of tension in the community.

The Council will promote cohesion, through its departments and partnership, by identifying opportunities to bring people from different backgrounds together to contribute to improvements in the social, economic, and natural environment, and thus promote inclusion and wellbeing.

The Council "Equality Offer" to schools includes support in meeting the duty to promote Community Cohesion and encourage schools to follow government guidelines and codes of practice.

## Disability Equality Policy Statement

### Disability Charter

This Council is committed to the employment, retention and advancement of disabled people within our workplace.

We undertake to work with Trade Union Disability Champions and disabled employees, in our workplaces to ensure that we maintain and maximise our commitment as a Disability Confident Employer.

We will actively involve our employees and their representatives in maintaining the goals of the Disability Confident Employer commitment.

We will encourage our entire workforce, using the appropriate training at all levels, to be supportive of disabled people.

We will seek to use suppliers and services that are also supportive of disabled people.

### Legislation

The implications for disabled people in relation to the Equality Act 2010 are set out in the "Definitions of the General Equality Duty" section of this Policy.

The Children and Families Act 2014 and the associated Special Educational Needs (SEN) Code of Practice introduce changes to how children with SEN and their families are supported. Some of the key changes include:

- Replacing Statements of SEN and learning difficulty assessments with a new "birth to 25" Education, Health and Care Plan (EHC Plan), extending rights and protections to young people in further education and training, and offering families personal budgets so that they have more control over the support they need
- Improving co-operation between all the services that support children and their families, and particularly requiring local authorities and health authorities to work together
- Requiring local authorities to involve children, young people and parents in reviewing and developing provisions for those with special educational needs and publish a "Local Offer" of services and support.

### Education

St. Helens Council is committed to ensuring that both disabled children and adults have a right to a choice of mainstream educational and other service provision.

The Council will provide mechanisms for resolving disputes over special education needs between parents and schools, which will be set out in the "Local Offer".

### Definitions

The Equality Act 2010 defines a disabled person as a person with

1. 'a physical or mental impairment,
2. which has a substantial and long-term adverse effect on his ability to carry out normal day-to-day activities'

In order to meet this statutory definition, the impairment must satisfy the following:

- Be either physical or mental;
- Have an adverse effect which is substantial
- Have an adverse effect which is long-term;
- Affect the ability to carry out normal day-to-day activities.

The Council is aware that the definition of disability is an evolving concept. It takes into account the widening definition within its decisions and functions and gives due regard to the "Social Model" of disability. This model recognises the barriers caused by the environment and people's attitudes to disability.

### Impairment

Whether a person is disabled for the purposes of the Act and this Policy, will be determined by the effect the impairment has on that person's ability to carry out normal day-to-day activities.

It is not the case that one type of impairment will affect different people in the same manner.

It is only when a condition or impairment has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities, that a person will be regarded as a disabled person.

It is not possible to provide an exhaustive list of conditions that qualify as impairments.

Any attempt to do so would inevitably become out of date with advancements in medical knowledge. The following list gives an illustration of the wide range of impairments and conditions from which a disability may arise:

1. Sensory impairments, such as those affecting sight or hearing;
2. Impairments with fluctuating or recurring effects such as rheumatoid arthritis, myalgic encephalitis (ME)/chronic fatigue syndrome (CFS), fibromyalgia, depression and epilepsy;
3. Progressive conditions, such as motor neurone disease, muscular dystrophy, forms of dementia and lupus (SLE);
4. Organ specific, including respiratory conditions, such as asthma, and cardiovascular diseases, including thrombosis, stroke and heart disease;
5. Developmental, such as autistic spectrum disorders (ASD), dyslexia and dyspraxia;
6. Learning difficulties;
7. Severe disfigurement including, limb or postural deformation (including restricted bodily development), diseases of the skin, scars and birthmarks.
8. Mental health problems and mental illnesses, such as depression, schizophrenia, eating disorders, bipolar affective disorders, obsessive compulsive disorders, as well as personality disorders and some self-harming behaviour;
9. Produced by injury to the body or brain.

#### **People who have had a disability in the past**

This Policy will also apply to any person that had a disability in the past. For example, a person who, in the past, experienced a mental health problem that had a substantial and long-term adverse effect on her ability to carry out normal day-to-day activities, but who has experienced no recurrence of the condition.

#### **People automatically deemed to be disabled**

People with the following impairments or conditions are automatically deemed as disabled people under this Policy:

- A person who has:
  - HIV,
  - Cancer, or
  - Multiple Sclerosis,
- A person certified by a consultant ophthalmologist as:
  - blind,
  - severely sight-impaired,
  - sight-impaired, or
  - partially sighted.

#### **Exclusion**

Certain conditions will not be regarded as impairments under the Act and this Policy.

- Addiction to, or dependency on, alcohol, nicotine, or any other substance (other than an addiction which was originally the result of administration of medically prescribed drugs or other medical treatment.);
- Disfigurement that consists of a tattoo (which has not been removed) or piercing of the body for decorative purposes including anything attached through the piercing;
- The condition known as seasonal allergic rhinitis (e.g. hayfever), except where it aggravates the effect of another condition;
- Tendency to set fires;
- Tendency to steal;
- Tendency to physical or sexual abuse of other persons;
- Exhibitionism;
- Voyeurism.

#### **Substantial**

The requirement that an adverse effect on normal day-to-day activities should be a substantial one reflects the general understanding of disability as a limitation going beyond the normal differences in ability that may exist among people. A substantial effect is one that is greater than the effect that would be produced by the sort of physical or mental conditions experienced by many people that have only 'minor' or 'trivial' effects.

In assessing whether the effect of an impairment upon day to day activity is substantial, the following factors should be considered:

- The time taken to carry out an activity, compared with the time it might take a person who did not have the impairment to complete an activity;
- The way in which an activity is carried out, compared with the way that the person might be expected to carry out the activity if he or she did not have the impairment;
- The cumulative affects of an impairment on more than one day to day activity.
- The modification of behaviour that an individual might reasonably be expected to make to manage or reduce the effect their impairment or condition.
- Whether a person avoids doing things that cause pain, fatigue or substantial social embarrassment.
- The impact of environmental factors such as temperature, humidity, lighting, the time of day or night.

### Effects of medical treatment

Where an impairment is subject to treatment or correction - for example by the use of a prosthesis, such as an artificial limb or a heart valve; or controlled by medication, counselling, or diet - the impairment will be considered as having the effect that it would have had without the treatment or correction being in place. This applies even if the treatment or correction results in the effects being completely under control or not apparent.

Whether or not the effect is substantial will be assessed by reference to what the effects of the condition or impairment would have been if it were not subject to the treatment or correction.

**NB** A visual impairment is not deemed to be substantial if it is correctable by the use of spectacles or contact lenses

### Long Term

To be long-term, the effect of an impairment must satisfy one of the following conditions:

- It has lasted at least 12 months; or
- The total period for which it lasts, from the time of the first onset, is likely to be at least 12 months; or
- It is likely to last for the rest of the life of the person affected.

This includes impairments where the substantial effect is not continuous, but likely to recur. For example, a person with rheumatoid arthritis may experience substantial adverse effects for a few weeks after the first occurrence and then have a period of remission.

**NB** Conditions with effects that recur only sporadically or for short periods of time, such as schizophrenia or bipolar affective disorder, also qualify as impairments in respect of the meaning of 'long-term'.

### Normal day-to-day activity

Under the definition of disability, the substantial long-term effect of an impairment must be an effect upon a normal day to day activity.

### Normal

Under the Act and this Policy normal has an ordinary and everyday meaning. In deciding whether an activity is normal the following factors should be considered. How far the activity is:

- Commonplace for a large number of people,
- Carried out on a daily or frequent and fairly regular basis.

Normal day-to-day activities do not include:

- Work of any particular form
- Activities that are normal only for a particular person or a small group of people. For example, the ability to play an instrument to a very high standard or taking part in a particular game or hobby with very specific skills.

### Activity

Under this Policy activity means the things people do. In general, day-to-day activities are things people do on a regular or daily basis, for example shopping, reading and writing, having a conversation or using the telephone, watching television, getting washed and dressed, preparing and eating food, carrying out household tasks, walking and travelling by various forms of transport, and taking part in social activities.

### Capacity

The Equality Act 2010 states that an impairment is to be taken to affect the ability of a person to carry out normal day-to-day activities only if it affects that person in respect of one or more of the following capacities:

1. Mobility;
2. Manual dexterity;
3. Physical co-ordination;
4. Continence;
5. Ability to lift, carry or otherwise move everyday objects;
6. Speech, hearing or eyesight;
7. Memory or ability to concentrate, learn or understand; or
8. Perception of the risk of physical danger

It should be noted that the list of capacities set out above is **not** a list of day-to-day activities.

In general, the relationship between disability, impairment, capacity and activity can be defined thus:

1. A person must have an impairment or condition;
2. The impairment or condition must affect that person's ability to utilise a capacity;
3. However, it is only when this in turn has a substantial and long term adverse effect on a person's ability to carry out a normal day to day activity that the person is disabled.

Therefore, the substantial long-term adverse affect must be related to a capacity but is determined by looking at the effect on a particular day-to-day activity, not the capacity.

## Education Accessibility Strategy Statement

### Legislation

Schedule 10 of the Equality Act 2010 requires Local Authorities to prepare and maintain an Education Accessibility Strategy, with the outcome over a prescribed period of:

- a) Increasing the extent to which disabled pupils can participate in the schools' curriculums;
- b) Improving the physical environment of the schools for the purpose of increasing the extent to which disabled pupils are able to take advantage of education and benefits, facilities or services provided or offered by the schools;
- c) Improving the delivery to disabled pupils of information which is readily accessible to pupils who are not disabled.

The delivery of information must be:

1. within a reasonable time;
2. in ways which are determined after taking account of the pupils' disabilities and any preferences expressed by them or their parents.

### Prescribed Period

St. Helens Borough Council's Education Accessibility Strategy Statement is for the period 2018-21.

### Participating in the Curriculum

Arrangements for increasing the extent to which disabled pupils can participate in the schools' curriculums are set out within the following documents:

- Guidance For Schools: Meeting Additional Needs (January 2015)
- St. Helens Borough Council's Special Educational Needs and Disability - Local Offer

### Improving the Physical Environment

Arrangements for improving the physical environment of schools are set out within the Council's Programme of School Work, which is based on the assessment of all relevant built assets.

Arrangements include contingency to make reasonable adjustments that meet unexpected or unforeseen access needs.

### Information Which Is Readily Accessible To Non-Disabled Pupils

Arrangements for improving the delivery to disabled pupils of information, which is readily accessible to non-disabled pupils, is covered in the following ways.

- Council Translation and Interpretation arrangements
- School Translation and Interpretation arrangements
- St. Helens Information Advice and Support Service

**Fair Employment and Equal Pay Policy Statement**

**Legislation**

The Equality Act 2010 places a duty on employers to eliminate discrimination between women and men in the same employment in pay and other terms and conditions of their contracts of employment such as piecework, output and bonus payments, holidays and sick.

**Equal Pay**

St. Helens Borough Council is committed to equal pay across all departments through its free from bias pay structure.

St. Helens Borough Council's pay and grading structure follows the National Single Status Agreement negotiated between the National Joint Council (NJC) for Local Government Services and Local Government Trades Unions.

The Council uses Community Impact Assessments within its decision making processes to ensure that all decisions on staffing issues are consistent with its pay and grading policy.

**Fair Employment**

The Council is committed to fair employment and training policies, which promote equality of opportunity and do not discriminate against job applicants and employees in relation to protected characteristics.

St. Helens Borough Council:

- Ensures that publicity for vacancies does not unfairly restrict the range of applicants
- Produces a standard range of application forms and job descriptions that are clear and explicit
- Monitors employment process to promote equality of opportunity
- Develops a programme of equality training to support the Corporate Equality Objectives
- Ensures that policies and procedures associated with equality are part of the staff handbook and are understood by staff
- Ensures the appropriate inclusion of equality issues within the staff appraisal system
- Makes all employment procedures consistent with legislation and employment Codes of Practice

**Flexible Working**

St. Helens Borough Council understands that flexible working arrangements can be essential in relation to equality of opportunity for disabled staff, parents and carers and can support staff in educational attainment and development or in keeping their religious observances.

St. Helens Borough Council's flexible working arrangements are available to employees of all grades and include all recognised best practice types of flexible working solutions.

Parental, carer and adoption arrangements are free from sexual orientation bias.

**Occupational Segregation**

The Council acknowledges that some occupations have been traditionally restricted along gender lines, leading to inequalities in employment opportunities based on sex.

St. Helens Borough Council will monitor its workforce by gender and take steps to address occupational segregation through workforce planning, training, and education.

**Pregnancy and Maternity**

Unfavourable treatment of a woman because of her pregnancy or maternity leave during 'the protected period' is unlawful pregnancy and maternity discrimination.

The protected period starts when a woman becomes pregnant and continues until the end of her maternity leave, or until she returns to work if that is earlier.

Pregnancy and maternity are not protected directly under the harassment provisions. However, pregnancy and maternity harassment would amount to harassment related to sex

The Council supports a woman's right to breastfeed. It operates a Baby Welcome Policy, which fosters a supportive environment for nursing parents that is safe and comfortable for mother and child. The Baby Welcome Policy also sets out arrangements for staff who wish to continue to breastfeed on their return to work.

## Gender Reassignment Equality Policy Statement

### Legislation

All the Articles of the Human Rights Act 1998 are relevant, but in particular:

- Article 8, the right to respect for private and family life
- Article 12, the right to marry
- Article 14, the prohibition of discrimination

Gender Recognition Act 2004 provides transsexual people with legal recognition in their acquired gender.

The implications for gender reassignment in relation to the Equality Act 2010 are set out in the "Definitions of the General Equality Duty" section of this Policy.

### Scope of the Policy Statement

This Policy statement covers people with gender dysphoria, transsexual people and intersex people.

### Definitions

Gender dysphoria is a recognised medical condition where someone is profoundly unhappy or uneasy about their own gender identity (masculinity or femininity) because it conflicts with their biological sex.

Transsexual people believe they are born in a body of the wrong sex.

Intersex people may have either male and female sexual characteristics, or intermediate sexual characteristics.

An intersex person may identify as non-binary, which means that their gender identity is different to the masculine / feminine gender duality

An intersex person may suffer gender dysphoria if they feel the gender they were ascribed at birth conflicts with their true gender identity.

Gender reassignment is the process, undertaken under medical supervision, of reassigning a person's gender by changing physical, social, or other characteristics.

Real life test refers to the transition period in gender reassignment during which the individual must live and work in the new gender.

### Employment

St. Helens Borough Council will not discriminate against a person for the purpose of recruitment or employment, training, benefit and pension rights on the grounds that the individual is a transsexual or intersex person, whether or not they are intending to undergo, undergoing or having at sometime undergone gender reassignment.

### Exceptions

Discrimination in employment on grounds of gender reassignment may occasionally be permitted where:

- A particular gender is a requirement for a job, e.g. women's domestic violence worker
- The job involves conducting intimate searches
- The job involves working in someone's home.

Temporary exceptions may apply during the transition process where:

- Individuals have to share accommodation
- Personal care services are provided to vulnerable individuals.

In relation to exceptions, the Council will assess each situation carefully and act reasonably in the circumstances, e.g. considering alternatives such as reassigning duties.

St. Helens Borough Council acknowledges that religious organisations have certain exemption from gender reassignment employment duties, even where an individual has a gender recognition certificate.

The exemption only applies where there are genuine religious reasons to refuse to employ a transsexual or intersex person – for example, in relation to the appointment of clergy in some denominations.

### **Privacy Statement**

If someone has undergone gender assignment prior to joining the authority (or a new department within the authority), St. Helens Borough Council will not disclose their transsexual history.

St. Helens Borough Council understands that disclosure could constitute a criminal offence in the case of someone who has obtained a gender recognition certificate.

In line with the Disclosure and Barring Service (DBS) Policies, people who have undergone a gender reassignment do not have to include previous names on the CRB Disclosure Application form.

However, St. Helens Borough Council expects applicants who have undergone a gender reassignment to send details of their previous identity in a separate letter directly to the 'Sensitive Casework Manager' within the DBS, who will then check the data sources held against both current and previous names.

St. Helens Borough Council will ensure information on how and when to make contact with the sensitive casework manager at the DBS is readily available within its guidance on completing the DBS Disclosure Application form.

### **Support**

St. Helens Borough Council's recognises gender dysphoria and will support an employee through their real life test and gender reassignment process. The Council's Equalities Officer is the link officer for such guidance and advice.

### **Service Delivery**

St. Helens Borough Council will not discriminate through the delivery of its services against an individual who is a transsexual or intersex person, whether or not they are intending to undergo, undergoing or having at sometime undergone gender reassignment.

The Council will use consultation, equality impact assessment and staff training to ensure that services meet the needs of transsexual and intersex people and to ensure that the identity and human rights of transsexual and intersex service users are respected.

## Hate Crime Policy Statement

### Hate Crime Legislation

The Crime and Disorder Act 1998 created a number of racially and religiously aggravated offences.

The Criminal Justice Act 2003 introduced tougher sentences for offences motivated by hatred of the victim's sexual orientation. This must now be taken into account by the sentencing court as an aggravating factor, in addition to race or religious hate motivation.

Section 146 of the Criminal Justice Act 2003, imposes a duty upon courts to increase the sentence for any offence (for example, assault or criminal damage) aggravated by hostility based on the victim's disability (or presumed disability).

The Racial and Religious Hatred Act 2006 makes it a criminal offence to use threatening words or behaviour with the intention of stirring up hatred against any group of people because of their race, religious beliefs or their lack of religious beliefs.

The Protection of Freedoms Act 2012 identified new specific offences of racially and religiously aggravated stalking

### Definitions

St. Helens Borough Council's non-legally binding working definition of Islamophobia "Anti-Muslim prejudice or hatred is a certain perception of Muslims, which may be expressed as hatred or outward hostility towards Muslims. Hatred may take the form of anti-Muslim rhetoric and physical manifestations that are targeted towards Muslims or non-Muslim individuals considered to be sympathetic to Muslims and/or their property, towards Muslim community institutions, religious and other related social institutions." (The Tell MAMA Definition)

St. Helens Borough Council's non-legally binding working definition of Antisemitism: "Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities." (The International Holocaust Remembrance Alliance Definition)

### Hate Crime

Any incident which constitutes a criminal offence, which is perceived by the victim or any other person as being motivated by prejudice or hate of a person's actual or perceived.

- Race
- Religion
- Gender Identity
- Sexual orientation
- Disability

Hate crime can take many forms including:

- Physical attacks – such as physical assault, damage to property, offensive graffiti, neighbour disputes and arson.
- Threat of attack – including offensive letters, abusive or obscene telephone calls, groups hanging around to intimidate and unfounded, malicious complaints.
- Verbal abuse or insults - offensive leaflets and posters, abusive gestures, dumping of rubbish outside homes or through letterboxes, and bullying at school or in the workplace

### Hate Incidents

A hate incident is any incident whereby the perpetrator's prejudice against any identifiable group of people is a factor in determining who is victimised.

### Zero Tolerance Policy Statement

St. Helens Borough Council has a zero tolerance policy in relation to offensive and threatening behaviour towards staff and contractors.

"Any offensive, humiliating, degrading, hostile or abusive comments or behaviour made towards staff or contractors will result in action being taken, which may lead to prosecution"

### Service Delivery

St. Helens Borough Council works with partners in the Community Safety Partnership to effectively record, respond to and reduce the number of hate crimes and hate incidents within the Borough.

St. Helens Borough Council will not tolerate hate crime or hate incidents against its staff or service users and will take appropriate action against all such incidents.

## **Employment**

Islamophobia, Antisemitism, homophobia, disablism, sexism, transphobia, racism and religious bigotry may result in disciplinary proceedings under this Policy.

Any harassment, bullying, victimisation or discrimination by staff, which is perceived by the victim or another person to be motivated by prejudice or hate against a person's actual or perceived, race, colour, ethnic origin, nationality or national origins, religion, gender or gender identity, sexual orientation or disability is unacceptable to St Helens Borough Council and will be investigated under the appropriate policy.

Hate incidents by Council Members will be dealt with under the Members' Code of Conduct.

Hate Incidents by employees on fellow employees or service users will be dealt with under the Council's Bullying and Harassment Policy and may result in disciplinary proceedings.

Hate Incidents on our staff by people who are not our staff will be dealt with under the Council's Assaults at Work Policy and may result in criminal action.

All hate incidents reported the Council will be reported to the Police.

## Human Rights Policy Statement

### Legislation

The Human Rights Act 1998 makes it unlawful for a local authority to behave in a way that is not compatible with the provisions of the European Convention on Human Rights.

Human rights must be explicitly considered in policies and procedures, in decisions, in employment and in service delivery.

Human Rights protected under law include:

- Right to life (absolute)
- No torture, inhuman or degrading treatment (absolute)
- No slavery or forced labour (absolute)
- Liberty and security of the person
- Fair trial or hearing within a reasonable time (absolute)
- No punishment without law and no retrospective penalties (absolute)
- Respect for family life, home and correspondence
- Freedom of thought, religion and conscience
- Freedom of expression
- Freedom of assembly and association
- Right to marry and start a family (absolute)
- Prohibition on discrimination (absolute)
- Restriction on political activity of aliens (absolute)
- Prohibition of abuse of rights (absolute)
- Limitation on the use of restrictions on rights
- Protection of property
- Right to education
- Right to free elections (absolute)

Any interference with an individual's rights must be proportionate to the intended aim and must not be arbitrary or unfair.

St. Helens Borough Council will not interfere with Human Rights that are "Absolute" rights.

Where the Council is faced with the necessity to limit or restrict an individual's human rights the decision will only be taken if the interference can be justified in accordance with the law or is necessary in the interests of:

- National security,
- Public safety or the economic well-being of the country,
- The prevention of disorder or crime,
- The protection of health or morals,
- The protection of the rights and freedoms of others.

Where the Council makes the justified decision to interfere with an individual's human rights it will do so in proportion to the legitimate aims of the decision, for example the decision to remove a child from its family will only be taken if a full assessment of the circumstances show this to be the legitimate course of action to protect the child from an abusive or harmful situation.

Even if a particular policy or action, which interferes with an individual's human rights, is aimed at achieving a legitimate aim (for example the prevention of crime), this will not be justified if the means used to achieve the aim are excessive in the circumstances.

St. Helens Borough Council will consider human rights in all its policies and decisions.

Human rights are included in the Council's Equality Impact Assessment process used to assess the impact of decisions, policies and services upon the community.

## Race Equality Policy Statement

### Legislation

The implications for race in relation to the Equality Act 2010 are set out by the Public Sector Duty of the Equality Act 2010.

This Race Equality Policy Statement covers systematic 'institutional' racism, which is implicit within the duties of the Equality Act 2010, but not referred to explicitly in the definitions of discrimination, harassment or victimisation set out therein.

### Race Equality Policy Statement

St. Helens Borough is home to people from many diverse racial and ethnic backgrounds. The Council recognises that Black, Asian, and Minority Ethnic communities are not homogenous. Different communities and individuals within communities have differing needs. Needs should not be defined by stereotyping or presumptions.

The Council acknowledges that discrimination, harassment, and victimisation can occur because of "implicit bias" and "unwitting prejudice", defined as systemic racism, and recognised as a key factor underpinning race inequality. Systemic racism can be described as widespread automatic and implicit associations that can affect the way even fair-minded policies are implemented.

The effects of implicit bias and unwitting prejudice were identified at the end of the last century within the 'Macpherson' Report (1999) into the murder of Stephen Lawrence in 1993. Sir William Macpherson et al referred to the impact of systemic 'unwitting racial prejudice' in terms of 'Institutional Racism':

"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 or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness, and racist stereotyping which disadvantages minority ethnic people." (page 49, **Lawrence Inquiry Report**, [The Macpherson Report] 1999, Mcpherson, Cook, Sentamu, Stone)

St. Helens Borough Council remains committed to identifying where discrimination and systemic institutional racism influences practice and policy, and to taking the appropriate necessary anti-racism steps to challenge and remove its undue impact on residents, services users, and staff. The Council uses the following measures to identify the most effective actions to achieve this:

- staff and community engagement
- monitoring service access, quality, and outcome using race equality profiles
- monitoring recruitment, workforce, and disciplinary process using race equality profiles
- equality impact assessment of policies and decisions
- equality and diversity training, and
- disciplinary action

## Religion Equality Policy Statement

### Legislation

Article 9 of the Human Rights Act 1998 - Freedom Of Thought, Conscience And Religion states:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change one's religion or belief and freedom, either alone or in community with others and in public or private, to manifest one's religion or belief, in worship, teaching, practice and observance.

Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

The implications for religion in relation to the Equality Act 2010 are set out in the "Definitions of the General Equality Duty" section of this Policy.

### Definition of Religion

Under this Policy, faith, religion and belief are defined as any faith, religion, religious belief, or similar philosophical belief. This does not include political beliefs.

St. Helens Borough Council understands that individuals have the right to define their own faith. However, St Helens Borough Council will not support a individual or group who claim that their religious beliefs gives them the right to incite religious hatred or who claim that their religious beliefs gives them the right to interfere with the human rights of others unless that claim is justified by legislation.

The Council acknowledges that religious organisations, such as faith schools, have exemptions from certain equality duties.

### Employment

St. Helens Borough Council will not discriminate in recruitment, employment and training on the grounds of faith, religion or belief, or the lack of faith, religion or belief.

St. Helens Borough Council will work towards enabling employees at all levels in the workforce to feel safe in being open about their faith, religion, or belief systems.

Religious discrimination is unacceptable and may result in disciplinary proceedings.

St. Helens Borough Council will take positive steps in conditions of employment to respect and take accounts of the rights of employees to follow the observances of their chosen faith, religion or belief system.

St Helens Borough Council will ensure that staff have access to appropriate training and guidance to support the delivery of services that respect the cultural and religious diversity of the community.

### Service Delivery

St. Helens Borough Council will ensure that all information, publicity, and advertising over which it has control or influence is not prejudiced and uses positive images and language to counteract the effects of religious discrimination.

St. Helens Borough Council includes faith, religion and belief within its Equality Impact Assessment process to ensure that people do not receive a different quality of service due to their faith, religion or belief as a result of the Council's decisions, policy developments, service planning or delivery.

## Sexual Orientation Equality Policy Statement

### Legislation

The implications for sexual orientation in relation to the Equality Act 2010 are set out in the "Definitions of the General Equality Duty" section of this Policy.

### Definition of Sexual Orientation

Under this Policy, sexual orientation is defined as:

- Orientation towards persons of the same sex (homosexual)
- Orientation towards persons of the opposite sex (heterosexual)
- Orientation towards persons of the same sex and the opposite sex (bisexual).

### Employment

St. Helens Borough Council will not discriminate in recruitment, employment and training on the grounds of actual or perceived sexual orientation.

St. Helens Borough Council will work towards enabling employees at all levels in the workforce to feel safe in being open about their sexual orientation.

The Council does not assume that its entire workforce is heterosexual and ensures that all employment benefits, pensions and flexible working arrangements are free from sexual orientation bias and support the rights of civil partners.

Homophobia and discrimination, harassment and victimisation on the grounds of sexual orientation, assumptions about a person's sexual orientation or because a person associates with someone of a particular sexual orientation, including 'outing' for malicious reasons, are unacceptable and may result in disciplinary proceedings.

St. Helens Borough Council will ensure that staff have access to appropriate training and guidance to support the delivery of services that respects diversity in sexual orientation.

The Council acknowledges that religious organisations, such as faith schools, have exemptions from certain sexual orientation equality duties.

### Service Delivery

St. Helens Borough Council will ensure that all information, publicity and advertising over which the Council has control or influence, uses positive images and language to counteract the effects of homophobia and promote equality for lesbians, gay men and bisexual and heterosexual men and women.

St. Helens Borough Council includes sexual orientation within its Equality Impact Assessment process to ensure that people do not receive a different quality of service due to their sexual orientation, as a result of the Council's decisions, policy developments, service planning or delivery.

The Council will ensure that the rights of civil partners are respected in all policies, decisions, service planning and delivery processes.