

<b>Policy Number:</b>	HUR008	<b>Originator:</b>	Quality Assurance team
<b>Issue Number:</b>	4	<b>Authoriser:</b>	Amanda Morgan - Taylor
<b>Issue Date:</b>	Oct 2020	<b>Service Type:</b>	All
<b>Next Review Due:</b>	Sept 2023	<b>Policy Location:</b>	Policy file/Radar

This policy can be read in conjunction with:

- Recruitment and Selection Policy and Procedure
- Disciplinary Policy
- Bullying and Harassment Policy
- Grievance Policy

## 1. Introduction

At Orbis we endeavour to treat all employees and job applicants fairly and equally.

This policy defines the different types of discrimination, the different protected characteristics, the Company's approach to equality in the workplace and the action that will be taken if discrimination is evidenced in the workplace.

## 2. What are protected characteristics?

The Equality Act 2010 defines 9 areas where it is illegal to discriminate (see below). These are referred to as 'protected characteristics':

- Age
- Disability
- Gender reassignment
- Race
- Religion or belief
- Sex
- Sexual orientation
- Marriage and civil partnership
- Pregnancy and maternity

Orbis will ensure that no employee or job applicant is treated less favourably on the basis of any 'protected characteristic', perceived 'protected characteristic' or association with another who has a 'protected characteristic'. Discrimination can be on the grounds of:

- A single characteristic – e.g. because an employee is female
- A number of separate, unrelated characteristics – e.g. because an employee is female and also because of a particular age (each characteristic is considered separately).

## 3. Types of Discrimination

### Direct Discrimination

When someone is treated less favourably because they have a protected characteristic, because they are perceived to have a protected characteristic or because they associate with someone who does.

## **Indirect Discrimination**

This is when there is a condition, rule, policy, or practice within a company which applies to everyone but unintentionally disadvantages people who share a protected characteristic.

There are occasions when indirect discrimination can be justified where it is a proportionate means of achieving a legitimate aim when reasonably managing the business.

## **Associative Discrimination**

This occurs when an individual is directly discriminated against or harassed because of an association with another individual who has a protected characteristic.

## **Perceptive Discrimination**

This occurs when an individual is directly discriminated against or harassed based on a perception that he/she has a particular protected characteristic when he/she does not.

## **Harassment**

Harassment is unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. You are also protected if you suffer harassment because you are perceived to have a protected characteristic but you actually do not, or if you associate with someone who does and suffer harassment as a result of that.

## **Harassment by Others/Third Party Harassment**

The Company will also seek to prevent any harassment by third parties (people not employed by Orbis – such as contractors, relatives etc.).

We will take reasonable steps to prevent any such harassment from happening again once it has been reported.

## **Victimisation**

Victimisation occurs when an employee is treated less favourably because they have made (or supported) a complaint or raised a grievance of discrimination as covered by The Equality Act; or because they are suspected of doing so. You are not protected if the complaint you made was done so, maliciously, or you supported a malicious complaint

Below is more information about each of the protected characteristics and in which way they are protected.

## 4. Protected Characteristics

### Age

The Equality Act is there to protect employees from discrimination, harassment and victimisation because of age which may include because they are 'younger' or 'older'.

However, different treatment because of age is not direct or indirect discrimination if it is a proportionate means of meeting a legitimate aim.

This means it has been appropriate and necessary in order to achieve a legitimate business goal for which there was no preferable alternative. Age is the only protected characteristic that allows employers to justify direct discrimination.

### Disability

You are considered disabled under the Equality Act if you have a physical or mental impairment which has a substantial and long-term effect on your ability to carry out normal day-to-day activities.

We have a duty to make reasonable adjustments for staff to help them overcome any disadvantage resulting from impairment (see section below).

This type of discrimination is unlawful where the employer knew of the disability or could reasonably be expected to have known about the disability.

### Disability: Reasonable Adjustments

Employees who are disabled or become disabled in the course of their employment should inform their line manager.

Their manager will then arrange to discuss what reasonable adjustments to his or her job/working conditions/environment might assist with their performance or duties. The employee themselves should also suggest any adjustments that might be helpful.

Careful consideration will be given to any proposals and where reasonable and reasonably practicable such adjustments will be made.

There may, however, be circumstances where it will not be reasonable or reasonably practicable for the organisation to accommodate proposals put forward by the employee.

### Gender Reassignment

Protection for transsexual people applies to those who propose to, who have started or have completed a process to change his or her gender. You do not need to be under medical supervision for the protection to apply – i.e. a woman choosing to live as a man but not undergoing medical procedures would be covered.

It is discrimination to treat transsexual people less favourably for being absent from work because they propose to undergo, are undergoing or have undergone gender reassignment than they would be treated if they were absent because they were ill or injured.

## **Marriage and Civil Partnership**

People who are married or in civil partnerships are protected against discrimination. Single people are not protected.

## **Pregnancy or Maternity**

A woman is protected against discrimination on the grounds of pregnancy and maternity during the period of her pregnancy and statutory maternity leave. Decisions cannot be made about a woman's employment considering absences due to pregnancy related illness.

## **Race**

For the purposes of the Equality Act, race includes colour, nationality and ethnic or national origins.

## **Religion or Belief**

Protection is for employees of any religion, including those that have no religion at all. To be considered a religion, there must be a clear structure and belief system. Belief means any religious or philosophical belief, or a lack of such a belief. To be protected a belief must satisfy various criteria, including that it is a weighty and substantial aspect of human life and behaviour. Denominations or sects within a religion can be considered as protected. Discrimination of religion and belief can still occur even if both parties are of the same religion or belief.

## **Sex**

Both men and women are protected.

## **Sexual Orientation**

Bisexual, gay, heterosexual, and lesbian people are protected.

## **Association and Perception**

This policy expressly prohibits discrimination against any employee on the grounds of their association with someone of a particular race, religion, sexual orientation, age etc. For example: an employee who is married to someone of a minority ethnic origin or who socialises with gay and lesbian friends.

This policy also expressly prohibits discrimination against someone on the basis that they are perceived to be (whether rightly or wrongly) of a particular race, sexual orientation, regional etc.

## **5. Grievance Procedure**

Where a complaint is raised relating to unfair treatment, selection, availability of training or general treatment at work that is connected to a protected characteristic the grievance procedure will be invoked.

As with any grievance matter the complaint will be addressed without unreasonable delay and will be handled sensitively by an appropriate manager. Where the complaint about acts of discrimination is sufficiently serious, or involves the line management of any employee, it is most likely that a member of senior management will take the lead in investigating the matter.

If during the investigation the matter is proved, and harassment or discrimination is evidenced then disciplinary action is likely to ensue for the perpetrator of this behaviour. Depending upon the severity of the case this may be considered gross misconduct and therefore sanctions could be issued up to and including dismissal. Where the employees concerned work closely together the disciplinary chairperson will consider the repairing of the working relationships which may include suggestions of mediation or the transferring of one of the parties to another department or site.

As with all other grievances there will be a right to appeal which will be carefully outlined to the employee concerned. If matters have not been satisfactorily addressed you are encouraged to use this route to bring the situation to the attention of a more senior member of management. For further detail on the grievance process please see the Grievance Policy and Procedure.

## **6. Responsibilities**

### **Director of Human Resources**

The Director of Human Resources is responsible for ensuring that all procedures and forms comply with the equality and diversity legislation.

### **Head of Estates**

The Property Director is responsible for ensuring that contractors comply with this policy.

### **Operations Directors (MDs)**

Operations Directors are responsible under the direction of the Chief Operating Officer for implementing the policy and will report regularly on areas of concern or non-compliance.

### **Head of Education and Regional Managers (RMs)**

The Head of Education and Regional Managers are responsible for ensuring that this policy is understood and complied with by the Home Manager/Head Teacher/Designated person in charge and their staff.

### **Quality Assurance Team**

The quality assurance team are responsible for conducting independent inspections of services in accordance with company policy. Key findings from the audit process will be escalated to the Home Manager/Designated person in charge, RM, Managing Director, and Quality Assurance, as appropriate.

### **Service Manager/Head Teacher/Line Managers**

The Service Manager, Head Teacher or line manager is responsible for implementing this policy in the care home/service/school/office.

### **Person in charge/Supervisor**

The person in charge is responsible for implementing this policy in the absence of the Home Manager/Head Teacher/line manager

## All staff/colleagues

All colleagues are to comply with this policy. All colleagues are responsible for notifying the appropriate manager of any breach of equal opportunities or any form of unlawful discrimination; taking personal responsibility for the practical application of this policy; and using the Grievance Policy and Procedure if they believe they have been unlawfully discriminated against.

## 7. Continual Evaluation and Monitoring

This policy is owned by the HR Department but is written in consultation with a policy ratification group. The policy is reviewed regularly, and further consultation conducted as required. The policy will be updated promptly if there is any change to correlating legislation.

The effectiveness of the policy is monitored through the logging and analysing by HR of any such case whereby it is established that discrimination has been allowed to take place. Wherever this is found to be the case there is not only prompt disciplinary action taken against the perpetrator, but a prompt analysis of wider training needs within the locality of that service or within that tier of management/that employee group.

During induction, all employees are required to complete a mandatory e-learning module entitled 'Equality and Diversity'. Refresher training is required every 3 years minimum.

## 8. Equality Impact Statement

All relevant persons are required to comply with this policy and must demonstrate sensitivity and competence in relation to Age, Disability Gender reassignment, Marriage and Civil partnership, Pregnancy and Maternity, Race, Religion or belief, Sex and Sexual Orientation. If you, or any other groups, believe you are disadvantaged by this policy please contact the Regional Manager for the service.

Orbis will then actively respond to the enquiry.

This policy is owned by: Human Resources Department

Date: 28/10/2020

Signed:



Company Confidential







