

Equalities and Fairness at Work Policy

EFBB 30

This has documents that can only be provided in hard copy.

- **Equal Opportunities Introductory Letter**
- **Fairness at Work: How to stop Harassment**

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APPENDIX (I) TO Section 1

1 EQUALITY AND FAIRNESS POLICY

1.1 FOREWARD

Avon Fire Brigade serves the communities of the City of Bristol, Bath and North East Somerset, North Somerset and South Gloucestershire Unitary Authority areas, and those people who travel through the above areas or those who are visitors.

The Brigade is committed to securing and promoting equality of opportunity in both service delivery and employment. Everyone is entitled to fair treatment and it is essential for the continuing success and development of our service that we have in place a policy which secures this commitment.

Discriminatory practice undermines the effectiveness of the way people apply themselves to their work. This is wasteful for the Brigade, is unacceptable to the individual and does not make best use of peoples skills and potential.

All staff will be made fully aware of this policy. Training will be given to ensure that all staff understand the policy. It will be the responsibility of all employees to comply with the policy, as it is only with commitment and support that we will create an environment that is free from discrimination.

This document has been prepared in a number of sections which I hope will make it easy to read and that will make it a valuable reference work that can be easily accessed when seeking specific information.

The success of this Policy will depend upon the commitment of us all and can be identified as a key strategy towards achieving full use of the skills of all employees for the benefit of the Avon Fire Brigade and the community that we are here to serve.

Chief Fire Officer

1.2 POLICY STATEMENT OF EQUALITY AND FAIRNESS, AND DIVERSITY

1.2.1 Introduction

Avon Fire Brigade acknowledges its responsibility to both employees and to the communities that it serves and is committed to equal and fair treatment in employment practice and in access to Brigade service provision.

Equality and Fairness is about:

- working in an environment that is free from discrimination
- recognising, accepting and valuing people's differences
- treating all individuals fairly – without bias, prejudice or stereotyping. This applies to all recruitment appointment, promotion and career development decisions affecting employees and the people in communities that we serve
- working together to ensure we have a policy that really works. This means that all employees have a responsibility to support the policy, ensuring we do not discriminate against colleagues, job applicants, suppliers, or people in the community who receive a service from the Brigade.

1.2.2 Equality and Fairness is NOT about:

- lowering standards in any way
- pretending that everyone is the same
- giving particular groups or individuals unfair advantage.

1.2.3

Avon Fire Brigade also recognises that it has a duty to make appropriate arrangements to ensure that it complies with both the letter and the spirit of the law in respect of legislation laid out as Appendix (i).

1.2.4

The Brigade will seek to eliminate discrimination and promote equality of opportunity.

1.2.5

The Brigade will adopt a pro-active approach to Equality and Fairness training designed to focus the attention of staff on equality related matters and to improve each persons awareness of their individual responsibilities.

POLICY STATEMENT ON DIVERSITY

We believe that our purpose, aims and values set out in our Equality and Fairness statement will best be achieved if we recruit staff at all levels of responsibility from the local, regional, national and international communities that we serve and which influence our Brigade. We aim to make full use of our talents and resources of everyone within our organisation.

Equal Opportunities

Refers to the elimination of unlawful and unfair discrimination against particular groups eg people from ethnic minorities, people with disabilities, women, on the grounds of religion, belief or sexual orientation.

Diversity

Refers to the broad range of visible and non-visible difference that characterise people. Some of these qualities include age, race, colour, nationality, ethnic or national origin, sexual orientation, gender, marital or parental status, political belief, religion or socio-economic background.

1.3 AIMS AND OBJECTIVES

1.3.1

To ensure that all existing and potential employees receive equal, fair and just treatment in respect of all aspects of recruitment, employment, training and promotion.

1.3.2

To identify and eliminate existing or potential barriers to equality of opportunity.

1.3.3

To ensure that no person is (knowingly or unknowingly) disadvantaged by any condition or regulation which cannot be shown to be valid or justified.

1.3.4

To ensure that all employees are treated with dignity and respect at all times.

1.3.5

To ensure that no existing or potential employee receives less favourable treatment on grounds of gender, marital status, parental responsibility, race, religion, creed, age, political belief, trade union activity, nationality, ethnic origin, sexual orientation, or disability.

1.3.6

To ensure that this policy is effectively implemented by:

- demonstrating a commitment to a programme of action including training on Equality and Fairness issues
- encouragement and support of individuals to enhance their potential
- the formulation of good working practices and procedures

1.3.7

To ensure that each individual is fairly assessed and that selection for employment, training, and promotion is based on merit and ability.

1.3.8

To increase awareness of opportunities in the Fire Service for people from under represented groups in the community, and to encourage applications for employment with the Brigade from people from under represented groups.

1.3.9

To increase the number of employees in the service from under represented groups which should be a logical consequence of efforts made in respect of 1.3.8 above.

1.3.10

To provide equal access to Brigade services for all sections of the community.

1.3.11

To undertake an annual review of this policy to ensure compliance and to measure achievement against stated objectives. Consultative arrangements will be made to enable all employees to contribute through the appropriate channels.

1.4 RESPONSIBILITIES OF THE BRIGADE

1.4.1

The successful implementation of this Equality and Fairness Policy will be the responsibility of the Chief Fire Officer.

The specific responsibilities of the Brigade Management will be to:

- make appropriate arrangements to secure equality in terms of service delivery and employment
- provide training and guidance on Equality and Fairness issues to all employees on a regular basis
- review, monitor and amend procedures and strategies on a regular basis by an Equality and Fairness Group
- monitor the composition of the Brigade workforce with regard to race, gender and disability
- monitor all job applications with regard to race, gender and disability
- review procedures to improve access to under represented groups
- take positive steps to ensure that this Policy is being adhered to
- provide clear guidelines on acceptable and unacceptable behaviour or conduct
- provide clear procedures for dealing with issues
- create and maintain a working environment which is free from victimisation, intimidation, discrimination and harassment
- take appropriate action in line with Brigade Equality and Fairness procedures where there are breaches of the policy, and to provide counselling and support to all parties affected.

1.4.2

Monitoring the success of the Policy and its operation will be carried out by the Equal Opportunities Co-ordinator and/or the Equalities Officer through the Equality and Fairness Forum.

1.5 RESPONSIBILITIES OF EMPLOYEES

1.5.1

Every employee has the duty to:

- comply with all aspects of law
- comply with all aspects of Brigade policy
- co-operate fully with all measures introduced by the Brigade in the pursuance of Equality and Fairness at Work
- draw to the attention of an appropriate Manager, Equalities Officer, Equality and Fairness Co-ordinator, Human Resources Officer or workplace harassment nominee any suspected acts or practices of discrimination, intimidation, harassment, victimisation or incitement to commit such acts or practices
- take action, by reporting to an appropriate Manager, Equalities Officer, Equality and Fairness Co-ordinator, Human Resources Officer or workplace harassment nominee any incident which is known to be contrary to the Equality and Fairness or the law
- not discriminate or incite others to discriminate against other employees or members of the community
- not harass, abuse, bully, intimidate or treat unfairly individuals or groups, or incite others to do so
- not use language or gestures which could be considered offensive
- not victimise individuals or groups, or to incite others to do so
- not act on stereotypical assumption and understand that it is wrong to generalise
- to participate in relevant training and development events organised by the Brigade (see Section 1.6 paragraph 1.6.2).

1.5.2

Employees must be made aware that to incite others to commit discriminatory acts or to indulge in discriminatory behaviour or harassment, may also render themselves liable to disciplinary action as well as those who actually carry out the act concerned.

1.5.3

Employees must be reminded that taking no action may render them liable for the discriminatory act or incident complained of. Employees will also be reminded that to do nothing is to discriminate.

1.5.4

All employees have a responsibility to ensure that their behaviour at all times is not unfair and discriminatory.

1.5.5

If any employee feels that she/he has not been treated in accordance with the word or spirit of this policy, there are various channels of redress available. Contact any of the following: Brigade Human Resources Department, Equalities Officer, Equality and Fairness Co-ordinator, Line Managers, Trade Union or a Brigade Workplace Harassment Nominee (see Section 1.18 of this document or Brigade Order Volume II Personnel, Part 3 Employment Policies Section 2, for more detail).

1.5.6

Breaches of this Policy could lead to disciplinary action and dismissal. Employees may be personally liable under the various statutory acts covering Equality and Fairness. (See Appendix (i)).

1.6 TRAINING AND DEVELOPMENT

1.6.1

In order to positively promote the Brigade's commitment to equality of opportunity, all training courses will be delivered with appropriate reference to this Equal Opportunities Policy.

1.6.2

It is Brigade policy to ensure that all staff receive appropriate training to ensure that all aspects of this policy, employment legislation and conditions of service are understood. Staff will be shown how and why discrimination can occur and how it can be avoided.

1.6.3

The Brigade will train newly appointed and existing staff with managerial/supervisory responsibilities in good employment practices and will

ensure that they understand the implications of the Equality and Fairness Policy, immediately upon appointment.

1.6.4

All employees involved in the whole process of recruitment and appointment will receive appropriate fair selection and equality related training, in keeping with this policy, before involvement in recruitment and appointment activity.

1.7 PROMULGATION AND PUBLICITY

1.7.1

All aspects of the Equality and Fairness Policy will be made known to all employees through a programme of Training and development, and to the Communities served by this Brigade through publicity and liaison.

1.7.2

Careful attention will be given when preparing reports, documents, forms advertisements, publicity and training material to ensure that reference to gender is neutral.

1.7.3

Language or behaviour likely to cause offence or injury to staff or the public will not be tolerated.

1.7.4

Employees will be made aware that a person does not have to belong to a particular gender or racial group to be offended by sexist or racist behaviour or language.

1.7.5

This policy will also apply to individuals who are placed with the Brigade on work experience, from employment agencies, from a temporary register, on placement or secondment and to any visitor to Brigade premises.

1.7.6

The Brigade will also ensure that contractors and providers of goods and services are aware of Equality and Fairness related matters and understand their obligations in terms of behaviour whilst on Brigade premises and during their contact with Brigade employees. This requirement will be clearly set out in written communications to contractors and providers of goods and services.

1.8 THE DISPLAY AND USE OF PORNOGRAPHY AND OTHER OFFENSIVE MATERIALS

1.8.1

Materials such as posters, calendars, books, magazines, photographs or cartoons etc, which are pornographic, sexist or racist or which might cause offence, must not be displayed on Avon Fire Brigade premises (including employee personal storage areas).

1.8.2

Films, videos, computer generated or network material, satellite or cable television channels, of a pornographic, sexist or racist nature, which could cause offence will not be kept or viewed on Brigade premises.

1.8.3

Brigade computer hardware or other equipment will not be used to view or display any offensive materials.

1.8.4

The test of whether a particular item is pornographic or offensive will ultimately be a decision for those passing judgement on a complaint eg. The Chief Fire Officer, Elected Members of the Combined Fire Authority, an Industrial Tribunal or the Courts.

1.8.5

The display of pornographic material is a form of sexual harassment. Sexual harassment is a form of sex discrimination and could contravene the Sex Discrimination Act 1975.

1.8.6

Staff who breach these guidelines could be subject to disciplinary action and could face the possibility of legal action.

1.9 RELEVANT LEGISLATION

1.9.1 Equal Pay Act 1970

Defines the right of employees not to be discriminated against on the grounds of sex and the terms on which people are employed. The Act compliments the Sex Discrimination Act in the field of contractual terms and conditions of employment. It deals with such issues as work of equal value and work rated as equivalent in terms of pay.

1.9.2 Sex Discrimination Act 1975 and 1986 (as amended)

Section 77 of the 1975 Act and Section 1 of the 1986 Act declares void any terms of any contract which would otherwise have the effect of requiring some sort of unlawful discriminatory treatment. The Acts specify three sets of circumstances in which discriminatory provisions will be ruled void:

- where the inclusion of a term renders the making of a contract unlawful
- where a term is included in furtherance of a discriminatory act
- where the term itself requires that some form of unlawful discriminatory action is taken

1.9.3 Race Relations Act 1976

The Race Relations Act 1976 makes it unlawful to discriminate against a person directly or indirectly on the grounds of race in the field of employment.

It is unlawful, therefore, to discriminate against any employee:

- in the terms of the employment that he/she affords him/her
- in the way he/she affords him/her access to opportunities for promotion, transfer, training, or to any other benefits, facilities or services, or by deliberately refusing or omitting to afford him/her access to them
- by dismissing him/her or creating any other detriment on the grounds of race.

1.9.4 European Economic community (EEC) Equal Treatment Directive (No: 76/207)

This directive concerns the implementation of the principle of equal treatment for men and women with regard to access to employment, vocational training and promotion and working conditions.

1.9.5 Disability Discrimination Act 1995

States that it will be unlawful to discriminate against a disabled person without good reason, in respect of:

- selection (employment)
- recruitment
- terms on which employment is offered
- terms and conditions of employment
- opportunities for promotion
- Transfer and training
- dismissal

The Act also states that goods and services should be accessible to disabled people. Service providers are required to adapt policies, procedures and practices and to remove physical and communications barriers where it is reasonable to do so. It is also unlawful for a service provider to discriminate against a disabled person in the standard of service provided, or in the manner in which the service is provided.

It should be noted that firefighting is an exempt occupation under the provision of the Act.

1.9.6 Chronically sick and Disabled Persons Act 1979

This Act imposes obligations on employers to provide access to premises and facilities for people with disabilities both to and within a building or premises and in respect of parking facilities and sanitary conveniences.

1.9.7 Rehabilitation of Offenders Act 1974

The Rehabilitation of Offenders Act provides that an individual with a record of a previous conviction may become rehabilitated after a given period of time, if during that period of time the individual has not committed another serious offence, then the previous conviction may be regarded as 'spent' (as dictated under the Rehabilitation of Offenders Act 1974) and the individual as having been rehabilitated.

In most circumstances, an individual who has a 'spent' conviction does not have to refer to it and could regard the offence as to have not happened. However, there are exceptions to the rule about spent convictions which are designed to protect vulnerable members of the public. These exceptions relate to specific posts known as 'exempted posts,' where it is mandatory for an individual to declare every previous conviction, whether spent or not. Exempted posts are those where the postholder will be working with, have

access to, or be in substantial contact with children, the elderly, and/or people with physical or mental disabilities.

Fire Service employment is not classified as exempt.

1.9.8 The Fire Service Recruitment Regulations

Home Office Regulations which set out specific criteria which must be applied by all Brigades when recruiting Firefighters.

Further information on these regulations may be obtained from the Human Resources Department.

1.9.9 The Protection from Harassment Act 1997

The Act makes harassment both a Civil tort and a criminal offence. Victims are able to seek a civil injunction against behaviour which has caused distress, or may cause distress in the future. The principal aim of the act is to deal with stalking, but it also provides a remedy for those subjected at work or outside work to racial or sexual harassment, or to harassment on grounds of sexual orientation or disability. Under the Act the test is whether the offender is committing acts that a reasonable person would expect to give rise to harassment. The behaviour must have occurred on at least two occasions.

1.9.10 The Human Right Act 1998

The Human Rights Act does not provide a principle of equality or a stand alone right not be discriminated against, though in extreme cases racial or sexual harassment and intimidation may amount to inhuman or degrading treatment (Article 3). However, Article 14 of the Convention enshrines the right to enjoy any of the other Convention rights and freedoms without discrimination.

This introduces an obligation on public authorities to uphold people/s Convention rights without discrimination. Article 14 contains an open ended range of grounds for discrimination including, for example, religious or political grounds. It will significantly extend people's rights to equality, beyond protections against discrimination, which are set out in existing UK law.

1.10 DISCRIMINATION

Discrimination refers to an employee being treated less favourably in their employment in relation to other employees on any grounds including eg gender, sexual orientation, race, colour, disability and marital status in terms of recruitment, selection, promotion, transfer, training benefits, facilities, procedures, and terms and conditions of employment.

Employees and applicants for employment have a right to equality of opportunity in employment, in accordance with the provision of the Acts outlined. It is unlawful to discriminate against a person directly or indirectly in the field of employment. In specific Circumstances legislation does allow for the provision of facilities and services, training and for employers to encourage applications from racial groups and women to redress underrepresentation within the workforce. See SDA and RRAs, 35, 37,38.

1.10.1 Direct Discrimination

Direct discrimination consists of treating someone less favourable than others are or would be treated in the same or not materially different circumstances, on grounds of eg race, colour, religion, gender, sexual orientation, marital status or any disability.

1.10.2 Indirect Discrimination

Indirect discrimination consists of applying in any circumstances covered by the Acts, a requirement or condition which, although applied equally to persons of both sexes, different racial groups and the married or unmarried, is such that in practice it has a disproportionately adverse effect on one sex or on one racial group or on people of one marital status, and which cannot be shown to be justified by virtue of the requirements of the job.

1.10.3 Sex Discrimination – The Law

Sex discrimination is covered principally by the Sex Discrimination Act of 1975 as amended. This states that it is unlawful to discriminate in the following areas:-

- Employment and training
- Education
- In the provision of goods, facilities and services to the public.

In employment it is also unlawful to discriminate against a person because they are married.

Advertisements which indicate discrimination in these areas are themselves unlawful.

What is Sex Discrimination?

Generally, sex discrimination means the less favourable treatment of a woman or man, on the grounds of their sex. There are five types of discrimination;

- | | |
|-------------------|--|
| Direct | Where a woman, all other circumstances being similar, is treated less favourably than a man, or vice-versa, on the grounds of sex. |
| Indirect | Where a requirement is applied to both sexes equally if this requirement has the effect of unfairly excluding considerably more women than men, or vice-versa, in practice – unless it can be justified. |
| Direct Marriage | Where a married person is treated less favourably than an unmarried person of the same sex, because that person is married. |
| Indirect Marriage | Where a requirement is applied equally to both married and unmarried people of either sex if this requirement has the effect of excluding more married people than unmarried people, unless it can be shown to be justified. |

Victimisation It is unlawful to victimise an individual who for example has asserted rights under any legislation.

It is also unlawful to treat a person less favourably than another person would be treated in similar circumstances. It is sufficient to show that a person of the opposite sex would have received more favourable treatment without having an actual person with whom to compare.

1.10.4 Racial Discrimination at Work – The Law

The Race Relations (Amendment) Act 2000 strengthens the Race Relations Act of 1976 by outlawing race discrimination in all public authority functions not already covered by the 1976 Act. It also places a general duty on public authorities to be proactive in promoting race equality and requires them to work to avoid unlawful discrimination before it occurs. Additionally it requires them to promote equality of opportunity and good relations between persons of different racial groups. The legislation makes it illegal to discriminate on the grounds of a person's race, colour, nationality (which means citizenship), ethnic or national origins. Three kinds of discrimination are covered:-

- Direct
- Indirect
- Victimisation

Direct Discrimination

Direct racial discrimination arises where a person treats another person less favourably on racial grounds than they treat, or would treat, someone else.

Racial grounds mean any of the following grounds; colour, race, nationality (including citizenship) or ethnic or national origins. In considering whether a particular kind of treatment of a person constitutes direct racial discrimination it is necessary to enquire:-

Whether it was less favourable than the treatment which was (or would have been) accorded to another person, and if so,

Whether the less favourable treatment was on racial grounds, ie whether the reason for the treatment was the colour, race, nationality, or ethnic or national origins either of the victim or of someone else.

It is not necessary, however, to show that a person openly expressed an intention to treat someone else less favourably on racial grounds; it will be possible in many instances to infer a discriminatory motive from all the circumstances in which the treatment was given. In proceedings relating to direct discrimination the court or tribunal will consider all the evidence in the case to see what inferences, if any, it can properly draw about the respondent's motives.

Indirect Discrimination

Indirect discrimination arises where a condition or requirement is applied which, intentionally or not, adversely affects one racial group considerably more than another and cannot be justified on non-racial grounds. This covers situations where:-

- A condition has been placed on you that you are unable to comply with and
- It is to your disadvantage that you cannot comply and
- The proportion of people in your racial group who cannot comply is greater than the proportion of other people who cannot comply.

1.10.5 Disability Discrimination Act 1995

The Act gives people with a disability rights in the areas of:-

- Employment
- Access to goods, facilities and services.
- Buying or renting land or property.

The Act makes it unlawful for employers with 20 or more employees to discriminate against current or prospective employees with disabilities because of a reason relating to a disability.

The Act defines disability as:-

“A physical or mental impairment which has a substantial and long term adverse effect on a person’s ability to carry out normal day to day activities” (Disability Discrimination Act 1995).

People who have a disability or have had a disability but no longer have one are covered by the Act. Those engaged in firefighter duties are currently exempt.

1.10.6 Bullying

- (a) Bullying occurs where a person or persons coerce others by fear, persecution, oppression, force or threat. Harassment in the form of bullying does not simply depend on the intention of the offenders, what is also relevant is the perceptions and the feelings of the injured person.
- (b) Some examples of direct bullying:
- Inappropriate shouting at personnel
 - Personal insults and name calling
 - Persistent criticism
 - Public humiliation
- (c) Some examples of indirect bullying. This may include the unjustifiable use of the following:
- Setting objectives with impossible deadlines
 - Removing areas of responsibility
 - Setting menial tasks
 - Blocking promotion

1.10.7 Discrimination on the Grounds of Marital Status

- (a) Direct Discrimination on marital grounds occurs when a married person is treated less favourably than an unmarried person of the same sex would be in similar circumstances.
- (b) Indirect discrimination on marital grounds occurs when a person is unable to comply with a requirement which on the face of it applies equally to both single and married people (of either sex) but which in practice can be met by far more single people than married people of the same sex. Such a requirement is lawful only if it is justifiable.
- (c) Discrimination on grounds of marital status could contravene the Sex Discrimination Act 1975.

1.10.8 Discrimination on Grounds of Disability

- (a) Direct Discrimination on the grounds of disability consists of treating a person who is disabled less favourably than others are or would be treated in the same circumstances.
- (b) Indirect discrimination on the grounds of disability is the application of any requirement or condition, either intentionally or unintentionally which cannot be justified and which adversely affect persons with a range of disabilities, or where the physical layout of the workplace or provision of equipment necessary to carry out the job, mitigate against the employment of people with disabilities.

1.10.9 Discrimination on the Grounds of Age

- (a) Direct discrimination occurs when an older or younger person is treated less favourably on the grounds of their age than a younger or older person in the same circumstances eg. in respect of training, promotion or pay.
- (b) Indirect discrimination occurs when conditions or requirements are applied either intentionally or unintentionally which cannot be justified and which adversely affect people within certain age groups.

1.10.10 Discrimination on the Grounds of Religion or Belief

- (a) Direct Discrimination occurs where a person who is a member of one creed or religion is treated less favourably on the grounds of that creed or religion than a person of a different belief/philisophy or religion would be in the same circumstances.
- (b) Indirect Discrimination occurs where conditions or requirements are applied whether intentional or not, which cannot be justified and which adversely affect members of one creed or religion when compared to members of another creed or religion.
- (c) Whilst creed or religion is not specifically referred to in the Race Relations Act 1976, it has been established through case law as action that falls within the meaning of racial discrimination.

1.10.11 Discrimination on the Grounds of Trade Union Activities

- (a) Direct Discrimination occurs when a person who is involved in trade union activities is treated less favourably or more favourably because of their involvement, than a person who is not involved in trade union activities.
- (b) Indirect discrimination occurs where conditions or requirements are applied that cannot be justified and adversely affect those involved in trade union activities when compared to those persons who are not.

1.10.12 Discrimination on the Grounds of Political Belief

- (a) Direct Discrimination occurs when a person who holds a particular political belief is treated less favourably on the grounds of that belief, than persons who hold alternative beliefs.
- (b) Indirect Discrimination occurs where special conditions or requirements are applied which adversely affect the holders of a particular belief rather than those that hold an alternative belief.

1.10.13 Discrimination on the Grounds of Sexual Orientation

- (a) Direct discrimination occurs where a person of one sexual orientation is treated less favourably on the grounds of that orientation, than a person of a different sexual orientation would be in the same circumstances.
- (b) Indirect Discrimination occurs where requirements or conditions are applied either intentionally or unintentionally which cannot be justified and which adversely affect a considerably larger proportion of people with one sexual orientation rather than another.

1.10.14 Discrimination on the Grounds of Carers Responsibility

- (a) Direct Discrimination occurs when a person who has a carers responsibility is treated less favourably than a person with no such responsibility. this may be a spouse or in-law or relative.
- (b) Indirect discrimination occurs where certain conditions or requirements are applied which cannot be justified and which adversely affect those people who have carer responsibilities.
- (c) Discrimination on grounds of carers responsibility could contravene the Sex Discrimination Act 1975. Discrimination on these grounds will often result in indirect sex and/or marital status discrimination. This is because it is usually women and married people who suffer these forms of discrimination as they are more likely to have primary caring responsibilities.

1.10.15 Unlawful Discrimination

Discrimination occurs when a disabled person is treated less favourably than others are and:-

- The treatment is given for a reason relating to the person's disability and that reason does not apply to the other person, and
- This treatment cannot be shown to be justified.

Employers must not discriminate against a disabled person in:-

- Recruitment and retention of employees
- Promotion and transfers
- Training and development
- The dismissal process

They must also make reasonable changes to their premises or employment arrangements if these substantially disadvantage an employee with a disability or prospective employee, compared to a non-disable person.

1.10.16 Victimization

Victimization is where a person is treated less favourably because they have given evidence, rejected advances or complained, whether formally or not, about the behaviour of someone who has been harassing or discriminating against them. This may also include less favourable treatment of someone providing support to the individual alleging victimisation.

- No employee needs fear that they will be victimised for complaining of harassment either personally or on behalf of another.

The legislation defines as discrimination the victimisation of a person because that person has, for example, asserted their rights under the various Acts. Victimization arises where, in any of the situations to which the legislation applies, a person (the discriminator) treats another person (the person victimised) less favourably than they treat, or would treat, other persons on the ground that the person victimised has done (or intends to do, or is suspected of having done or intending to do so) any of the following:-

- Brought proceedings against the discriminator or anyone else under the legislation;
- Given evidence or information in connection with proceedings brought under the legislation by another person against the discriminator or anyone else;
- Otherwise done anything under, or by reference to, the legislation in relation to the discriminator or anyone else, eg by giving evidence or information in the course of a formal investigation ; or
- Alleged that the discriminator or anyone else has committed an act which (whether or not this is expressly stated) would constitute a contravention of the legislation.

1.11 RECRUITMENT

1.11.1

Approval to recruit to vacant posts will be given by the Chief Fire Officer or a Principal Officer as his delegate.

1.11.2

Personal recommendations from any existing employee as a primary or sole method of attracting job applications must not occur. All job vacancies will be publicised through means which give equal access to all sections of the community seeking employment.

1.11.3

Where appropriate, full use will be made of minority group publications and organisations to advertise jobs. The purpose being to raise awareness of the Brigade's Equality and Fairness Policy, and to encourage applications from all sections of the community, which will in turn help to redress the imbalance of under represented groups in the workforce.

1.11.4

All advertisements and related literature will reflect the Brigade Equality and Fairness Policy, and will carry the following statement:

Avon Fire Brigade is committed to securing equality of opportunity

All applicants are considered on their suitability for the post regardless of sex, age, race, disability or sexual orientation and we particularly welcome applications from women, African/Caribbean and Asian people due to their under-representation in the Brigade (Sex discrimination Act, Section 48; Race Relations Act 1976, Section 38(1)(B) applies). All applications are considered on merit alone.

1.11.5

Copies and details/records of all job advertisements will be held/kept by the Brigade Human Resources Department.

1.11.6

Brigade Application Forms will be used for all vacancies and will be completed by all applicants.

1.11.7

Application forms will be kept by the Human Resources Department for twelve months following appointment to a post. Thereafter, forms will be destroyed by confidential means.

1.11.8

Job advertisements must be clear and unambiguous so that applicants are able to determine their own suitability.

1.11.9

All recruitment and promotion procedures will be monitored by the Brigade's Human Resources Department to ensure fairness and compliance with the word and spirit of this policy and Trade Unions will be afforded facilities to inspect recruitment processes and promotional procedures.

1.11.10

Positive Action describes a range of measures which employers can lawfully take to help under-represented groups compete for jobs on an equal footing.

With a view to offering opportunities to all sections of the community to achieve their potential, Avon Fire Brigade will take positive action where members of a particular sex or of a racial group have been under-represented in particular employment for the previous 12 months.

The aim of positive action is to accelerate the process whereby under-represented groups are encouraged to apply for work and to encourage persons employed in such under-represented groups to develop their potential through training and careful assessment.

Where the brigade's monitoring systems show that under representation exists, we will, as part of the positive action procedures, encourage under represented groups to take advantage of opportunities for doing that work and provide training to enable them to obtain skills needed for that work, thereby helping them to qualify on merit for appointment.

More specifically, where the Brigade considers that such action will be beneficial the following measures are amongst those available to help remedy under-representation and will be used as appropriate:-

- job advertisements designed to reach members of a particular sex and/or racial group
- use of employment agencies and careers offices in areas where particular racial groups may be concentrated

- recruitment schemes for school leavers designed to reach members of a particular sex or racial group
- use of the Disability Services Branch of the Employment Service for advice on the employment and retention of disabled employees
- encouragement for people from under represented groups to apply for jobs with the Brigade
- use of ethnic minority press, and journals as well as other media
- recruitment and training schemes for school/college leavers
- encouragement for existing employees from under represented groups to apply for promotion.

Positive Action will not mean eg:

- withholding information from one sex in an attempt to encourage applications from the other sex
- selecting a job applicant simply because he or she is of a particular group and/or of a particular sex, regardless of ability
- selecting a number of employees from minority groups irrespective of merit to give the Brigade a good name

1.12 JOB DESCRIPTIONS

1.12.1

All Brigade posts will have a Job Description which incorporates employee specification criteria, written in clear and straight forward language.

1.12.2

Criteria contained in Job Descriptions will be strictly relevant to the requirements of the job and framed in objective and measurable terms in order that applicants can be considered on merit. All job descriptions are approved by the Brigade Human Resources Manager and are held in the Human Resources Department.

1.12.3

All job descriptions will contain a clause to require commitment to and compliance with the Equality and Fairness at Work Policy.

1.12.4

All Brigade entry and promotion requirements will be clearly justifiable in terms of the principal function of the post. Care will be taken to eliminate the following:

- unnecessary or inappropriate qualifications and/or experience requirements. Appropriate qualifications as specified in the job description for the post only will be considered
- use gender, marital status, disability or racial consideration to determine suitability
- confusing minimum requirements with artificially inflated requirements
- using the criteria of age (except in the case of Statutory requirements appertaining to the upper and lower criteria), which could unjustifiably constitute unlawful indirect discrimination

1.13 SHORTLISTING AND SELECTION (Appointment & Promotions)

1.13.1

Assessment of job applicants will be based on appropriate sources of information and recognised selection procedures, including application forms and references. For successful applicants, job description criteria only will be used to determine shortlists for interview.

1.13.2

Brigade application forms will not be used as a test of literacy unless it is proven to be a necessary requirement of the post.

1.13.3

Overseas qualifications will be accepted where they are equivalent to a UK qualification and are recognised as such by an appropriate academic body.

1.13.4

There will be no artificial restriction on the number from any minority group when shortlisting. The adoption of quotas is unlawful.

1.13.5

Reasons for rejection or shortlisting will be documented with reasons for the rejection explained to the individual upon request. All Selection Decision Records will be kept for a period of twelve months.

1.13.6

Shortlisting, selection and the interview procedures, will be carried out in a systematic, audible manner by more than one person to reduce the possibility of bias. In addition the selection panel will comprise the same people from the beginning to the end of the process.

1.13.7

All interview and shortlisting panels will include a member of staff from the Human Resources Department to ensure the Equality and Fairness Policy is adhered to. Guidance and support to managers in respect of recruitment matters will be provided by the Brigade Human Resources Department.

1.13.8

All employees involved in the whole process of recruitment and appointment will receive appropriate fair selection and equality related training, in keeping with this policy, before involvement in recruitment and appointment activity.

1.13.9

Selection decisions will not be influenced by racial or gender profile, or by any persons unwillingness to work with people from any group.

1.14 WORKFORCE MONITORING

1.14.1

Data concerning employees and job applicants will be collected and monitored by the Brigade's Human Resources Department in terms of:-

- gender
- ethnic origin
- disability
- marital status

In respect of training, redeployment, redundancy, restructuring, promotion, resignation from service and discharge from service.

1.14.2

Data concerning employees who invoke grievance procedures and who are subject to Disciplinary Action will also be kept and monitored.

1.15 WORKPLACE HARASSMENT

1.15.1

Harassment can be stressful, embarrassing and demeaning. The Brigade believes that everyone has the right to seek, to obtain and to hold employment without fear of discrimination or harassment.

1.15.2

With the support of all employees the Brigade will seek to eliminate harassment and to ensure that individuals get the necessary support to take action where they may be subjected to harassment. Brigade Managers, Equality and Fairness Co-ordinator, Equalities Officer, Workplace Harassment Nominees, the Human Resources Department and/or trade unions, are available to offer support and advice to recipients of harassment.

1.15.3

Harassment is unlawful and the Brigade has a duty to prevent harassment and discrimination against its staff.

1.16 WORKPLACE HARASSMENT NOMINEES (see also Brigade Order Volume II Personnel, Part 3 Employment Policies, Section 2)

1.16.1

The Brigade has trained a Team of Workplace Harassment Nominees who are available to offer confidential advice and information to individuals experiencing harassment. Support can be obtained to assist a recipient of harassment to try to informally stop harassment (see Section 5.22). This can include support in approaching the harasser(s) verbally or in writing, keeping a diary of incidents etc (see Section 1.18 – procedures).

1.16.2

A key role of a Nominee is to offer information to individuals and support them during action taken. Nominees will offer support in keeping with a code of conduct which ensures confidentiality.

1.16.3

Information regarding Workplace harassment Nominees can be found in the appropriate Section of the Equality and Fairness Policy, Brigade Orders and further information is also available from the Human Resources Department at Brigade Headquarters.

1.17 OTHER SOURCES OF SUPPORT AND ADVICE

The Brigade will seek to ensure that all employees have access to information, support and assistance, to take action to stop harassment. Support and advice can be obtained from the following, who will be trained to understand their role and responsibilities in respect of this policy:

- Equality & Fairness Co-ordinator
- Equality Officer
- Your Supervisor/Line Manager
- A Workplace Harassment Nominee
- A Trade Union Official
- The Human Resources Department
- Occupation Health Service
- Brigade – Welfare Counselling Service

1.18 COMPLAINT AND RESOLUTION

This Procedure has been agreed as the means by which complaints will be dealt with when one employees alleges that the conduct of another employee constitutes harassment, discrimination and/or victimisation. It is recognition of the sensitivity and complexity of these issues and the provision of a means of dealing with a complaint outside the more formal arena of the Brigade's formal Grievance Procedures for both uniformed and support staff.

The primary aim of the Procedure is to provide guidance for any employee who has, or perceives that they may have been, subjected to any form of harassment, victimisation or discrimination and who would prefer a more informal method of resolving the issue. It is intended to deal with the matter in such a way as to maintain, as far as possible, a reasonable working environment for all parties concerned and to provide a solution swiftly, clearly and sensitively and with due respect for the rights of both the complainant and the alleged harasser.

This Procedure will apply to all employees of the Brigade and shall be read in conjunction with the Guidance Notes on Harassment and Bullying, and Discrimination which provide an overview of the key issues involved.

The Procedure does not preclude any individual from seeking advice and support at any time from the Brigade's Equalities Unit or Representative Bodies. It does not remove the individual's right to take out a formal grievance in accordance with existing procedures for uniformed and support staff should they so wish, nor does it affect an individual's rights in law.

Form of Resolution

The following procedure provides for three different forms of resolution:-

- Informal resolution by the complainant.
- Informal resolution by the complainant's Line Manager/Officer-in-Charge.
- Formal resolution.

The 3 different forms of resolution are alternatives of equal merit depending on the circumstances and are not to be considered as a chronological sequence which must be followed. The decision by the Line Manager/Officer-in-Charge as to whether the informal or formal route is appropriate, will be reached in partnership with the complainant and will take into consideration the following:-

- The views of the complainant.
- The nature and severity of the allegation.

- The likelihood of a successful outcome.
- The working relationship between the people involved.

Confidentiality/Anonymity

All cases dealt with under this procedure will be conducted in the strictest confidence unless there is a compelling reason or need for disclosure. In such circumstances, persons responsible shall seek advice from the Equalities Unit before breaching confidence and, in any event, the matter must be explained to the complainant before any such action is taken.

All information relating to any such case will be made available on a strict 'need to know' basis and all documentation will be produced and circulated under strict confidential cover using sealed documentation bags.

Information obtained in confidence or in the context of informal resolution shall not be used without the agreement of the person(s) who gave it except where there is an over-riding consideration as previously stated. It must also be taken into account how information received in this way may impact on any subsequent disciplinary investigation.

1.18.1 Informal

Staff who feel they are being harassed, bullied or victimised, and who are confident enough, may choose to explain to the person(s) carrying it out that their treatment is unwelcome and offensive, and ask for it to cease. They may do so on their own or ask for a third party to accompany them, who may be a trade union representative, a friend, a Human Resources Officer or a member of the Equalities Unit.

Staff who choose a direct personal approach should keep a note of the date of the approach and what was said and what was agreed. Where a personal approach is not possible or has been unsuccessful, or where a party involved feels other action is necessary, the problem shall be brought to the attention of the complainant's Line Manager/Officer-in-Charge in the first instance. This may be in writing or verbally. If this is not possible or appropriate, or the individual does not feel confident to do this, the Equalities Officer/Equalities and Fairness Coordinator, a Human Resources Officer, or a more senior Manager shall be approached.

Informal Resolution by Management

Once an approach has been made, the manager receiving the complaint must assess which course of action to pursue in order to seek a resolution. The proposed course of action must be agreed with the complainant.

Officers-in-Charge/Line Managers should contact the Fairness and Equality Unit for advice, guidance and support at all stages of the process.

Where there is no complaint in writing, the Officer-in-Charge /Line Manager is advised to make a brief note, on A42, of the complaint, the date on which it was made, the agreed course of action and where possible, avoiding the use of names of alleged offenders. The complainant will be given the opportunity to sign the note as an accurate record and be given a copy of it. The report should be forwarded to the equalities unit for confidential filing, and should be in a sealed envelope marked "Private and confidential – addressee only."

In all cases brought to management attention, especially those which involve a potential breach of statute, the Business Manager of Human Resources and Equality Unit shall be informed of the incident and the proposed course of action.

In those cases where All parties desire an informal resolution, the manager will interview the parties concerned to establish the detail of the complaint and to determine whether informal resolution is possible and/or appropriate.

There is a variety of means by which the complaint may be dealt with when seeking an informal resolution. These include transfers mutually agreed by both parties and management or forms of conflict resolution such as counselling / training.

The manager will record a summary of the complaint and of the informal action taken. This documentation will be held in a secure place under the strictest confidentiality in the Equalities Unit. Upon satisfactory resolution of the matter, all documentation will be forwarded to the Equalities Unit, in a sealed envelope marked " Private and confidential – addressee only." where it shall be held on confidential files for a period of 6 years before being destroyed. All other copies of documentation must be destroyed. Under no circumstances are copies of such documentation kept on personal reference files.

It must be stressed that confidentiality is of the utmost importance in dealing with issues of this type and this must be respected by all personnel who are involved in attempting to reach a satisfactory resolution. Any breach of confidence will be viewed as serious misconduct.

1.18.2 Formal

Formal Resolution

Where informal resolution is not appropriate (eg the allegations are of such a nature that formal action is deemed necessary) or where informal resolution has proved unsuccessful (eg the harassment continues or recurs) formal investigation procedures may be invoked. The complainant will be informed this is to be done.

Include the dis-advantages of formal action and Steve`s suggestion re help and advice.

Uniformed Staff

In the first instance, formal complaints against any uniformed member(s) of the Brigade shall be reported to the relevant Head of Department/Commander. The Head of Department/Commander shall decide whether there are grounds for reporting the matter to the Brigade Investigating Officer in accordance with Brigade Orders.

Reports received by the Brigade Investigating Officer may be referred for investigation under the Fire Services (Discipline) Regulations 1985.

The Brigade Investigating Officer will seek advice and input from the Equalities Unit where appropriate.

Support Staff

If a case of alleged harassment, bullying or discrimination is considered by the Business Manager (Human Resources) to be one which, if supported by evidence, is of sufficient seriousness to require a disciplinary hearing, approval will be authorised by the Business Manager (Human Resources) who will also be responsible for steering the case through the entire procedure.

This includes the principal responsibility for investigating the case, and if appropriate, presenting it. This officer shall be trained in the procedure and shall be of sufficient seniority and/or experience to be able to ensure the efficient management of the case. In the event of the person(s) complained about being at or above Principal Officer level, the case manager may have to be brought in from outside a Department, Command or the Brigade, subject to the approval of the Chief Fire Officer or Fire Authority.

Representation

All parties are entitled, and are strongly advised, to consult with, and be represented by, someone who may be a representative or a recognised trade union. Individuals may also seek guidance from the Equalities Unit as to who could represent their interests. It must be emphasised that the role of the Equalities Unit is to provide advice and guidance and not to represent staff at disciplinary hearings or interviews. Managers shall ensure that all parties are aware of their rights and avenues of redress and that they understand their rights to have representation at any and all stages of the process.

Composition of Panels

We recognise that, on occasions, it may be desirable to involve a person of the same gender, ethnic group, disability or sexual orientation as the complainant, in the management of a complaint. This may involve the assistance of an agency external to the Brigade. However, we are committed to the principle that all the Brigade's Managers shall be able to deal with complaints fairly, sensitively and speedily. Personnel carrying formal investigations and/or sitting on disciplinary panels must have had relevant training.

Time Limits

The underlying principle in dealing with all complaint issues of this type is to resolve them as speedily and sensitively as possible. This is imperative where there is an alleged breach of statute. There are problems in setting specific time limits to the investigation and resolution of complaints of harassment, bullying and/or discrimination. For this reason the general rule is that, wherever practicable, cases involving informal or formal resolution shall be resolved within a maximum of 2 months of the originating complaint. If the case requires to go to full member level hearing or case review, then it shall be concluded within a maximum of 4 months. Timely resolution of complaints is in the interest of all parties and recognises the requirements of The Human Rights Act 1998.

It is essential that complaints be reported as soon after the alleged incident(s) as possible in order to allow a fair and thorough investigation to take place. Where a case cannot be resolved within the time scale, eg where there is a lengthy enquiry, where it involves a Policy issue, or where there is illness of either party, all relevant parties must be informed of the reasons for the delay and the likely time scale for completion. All such information shall be carefully logged by the Investigating Officer responsible for the overall management of the case.

1.19 FORMAL ACTION

Individuals can use a Grievance Procedure (see Brigade Order Volume II Personnel, Part 3 Employment Policies; Section 1 and/or The Grey Book and appropriate local Conditions of Service) if they are experiencing harassment. Complaints will be investigated, possibly leading to the use of the relevant Disciplinary Procedure against the harasser or harassers.

Suggested replacement for section 1.19

Detail in this section the two grievance procedures both uniformed and non-uniformed

1.20 VIOLENCE AND AGGRESSION AGAINST STAFF POLICY

Given the nature of services the Brigade provides, staff may sometimes encounter violence. Any incident in which an employee is abused, threatened, assaulted or otherwise subjected to perceived anti-social behaviour should be reported to a manager. Violence is never acceptable and both staff and managers must understand and recognise this.

1.21 DOMESTIC VIOLENCE

Staff may experience violence at home which will affect them in all aspects of their lives, including their performance at work. domestic violence can occur in many forms, (physical, emotional, financial, sexual) but none are acceptable. Information and support on how to tackle domestic violence is available from the Human Resources Department, from Staff Support Team members or from the Brigade Welfare Counselling Service (see Brigade Order Volume II Personnel, Part 1 Health, Safety and Welfare, Section 3, for more details).

1.22 COMMITMENT TO FAIR TREATMENT

1.22.1

Avon Fire Brigade will ensure that all employees and the public that we serve are treated fairly and where it is felt that this is not the case, the Equality and Fairness Policy and related Brigade Orders and guidance will seek to provide information about the remedies available.

1.22.2

If you are a member of staff or a member of the public and you believe that you have been treated unfairly, you are encouraged to express your concerns in keeping with this policy.

1.22.3

If you are a member of the public who feels that you have been unfairly treated, you should complain under the Avon Fire Brigade Complaints Procedure. Information regarding this Procedure is available by telephoning Brigade Headquarters on 0117 926 2061.

1.22.4

A member of staff should raise the problem or issue at the earliest opportunity with their Line Manager. If you feel that you are unable to raise the issue with your Line Manager then you may contact the Brigade Human Resource Department, or a Workplace Harassment Nominee or trade union official.

1.22.5

Where an existing member of staff considers that they have been treated unfairly, the right exists to lodge a formal grievance under the appropriate Brigade Grievance Procedure. Details of grievance and discipline procedures can be found in the Brigade Orders and/or the Grey Book, and appropriate local Conditions of Service. Alternatively advice on procedures may be obtained from the Brigade Human Resources Department, or from your trade union official.