

# Equity, Diversity and Inclusion Policy



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## Equality Impact Assessment Tool

Name of Policy: Equity, Diversity and Inclusion

		Yes/No	Comments
<b>1</b>	<b>Does the policy/guidance affect one group less or more favourably than another on the basis of:</b>		
	Race or ethnicity	No	
	Disability	No	
	Sex	No	
	Religion or belief	No	
	Sexual orientation	No	
	Age	No	
	Marriage and Civil Partnership	No	
	Maternity and Pregnancy	No	
	Gender Reassignment	No	
<b>2</b>	<b>Is there any evidence that some groups are affected differently?</b>	No	
<b>3</b>	<b>If you have identified potential discrimination, are any exceptions valid, legal and/or justifiable?</b>	No	
<b>4</b>	<b>Is the impact of the policy/guidance likely to be negative?</b>	No	
<b>5</b>	<b>If so, can the impact be avoided?</b>	N/A	
<b>6</b>	<b>What alternatives are there to achieving the policy/guidance without the impact?</b>	N/A	
<b>7</b>	<b>Can we reduce the impact by taking different action?</b>	N/A	

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# Equity, Diversity and Inclusion Policy

## 1 POLICY STATEMENT

Colchester Institute is committed to creating and sustaining a positive and supportive working environment for our staff, agency workers, contractors, and volunteers and an excellent teaching and learning experience for our students and apprentices, where staff are equally valued and respected, and students/apprentices are encouraged to thrive. As a provider of employment and education, we value the diversity of our staff, apprentices and students. We are committed to providing a fair, equitable and mutually supportive learning and working environment for our students, apprentices and staff.

This policy deals with the promotion of equality of opportunity for all at Colchester Institute (including those within University Centre Colchester) in accordance with the Equality Act 2010 and incorporating Public Sector General and Specific Duties.

Our goal is to ensure that these commitments are reinforced by our values and are embedded in our day-to-day working practices with all our customers, colleagues and stakeholders.

We will provide equality of opportunity and will not tolerate discrimination on grounds of Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex, Sexual Orientation, or any other grounds.

We will demonstrate our commitment by:

- promoting equality of opportunity and diversity within the communities in which we work and with all our staff and stakeholders;
- aiming to build a workforce which reflects our community, with the aim of having parity of representation;
- encouraging recruitment from groups currently under-represented in the department and their career progression once employed;
- treating our customers, colleagues and visitors fairly and with respect;
- promoting an environment free from discrimination, bullying and harassment, and tackling behaviour which breaches this;
- recognising and valuing the differences and individual contribution that people make;
- providing support and encouragement to staff to develop their careers and increase their contributions to the organisation through the enhancement of their skills and abilities;
- building in legislative requirements and best practice to all our service delivery and employee policies and procedures, and supporting these with appropriate training and guidance.

Every person working for the College has a personal responsibility for implementing and promoting these principles in their day-to-day dealings with everyone – including students, apprentices, members of the public, other staff and employers and partners. Inappropriate behaviour is not acceptable.

To this end, the College acknowledges the following basic rights for all staff, students and members of their community:

- to be treated with respect and dignity;
- to be treated fairly with regard to all procedures, assessments and choices;
- to receive encouragement to reach their full potential.

## **2 RESPONSIBILITY**

Colchester Institute will not tolerate behaviour in the form of discrimination, victimisation, harassment or bullying.

Legislation and associated regulations exist to protect employees, and there are a number of policies and procedures in place to support the legislation.

Colchester Institute Corporation, has overall responsibility for ensuring that the College complies with the requirements of the Equality Act 2010, including the general duty to have due regard to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
- Advance equality of opportunity between people who share a protected characteristic and those who do not;
- Foster good relations between people who share a protected characteristic and those who do not.

## **3 OBJECTIVES**

The aim of this policy is to ensure that in carrying out its activities the College will have due regard to:

- eliminating unlawful discrimination, harassment and victimisation;
- advancing equality of opportunity, across all the activities of the College between different groups;
- fostering good relations between people of a diverse background.

In the implementation of this policy the College will aim to:

- develop and promote a culture of equality and diversity throughout the institution;
- develop and promote a culture of dignity, courtesy and respect;
- support all staff, apprentices, and students, including provision of relevant support relating to age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief (including lack of belief), sex and sexual orientation.
- work to prevent all forms of unlawful discrimination;

- deal with all forms of discrimination consistently and effectively;
- ensure that the Equity, Diversity and Inclusion policy influences and informs the culture of the College.

#### **4 DEFINITION OF TERMS**

Diversity encompasses a multitude of areas such as gender, race, disability, physical ability, mental capacity, education, sexual orientation, religious beliefs, values, age, personality, experiences, culture, socio-economic background and the way each area approaches work. *This list is not exhaustive.* Embracing diversity means acknowledging, understanding, and appreciating the differences between individuals and developing a workplace that enhances their value. By being flexible in our approaches it is then possible to achieve a rewarding environment.

Discrimination is defined as an act which has the effect of treating a person less favourably because of factors related to their personal characteristics such as disability or sexual orientation, and unrelated to their merit.

Equity is defined in this context as the “absence of avoidable or remediable differences among groups of people”<sup>1</sup>

Harassment is unwanted conduct which may create the effect (intentionally or unintentionally) of affecting an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment which interferes with an individual’s learning or working environment. Harassment may be persistent or an isolated incident and may be by an individual against an individual or involve groups of people.

Stereotyping is defined as a standardised mental picture that one person or group of people holds in common about another person or group of people and can be either positive or negative.

Positive Action is the deliberate introduction of measures to eliminate or reduce discrimination, or its effects. It is not about special treatment for any one particular group, but the fair treatment of all people. It is distinct from positive discrimination which is unlawful.

Unconscious bias refers to a bias that we are unaware of, and which happens outside of our control. It is a bias that happens automatically and is triggered by our brain making quick judgments and assessments of people and situations, influenced by our background, cultural environment, and personal experiences. We aim to be aware of our own conscious and unconscious biases, prejudices, and stereotypes, and to mitigate the effect of unconscious or implicit bias on our decision making.

## **5 THE BENEFITS OF DIVERSITY MANAGEMENT**

A diverse workforce can offer a wide range of resources, skills, ideas and energy to the business, providing a competitive edge. Organisations that embrace diversity will reap the benefits of resourcing from a wider pool of talent, broaden their markets, improve productivity and raise the community profile.

Diversity management can benefit the organisation in a number of ways, ie.

- Improve opportunities within the organisation through internal promotion;
- Utilise the knowledge of different areas of the community;
- Understand market segments and consumer behaviour;
- Become an employer of choice;
- Have a more representative 'balanced' workforce;
- Value and respect employees, attracting and retaining a wider talent pool.

## **6 THE DIFFERENCE BETWEEN DIVERSITY AND EQUALITY AND BETWEEN EQUALITY AND EQUITY**

Diversity and equal opportunities are often regarded as the same thing. However, there are differences. Valuing diversity is about seeing everyone as individuals, valuing the abilities and skills they can bring to an organisation. It is not about seeing people first and foremost in terms of their membership of a particular group. Equality of regard for people is about emphasising inclusiveness, openness and fairness, offering a positive outlook on the many differences, as well as similarities, that can affect how people interact and perform with each other in the workplace. Diversity is about respecting differences within minority groups and not expecting everyone to conform to the ways of majority groups.

Widening diversity is something that is initiated internally, where a culture for diversity has developed over time. Equal opportunities are usually prompted by external factors such as legislation and codes of practice.

Managing diversity is concerned with improving quality within the organisation, with a focus on qualitative issues and good practice, whereas equal opportunities focuses on improving numbers. This might include increasing the number of women in management positions, or increasing the number of ethnic minorities or raising the age profile.

Valuing people, and their many diverse qualities, enhances employee potential, therefore enhancing the business. Equal opportunities aims to ensure that no group receives less favourable treatment because of their differences, ensuring all people are treated equally. This is about adapting to individual needs rather than treating everyone the same.

Diversity focuses on being pro-active and finding opportunities to enhance the business. Equal opportunities is reactive and will focus on existing problems while trying to redress the balance.

A diverse culture is something that can develop with support but an equal opportunities culture is socially constructed by specific measures being put into place. Managing diversity encourages people to reflect on and change their own practices and systems, resulting in a diverse culture. Diversity at work is not only concerned with keeping within the confines of the law, but would also gradually seek to educate every staff member so that discrimination would become a thing of the past.

While the legislation uses the term 'equality', the College is committed to considering how it can move beyond the idea of equality, towards equity. Equity means distributing resources based on the needs of individual recipients as opposed to giving everyone the exact same resource. An example of this would be providing a scribe for a learner who has a disability or injury that prevents them from being able to write or providing assistive technology for staff or learners so they are able to fully participate and engage with teaching, learning and assessment and other every day activities.

## **7 LEGISLATIVE BACKGROUND**

Under Equality legislation Including the [Equality Act 2010](#) and the [Public Sector Equality Duty](#) ) it is unlawful to:

- discriminate directly against anyone and treat him/her less favourably than others on the grounds of the protected characteristics of: age (unless this can be justified as a proportionate means of achieving a legitimate aim), disability (including discrimination arising from a disability and failure to make reasonable adjustments), gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief (including lack of belief), sex and sexual orientation. This also includes discrimination based on perception of the person e.g. a belief that someone is gay or a belief that someone is disabled even if this is not actually true.
- discriminate against someone for reasons relating to their association with a person on the grounds of the protected characteristics of age, disability, gender reassignment, race, religion or belief, sex and sexual orientation e.g. discriminating against an employee/student because they have a disabled dependant.
- discriminate indirectly against anyone by applying a criterion, provision or practice which disadvantages people with a protected characteristic (age, disability, gender reassignment, marriage and civil partnership, race, religion and belief (including lack of belief), sex and sexual orientation) unless the person applying the provision can justify it as a proportionate means of achieving a legitimate aim.



- subject someone to harassment for reasons relating to age, disability, gender reassignment, race, religion and belief (including lack of belief), sex and sexual orientation. This includes behaviour that an individual finds offensive on these grounds even if the behaviour is not directed at the individual.<sup>1</sup> It is unlawful to treat a person less favourably because they either submit to, or reject, sexual harassment or harassment related to their sex. An employer also has responsibilities relating to harassment of employees by third parties as outlined in the Dignity at Work and Study Policy.
- victimise someone because s/he has made, or intends to make, a complaint or allegation or has given or intends to give evidence in relation to a complaint of discrimination in line with the Equality Act.

## **8 ROLES AND RESPONSIBILITIES**

It is incumbent upon all members of the College community to behave with dignity, courtesy and respect and to act in a manner that does not unlawfully discriminate at all times.

### **Role of College Managers**

- to lead non-discriminatory practices and to address any incidences of behaviour that fail to comply with this policy;
- support apprentices or students raising issues associated with work places that they visit or operate from;
- to ensure employers that have apprentices or learners on work placements have appropriate Equality & Diversity Policies in place (to provide example ones and support with this as necessary);
- to support the aims of the College Equity, Diversity and Inclusion policy;
- to undertake appropriate equality and diversity training.
- To impact-assess all new and revised policies to ensure that they do not disadvantage any individual or group who share a protected characteristic.
- To ensure that college documentation and [www.colchester.ac.uk](http://www.colchester.ac.uk)

### **Role of Staff**

- to actively encourage non-discriminatory practices and to report any incidences of behaviour that fail to comply with this policy;
- support apprentices or students raising issues associated with work places that they visit or operate from;
- to support the aims of the College Equity, Diversity and Inclusion policy;
- to undertake appropriate equality and diversity training.

### **Role of Students and Apprentices**

- actively to encourage non-discriminatory practices and to report any incidences of behaviour that fail to comply with this policy;
- to support the aims of the College Equity, Diversity and Inclusion policy;
- to be aware of equality and diversity issues.

### **Role of Employers**

- to ensure that they have up to date equality and diversity policies and procedures in place prior to having apprentices or learners on placement;
- to lead non-discriminatory practices and to address any incidences of behaviour that fail to comply with this or their own policies;
- to respond positively to apprentices or students raising issues;
- to seek advice from the college or appropriate government bodies as required.

### **Role of Human Resources**

- to support staff in implementing the policy;
- to monitor employment equality data and publish findings as required;
- to ensure that selection and appointment procedures, performance management processes, staff development opportunities and disciplinary and grievance processes are fairly and consistently applied to all staff;
- to treat all applications for flexible practices on a fair and equitable basis and to provide reasonable and objective reasons when such requests must be refused;

## **9 GENUINE OCCUPATIONAL REQUIREMENT**

In very limited circumstances it will be lawful for an employer to treat people differently if it is a Genuine Occupational Requirement.

Where there is a genuine requirement for a particular type of person to do the job, the employee must be able to justify a sound business reason for this.

This may occur if it is necessary that, for example, a male or female is required to do a job involving personal care, or that an individual of a particular religion is required to do a job.

## **10 WORK LIFE BALANCE**

The College has a commitment to work life balance and has a number of support systems in place.

Staff at Colchester Institute are entitled to flexibility in the following areas which are covered by relevant HR Policy:

### **Maternity**

The College administers not only the statutory maternity scheme but also offers a contractual maternity scheme. For more information of entitlements please refer to the College's Maternity Policy.

### **Paternity Leave**

To be entitled you will have worked at the College for 26 weeks or more by the 15th week before the child is expected to be born. You will be eligible for 2 weeks in a 1 or 2 weeks' block at any one time within 8 weeks of the birth or adoption of the child. Entitlement to pay is 2 weeks' full pay if you meet the requirements. For more information, please refer to the College's Paternity Policy

### **Adoption Leave**

There is no length of service requirement for staff to be entitled to adoption leave. The employee's entitlement is to take up to 26 weeks' ordinary adoption leave followed immediately by up to 26 weeks' additional adoption leave. For more information, please refer to the College's Adoption Policy and Procedure.

### **Parental Leave and Shared Parental Leave**

You must have at least one year's service at the College to be entitled to take Parental leave. All eligible employees have a statutory right to take Shared Parental Leave. For more information, please see the Parental Leave Policy or the Shared Parental Leave policy as appropriate.

### **Flexible Working**

The College recognises that flexible working arrangements have mutual benefits and is committed to developing an enabling culture where a healthy work-life balance is the norm and employees are empowered to work in a flexible manner to do their best work.

The College has introduced a number of methods of flexible working for which staff can apply for. These methods include potential for Part-time hours, Term Time Only Working (less than 52 weeks), Remote Working – which can be a combination of working on-site and at home or completely at home (see Remote Working Policy), Compressed Hours (e.g. working 'full time' hours over 4 days or a 9-day fortnight), Job Sharing, Flexible hours, Phased Retirement (a reduction in hours and/or days leading up to retirement). For more information please see the Flexible Working Policy.

## **11 SAFER RECRUITMENT AND SELECTION**

The College has a Safer Recruitment Policy which sets out the procedure to be followed. Vacant posts are advertised in a number of ways to attract a wide variety of applicants. The College is committed encouraging applications from candidates from a wide background which reflects our community. As part of this commitment we guarantee to shortlist all applicants who have a declared disability, and meet the essential criteria. All advertisements are individualised to focus on the key criteria required to meet the essentials of the vacancy. Job descriptions are designed to enable applicants to determine whether they wish to apply. To assist applicants further, information about the vacancy may be requested at any stage.

The shortlisting process is carried out by ensuring that applicants meet the essential criteria and, if possible, the desirable criteria.

The selection of successful applicants is primarily carried out by way of an interview process, which consists of a Panel of experienced staff. All applicants are asked to complete an Equal Opportunities Monitoring Form. This requests information about the applicant's age, disabilities, ethnicity, marital status, convictions and sexual orientation. This information is kept confidential and is separated from the application form. The information is not disclosed to the interview panel, but it allows HR to put in place any special requirement, before, during and after the successful candidate has been selected. The information on the Monitoring Form can assist HR in a number of ways, such as: to make any special considerations for applicants with a disability and to give an applicant with a conviction an opportunity to discuss the circumstances of this conviction. The Monitoring Form also allows HR to collect this data for statistical and monitoring reasons. Some data is required by law while other data highlights opportunities to redress the balance and ensure a workforce that represents the diverse community it serves.

Please refer to the College's Safer Recruitment Policy for further information regarding this process.

The College should ensure that similar practices are used to by employers to fill apprenticeship vacancies.

## **12 PROMOTION AND CAREER DEVELOPMENT**

The College, where possible, will offer promotional and career development opportunities for existing staff. To ensure equality and a fair process the recruitment and selection procedure of the College is operated.

## **13 TRAINING**

All staff are entitled to request training. This might or might not lead to a qualification, it might be compulsory as part of the role, continuing professional development, or other training. All requests are considered on the basis of the need and relevance to the job being undertaken by the employee. There may be times when a request must be declined, postponed or offered on a conditional basis for legitimate business reasons. There may be occasions where the delivery method or day of training might coincide with a personal event, i.e. a religious festival. Where possible, considerations will be made on the basis of any request received by the line manager.

## **14 MONITORING**

The College monitors the diversity of its workforce and reports this information annually to the Corporation Board. Governors scrutinise recruitment monitoring information to ensure that fair practices are being used for applications, shortlisting and appointments. All College Policies will be impact assessed using the standard impact assessment tool to ensure no unfair treatment on specific groups. The College Executive will provide an annual report to the Corporation Board on our commitment to EDI and progress against targets.

## **15 SOURCES OF HELP AND INFORMATION**

There is a number of options available for staff if they wish to talk to someone. Some of these include: Line Manager; Human Resources, colleague or Union Representatives from the College's recognised trades unions.

The College encourages individuals to feel empowered to raise any issues of harassment or discrimination. Regular Equality & Diversity sessions in the curriculum and staff training also address having an open, diverse and fair college as a priority.

## **16 IMPLEMENTATION AND REVIEW**

Additional to the above roles, each member of the Senior Leadership Team, supported by Human Resources, has the responsibility to ensure that the Equity, Diversity, and Inclusion Policy is put into practice in the areas for which he or she has responsibility. The policy owner, as a member of SLT, will ensure that this policy is reviewed at least every three years.

## **17 BREACH OF THE POLICY**

Colchester Institute will take seriously any instances of breach of this policy by students, staff, or visitors. Any breach will be investigated and where appropriate will be considered under the relevant disciplinary procedure for staff or students. Regarding any breach of the policy by visitors, Colchester Institute will take appropriate action in relation to the nature of the incident.

## 18 COMPLAINTS

### Complaints Made by Students

Colchester Institute is committed to providing all students with a high-quality service. We want to know if our service has not met with students' expectations so that we can do something about it. Whenever possible students should firstly talk with a tutor and tell them what has gone wrong. If the response is unsatisfactory, a formal complaint can be raised through the College Complaints Procedure. A formal complaint can be made emailing [quality@colchester.ac.uk](mailto:quality@colchester.ac.uk). We will explain what course of action will be taken and in what time frame.

### Complaints Made by Staff

Complaints made by staff can be made via the Dignity at work Policy, Workplace Resolution Policy, or the Whistleblowing Policy & Procedure (details of these policies are available on the HR Portal). Support for staff is available through the Human Resources Team, Employee Assistance Programme, line management and the trade unions.

## 19 OTHER POLICIES

This policy is underpinned by the following College policies and practices. All College Policies will be impact assessed using the standard impact assessment tool.

- Adoption Leave Policy
- Annual Leave and Special Leave Policy and Procedure
- Dignity at Work Policy
- Employee Wellbeing Strategy
- Flexible Working Policy
- Health and Safety Policy
- Maternity Leave Policy
- Paternity Leave Policy
- PREVENT Strategy
- Remote Working Policy
- Safeguarding Policy (young people and vulnerable adults)
- Safer Recruitment Policy
- Shared Parental Leave Policy
- Sickness Absence Policy & Procedure
- Special Educational Needs and Disabilities (SEND) Policy
- Staff Development and Performance Management Policy
- Staff Induction Policy
- Whistleblowing Policy and Procedure

## APPENDIX 1

### PROTECTED CHARACTERISTICS

The Equality Act covers the same groups that were protected by existing equality legislation – age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership and pregnancy and maternity. These are now called ‘protected characteristics’ In addition the Act extends some protections to characteristics that were not previously covered, and also strengthens particular aspects of equality law.

The Protected Characteristics key points:

- Age
- Disability
- Gender Reassignment
- Marriage and Civil Partnership
- Pregnancy and Maternity
- Race including colour, nationality, ethnic or national origin.
- Religion or Belief
- Sex
- Sexual Orientation

#### Age

The Act protects people of all ages. However, different treatment because of age is not unlawful direct or indirect discrimination if you can justify it, i.e. if you can demonstrate that it is a proportionate means of meeting a legitimate aim. Age is the only protected characteristic that allows employers to justify direct discrimination.

#### Disability

The Act has made it easier for a person to show that they are disabled and protected from disability discrimination. Under the Act, a person is disabled if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities, which would include things like using a telephone, reading a book or using public transport.

As before, the Act puts a duty on the College to make reasonable adjustments to help staff overcome disadvantage resulting from an impairment (eg by providing assistive technologies to help visually impaired staff use computers effectively).

The Act includes a new protection from discrimination arising from disability. This states that it is discrimination to treat a disabled person unfavourably because of something connected with their disability (eg a tendency to make spelling mistakes arising from dyslexia). This type of discrimination is unlawful where the employer or other person acting for the employer knows, or could reasonably be expected to know, that the person has a disability. This type of discrimination is only justifiable if an employer can show that it is a proportionate means of achieving a legitimate aim.



Additionally, indirect discrimination now covers disabled people. This means that a job applicant or employee could claim that a particular rule or requirement you have in place disadvantages people with the same disability. Unless you could justify this, it would be unlawful.

The Act also includes a new provision which makes it unlawful, except in certain circumstances, for employers to ask about a candidate's health before offering them work.

### **Gender reassignment**

The Act provides protection for trans people. A trans person is someone who proposes to, starts or has completed a process to change his or her gender. The Act no longer requires a person to be under medical supervision to be protected – so a woman who decides to live as a man but does not undergo any medical procedures would be covered.

It is discrimination to treat trans 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**

The Act protects employees who are married or in a civil partnership against discrimination. Single people are not protected.

### **Pregnancy and maternity (no change)**

A woman is protected against discrimination on the grounds of pregnancy and maternity during the period of her pregnancy and any statutory maternity leave to which she is entitled. During this period, pregnancy and maternity discrimination cannot be treated as sex discrimination. The College must not take into account an employee's period of absence due to pregnancy-related illness when making a decision about employment.

### **Race**

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

### **Religion or belief**

In the Equality Act, religion includes any religion. It also includes a lack of religion, in other words employees or jobseekers are protected if they do not follow a certain religion or have no religion at all. Additionally, a religion must have a clear structure and belief system. Belief means any religious or philosophical belief or a lack of such 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 a protected religion or religious belief.

Discrimination because of religion or belief can occur even where both the discriminator and recipient are of the same religion or belief.



**Sex**

Both men and women are protected under the Act.

**Sexual orientation**

The Act protects bisexual, gay, heterosexual and lesbian people. The college additionally recognises non-binary people as protected.

## APPENDIX 2

### TYPES OF DISCRIMINATION: DEFINITIONS

#### **Direct discrimination**

Direct discrimination occurs when someone is treated less favourably than another person because of a protected characteristic they have or are thought to have (see perception discrimination below), or because they associate with someone who has a protected characteristic (see discrimination by association below).

#### **Discrimination by association**

Already applies to race, religion or belief and sexual orientation. Now extended to cover age, disability, gender reassignment and sex. This is direct discrimination against someone because they associate with another person who possesses a protected characteristic.

#### **Perception discrimination**

Already applies to age, race, religion or belief and sexual orientation. Now extended to cover disability, gender reassignment and sex. This is direct discrimination against an individual because others think they possess a particular protected characteristic. It applies even if the person does not actually possess that characteristic.

#### **Indirect discrimination**

Already applies to age, race, religion or belief, sex, sexual orientation and marriage and civil partnership. Now extended to cover disability and gender reassignment.

Indirect discrimination can occur when you have a condition, rule, policy or even a practice in your company that applies to everyone but particularly disadvantages people who share a protected characteristic. Indirect discrimination can be justified if you can show that you acted reasonably in managing your business, i.e. that it is 'a proportionate means of achieving a legitimate aim'. A *legitimate aim* might be any lawful decision you make in running your business or organisation, but if there is a discriminatory effect, the sole aim of reducing costs is likely to be unlawful.

Being proportionate really means being fair and reasonable, including showing that you've looked at 'less discriminatory' alternatives to any decision you make.

#### **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".

Harassment applies to all protected characteristics except for pregnancy and maternity and marriage and civil partnership. Employees will now be able to complain of behaviour that they find offensive even if it is not directed at them, and the complainant need not possess the relevant characteristic themselves.

Employees are also protected from harassment because of perception and association.

### **Third party harassment**

Already applies to sex, however this has now been extended to cover age, disability, gender reassignment, race, religion or belief and sexual orientation.

The Equality Act makes you potentially liable for harassment of your employees by people (third parties) who are not employees of your company, such as customers or clients. You will only be liable when harassment has occurred on at least two previous occasions, you are aware that it has taken place, and have not taken reasonable steps to prevent it from happening again.

### **Victimisation**

Victimisation occurs when an employee is treated badly because they have made or supported a complaint or raised a grievance under the Equality Act; or because they are suspected of doing so. An employee is not protected from victimisation if they have maliciously made or supported an untrue complaint.

There is no longer a need to compare treatment of a complainant with that of a person who has not made or supported a complaint under the Act.

## APPENDIX 3

### **The Rehabilitation of Offenders**

People with criminal records are protected by the **Rehabilitation of Offenders Act 1974**, which makes it unlawful for an employer to take account of (or be informed of) a person's previous offending history once the conviction has become spent. However, some sentences cannot be spent, and others may be 'spent' but still have to be declared if the employment involves nursing, social work, working with children in care or people with learning difficulties, handling money or national security (if relevant).

The Disclosure and Barring Service (DBS) was introduced by **The Police Act 1997**. This gave rise to employees and applicants in sensitive jobs having to give consent to a search being made for details of any previous or current convictions and for employers to be advised of the outcome by way of a Disclosure service.

The Disclosure service provides a means for Human Resources (HR) to carry out checks through the DBS on staff or applicants and allows for decisions to be made about recruiting staff who have a criminal record.

Applicants are offered equal opportunities when going through the recruitment process. They are informed at the outset that they have the opportunity to discuss criminal convictions, 'spent' or 'unspent', in confidence with a HR representative.

All posts at Colchester Institute are subject to an Enhanced Disclosure check. Therefore, anyone who applies to work at Colchester Institute will be expected to declare any convictions 'spent' or 'unspent' and will be subject to consideration of suitability for appointment in accordance with the College's policies and procedures.

Please refer to the College's Safer Recruitment Policy which refers to the College's use of the Disclosure service, how job applications from ex-offenders are considered and how Disclosure information is to be dealt with.

### **Data Protection**

When collecting, storing and analysing data full account must be taken of the Data Protection Act 2018. Therefore it is imperative to ensure that personal data collected is used appropriately in accordance with the Act. Please refer to the College's Data Protection Policy for more information.

## **Annex 1 – Examples of types of discrimination**

### Direct discrimination

Paul, a senior manager, turns down Angela's application for promotion to a supervisor position. Angela, who is a lesbian, learns that Paul did this because he believes the team that she applied to manage are homophobic. Paul thought that Angela's sexual orientation would prevent her from gaining the team's respect and managing them effectively. This is direct sexual orientation discrimination against Angela.

### Discrimination by association

June works as a project manager and is looking forward to a promised promotion. However, after she tells her boss that her mother, who lives at home, has had a stroke, the promotion is withdrawn. This may be discrimination against June because of her association with a disabled person.

### Perception discrimination

Jim is 45 but looks much younger. Many people assume that he is in his mid 20s. He is not allowed to represent his company at an international meeting because the Managing Director thinks that he is too young. Jim has been discriminated against on the perception of a protected characteristic.

### Indirect discrimination

A small finance company needs its staff to work late on a Friday afternoon to analyse stock prices in the American finance market. The figures arrive late on Friday because of the global time differences. During the winter some staff would like to be released early on Friday afternoon in order to be home before sunset – a requirement of their religion. They propose to make the time up later during the remainder of the week. The company is not able to agree to this request because the American figures are necessary to the business, they need to be worked on immediately and the company is too small to have anyone else able to do the work. The requirement to work on Friday afternoon is not unlawful indirect discrimination as it meets a legitimate business aim and there is no alternative means available.

### Harassment

Paul is disabled and is claiming harassment against his line manager after she frequently teased and humiliated him about his disability. Richard shares an office with Paul and he too is claiming harassment, even though he is not disabled, as the manager's behaviour has also created an offensive environment for him.

Steve is continually being called gay and other related names by a group of employees at his work. Homophobic comments have been posted on the staff noticeboard about him by people from this group. Steve was recently physically pushed to the floor by one member of the group but is too scared to take action. Steve is not gay but heterosexual; furthermore the group know he isn't gay. This is harassment because of sexual orientation.

### Harassment by others

Chris manages a Council benefits Office. One of his staff, Frank, is gay. Frank mentions to Chris that he is feeling unhappy after a claimant made homophobic remarks in his hearing. Chris is concerned and monitors the situation. Within a few days the claimant makes further offensive remarks. Chris reacts by having a word with the claimant, pointing out that this behaviour is unacceptable. He considers following it up with a letter to him pointing out that he will ban him if this happens again. Chris keeps Frank in the picture with the actions he is taking and believes he is taking reasonable steps to protect Frank from harassment.

### Victimisation

Anne makes a formal complaint against her manager because she feels that she has been discriminated against because of marriage. Although the complaint is resolved through the organisation's grievance procedures, Anne is subsequently ostracised by her colleagues, including her manager. She could claim victimisation.

### Pregnancy and Maternity

Lydia is pregnant and works at a call centre. Lydia's manager know that she is pregnant but disciplines her for taking too many toilet breaks as the manager would for any other member of staff. This is discrimination because of pregnancy and maternity as this characteristic doesn't require the normal comparison treatment of other employees.