



Review Sheet



Last Reviewed
18 Aug '23



Last Amended
18 Aug '23



Next Planned Review in 12 months, or
sooner as required.

Business impact



Changes are important, but urgent implementation is not required, incorporate into your existing workflow.

Reason for this review

Client request

Were changes made?

Yes

Summary:

This policy underpins each employer's approach to discrimination and equal opportunities. It can assist should any claim be brought for discrimination as, if the employer can show that it has a properly implemented its equality and diversity policy, this can be used in defence of such a claim. As the sanctions for non-compliance are contained in other policies this is more for reference purposes, hence the lower business impact. The policy has been reviewed and updated to add in a section regarding neurodiversity and what an employer should do, should an employee disclose they suffer from a neurodiverse condition. The references have been checked and further reading on neurodiversity has also been added.

Relevant legislation:

- Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2012 (Amendment to Parts 4 & 5)
- Care Quality Commission (Registration) and (Additional Functions)
- Care Quality Commission (Registration) Regulations 2009
- Equality Act 2010
- Equality Act 2010: Chapter 1 (Protected Characteristics) Chapter 2 (Prohibited Conduct) and Chapter 3 (Services and Public Functions)
- Data Protection Act 2018
- Gender Recognition Act 2004
- UK GDPR

Underpinning knowledge - What have we used to ensure that the policy is current:

- Author: Equality and Human Rights Commission, (2011), *Employment Statutory Code of Practice*. [Online] Available from: [Accessed:]
- Author: Government, (2010), *Equality Act 2010*. [Online] Available from: <https://www.legislation.gov.uk/ukpga/2010/15/contents> [Accessed: 18/8/2023]
- Author: Equality and Human Rights Commission, (2019), *Equality Act guidance*. [Online] Available from: <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-guidance> [Accessed: 18/8/2023]
- Author: EQUALITY AND HUMAN RIGHTS COMMISSION, (2022), *What is the Equality Act?*. [Online] Available from: <https://www.equalityhumanrights.com/en/equality-act-2010/what-equality-act> [Accessed: 18/8/2023]

Suggested action:

- Encourage sharing the policy through the use of the QCS App

Equality Impact Assessment:

QCS have undertaken an equality analysis during the review of this policy. This statement is a written record that demonstrates that we have shown due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations with respect to the characteristics protected by equality law.





1. Purpose

1.1 To ensure that all members of staff can work in an environment that is free from harassment or discrimination.

1.2 First Option Healthcare Limited is committed to ensuring that all members of staff and job applicants receive equal treatment, regardless of their Protected Characteristics.

1.3 This policy applies to all aspects of employment with First Option Healthcare Limited. For the avoidance of doubt, this includes recruitment, pay and conditions, training, appraisals, promotion, conduct at work, disciplinary and grievance procedures, business trips or at work-related events or social functions and termination of employment.

1.4 To support First Option Healthcare Limited in meeting the following Key Lines of Enquiry/Quality Statements (New):

| Key Question | Key Lines of Enquiry | Quality Statements (New) |
|--------------|--|---|
| SAFE | S1: How do systems, processes and practices keep people safe and safeguarded from abuse? | QSS3: Safeguarding |
| WELL-LED | W2: Does the governance framework ensure that responsibilities are clear and that quality performance, risks and regulatory requirements are understood and managed? | QSW5: Governance, management and sustainability |

1.5 To meet the legal requirements of the regulated activities that {First Option Healthcare Limited} is registered to provide:

- Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2012 (Amendment to Parts 4 & 5)
- Care Quality Commission (Registration) and (Additional Functions)
- Care Quality Commission (Registration) Regulations 2009
- Equality Act 2010
- Equality Act 2010: Chapter 1 (Protected Characteristics) Chapter 2 (Prohibited Conduct) and Chapter 3 (Services and Public Functions)
- Data Protection Act 2018
- Gender Recognition Act 2004
- UK GDPR



2. Scope

2.1 The following roles may be affected by this policy:

- All staff

2.2 The following Service Users may be affected by this policy:

- Service Users

2.3 The following stakeholders may be affected by this policy:

- Family
- Commissioners



3. Objectives

- 3.1** To set out the zero-tolerance approach of First Option Healthcare Limited to the perpetrators of discrimination in the workplace.
- 3.2** To ensure that First Option Healthcare Limited has an open and transparent approach to all aspects of employment, free from discrimination.
- 3.3** To ensure that all members of staff are able to thrive in an inclusive environment.
- 3.4** To create a working environment which enables everyone to work to the best of their skills and abilities without the threat of discrimination or harassment in the workplace.



4. Policy

- 4.1** All forms of discrimination are unlawful and prohibited under this policy. First Option Healthcare Limited takes a zero-tolerance approach to any type of discrimination, bullying, harassment and/or victimisation which one member of staff may perpetrate against another and/or against any other person, including but not limited to former employees, job applicants, Service Users, customers, suppliers and visitors.
- 4.2** Equally, this policy not only applies in the workplace but also outside of it when the member of staff is dealing with customers, suppliers or other work-related contacts, or when wearing a work uniform and on work-related trips or events including social events.
- 4.3** Any data collected as part of this policy will be processed in accordance with UK GDPR, data protection legislation, the Privacy Notice issued to staff and the Data Security and Data Retention Policy and Procedure of First Option Healthcare Limited. First Option Healthcare Limited appreciates that certain health data and medical reports will be special category data and First Option Healthcare Limited will process this data accordingly.
- 4.4** First Option Healthcare Limited complies with the Equality Act 2010 in all its processes regarding employees.
- 4.5** This policy does not form part of any employee's contract of employment and we may amend it at any time.



5. Procedure

5.1 First Option Healthcare Limited will provide appropriate training on Equal Opportunities. First Option Healthcare Limited is committed to following the European Human Rights Commission Employment Statutory Code of Practice and has appointed an appropriate senior manager to have responsibility for Equal Opportunities training.

5.2 Recruitment and Selection

Any selection exercises including recruitment, promotion and redundancy selection, amongst others, will be carried out with regard to objective criteria which specifically avoid any issues of discrimination. Similarly, where possible, First Option Healthcare Limited will ensure that such exercises are carried out by more than one person.

Any vacancies will be advertised to as wide and diverse an audience as possible. Such advertisements will not discourage any individual or group from applying. Job applicants will not be asked questions which might suggest an intention to discriminate on grounds of a Protected Characteristic. For example, applicants should not be asked whether they are pregnant or planning to have children.

Job applicants will not be asked about health or disability before a job offer is made, except in the very limited circumstances allowed by law, for example, to check that the applicant could perform an intrinsic part of the role, for example, heavy lifting (taking account of any reasonable adjustments), or to see if any reasonable adjustments may be required at an interview. Where necessary, job offers can be made conditional on a satisfactory medical check. Health or disability questions may be included in equal opportunities monitoring forms; these forms will not be used for selection or decision-making purposes.

5.3 Disabilities

First Option Healthcare Limited is committed to ensuring that all members of staff have the ability to thrive in their career. If a member of staff is disabled or becomes disabled, whether this disability is obvious or not, First Option Healthcare Limited encourages them to tell Sarah Dennis about their condition so that First Option Healthcare Limited can consider what reasonable adjustments or support may be appropriate.

5.4 Immigration Status

First Option Healthcare Limited will not make any assumptions about immigration status based on appearance or apparent nationality.

However, First Option Healthcare Limited is required by law to ensure that all of its employees are entitled to work in the UK. Therefore, all prospective employees, regardless of nationality, must be able to prove their right to work in the UK before their employment commences at First Option Healthcare Limited. Please refer to the Right to Work Checks Policy and Procedure at First Option Healthcare Limited for further details.

5.5 Part-time and Fixed-term Work

Part-time and fixed-term employees should be treated the same as comparable full-time or permanent employees and enjoy no less favourable terms and conditions (on a pro-rata basis where appropriate), unless different treatment is justified.

5.6 Neurodiversity

Neurodiversity is a broad term that is used to describe the infinite number of ways the human brain can operate (most commonly used in the context of autism spectrum disorder (**ASD**), as well as other neurological or development conditions such as ADHD, dyslexia, dyscalculia and dyspraxia).

First Option Healthcare Limited appreciates that members of staff may be neurodivergent and First Option Healthcare Limited promotes neurodiversity within the workplace and will ensure that neurodivergent employees are not treated unfairly or suffer any detriment due to their neurodivergence.

In order to support any neurodivergent employees, First Option Healthcare Limited encourages those employees who suffer from a neurodiverse condition to speak to their line manager to inform them of their condition. First Option Healthcare Limited will deal with any information disclosed in confidence, sensitively and in accordance with its data protection requirements.

If an employee has a neurodiverse condition, their line manager may discuss with them how, if at all, their condition affects their ability to complete their role and where necessary, complete a “needs assessment” to help identify any workplace adjustments that can be put in place to support them within the workplace and help the employee complete their role. Examples of workplace adjustments that can be put in place include but are not limited to:

- Amending duties



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- Putting in place visible instructions next to equipment
- Allowing employees to use noise cancelling headphones
- Allocating work areas with more natural light; and
- Providing an area that is considered 'quiet' or a location away from busy areas

First Option Healthcare Limited is committed to ensuring that neurodivergent employees feel comfortable in the workplace and is committed to raising awareness of neurodiversity by:

- Providing training to managers on supporting neurodiverse employees
- Creating neurodiverse support networks for employees
- Encouraging employees to speak about neurodiversity; and
- Creating neurodiverse champions

5.7 Disciplinary Procedure

Any member of staff found to be in breach of this policy will be subject to disciplinary action. Serious cases of deliberate discrimination may amount to gross misconduct, resulting in dismissal.

Please see the Discipline Policy and Procedure for further information.

5.8 Grievance Procedure

If a member of staff believes that they have suffered discrimination, then they should raise these issues through the Grievances Policy and Procedure and/or the Anti-Bullying Policy and Procedure and the Harassment Policy and Procedure at First Option Healthcare Limited. A member of staff will not be bullied or victimised for raising issues under this policy. However, if a complaint is made in bad faith and/or is knowingly false, the member of staff may be subject to the Discipline Policy and Procedure of First Option Healthcare Limited.

5.9 All staff should understand their responsibility to show consideration to, and to not discriminate against, disabled colleagues, and this will be reinforced in supervision.



6. Definitions

6.1 Victimisation

- Retaliation against someone who has complained or has supported someone else's complaint about discrimination or harassment. For example, Person A raised a complaint of being subject to discrimination, following which their manager subjected Person A to a disciplinary process

6.2 Discrimination

- The act of unjustified or prejudicial treatment towards other people based on their Protected Characteristics
- There are a number of types of discrimination, including distinctions between people based on the groups, classes, or other categories to which they belong or are perceived

6.3 Bullying

- This is categorised as offensive, intimidating, malicious or insulting behaviour involving the misuse of power that can leave an employee feeling vulnerable, upset, humiliated, undermined or threatened
- Bullying is dealt with further in our Anti-Bullying Policy and Procedure

6.4 Harassment

- This includes sexual harassment and other unwanted conduct related to a protected characteristic, which has the purpose or effect of violating someone's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them
- Harassment is dealt with further in our Anti-Bullying Policy and Procedure and our Harassment Policy and Procedure

6.5 Disability Discrimination

- This includes direct and indirect discrimination, any unjustified less favourable treatment because of the effects of a disability, and failure to make reasonable adjustments to alleviate disadvantages caused by a disability

6.6 Direct Discrimination

- Treating someone less favourably because of a protected characteristic, for example, rejecting a job applicant because of their religious views or because of their sexuality

6.7 Special Category Data

- Special Category Data is a category of data which is more sensitive than normal personal data. This includes data which relates to:
 - Race
 - Ethnic origin
 - Politics
 - Religion
 - Trade union membership
 - Genetics
 - Biometrics (where used for ID purposes)
 - Health
 - Sex life; or
 - Sexual orientation

6.8 Disability

- A physical or mental impairment which has a substantial and long-term adverse effect on an individual's ability to carry out normal day-to-day activities. The effect must have lasted for 12 months or be likely to last 12 months. An effect that is likely to recur is treated as continuing for this purpose

6.9 Protected Characteristics

- Age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation

6.10 Indirect Discrimination

- A provision, criterion or practice that applies to everyone but adversely affects people with a particular protected characteristic more than others and is not justified. For example, requiring a job to be done



full-time rather than part-time may adversely affect women because they generally have greater childcare commitments than men. Such a requirement would be discriminatory unless it can be justified



Key Facts - Professionals

Professionals providing this service should be aware of the following:

- Procedures must ensure that reasonable adjustments are made in a timely manner to enable workers with disabilities to enjoy equality with colleagues
- This policy applies both in the workplace and outside of it where the individual is representing First Option Healthcare Limited
- First Option Healthcare Limited should ensure that all decisions on recruitment and internal promotions are made with reference to objective criteria which do not discriminate against any individual or group
- Issues of discrimination, harassment and victimisation should be treated with the utmost care and attention



Key Facts - People affected by the service

People affected by this service should be aware of the following:

- Service Users and those involved in their care who make derogatory statements that are of a discriminatory nature to any staff should be aware that they will be challenged about their behaviour
- Similarly, First Option Healthcare Limited may receive reports of derogatory statements made by staff from Service Users and will endeavour to investigate such reports as fully and fairly as possible



Further Reading

As well as the information in the 'underpinning knowledge' section of the review sheet we recommend that you add to your understanding in this policy area by considering the following materials:

ACAS - Discrimination and the Equality Act 2010:

<https://www.acas.org.uk/discrimination-and-the-law>

ACAS - Disability Discrimination at Work:

<https://www.acas.org.uk/disability-discrimination>

ACAS - Improving Equality, Diversity and Inclusion in your Workplace:

<https://www.acas.org.uk/improving-equality-diversity-and-inclusion>

ACAS - Discrimination Because of Pregnancy and Maternity:

<https://www.acas.org.uk/managing-your-employees-maternity-leave-and-pay/discrimination-because-of-pregnancy-and-maternity>

ACAS - When an employer may make a decision based on age, race or another protected characteristic:

<https://www.acas.org.uk/employer-decision-protected-characteristic>

ACAS - Handling a Bullying or Discrimination Complaint at Work:

<https://www.acas.org.uk/handling-a-bullying-harassment-discrimination-complaint>

Napthens - The Ageing Workforce: Creating a Diverse Workforce:

<https://www.napthens.co.uk/blog/the-ageing-workforce-creating-a-diverse-workforce/>

AfterAthena (Part of Napthens)/QCS Blog - What is your Equality, Diversity & Inclusion Focus for 2023?

<https://www.qcs.co.uk/equality-diversity-inclusion-focus-2023/>

ACAS - Thinking differently about neurodiversity podcast:

<https://www.acas.org.uk/podcast/thinking-differently-about-neurodiversity>

QCS Podcast - Neurodiversity in the Workplace:

<https://www.qcs.co.uk/hr-podcast-neurodiversity-in-the-workplace/>

BBC News - Does your company nurture neurodiverse talent?

<https://www.bbc.co.uk/news/uk-51014028>

GOV.UK - Access to Work:

<https://www.gov.uk/access-to-work>

Harassment Policy and Procedure

Anti-Bullying Policy and Procedure



Outstanding Practice

To be 'outstanding' in this policy area you could provide evidence that:

- The wide understanding of the policy is enabled by proactive use of the QCS App
- First Option Healthcare Limited offers training to members of staff who have been absent for a period (maternity, paternity, ill-health due to a disability, etc.) to meet any need
- First Option Healthcare Limited provides training to all members of staff on equality and diversity and keeps this training up to date
- First Option Healthcare Limited ensures that decisions for selection are always taken by more than one manager
- First Option Healthcare Limited considers taking positive action to remedy disadvantage, meet different needs or increase the participation of people who share a protected characteristic



Forms

Currently there is no form attached to this policy.