



Equality and Diversity Policy

May 2021

This policy can be produced in other formats such as in larger print, Braille or audio-format; it can also be translated into other languages, as appropriate.

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Note: The equal opportunity and diversity policy is referred to generally as “our policy” to promote plain language.

Section 1: Strategic Objectives

1.1. Governance Framework and Implementing Equality Policy Objectives

Orkney Islands Council has established a number of equality related policies and plans which cover the Council's activities and aim to ensure that equality matters are integrated within all our policies and practices. As part of this process, we will ensure that equality matters are integrated within all our policies and practices.

This document has been produced by Housing Services (including Papdale Halls of Residence) and is intended to ensure that we:

“act in a manner which encourages equal opportunities and in particular the observance of the requirements of the law for the time being related to equal opportunities” (Housing (Scotland) Act 2010, Section 39).

The values within this equality and diversity policy, apply specifically to all housing services.

In order to implement our equality objectives, we have developed a comprehensive equality action plan. This plan covers a wide range of inter-dependent activities and is critical to incorporating equality matters throughout all organisational services. This process is often referred to as “equality mainstreaming.”

Our equality policy does not stand alone but is supported by various specialist equality procedures. Each of these procedures is explained in Section 4.

Note: From this point onward, we refer to this policy simply as the equality policy.

1.2. Equality and Diversity Principles

We are committed to the promotion of communities that are popular and inclusive by creating an environment where people can live and work free from any form of discrimination, harassment or victimisation.

We are also committed to ensuring these principles also apply to our school care accommodation service.

We use our equality and diversity policy - and its related equality action plan - to implement the Scottish Housing Regulator's equality requirements (see Section 2).

We also use this framework so that:

“Every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services”

(Scottish Social Housing Charter, 2017).

1.3. Consultation

We develop through consultation with tenants and other service users through our Tenant Participation Strategy.

1.4. Summary

Our equality and diversity policy is central to the delivery of housing services. Our policy is supported by a range of procedures to ensure a holistic and practical approach. The central aim of this process is to mainstream equality and diversity matters throughout all housing services.

Section 2: The Legal and Regulatory Framework – A Summary

Section 2 summarises the legal and regulatory framework that govern our equality practices. It is not intended as a precise statement of law, but simply as a plain language overview.

2.1. The Legal Framework

Although the Equality Act 2010 contains most relevant equality law, equality law is covered in other laws too. It is emphasised that the legal framework is subject to ongoing change¹ (see Appendix 1). At the corporate level, Orkney Islands Council is a designated public sector body and must comply with statutory duties in respect of the Public Sector Equality Duty.² The Council must also comply with the Specific Duties that require prescribed public bodies to monitor and report on a range of equality issues linked to the protected characteristics. Information about how the Council meets the general and specific duties of the Equality Act are contained within and the reports available from <https://www.orkney.gov.uk/Council/C/Equality-and-Diversity.htm>

2.2. Equality Act 2010 (as amended)

The most important Act covering equality issues is the Equality Act 2010 (as amended). This Act addresses a broad range of equality issues, including rights and duties in respect of employment and service matters. Two main issues are now summarised, namely the protected characteristics and the public sector equality duty.

2.2.1 The Protected Characteristics

The protected characteristics are the grounds on which discrimination is unlawful (see note). The nine protected characteristics are (in alphabetical order):

- age;
- disability;
- gender re-assignment;
- marriage and civil partnership;
- pregnancy and maternity;
- race;
- religion or belief;
- sex; and
- sexual orientation.

¹ For example, a new duty in relation to addressing socio-economic disadvantage for specified public bodies came into force in 2018. This is very important as addressing poverty issues associated with social class is critical in the Scottish housing context. See SSI 2017 No. 403 The Equality Act 2010 (Commencement No. 13) (Scotland) Order 2017 introduced the duty contained in the Equality Act 2010 from 1 April 2018.

² The Equality Act 2010, section 149. This duty applies to discrimination, harassment, victimisation and any other form of conduct prohibited under the Equality Act 2010.

Note: Discrimination has various meanings under this Act so that unlawful discrimination has various legal forms with distinct meanings. Harassment or victimisation of another person is also unlawful in terms of the legislation.

2.2.2. The Public Sector Equality Duty

The Equality Act 2010 requires the Council to meet the Public Sector Equality Duty.

This Duty contains three elements, namely:

- eliminating unlawful discrimination;
- advancing equality of opportunity between persons with – and those without – a protected characteristic; and
- fostering good relations between persons with – and those without - a protected characteristic.

Equality law focusses, therefore, not simply on eliminating unlawful discrimination, but on adopting a proactive and/or preventative approach to addressing discrimination.

Note: See appendix 2 for information about two other statutory duties that Orkney Islands Council implements across all services.

2.3. Other Law

Other law is important from an equality perspective too. For example, equal opportunities is defined in Scots law.³ The statutory definition is as follows:

“Equal opportunities” means the prevention, elimination or regulation of discrimination between persons on the grounds of sex or marital status, or racial grounds, or on grounds of disability, age, sexual orientation, language or social origin, or of other personal attributes, including beliefs or opinions such as religious beliefs or political opinions”.

2.4. Housing (Scotland) Act 2010

The Housing (Scotland) Act 2010, section 39, requires every social landlord to “act in a manner to encourage equal opportunities.”

This is very important as this requirement is central to the process of equality mainstreaming.

2.5. Codes of Practice

The Equality and Human Rights Commission issues codes of practice that provide detailed guidance in respect of implementing legal duties effectively. The Council adheres to these codes in its operational practices.

³ See the Scotland Act 1998, Schedule 5, L2. This section was amended by the Scotland Act 2016.

2.6. Regulatory Standards

The Scottish Housing Regulator has published specific equality requirements that social landlords must meet.

For example, the Scottish Government regulatory financial and governance standard requires us to conduct our affairs with honesty and integrity (Standard 5) by:

“ ..paying due regard to the need to eliminate discrimination, advance equality and human rights, and foster good relations across the range of protected characteristics in all areas of its work, including its governance arrangements.”

(Scottish Government, 2019, page 14, Regulation of Social Housing in Scotland: Our Framework).

Another important regulatory document concerning equal opportunity is in relation to assurance and notification requirements. Under this, the Council must:

“Have assurance and evidence that it considers equality and human rights issues properly when making all of (our) decisions, in the design and review of internal and external policies, and in (our) day-to-day service delivery.”

Further, and to comply with these duties, landlords must collect data relating to each of the protected characteristics for their existing tenants, new tenants, people on waiting lists, governing body members and staff. Local authorities must also collect data on protected characteristics for people who apply to them as homeless. Landlords who provide Gypsy/Traveller sites must collect data on protected characteristics for these service users⁴

(Scottish Government, 2019, page 8, Regulation of Social Housing in Scotland: Our Framework).

2.7. Summary

Equality law is complex and continues to evolve. Law is supported by regulatory requirements as well as codes of practice. Our policy takes all relevant information into account to promote compliance with this framework.

⁴ We have developed an equality data collection procedure to address this requirement. This is aligned to our data protection strategy.

Section 3: Equality Policy Objectives

3.1. Rationale

Our equality policy objectives describe the values that we promote. These objectives constitute a set of activities that we implement through our equality action plan.

Objective 1

We meet all relevant law and regulatory requirements concerning equality matters; and we promote good practice throughout our services.

Objective 2

We use a comprehensive equality action plan to incorporate equality issues throughout organisational policies and practices; this is sometimes referred to by the technical term “equality mainstreaming.”

Objective 3

We use a range of specific equality procedures to implement our policy effectively, for instance, the Council’s equality impact assessment process.

Objective 4

We gather equality data as part of our statutory duties; and this data is used to provide appropriate services to our tenants and other service users.

Objective 5

We assess all public information so that it is accessible, accurate and appropriate; this includes using positive language to promote respect for other people.

Objective 6

We foster an inter-agency approach to ensure consultation with groups representative of equality issues, for example, Women’s Aid Orkney and Orkney Disability Forum.

Objective 7

We provide a range of equality training courses for our staff, including consciousness raising training that is vital to address diverse forms of discrimination.

Objective 8

We manage our performance through our comprehensive equality impact assessment procedure and our equality performance management system.

Objective 9

We have established a tenant participation strategy and consult with tenants, other customers and representative groups on our equality policy objectives.

Objective 10

We review our policy every five years, or sooner, as appropriate, for instance, due to changes in law, regulatory requirements and/or equality guidance.

3.2. Summary

We apply the policy objectives above to mainstream equality values throughout our services. Central to this process is our equality action plan that is supported by a range of specialist equality procedures.

Section 4: How We Implement Policy Objectives

In order to implement our policy objectives comprehensively, we have established specific internal procedures.

These procedures are our:

- equality action plan;
- equality data collection procedure;
- equality impact assessment procedures;
- harassment procedure; and
- appropriate language guide.

4.1. Our Equality Action Plan

Our equality action plan is comprehensive and is linked to all services carried out by Housing Services.

The action plan used a robust approach based on housing research to promote effective equality rights implementation. This framework is explained within the equality action plan.

Note: Our equality action plan is reviewed annually by the Service Manager (Housing, Homelessness and Schoolcare Accommodation).

4.2. Our Equality Data Collection Procedure

We have established a equality data collection procedure that is applied to our housing services. Equality data collection is also a key activity within our equality action plan.

The equality data collection involves a multi-disciplinary approach and draws on the following legal and guidance sources:

- data protection law and guidance⁵;
- equality law and guidance;
- family law and guidance;
- freedom of information law and guidance;
- housing law and guidance; and
- human rights law and guidance.

4.3. Our Equality Impact Assessment Procedure (EIA)

We use the Council's corporate equality impact assessment procedure to ensure that our organisational policies, procedures and other documentation comply with relevant standards.

⁵ Within the UK, key law is the Data Protection Act 2018 and the UK GDPR.

4.4. Our Harassment Procedure

Equality related harassment can occur in relation to the protected characteristics. We address discrimination and harassment – unlawful and/or unfair forms of such behaviour – through our Antisocial Behaviour Policy.

We support people who experience discrimination and/or harassment and advise them of options available to address such conduct. This is an important to develop a person-centred focus and involve individual people in the decision-making process.

4.5. Our Appropriate Language Guide

We use our appropriate language guide to promote respect for other people, including making staff aware of links between language and discrimination (or harassment). Our guide is, therefore, important in encouraging housing staff to reflect on language use and how appropriate language promotes equality values.

4.6. Summary

Our equality and diversity policy is the framework of values that we use to promote equality objectives. But this policy by itself is insufficient to achieve change. The equality policy is implemented, in effect, through our equality action plan and internal procedures. These documents are linked systemically to promote the mainstreaming of equality objectives into practice.

Section 5: Staff Training

5.1. Equality Training and Policy Implementation

Equality training is essential for effective implementation of policy objectives. Equality training also involves a range of different activities.

In planning our training, we take account of our Staff Training and Development Policy and therefore our staff training needs assessments. This ensures that training is linked to actual job roles and future development needs. Central to our training provision is the importance of staff training focused on rights and addressing the needs of individuals.⁶

This approach is essential for ensuring value for money as part of corporate Council commitments.

5.2. Examples of Equality Training

Examples of equality training for different categories are shown below using specific headings.

5.2.1. Law and Guidance

Law and guidance training covers issues such as:

- equality law in relation to services, for example, the Equality Act 2010;
- codes of practice and other good practice guidance, for instance, information produced by the Equality and Human Rights Commission; and
- regulatory provisions issued by the Scottish Housing Regulator.

5.2.2. Policy and Procedural Training

Policy and procedural training covers issues such as:

- equality policy and action plan training; and
- our equality procedures.

5.2.3. Technical Training

Technical training covers issues such as:

- carrying out effective equality impact assessments to mainstream equality objectives throughout policies and procedures;
- ensuring the accessibility of written information for our website; and
- carrying out effective equality data monitoring.

⁶ In March 2008 we successfully gained accreditation with the National Standard for Information and Advice Providers which ensures that our provision of Homelessness and Housing Advice Services meet the National Standard and are accessible to all. As part of this, all our staff are trained to the National Standard by completing the Professional Development Award in Housing Law for Advisors. This is currently delivered by Shelter Scotland. Our services are accredited by the Scottish Legal Aid Board and re-accreditation is on a 3 – 4 year cycle.

5.2.4. Consciousness Raising Training

Consciousness raising training would cover issues such as:

- recognising and assessing the different forms of discrimination and harassment and how to address them; and
- promoting awareness of theoretical perspectives that are promoted by the Scottish Government and the Equality and Human Rights Commission, for example, the social model of disability.

5.3. Summary

Equality training is critical to achieving equality mainstreaming. To be effective, equality training is linked to our Staff Training and Development Policy and our Line Management Procedures and consequently links to our Employee Review and Development system. Equality training is, therefore, a mandatory activity.

Section 6: Managing Performance

6.1. Reasons for Equality Monitoring

Performance management is essential for several reasons. Firstly, performance management of equality related activities is necessary to comply with statutory and regulatory duties.

Secondly, it is critical to assess whether our services meet quality standards for individual people, as well as assuring value for money.

Thirdly, it is important to review performance so that areas for improvement can be identified and actions implemented, as appropriate.

6.2 Using Equality Monitoring Information

Through our Annual Assurance Statement, we provide information in respect of our equalities monitoring on an annual basis.

We also use this information to review the equality policy, and other housing policies, on a regular basis and consult with tenants, where relevant, as part of this review.

Such reviews are necessary to ensure housing documents are:

- updated in the light of any legislative developments; and
- remain reflective of the views of our service users.

6.3. Summary

We monitor a range of equality issues and publish information on our performance. In housing services, we use a range of performance measures and consult about them with tenants and other service users. We do this through our Tenant Participation Strategy.

Section 7: Promoting Equality Objectives

7.1. Background

We promote equality objectives through our statutory duties, as well as by structuring our services to promote equality mainstreaming.

We also promote positive action initiatives as contained in law and guidance; these initiatives are implemented to support people with relevant protected characteristics. Positive action is distinguished from positive discrimination that is generally unlawful. These terms are explained below before describing our equality actions to promote our equality objectives.

7.2 Positive Action

Positive action initiatives are used to promote access to employment and training opportunities to persons who are under-represented in employment in housing.

Positive action initiatives can also cover housing services, for example, by encouraging under-represented groups to apply for housing. This might include people from black and minority ethnic groups.

Note: Within our equality policy, we also promote positive action to cover persons who are disadvantaged due to social class and relative poverty. For example, we provide advice and support to support tenants to maximise the income to which they are entitled.

7.3 Positive Discrimination

Positive discrimination is, in general, unlawful as this involves treating people more favourably due to one of the relevant protected characteristics, for example, due to their sex or racial group. This can apply in respect of services and/or employment.

Appointments on the basis of or sex or racial groups could be permitted in law, though, if this is essential for the specific post in question.⁷

7.4. Our Positive Action Initiatives

We consider what positive action initiatives might be required using the equality data that we gather each year. We also take account of specialist guidance on this topic.⁸

7.5. Summary

We develop positive action initiatives, as appropriate, as part of our equality action plan. These are based on an assessment of local and national equality statistical data patterns that are used to identify and assess patterns of disadvantage. Through

⁷ These are often referred to as “genuine occupational requirements.” One example of this could be appointing a woman to provide rape counselling advice to women who are victims of rape.

⁸ See, for example, the SFHA National Guidance, 2021.

this approach, we address barriers to services and training opportunities that can affect those with protected characteristics and those without such characteristics.

Section 8: Developing Partnerships

8.1 Partnership Working and Promoting Equality Objectives

Partnership working is key to comprehensive equality action planning as joint working enables resources to be pooled, as well as enhancing access to appropriate services.

We promote active local partnerships in Orkney, then, to promote the rights and interests of people living in a diverse range of communities.

8.2. Our Partner Organisations

We consult or work with a range of organisations to promote equality objectives. Examples of these organisations are:

- Orkney Blide Trust;
- Orkney Disability Forum;
- Voluntary Action Orkney.

8.3. Summary

Partnership working is central to our equality strategy. We work with agencies, both locally and nationally, to promote our equality objectives.

Section 9: Appeals or Complaints

9.1. Appeals

We provide information to tenants and other service users of how to access advice and assistance to promote appeals relating to equality issues.

Appeals about housing services would be to the Sheriff Court.

9.2. Complaints

Orkney Islands Council operates a corporate means of recording and dealing with complaints. Further information can be found in our leaflet on complaints.

9.3. Summary

We provide advice and information as to where individuals can seek independent legal advice. This is in line with our commitment to promote human rights, in particular so that people can access a fair and independent hearing. We also provide tenants and other customers with information about our complaints process.

Section 10: Policy Consultation and Review

10.1. Consultation on our Equality and Diversity Policy

Consultation is part of our Tenant Participation Strategy and we use a wide range of consultation methods to reflect the needs of people in our community. These methods also take into account accessibility requirements of disabled people.

This equality policy deals specifically with equal opportunities in the delivery of housing services. The framework for this is determined by legislation but it is vital to provide efficient services to our tenants that are:

- sensitive to the rights and needs of individuals;
- considerate to their individual situations and
- ensure that we maximise the use of our stock.

The consultation arrangements for this document are, as well as our tenant participation strategy, closely linked to the following activities, namely our:

- advice and information strategy;
- ongoing assessment of the Homelessness Service and
- drive to improve our strategic documents to ensure openness and clarity.

The process of consultation involves a range of activities including:

- a discussion with our Residents' Panel;
- Consultation interlinked with the development of our revised Tenant Participation Strategy;
- assessment of existing documentation and/or practices;
- focus groups and/or working parties involving tenants and other service users;
- staff consultation; and
- media including social media, for example, articles in Housing News.

10.2. Review of Equality and Diversity Policy

We review our Equality and Diversity Policy every five years or sooner, as appropriate. For instance, we may review our Equality Policy due to changes to law or regulatory requirements.

10.3. Summary

We consult with tenants and other service users when developing our Equality Policy. This is based on law and good practice in line with our Tenant Participation Strategy, as well as other internal processes.

Appendices

Appendix 1: Law and Guidance

This section notes two key laws and where guidance is available relating to equality matters. A more complete list of relevant laws and guidance is not provided as this is quickly outdated due to ongoing changes as law and guidance evolve.

Key laws

Equality Act 2010 (as amended).

Human Rights Act 1998 (as amended)

Secondary legislation

There is a large number of statutory instruments (and Scottish statutory instruments) available on the Scottish Government website.

Equality and Human Rights Commission

The statutory and non-statutory codes are available on the Equality and Human Rights Commission's website.

Housing Guidance

Guidance on equality practices is comprehensive and covers many issues, both specialist and general.

With reference to housing specifically, examples of guidance and research are as follows:

SFHA (2021): Collecting Equality Information: Guidance for Scottish Social Landlords.

CIH (2010) Equalities and Diversity in Housing, CIH Scotland.

CIH (2011) Delivering the Equality Act 2010, CIH.

CIH (2009) Equality, Diversity and Good Relations in Housing, Good Practice Brief, CIH.

Appendix 2: Public Sector Equality Duty

The Specific Duties

Designated public bodies are also subject to what are known as the Specific Duties. These duties require prescribed public bodies to monitor and report on a range of equality issues linked to the protected characteristics.

The main issues to be monitored cover (in plain language):

- equality mainstreaming;
- equality outcomes, including progress through time;
- an assessment of new or revised policies and practice (“equality impact assessment”);
- the gathering, usage and publication of employee information;
- the usage and publication of Elected Members’ data;
- information about any gender pay gaps;
- an equal pay statement;
- award criteria and contract conditions in relation to public procurement; and
- publish information in a manner which is accessible.

The Socio-economic Duty / Fairer Scotland Duty

This important Duty applies to designated public authorities and is intended to address socio-economic disadvantage. This refers to inequality that arises due to relative poverty arising largely from people’s economic and social position within society. This Duty is particularly important from the perspective of disability-related employment matters given their disproportionate representation in the workplace.

This is a complex, multi-dimensional problem, closely related to poverty. Having less access to resources can mean that individuals fare worse on outcomes including health, housing, education or opportunities to work or train, and these negative outcomes can reinforce each other. Adversity in childhood can have life-long impacts, and growing up in poverty is associated with poorer educational attainment, employment prospects and health inequalities. Therefore it is crucial that public bodies consider the impact that their decisions have on socio-economic disadvantage and the inequality of outcome that both adults and children may experience as a result. The Equality Impact Assessment incorporates the requirements of the Fairer Scotland Duty and includes sections on socio-economic deprivation as part of the overall assessment process.

Appendix 3: Useful Contacts

Service.	Contact Details.
Housing Services.	Council Offices, Kirkwall. Telephone: 01856873535. Fax: 01856886530. Email: housing@orkney.gov.uk
Age Scotland.	6 Bridge Street, Kirkwall. Telephone: 01856872438. Fax: 01856875455.
Citizen's Advice Bureau.	Anchor Buildings, Bridge Street, Kirkwall. Telephone: 01856875266.
Orkney Disability Forum.	1 Mackay's Buildings, Junction Road, Kirkwall. Telephone: 01856870340. Email: odf@orkney.com
Relationships Scotland.	Orkney Counselling and Support Centre, 1st Floor, Travel Centre, West Castle Street, Kirkwall, KW15 1GU. Telephone: 01856877750. Email: enquiries@rsorkney.org.uk
The Talking Newspaper.	Orkney Library, Junction Road, Kirkwall. Telephone: 01856873843.
Women's Aid Orkney.	Junction Road, Kirkwall, Orkney, KW15 1HR. Telephone: 01856877900. Email: womensaidorkney@btconnect.com
Equalities and Human Rights Commission.	The Optima Building, 58 Robertson Street, Glasgow, G2 8DU. Telephone: 08088000082. Email: scotland@equalityhumanrights.com Website: www.equalityhumanrights.com/scotland
The Mental Welfare Commission for Scotland.	Thistle House, 91 Haymarket Terrace, Edinburgh, EH2 5HE. Helpline: 08003896809. Email: enquiries@mwscot.org.uk Website: www.mwscot.org.uk