

# Sexual Orientation Equality Policy



A LONG-STANDING TRADITION OF EXCELLENCE

# Appendix C

## Sexual Orientation Equality Policy

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## **Introduction**

Nelson and Colne College is fully committed to combating the discrimination faced by lesbians, gay men and bisexuals (LGB).

The College will respect the rights of LGB individuals to be open and honest about their sexual orientation. We will tackle homophobia, challenge stereotyping, harassment and discrimination of LGB people. We will actively strive to improve all of our local community's knowledge about LGB communities, both internally and in the wider community as a whole.

Nelson and Colne College recognises that the Civil Partnerships Act 2005 introduces new legal rights and responsibilities for same sex couples in registered partnerships. The College will fully respect these rights.

Many Lesbian, Gay and Bisexual people still feel unable or unsafe to reveal their sexual orientation at work and in learning environments. Lesbian, gay and bisexual employees, learners, service users and clients now find themselves in the position where they are protected from discrimination. Employers and service providers that fail to acknowledge, or are unaware of their legal responsibilities may leave themselves open to legal challenge.

In recent decades there has been a positive improvement to the civil and human rights of lesbian, gay and bisexual people. However, they still face open hostility, prejudice and discrimination. This Policy will outline the College's commitment to sexual orientation equality.

## **Purpose of this Policy**

This Policy sets out how Nelson and Colne College will work towards the elimination of discrimination on the grounds of sexual orientation in all of its activities. It outlines how the College will ensure that discrimination on the grounds of sexual orientation is challenged and eliminated through legislation and good practice.

## **Legal Responsibilities**

Discrimination on the grounds of sexual orientation in employment practices has been unlawful since December 2003 in the workplace. Legal protection is given to lesbian, gay and bisexual employees through the Employment Equality (Sexual Orientation)

Regulations 2003. These Regulations which came into force on 1 December 2003 make it unlawful for an employer to discriminate against an employee on the grounds of sexual orientation.

The Equality Act (Sexual Orientation) Regulations 2007 came into force on 30 April 2007 and is Part 3 of the Equality Act 2006. It contains measures prohibiting discrimination on the grounds of sexual orientation in the provision of goods, services and facilities. The 2007 Regulations provide protection from sexual orientation discrimination on par with protection already provided on the grounds of race, sex, disability, age, religion or belief.

The Regulations prohibit discrimination on the basis of a person's:

- Actual sexual orientation
- The sexual orientation he/she is thought to have and/or
- The sexual orientation of someone with whom he or she is associated

Sexual orientation is defined as an individual's sexual orientation towards:

- People of the same sex as him or her (gay or lesbian)
- People of the opposite sex (heterosexual)
- People of both sexes (bisexual)

It does not include transsexuality which is related to gender and is covered by sex discrimination legislation.

The Regulations apply to all forms of goods, services and facilities and cover:

- Access to and use of a place that the public is permitted to enter
- Accommodation and establishments, such as hotels and boarding houses
- Facilities for banking, insurance, grants, loans, credit or finance
- Facilities for entertainment, recreation or refreshment
- Facilities for travel or transport
- Professional or trade services

Discrimination is unlawful whether or not a charge is made for the goods, facilities or services.

Discrimination against lesbians, gay or bisexuals can be both direct and indirect. The Regulations do not change the existing legal position regarding civil partnerships. Businesses, local authorities, education and training providers will not be able to discriminate between married persons and civil partners on the grounds of their sexual orientation. Civil partners will now be able to bring a claim of discrimination on the grounds of sexual orientation against a provider of goods or services who denies them access to a benefit or service being offered to a married person in a similar situation.

The Regulations make it unlawful to adopt or maintain a discriminatory practice. Similarly the Regulations make it unlawful to publish an advertisement for goods, facilities or services that discriminates on the grounds of sexual orientation.

Under the Regulations, employers are liable for the action of their employees and agents, whether or not they know about or approve of the act. It is a defence, however, for the employer to prove that they took such steps that were reasonable and practicable to prevent discrimination taking place. Organisations will therefore need to take steps to ensure that their employees and agents are aware of the Regulations, and understand the implications for their employment and service delivery.

## **Sexual Orientation Equality Impact Assessments (EqIAs)**

### **What is the Purpose of an EqIA?**

Nelson and Colne College should have 'due regard' to the parts of the duty that make up the general duty. This means that the weight given to sexual orientation equality should be proportionate to its relevance to a particular function. Some functions, particularly of a technical nature, may be judged as not being relevant to the duty. Greater consideration and effort should therefore be directed at functions and policies which have most effect on students, the public, or on College's employees. The College's concern will be to ask whether particular policies could affect lesbians, gay or bisexuals in different ways and whether the policies will promote good practice.

The College will follow the statutory guidance by considering the following four steps to meet the general duty:

- Identify which functions and policies are relevant to the duty or, in other words, have the most effect on equality of sexual orientation
- Put the functions in priority order, based on how relevant they are to equality of sexual orientation

- Assess whether the way these ‘relevant’ functions and policies are being carried out meets the criteria within the General duty
- Consider whether any changes need to be made to meet the duty, and make the changes

The purpose of an Equality Impact Assessment (EqIA) is therefore to improve the work of the College by making sure it does not discriminate and that, where possible, it promotes equality. It is a way to make sure individuals and teams think carefully about the likely impact of their work on equality target groups and take action to improve policies, services, strategies, procedures and functions. It also involves anticipating the consequences of policies and projects on the target groups and making sure that, as far as possible, any negative consequences are eliminated or minimised and opportunities for promoting equality are maximised.

### **Where does an EqIA come from?**

Equality Impact Assessments originate from the Race Relations (Amendment) Act 2000, the Disability Discrimination Act 2005.

The College’s process is therefore aimed at assessing the impact of policies, strategies, functions or projects across these six equality groups.

### **What is meant by “Impact”?**

The College will look at two possible impacts in its assessment:

#### 1. A negative or adverse impact:

This is an impact that could disadvantage one or more equality groups. This disadvantage may be differential, where the negative impact on one particular group of individuals or one equality group is likely to be greater than on another. The Equality Impact Assessment provides an opportunity to assess this.

For example: if an organisation refused to provide customers who have had an HIV test with access to its services, this could indirectly discriminate against Gay men who are more likely to have had such a test.

#### 2. A positive impact:

An impact that could have a positive impact on one or more equality target groups, or improve equal opportunities and/or relationships between groups. This positive impact may be differential, where the

positive impact on one particular group of individuals or one equality group is likely to be greater than on another.

For example: it would be lawful to advertise a service as 'Gay friendly'. However, it would be unlawful for there to be any implication in the advertisement that clients of a different orientation would be refused access to that service.

### **When should an Equality Impact Assessment be carried out?**

An Equality Impact Assessment should be carried out when:

- Developing a new policy, service, strategy, procedure or function
- Reviewing existing policies, procedures, or functions
- A policy, procedure, function or strategy has been identified as requiring an EqlA by partnership working, Academies, service areas, Senior Management Team, or Governors

All managers are responsible for incorporating equalities into their policies, procedures, functions or strategies, and for assessing the equalities impacts. This should be a continuous cycle, starting at the very beginning of the process. If there is any doubt as to whether a policy, strategy or function requires initial screening, managers should contact a member of the Equality and Diversity working group or Human Resources for guidance and assistance.

The Equality Impact Assessment consists of two parts:

1. The initial screening process.
2. The more thorough full assessment if the initial screening has identified an adverse / negative impact

### **Initial Screening**

This part of the Equality Impact Assessment form should be completed during the development or review stage before approval for the policy, service, strategy, procedure or function. Once initial screening has been completed, a full assessment is only required if:

- Any equality group was identified as being disadvantaged or negatively impacted by the policy / strategy / project
- The impact was assessed as of high significance
- The impact was not intentional and/or illegal, i.e. discriminatory under anti discrimination legislation

Completing an EqlA is similar to a risk assessment as it involves predicting and assessing the implications of a policy, service, strategy, procedure or function on a wide range of people with different needs. Furthermore, this should not be carried out in isolation, but with the support and advice of others. Effective consultation with stakeholders is a key ingredient in conducting Equality Impact Assessments. At the preliminary screening stage, it should become obvious whether there is a negative or positive impact or gaps in knowledge about likely impacts. It should be a relatively short process which makes use of previous consultation results, personal knowledge and experience, research and reports, internet searches, internal and external specialist advice, staff with previous experience of similar strategies or projects etc. If there is a lack of data or information concerning a particular area, this should not be a reason to stop the process. If the likely impact on a particular group is unknown, then action needs to be taken to acquire this information.

### **Full Impact Assessment**

This part provides an opportunity to assess the evidence for a possible negative impact. It ensures that research and consultation with the equality target groups has been carried out and leads to an improvement plan aiming to minimise the negative impact and, where possible, maximise the positive impact.

Consultation involves engaging with representatives from equality groups who are likely to be affected by the policy, strategy or project. This could include engaging with staff and students, staff and student networks or trade unions, other public bodies or voluntary and community groups. It is important to ensure sufficient time and resources are dedicated to the consultation process to encourage full participation, particularly by those we have traditionally failed to reach.

The public will be able to examine completed EqlAs if they request to see them and summary information about EqlAs should be available on the College's Website.

Publishing the results of EqlAs is key to establishing accountability and maintaining public confidence. It will demonstrate that the College is committed to promoting equality, monitoring, assessing and consulting on the effects of its policies, services, strategies, procedures or functions.

Each main strategy and function will be assessed as being of high, medium or low priority. Apart from the main corporate strategies and policies, the service areas managed by Heads of Service will be the basic units for the assessment of functions and policies. More detailed work, following the preliminary screening, will be carried out in two phases, thus validating the degree of relevance, if any,

and hence priority, and identify the work that needs to be done on functions and policies in order to comply with the duty.

An Equality and Diversity working group with members drawn from across the College will co-ordinate the process, develop internal guidance and otherwise support Service Heads and strategy review teams in their work. The Equality and Diversity working group will produce a detailed timetable and ensure it is adhered to and that action plans are drawn up and implemented.

### **Monitoring, Reviewing and Reporting**

The Nelson and Colne College Senior Management Team is ultimately responsible for ensuring that the planning and provision of our services meet the needs of all our Students, clients and employees. The Equality and Diversity working group is responsible for monitoring the progress we make on equality in sexual orientation. Additionally, all learners, staff and governors have a duty to ensure equality for lesbian, gay and bisexual persons in everything they do, and collectively they are responsible for realising the commitments outlined in this policy.

### **Review and Annual Reporting**

We will report annually on the progress we have made towards equality in sexual orientation. To help us do this effectively, we will ask all members of staff and relevant stakeholders for their feedback.

The Equality and Diversity working group will meet termly to review the College's progress on sexual orientation equality. Progress will also be monitored and managed across the organisation through our performance management framework.

This Sexual Orientation Equality Policy will be subject to on-going review.

## Sexual Orientation Action Plan

No.	Objective	Action	Responsibility	Measuring Success	Timescale	Link to other policies
1	The College meets, in full, legislative requirements and actively promotes equality and diversity in relation to sexual orientation amongst staff, students, employers, parents and other partners as a requirement of legislation					
2	The College ensures that all equality and diversity staff development initiatives include sexual orientation					
3	The College manages incidents and complaints specifically about sexual orientation					
4	The College actively celebrates contributions from all student groups and cultures specifically in relation to sexual orientation					



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