

Isle of Wight Council  
**EQUALITY POLICY  
STATEMENT AND  
GUIDANCE**  
**SEPTEMBER 2015**

# 1 Document Information

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### 3 Equality Policy Statement

The Isle of Wight Council is committed to achieving equality of opportunity in our employment practices and provision of services. The policy is explicitly linked to the requirements of the Council as an employer and provider of services in adhering to the Equality Act 2010 which clearly defines how we manage our relationships with workers and prospective workers.

We are committed to promoting equality of opportunity for all workers and job applicants. We aim to create a working environment in which all individuals are able to make best use of their skills, free from discrimination or harassment and in which all decisions are based on merit. It is our responsibility to ensure that all of our management practices are free from discrimination and that service users do not discriminate against our workers.

The contributions of all our workers are valued as it is recognised that each individual brings different skills and abilities to their role according to their own personal experience and we welcome the opportunity to make the best use of this potential.

This policy statement and the guidance contained within this document, cover all individuals working at all levels and grades, including officers, directors, employees, consultants, contractors, trainees, homeworkers, part-time and fixed-term employees, volunteers, casual workers and agency workers (collectively referred to as workers in this document).

This policy statement also applies to all aspects of our relationship with workers and to relations between workers at all levels. This includes job advertisements, recruitment and selection, training and development, opportunities for promotion, conditions of service, pay and benefits, conduct at work, disciplinary and grievance procedures, and termination of employment.

We will:

- Commit to preventing:
  - direct and indirect discrimination;
  - harassment, victimisation and unfair treatment;
- Ensure that there is equity of treatment by the elimination of conditions, requirements, procedures and practices that are discriminatory and unjustified;
- Plan and implement positive action where this is found to be needed. Guidance on the use of positive action is available [here](#).

We will not discriminate against any workers on the basis of age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race, colour, nationality, ethnic or national origin, religion or belief, sex or sexual orientation (protected characteristics).

The principles of non-discrimination of opportunity also apply to the way in which workers treat visitors, clients, customers, suppliers and former workers.

All workers have a duty to act in accordance with this policy and treat colleagues with dignity at all times, and not to discriminate against or harass other workers, regardless of their status. Our [Protection from Harassment and Bullying Policy](#) provides full guidelines on appropriate behaviour in the workplace (also see section 4.4 below).

As well as accepting its responsibilities under current legislation, we are committed to addressing inequality where we are able to and use policies and processes to make the Isle of Wight Council a diverse and dynamic workplace. We understand that equalities extend into all of the services we provide as well as in our employment policies and practices. We recognise that people can be discriminated against and disadvantaged in employment, and that passive policies may not reverse this discrimination and disadvantage. We will take steps to ensure equality of opportunity in employment through positive action.

Managers must ensure that all workers are aware of the standards of behaviour and conduct expected of them at work and should set an example. Managers must also ensure that they apply standards fairly and consistently. If any employee feels that they have been subjected to discrimination, or victimisation, as defined within these guidelines, they should first speak to their line manager wherever possible. They may also wish or prefer to speak with their trade union representative, or other employee representative. A member of staff may also use the Council's [grievance procedure or whistleblowing at work policy](#) (also available to agency workers) to take action to seek a resolution to an issue, but it is recommended that informal channels are exhausted first.

This policy statement does not form any part of any employee's contract and may be amended at any time.

## **4 EQUALITY POLICY STATEMENT PRACTICE GUIDANCE**

### **4.1 Equality Act 2010 – Protected Characteristics**

The Equality Act 2010 defines a number of characteristics that are now protected from discrimination. These are:

- Age
- Disability
- Gender reassignment (“sex change”)
- Marriage and civil partnership
- Pregnancy and maternity
- Race (including ethnic or national origin, colour and nationality)
- Religion or belief (including lack of belief)
- Sex
- Sexual orientation (“heterosexuality, homosexuality or bisexuality”)

### **4.2 What does the Act cover in relation to employment?**

The Act provides protection against discrimination, victimisation (treating someone less favourably because they exercise, or intend to exercise, their rights under a specific piece of legislation) and harassment on any of the above grounds throughout the whole employment relationship, including:

- recruitment and selection
- terms of employment
- benefits provided during employment and on termination
- promotion opportunities
- access to learning, training and development
- dismissal (including redundancy)
- retirement
- harassment



The Act also allows for protection by association. In practice this means that someone may be affected by discrimination, victimisation and hate crime (see 14 and 14.1 below) who themselves do not belong in any of the groups listed above at 4.1, but by association with someone else who does belong to one of those groups.

**Example:** An employee has applied for an internal job that means a promotion. She clearly meets the person specification and has acted up in the role successfully in the past. She cares for her mother who lives at home with her and after she tells her manager that her mother has just had a stroke, she is told that her application will not be considered. This may be discrimination because of her association with two characteristics, age and disability.

### 4.3 Recruitment issues

Job applicants should not be asked about past or current pregnancy or future intentions related to pregnancy. Applicants should not be asked about matters concerning age, race, religion or belief, sexual orientation, or gender reassignment without advice of Human Resources (who will assist in the consideration of whether such matters are relevant and whether they may lawfully be taken into account).

Applicants should not be asked about health or disability before a job offer is made. There are limited exceptions which should only be used with Human Resources' approval. For example:

e.g. "This job requires us to employ someone who has personal experience of living with a disability. Please give us an example from your own life."

e.g. "This job requires post holders to undertake a range of physical activities. Please tell us about any issues you may face doing the work and what adjustments may be needed to assist you."

#### 4.3.1 Positive action to recruit disabled persons

The Isle of Wight Council provides guidance on the use of [Positive Action](#) in recruitment. Managers have the option, when faced with a recruitment decision of two equally scoring candidates, to select a candidate that will improve the diversity 'mix' of a team. This is not the same as positive discrimination that actively sets out to preclude certain people or groups from applying for work; this is illegal.

#### 4.3.2 Equal opportunities monitoring

We are required by law to ensure that all workers are entitled to work in the UK. Assumptions about immigration status should not be made based on appearance or apparent nationality. All prospective workers, regardless of nationality, must be able to produce original documents (such as a passport) before employment starts, to satisfy current immigration legislation. The list of acceptable documents is available from Human Resources, in the [Employment Screening Policy](#) or from the [UK Border Agency](#). Candidates will be asked to provide evidence of identity and eligibility to work in the UK once they have been identified as the successful person.

To ensure that this policy is operating effectively and to identify groups that may be under-represented or disadvantaged in our organisation, we monitor applicants' ethnic group, sex, disability, sexual orientation, religion or belief, marital status / civil partnership status, gender reassignment status and age as part of the recruitment procedure. Provision of this information is voluntary and it will not adversely affect an individual's chances of recruitment or any other decision related to their employment. The information is removed from applications before short listing, and kept in an anonymised format solely for the purposes stated in this policy. Analysing this data helps us take appropriate steps to avoid discrimination and to improve equality and diversity.

#### 4.4 Forms of discrimination

Discrimination by or against an employee is generally prohibited unless there is a specific legal exemption. Discrimination may be direct or indirect and it may occur intentionally or unintentionally.

Direct discrimination occurs where someone is treated less favourably because of one or more of the protected characteristics set out above. For example, rejecting an applicant on the grounds of their race because they would not "fit in" would be direct discrimination.

Indirect discrimination occurs where someone is disadvantaged by an unjustified provision, criterion or practice that also puts other people with the same protected characteristic at a particular disadvantage. For example, a requirement to work full time potentially would put women at a particular disadvantage because they may have greater childcare commitments than men. Such a requirement will need to be objectively justified or it would amount to indirect discrimination.

Harassment related to any of the protected characteristics is prohibited. Harassment is unwanted conduct that 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 Protection from Harassment and Bullying Policy.

Victimisation is also prohibited. This is less favourable treatment of someone who has complained or given information about discrimination or harassment, or supported someone else's complaint.

#### **4.5 Breaches of the Equality Policy Statement**

If you believe that you may have been discriminated against you are encouraged to raise the matter through our [Grievance Procedure](#) although seeking to resolve a situation through informal means is recommended in the first instance. If you believe that you may have been subject to harassment you are encouraged to raise the matter through our [Protection from Harassment and Bullying Policy](#). If you are uncertain

which applies or need advice on how to proceed, you should speak to your manager, a trade union representative or Human Resources.

Workers who make allegations in good faith will not be victimised or treated less favourably as a result. False allegations which are found to have been made in bad faith will, however, be dealt with under our Disciplinary Procedure.

Any member of workers who is found to have committed an act of discrimination or harassment will be subject to disciplinary action. Such behaviour may constitute gross misconduct and, as such, may result in summary dismissal. We take a strict approach to breaches of this policy.

#### **4.6 Equality Duty**

The Isle of Wight Council is required by the Equality Duty (the specific duty placed on public sector organisations as a requirement of the Equality Act 2010) to ensure that it must pay 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.

This policy statement and guidance assists to fulfil the need to state explicitly our expectations and approach in meeting these requirements. The duty also places a responsibility on the Council annually to publish data that it holds on the protected characteristics of its workforce [here](#) and of information that we know of our local community [here](#).

#### **4.7 The Fluency Duty**

The Isle of Wight Council is required by the Fluency Duty 2016 to ensure that all employees are able to “converse at ease with customers and provide advice in accurate spoken English is required for the post”. There are two exclusions within the duty that protect people with disabilities and from different racial/ethnic backgrounds.

- The fluency duty is not related to an accent (regional or international)
- The fluency duty is not related to speech impediments as a result of a disability

Therefore the Fluency Duty cannot be used in contradiction to the purpose of the Equality Act 2010.

## **5 Age**

The Equality Act 2010 makes it unlawful to discriminate against, harass or victimise a person because of their age. For the Isle of Wight Council this also refers to access to services including recreational and training facilities.

### **5.1 Definition of age and age group**

The Act defines age by reference to a person's age group. When it refers to people who share the protected characteristic of age, it means in the same age group. A person could therefore belong to various age groups, for example a 19 year old could belong to groups that include 'young adults', 'teenagers', 'under 50s', 'under 25s' or '19 year olds'.

### **5.2 Default retirement age**

From April 2011 it is no longer legal to end a contract of employment because an employee has achieved the state retirement age, or their employer's agreed retirement age. In practice this means that Council workers have to resign from their employment and apply for the release of their Local Government pension (if applicable) when they choose to retire. In all other circumstances workers will continue to work (unless their employment is terminated for a reason unrelated to age in accordance with another policy). There may be specific occupations within the Council where a default retirement age is in place and this will be based upon a legitimately justified reason.

### **5.3 Considerations for managers**

Age should not be a factor for justifying refusal for a post in a team or any other employment decision such as training. Managers must be clear that it is not appropriate to use age to prevent workers from any opportunities such as applying for jobs that may mean promotion, attending training courses or not undertaking regular supervision for example.

Older and younger workers should be offered the same opportunities and access to development.

**Example:** An employee is in his late 40s but looks much younger. His manager has to send a team member to represent the service to speak at a conference, but decides not to send the young looking employee as he doesn't believe that he looks old enough to be credible at such a high profile event. This would be discrimination by perception of age.

Managers should exercise caution when seeking to justify decisions using age as a consideration. If managers feel that age should be a consideration when making any decisions about workers, they should seek advice from the HR department.

The Government introduced a ban on unjustifiable age discrimination on 1 October 2012. There are no exceptions made in health and social care. However, people can still be treated differently because of their age where it is considered beneficial or justifiable.

**Example:** A leisure centre offers a specific swimming class for over 60's at which a reduced fee is charged compared to the sessions that are open to the general public. As aged based concessions and sports services are specific allowable exceptions under the Equality Act 2010 this would be a justified course of action.

## 6 Disability

The Equality Act 2010 replaced the Disability Discrimination Act 1995 from October 2010, but continues to make it unlawful to discriminate against, harass or victimise a person because they are disabled.

It is unlawful for an employer to discriminate against or victimise a disabled person because of their disability:

- in the arrangements made for deciding who should be offered a job;
- in the terms on which the person is offered a job, or
- by refusing to offer, or deliberately not offering, the person a job;
- in the terms of employment;
- in any opportunities for promotion, a job transfer, training or receiving any other benefit, facility or service as part of their job;
- by deliberately refusing to provide any such opportunity, or
- by dismissing the person, or subjecting him or her to any other detriment citing their disability alone as a justifiable reason.

Please note this is not an exhaustive list

The Council is committed to the 'double tick' standard, stating our positive attitude to employing disabled people. In practical terms this means that if a disabled person meets the essential criteria on the person specification then they must be invited to interview. Guidelines on fulfilling our duties to the 'double tick' standard can be found in the [Safer Recruitment Policy](#).

In addition to this, the Act makes it unlawful for any employee of the Council to harass workers or applicants because they are disabled and also makes the Council liable in the case of harassment of workers by third parties, such as service users, unless the Council has taken reasonable steps to prevent this behaviour. However, responsibility



for third party harassment only applies if the Council knows that the employee has been harassed on at least two previous occasions.

**Example:** An employee works at a customer service desk. She has repeatedly had her disability mocked by the same person who regularly attends the service desk on a number of occasions. She has raised this with her manager who has spoken to the person concerned, making it clear that this behaviour will not be tolerated, and the person may be banned from accessing the premises and may be reported to the Police if the behaviour is repeated. The manager keeps the employee informed at each stage, and believes that she is taking reasonable steps to protect her employee from third party harassment.

### **6.1 When is a Person Disabled?**

A person has a disability if he or she has a physical or mental impairment, which has a substantial and long-term adverse effect on his / her ability to carry out normal day-to-day activities. If measures are being taken to treat or correct an impairment, such as medication or the use of a prosthesis or other aid, the person is still considered as disabled for the purposes of the Act.

### **6.2 What About People Who Have Recovered from a Disability**

People who have had a disability within the definition are protected from discrimination even if they have since recovered.

### **6.3 What Does 'Impairment' Cover?**

It covers physical or mental impairments including sensory impairments, such as those affecting sight or hearing.

### **6.4 What Types of Mental Impairment are Covered?**

The term 'mental impairment' is intended to cover a wide range of impairments relating to mental functions, including what are often known as learning disabilities.

## 6.5 What is a 'Substantial' Adverse Effect?

A substantial adverse effect is something which is more than a minor or trivial effect. Generally this will mean that the effect limits a person's ability in a significant way so they function differently than the wider population carrying out normal day-to-day activities (see 6.8 below).

## 6.6 What is a 'Long Term' Effect?

A long-term effect of an impairment is one:

- which has lasted at least 12 months, or
- where the total period for which it lasts is likely to be at least 12 months, or
- which is likely to last for the rest of the life of the person affected.

## 6.7 What if the Effects Come and Go Over a Period of Time?

If an impairment stops having a substantial adverse effect on a person's ability to carry out normal day-to-day activities, it should still be treated as continuing to have that effect if the effect is likely to recur.

The Act also imposes a duty on employers to make reasonable adjustments in respect of disabled workers and applicants to ensure that a disabled person is not placed at a substantial disadvantage in comparison to a non-disabled person. This will mean if someone discloses a disability as a job applicant then reasonable steps should be taken to accommodate their needs when undertaking selection including interviews (see 6.0 above).

It may be necessary to work with our Occupational Health provider to offer professional medical support on the best way to adjust to and accommodate the needs of disabled people in the workplace.

Reasonable adjustments may mean the following and should be undertaken once a thorough assessment of the workers needs has been undertaken:

- Managers may consider allocating some duties to another employee.
- Alter the person's working hours.

- Would another working location be better?
- Adjusting the equipment needed to do the job, such as a chair or workstation.

For further advice on undertaking the assessment, managers are encouraged to contact the HR department for assistance.

### **6.8 What are Normal Day-to-Day Activities?**

They are activities which are carried out by most people on a fairly regular and frequent basis. The term is not intended to include activities which are normal only for a particular person or group of people, but is meant to reflect more general tasks and interests.

### **6.9 Common Workplace Issues for Consideration**

There are a range of specific issues that managers may need to be conscious of when thinking about supporting their members of workers in the workplace. This may include dyslexia and other neuro-diversity issues (please refer to Appendix 2).

### **6.10 Advice and Guidance on Reasonable Adjustment**

The following guidance provides some information on what managers need to consider in some situations. This is not exhaustive and further advice and guidance is available from the HR department. Support to assist people with a disability to either gain employment or to guide on reasonable adjustments at work may be available through 'Access to Work'. 'Access to Work' is a Government benefit scheme administered through Job Centre Plus. Managers should be aware that if 'Access to Work' make recommendations of equipment or software etc for employees with a disability who require reasonable adjustments then costs may be applicable. Their website details are available [HERE](#).

### **6.11 Dyslexia and Neuro-Diversity**

A common but often misunderstood condition is dyslexia. This is often defined as difficulties with reading, writing and numeracy. Please see Appendix 2 for advice on dyslexia and Neuro-diversity.

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## 6.12 Neuro-diversity

This refers to someone who has difficulties with organisation, memory, concentration, time, direction, perception, sequencing, poor listening skills which can lead to low self-esteem, anxiety or depression.

## **7 Gender Reassignment**

The Equality Act 2010 makes it unlawful to discriminate against, harass or victimise a person because they are proposing to undergo, are undergoing or have undergone gender reassignment.

### **7.1 What is gender reassignment**

The Act defines gender reassignment as ‘where a person has proposed, started or completed a process (or part of a process) for the purpose of reassigning the person’s sex by changing physiological or other attributes of sex’. The person does not have to be under medical supervision to be protected by the law. A transsexual person, who dresses as a member of the opposite sex also has the protected characteristic of gender reassignment.

### **7.2 Guidelines for Managers**

The Act makes it unlawful to discriminate on the grounds of gender reassignment and also protects from discrimination because of perceived gender reassignment and discrimination because of association with someone who intends to undergo, is undergoing or has undergone gender reassignment. People undergoing gender reassignment are also protected from discrimination due to absence from work. Absence because of gender reassignment should be treated no less favourably than if absence was due to sickness, injury or another reason.

What this means in practical terms is that managers must respond sensitively and appropriately to an employee who is planning to undergo gender reassignment. This may be a very difficult time for the employee on both personal and professional levels. The manager must ensure that they discuss with the employee the potential impact on workplace relationships and agree how this matter will be disclosed to colleagues. The employee must also be protected from comments and other workplace behaviour that may be either seen to be explicit, or perceived to be discriminatory or may be

interpreted as victimisation. There are number of points that make us a good employer:

- What will be the transition period, and at what stage will there be a name change (if applicable), amendment to personal detail and social gender?
- Will the employee let their colleagues, clients and other workers know themselves, or would they prefer the manager to do this for them? When?
- Agree on who should do a briefing.
- Keep this information together as an action plan that is strictly confidential and kept on the workers personal file.
- If workers wear a uniform then transgender staff will need to have appropriate clothing available when they make a decision to transition into their expressed gender.
- The use of facilities, such as changing rooms and toilet facilities, have to be appropriate to the expressed gender of the worker. Colleagues should be made aware of any changes so discuss this first with the transitioning worker so that it can be handled sensitively and appropriately and it's not a surprise to anyone.
- Records of a worker should reflect their chosen gender. Their former gender identity must not be shared without the express consent of the worker. If departments are required to know details of a person's former gender (Pensions for example) then the worker must give permission for information to be shared.

Workers undergoing gender reassignment treatment who require time off work for medical or surgical procedures will be treated as all other workers in respect of the Council's Attendance Management Policy and procedures.

It is unlawful to treat workers without respect and consideration and such actions may be dealt with as disciplinary action in accordance with the Council's policies and within the Equality Act 2010.

## 8 Marriage and Civil Partnership

The Equality Act 2010 protects people who are married or in a civil partnership from direct and indirect discrimination and victimisation in employment. This protection does not extend to single people.

### 8.1 What is Civil Partnership?

The Civil Partnership Act came into force on 5 December 2005, enabling same sex couples to legally register their partnerships. This gives parity of treatment in a wide range of legal matters with those opposite-sex couples who enter into a civil marriage.

Same-sex couples who register as civil partners have the same rights as married couples in employment and must be provided with the same benefits available to married couples, such as survivor pensions, flexible working, maternity / paternity pay and adoption leave.

From 10 December 2014 couples in a Civil Partnership have had the option to convert it to a Marriage. Couples will be issued with a marriage certificate dated from the original Civil Partnership.

### 8.2 Guidelines for managers

All Council workers must be aware that it is unlawful to discriminate or victimise any employee or prospective employee on the grounds of the civil partnership or marital status.

Managers must treat workers who they know are going to marry, or enter a civil partnership in the same way.

**Example:** An employee who is gay has let the team know that he is celebrating his civil partnership at the end of the month. This coincides with his colleague who is getting married. The team manager circulates a card

and collection for both members of workers to ensure that both are treated equally.

Managers must ensure that they do not make decisions that discriminate against people regardless of whether they are married or in a civil partnership.

**Example:** A manager interviews two potential workers for a position in the team. The position is a career development post and will require some time away from the office attending training events. One candidate is newly married, and one is single. In spite of the married candidate scoring higher at interview, and clearly meeting the competencies of the person specification, the manager feels that offering the position to the single person is justified because they are less likely to have conflicts with their time and commitment than the newly married person. This action is discriminatory against the married person.



## 9 Pregnancy and Maternity

The Equality Act 2010 protects women from discrimination on the grounds of pregnancy and maternity.

### 9.1 Guidelines for Managers

In employment a woman is protected from discrimination during the period of her pregnancy and during any period of compulsory or additional maternity leave.

Women should be enabled to express milk or breast feed on Council premises if she is choosing to breast feed her child and this applies to workers who are visiting with the baby to meet with colleagues on Council premises.

Managers should take care to ensure that the needs of pregnant workers are taken into account. This may mean making adequate provision for adjustments in the workplace to accommodate their needs as long as these needs are reasonable (refer to the Council's Health and Safety policy).

**Example:** Women who have returned to work from maternity leave and are still breast feeding may need to express milk and also take rest breaks. As far as is possible managers should seek to provide adequate facilities to support their employees' needs. Refusing to support these needs may amount to unlawful discrimination on grounds of both sex and in relation to maternity.

### 9.2 Health and safety considerations

It may be necessary to treat pregnant and returning mothers differently from other workers. This would be justifiable on the grounds of what the Health and Safety guidelines require. For further clarification on the Health and Safety requirements of pregnant workers and women returning from maternity leave, contact the Council's Health and Safety team.

**Example:** During an office clearout a pregnant worker is asked to take a heavy box to the lift by a colleague. Her manager quickly steps in to suggest that someone else can carry the heavier boxes as it wouldn't be appropriate to expect a pregnant woman to move heavy loads. This would be a justifiable intervention by the manager on Health and Safety grounds.

### **9.2.1 Pregnant workers or workers on maternity leave facing redundancy**

Whilst we are under a duty in relation to all workers being made redundant to consider if any suitable alternative jobs are available there are specific statutory provisions for an employee where redundancy takes effect during maternity leave. Where such a situation occurs, the employee is entitled to be offered suitable alternative employment where there is a match against the person specification prior to any other employees who are potentially being made redundant. Where an appropriate vacancy exists, the alternative employment under a new contract will begin on the day immediately following the day on which the previous contract comes to an end.

Where redundancy takes effect before maternity leave commences, there is no entitlement to preferential treatment with regard to being offered suitable alternative employment.

Managers who have workers who are pregnant or on maternity leave and who are at risk of redundancy or have been issued notice of redundancy should contact the HR department for advice on how to manage this situation.

## 10 Race

Under the Equality Act 2010 it is unlawful to discriminate against, harass or victimise anyone because of their race, which includes colour, nationality and ethnic or national origin.

### 10.1 What is a racist incident?

Within this policy, a racist incident is defined as 'any incident which is perceived to be racist by the victim or any other person'. All racist incidents, as with any incident relating to discrimination or victimisation associated with a protected characteristic should be reported using the diversity incident reporting process. This is explained in more detail at Section 14 below.

### 10.2 Guidelines for managers

Managers must be careful to ensure that they do not, and are not perceived to be, discriminating against any member of workers or prospective member of workers on the grounds of their race. This discrimination can be direct or indirect and examples are provided below. As a manager for the Council it is also important that you ensure your team members are aware of their responsibilities in relation to discrimination, and how this may lead to accusations of harassment and or victimisation:

**Example 1:** A manager refuses to employ a black employee because they believe that this will cause unease amongst an all-white team. This is unlawful direct discrimination.

**Example 2:** An Asian employee regularly undergoes taunts and teasing due to her nationality from her colleagues. She complains to her manager who is concerned but says that this is to be expected and is just workplace banter. This is direct discrimination by team members who may be seen to be harassing their colleague, and discrimination by the manager who is responsible for the conduct of the team.

**Example 3:** A manager briefs her team every Monday morning on the week ahead. One employee is Polish and his English is good, but he doesn't necessarily understand acronyms and slang terms, something that his manager frequently uses. The Polish employee asks the manager not to use slang terms and if he could possibly have a summary or a series of bullet points after each meeting to make sure that he doesn't miss anything, and the manager agrees. The manager here may have avoided indirect discrimination by applying a new procedure that doesn't discriminate against her employee.

The Council may bring disciplinary proceedings against any employee, following any accusation and investigation that provides evidence of discrimination, either direct or indirect, or harassment or victimisation.

## 11 Religion or Belief

Under the Equality Act 2010 it is unlawful to discriminate against, harass or victimise anyone because of their religion or belief (including lack of belief) in employment, access to training and the provision of goods and services.

### 11.1 What is religion or belief?

Religion or belief includes any religion and any religious or philosophical belief and also includes a lack of any such religion or belief. Religions do not need to be mainstream or well-known to be protected under the Act; however they must be identifiable and have a clear structure and belief system. A belief does not need to include faith or worship of a god or gods, but in order to be protected under the Act it must fulfil the following criteria:

- it must be genuinely held;
- It must be a belief and not an opinion or viewpoint, based on the present state of information available;
- it must be a belief as to a weighty and substantial aspect of human life and behaviour;
- it must attain a certain level of cogency, seriousness, cohesion and importance;
- it must be worthy of respect in a democratic society, compatible with human dignity and not conflict with the fundamental rights of others.

Examples of such beliefs may include Humanism, Atheism and Pacifism or take the form of philosophical beliefs.

### 11.2 Guidelines for managers

Managers should consider the religious or belief needs of their workers. These may include for example:

- Flexible working to support religious days or festivals;

- Time off to observe religious days or festivals;
- Finding a suitable environment or space for an employee to pray or reflect, with appropriate hygiene facilities;
- Consideration of fasting or dietary requirements (such as making sure that colleagues don't criticise vegetarian or vegan colleagues who may be following this practice as part of their faith or belief) that may include how food is prepared and stored in a shared kitchen environment;
- Dress requirements;
- Consider when workers meetings are held in order that workers observing prayers don't miss out on, or are put at a disadvantage to other colleagues.

Discussing these needs with workers is a good starting point, and this also means that encouraging tolerance of the range of views and opinions in an open and supportive way among the team is important. Managers should also be aware that some workers may not wish to discuss their views.

## 12 Sex

The Equality Act 2010 applies to both men and women and makes sex discrimination unlawful in employment, the provision of recreational or training facilities, and the provision of goods, facilities and services.

### 12.1 What are the sex issues?

Employers must give men and women equal treatment in their terms and conditions of employment if they are employed on:

- 'like for like work' i.e. work that is the same or broadly similar (work of equal value);
- work rated as equivalent through job evaluation.

The Council is an equal opportunities employer and will only allow for distinction between jobs that can be completed by just a man or woman based upon very clear and specific criteria. Managers must contact Human Resources before defining a post as having such a specific requirement.

Terms of employment or appointment that prevent or restrict discussions relating to pay are unenforceable. The Act makes it unlawful for an employer to victimise workers if they discuss their pay with colleagues with a view to establishing differences in pay.

### 12.2 Management considerations

There are a number of considerations that managers must be aware of:

- Managers cannot demand that workers don't discuss their pay and conditions with their colleagues. Workers may do this to determine if a protected characteristic, in this case sex, has a difference in what they are paid, or what conditions they work to.

- Managers cannot usually treat workers differently because they are men or women (but refer to section 9 above on Pregnancy and Maternity for justifiable action when treating women differently than men).

We are an equal opportunities employer and managers will continue to ensure that women and men are given equal treatment in all aspects of work.

**Example:** A senior role has become vacant and a male candidate has been earmarked for promotion. A woman who works in the same department at the same level as her male colleague wants to know why she hasn't been included in the ring-fencing of the role. Her manager responds that it's because she has indicated that she intends to have a child in the near future and he needs someone in post who can provide consistency, something that he feels that she cannot do. This is direct discrimination based upon sex.



## 13 Sexual Orientation

The Equality Act 2010 makes it unlawful to discriminate or victimise a person because of their sexual orientation in employment, higher education, the provision of goods, facilities and services and the provision of recreational or training facilities.

### 13.1 What is sexual orientation?

The Act defines sexual orientation as a person's sexual orientation towards:

- persons of the same sex;
- persons of the opposite sex, or
- persons of either sex.

The definition of sexual orientation refers to a person's feelings rather than their actions.

The Act makes it unlawful to discriminate on the grounds of any of the above and also covers discrimination because of perceived sexual orientation and discrimination because of the sexual orientation of those with whom you associate e.g. friends and family.

### 13.2 Management considerations

It will not always be apparent that someone who is working with you is gay, lesbian or bisexual. It is therefore important that a basic rule is adhered to regarding workplace banter or discussion (see also the Council's Protection from Harassment and Bullying Policy) and that there are no references to these in any derogatory manner (and this includes joking). This avoids offending people and protects the manager and the team members.

Managers should also be aware that even if they believe that no workers are gay, lesbian or bisexual, any derogatory comments made about these protected

characteristics in the workplace may still cause upset or offence for a variety of reasons:

**Example 1:** A male colleague is often laughed at and called gay by some of his workmates, even though they know that he isn't gay. Because the form of abuse relates to a protected characteristic this can amount to harassment related to sexual orientation.

**Example 2:** A woman is in the office when several of her colleagues discuss a soap opera storyline relating to a lesbian character that leads to a number of her colleagues making remarks about how distressing they would find it if their daughter was a lesbian. As the woman's granddaughter is lesbian and her team know that she attended her civil ceremony the previous summer, she can claim harassment through association with a protected characteristic.

Everyone who works for the Council deserves to be treated with respect. The Council's Protection from Harassment and Bullying Policy clearly outlines the appropriate behaviour that is expected of workers. Managers must therefore be aware that the introduction of the Equality Act 2010 very clearly provides legal protection around what was previously considered considerate good practice.

## 14 Reporting Hate Crime – incidents involving protected characteristics

All workers have a right to report any hate crime that they either receive or witness. They can use the diversity incident reporting process, and there is an online form available on [iwight.com](http://iwight.com). To report hate crime you can:

- [Call 999 if you are witnessing or experiencing the incident](#)
- [Call 101 if the incident occurred earlier](#)
- [Incidents can also be recorded online via the True Vision website](#)

### 14.1 What is hate crime?

A hate crime incident is an offence motivated by the offender's hatred of people. This includes racism, homophobia, disablement, ageism, sexism, religious hate crime etc or where the victim was chosen because they were seen to be vulnerable, or an 'easy target,' because of one of the protected characteristics e.g. young people, visually impaired people, etc.

It is recommended that if any workers are affected by hate crime, or perceive that they are being in any way bullied at work, that they speak to their line manager to raise the issue. A manager must take all issues seriously (again, refer to the Protection from Harassment and Bullying Policy for further information). Any workers who are suspected of committing any form of bullying or harassment and this includes breaching any of the guidelines contained in this Policy, may be liable to disciplinary action by the Council and potentially criminal action.

## 15 Related Documents

- Sustainable Community Strategy - *Eco-Island* [www.eco-island.org.uk](http://www.eco-island.org.uk)
- Corporate Plan [www.iwight.com/Council/documents](http://www.iwight.com/Council/documents)
- Maternity Provisions <http://wightnet.iow.gov.uk/documentlibrary/view/maternity-provisions5>
- Parental Leave Policy <mailto:http://wightnet.iow.gov.uk/documentlibrary/view/parental-leave-policy>
- Shared Parental Leave Provisions <mailto:http://wightnet.iow.gov.uk/documentlibrary/view/shared-parental-leave-provisions>
- Protection from Harassment and Bullying Policy <http://wightnet.iow.gov.uk/documentlibrary/view/protection-from-harassment-and-bullying-policy>
- Attendance Management Policy <http://wightnet.iow.gov.uk/documentlibrary/view/attendance-management-policy-procedure1>
- Safer Recruitment Policy <mailto:http://wightnet.iow.gov.uk/documentlibrary/view/safer-recruitment-policy1>

## 16 Appendix 1 – Glossary of Terms

- ADD
- ASD
- Neuro-Diversity

Attention Deficit Disorder

Autistic Spectrum Disorders

As per Appendix 2

## 17 Appendix 2 - Advice on Dyslexia and Neuro-Diversity

### Dyslexia and Neuro-Diversity

A common but often misunderstood condition is dyslexia (and its related forms including dyscalculia and dyspraxia). These are often defined as difficulties with reading, writing and numeracy. These difficulties may be manifested in a variety of ways in the workplace, such as:

- Short term memory issues;
- Attention span issues;
- Clumsiness or other motor skill issues;
- Difficulty in following instructions from managers;
- Difficulty in multi-tasking across a number of activities;
- Difficulty in responding under pressure;
- Excessively high levels of anxiety;
- Variations in performance from one day to the next: “good days” and “bad days”;
- Having to work / study harder than colleagues;
- Difficulty with mental arithmetic;
- Slower in dealing with material presented solely in verbal or written form;
- Slow speed of information processing;
- Excessive misspelling in written work, including errors such as confusion in letter order;
- Forgetting some of a series of instructions, or carrying them out in the wrong order; and
- A tendency to talk rather than listen as a strategy for restricting the input of information.

For more information on Dyslexia visit the [British Dyslexia Association](#) website.

The characteristics of dyslexia, if not understood or diagnosed, may lead to the employee being misunderstood by the line manager and colleagues. The employee may as a result become withdrawn or oversensitive. It is only when dyslexia is

identified that such difficulties may be explained and understood by both the employee and others.

### **Visual Stress Syndrome (Meares-Irlen Syndrome).**

Many – but not all - people with dyslexia experience difficulties with the high contrast between black print on white paper, or fluorescent lighting, causing visual disturbance which impairs the process of reading. Use of colour often provides an effective solution, whether as tinted paper, a coloured computer screen background, or as a specific coloured plastic overlay sheet. Some people who do not have dyslexia do, however, experience Visual Stress Syndrome.

The underlying difficulties with information processing, memory, organisation and communication that feature in dyslexia are also core characteristics of other neuro-diverse conditions including dyspraxia, dyscalculia, Asperger's Syndrome and, to a lesser extent, Tourette's Syndrome. These conditions are described as "developmental" because they are not fixed. They change over the lifetime of an individual but there is no "cure" for them and they do not disappear in adulthood.

The existence, or possible existence, of dyslexia and / or other neuro-diversities may be revealed either at recruitment or induction / probation or at a later stage when an employee is established in post. Difficulties associated with these conditions may also be disclosed voluntarily by the employee themselves or be identified prior to recruitment selection or promotion processes taking place. Managers or colleagues might also identify its potential existence through performance management processes during one-to-one supervision sessions or conducting annual personal development reviews.

In respect of managers giving instructions to workers with dyslexia / other neuro-diversity conditions line managers should communicate the over-arching aim of an activity as this enables them to contextualise detail. Managers should also establish ways of delivering instructions that are best suited to the employee's cognitive style. Some employees will benefit from e-mailed reminders and others will prefer to listen to recorded messages sent to voicemail. Employees may have more complex difficulties

with reading and writing and these areas should also be discussed as there are some assistive technologies available in recent versions of MS Windows, for example, text-to-speech.

As far as possible it is important to avoid causing stress through needless worry and anxiety in those with dyslexia and neuro-diverse conditions as these factors can have a severe and negative impact on the employee's performance. Managers should endeavour to give plenty of advance notice of tasks, providing written or audio notes of planned meetings or training if possible. Managers should also inform workers that they are available to help out and answer their questions while respecting confidentiality. If a line manager is unable to help immediately, it is important to arrange a time to do so, as soon as possible, to reduce any anxiety experienced by the employee. Employees should also be offered feedback one-to-one rather than in a group setting.

### **17.1 Dyslexia and Neuro-Diversity - Recruitment and Selection Issues**

Recruitment and selection is often a point at which an employee declares a suspicion of having dyslexia or declares that they have previously received a diagnosis of dyslexia. In particular, this is because they need a relevant adjustment to the assessment process to reflect specific needs or to anticipate needs that might arise should the employee achieve selection to the role.

Managers will therefore need to ensure that any selection process is devised solely around the selection / assessment criteria specifically relevant to the target job role and implemented according to the Council's Safer Recruitment Policy and Practice Guidance. These criteria (which may or may not be relevant to dyslexia) should be reviewed regularly for relevance to the role. The selection process should not seek to identify dyslexia or other learning needs. If, however, any condition is suspected or identified throughout the process, the line manager should contact Human Resources for further guidance and assistance.

Where an employee who has been formally identified with dyslexia is undergoing an assessment process during recruitment, consideration must be given to making



reasonable adjustments to this process following any request by the candidate. This adjustment will, where relevant, be communicated by recommendations provided following formal diagnosis. Any adjustment must always be based on consultation with the employee themselves. The nature of the adjustment should be recorded and stored with the recruitment paperwork and if successful, forwarded to the HR support team at County Hall (human.resources@iow.gov.uk) to be added to the new employee's personal file. Reasonable adjustments identified in the assessment may include, but are not limited to:

- Modifying time limits for the completion of tests;
- Providing a reader;
- Offering the opportunity to take notes;
- Adjusting presentation style to accommodate the needs of the individual.

## **17.2 Dyslexia and Neuro-Diversity - Manager's Responsibility**

Managers involved in any case or potential case of dyslexia and / or other learning difference must maintain an approach that maintains strict confidentiality and is also sensitive to the needs of the employee concerned. Whilst an open approach should be encouraged to facilitate support and understanding, the employee must not be pressurised to reveal any diagnosis.

The flowchart at Appendix 3 sets out the procedure to follow when dealing with suspected dyslexia / other neuro-diversity conditions.

Specialist advice is essential in determining the most appropriate adjustments for a particular individual and in identifying what are reasonable adjustments, it is important to determine therefore:

- The nature of the individual's dyslexia or other related condition from their diagnostic assessment;
- The requirements of the job and its related task and competence requirements;
- The working environment and working practices any impact this has on performance;

- The requirements of any associated training and assessment.

Implementing reasonable adjustments will not be an overnight remedy. Depending on the nature of dyslexia or other related condition, it may take a few months before a review of performance can be fully undertaken. If an employee has been diagnosed as having dyslexia, and is having difficulties at work therefore, a clear developmental action plan should be formulated between them. Not all employees with dyslexia will have difficulties or will necessarily need a developmental action plan.

Adjustments can be simple and inexpensive and they may also be of benefit to other employees. A willingness to be flexible is the most important thing. Adequate time should be built in to achieve developmental goals.

Support may also be available through the Government programme 'Access to Work' which offers practical employment assistance and limited funding (contact Job Centre Plus for details) and see [HERE](#). The British Dyslexia Association is also able to provide advice and guidance on these matters. All relevant contact details are provided in Appendix 4 for information.

### **17.3 Assessment Support for Employees Affected by Dyslexia and Other Neuro-Diverse Conditions**

If an individual believes that they have dyslexia then this will affect all aspects of their life. The responsibility to proceed with a formal assessment of their condition rests with the worker. Dyslexia screening and any other diagnostic assessments are available at a cost, which will need to be met by the individual. However, time out to attend an assessment may be available through the council's Special Leave policy. Assessments vary according to their purpose, but can be categorised as full diagnostic assessments or informal workplace assessments. Other neuro-diverse conditions require different assessment procedures by different professionals including optometrists (Visual Stress Syndrome) and psychiatrists (ADHD). A list of available dyslexia assessors and other support organisations are set out in Appendix 4 for information.

Once an employee has raised dyslexia and / or another specific learning difficulty as an issue, they are encouraged to fully engage with their line manager in order to address difficulties and pursue an assessment where appropriate.

Typically, the identification and assessment of dyslexia takes place in stages:

1. Initial screening will require the worker seeking a formal medical assessment via their GP. The British Dyslexia Association offers assessments and these belong to the worker.
2. If an assessment report states that dyslexia or another Neuro-linguistic condition is present, it is the responsibility of the worker to raise this with their line manager in order that the Council can consider reasonable adjustments in the workplace.
3. The Council may assist the worker to undertake a workplace assessment, based upon the outcome of their Dyslexia Assessment, through a third party such as Access to Work. The request for Access to Work must be made by the worker themselves.
4. Upon receipt of the assessment results, it will be necessary for the employee to discuss the outcomes of the results with their line manager so that consultation can be undertaken in relation to what reasonable adjustments can be made.

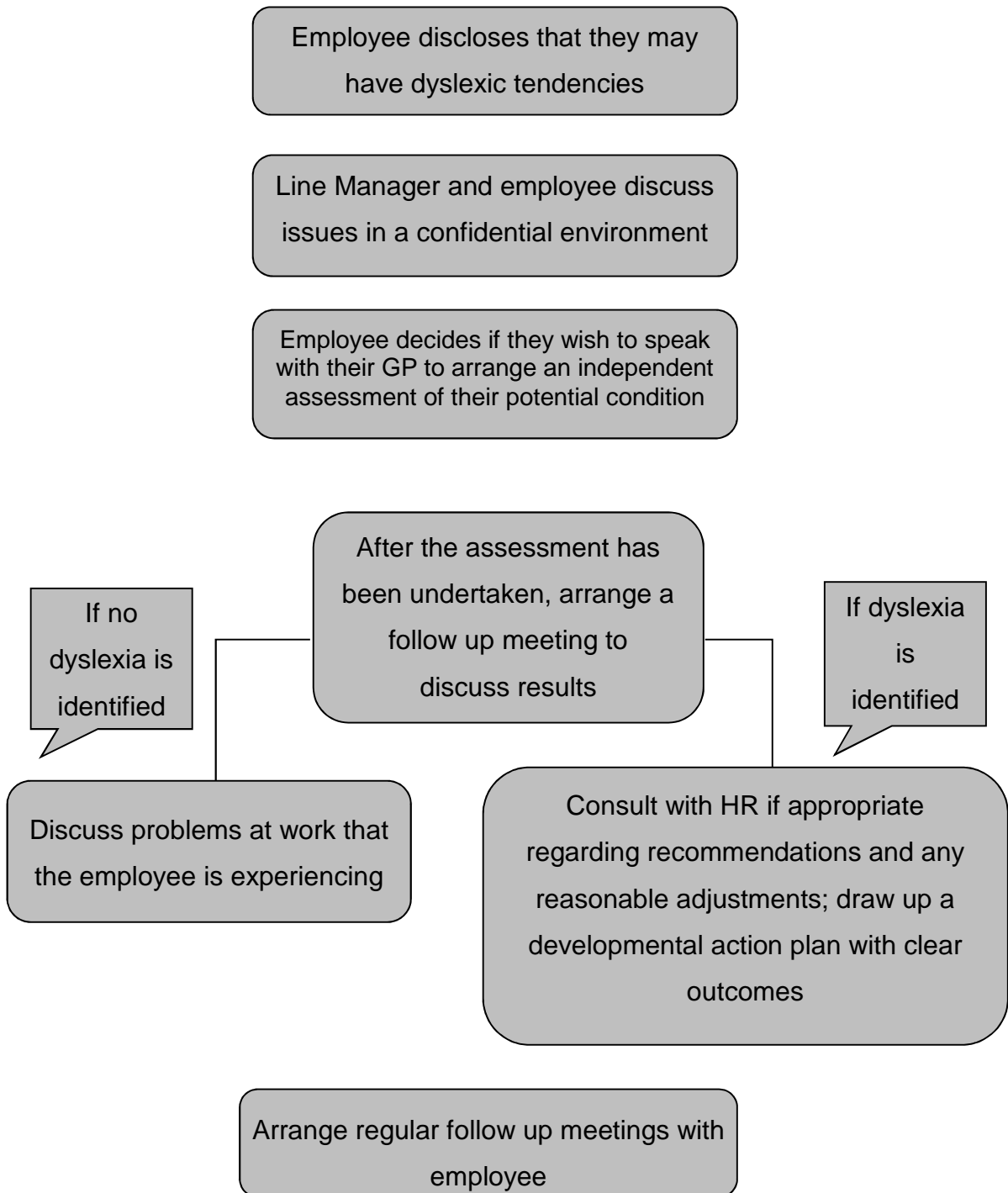
Managers must be aware that if a condition is identified and reasonable adjustments are recommended, then there may be a cost implication for software, training, equipment etc. Considerations regarding reasonable adjustments should be undertaken with the support of your HR Business Partner.

#### **17.4 Dyslexia and Other Neuro-Diverse Developmental Action Plans**

If a developmental action plan is needed, this must be agreed between the line manager and the employee with appropriate advice and guidance of HR where

appropriate. To work effectively, it must include clear outcomes and appropriate time targets. Progress against a developmental action plan will need regular monitoring.

## 18 Appendix 3 - The Procedure for Dealing with Suspected Dyslexia / Neuro-Diversity



## 19 Appendix 4 - Useful Websites and Contact Details

Access to Work Information:

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

Telephone: 020 8426 3110

Job Centre Plus – Broadlands House, Staplers Road, Newport, Isle of Wight

Tel: 01983 273000

Dyslexia

British Dyslexia Association – [www.bdadyslexia.org.uk](http://www.bdadyslexia.org.uk)

National Helpline – 0845 251 9002

Dyslexia Action – [www.Dyslexiaaction.org.uk](http://www.Dyslexiaaction.org.uk)

PATOSS - The professional association of teachers of students with specific learning difficulties [www.patoss-dyslexia.org/](http://www.patoss-dyslexia.org/)

Being Dyslexic – this is an online support group run by individuals with dyslexia  
[www.beingdyslexic.co.uk](http://www.beingdyslexic.co.uk)

Literacy / Numeracy

Literacy: BBC Skillswise – [www.bbc.co.uk/skillswise/learners](http://www.bbc.co.uk/skillswise/learners)

Dyspraxia

Dyspraxia Foundation - [www.dyspraxiafoundation.org.uk/services/ad\\_symptoms.php](http://www.dyspraxiafoundation.org.uk/services/ad_symptoms.php)

ADD or ADHD

AD(H)D - [www.addiss.co.uk/](http://www.addiss.co.uk/)

Phone: 020 8952 2800

A “local” AD(H)D support group (Southampton) <http://southampton-adhd-support-group.webs.com/>

## 20 Appendix 5 - Guidance for Producing Written Materials

Any written materials should be considered in terms of their impact on people with dyslexia. These points are general, non-exhaustive and will not apply to everyone.

More information can be found on the British Dyslexia Association website, see:

[www.bdadyslexia.org.uk/about-dyslexia/further-information/dyslexia-style-guide.html](http://www.bdadyslexia.org.uk/about-dyslexia/further-information/dyslexia-style-guide.html)

- Policy documents, procedures, rules, regulations, etc. all need logical presentation / structuring and good indexation;
- Summaries should be included with information provided in small chunks;
- Printed text should be left justified with a ragged right edge;
- Dyslexia-friendly fonts include Arial and Trebuchet. These have an uncluttered appearance and high ascenders and low descenders;
- Font size – 12 point and 1.5 line spacing to enable accurate tracking when reading;
- Important points should be highlighted rather than underlined or italicised;
- Technical language may be needed but avoid unnecessary jargon or uncommon words;
- Write in the active voice as it is easier to process – try to avoid using the passive voice;
- Provide information on coloured paper if necessary (find out which colour helps the person to read quickly and accurately).

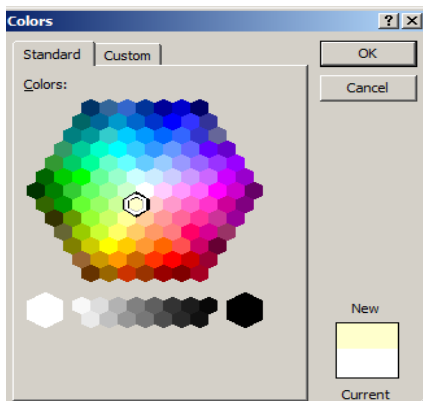
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**N.B. – Council policies are prepared using a standard format. Managers may need to update the format of policies to assist members of workers. Contacting the original author of the document will normally ensure that you have access to an original Word version rather than the standard PDF.**



## 21 Appendix 6 - Adjusting Background Colour Settings and Font Appearance on Computers (Microsoft Office 2007/10)

1. To change the background colour of your page within Microsoft Word 2007/10
  - Go to the PAGE LAYOUT menu on the ribbon at the top of the screen.
2. Select PAGE COLOUR.
3. Choose 'more colours' to see paler options closer to overlay colours:



- Remember to switch your document's background back to "no colour" before printing.
4. Font size: in order to work with the appearance of a larger font without changing the actual font size you can zoom your view of the page by 150%.
  5. Select this directly from the zoom slider control on the lower right of the screen by dragging the arrow towards the + symbol.

## 22 Appendix 7 - A Thumbnail Guide to Neuro-Divergent Ways of Thinking

1. Dyspraxia - dyspraxia relates to a difficulty identified in terms of movement and co-ordination. In adults it has an impact on organisation skills and the ability to prioritise.
2. Dyscalculia – a specific learning difficulty in mathematics, characterised by an inability to conceptualise number or quantity.
3. ADHD / ADD – Attention Deficit Disorder often presents as a difficulty in filtering out distractions and non-essential detail. However, individuals with ADD who have learnt to compensate for their deficits are often able to “hyper-focus” and sustain concentration on fine detail.
4. Asperger’s Syndrome / Autistic Spectrum Disorders (ASD) is notable for significant difficulties in social interaction, alongside restricted and repetitive patterns of behaviour and interests. Employees with ASD are often able to focus on detail and cope with repetitive tasks which can be a real asset to a team.
5. Visual Stress Syndrome (or Meares-Irlen Syndrome) – this is also sometimes referred to as “Scotopic Sensitivity”. In addition to the simple interventions already mentioned at Appendix 2, some people find wearing coloured spectacle lenses invaluable. These need to be prescribed by an accredited colorimetry optometrist.

Diagram: The Make-Up of Neuro-Diversity

