

**EQUAL OPPORTUNITIES POLICY – EMPLOYMENT****1 Introduction**

National Museums Scotland (NMS) is committed to providing equal opportunities for all and avoiding unlawful discrimination in our employment practices, policies and procedures.

**2 Purpose**

The purpose of this policy is to:

- set out NMS's commitment to equality of opportunity for all;
- outline the legislative parameters within which NMS operates;
- raise staff and managers' awareness of their rights and responsibilities within the Equal Opportunities Policy and Procedures;
- outline how individual members of staff can raise a complaint, if they feel they are treated less favourably at work by a colleague or a manager;
- affirm the right of all staff to work in an environment that is free from discrimination, victimisation, harassment and bullying.

**3 General Legislative Requirements**

It is unlawful to discriminate, directly or indirectly, in recruitment or employment, on grounds of sex, age, gender reassignment, pregnancy, colour, race, nationality, ethnic or national origins, sexual orientation or religion or belief, or because someone is married or is a civil partner. It is also unlawful to discriminate on grounds of disability, or to fail to make reasonable adjustments to overcome barriers to employment caused by disability. Discrimination after employment may also be unlawful, e.g. in refusing to give a reference, or in the form of reference given. Definitions of types of unlawful discrimination are included in Appendix 1. A list of the relevant legislation is set out at Appendix 2.

**4 Public Sector Duties to Promote Equality**

As a public sector organisation, NMS has additional specific legal duties to promote race, gender and disability equality when carrying out its range of statutory functions and obligations in relation to employment issues.

In this regard, NMS has published Equality Duty Schemes in line with legislative requirements, through which impact assessments will have been carried out and action plans developed, which are prioritised according to the outcome of these impact assessments. Progress against the action plans will be reported on an annual basis.

NMS is committed to develop, monitor and review our equality schemes, through formal and informal consultation with appropriate individuals and groups, both internally and externally.

Copies of NMS Equality Duty Schemes can be found on the NMS website.

## **5 Employment Policies and Processes**

NMS will avoid unlawful discrimination in all aspects of employment, but particularly where selection criteria are involved. This includes recruitment, pay and benefits, progression, opportunities for training, discipline and selection for redundancy.

NMS has a number of Human Resources policies, procedures and processes covering all aspects of employment, some of which have been designed to support staff in meeting their work and personal commitments. A list is included at Appendix 3.

Comprehensive guidance materials and/or training regarding these processes have been developed to support managers and staff.

## **6 Staff Responsibilities**

Every member of staff has a responsibility to ensure that the terms of the Equal Opportunities Policy and associated policies are complied with.

Individuals can be held personally liable, as well as, or instead of, NMS, for any act of unlawful discrimination. Staff who commit serious acts of discrimination may be guilty of a criminal offence.

## **7 Line Management Responsibilities**

In addition to the responsibilities set out in Section 6, line managers must also ensure that they manage staff in line with established NMS procedures and guidance, and manage consistently across their teams.

## **8 Corporate Management Team Responsibilities**

The Corporate Management Team is responsible for monitoring the effectiveness of the Equal Opportunities Policy.

## **9 Human Resources Responsibilities**

NMS will provide training in Equal Opportunities for all managers and staff. The Head of Human Resources is responsible for ensuring that Human Resources policies and procedures meet legislative requirements.

The Head of Human Resources will monitor equal opportunities in NMS.

This monitoring will involve gathering statistical information across all equality themes, sourced from job applicants, existing workforce, exit interviews and staff survey questionnaires, covering employment practices such as recruitment, pay and bonuses, career progression, employment status (part-time/full-time, permanent/temporary, etc) disciplinary and grievance processes, access to training, etc.

This information will be used to identify improvements required and prioritise any action planning necessary.

Equal opportunities monitoring will be carried out alongside the reporting undertaken as part of the Equality Duty Scheme.

## **10 Making a Complaint**

Where a member of staff considers that he/she has been treated less favourably under the terms of the Equal Opportunities Policy, he/she should raise a complaint through the NMS Grievance Policy and Procedure. NMS will take any complaint seriously and take action as appropriate.

## **11 Disciplinary action**

Failure of staff and managers to comply with the Equal Opportunities Policy could result in disciplinary action. Discrimination, harassment and bullying are considered to be gross misconduct offences, as set out within the NMS Disciplinary Policy and Procedure.

Where a disciplinary charge is considered to be well founded as gross misconduct, the penalty imposed could lead to dismissal.

## **12 Review and Update**

This policy and procedure will be reviewed and updated as necessary to reflect any amendments in the legislative framework, as will any individual Human Resources policies and procedures that may be affected by any changes.

### Definition of Types of Unlawful Discrimination

**Direct discrimination** is where a person is treated less favourably than another in comparable circumstances, on a prohibited ground. An example of direct sex discrimination would be refusing to employ a woman because she was pregnant. Unlike the other forms of discrimination, direct discrimination on the grounds of age can be justified.

**Indirect discrimination** is where a provision, criterion or practice is applied, which is such that it would be to the detriment of a considerably larger proportion of the relevant group to which the individual belongs than to others, which is not objectively justifiable and which is to the individual's detriment. An example of indirect sex discrimination could be requiring everyone to work full time, unless there is a good reason, unrelated to sex, as to why the particular job has to be done on a full time basis, since requiring everyone to work full time will normally adversely affect a higher proportion of women than men.

**Harassment** is where there is unwanted conduct related to one of the prohibited grounds, which has the purpose of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person, or is reasonably considered by that person to have the effect of violating his or her dignity, or of creating an intimidating, hostile, degrading, humiliating or offensive environment for him or her, even if this effect was not intended by the person responsible for the conduct.

**Victimisation** is where someone is treated less favourably than others, because he or she has alleged unlawful discrimination, or supported someone to make a complaint, or given evidence in relation to a complaint.

**Current and Forthcoming Legislation Affecting Equality**

***Current Legislation***

- Equal Pay Act 1970
- Rehabilitation Act 1974
- Sex Discrimination Act 1975
- Race Relations Act 1976
- Disability Discrimination Act 1995
- Asylum and Immigration Act 1996
- Employment Rights Act 1996
- Human Rights Act 1998
- Working Time Regulations 1998
- Employment Relations Act 1999
- Maternity and Parental Leave, etc Regulations 1999
- Race Relations Amendment Act 2000
- Public Interest Disclosure Act 1998
- Part time Workers (Prevention of Less Favourable Treatment) Regulations 2001
- Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002
- Paternity and Adoption Leave Regulations 2002
- Flexible Working Regulations 2002
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Religion and Belief) Regulations 2003
- Employment Equality (Age) Regulations 2006
- Maternity and Parental Leave etc and the Paternity and Adoption Leave (Amendment) Regulations 2006
- Public Sector Duty to Promote Disability Equality
- Public Sector Duty to Promote Gender Equality
- Public Sector Duty to Promote Race Equality

**Human Resources Policies and Procedures**

Recruitment and Selection  
Grade Progression  
Performance Bonus Scheme  
Performance and Development Review (PDR)  
Training Policy  
Further Education Policy  
Grievance Policy  
Discipline Policy  
Respect and Dignity Policy  
Attendance Management Policy and Procedure  
Redundancy  
Retention beyond age 65  
Equal Pay Policy

**Family Friendly**

Maternity Leave Policy and Procedure  
Paternity Leave Policy and Procedure  
Parental Leave Policy and Procedure  
Adoption Leave and Pay  
Special Leave Policy and Procedure  
Flexible Working Policy and Procedure  
Flexible Working Hours (Flexi Time) Procedure  
Working from Home