

The TESS Group

Equality and Diversity Policy

Version History			
Version	Date	Reason for release/version update	Issued by
V1.0	1/8/2021	Version release	Lisa O'Reilly
V2.0	24/11/22	Review and re-issue	Lisa O'Reilly

Document Approval		
Job Role	Name	Date approved
Head of Learning	Martin Parnham	9/8/2021

Date of Next Review	November 2023
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Statement

The purpose of this document is to set out The TESS Group's policy in relation to Equality and Diversity.

Equality means treating everyone with equal dignity and worth regardless of particular characteristics. People have different needs, situations and goals and it is our job to ensure that we meet them. Achieving equality means the removal of discriminatory barriers that limit what people can do and often what they can be.

Signed:



Mr Rod Doyle, Managing Director

Review

This policy is reviewed annually or immediately on changes in legislation. All policies are approved by the senior management team and ratified by the governance board. All policies are held in a register which records all required review dates.

Scope: This policy applies to all employees and associates of The TESS Group.

The TESS Group's Policy: This policy sets out our approach to ensuring that The TESS Group delivers for all sections of our community both in terms of our recruitment and achievement of learners and our employment practices and internal promotion opportunities. This is applied to both Apprenticeships and the ESF delivery programmes.

The legislative and regulatory framework

This policy has been written in line with requirements of the Equality Act 2010. This act introduced a new single public-sector duty for people who share the following protected characteristics:

- Equal Pay Act 1970
- Sex Discrimination Act 1975

- Race Relations Act 1976
- Disability Discrimination Act 1995
- Employment Equality (Religion or Belief) Regulations 2003
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Age) Regulations 2006
- Equality Act 2006, Part 2
- Equality Act (Sexual Orientation) Regulations 2007
- Public Sector Equality Duty

This policy has been reviewed in line with the Equality Act 2010 which recognises the following categories as Protected Characteristics: Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion and Belief, Sex (gender) and Sexual orientation. We will continue to monitor this policy to ensure that it provides equal access and does not discriminate against anyone, especially any person/s listed under any protected characteristic.

We have aligned ourselves to the Public Sector duty:

1. To eliminate conduct prohibited by the Act.
2. To advance equality of opportunity between people who share protected characteristics and those that do not.
3. To foster good relations between people who share protected characteristics and those that do not.

In fulfilling our duty under the Act we may have to treat some people more favourably than others for example in making reasonable adjustments for people with a disability or in implementing positive action strategies to address disadvantage or under representation.

Existing equalities legislation

Whilst the Equality Act 2010 extends the provisions of the law and is intended to simplify the current legislative framework it does not replace all pieces of current legislation. General and specific duties related to race, disability and gender are replaced by the single equality duty; however, we will be mindful of the need to comply with continuing provisions within legislation where appropriate.

The TESS Group recognise our obligations and responsibilities as an employer and as a national training provider. We will seek to reflect our commitment to equality and diversity in all aspects of the delivery of learning and teaching and in our dealings with our staff, members of the public, other agencies and suppliers of services and supplies.

In issuing this policy The TESS Group has four main objectives:

1. To encourage its learners and staff to take an active role in combating all forms of unlawful discrimination, harassment and victimisation.
2. To promote equality of opportunities and diversity in the workplace.
3. To deter learners and staff from participating in any such unlawful behaviour.
4. To demonstrate to all that they can rely on our support in cases of unlawful discrimination, harassment or victimisation.

To help achieve these objectives we will:

- Promote good relations among our staff and learners. This will create conditions which contribute to the full development and potential of all our members.
- Create an environment which promotes equality of opportunity in education and employment that is free from unlawful discrimination, harassment or victimisation of any kind.

- Create a climate where staff and learners are empowered to have the confidence to challenge acts and behaviour which contravene the Equality and Diversity policy and the law.
- Respect equally all employees, learners and users of our services and treat them with dignity at all times.
- Fairly and appropriately assess each applicant to a job or qualification within The TESS Group based on their abilities only.
- Support appropriately and reward fairly each learner and employee

Executive Summary

Promote the policy: The Tess Group will promote the policy across its employees and all learners and employers. This will be shared as part of the induction process for learners and onboarding employers. The policy forms a key part of the employee induction, with their knowledge of the subject being tested through quizzes and games. We also ask that all employees sign to confirm they have understood the policy and will adhere to following it within their role, which is used as a method of gaining commitment. The policy will be promoted at internal meetings that occur monthly and at quarterly team events to

share ideas, best practice and check knowledge and understanding.

The TESS Group's Values promote and reflect this policy which include:

Values: CRIB: Be Collaborative, Be Reliable, Be Inspiring, Be Bold

Value Statements:

We celebrate diversity.

We promote equality and inclusion.

We treat others with respect.

We safeguard all our learners and staff.

Engagement towards the policy: We will use quarterly team events for engagement with the policy but also in promoting discussions with learners and employers at forums and marketing information shared. We use regular surveys across learners, employers and employees to check understanding and gain feedback on current resources used across the business. On weekly team calls we use current media stories as a topic of discussion for the teams which can then be used for sessions with learners. It is also included in the employee handbook, employee induction as well as learner and employer handbooks.

Training employees in implementing the policy: We recognise that training is an important factor in the engagement of equality and diversity. We take steps for our employees to increase awareness, knowledge, skills and confidence as a key part of the implementation of this policy. The format, frequency and objectives of training will be tailored to reflect the needs of the staff.

From Day 1 employees are trained in implementing the policy and before joining are required to complete the relevant training modules online. This is reviewed and refreshed quarterly, listed on their CPD log and annual objectives. We supply a variety of resources and topic ideas to support them in day-to-day implementation of the policy with learners and employers. This is also used in monthly 121 with line managers and formally reviewed in observations of teaching and learning.

We also bring the policy to life with our own employees internally and ensure that their own needs are discussed and looked after accordingly.

Consider the policy when recruiting, delivering apprenticeship training and working with employers and apprentices: We will consider this policy in all aspects of The Tess Group, including part of our recruitment strategy, when delivering training and in the design of our programmes. This includes communication and discussions with employers and apprentices.

Recruitment: We consider this policy in all aspects of The Tess Group, including part of our recruitment strategy, our own recruitment policy reflects the importance of the Equality Act 2010 and this policy. All managers that interview are to ensure our recruitment process follows and applies all aspects of the policy when interviewing and selecting candidates. As part of our recruitment service to employers we present a range of candidates to learners and ensure they follow policy when selecting new Apprentices

Apprenticeship delivery: We consider the policy when delivering training and in the design of our programmes, this includes the design of resources and topics used each month. We use and analyse gap analysis data to review where we can support groups more effectively and work to close any achievement gaps.

Working with employers and apprentices: This policy is applied through communication and discussions with employers and apprentices, including checking knowledge and awareness at every review and tripartite review. We share monthly information with learners and apprentices with key topics to discuss and consider.

How We Meet Our Commitment to Equality and Diversity

Teaching, learning and assessment

The TESS Group values the diversity of backgrounds and experiences of our learners. We aim to ensure that all teaching, learning and assessment strategies are equitable, undertaken with awareness of the different needs of the students and are directed towards the encouragement of academic and personal development.

Forms of discrimination

Direct discrimination occurs where someone is treated less favourably because of one of the protected characteristics outlined in the policy statement above, for example race, sex, disability etc. It includes cases where the less favourable treatment is because of the person's association with someone who has that characteristic (for example the parent of a disabled child will be frequently absent) or because of the perception of a person (for example, an Asian person is a Muslim). Direct discrimination is usually unlawful whether it is intentional or not.

Indirect discrimination occurs when a policy which applies in the same way to everybody and has an effect which particularly disadvantages people with a protected characteristic and it cannot be justified. (For example, everyone must work one Saturday in a month, might affect a Jewish person who cannot work on Saturday, the Jewish Sabbath)

Victimisation occurs where someone is subjected to a detriment because he or she has, for example, made a complaint of discrimination or given evidence in relation to a complaint of discrimination. (For example, is refused promotion because of their involvement in the complaint.)

Harassment and bullying

Harassment includes behaviour on the grounds of a protected characteristic which has the purpose or effect of violating someone's dignity or which creates an intimidating, hostile, degrading, humiliating or offensive environment. This would include, but not be limited to, abusive or inappropriate language, name calling, the display or circulation of offensive written or visual materials. Harassment may be open or covert, direct or indirect, an isolated incident or a series of actions. It may also include, in certain circumstances, off-duty conduct. Staff and learners can consider themselves fully protected by our policies at The TESS Group this includes at workplaces or at any other place where work or training takes place. The policy applies to staff and learners connected with this organisation even when they are on off-duty time. The occurrence of harassment must be reported to The TESS Group, without fear or favour, even if there is a separate policy in place at a learners' workplace which requires the incident to be reported to a workplace manager or supervisor. Because learners are in receipt of government funding for their training they are to be separately protected by The TESS Group at all times. Learners are to be politely questioned in confidence on each occasion of formal review and at other appropriate times as to their level of contentment with their workplace.

What is Harassment?

Laws covering race, religion and belief, sexual orientation and disability, define harassment as any unwanted conduct which affects a person's dignity, creates an intimidating atmosphere for them, degrades or humiliates them, or creates an offensive environment for them. For example:

Unwanted conduct: For example; touching including unwanted sexual attention, being pushed and shoved, slapping on the head or bottom for example, interference with body jewellery, spitting at a person.

Dignity: Everyone has the right to dignity at work. Workers cannot be mentally or physically abused, made to work under circumstances of unsafe or poor practices, or forced to do things which make them feel a fool, or undermine their status.

Intimidating or hostile atmosphere: For example, when you walk in to the workplace you can feel the eyes staring at you. There is some name calling or no-one speaks to you. People who do speak tell you they

will be out to get you later.

Degraded or humiliated: For example, being told you are 'trash', useless, totally incompetent, mentally defective, fat, a thief, a child molester, a queer, or made to stand in a corner at work. Being the subject of a so-called 'initiation' ceremony.

Offensive environment: For example, an environment in which people display unwanted soft or hard pornography, put up slogans saying that Hitler or Nazis did the right thing by the Jews, or praise the Klu Klux Klan.

You will no doubt have other examples that you have seen and heard, and you will know that any reasonable person would find these things offensive and harassing to them.

The specific implications are as follows:

Race

Harassment in racial circumstances is discrimination and is therefore unlawful.

It is an offence for Person A to subject Person B to:

any **unwanted conduct** on the grounds of their 'race' or ethnic or national origin.

to make Person B feel that their dignity has been **offended or violated**.

to make Person B feel that there is an **intimidating or hostile atmosphere** for them.

to make Person B feel that they are being **degraded or humiliated**.

to make Person B feel that they are in an **offensive environment**.

Religion and belief including philosophical belief

Harassment of a person's religion or belief is discrimination and is therefore unlawful.

It is an offence for Person A to subject Person B to:

any **unwanted conduct** on the grounds of their religion or belief, including philosophical belief.

to make Person B feel that their dignity has been **offended or violated**.

to make Person B feel that there is an **intimidating or hostile atmosphere** for them.

to make Person B feel that they are being **degraded or humiliated**.

to make Person B feel that they are in an **offensive environment**.

Sexual Orientation

Harassment of a person's sexual orientation (gay, transvestite, bisexual, gender reassignment or heterosexual) is discrimination and is therefore unlawful.

For the purposes of clarity in understanding what Sexual Orientation means a person's sexual orientation towards;

- a person of the same sex
- persons of the opposite sex, or
- persons of either sex

A person has the protected characteristic of gender reassignment if the person has undergone or is proposing to undergo or is undergoing the process (or part of the process) by which gender is reassigned by changing the physiological or other attributes of sex.

Any reference to a gay, transvestite, transsexual or bisexual person will assume at all times that that person has the same protected characteristics as those of a gender reassigned person.

It is an offence for Person A to subject Person B to:

any **unwanted conduct** on the grounds of their sexual orientation

to make Person B feel that their dignity has been **offended or violated**.

to make Person B feel that there is an **intimidating or hostile atmosphere** for them.

to make Person B feel that they are being **degraded or humiliated**.

to make Person B feel that they are in an **offensive environment**.

The key to all these new laws is the judgement: would a **reasonable person** have been offended?

In general terms any unacceptable or unwarranted behaviour which disrupts the quality of life or work of an individual is unacceptable to us. Although the examples set out below are not exclusive, they show types of unacceptable conduct which are completely against our policy:

Successive or single acts of bullying

Verbal or physical abuse

Ill-treatment

Any offensive or oppressive act

Any defamatory remark

Causing a person to avoid or want to avoid any social, work, or training environment through poor behaviour towards them

Ill-advised comments or harassment about any person's sex, sexual orientation (including lesbian, male homosexual or bisexual transitional sexual status under the Gender reassignment regulations), religion or belief including philosophical belief, race or ethnic origin, disability or age, marital status

Any abuse of a position of authority by a staff member over a learner or to another staff member

Being under the influence of alcohol will be considered to aggravate the offence and will not constitute an excuse for it.

Marriage and Civil Partnership

The TESS Group accepts a person has the protected characteristic of marriage and civil partnership if the person is married or a civil partner. Any reference to a person or persons who have particular protected characteristics is a reference to person or persons who are married or in a civil partnership.

Harassing aspects of potentially offensive displayed graphic materials

Our policy is that it cannot be assumed that because one person does not find such material offensive, so all must put up with it. We will not put anyone in a situation in which they have to request that such items be removed. You are not to make available:

The display of sexual material on posters or in any other form including graffiti.

Any written or printed material intended to show that any person is inferior in any way, including any sexual or racist aspect.

The use of 'playboy' or 'playgirl' style calendars or other potentially offensive magazines or pictures including those of a soft pornographic nature.

Do not use the Internet to research, hold on screen, download, attach to email, send or otherwise interact with any sexual or pornographic image, or to connect to any website containing such material. If you type in a keyword and the under/over 18 sign appears on the screen – select NO and do not choose to reveal any 'adult material'.

Managers and supervisors of learners at external workplaces are to be asked directly and without embarrassment, fear or favour to remove potentially offensive items from the workplaces of government funded learners as part of the external company's commitment to the equality of opportunity and protection from harassment.

To reiterate, no learner will be put in a position of having to ask that material offensive to them be removed.

False accusation

The TESS Group will hold it as an offence against this equal opportunity policy if any person gives a false accusation against another learner or staff member. Accusations of a false nature can be deemed as legally defamatory. All those involved in the investigation of any complaint must keep the matter strictly confidential.

Right to advice and counselling

The TESS Group will ensure that all persons have a right to advice and to legal protection. This will be achieved by either by a person appointed by The TESS Group giving advice in confidence to any learner or staff member, or by referral to an external specialist source such as a solicitor or counselling agency. Time off from training or staff work will be given to attend external appointments until such matters are resolved.

Positive discrimination against gender stereotyping

All staff shall make every effort to inform learners of opportunities to break out of stereotypical roles at work. Vocational training providers are permitted by law to be proactive in trying to introduce men and women into areas of work not considered normal activity for a particular sex. Examples of this would be to encourage more men into hairdressing and care home work, more women into information technology and building work. Stereotyping can occur within working environments too – for example, expecting women always to make the tea or do washing up or expect men always to change light bulbs or mend electrical fuses or plugs. Staff are to be aware of these aspects and show an example to learners in how to combat them.

Roles and responsibilities

All members of The TESS Group (Staff, Learners, Visitors and Associates) are expected to adhere to the standards, principles and duties of this policy.

This policy is designed to help everyone reach their full potential and to ensure so far as is practicable that the talents and resources of all are fully utilised and not held back on improper grounds. However, no policy of this sort can properly accommodate all possible circumstances and therefore this policy should be seen as creating guidelines only. It is non-contractual and does not impact on any legal rights on any employees or learners. The TESS Group may change all or any part of this policy in any way at any time.

Communication of updates, issues and changes to the Equality and Diversity policy is discussed monthly at managers meetings and this information is then cascaded to all delivery and administration staff through a combination of Standardisation meetings, One to One's, emails and team meetings to ensure that staff are fully updated at all times.

All staff and learners- Staff and learners are responsible for their own conduct and should ensure that their behaviour does not make any other person feel uncomfortable. Every member of staff and every learner have a responsibility to question their own prejudices and assumptions. It is the duty of all staff and students to avoid unfair discriminatory practices, to challenge them in others and to accept personal responsibility for abiding by this policy.

Whilst we recognise that overall responsibility for the effective operation of this policy lies with the Directors, everyone working or learning with The TESS Group has a duty to uphold and promote the values and principles set out in this policy. In this respect you should ensure that you:

- (a) Co-operate with any measures introduced to develop equal opportunities
- (b) Refrain from taking discriminatory actions or decisions which are contrary to either the letter or the spirit of this policy
- (c) Do not harass, abuse or intimidate other Employees, Learner's, Job Applicants, customers, Providers of Services or Members of the Public in a manner contrary to the letter or the spirit of this policy
- (d) Do not instruct, induce or attempt to induce or pressurise other employees or learners to act in breach of this policy
- (e) Advise The TESS Group if you are aware of any discriminatory conduct, either against yourself or any third party, so that The TESS Group can take steps to deal with it at an early stage.

A breach of this policy will result in action being taken under The TESS Group's disciplinary procedure against the individuals responsible.

This policy deals with inequality of treatment based on who you are, e.g. of a particular race, age or religion, etc. However, in some circumstances the law also provides protection against less favourable treatment because of what you do, e.g. being on a part-time or fixed-term contract, working flexibly, making a protected disclosure or asserting a statutory right, and also against victimisation for making good faith complaints of inequality of treatment on these grounds.

EDIMS analysis

This is reviewed quarterly by SMT and The Quality Team and is supported by a report run on our MIS, that contains all learner data.

This allows us to build up a fuller picture of our learner profile in terms of E&D data, which will assist us to consider areas of under-representation and develop actions to address this
This enables positive action interventions and, by compiling trend data, helps inform future

planning, and policies;

Helps us to focus on actions to promote positive relations between different equality groups;

Helps us assess the impact of proposed policies and initiatives on different equality groups;

The TESS Group uses equality data to understand the employee profile alongside learner profiles, which enables us to identify areas of strength and vulnerability and eliminate any adverse impact on equality;

The TESS Group will ensure that training is accessible for all learners in a variety of settings by considering the following:

Provide a range of support services which will enable learners with particular physical, social and cultural needs to participate fully in their funded programme, including but not limited to: -
tutorial support

additional support with learning, for example English and maths

additional learning support, for example dyslexia, hearing and autistic support specialists

Seek to make continuous improvements to physical access to all of its buildings and make reasonable adjustments to ensure that students, staff and visitors with access requirements due to disability are not disadvantaged. This also applies to activities being carried out at a learner workplace.

Complaints

Learners who wish to make a complaint about an equality related matter should, in the first instance, raise it with their assessor. If the complaint is about any The TESS Group staff, then the matter should be referred to the Human Resources Manager.

The TESS Group will take all complaints seriously and seek to deal with them promptly. If your complaint is upheld, then you will be notified of this. The details of any action taken against the perpetrator as a result are usually confidential as between him or her and The TESS Group.

We recognise that some complainants may prefer not to have their names used going forward. We will seek to accommodate such requests as far as practicable but staff and learners will appreciate that if we are unable to mention names, this may limit our ability to investigate the complaint with the alleged perpetrator. Similarly, we may find it impracticable to investigate complaints made long after the events in question and so you are encouraged to raise the issue which concerns you at an early stage.

Every effort will be made to ensure that anyone who makes a complaint in good faith will not suffer any further detriment or be victimised because of making such a complaint. Any complaint of victimisation will be dealt with seriously, promptly and (so far as practicable) confidentially.

Vicarious liability

All employers are initially held responsible for the discriminatory acts of their employees. If an employee undertakes an action that has a discriminatory effect, the employer would be deemed responsible, except where they have taken clear steps to ensure that such discriminatory acts do not happen.

The Equality Act 2010 places responsibility on to individuals as well as the employer. If an employee, in the course of employment, commits unlawful discrimination, both the individual and the employer are held responsible regardless of whether or not the employer knew or approved of the action. However, if it can be proved that all reasonable, practicable action was taken by the employer to prevent the employee from discriminating then this may act as a defence. Further details can be found within the Equality Act 2010.

Compliance

Failure to comply with this policy will be taken very seriously and will result in disciplinary action being taken.

Review and monitoring of this policy

This policy will be monitored periodically by the Head of Delivery to ensure it is achieving its objectives. The TESS Group will also undertake diversity monitoring of job applicants and employees and trainees. This policy will be reviewed Annually in line with the Action plan, however it will be discussed Quarterly in SMT meetings.

Review dates are saved in the footer of the policy for those reading it to be aware of.

The next scheduled review of this policy is due August 2021. Should any legislation or Prime Funder rules change before this date then amendments will occur imminently. Any changes made will be highlighted and dated to show the updates clearly.