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Our ref TP/HT
Your ref April 2017

**Headteachers & Chairs of Governors**

Dear Colleagues

**Equality and Diversity in Employment Statement**
**Supporting Disabled Employees – Guidance for Schools**

Please find attached two documents recommended to Governing Bodies for adoption by the school. The first is an overarching model Equality & Diversity Statement relating to employment practice. The school is likely to already have adopted a 'School Equality Policy' (or Single Equality Plan, as appropriate) which addresses the school's responsibilities in relation to pupils and the wider community. Although an existing policy may already contain some reference to employment matters, the Equality & Diversity in Employment Statement is designed to complement your current documentation by providing more detail on the school's responsibilities in relation to staff.

The Supporting Disabled Employees guidance provides more information in relation to disability and practical advice concerning the duties of an employer under the Equality Act 2010. Included are the legal requirements of the Act and definition of disability. This document is designed to help schools determine and provide relevant support for employees with a disability, adopt a culture that actively promotes a positive approach to equality and diversity and avoid disability discrimination.

There has been formal consultation with the recognised trade unions and professional associations at Schools' Joint Consultative Committee and collective agreement reached on both documents. If the school wishes to make any amendments, the Governing Body will need to consult with staff and the recognised trade unions on the proposed changes/additions. Once adopted, please bring the Statement and the Guidance to the attention of staff and let them know where they can be found on the school's systems, for future reference.

If you have any queries or require advice in the application of the documents please contact Children's Services HR Advice and Guidance team on 01629 535734.

Yours sincerely



HR Service Partner – Children's Services

# DERBYSHIRE LA

# EQUALITY AND DIVERSITY IN EMPLOYMENT STATEMENT

## Ripley Nursery School

4th October 2017

Review Date……..

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Equality and Diversity Statement

This document sets out the school's commitment to advancing equality and celebrating the diversity of the community, specifically in relation to the school's role as employer.

## 1.1 The School's Commitment

The Governing Body, Headteacher and staff are committed to advancing equality of opportunity and providing fair access and treatment in employment and in delivering education. Ripley Nursery School is dedicated to ensuring that all members of the school community and the wider community are treated equally, fairly, and with respect by the school and by each other. This document should be read in conjunction with the school's 'School Equality Policy'. The policy sets out how the school will promote equality of opportunity regardless of race, gender, transgender, disability age, religion or belief and sexual orientation, in both the delivery of its services and the employment of its staff.

All Governors, the Headteacher and staff, acting on behalf of the school are responsible for implementing the policy and have a continuing duty to challenge all forms of discrimination.

**Specific Undertakings in relation to Employment**

**We will:**

- Comply with and embrace equality law and good practice, including carrying out the public sector duty to promote equality.

- Secure advice and training to ensure that Governors, Headteacher and staff understand the implications of the policy, the relevant legislation and their responsibilities.

- Carry out recruitment fairly and effectively, promoting the school as an employer people are proud to work for and seeking to achieve a balanced workforce which reflects the diversity of the community, wherever possible.

- Conduct all staff appointments and promotions on the basis of merit and ability and in compliance with the law.

- Provide all employees with opportunities to influence the development of policies and practice.

- Promote and support education and training to increase awareness and eliminate discrimination.

- Regularly monitor, assess and consult on the impact of the school's policies and procedures to ensure they are fair and reflect staff's different needs and opinions.

- Promote and support the principles of equal pay and conditions for employment.

- Not tolerate unacceptable behaviour, such as discrimination, bullying and harassment at work, and take necessary action to address it.

- Celebrate the diversity of Derbyshire within the school and support initiatives for greater equality and awareness.

- Make reasonable adjustments in services, education and employment in line with legal duties.

- Embed equality and consideration of diversity into everyday activities. To do this, the school expects all staff to:-

    - Treat everyone with dignity and respect at all times
    - Provide the best standards of service to all members of the school community
    - Consider the needs and opinions of all groups
    - Embed the advancement of equality and diversity within the school's objectives

## 1.2 Equality Act 2010

As a public authority the Governing Body must comply with its legal duties contained within the Equality Act 2010 and associated regulations.

Section 149 of the Equality Act created a single public sector equality duty (PSED) covering all strands of discrimination law.

The School's Governing Body recognises its public sector equality duty and in carrying out their functions will have due regard to the following matters when exercising this duty:

- the elimination of discrimination and other conduct prohibited by the Act,
- advancing equality of opportunity between people who share a protected characteristic and people who do not share it,
- fostering good relations between people who share a protected characteristic and people who do not share it.

The Governing Body recognises the duty to have 'due regard' to equality considerations whenever significant decisions or policies are being developed.
The specific duties require schools:

- to publish information to demonstrate how they are complying with PSED, and
- to prepare and publish equality objectives.

**Protected Characteristics**

The Equality Act 2010 offers protection to people with 'protected characteristics'. These are:-

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

## 1.3 Monitoring and Evaluation

- The Headteacher will report to the Governing Body annually providing information on employees within the school, as provided for in individual relevant policies (e.g. Recruitment & Selection, Appraisal), according to the protected characteristics in relation to the categories listed in 1.2 above. *(Although schools must publish information relating to persons who share a relevant protected characteristic who are affected by their policies and practices, data about employees does not need to be published where there are fewer than 150 employees. Therefore for most schools only pupil related data will need to be published. Where a school decides to publish some employee related statistics to demonstrate that they are complying with the general duty, they must ensure that individuals are not able to be identified.)*

- The Governing Body will review annually any records which show how it has had due regard to the equality duty in making workforce decisions. That is, show conscious consideration of the elimination of the discrimination, the advancement of equality of opportunity and the fostering of good relations when making decisions as an employer.

- The Governing Body will monitor:

    - Relevant performance information
    - Data on recruitment, development and retention of employees
    - Records of any cases of bullying and harassment on the grounds of any equality issue
    - Satisfaction surveys and complaints
    - Any quantitative or qualitative research
    - Feedback, engagement exercises with staff and/or Trade Unions

- The Governing Body will monitor regularly and review annually the outcomes of the Equality Objective(s) set. (*It is likely that these will relate to pupils rather than staff)*

- The Governing Body will review the impact of the policy on an ongoing basis through analysis of monitoring information.

- This policy will be regularly reviewed *every 3 years* and also when necessary to reflects any changes in legislation, directives and codes of practice.

The Governing Body recognises that applicants for posts and employees need to be informed why they are being asked for monitoring information. They may be worried about how the information will be used. No one will be treated less favourably for not supplying monitoring information as they are not required to do so.

Individual data will be processed fairly and lawfully in accordance with the Data Protection Act 1998 and any subsequent legislation. It will only be shared in compliance with the data protection principles. Data will be securely stored in line with data protection rules and kept for no longer than necessary. In publishing any data the school needs to ensure that individuals' confidentiality will not be breached and that information is not revealed that would enable someone to work out confidential details of another employee. The school will anonymise data for publication and where the numbers involved are small and consider carefully whether it would be possible for a reader to reach conclusions about information provided in confidence which if published would breach the Data Protection Act. (LA guidance on data protection can be found on the DerbyshireSchoolsNet under Freedom of Information).

## 1.4 Effect on Other Policies and Procedures

The Governing Body will ensure that, where relevant, the school's policies and procedures will take into account fully the Equality Act 2010. These will include:

- Recruitment and Selection
- Appraisal and Continuing Professional Development
- Management of Sickness Absence Procedure
- Redundancy and Restructuring Procedures
- Professional Competence of Teachers
- Teachers' Pay Policy
- Grievance and Harassment
- Confidential Reporting Code (Whistleblowing)
- Disciplinary Procedure

The school is committed to ensuring that all school staff are treated fairly and consistently and this is held to account through our staff discipline, code of conduct, grievance and harassment procedures. The education and wellbeing of our pupils is the main priority. The relevant school policy will be applied to any member of staff who creates a barrier to learning for our pupils. The Appraisal Policy provides information on how the school monitors teachers' performance. We hope that all staff will feel able to voice complaints and grievances in the confidential environment of the school and that they will trust the school to deal with their grievances fully, promptly and fairly.

## 1.5 Changes to Employees' Circumstances

The Governing Body encourages, and would like to emphasise the need for, employees to inform the Headteacher and Governors of any material change in their circumstances which could affect their working conditions and the application of this policy, including any change in their status with regard to the protected characteristics. The Governing Body also encourages employees to seek advice from their union if required.

## 1.6 Complaints and Resolution of Disputes

If the school receives a complaint relating to any aspect of this Policy which cannot be resolved informally the complaint will be dealt through the school's Complaints Procedure for External Complainants and, for employees, through relevant employment policies – e.g. harassment, grievance.

**All employees of the Governing Body have a contractual obligation to comply with this policy and the school's Equality statements set out in Section 2.**

# Section 2

# Equality Policy Statements

**The School is committed to the following policy statements:**

## 2.1 Disability

The Governing Body is committed to eliminating discrimination and advancing equality of opportunity in the field of employment. It will, therefore, fulfil its legal obligations in accordance with the Equality Act and any related or subsequent legislation including seeking to identify and remove all unjustified direct and indirect discrimination, harassment or victimisation. It is also unlawful to discriminate against a person by association (e.g. a relative of the disabled person), or to discriminate owing to a perception that a person is disabled.

The school will comply with the act by considering whether:

- the way the organisation runs,
- any physical feature of the school site,
- the absence of an auxiliary aid or service

puts a disabled employee or job applicant at a substantial disadvantage compared with a person who is not disabled. In these circumstances reasonable adjustments must be made to remove or reduce the substantial disadvantage.

The Governing Body will not discriminate against candidates applying for vacancies within the school. (See Recruitment and Selection Policy). Particular consideration will, therefore, be given to the following:-

- Application forms
- Not seeking information on ill health absence in references, pre-interview
- Interview arrangements
- Terms and conditions of employment
- Staff development opportunities
- All other policies and procedures adopted by the Governing Body

**Direct discrimination**: that is, less favourable treatment because of a protected characteristic, compared to someone whose circumstances excluding the characteristic are otherwise comparable. Such discrimination cannot be justified by the employer.

**Indirect discrimination**: Indirect discrimination may occur when an employer applies an apparently neutral provision, criterion or practice (PCP) that puts workers sharing a protected characteristic at a particular disadvantage. For indirect discrimination to take place, four requirements must be met:

- the employer applies (or would apply) the provision, criterion or practice equally to everyone within the relevant group including a particular worker;
- the provision, criterion or practice puts, or would put, people who share the worker's protected characteristic at a particular disadvantage when compared with people who do not have that characteristic;
- the provision, criterion or practice puts, or would put, the worker at that disadvantage
- the employer cannot show that the provision, criterion or practice is a proportionate means of achieving a legitimate aim.

**The Governing Body will seek to avoid direct and indirect discrimination by:-**

- Not making assumptions about a person's disability
- Following the social model of disability – that is, seeking to remove barriers that may prevent those with impairment(s) taking part in the organisation on an equal level with other employees.
- Seeking professional advice on whether impairment is covered by the Equality Act 2010 and carrying out workplace risk assessments where appropriate

The Governing Body notes that it is not discrimination to treat a disabled person more favourably that a non-disabled person.

**Reasonable Adjustments**

In addition, The Governing Body, wherever possible and practicable, recognises the duty to assist a person with a disability including by making reasonable adjustments. Employees will be asked, on appointment, whether they have a disability. If a disability is not declared the employer is not able to assess whether any appropriate adjustments may be reasonably provided. These might include:

- Adjustments to premises
- Reallocation of a disabled person's duties
- Consideration of suitable alternative employment

- Consideration of more flexible working, including altering the person's working hours
- Allowing time off for rehabilitation, assessment or treatment
- Training
- Acquiring or modifying equipment
- Modifying instructions or reference manuals
- Modifying procedures in recruitment and selection for testing or assessment

The LA's guidance on Supporting Disabled Employees in the Personnel Handbook will inform the Governing Body's consideration of any reasonable adjustments that may be required.

As referenced in section 1.4 of the Equality and Diversity Statement above, support for disabled employees, and the wider duties in relation to people with a disability under the Equality Act, will be taken into account when applying other human resource management policies adopted by the school.

## 2.2 Race Equality

Race is defined in the Equality Act as including colour, nationality, caste and ethnic or national origins. The school recognises that people from black and minority ethnic backgrounds (BME) can face discrimination.

The school recognises its Public Sector Equality Duty to advance race equality as set out in the Equality Act 2010.

**The Governing Body will:**

- Give full and fair consideration to all applicants, based solely on their ability to do the job and give equal opportunity for training, career development and promotion for all employees.

- Ensure that information provided by the school is accessible and, where necessary, targeted at BME or other identified groups.

- Ensure that the school considers, and where appropriate implements, recommendations from the LA, Equality and Human Rights Commission (EHRC), minority community group organisations and trade unions on the implementation of this policy

## 2.3 Religion or Belief

The Governing Body is opposed to all forms of religion or belief based discrimination, including non-belief. It recognises that decisions and practices relating to employment and vocational training should not be based on an individual's religious beliefs or lack of them.

The school's policy is to protect the right of individuals, irrespective of their religion or belief, and will work for the eradication of all forms of discrimination on these grounds through training, awareness raising and implementation of anti-harassment procedures. To benefit from protection under the Act, a religion or belief must be genuinely held, have a clear structure and belief system, a level of cogency, seriousness and cohesion and importance, be worthy of respect in a democratic society, not be incompatible with human dignity and not conflict with the fundamental rights of others.

**The Governing Body will:**

- Respect an individual's right to follow and practice a particular religion, religious or similar philosophical belief and respect those individuals who do not do so.

- Encourage a culture within the school which allows individuals to be open about their religious beliefs or otherwise.

- Encourage tolerance of different religions and belief based viewpoints (except where a belief is not worthy of respect in a democratic society or incompatible with the rights of others e.g. Fascism)

The Governing Body recognises that indirect discrimination can occur when a condition, rule, policy, or practice in the organisation, that applies to everyone, disadvantages people who share a protected characteristic. Indirect discrimination may be justified when the school has acted reasonably in implementing 'a proportionate means of achieving a legitimate aim'.

With reference to indirect discrimination, in particular the school will consider the effect of any staff dress code or restrictions relating to the wearing of jewellery in the light of any religious significance or requirement for observance of a religion. The Governing Body will consult with staff on any proposed code of dress and wearing of jewellery.

Such codes will seek to promote the professionalism of staff, respect for their authority and regard for the school by students, colleagues, parents and the community.

They will reflect the need for smart and modest apparel, which is also appropriate for any specific curriculum areas taught.

Restrictions may also be justified on the grounds of the health and safety, of the wearer or others.

Consideration will also be given to any barrier posed to necessary communication with children and the exercise of the duty of care to pupils, in promoting their education and welfare.

## 2.4 Sex/Gender Equality

The Governing Body is opposed to all forms of sex/gender based discrimination and will respect the right to dignity of all employees.

It will continue to strive to achieve equality of opportunity, while attempting to recognise and address historical and gender-specific discrimination.

**The Governing Body will:**

- Recognise family and caring responsibilities through the continued development of family friendly and carer support policies and provisions.
- Recognise that career patterns are often disrupted because of caring responsibilities and provide appropriate training and career development opportunities
- Challenge sexist attitudes and practices both within the school and external organisations with which the school may deal
- Give full and fair consideration to applications for employment from individuals, based solely on their ability to do the job and give equal opportunity to training, career development and promotion for employees regardless of gender
- Develop specific initiatives, where required, to address gender imbalances within the school and to address gender inequalities or discrimination.
- Ensure that information, publicity and advertising over which the school has control or influence is non-sexist and uses positive images and language of people of all genders.

## 2.5 Gender Re-assignment

The Governing Body is opposed to all forms of sex based discrimination and will respect the right to dignity of all genders and those undergoing gender re-assignment.

Gender re-assignment is defined in the Act as applying to anyone who is undergoing, has undergone or is proposing to undergo a process of reassigning their sex by changing physiological or other attributes.

The school's policy is to protect the rights of individuals, regardless of their gender and will work for the eradication of all forms of discrimination (direct & indirect discrimination, victimisation, discrimination based on perception and on association) on these grounds through training, awareness raising and implementation of anti-harassment procedures.

**The Governing Body will:**

- Respect an individual's right to define their sexual identity
- Work towards enabling employees to feel safe in being open about their sexual identity
- Give full and fair consideration to applications for employment from individuals, based solely on their ability to do the job and give equal opportunity to training, career development and promotion for employees regardless of gender.
- Respect the right to privacy in relation to information provided by a transsexual person. If someone has a Gender Recognition Certificate, it may be a criminal offence to disclose this without permission. It is recognised that it is for the individual to disclose information relating to their gender reassignment if and when they wish to do so.

## 2.6 Sexual Orientation

The Governing Body recognises its general duty to protect people at work and in vocational training from discrimination on grounds of sexual orientation in accordance with the Equality Act 2010.

The Governing Body is opposed to all forms of discrimination against lesbian women, gay men, bisexual or heterosexual men and women. It recognises that decisions and practices relating to employment should not be based on the assumption that everyone is, or should be, heterosexual.

**The Governing Body will:**

- Respect an individual's right to define their sexual identity
- Protect the dignity of people of all sexual orientations at work
- Work towards enabling employees to feel safe in being open about their sexual identity
- Tackle homophobia including homophobic bullying.

It is recognised that there is a relationship between protection because of sexual orientation and protection of religious freedom, i.e. the right to manifest one's religion or belief. For individual teachers, having a view about something does not amount to discrimination, so it should not be unlawful to express personal views on sexual orientation provided it is done in the appropriate manner (e.g. in RE or PSHE lesson). However, teachers at the school are expected to remember that they are very influential people and have due regard for their wider responsibilities. Conveying a belief in a way that was haranguing, harassing or targeted at a particular pupil/group of pupils would be likely to constitute unlawful discrimination.

**Marriage and Civil Partnership**

The Governing Body recognises that marriage and civil partnership is a protected characteristic under the Act. The School will not discriminate against people on this ground. It will support all kinds of families and treat parents fairly, irrespective of marital status or civil partnership status.

No individual teacher is under a duty to support, promote or endorse marriage of same sex couples but teaching should be based on the facts and enable pupils to develop an understanding of how the law applies to different relationships. Teachers must have regard to statutory guidance on sex and relationships education, and meet duties under equality and human rights law.

**Pregnancy and Maternity**

Pregnancy and maternity is a protected characteristic under the Act and the Governing Body recognises its duty to protect women from discrimination at work, because of pregnancy or maternity leave.

The school incorporates the statutory provisions relating to employees' rights to Health and Safety protection, time off for antenatal care, maternity leave, paternity leave, parental leave and unfair dismissal protection in other relevant policies.

## 2.7 Age Equality

Ageism is discrimination based on preconceived ideas of an individual's capabilities at certain stages in their lives and is often targeted at younger and older people. The school is opposed to discrimination on the grounds of age.

**The Governing Body will:**

- Ensure that age is not a barrier to recruitment, selection, promotion, training or personal development.
- Ensure that age will not be considered adversely in redundancy situations.
- Seek to eliminate age discrimination through education and training
- Ensure that indirect discrimination does not occur as a result of a perception relating to an employee's age, or arising from an association to another person in connection with their age. (e.g. if an employee was not selected for a promotion or a development opportunity because an assumption was made concerning their role in caring for an elderly parent)

## 2.8 Rehabilitation of Offenders

The Governing Body will give due consideration to individuals with prior convictions who apply for jobs in the School, unless they are Barred by the Disclosure and Barring Service. It is an offence to knowingly employ a person who is disqualified under the 2009 regulations in connection with the relevant childcare provision. They will apply the guidance from the DfE guidance 'Keeping Children Safe in Education', Disqualification Under the Childcare Act 2006 and the relevant policies of the Local Authority (DfE Statutory Guidance - Disqualification under the Childcare Act) and school to risk assess such applicants' suitability for the post. Form sent to schools by DBS team when the check on an employee reveals a trace. The school will also take account of the Information Commissioner's Office guidance on employment practices (ico.org.uk). The school will not ask employees to make requests for their criminal records in connection with employment processes, as this would amount to a forced Subject Access Request, which is an offence under section 56 of the Data Protection Act. (LA's guidance on data protection referenced on page 6)

## 2.9 Harassment and Bullying

The Governing Body recognises that harassment, discrimination, victimisation or bullying of any nature is unacceptable. A culture will be promoted within the school where employees and pupils can bring a complaint without fear of ridicule or reprisal and be taken seriously. (See school's policy regarding bullying for pupils and harassment procedure for employees)

It is also recognised that harassment or victimisation may occur when an individual has or intends to make a complaint, or give evidence about discrimination or harassment. The aim is to prevent harassment occurring and to enable individuals to confront unacceptable action or behaviour.

Employees have an obligation to promote an atmosphere free from harassment and to challenge instances of harassment.

**The Governing Body will:**

- Ensure that employees are aware of harassment procedures.
- Ensure that complaints are dealt with in a sensitive manner.
- Provide support for any individual within the school who is experiencing harassment, victimisation or discrimination.
- Monitor complaints.

The LA's guidance 'Dealing with Complaints of Harassment' in the Personnel Handbook will inform the Governing Body's consideration of this aspect of Equal Opportunities.

Employees also need to have drawn to their attention the Confidential Reporting Code (Whistleblowing).