

Beyond Limits Dumfries & Galloway provides policies and procedures to promote safe and consistent practice across the Organisation. The framework laid down within our policies and procedures lets everyone know how we work and reflects our values and mission statement. Our policies and procedures are written to help us, employees of Beyond Limits Dumfries & Galloway, to make good, safe decisions.

Beyond Limits Dumfries & Galloway expects all employees to be familiar with the contents of all policies and procedures relevant to their role and to understand how to apply them within their daily work.

None of these documents stand alone, all fit within the larger framework of the way we work and any associated policies which are particularly relevant will be directly referenced.

Equality and Diversity

To be read in association with the Bullying and Harassment, Recruitment and Selection and Grievance Policies.

Equality and Diversity – what this means to Beyond Limits Dumfries & Galloway

Beyond Limits Dumfries & Galloway is committed to ensure the equality and diversity of the people we support as well as our employees.

At Beyond Limits Dumfries & Galloway we recognise our responsibilities regarding the equal opportunities and welfare of the people we support, our employees and all other stakeholders. It is therefore our policy to pay due consideration to the requirements of:

- The Equality Act 2010
- The Human Rights Act 1998
- Care Act 2014
- Mental Capacity Act 2005

In addition, Beyond Limits Dumfries & Galloway works within the framework of Citizenship, The Social Model of Disability, Social Role Valorization and towards the Personalisation agenda.

What is Institutional Discrimination?

The collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin, gender, age, religion, disability or sexual orientation.

What does institutional discrimination look like? What might we see?

It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and stereotyping, which disadvantage certain groups of people. Unwitting discrimination can arise because of a lack of understanding, ignorance or mistaken beliefs. It can arise from well-intentioned but patronising words or actions. It persists because of the failure of the organisation to openly and adequately recognise and address its existence and causes through policy, example and leadership.

Adapted from the Stephen Lawrence Inquiry: MacPherson Report, Feb 1999.

The Equality Act

The Equality Act 2010 is a culmination of a large range of previous legislation to protect people from discrimination and being treated unfairly and victimised. The Act aims to:

- Promote equality
- Fight discrimination
- Introduce transparency in the workplace
- Promote fairness and equality of opportunity
- Tackle disadvantage and discrimination

The Equality Duty

Beyond Limits Dumfries & Galloway has a duty to:

- Eliminate conduct which the Act prohibits
- Advance equality of opportunity between persons who share a relevant protected characteristic and those that do not through removing or minimising disadvantages suffered by people due to their protected characteristics. Taking steps to meet the needs of people from protected groups where these are different to the needs of other, encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

- Foster good relationships between people who share a relevant protected characteristic and those that do not by tackling prejudice and promoting understanding.

Beyond Limits Dumfries & Galloway will also consider the socio-economic disadvantage when taking strategic decisions about the way we work.

The Protected Characteristics

It is against the law to discriminate against anyone because of:

- Age
- Gender reassignment
- Being married or in a civil partnership
- Being pregnant or on maternity leave
- Disability
- Race including colour, nationality, ethnic or national origin
- Religion or belief
- Sex
- Sexual orientation

What is Discrimination?

Discrimination relates to any person who shares a relevant shared characteristic under the Equality Act 2010.

Direct Discrimination

Direct discrimination occurs when someone is treated less favourably than another person because of a protected characteristic they have or are thought to have (see perception discrimination below), or because they associate with someone who has a protected characteristic (see discrimination by association below).

Discrimination by association

Discrimination by association is direct discrimination against someone because they associate with another person who possesses a protected characteristic.

Perception discrimination

Perceptive discrimination is direct discrimination against an individual because others think they possess a particular protected characteristic. It applies even if the person does not actually possess that characteristic.

Indirect discrimination

Indirect discrimination can occur when an organisation has a condition, rule, policy or even a practice that applies to everyone but particularly disadvantages people who share a protected characteristic. Indirect discrimination can be justified if the organisation can show they have acted reasonably in managing the business, eg. that it is 'a proportionate means of achieving a legitimate aim'. A legitimate aim might be any lawful decision made in running the organisation, but if there is a discriminatory effect, the sole aim of reducing costs is likely to be unlawful. Being proportionate really means being fair and reasonable, including showing that the organisation has looked at 'less discriminatory' alternatives to any decision made.

Anti-discriminatory Practice

Anti-discriminatory practice aims to counteract the negative effects of discrimination on people and employees and to combat discrimination in all its forms. The organisation ensures people are not involved in any actions that could be seen as discriminatory or potentially insulting to any individual or group.

Harassment

Harassment is characterised as conduct related to a relevant protected characteristic, which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. Harassment applies to all protected characteristics except for pregnancy and maternity and marriage and civil partnership. Employees can complain of behaviour that they find offensive even if it is not directed at them, and the complainant need not possess the relevant characteristic themselves. Employees are also protected from harassment because of perception and association.

Third Party harassment

The Equality Act makes an organisation potentially liable for harassment by its employees and by people (third parties) who are not employees of the organisation, such as customers or clients. The organisation will only be liable when harassment has occurred on at least two previous occasions, the organisation was aware that it has taken place and have not taken reasonable steps to prevent it from happening again.

Victimisation

Victimisation occurs when an employee is treated badly because they have made or supported a complaint or raised a grievance under the Equality Act or because they are suspected of doing so. An employee is not protected from victimisation if they have maliciously made or supported an untrue complaint. There is no longer a need to compare treatment of a complainant with that of a person who has not made or supported a complaint under the Act.

The Human Rights Act

Although Beyond Limits Dumfries & Galloway does not fall within the definition under The Human Rights Act 1998 of a 'public authority', we believe our services should be designed and delivered to meet the standards required for those we employ and those we support.

The Human Rights Act 1998 Articles that are most relevant to Beyond Limits Dumfries & Galloway are:

- **Article 8 – The Right to private and family life**

This covers key issues relating to dignity and autonomy (making choices both big and small about their lives), decisions around health and personal welfare (including the refusal of medication), as well as freedom from intrusion by the media and the right to have personal information kept confidential. It also includes the right for families to live together, enjoy, and develop their relationships and the right to continue to occupy their home. This may include us taking positive action to support someone to maintain ordinary family relationships and live in their own home.

- **Article 3 – no one shall be subjected to torture or inhuman or degrading treatment or punishment**

Ensuring people are treated well is especially important if we are supporting people through the use of positive physical interventions and ensuring we understand how to safeguard the people we support from abuse.

- **Article 5 – the right to liberty and security**

To ensure no one is deprived of his or her liberty, if a deprivation of liberty is required this must be in accordance with the law. People can be detained legally under certain circumstances like the Mental Health Act 1983. Whether the person should receive care or support at home

- **Article 6 – the right to a fair trial**

People have a right to a fair and public hearing before an independent and impartial tribunal and within a reasonable time. Our internal complaints procedures are not expected to satisfy Article 6. However, if the complainant is not satisfied with the outcome of the complaint, they have the option of contacting an external agency, and or pursue legal action through a legal system, in which case Article 6 applies.

- **Article 9 – the right to freedom of thought, conscience and religion**

We must ensure the people we support hold or develop their religion or beliefs and should be supported to carry out for example religious observance such as prayer, or religious festivals. Beyond Limits Dumfries & Galloway recognises and upholds the rights to freedom of thought, conscience and religion of its employees for example religious observance such as prayer, or religious festivals but these should not be imposed on, or conflict with the interests of, the people we support. However, we also respect the right of a member of staff to decline to become involved in a particular aspect of an agreed programme or course of action where this is prevented by their personal views, although we would expect such an employee to support their colleagues dealing with the issues concerned. Beyond Limits Dumfries & Galloway recognises the benefits of the matching process, that is matching staff we employ to people we support who have and can uphold similar religious beliefs.

- **Article 14 – the right to be protected from discrimination in relation to the other rights**

This provides an equality dimension to human rights law. The areas of potential discrimination covered by Article 14 are broad: ‘any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status’. The final category ‘other status’ covers personal characteristics such as age and disability and could therefore potentially cover other protected characteristics: sexual orientation, gender reassignment, pregnancy/maternity and marriage/civil partnership status. These breaches would give rise to potential breaches of the Equality Act 2010.

- **Article 1 of Protocol 1**

Provides that individuals have the right to peaceful enjoyment of their possessions, such as a house, car, book and pension. It can also include welfare benefits to which a person has an entitlement. As with other qualified rights, this right can be limited but only in circumstances (in the public interest) and if it is lawful and the interference can be justified.

Beyond Limits Dumfries & Galloway values, aims and objectives mean that we strive to work within the frameworks of citizenship, the social model of disability, social role valorization and the Personalisation agenda.

Care Act 2014

Beyond Limits Dumfries & Galloway will ensure that the service they provide is transparent and accessible to potential purchasers. Whilst endeavoring to provide a high-quality service that will give people more control and help them to make more effective and personalised choices over their care. The person will always remain central to all decisions made with them or for them and this will not be influenced by the needs of the organisation.

Beyond Limits Dumfries & Galloway will work in line with the local authorities with regards to the Safeguarding Adult Board (SAB), ensuring that all relevant safeguarding concerns/issues are shared openly and honestly with the (SAB).

Beyond Limits Dumfries & Galloway will be fully compliant with the needs of those they care for and will endeavor to support the person's wishes to move areas if they so wish and if it will be of 'significant benefit' to them. Beyond Limits Dumfries & Galloway will share information (in line with the Data Protection Act 1998) relating to the person being supported to ensure the continuity of care is delivered and will be supportive of any necessary transitions that take place.

Mental Capacity Act 2005

Whenever the term 'a person who lacks capacity' is used, it means **a person who lacks capacity to make a particular decision or take a particular action for themselves at the time the decision or action needs to be taken.**

Beyond Limits Dumfries & Galloway recognises that when working with or caring for adults who lack capacity to make decisions for themselves that we have a legal duty to consider its Code of Practice.

Every adult has the right to make their own decisions if they have capacity to do so.

- Family, carers, healthcare or employees of Beyond Limits Dumfries & Galloway must assume that a person has the capacity to make decisions, unless it can be established that the person does not have capacity.
- People should receive support to help them make their own decisions. Before concluding that individuals lack capacity to make a particular decision, it is important to take all possible steps to try to help them reach a decision themselves.
- People have the right to make decisions that others might think are unwise. A person who makes a decision that others think is unwise should not automatically be labelled as lacking the capacity to make a decision.
- Any act done for, or any decision made on behalf of, someone who lacks capacity must be in their best interests.
- Any act done for, or any decision made on behalf of, someone who lacks capacity should be an option that is less restrictive of their basic rights and freedoms – as long as it is still in their best interests.

Beyond Limits Dumfries & Galloway will work in partnership with all other external agencies to ensure that those they care for who lack Capacity still have their equality and diversity needs are upheld. The Act does not stand-alone and works in conjunction with the following:

- Care Act 2000
- Data Protection Act 1998
- Disability Discrimination Act 1995
- Human Rights Act 1998
- Mental Health Act 1983
- National Health Service and Community Care Act 1990

Citizenship

Citizenship can have several meanings - but it is a useful word, because it can be used to describe how human beings can live together - with justice and mutual respect. Citizenship means:

Being Respected - being able to hold your head up high and get respect from those around you

Being Equal - citizens all have the same fundamental worth or dignity, they don't believe that just because someone has more money, power or a better-paid job that this makes them a better person

Being Different - citizens are not identical, they have many different gifts which they bring together to build a better world.

Citizenship is important because it reminds us that we can each live a good life, in our own way, while also being able to live together with mutual respect. Citizenship means rejecting the idea that people's worth can be measured by money, power, fame, intelligence or any of the other ways that make people different and which some people imagine define 'what is important'.

The keys to Citizenship

Simon Duffy's book *Keys to Citizenship* (2014) describes how we can achieve citizenship in practice. Although the book focuses on people with learning difficulties it is a framework which applies to all of us.

Citizenship is something we build - together - for each other and there are real ways of achieving citizenship:

Being in control - being a citizen means being in control of your own life - being able to make decisions, make mistakes, and make your own way. For people with significant communication difficulties this also means lots of compassion, thoughtfulness, love and attentiveness. But everyone can be in control - especially if we listen to those who know and love the person most.

Having direction - being a citizen means having a life of meaning - your own meaning. When our lives do not fit our passions, interests and abilities we are diminished - but if we can find a path that is right for us then we can help other people to see us with respect.

Having money - money is important, but may be not for the reason we all think. Money gives us the means to be independent, to set our own course and to achieve our own goals. However, too much money is an obstacle to citizenship - mad consumers and millionaires are not citizens - but citizens do pay their own way.

Having a home - we all need a place we can call our home, not just a shelter, but a place where we can have privacy, where we can be with those we love, where we belong. When we have no home, we appear almost rootless and disconnected - when we say someone has gone into 'a home', we mean they have lost their home.

Getting help - we live in a world where we imagine that needing help is bad, even though we all need help every day and the giving and receiving of help from others is the key to a good society. The challenge today is to get help without having to give up your citizenship

Love - we all need a range of loving relationships including friendship, family, and sexual relationships and to give and receive love. The person should be supported to take responsibility for others and respect people's differences.

Life – we all need to play an active part in the community. This means working, learning, giving and enjoying leisure pursuits with other fellow citizens whilst making friends along the way.

The Social Model of Disability

People with learning disabilities and complex needs often face barriers to achieving the goals they set in life including inclusion. Beyond Limits Dumfries & Galloway believes the *person* is not the ‘problem’ that causes the barriers, the ‘problem’ is the *barriers imposed by Society*.

Beyond Limits Dumfries & Galloway works within the framework of the Social Model of Disability and sees these barriers as often economic, environmental and cultural, which include inaccessible educational systems and work systems, working environments, inadequate disability benefits, discriminatory health and social support services, inaccessible transport, houses and public buildings and amenities, and the devaluing of disabled people through negative images in the media – films, television and newspapers.

Barriers can be put into three areas:

- **Attitudes** – People may have discriminatory, demeaning and negative attitudes towards the people we support which can lead to poor outcomes such as low expectations, segregation, social exclusion, hate crime and abuse. These attitudes are endemic in the systems supporting people with learning disabilities and often come from lack of knowledge, misunderstanding, rarely coming in contact with people with learning disabilities, myth and legend and small-minded mentality. The people you support’s hopes, dreams and goals should be paramount and drive the team forward when barriers are put up by others.
- **Access** – the people you support may be denied access (overtly or in-overtly) this may be through restrictions to transport and getting about their community, as other people are able. Information is often restricted or not accessible to the person because of the way it is produced. People may also have restrictions to good quality housing in places the person wants to live or inaccessible public environments.
- **Assistance** – Barriers are put up to accessing support. The people you support will be seen as ‘different’, ‘less worthy’, ‘special’ and lesser citizens because they require assistance. Attitudes often reflect that they should be ‘grateful’ for what they are given and choice and control is therefore restricted. We all require assistance in doing tasks as none of us have all the skills we need (a solicitor, tailor, dry cleaner, someone to mend the computer), whether we have a disability or not, and the support you give to a person should not be seen as ‘special’ just a different type of assistance.

You will also be involved with Beyond Limits Dumfries & Galloway in overcoming barriers through:

- **Building on the person's gifts, skills and attributes** – the planning and review processes (Service Design and Working Policy) work from the positives a person has to offer (their gifts, skills, attributes) and do not dwell on negatives therefore building a service on what is achievable.

Behaviours that challenge services are viewed by Beyond Limits Dumfries & Galloway as the person demonstrating that we at Beyond Limits Dumfries & Galloway have got something wrong, or the person needs to be taught new and effective skills rather than the behaviour being 'blamed' on the person.

Social Role Valorization

Beyond Limits Dumfries & Galloway is influenced greatly by the theory of Social Role Valorization (SRV) (Wolfensberger 1983), with its major goal to create or support socially valued roles for the people we work with in their communities. If people hold valued social roles, then it is highly likely they receive the 'good things' in life that are available to other citizens. These good things include home and family, friendship, being accorded dignity, respect, acceptance, a sense of belonging, education, a voice, participation, and opportunities to work and support themselves.

SRV is relevant to the people we work with because they are currently at risk of or already devalued by their communities. They are far more likely to be treated badly, and to be subjected to a systematic and possibly life-long pattern of negative experiences such as:

- Being perceived and interpreted as "deviant," due to their negatively-valued differentness. The latter could consist of physical or functional impairments, low competence, a particular ethnic identity, certain behaviours or associations, skin colour, and many others.
- Being rejected by community, society, and even family and services.
- Being cast into negative social roles, some of which can be severely negative, such as "subhuman," "menace," and "burden on society."
- Being put and kept at a social or physical distance, the latter most commonly by segregation.
- Having negative images (including language) attached to them.
- Being the object of abuse, violence, and brutalisation, and even being killed.

The people we support have also often faced and have been 'wounded' by a lifetime of rejection, segregation, congregation, discrimination, institutionalisation and sometimes dehumanisation by Society and have had to adapt their coping mechanisms to overcoming huge barriers to get

a life like anyone else. These coping mechanisms sometimes leave them with negative labels such as ‘challenging behaviour’ or ‘sexual deviance’. The role of Beyond Limits Dumfries & Galloway is to identify these barriers and support the person to build on their skills and challenge the discrimination that prevents them achieving their hopes and dreams.

Personalisation Agenda

Personalisation means “to recognise people as individuals who have strengths and preferences and putting them at the centre of their own care, support and any discussions that are made for, about or with them. The traditional service-led approach has often meant that people have not been able to shape the kind of support they need, or receive the right kind of help.

- Beyond Limits Dumfries & Galloway understands the need for Self-directed support and personal budgets that involve enabling people to identify their own needs and those they support to make choices about how and when they are supported to live their lives.
- That those we support need access to information, advocacy and advice so they can make informed decisions.
- Ensuring there is an integrated, community-based approach for everyone.
- People having a good choice of support regardless of age or disability, including support provided by user-led organisations (ULOs).
- Ensuring that the people we support can access universal services such as transport, leisure, education, housing and health, as well as employment opportunities.
- That the people we support are at the centre of all systems, processes, employees and services we provide.

Beyond Limits Dumfries & Galloway is committed to providing a working environment in which all the people we support and employees are able to realise their full potential and to contribute to the wellbeing and success of our organisation by promoting positive actions that contribute to us all embracing diversity and promoting equality. This means this policy applies to all.

All those connected and employed within Beyond Limits Dumfries & Galloway are responsible for making this policy work. This means we need to consider ways within our work that we can, as individuals and collectively as an organisation, promote equality for us all, irrespective of our gender, race, nationality, ethnic or racial origins, age, accent, marital status, sexual orientation

(gay, lesbian, transgender, gender reassignment etc.), religion, religious belief, disability or offending background.

Procedure – what this means we should do:

We are all expected to give this policy our full support and we are expected to treat each other with respect and appropriate sensitivity. It is therefore important to recognise that what one employee or person we support may find acceptable or inoffensive, another may find totally unacceptable, offensive or unwelcome.

Employees should undertake any Equality and Diversity training offered and promote diversity and equality in the way you support the person you work with and in the way you work with other employees.

Role of Employer/Employee

Some of the other things we can do to support this policy are:

- Pay careful attention to our use of humour/ telling a joke at someone else's expense
- Build on a person's gifts, skills and talents
- Use accessible communication when supporting people
- Champion a person's hopes and dreams
- Be a social and education mentor to the person you support
- Challenge situations where the person is seen as the 'problem'
- Challenge negative attitudes and low expectations of the person you support
- Do not over support a person
- Think about our use of language (not using discriminatory words or assumptions, including sexist remarks)
- Have an understanding of a person's rights under legislation.
- Have an understanding of Citizenship and striving to be role models ourselves and support the people we work with to achieve citizenship that makes sense to them.
- Challenge systemic barriers such as housing, employment and transport
- Make information and access to services accessible to inform choice
- Have an insight into the impact of discrimination and a good awareness of our own beliefs and attitudes and how these influence our actions and behaviour promoting good working relationships and group work skills
- Challenge prejudices such as racist, sexist or homophobic remarks
- Have an understanding of institutional discrimination and the courage and ability to challenge common myths, stereotypes, misconceptions and barriers to people having inclusive lives and fair and positive working relationships and conditions of work.

- Report incidents of non-compliance with the Act to a Service Leader or the Director.

Attitudes - to overcome this barrier you can:

- Champion equality and diversity
- Challenge negative attitudes
- Recognise and challenge discriminatory and demeaning attitudes
- Be a positive role model for the person you support and other people

Access - To overcome this barrier you can:

- Challenge restrictions to transport and access to buildings
- Know how the person you support communicates so you can support them to make choices
- Challenge restriction to good housing and access to public services
- Ensure information is accessible that you produce, and challenge inaccessible information provided by others

Assistance - to overcome this barrier you can:

- Remember we all require and access assistance. The assistance you give to the person you support is no different.
- Learn to give 'invisible' support that is the 'least required' to get the task done. You should be in the background encouraging the person to speak up and do for themselves wherever possible.
- Challenge attitudes that demean the assistance you are providing.

Role of Beyond Limits Dumfries & Galloway

The Director and Service Leaders will be responsible for implementing this Equality and Diversity policy through its recruitment and selection procedures and monitoring its effectiveness through the use of regular equality impact assessments, data collection during recruitment and during employment and feedback from employees when they leave the organisation. The data provided is analysed, highlighting any gaps or weaknesses, meaning we can plan to address these.

The employment process will show due regard to the Act and ensure processes promote diversity and eliminate discrimination. We will ensure that no employee or job applicant is discriminated against, either directly or indirectly, on the grounds of race, religion, belief, age,

sex, marital and civil partnership status, disability, sexual orientation, gender reassignment, pregnancy and maternity.

For the people we employ or applicants this commitment applies to all the aspects of employment outlined below:

- Recruitment and selection, including advertisements, job descriptions, interview and selection procedures and provision for individual employee needs where possible.
- Training, support and staff development.
- Promotion and career development opportunities.
- Terms and conditions of employment, and access to employment related benefits and facilities.
- Grievance handling and the application of disciplinary procedures.
- Selection for redundancy.

In addition, Beyond Limits Dumfries & Galloway recognises that Equal Opportunities practice is developing constantly as social attitudes and legislation change. The organisation will keep its policies under review and will implement changes where these could improve equality of opportunity. This commitment applies to all the organisation's employment policies and procedures, not just those specifically connected with equal opportunity.

We will take positive action if required to ensure we have a diverse workforce. Positive action means taking measures such as provided dedicated training to under-represented or disadvantaged groups, or to meet particular needs.

We will make reasonable adjustments when and where necessary to ensure employees can do the job they are required to do.

We will ensure contractors and people that work alongside us are aware of our high standards with regard to the Equality Act and show due regard whilst working with/for us.

Beyond Limits Dumfries & Galloway will not tolerate harassment of any kind in the working environment and will take positive action regarding any breaches seriously, and we will investigate and take the required action to address any areas that are highlighted.

Beyond Limits Dumfries & Galloway will be developing a circle of critical friends who will help us monitor and improve where necessary or work around Equality and Diversity both for the people we support and the people we employ. Incidents regarding equality and diversity will also be

reviewed annually by the Director and Senior Service Leaders and any changes to practice and policy will be made.

People we support

The Equality Act 2010, Citizenship, Social Model of Disability, Social Role Valorization, Personalisation Agenda, The Human Rights Act 1998, the Mental Capacity Act 2005 and Care Act 2014 equally applies to the people we support and Beyond Limits Dumfries & Galloway will ensure that workers are trained and supported to promote equality and diversity and challenge discrimination wherever it is found, using their knowledge of the legislation and guidance.

Reporting and complaints about breaches to the Equality Act 2010

Beyond Limits Dumfries & Galloway will take any reports and complaints regarding breaches seriously and investigate and take the necessary action required. Employees can use the complaints, whistle blowing or grievance process to raise a complaint or report a breach. Each report and complaint will be debriefed with the Director and Senior Service Leader ensuring that the necessary actions have been taken to prevent this from occurring again.