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5.3. Human Resources Policies and Procedures

NB:

- **Extract Cover Sheet Must Remain with Extract**
- **Extracts are Uncontrolled Documents and are only Valid at Point of Submission**
- **Where Possible an Extract should be Read in Conjunction with the Parent Document**

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7 Equal Opportunities

7.1 Statement of Intent

Kibble aims to be an equal opportunity employer, and this policy sets out ways to achieve that purpose.

The Centre recognises its legal obligations in employment under the Equality Act 2010, the Rehabilitation of Offenders Act 1974, and the Employment Rights Act 1996.

This policy covers all employees, volunteers and service users of the Centre.

The Centre acknowledges that we live in an unequal society in which many people face discrimination. As an organisation committed to the defence of human rights and social justice the Centre recognises the need for it to take a pro-active role in promoting fairness, social justice and equality of opportunity by adopting and promoting fair employment practices.

Equal Opportunities practice is constantly developing as social attitudes and legislation change. The Centre will keep its policies under review and will implement changes where these could improve equality. This commitment applies to all the Centre's employment policies and procedures, not just those specifically connected with equal opportunity.

The Centre is committed to offering opportunities to all persons based solely on competence and individual merit, and not on any irrelevant factor such as age, sex, sexual orientation, race, creed, colour, nationality, disability, background or social status. All employees have a duty to promote and comply with this equal opportunities policy.

The policy applies to the following key areas:

- Recruitment
- Working conditions
- Training
- Promotion

7.2 Protected Characteristics

For the purpose of this policy, "**protected characteristic**" shall mean:

- Age
- Disability
- Gender Reassignment
- Race
- Religion or Belief
- Sex
- Sexual Orientation
- Marriage and Civil Partnership
- Pregnancy and Maternity

In employment, to act in a discriminatory fashion is to treat a person or group less favourably than others, without justification. This behaviour must also have a detrimental effect on the individual or group treated less favourably.

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The main areas in which individuals and groups can be discriminated against include:

- Recruitment and selection, including advertisements, job descriptions, interview and selection procedures
- Access to training opportunities
- 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

This list is not exhaustive and discrimination can occur in many other areas. It is important that all decisions involving employees are considered carefully and the potential for discrimination minimised.

7.3 Forms of Discrimination

Discrimination can occur in many forms including:

- Direct discrimination
- Associative Discrimination
- Perception Discrimination
- Indirect Discrimination
- Harassment (incl. Bullying)
- Victimisation

7.3.1 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).

For example, refusing to employ or interview women, or individuals with disabilities. This type of discrimination can be a conscious decision or based on assumptions about the ability of certain groups, or it may be societal and the result of deeply held prejudices and beliefs. These affect us all to some extent and are something that we must be aware of in others and ourselves. We must always ask ourselves, “Why do I feel this way towards this person?” and reflect on the basis for this thinking. We must also be prepared to question the thinking and assumptions of others.

7.3.2 Associative Discrimination

This is direct discrimination against somebody because they associate with another person who possesses a protected characteristic.

7.3.3 Perception Discrimination

This 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.

7.3.4 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 an organisation can show that they acted reasonably in managing their

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business, i.e. that it is ‘a proportionate means of achieving a legitimate aim’. A legitimate aim might be any lawful decision an organisation makes in running its business, but there is a discriminatory effect. For example where the sole aim is to reduce costs it is likely to be unlawful.

Being proportionate really means being fair and reasonable, including showing that an organisation has looked at ‘less discriminatory’ alternatives to any decision made.

If you are basing decisions on additional requirements or conditions that are outwith the agreed job description, be very careful, as you may be guilty of indirect discrimination.

It is therefore important that employment decisions concerning employees are discussed with the HR Office or senior management.

7.3.5 Harassment (incl. Bullying)

Harassment is “unwanted conduct related to relevant protected characteristic, which has the purpose or effect of violating an individual’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 will now be able to complain of behaviour that they find offensive even if it is not directed at them, and the complainant need not possess the relevant characteristics themselves. Employees are also protected from harassment because of perception and association.

Bullying is defined in the Collins English Dictionary as “to hurt, persecute or intimidate weaker people.” Bullying and harassment can be overt i.e. open and direct, for example, comments and offensive remarks made to an individual or group, or they can take more covert or subtle forms, for example, undermining a person’s authority or the setting of unrealistic deadlines.

Employees can be harassed and bullied by colleagues or subordinates as well as by managers and supervisors. While bullying and harassment are normally defined as a pattern of behaviour, repeated over a period of time, one-off instances can equally be viewed as bullying or harassment, dependent on the circumstances.

7.3.6 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

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7.4 Recruitment

The principle for all job appointments is to find the best person for the post. As such, detailed job descriptions are drawn up for each job (full or part-time or temporary), that give a clear guide to the role of the post and the work involved and sets out the skills and experience that are (a) essential and (b) desirable. Essential requirements are strictly tested to ensure that they do not tend to discriminate against groups of people who are less likely to get into higher education.

7.4.1 Advertising

All jobs and positions will be advertised as widely as is reasonably practicable, to ensure that applicants come forward from a wide variety of backgrounds.

The Centre will not restrict the advertising of any job or position to any publication, place or medium which would exclude or disproportionately reduce applications from any particular race, age, gender or religion.

No job or position will be advertised in such a way, or with such requirements or prerequisites that it shall exclude or discourage applications from any particular gender or age group, or from persons of a particular marital status.

7.4.2 Shortlisting

When short-listing applicants for interview, the Centre will take into consideration only the applicant's qualifications, experience and suitability for the role. Insofar as possible, ages, dates of birth and other irrelevant information should be obscured or removed from application forms prior to short-listing to avoid inadvertent or unintentional discrimination.

All application forms, which are rejected at short-listing, should be reviewed by a second person, to ensure that no suitably qualified candidate is rejected on grounds relating to a protected characteristic.

7.4.3 Positive about Disability

Kibble subscribes to the Positive about Disability initiative. This means that we will interview all applicants who are registered disabled and meet the minimum criteria.

7.4.4 Interview

Interviewers will not ask questions which relate to any protected characteristic. Interviewers will ask all applicants the same set questions to ensure equal treatment as far as possible.

Where an applicant identifies themselves as having a disability, the Centre will make all reasonable adjustments to accommodate them at interview.

7.4.5 Selection

Clear and consistent selection criteria and scoring grids should be used. Selection for employment should be based solely on merit and the ability of the individual to do the job.

7.5 Working environment

The Centre works in partnership with all staff to ensure that employees are aware of their individual and collective responsibilities under this policy.

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The working environment, terms of service or rate of pay of any employee shall be determined solely with reference to his/her qualifications, experience, the job role undertaken, and the conditions enjoyed by other staff of the same grade. No protected characteristic shall be used as a pretext or motivation to treat an employee in any way differently from his colleagues.

Employees who refuse to observe and implement their individual and collective responsibilities and who wilfully breach the policy will have sanctions applied under the Disciplinary Procedure set out in staff contracts and the Disciplinary and Grievance Policy; this may result in dismissal.

The Centre will not tolerate harassment of employees by other employees, volunteers or service users.

7.6 Training

All employees and volunteers shall be entitled to training or career development opportunities in line with their colleagues at the same level, who undertake a substantially similar job role.

No employee shall be denied training or career development opportunities for any reason relating to a protected characteristic.

7.7 Promotion

The principles applicable to recruitment shall equally apply to promotion. Promotion shall be solely on the basis of competence, proven ability, length of service, experience and ability. No person shall be denied or offered promotion for any reason relating to a protected characteristic.

7.8 Dignity at Work

The Centre is committed to providing a working environment in which employees are able to realise their potential and to fully contribute to the success of the organisation. This is a key employment value to which all employees are expected to give their support.

In order to create conditions in which this goal can be realised, the Centre is committed to identifying and eliminating all forms discriminatory practices and attitudes throughout the organisation.

Management will take all reasonable steps to protect staff, pupils and visitors from all forms of discrimination, bullying, harassment and victimisation, whether this is based on sex, race, sexual orientation, age, disability, religious beliefs or any other grounds.

Bullying, harassment and other forms of discrimination severely damage morale and working conditions for everyone at Kibble and also undermine the ethos and values of the organisation. There are also extremely serious consequences for employees involved.

All complaints of discrimination, bullying or harassment will be taken seriously. Although it is envisaged that most instances may be resolved informally, employees and management may make use of the Centre's established Grievance Procedure. Where appropriate, disciplinary action may follow.

Further advice on this policy and all matters relating to discrimination, bullying and harassment can be obtained from the HR Office or representatives of your trade union.

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7.9 Bullying and Harassment at Work

Whatever the form of bullying or harassment, it will be unwanted behaviour that is unwelcome and unpleasant. Employees can be subject to fear, stress and anxiety, which can put great strain on their personal life. It can lead to illness, increased absenteeism, and an apparent lack of commitment, poor performance and even resignation. All these have a direct impact on organisational effectiveness.

An important factor for managers to be aware of is that employees subjected to harassment are very vulnerable and are often reluctant to complain. They may be too embarrassed or unsure as to how to make a complaint. They may not want attention to be focused on the situation - they just want the unwanted behaviour to stop - so they usually suffer in silence.

The following sections seek to raise awareness of the main areas where bullying and harassment can take place and how this is manifested. The procedure that will be used to investigate allegations of harassment is then explained. As employment law is extremely complex this policy should be taken as a guide and not a comprehensive description of the legislation. Further guidance is available from the HR Office and trade union representatives.

7.9.1 Sexual Harassment

Sexual harassment is unwanted conduct directed towards an employee by a fellow employee (or group of employees) which is of a sexual nature, or which is based on a person's sex, and which is regarded as unwelcome and offensive by the recipient.

This could include:

- Unwanted physical contact.
- Unwelcome sexual advances, propositions, suggestions or pressure to participate in social activity outside work, where it has been made clear that this is not welcome.
- Conduct which is intimidatory, physically or verbally abusive, including the display of explicit material, the use of sexually explicit humour, and comments of a sexual nature whether directed specifically at any particular individual or not.
- Suggestions that sexual favours may further an employee's career, or that refusal may hinder it.
- The Centre regards sexual harassment as a form of intimidation that has the effect of insulting and demeaning the employee against whom it is directed. It is therefore unacceptable in the working environment and the Centre will take positive action to prevent its occurrence. It should be noted that sexual harassment can occur between individuals of the same sex and not only between male and female employees.

7.9.2 Harassment on Grounds of Sexual Orientation

Sexual orientation is defined as being an orientation towards persons of the same sex, the opposite sex, or both sexes. It does not cover sexual practices or preferences. In this way, individuals can be subjected to harassment as a result of being, or being thought to be gay, bisexual or heterosexual. In this way, harassment can be based on an individual's actual or perceived sexual orientation, whether this perception is right or wrong. Accordingly, an individual raising a complaint would not have to disclose their sexual orientation during any investigation.

In addition, a person can be discriminated against due to the sexual orientation of someone else.

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Examples of this include if they are discriminated against or harassed as a result of associating with gay friends, or because they refuse to carry out an employer's instructions to discriminate against particular individuals.

Further examples of harassment can include offensive jokes, anti-gay or other derogatory comments and stereotyping, intrusive questioning into an individual's domestic arrangements, innuendo, circulating rumour, isolation or non-co-operation at work, exclusion from social activities, including non-acceptance of a person's partner in social situations.

7.9.3 Harassment on Grounds of Race, Nationality and Racial Origin

The definition of racial grounds is taken to mean colour, race, nationality or ethnic or national origins. Therefore examples of harassment would include offensive jokes or other patronising or derogatory comments, making assumptions regarding an individual's abilities to perform their job or undertake training, stereotyping of individuals from particular racial groups, intrusive questioning into an individual's domestic arrangements, which he or she finds offensive or unwelcome, isolation or non-co-operation at work and exclusion from social activities

7.9.4 Harassment on Grounds of Disability

An important consideration here is the perception of the person alleging harassment, therefore, what is accepted by one person as harmless, may be viewed differently by others.

Examples of harassment would include offensive jokes or other patronising or derogatory comments, making assumptions regarding an individual's abilities to perform their job or undertake training, stereotyping of individuals with disabilities, questioning into an individual's circumstances, which he or she finds offensive or unwelcome, isolation or non-co-operation at work and exclusion from social activities

7.9.5 Harassment on Grounds of Age

Ageism can simply be described as discrimination or harassment on grounds of age. While it is a commonly held belief that ageism is only an issue for older individuals, it is often a problem for younger people.

Examples of ageist behaviour would include assumptions about the ability of individuals to undertake training or learn new skills, being dismissive of opinions of older or younger employees, offensive or derogatory comments, isolation or non-co-operation at work and exclusion from social activities for reasons of age.

7.9.6 Harassment on Grounds of Religion, Beliefs or Political Views

"Religion or belief" is defined as being any religion, religious belief or similar philosophical belief. When deciding what is covered by this definition there are a number of factors to consider, such as, whether the employee participates in collective worship, has a clear belief system or holds profound beliefs, which affect his or her way of life or view of the world.

Harassment on grounds of religion or belief can be based on an individual's actual or perceived religion or belief system, whether this perception is right or wrong. Accordingly, an individual raising a complaint would not have to disclose his or her beliefs during any investigation.

In addition, a person can be discriminated against due to the religion or belief of someone else. For example, if they are treated less favourably as a result of associating with members of a certain religion, or because they refuse to carry out an employer's instructions to discriminate against particular individuals or groups who hold such beliefs. Further examples of harassment can include offensive jokes, sectarian or other

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derogatory comments and stereotyping of individuals, the display of offensive material, isolation or non-cooperation at work and exclusion from social activities.

This section does not apply to political views or opinions, unless these views or beliefs can be considered similar to a religious belief. However, in line with Kibble's values of mutual trust and respect, management would expect all employees to respect the rights of individuals to hold views contrary to their own and with which they may not agree.

7.9.7 Harassment on Grounds of Trade Union Membership or Non-Membership

Under the Trade Union and Labour Relations (Consolidation) Act 1992, employees have the right not to be dismissed for being a member of a trade union or refusing to take out such membership. In addition, employees have rights not to be dismissed for taking part in trade union activities at an appropriate time.

It therefore follows that employees should not be harassed for similar reasons. Further, while management fully recognise the benefits trade union membership brings to employees and would encourage all employees to join the appropriate trade union, management will not and would not expect others to pressurise employees into joining a trade union or other group against their wishes. In addition, no employee shall be victimised or discriminated against for joining a trade union, for declining to join a trade union or other association, or for taking part in legitimate trade union activities.

7.10 If You Are Bullied or Harassed

Make the Person Aware of your Feelings

If you are subjected to conduct or behaviour that you feel is offensive or unacceptable and which you regard as bullying or harassment, it is important that you make your feelings known to the person whose actions have caused these feelings. In many cases, they may be unaware of the impact their words or actions have had and, once the issue has been raised with them, this is often enough to modify their conduct towards you. You should state clearly that you find their behaviour unacceptable, that it must stop and, if appropriate, set boundaries for future contact. Ideally, this should take place as soon as possible after the incident and a note should be kept detailing the discussion.

If you are uncomfortable doing this face-to-face, you could write a letter (keeping a copy yourself) or ask a colleague to speak to the person on your behalf.

However, management realise that due to the effects that bullying and harassment can have over a prolonged period, individuals may not wish to confront the person directly, particularly where the behaviour is felt to be malicious and intended to have the effect of destroying an employee's confidence and self-belief.

7.10.1 Involving Management

In such cases, you should approach your line manager, either directly or through the supervision process to raise the issue. All such complaints will be taken seriously and will be fully investigated. Your line manager may arrange to meet informally with the person whose behaviour is causing offence and discuss with them the effects of their behaviour and the consequences of this being repeated in future. Where the line manager feels that the conduct is of a serious and/or malicious nature, he or she may recommend to senior management that this is investigated and dealt with under the disciplinary procedure. There may also be cases where no complaint is made by an employee, however, a line manager may sense that there is an issue and begin an investigation of their own accord.

If you are uncomfortable about approaching your line manager, or if your line manager is the source of the bullying or harassment, you should contact the relevant senior manager or discuss the situation with the HR

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Office. You may also raise the matter with your trade union representative, who can then support you in making a formal complaint under the Centre's established Grievance Procedure.

It is important that you take your concerns to someone who is in a position to take action on the issue. While sharing experiences with colleagues may be a useful short-term support, this in itself is unlikely to stop the bullying or harassment.

7.11 Written Records

In all instances, we would advise you to keep written records of any discriminatory, bullying or harassing behaviour.

It would be helpful to any subsequent investigation if these records included:

- Clear and specific allegations against named individuals;
- Dates, times and the names of any witnesses present;
- A full description of what happened, including direct quotes, if possible;
- A brief description of the context in which the incident(s) took place;
- A description of how each incident made you feel;
- Details of any steps you have already taken to make the alleged harasser see that their actions are unwanted;
- Any other documentary evidence, such as letters, notes etc.

This information will form the basis of any investigation and it is more straightforward to ask for explanations of specific conduct, rather than to challenge someone in very general terms.

7.12 Investigating Complaints

Investigating allegations of harassment can be done either informally or, where a formal grievance has been made, on a more formal basis. Formal investigations will comply with the investigation procedure laid out in the section on disciplinary procedures, however, there are several particular points that should be borne in mind when dealing with cases of bullying or harassment.

Interviewing the Complainant(s)

When investigating cases of harassment or bullying, managers should be aware that the complainant(s) may be upset or embarrassed when discussing the alleged bullying or harassment. It is important that managers recognise and take account of these feelings, adjusting their approach as necessary.

It is also crucial that managers remain open-minded about any allegations and do not seek to judge the alleged bullying or harassment in terms of what they themselves would find acceptable.

As with all investigations, a written record of the interview should be made and agreed as an accurate record of the discussion. The complainant will also be entitled to representation by a trade union representative or other work colleague.

7.13 Interviewing the Alleged Harasser

In the course of any investigation into a complaint, it is essential that the person against whom the complaint has been made is given a proper opportunity to rebut the allegation, and to provide an explanation of his or her alleged actions. They will, of course, be entitled to be represented by a trade union representative, or other work colleague at any investigatory meetings. The alleged harasser is entitled to know the nature of the allegations made against him or her in enough detail to enable a proper explanation or defence to be put forward. The allegations should normally be given in writing, however in exceptional circumstances, it may be necessary for certain information to be withheld.



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Being accused of bullying and harassment can be stressful for individuals who are the subject of a formal complaint, particularly where he or she had not realised that his or her behaviour was unwelcome.

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Managers should be aware of this, however, should avoid comments or statements which imply that the complainant is being 'overly sensitive', or that they 'can't take a joke'.

7.14 Precautionary Suspension

In some cases, it may be appropriate to suspend the alleged harasser while an investigation is taking place.

7.15 False or Malicious Allegations

As stated above, all complaints of discrimination, bullying and harassment will be taken seriously and investigated fully. If it is concluded by the investigating manager that a false claim has been made maliciously against an individual, the person or persons responsible may be subject to disciplinary action.

7.16 Disciplinary Action

If it is concluded that there was no discrimination or harassment this will be the end of the matter. However, where it is concluded that a person has acted in a discriminatory manner, or has harassed another employee, the investigating manager(s) will consider what recommendation(s) to make. These may include recommending counselling, training or that the matter is considered in more detail under the Centre's established disciplinary procedure.

It is important to consider that disciplinary action will not be appropriate in all circumstances. There is a range of outcomes available to deal with complaints of discrimination, bullying or harassment, ranging from informal counselling or training, through to formal disciplinary action, including dismissal in serious cases.

7.17 Transfers of Employees as a Result of Alleged Harassment

One of the potential outcomes of a complaint of discrimination, bullying or harassment is that the employee who has committed the discriminatory act or harassed another employee may be moved to a different part of the Centre. If the discrimination, bullying or harassment complaint is unfounded, the Centre may still consider whether it is necessary to move either employee to another part of the Centre.

7.18 Monitoring

After counselling and/or disciplinary action, it is important for line managers to check that the harassment has stopped and that there has been no victimisation. Victimisation may itself take on a wide range of forms from continuing but subtle unpleasantness from colleagues, to adverse impact on promotion. The senior management will be kept updated.

7.19 Management Responsibilities

Managers are the guardians of equality of opportunity within their areas of responsibility. Equal opportunities are part of the larger management responsibility of ensuring that the employment environment provides employees with motivation to do a good job. This will be impossible to achieve if individuals feel that they are being treated unfairly.

Where problems or complaints arise managers must take these seriously and make sure they are fully investigated and that any necessary follow-up action is taken. This may include initiating disciplinary action against employees who have committed acts of discrimination or harassment.

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7.20 Employees' Responsibilities

Employees have a personal responsibility for the practical application of equal opportunities initiatives. The co-operation of all employees will be needed for the Centre to make real progress in this area. In everyday ways we can all contribute to an improved working environment, for example by not making assumptions about people based on their sex or their ethnic background, by challenging those who express prejudice, and by making suggestions to managers about how the working environment can be improved to enhance equal opportunities.

Finally, remember that equality of opportunity is about good and effective employment practice, and about creating an environment in which everybody can be assured that his or her contribution is valued.

7.21 Further information

Should you require further information or advice on any aspect of this policy, please contact the HR Office.