

Equality and Diversity - SGBD Policy on Equal Opportunities

A Guide for Managers and Employees

**EQUALITY AND DIVERSITY-SGBD POLICY ON EQUAL OPPORTUNITIES
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EQUALITY AND DIVERSITY

SGBD POLICY ON EQUAL OPPORTUNITIES

A GUIDE FOR MANAGERS AND EMPLOYEES

Policy Statement

The Saint-Gobain Group (SG) has developed a number of shared principles applicable to both management and employees that have guided the Group's activities over the years. The General Principles of Conduct and Action outline the core values by which all employees are expected to adhere during their employment.

The Principles of Conduct are professional commitment, respect for others, integrity, loyalty and solidarity. The Principles of Action are respect for the law, caring for the environment, worker health and safety and employee rights.

These principles are embraced within the Equal Opportunities (EO) Policy. The SG Group expects that everyone should be treated with dignity and respect at work. In essence this means that all employees will be treated fairly and without bias particularly in terms of recruitment, training, promotion and career opportunities.

Equality of opportunity includes supporting the development of employees and avoids wasting their talents, creating a workplace where employees are confident of fair treatment, have access to opportunity and where the Company has a mechanism for solving any problems that occur.

The SG Group recognises that to focus on employees' personal characteristics rather than their attributes is unfair, potentially unlawful, likely to lead to an adverse reputation in the market and ultimately cause the business to operate below its full potential.

A copy of this Policy is available on the Company's intranet (1st Point), your manager or the HR Department).

Links with other Company policy and procedure

From time to time this Policy refers to other Company policies which are available as follows:

- Grievance Procedure; employees who believe that they have been subject to unfair discrimination are advised to instigate the Grievance Procedure by registering a formal written complaint (see "EO and Complaints" later in this Policy and the Employee Handbook)
- Disciplinary Procedure; where a formal complaint results in disciplinary action managers are advised to follow the Disciplinary Procedure in the separate Manager's Guide (and the Employee Handbook)

Note: There had previously been a separate Bullying and Harassment Policy (B & H). However, the principles contained in the B & H Policy are encompassed within the E O Policy causing the B & H Policy to be withdrawn with effect from 1st October 2010.

Categories of people covered by the EO Policy

- employees of any category including full time, part time and those on paternity, maternity, sick or any other type of leave
- other workers including those under the control of, but not necessarily employed by, the Company such as agency drivers and contractors
- potential employees meaning a person who may be undergoing interview or assessment for employment
- customers, suppliers, contractors, clients and any other category with whom the Company deals in the normal course of business
- former employees

The objectives of the EO Policy

- that no person will receive less favourable treatment or consideration on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation
- that no employee (or potential employee) will be disadvantaged by any terms and conditions of employment or Company policy, procedure or practice which cannot be justified as necessary on operational grounds

The importance of Equal Opportunities

Equal Opportunities are an integral part of good management practice intended to develop people to their full capacity for the benefit of the organisation and the individual. Equality of opportunity can lead to improved morale and a higher standard of business performance and greater competitive advantage.

The changing demographic profile of the UK and the composition of the working population mean that the Company is more likely to maximise its business potential if it uses available talent in the economy to the full regardless of the personal characteristics of employees.

Legal framework - Equality Act 2010 (effective from 1st October)

A considerable amount of statutory legislation has evolved in recent years relevant to all types of discrimination. However, this is now consolidated in the Equality Act which is effective from 1st October 2010. This Act harmonises and replaces previous discrimination legislation (e.g. the Race Relations Act 1976 and the Disability Discrimination Act 1995).

In addition, three Codes of Practice have been issued by the Equality and Human Rights Commission (EHRC) which deal with Employment, Equal Pay and Services, Public Functions and Associations implications of the Act.

The three Codes are the authority by which Employment Tribunals will adjudicate on claims made under the Equality Act whilst a non-statutory (non-binding) Guide contains practical information and guidance.

“Protected Characteristics”

The Equality Act protects people with “protected characteristics” from discriminatory treatment. These nine “protected characteristics” are age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership, pregnancy and maternity. Unless indicated otherwise, the types of discrimination described below apply to all “protected characteristics”.

Types of Discrimination

Direct discrimination

Direct discrimination occurs when someone is treated less favourably than another person because of a “protected characteristic”. The employee does not actually have to be of a “protected characteristic” to be a victim of direct discrimination (see paragraphs on Perceptive Discrimination and Associative Discrimination).

Indirect discrimination

Indirect discrimination is where an employer applies a condition, rule, policy or a practice which applies to everyone but particularly disadvantages or would disadvantage people who share a “protected characteristic” (e.g. a requirement to work full time puts women at a greater disadvantage due to child care commitments).

Indirect discrimination can be justified if the Company is able to show that it has acted reasonably. In particular the discriminatory act must be “a proportionate means of achieving a legitimate aim.” A “legitimate aim” might be any lawful decision made in running the business or organisation.

“Proportionate” means that it should be fair and reasonable in the circumstances including showing that the Company has considered “less discriminatory” alternatives to any decision made.

Discrimination arising from disability

Disabled employees are subject to an additional form of protection against discrimination arising as a consequence of their disability. As with indirect discrimination, this can be justified if the treatment is a proportionate means of achieving a legitimate aim.

Duty to make reasonable adjustments

Employers are also under a duty to make reasonable adjustments to prevent disabled employees being put at a disadvantage by any condition, rule, policy, practice or physical feature of its premises. This may include the provision of auxiliary aids where this is reasonable (e.g. by providing assistive technologies to help visually impaired staff use computers effectively).

Harassment

Harassment is defined as “unwanted conduct related to a 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”.

Employees are able to complain about behaviour which they find offensive even if it is not directed at them and without the complainant possessing the relevant “protected characteristic” themselves.

Employees are also protected from harassment because of “perception” and “association” (see relevant section below).

Bullying is a form of harassment and can take a wide range of forms. It may occur in isolation and may initially appear trivial but often accumulates and escalates. It can vary from careless gossip, unsuitable remarks or jokes (inappropriate banter), deliberate exclusion, belittling or undermining behaviour to more serious behaviour such as malicious comments, insulting and aggressive behaviour, threats, (verbal or physical) humiliation or unwanted sexual comments, suggestions, or advances.

Behaviour of this type is not necessarily confined to overt behaviour since it can also manifest itself in written form (e.g. e mails or by telephone) or other action which might disadvantage an employee (e.g. creating a false impression which prevents career development or advancement).

It is possible that behaviour will be perceived differently by the recipient when compared to how it was intended by another party. However, it is important to note that it is the interpretation of this behaviour by the recipient which is important. For example, a manager might deem his or her style to be firm whilst the employee might deem it to be over-bearing and coercive.

Third party harassment

Third party harassment applies to sex, age, disability, gender reassignment, race, religion or belief and sexual orientation. The Equality Act makes the Company potentially liable for harassment of an employee by third parties who are not employees of the Company (e.g. customers or clients).

The Company is potentially liable when harassment has occurred on at least two previous occasions, is aware that it has taken place and has not taken reasonable steps to prevent it from occurring again. The Company will take all reasonable steps to protect employees from harassment by third parties. This may include banning from any Company site or premises any person (s) responsible if appropriate and where other preventative steps have been taken.

Employees should raise concerns about any harassment from customers, suppliers or other third parties with their manager.

Victimisation

Victimisation occurs when an employee is treated badly because they have or, it is believed they have done or may do one or more of the following:

- made or supported (including giving evidence or information) a complaint;
- issued legal proceedings;
- raised a grievance;
- performed any other act for the purposes of or in connection with the Equality Act

However, an employee is not protected from victimisation if they have made or supported a complaint maliciously.

Associative discrimination

Associative discrimination is a form of direct discrimination and/or harassment. It applies to race, religion or belief, sexual orientation, age, disability, gender reassignment and sex. This is discrimination against a person because they associate with another person who possesses a "protected characteristic" (e.g. not promoting someone because they are married to a Christian).

Perceptive discrimination

Perceptive discrimination is also a form of direct discrimination and/or harassment. It applies to race, religion or belief, sexual orientation, age, disability, gender reassignment and sex. This is discrimination against someone because others think they possess a particular "protected characteristic". It applies even if the person does not actually possess that characteristic (e.g. subjecting a heterosexual employee to homosexual banter because they are thought to be gay).

"Protected Characteristics": Summary of key points

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

Age

The Equality Act 2010 protects people of all ages. However, different treatment due to age is not automatically unlawful (either direct or indirect discrimination) if it can be justified as a "proportionate means of achieving a legitimate aim".

Currently employers are allowed to directly discriminate against employees on the grounds of age by applying a compulsory retirement age of 65. However, this will change following the abolishment of the "default" retirement age with effect from 1st October 2011.

"Default" retirement age; The Company will continue to adopt the "default" retirement age of 65 until 1st October 2011 (which is currently lawful) at which point it will be withdrawn in accordance with Government policy announced in July 2010.

Disability

The definition of disability under the Act is a person who has “a physical or mental impairment which has a substantial and long term adverse effect on their ability to carry out normal day-to-day activities”. Other key points relating to disability include;

- As outlined above the Company has a duty to make “reasonable adjustments” for employees to help them overcome any substantial disadvantage in the workplace arising from a disability and must not subject them to unfavourable treatment arising from their disability
- Discrimination arising from a disability and/or a failure to make reasonable adjustments can only occur where the employer or other person acting for the employer knows, or could reasonably be expected to know that the person has a disability
- Indirect discrimination also covers disabled people. This means that a job applicant or employee could claim that a particular policy, practice or procedure disadvantages people with the same disability (unless justifiable)
- The Act makes it unlawful, except in certain circumstances, for the Company to ask about a candidate’s health **prior** to offering employment. However, the Company requests employees to complete a health questionnaire after an offer of employment is made (a policy which is compliant with the Equality Act)

Gender reassignment

A transsexual person is a person who starts (or proposes to) or has completed a process to change his or her gender. The Act also protects a woman (for example) who decides to live permanently as a man without actually undergoing any medical procedures. Employees are only protected if they intend to live permanently in the gender opposite to their birth sex.

It is discrimination to treat transsexual people less favourably for being absent from work because they propose to undergo, are undergoing or have undergone, gender reassignment than they would be treated if they were absent because they were ill or injured. Medical procedures for gender reassignment, such as hormone treatment, should not be treated as a ‘lifestyle’ choice.

Marriage and civil partnership

The Act continues to protect employees who are married or in a civil partnership against discrimination. However, single people are not protected.

Pregnancy and maternity

A woman is protected against discrimination on the grounds of pregnancy and maternity during the period of her pregnancy and any statutory maternity leave to which she is entitled. This includes protection from unfavourable treatment because of illness suffered as a result of her pregnancy, and/or because she is on maternity leave because she is exercising (or seeking to exercise), or has exercised (or sought to exercise) the right to ordinary or additional maternity leave.

An employer should therefore not take into account an employee’s period of absence due to pregnancy-related illness when making a decision about employment.

Any employee whose role becomes redundant during maternity leave is entitled to be offered any suitable vacancy that is available at the relevant time.

Race

The Equality Act continues to define ‘race’ to include colour, nationality and ethnic or national origins. A racial group can be made up of two or more different racial groups (e.g. Black Britons).

Religion or belief

The Equality Act defines religion to include any religion and also a lack of religion. This means that employees or jobseekers are protected if they do not follow a certain religion or have no religion at all. A religion must have a clear structure and “belief” which means any religious or philosophical belief and includes a lack of such belief.

The “belief” must affect the employee’s life choices and the way he/she lives. Denominations or sects within a religion can be considered a protected religion or religious belief. Humanism is also a protected philosophical belief however political beliefs are not protected under the Equality Act.

Discrimination due to religion or belief can occur even where both the discriminator and recipient are of the same religion or belief.

Sex

Both men and women are protected under the Equality Act as they have been under previous sex discrimination legislation.

Sexual orientation

The Equality Act protects bisexual, homosexual and heterosexual people in the same way as previous legislation protected this group.

Occupational Requirement (OR)

It may be lawful (under limited circumstance) to discriminate in jobs where a “protected characteristic” (e.g. sex, race) is an “Occupational Requirement” (OR). For example, if the job needs to be held by one particular sex for reasons of privacy or decency or for reasons of authenticity. However, in view of the type of business that SGBD operates an OR is unlikely to apply to most activities.

Employer Liability

The Company is responsible for acts of discrimination committed by employees and workers during the course of employment whether they were committed with or without the employers’ knowledge or approval. Other relevant features of the Company’s liability in this regard include:

- Acts which may be committed outside the workplace while representing the Company or attending a Company function (e.g. inappropriate acts committed at a Christmas party)
- Discriminatory acts committed by third parties (e.g. by customers, suppliers or contractors) where the discrimination was reasonably foreseeable and the Company took no preventative action
- It is also unlawful for the Company to instruct or attempt to instruct any other person to discriminate (e.g. instructing an employee to serve only white people)

Note; While the Company may be held legally liable for an act of discrimination this does not absolve the employee/worker of responsibility and can lead to their personal prosecution. If the individual concerned is an employee he/she will be subject to the Company’s disciplinary procedure where appropriate. This may result in dismissal depending on the circumstances and seriousness of the case.

Responsibility for the application of the Equal Opportunities Policy

As well as management, all employees and workers share responsibility for applying the EO Policy in the workplace. Employees and workers are reminded that they should bring to the attention of their manager (and the Employee Relations Team on **02476-438600**) if they observe any discriminatory behaviour. Such matters will be fully investigated and appropriate action taken to eradicate the behaviour and prevent its occurrence in the future.

Employees who believe that they have been subject to unfair discrimination are advised to follow the Company’s Grievance Procedure outlined in the Employee Handbook. The principles of the complaints procedure are outlined later in this Policy.

Managers and supervisors have particular responsibility to ensure that they adhere to the principles of the EO Policy when recruiting, selecting, training, developing and promoting employees.

Equal Opportunity Policy and SGBD employment practice

The following principles relate to employees and potential employees:

Recruitment

- Every applicant for vacancies which are advertised will be given equal consideration
- The most suitable people will be selected for jobs with regard only to their experience, skills, attributes and qualifications
- No one will be unfairly discriminated against, directly or indirectly, on the grounds of any "protected characteristic" (except for justified operational grounds)
- The Company will only use employment agencies who adhere to the principles of the Equal Opportunity Policy

Advertising

- Efforts will be made to ensure that job advertisements are published so as to be available to all areas of community.
- Advertising material (e.g. websites, journals) will avoid stereotypical assumptions about job applicants
- Job titles and job content will be clear, free from bias and will not discourage any applicant or disadvantage any individual from any group who may possess a "protected characteristic"

Selection

- Application forms ask only for information relevant to the applicant's ability to carry out the job
- Candidates are assessed and selected against objective criteria relevant to the specific job
- Selection decisions will be free from bias and not based on assumptions or prejudice
- During interview candidates will only be asked questions relevant to the job, their previous experience, skills, qualifications and attributes
- Selection processes should enable disabled applicants to be considered on a like for like basis with non-disabled applicants. The Company should consider making reasonable adjustments to the working environment to enable a disabled person to consider a particular opportunity including adjustments to allow disabled applicants to attend job interviews or selection events
- The Company should consider suitably qualified overseas applicants on an equal basis to their UK equivalent and avoid their automatic exclusion when considering candidates against key job requirements (subject to Immigration policy/legislation)
- Selection tests (where used) should be free from any unjustifiable bias, either in content or scoring mechanism and should be relevant to the job for which the applicant has applied
- In accordance with the Equality Act medical information will only be requested **after** a job offer has been made and obtained for both disabled and non-disabled applicants

Induction

- Employees will be briefed on the EO Policy during their induction

Training and Development

- Training and development opportunities will be open to all suitably qualified and experienced employees regardless of whether an employee possess "protected characteristics"
- Promotional opportunities will be open to all suitably qualified and experienced employees

Terms and Conditions of Employment

- All employees will be treated without bias with respect to pay, benefits and other terms and conditions of employment, having regard to local or geographical benchmarks, skills, attributes and experience. Terms of employment will be determined by reference to the job regardless of whether an employee possesses "protected" characteristics

- Salary reviews and performance appraisals will be carried out for all employees in accordance with Company Policy regardless of whether they possess “protected characteristics”

Termination of Employment

- The Company will not terminate an employee’s employment due to any “protected characteristic”
- It may be necessary to terminate an employee’s employment due to their ill health and this may be linked to a disability. However, all reasonable adjustment/alternative employment opportunities should be considered prior to termination of employment
- An individual’s “protected characteristics” will not influence redundancy selection decisions
- Former employees will not be subject to discrimination or unlawful victimisation in relation to any reference provided by the Company

Equal Opportunities Policy and Complaints

Employees who believe they have been subject to unfair discrimination (including victimisation, bullying or harassment), are advised to follow the Company’s Grievance Procedure outlined in the Employee Handbook.

The following principles are key components of the complaints procedure:

- All complaints will be treated seriously and dealt with promptly, fairly and objectively
- The sensitive nature of discrimination complaints is recognised and any investigations will be dealt with confidentially with information disclosed to necessary parties only
- The Company reserves the right to separate complainant and alleged discriminator pending investigation where appropriate (temporary transfer usually of the discriminator) to another department or site
- The Company reserves the right to suspend an employee/worker who is suspected of discrimination on basic pay pending investigation
- Following an investigation it may be necessary to invoke disciplinary action. Unfair discrimination is regarded as a serious breach of Company policy and in some cases may be regarded as gross misconduct resulting in summary dismissal
- All employees/workers are reminded that making a false or malicious complaint of discrimination will in itself be regarded as a serious disciplinary offence
- Informal remedies may be sought to resolve complaints in appropriate circumstances
- The Company owes a duty of care to provide a safe place and system of work. If a complaint is sufficiently serious the Company may be obliged to investigate even where this is against the complainant’s wishes

Summary

The Company recognises the positive business benefits arising from the diverse contribution of all employees and seeks to harness individual ability in a way that allows personal fulfilment as well as meeting organisational needs. The Company will not condone discriminatory behaviour and will take all appropriate steps to ensure it is dealt with and to work towards its future eradication.

Managers are advised to preside over fair, consistent and non-discriminatory practices in their workplaces and encourage an environment in which employees are treated with dignity, respect and free from any form of harassment, bullying or victimisation.

Monitoring and vigilance of workplaces by managers will help prevent its occurrence in the first place and limit its impact through early intervention. Managers should avoid ignoring signs that unacceptable behaviour may be occurring and deal with it promptly and proportionately.

Further advice on the EO Policy

The SGBD ER team is the first point of contact for advice regarding the EO policy and related matters. The ER team are based in Merchant House, Binley Business Park, Coventry, CV3 2TT and can be contacted on 02476 438600 Monday to Friday 08.00 to 5.30 pm.