## EQUAL OPPORTUNITIES AND DIVERSITY POLICY – HR05

#### 1. INTRODUCTION

Phoenix Support recognises that we operate within a richly diverse community and, therefore, understand the strategic importance of achieving a diverse workforce, which reflects that community. We undertake to recruit, develop and retain the most talented people by valuing the varied skills and experiences they bring to Phoenix Support; by investing in their training and development; by treating staff fairly and equally; by combating bullying, harassment and discrimination at work, and by encouraging an honest and open culture which values the differences between us.

Striving to ensure that the work environment is free of harassment and bullying and that everyone is treated with dignity and respect is an important aspect of ensuring equal opportunities in employment.

**2. POLICY STATEMENT**

2.1 Phoenix Support is fully committed to the elimination of unlawful and unfair discrimination and values the differences that a diverse workforce brings to the organisation. We will not discriminate because of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race (which includes colour, nationality and ethnic or national origins), religion or belief, sex or sexual orientation. Job selection, promotion and training will be carried out solely according to the ability and merit of individuals and to the requirements of the job.

2.2 Phoenix Support ensures that equality and diversity are embedded in all policies, plans and strategies that form the infrastructure of Phoenix Support. We will not discriminate because of any other irrelevant factor, such as social position, and will build a culture that values meritocracy, openness, fairness and transparency.

2.3 The organisation is committed to providing equal opportunities in employment and all its services and activities to avoid unlawful discrimination in employment, against those who use our services, or supply us with goods or services. We recognise the important leadership role we have in promoting and encouraging tolerance, fairness and equality and we undertake to work closely with partners and stakeholders to build a more tolerant, compassionate and respectful environment.

**3. DEFINITION**

Phoenix Support is committed to a policy of equality of opportunities and diversity in its employment and working practices and values the differences that a diverse workforce brings to the organisation. Phoenix Support promotes a culture that values meritocracy, openness, fairness and transparency and all employees are responsible for the promotion and advancement of this policy. Behaviour, actions or words that transgress the policy will not be tolerated and will be dealt with in accordance with Phoenix Support’s disciplinary policy.

**4. PURPOSE**

This policy is intended to assist the organisation to put this commitment into practice. Compliance with this policy should also ensure that employees do not commit unlawful acts of discrimination.

**5. CONTEXT**

5.1 The purpose of the Equality Act 2010 is to simplify discrimination legislation and create a more consistent and effective framework, while at the same time extending discrimination protection. The Act defines direct discrimination as less favourable treatment because of a protected characteristic, under the Equality Act 2010 these are:

1. Age
2. Disability
3. Gender reassignment
4. Marriage and civil partnership
5. Pregnancy and maternity
6. Race
7. Religion or belief
8. Sex and
9. Sexual orientation

**5.2 Other Relevant Legislation within the context and direction of this policy includes;**

1. Special Educational Needs and Disability Act 2001
2. Protection from Harassment Act 1997
3. Employment Rights Act 1996
4. Employment Relations Act 1999
5. Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000

**6. IMPLEMENTATION**

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### 6.1 DIFFERENCES BETWEEN EQUALITY AND DIVERSITY

6.1.1 Diversity and equal opportunities are often regarded as the same thing. However, there are differences. Valuing diversity is about seeing everyone as individuals. It is not about seeing people first and foremost in terms of their membership of a particular group. Diversity focuses on being proactive and finding opportunities to enhance the business through the use of people’s different assets. Equal opportunities is reactive and will focus on existing problems while trying to redress the balance.

6.1.2 Equality is about emphasising inclusiveness, openness and fairness, offering a positive outlook on the many differences, as well as similarities that can affect how people interact and perform with each other in the workplace. Diversity is about respecting differences within minority groups and not expecting everyone to conform.

6.1.3 Phoenix Support will provide reasonable assistance, resources and support to employees with a long-term physical or mental impairment of health, whether that came about before or after the commencement of employment.

6.1.4 Phoenix Support will seek to identify the needs of disadvantaged minority groups in its area of operation by establishing close relationships with those groups. The selection of residents for accommodation shall be based only on their need for the housing and care in question, within the limits of the agreed selection criteria.

6.1.5 Phoenix Support will endeavour to provide reasonable opportunities to combine work and domestic responsibilities. In hiring contractors and other agencies to work for it, Phoenix Support will be mindful of its commitment to equality of opportunities and diversity.

6.1.6 In the composition and operation of its management structure, Phoenix Support will be mindful of its commitment to equality of opportunities and diversity.

### 6.2 RESPONSIBILITIES

6.2.1 Phoenix Support’s General Manager has the overall responsibility for this policy and will ensure that it is understood and implemented by all other managers and employees, all managers and employees must:

1. co-operate with measures introduced to ensure compliance with equal opportunities and prevent discrimination
2. not harass, abuse or intimidate fellow employees, potential employees or the public
3. carry out their duties in accordance with this policy

6.2.2 It is intended that this policy will provide improved employment practices for the benefit of employees, creating better working relationships, greater job satisfaction and improved service. The successful adoption of equal opportunities working practices will depend upon commitment from employees at all levels of Phoenix Support.

6.2.3 Employees, who have reason to believe that they have been discriminated against or have not received fair treatment, will be able to pursue their complaint through the Grievance Procedure.

### 6.3 EMPLOYEE RESPONSIBILITIES

6.3.1 Every employee is required to assist Phoenix Support to meet its commitment to provide equal opportunities in employment and avoid unlawful discrimination.

6.3.2 Employees can be held personally liable as well as, or instead of Phoenix Support, for any act of unlawful discrimination. Employees who commit serious acts of harassment may be guilty of a criminal offence.

6.3.3 Acts of discrimination, harassment, bullying or victimisation against employees, service users, contractors, or other third parties, are disciplinary offences and will be dealt with under Phoenix Support's disciplinary procedure. Conduct of this type will often be gross misconduct, which can lead to dismissal without notice.

### 6.4 POSITIVE ACTION

6.4.1 Section 158 of the Equality Act 2010 permits employers to take positive action in the form or proportionate measures to encourage or train people from an under-represented group to apply for jobs, overcome a perceived disadvantage or meet specific needs based on a protected characteristic.

6.4.2 Section 159 of the Equality Act 2010 permits employers in specific circumstances to recruit or promote a person with one protected characteristic. For example, an employer could appoint a female candidate to a senior role where there are few women in senior roles.

6.4.3 Positive action can be achieved by using job advertisements which encourage applications from a particular group. However, at the selection stage, applicants must be considered on their merits.

### 6.5 GOOD EMPLOYMENT PRACTICES

6.5.1 This policy aims to ensure that good employment practices are used throughout Phoenix Support, which promote fair and non-discriminatory recruitment, selection and promotion procedures.

In order to achieve these aims, the following initiatives will be implemented:

1. all employees will receive sufficient information and advice to ensure that no discrimination occurs in the workplace
2. personnel policies will be designed to promote equality of opportunities for all employees

### 6.6 INFECTIOUS DISEASES

6.6.1 The medical rights of an individual are to be respected and the following will apply:

1. No potential or existing employee will be required to submit to a test for an infectious disease.
2. Employees with responsibility for recruitment will ensure that individuals are not excluded from employment on the grounds that they are known or thought to have an infectious disease.
3. Any employee who becomes aware that a colleague has an infectious disease, will treat the information as confidential and will not disclose it to anyone else within or outside Phoenix Support without the person’s consent.
4. No employee should harass, victimise or discriminate against a potential employee or colleague who is known or thought to have an infectious disease.

6.6.2 Any breach of (3) or (4) above will be investigated and, if proved, appropriate action will be taken under Phoenix Support’ Disciplinary Procedure.

### 6.7 EMPLOYEE RELATIONS

6.7.1 This policy aims to promote understanding and acceptance that prejudice, and discriminatory practices are unprofessional and are not condoned by Phoenix Support. Employees are encouraged to promote good relations between colleagues and discourage offensive and discriminatory behaviour, this policy will be regularly monitored and reviewed in order to assess its effectiveness.

### 6.8 RECRUITMENT AND SELECTION

6.8.1 The recruitment and selection process must be based solely on merit, using objective, non-discriminatory and work-related criteria in order to ensure that the most suitable person for the job, in respect of experience, abilities and qualifications is finally recruited.

6.8.2 This policy is designed to:

1. Ensure that selection criteria are strictly relevant to the job specification for the position
2. Ensure that no criteria, condition or requirement which cannot be shown to be relevant to the performance of the job is applied in the selection process
3. Remove intentional and unintentional discrimination from recruitment and selection processes and ensure that consistent use is made of the available guidelines
4. Develop professional awareness in all employees who are involved in the recruitment, selection and placement process,
5. Providing training and information where appropriate, care should be taken to avoid perpetuating past discriminatory practices

### 6.9 TRAINING, DEVELOPMENT AND APPRAISAL

6.9.1 This policy aims to ensure that individuals are trained, promoted and appraised solely on the basis of their merit to perform the duties of the position:

1. All employees will have equal and direct access to training and development opportunities in line with this policy, to enable them to realise their full potential and contribute, to the best of their abilities.
2. The practices and procedures used to appraise, recommend for development, and select for promotion will be reviewed and monitored. This will ensure that any potentially unfair or unlawful bias is removed.

### 6.10 Equal Opportunities and Diversity Training

6.10.1 Phoenix Support aims to ensure in its training programme that all employees understand the relevance and significance of the pertinent legislation, and that the legislation sets only minimum standards which Phoenix Support will both implement and improve upon:

1. Provisions of the policy will be an integral part of the induction training programme and will be incorporated into other training programmes as appropriate
2. Employees involved in providing training will serve as good role models to other employees participating in courses

6.10.2 The content of training programmes will be developed through:

1. Obtaining advice on needs and perceptions from different sections of the community and from external organisations experienced in equal opportunities training
2. An ongoing review and analysis of learning needs of all employees
3. Regularly reviewing methods and formats to ensure maximum benefit is obtained from training.

### 6.11 TYPES OF UNLAWFUL DISCRIMINATION

6.11.1 It is unlawful to discriminate directly or indirectly in recruitment or employment because of age, disabilities, sex, gender reassignment, pregnancy, maternity, race (which includes colour, nationality and ethnic or national origins), sexual orientation, religion or belief, or because someone is married or in a civil partnership – the “protected characteristics”.

6.11.2 Staff should not discriminate against or harass a member of the public in the provision of services or goods. It is unlawful to fail to make reasonable adjustments to overcome barriers to using services caused by disability. The duty to make reasonable adjustments includes the removal, adaptation or alteration of physical features, if the physical features make it impossible or unreasonably difficult for disabled people to make use of the services.

**6.11.3 Direct Discrimination** is where a person is treated less favourably than another because of a protected characteristic. An example of direct discrimination would be refusing to employ a woman because she is pregnant.

6.11.4 **Genuine Occupational Qualifications** in very limited circumstances; employers can directly discriminate against an individual for a reason relating to any of the protected characteristics where there is an occupational requirement. The occupational requirement must be crucial to the post and a proportionate means of achieving a legitimate aim. Advice must be sort where occupational requirement is considered necessary.

**6.11.5 Indirect discrimination** is where a provision, criterion or practice is applied that is discriminatory in relation to individuals who have a relevant protected characteristic (although it does not explicitly include pregnancy and maternity, which is covered by indirect sex discrimination) such that it would be to the detriment of people who share that protected characteristic compared with people who do not, and it cannot be shown to be a proportionate means of achieving a legitimate aim.

**6.12 HARASSMENT**

6.12.1 Is unwanted conduct, related to one of the protected characteristics (other than marriage and civil partnerships, and pregnancy and maternity) that has the purpose or effect of violating a person’s dignity; or creating an intimidating, hostile, degrading, humiliating or offensive environment. It does not matter whether or not this effect was intended by the person responsible for the conduct.

6.12.2 Phoenix Support’ employees have a right to be treated with dignity and respect and Phoenix Support has a specific policy and procedure on harassment (**HR01**). Any allegations of harassment will be investigated and, if proved, appropriate action will be taken under Phoenix Support’ Disciplinary Policy.

**6.12.3 Associative discrimination** is where an individual is directly discriminated against or harassed for association with another individual who has a protected characteristic (although it does not cover harassment because of marriage and civil partnership, and [according to guidance from the Government and ACAS] pregnancy and maternity).

**6.12.4 Prescriptive discrimination** is where an individual is directly discriminated against or harassed based on a perception that he / she has a particular protected characteristic when he / she does not, in fact, have that protected characteristic (other than marriage and civil partnership, and pregnancy and maternity).

**6.12.5 Third party harassment** occurs where an employee is harassed, and the harassment is related to a protected characteristic (other than marriage and civil partnership, and pregnancy and maternity), by third parties such as clients or customers. For an employer to be liable: the harassment must have occurred on at least two previous occasions (although not necessarily by the same harasser or suffering the same type of harassment); it must be aware that the previous harassment has taken place; and it must have failed to take reasonable steps to prevent harassment from happening again.

**6.12.6 Victimisation** occurs where an employee is subjected to a detriment, such as being denied a training opportunity or a promotion because he/she made or supported a complaint or raised a grievance under the Equality Act 2010, or because he/she is suspected of doing so.

6.12.7 However, an employee is not protected from victimisation if he/she acted maliciously or made or supported an untrue complaint. There is no longer a need for a complainant to compare his/her treatment with someone who has not made or supported a complaint under the Equality Act 2010.

6.12.8 Failure to make reasonable adjustments is where a physical feature or a provision, criterion or practice puts a disabled person at a substantial disadvantage compared with someone who does not have that protected characteristic and the employer has failed to make reasonable adjustments to enable the disable person to overcome the disadvantage.

**6.13 MONITORING**

6.13.1 In order to evaluate the effectiveness of the policy, it will be necessary to conduct periodic reviews of:

1. the composition and profile of employees and
2. the employment practices and procedures of Phoenix Support

6.13.2 Monitoring will assist Phoenix Support to:

1. Produce statistical analyses and other feedback, which will help to identify any problems and which will enable the effectiveness of the policy to be assessed.
2. Make the best possible use of resources
3. Identify and remove any practice or procedure that could breach the law

6.13.3 Any member of staff that feels this policy or any details contained within are not being adhered to must report this to the line manager or other suitable manager at the earliest opportunity, failing to do so could result in an offence or breach being committed by themselves.

6.13.4 Phoenix Support operates a zero tolerance on any negative discrimination and will not tolerate harassment or bullying against any member of staff or any other person.

**6.14 REVIEW**

6.14.1 The General Manager is responsible for reviewing this policy. The policy will be reviewed annually unless it is identified as necessary when it will be done sooner.