



## EQUAL OPPORTUNITIES AND DIGNITY AT WORK POLICY

This policy outlines British Swimming's commitment to providing equal opportunities in employment, and avoiding unlawful discrimination.

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.

This policy applies to all employees, athletes, Board and committee members, volunteers, contractors, temporary workers and job applicants, and applies to all stages of any employment relationship.

Failure to take account of this policy may result in disciplinary action being taken against an employee, and other associates may be removed from their position/relationship with British Swimming.

This policy may be subject to change at the discretion of the organisation.

### **Our commitment**

British Swimming believes that diversity and inclusion bring benefits to the organisation and that people work better when they can be themselves.

British Swimming is committed to ensuring a working environment that is free from discrimination, victimisation, bullying and harassment, and that everyone is treated with dignity and respect.

### **The law**

It is unlawful to discriminate directly or indirectly in recruitment or employment because of age, disability, sex, gender reassignment (i.e. transgender status), 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. These are known as "protected characteristics".

Discrimination after employment may also be unlawful, e.g. refusing to give a reference for a reason related to one of the protected characteristics.

It is unlawful for an employer to fail to make reasonable adjustments to its requirements, working practices or the physical features of the workplace where these put a job applicant



or employee who is disabled at a substantial disadvantage. Employers are also under a duty to take reasonable steps to provide an auxiliary aid.

## Types of unlawful discrimination

**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 they are pregnant.

(In limited circumstances, employers can directly discriminate against an individual for a reason related 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).

**Indirect discrimination** is where a provision, criterion or practice is applied that is discriminatory in relation to individuals who have a relevant protected characteristic, 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. An example is requiring employees to have held a driving licence for 10 years may be indirect age discrimination, unless that requirement could be objectively justified.

**Harassment** is where there is unwanted conduct, related to one of the protected characteristics (other than marriage and civil partnership, and pregnancy and maternity, which are covered by direct discrimination provisions in the Equality Act 2010) 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.

**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)

**Perceptive discrimination** is where an individual is directly discriminated against or harassed based on a perception that they have a particular protected characteristic when they do not, in fact, have that protected characteristic (other than marriage and civil partnership, and pregnancy and maternity)

**Victimisation** occurs where an employee is subjected to a detriment (essentially where the employee is treated badly), such as being denied a training opportunity or a promotion because they made or supported a complaint or raised a grievance, or because they are

suspected of doing so. For example if a blind employee raises a grievance that the employer is not complying with its duty to make reasonable adjustments, and is then systematically excluded from all meetings. However, an employee is not protected from victimisation if they acted maliciously or made or supported an untrue complaint in bad faith.

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

**Bullying** is offensive, intimidating, malicious or insulting behaviour, and/or an abuse or misuse of power that is meant to undermine, humiliate or injure the person on the receiving end. Examples of bullying would include picking on someone or setting them up to fail or making threats or comments about someone's job security without good reason.

**Harassment** is unwanted conduct related to relevant protected characteristics, which are sex, gender reassignment (i.e. transgender status) race (which includes colour, nationality and ethnic or national origins), disability, sexual orientation, religion or belief and age, that:

- has the purpose of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person; or
- is reasonably considered by that person to have the effect of violating their dignity or of creating an intimidating, hostile, degrading, humiliating or offensive environment for them, even if this effect was not intended by the person responsible for the conduct.

## Exceptions

### Positive action

Positive action can be taken when:

- People who share a protected characteristic suffer a disadvantage connected to that characteristic
- People who share a protected characteristic have needs that are different from the needs of people who do not share it, or
- Participation in an activity by people who share a protected characteristic is disproportionately low.

The actions that employers may take include, but are not limited to:

- Targeting training at specific disadvantaged groups
- Mentoring
- Work shadowing



- Open days which are held exclusively for the targeted group

### **Positive action and recruitment**

The Equality Act extends the use of positive action in the workplace so that public bodies will be able to address underrepresentation when, for example, recruiting staff. Where two candidates are equally qualified, underrepresentation could (but does not have to) be used to decide between them.

As a Committed member of the Disability Confident Scheme, British Swimming has undertaken to:

- Guarantee job interviews to applicants with a disability who meet the minimum criteria
- Consult disabled employees regularly
- Support employees to the fullest extent if they acquire a disability
- Ensure that all employees have a level of awareness of disability issues to make the commitment work
- Review the commitments annually and adjust as appropriate

To help address the underrepresentation of ethnically diverse staff in the workforce, British Swimming has similarly committed to guaranteeing a job interview to any applicant from an ethnically diverse background who meets the minimum criteria for a role.

### **The 'tiebreaker' provision**

If an employer reasonably thinks that a group of people with a protected characteristic are underrepresented in the workforce, or suffer a disadvantage connected to that protected characteristic, and they are choosing between two or more candidates of equal merit, then they may be able lawfully to choose the individual with the protected characteristic provided this is proportionate.

### **Equal opportunities in employment**

British Swimming will strive to avoid unlawful discrimination in all aspects of employment, including recruitment, promotion, opportunities for training, pay and benefits, discipline and selection for redundancy.

Person and job specifications will be limited to those requirements that are necessary for the effective performance of the job. Candidates for employment or promotion opportunities will be assessed objectively against the requirements for the job, taking account of any reasonable adjustments that may be required for candidates with a disability. Disability and



personal or home commitments will not form the basis of employment decisions except where strictly necessary.

British Swimming will continue to monitor the diversity of the existing workforce and of applicants for jobs, and the number of people with disabilities within these groups, continually considering any appropriate action to address any concerns that may be identified as a result of the monitoring process.

### **Dignity at work**

British Swimming is committed to creating a work environment free of harassment and bullying, where everyone is treated with dignity and respect.

Some harassment is unlawful discrimination and serious harassment may be a criminal offence.

Conduct may be harassment whether or not the person behaving in that way intends to offend. Everyone has the right to decide what behaviour is acceptable to them and to have their feelings respected by others. Behaviour that any reasonable person would realise would be likely to offend will be harassment without the recipient having to make it clear in advance that behaviour of that type is not acceptable to them e.g. inappropriate touching (the Unacceptable Behaviour section and Appendix 1 can support in clarifying this).

It may not be so clear in advance that some other forms of behaviour would be unwelcome, or could offend, a particular person, e.g. certain "banter", flirting or asking someone for a private drink after work. In these cases, first-time conduct that unintentionally causes offence will not be harassment but it will become harassment if the conduct continues after the recipient has made it clear, by words or conduct, that such behaviour is unacceptable to them.

A single incident however can be harassment if it is sufficiently serious. If an individual thinks they are being bullied or harassed, they may be able to sort out matters informally. The person may not know that their behaviour is unwelcome or upsetting. They may feel able to approach the person themselves, or with the help of someone else at the organisation. The individual should tell the person what behaviour they find offensive and unwelcome, and say that they would like it to stop immediately.

If an informal approach does not resolve matters, or the situation is too serious to be dealt with informally, please contact the People Department to discuss the situation. An employee has the option of making a formal complaint by using the British Swimming Grievance Policy and Procedure.



In all situations, British Swimming will treat complaints of bullying and harassment sensitively and maintain confidentiality to the fullest extent possible. Employees have a right not to be victimised for making a complaint in good faith, even if the complaint is not upheld.

## **Unacceptable Behaviour**

There is no absolute definition of what constitutes unacceptable behaviour, as it is the effect the behaviour has on the recipient that often makes it unacceptable.

Unacceptable behaviour may be any unwanted physical, verbal or non-verbal conduct which has the purpose (intentional) or effect (unintentional) of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment or of making the recipient feel vulnerable, upset and/or threatened. Physical conduct ranges from touching, pinching, pushing to grabbing, shoving, punching and other forms of physical assault. Verbal harassment includes shouting, offensive language, innuendos, jokes, banter (when it upsets or offends the subject of it) abuse, propositions, nicknames, threats or malicious gossip.

As well as verbal communications, written material and pictures (including that sent by interactive and online technologies) can be used to harass. This includes emails, text messages, WhatsApp messages, video footage, visual and sound recordings, websites and photographs taken using cameras in mobile devices as well as content uploaded onto websites. Non-verbal harassment can also include graffiti, staring, spying, stalking, offensive gestures or excluding a person from social dialogue/events.

Unacceptable behaviour could be a chain of unwanted or offensive behaviours toward a person, or a single incident of unwanted or offensive behaviour.

**Appendix 1** includes a list of non-exhaustive examples of unacceptable behaviour.

Unacceptable behaviour does not include legitimate and constructive criticism of a person's performance or behaviour or reasonable requests made of an individual.

These will include:

- issuing instructions;
- setting objectives and standards and monitoring performance;
- addressing poor performance or misconduct using the Capability or Disciplinary Policy.

Line managers with supervisory responsibility are expected to carry out their role in a professional way without undermining the dignity of their colleagues. Line managers are



expected to deal with employees fairly and consistently through appropriate procedures. Line managers are expected to raise concerns with employees about competence, ill health or conduct in appropriate circumstances and manage these in a positive and supportive way, using the appropriate procedure. Employees are expected to cooperate with their manager in addressing and taking appropriate action to improve areas of concern. The People Department will also provide advice and support.

### **Informal Resolution**

Issues can sometimes be resolved quickly and informally through discussions with the relevant individuals. British Swimming encourages that wherever it is possible to do so, issues and concerns around unacceptable behaviour are raised informally in the first instance. If the individual concerned does not feel able to speak to their Line Manager or other parties involved about their concerns (perhaps because they concern the Line Manager), they should speak to the People Department.

However, British Swimming recognises that an informal approach may not be appropriate in all circumstances. Where informal action does not result in the satisfactory resolution of the problem, the formal grievance procedure outlined below may be instigated.

British Swimming recognises that resolving issues can be difficult for all parties involved. Staff are encouraged to access the Employee Assistance Programme (EAP) on 0117 934 2121 for support as required.

### **Mediation**

As above, employees are encouraged to try and resolve situations informally wherever possible by talking directly to the person concerned. In some circumstances this may be with the involvement of a third party for example through mediation. Mediation involves the appointment of a third-party mediator (which may be a representative from People Department), who will discuss the issues raised with all of those involved and seek to facilitate a resolution.

### **Formal Resolution**

If informal action has not achieved the desired outcome, or if the nature of the concern is such that informal action would not be appropriate, an employee may raise a formal complaint.

To raise a formal complaint the employee will need to refer to the Grievance Policy, the individual concerned should put their concerns in writing and provide a copy to their Line Manager. If the individual employee does not feel able to provide a copy to their Line



Manager (perhaps because it concerns the Line Manager), they should raise the matter in writing and to the People Department.

The written complaint should contain a detailed description of the reasons for the concern, problem or complaint, including any relevant facts, dates and names of other individuals involved so that it can be investigated accordingly.

The Line Manager / recipient of the written grievance should contact People Department as soon as possible. The matter will be dealt with under the formal stages of the Grievance Policy, which can be found on the Intranet.

### **False or Malicious Accusations**

Making a complaint that is untrue or evidence that a complaint of unacceptable behaviour has been pursued on false or malicious grounds, the person pursuing the complaint may be subject to disciplinary action (under the Disciplinary Policy and Procedure).

### **Training**

British Swimming will provide training in equal opportunities, diversity and inclusion to all existing and new employees (and others where appropriate), to help them understand their rights, responsibilities and to avoid unconscious bias.

### **Employees responsibilities**

Every employee is required to assist British Swimming to meet its commitment to provide equal opportunities in employment, dignity at work for all employees and avoid unlawful discrimination.

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

Acts of discrimination, harassment, bullying or victimisation against employees or associates are disciplinary offences and will be dealt with under the disciplinary policy and procedure. Conduct of this type will often be gross misconduct which can lead to dismissal without notice.

For any advice or assistance with this policy please refer to the People Department.

This policy will be periodically reviewed. Any amendment to it will be notified to employees by the People Department.





## Data protection

British Swimming possesses personal data collected in accordance with its data protection policy.

For any advice or assistance with this policy please refer to the People Department.

This policy will be periodically reviewed. Any amendment to it will be notified to employees by the People Department.

Issue date	05/07/2018
People Department Revision date	05/06/2019
People Department Revision date	12/05/2021
People Department Revision date	15/12/2023

## Appendix 1

This appendix provides *some* examples to assist with the understanding of what may be found offensive, whether intentional or not. *This list is not exhaustive.*

- Making insulting comments, being sarcastic towards, ridiculing or demeaning others
- Shouting at people, making (including psychological) threats or physical intimidation
- Non-consensual physical touching or sexual advances
- Sending an offensive email or text or series of the same
- Humiliating, ignoring or gossiping about a colleague
- Making innuendos
- Intrusively questioning an individual regarding their personal circumstances
- "Banter" which makes a person feel uncomfortable
- Displaying or circulating material which could be offensive whether in the form of literature, photographs, objects or online content
- Spreading malicious rumours
- Overbearing supervision or an abuse or other misuse of authority or position
- Deliberately undermining a colleague by overloading and/or constantly criticising them
- Preventing an individual's career progression by intentionally blocking promotion or training opportunities
- Refusing to give a staff member time to support a colleague who has made a complaint
- Deliberate and continuous use of the wrong pronoun or name to address an individual, for example based on gender identity
- Unnecessary or unwanted contact or "horse play" such as an invasion of personal space
- Persistent suggestions of social activity within or outside the workplace after it has been made clear that such suggestions are unwelcome
- Offensive or intimidating comments or gestures, jokes or pranks
- Abuse or insults about cultures, customs, foods, appearance or dress
- Ignoring or shunning a person, for example by deliberately excluding them from work projects, conversations or a workplace social activity
- Derogatory remarks about a person's performance
- Questioning someone's ability because of their age, sex or any other protected characteristic
- Asking intimate questions about a person's impairment
- Holding events at inaccessible venues
- Intrusive personal questions relating to a person's gender identity, gender expression and gender reassignment
- Making assumptions based on ethnicity, nationality or skin colour



- Racist jokes, banter, insinuations, gestures, insults or taunts
- Mimicking someone's accent
- Homophobic, bi-phobic or transphobic comments, 'jokes' or name calling
- Outing a person as lesbian, gay, bisexual or transgender without their consent
- Deliberately arranging team lunches during periods of fasting or religious occasions which may make it difficult for colleagues to attend
- Stereotyping a particular religion or belief, or making assumptions about lifestyles or interests

