

<i>Purpose:</i>	To establish THA's policy on Equality & Human Rights and to produce a template for our Equality & Human Rights Action Plan.
<i>Next Review Date:</i>	March 2025
<i>Guidance:</i>	<p>The Equality and Human Rights Commission "Human Rights at Home" guidance for social housing providers.</p> <p>The Scottish Federation of Housing Associations "Collecting Equality Information: National Guidance for Scottish Social Landlords" - August 2021</p>
<i>Regulatory Standards:</i>	<p>Standard 1: The governing body leads and directs the RSL to achieve good outcomes for its tenants and other service users.</p> <p>Standard 4: The governing body bases its decisions on good quality information and advice and identifies and mitigates risks to the organisation's purpose.</p> <p>Standard 5: The RSL conducts its affairs with honesty and integrity.</p>
<i>Other Relevant Policies</i>	<p>Code of Conduct</p> <p>Unacceptable Actions Policy</p> <p>Data Protection Policy</p> <p>FOI Policy</p> <p>Whistleblowing Policy</p>
<i>Date approved by the Management Committee (or PRWG if delegated):</i>	2 ND March 2022
<i>Amendments</i>	

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1. Introduction

- 1.1 This document outlines the Association's Equality and Human Rights Policy. It replaces the previous 'Equal Opportunities Policy'.

The Association aims to ensure that all employees and customers are treated with fairness and respect and not discriminated against on the grounds of sex, race, marriage and civil partnership, disability, age, religion or belief, gender reassignment, pregnancy and maternity and sexual orientation. These are the 9 protected characteristics defined in the Equality Act 2010.

- 1.2 This Policy is supported by an Equality & Human Rights Action Plan (see Appendix 1) which sets out what the Association will do on a day-to-day basis to help ensure that the Policy's objectives are achieved, and that the Association can be proactive in its work in equality and human rights.
- 1.3 To help us ensure that those wishing to use our services, which includes the general public, tenants, and contractors as well as our employees, are clear about our commitment to equality of opportunity, the Association will:
- 1.3.1 Place a notice in our office reception areas and our public rooms publicising the Policy's existence and that it is available on request in a variety of formats.
- 1.3.2 A copy of the Policy will be published on the Association's website and we will publish an article in the Association's newsletter once a year, to highlight its existence.
- 1.3.3 Continue to ensure that staff and Management Committee members receive appropriate training in the area of equality and human rights.
- 1.3.4 Inform all of our contractors and consultants about the key aspects of this Policy.
- 1.4 This policy will be published on the Association's website once it has been approved by our Management Committee.

2. The Moral Case for Equal Opportunities

- 2.1 Trafalgar Housing Association believes that providing equality of opportunity for its staff, Management Committee members, tenants and other stakeholders is fundamental to the Association's values. It is not just a legal or regulatory requirement, put simply, equality of opportunity is morally the

right thing to do. This belief is a key driver behind this Policy and its supporting Equality & Human Rights Action Plan.

- 2.2 The Association is committed to promoting an environment of respect and understanding, where diversity is encouraged, and discrimination avoided. This commitment covers all areas of our work both as an employer of staff and a landlord/provider of services. It is also important to note that equality is not about treating everyone in the same way but recognises that people's needs are met in a variety of ways.
- 2.3 Accordingly we will have a consistent approach to promoting equality and human rights as an employer of staff throughout the entire employment relationship from the recruitment process to termination of employment and references. Whilst as a landlord and provider of services, the Association will strive to ensure it is fully accessible to everyone using our services and that equality of opportunity is provided for all.
- 2.4 Our governing body, our Management Committee wishes to be clear, that its work in equalities is motivated by a belief and commitment to ensuring equal opportunities for all, and to do all that it reasonably can in this regard.
- 2.5 Throughout this Policy we will refer to legal, regulatory, and best practice requirements to ensure that we are not placing the Association at risk of a legal or regulatory breach, however our main motivation is in ensuring equality of opportunity, as morally this is what we want to do and as such reflects the Association's values that underpin the work of the organisation.

3. Staff and Management Committee Responsibilities

- 3.1 Ultimate responsibility for ensuring that the Association conforms to the principles outlined in this Policy and strives to achieve the targets set, lies with the Management Committee. The Management Committee will monitor the effectiveness of this Policy by way of an annual report; will receive a 6-monthly report on the delivery of the Action Plan targets and will review the Action Plan on an annual basis for the year ahead. A copy Equality & Human Right's Action Plan is attached to this Policy as Appendix 1.
- 3.2 Responsibility for ensuring that the Management Committee is kept informed of progress in achieving the targets within the Action Plan lies with the Director, supported by the Association's staff team.
- 3.3 The Line Managers are responsible for communicating our organisational values and the Equality and Human Rights Policy to new employees as part of

the induction process and ensuring the successful implementation of the Policy.

- 3.4 Each member of our staff team has a personal responsibility for the implementation of this Policy and for ensuring they treat others with respect and dignity in both employment and service delivery.
- 3.5 All employees have a responsibility to be alert to, and challenge behaviours and practices which result in unfair discrimination when they occur. Where a member of staff believes such behaviour is occurring they must draw the matter to the attention of their Line Manager to ensure the matter is dealt with immediately.
- 3.6 If a member of staff believes that unfair discrimination is remaining unchallenged within the Association, they should refer to the Association's Whistleblowing Policy.

4. Legal, Regulatory and Good Practice Framework

- 4.1 The objective of this Policy is to ensure that the Association not only actively promotes equality of opportunity as an employer and provider of services but is compliant with various legislative and regulatory requirements including.
 - The Housing (Scotland) Act 2010.
 - The Scottish Social Housing Charter.
 - The Equality Act 2010.
 - The Scottish Housing Regulatory Framework.
 - Human Rights Act 1999.

This Policy will discuss each of these requirements in turn.

4.2 The Housing (Scotland) Act 2010 & Scottish Social Housing Charter

4.2.1 The Housing (Scotland) Act 2010 states:

“Social Landlords, when performing housing services, must act in a manner which encourages equal opportunities and in particular the observance of the law for the time being relating to equal opportunities.” This means the Association is legally obliged to comply with the Equality Act 2010.

- 4.2.2 The Housing (Scotland) Act 2010 also established the **Scottish Social Housing Charter**, which set out the Scottish Government's and Scottish Housing Regulator's (SHR) expectations for Scotland's Registered Social Landlords (RSLs).

The Scottish Social Housing Charter's Equalities Outcome sets out the Scottish Government's expectation that: "Every tenant and other customer has their individual needs recognised, is treated fairly and with respect, and receives fair access to housing and housing services."

4.3 **The Equality Act 2010**

The Equality Act 2010 which applies to the Association's staff and its customers centres on two key elements, which are:

4.3.1 The identification of nine "protected characteristics" who require additional protection, and

4.3.2 The identification of "unlawful behaviour" not allowed under the act.

4.3.3 **Protected Characteristics**

The 2010 Act identified the following protected characteristics:

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

4.3.4 **Unlawful behaviour**

The key elements of unlawful behaviour, which should be avoided as both an employer and a provider of services, as set out within the act are defined below:

- a. **Direct Discrimination** – Is treating someone less favourably than others based on a protected characteristic e.g. *refusing to give housing advice to someone because of their sexual orientation.*
 - b. **Associated Discrimination** – Discrimination against a person, because they have an association with someone with a particular protected characteristic, e.g. *someone not appointed, despite being the best candidate, due to having a disabled partner.*
 - c. **Perceptive Discrimination** – Discrimination against a person because the discriminator thinks the person possesses that characteristic, e.g. *someone is*
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discriminated against by their colleagues, because they think they are gay, or an employee is overlooked for promotion simply because they look younger and therefore not considered to have sufficient maturity for a senior role.

- d. **Indirect Discrimination** – A policy, practice, procedure, provision or criteria that applies to everyone, but might disadvantage a particular protected group, and cannot be objectively justified, e.g. *not letting properties to people under a certain age, because it is believed as a group, they generally act in an anti-social way.*
- e. **Harassment** – Conduct that violates a person’s dignity or creates an intimidating, hostile, degrading, humiliating or offensive working environment. The intention of the perpetrator is irrelevant; it is the impact on the individual which determines if harassment has taken place.

The Association must also be aware of their responsibility with respect to “Harassment by a Third Party”. As an employer, the Association is potentially liable for the harassment of their staff or customers by people they do not themselves employ, for example a contractor or consultant and should act accordingly if this takes place.

- f. **Victimisation** – Treating someone less favourably and discriminating against them because they have pursued or intend to pursue their rights relating to alleged discrimination, complained about the behaviour of someone harassing them or given evidence in someone else’s discrimination complaint.
- g. **Institutionalised Discrimination** – This was first defined in the context of racism and exemplified in the Macpherson report on the inquiry into the death of Stephen Lawrence as “the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin. It can be seen or detected in processes, attitudes and behaviours which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people.”

4.4 The Scottish Housing Regulatory Framework

4.4.1 In March 2019, the Scottish Housing Regulator (SHR) published its revised regulatory framework: “Regulation of Social Housing in Scotland”.

4.4.2 Section 3 of the framework outlines the SHR’ regulatory expectations of every RSL with respect to equality and human rights, as follows:

“Have assurance and evidence that it considers equality and human rights issues properly when making all of its decisions, in the design and review of internal and external policies, and in its day-to-day service delivery.

To comply with these duties, landlords must collect data relating to each of the protected characteristics for their existing tenants, new tenants, people on waiting lists, governing body members and staff.”

4.4.3 To ensure that the Association complies with the SHR’s regulatory expectations, this Policy and our Action Plan will include:

- a. How the Association will review, update and monitor the composition of its tenants, prospective tenants, staff, Management Committee members and shareholding members against the nine protected characteristics outlined in the Equality Act (2010).
- b. The review and update of our use of Equality Impact Assessments to ensure new and revised policies take account of equality and human rights issues.
- c. Ensuring that regular training is in place for staff and Management Committee members to ensure they are aware of their obligations with respect to equality and human rights.

4.5 **The Human Rights Act (1998)**

4.5.1 The Human Rights Act 1998 incorporates the rights set out in the European Convention on Human Rights into domestic British law and came into force in the UK in October 2000. The Act contains 16 articles which cover a range of rights with a basic aim to ensure that everyone should be treated fairly, with dignity and respect.

4.5.2 In 2011, the Equality and Human Rights commission produced “Human Rights at Home” guidance for social housing. This guidance recommends that social housing providers pay particular attention to articles 6, 8 and 14 of the 1998 Act when providing services, developing policies and procedures, etc.

4.5.3 This policy will cover each of these three articles in turn:

a. **Article 6: Right to a Fair Trial:**

Everyone has the right to a fair hearing (trial) means people should be given the opportunity to participate effectively in any hearing of their case, and to present their case in conditions which do not place them at a substantial disadvantage when compared with the other party in the case for example a person who is subject to a decision-making process in relation to a possible eviction should have access to an interpreter, if

necessary. Staff should also ensure that any important decisions i.e. allocations, evictions, etc. should be given with reasons.

b. Article 8: Right to Respect for Private Life, Family Life and the Home:

Everyone has the right to respect for their private and family life, their home and correspondence. It is important to emphasise that the right to respect for a person's home is not a right to be given any extra priority to be housed by Trafalgar Association but is a person's right to access and live in their home without intrusion or interference. For the Association this has various implications including:

- Personal information about customers should be kept private and confidential.
- The right to respect for family life includes the right for a family to live together.
- Taking positive steps to prevent others seriously undermining a person's home or private life, for example, through anti-social behaviour.

c. Article 14: Prohibition of Discrimination

This means that everyone must have equal access to the Association's services, regardless of their race, religion, gender, sexual orientation, disability, or any other personal characteristic. For example, a gay couple must be treated in the same ways as a heterosexual couple in relation to the right to succeed to a tenancy.

A difference in treatment can only be justified if there is a good reason for the treatment and if it is proportionate in the light of that reason. For example, if the Association provides specially adapted housing to people with a medical condition that needs these particular facilities.

4.5.4 To ensure compliance with the Human Rights Act, our Equalities & Human Rights Action Plan will consider, but limited to, the following:

- a. Protected characteristics.
- b. Definitions of unlawful discrimination.
- c. Disability related issues.
- d. Provision of goods, facilities and services.
- e. Positive action and the genuine occupational requirements.
- f. Employment related matters and pay reviews.
- g. Duties to advance equality.
- h. Tackling socio-economic inequalities.
- i. Procurement.

5. Policy Statement, General Principles and Protected Characteristics

- 5.1 This Policy has two main aims:
- 5.1.1 To ensure that no person, group of persons or organisation who deal with the Association in any way or who requires a service, assistance, or advice from the Association, or who is employed by (or serves) in any capacity by the Association (This includes Management Committee members, contractors, consultants, agents and anyone attending in a voluntary capacity for work experience) is treated less favourably than any other person, group of persons or organisation; put more simply, anyone who has any sort of contact with the Association.
 - 5.1.2 To promote the Policy so that anyone dealing with the Association in any capacity is made aware that the Association has a Policy and that there is a zero tolerance of any act which contravenes the Policy or the policy principles in any way.
- 5.2 The Association is keen to emphasise, that it will not tolerate any sort of unfair treatment or unlawful discrimination on any grounds. In addition to the above, therefore, our zero tolerance approach will be broadened (but not confined) to the following:
- a. National origin.
 - b. Cultural background.
 - c. Ethnic origin.
 - d. Tenure.
 - e. Issues related to literacy or numeracy.
 - f. Employment status.
 - g. Domestic circumstances.

Each of the above is equally important, and we will take all reasonable steps to ensure that no unlawful discrimination, whether deliberate or inadvertent, occurs.

- 5.3 To help achieve the main aims as outlined in section 5.1 above, the Association has developed the following statements, which will form the basis of our Equalities & Human Rights Action Plan (See Appendix 1).
- 5.3.1 Raise awareness of the Association's equal opportunities commitment.
 - 5.3.2 To develop an Equality Impact Assessment tool.
 - 5.3.3 Actively assist equality groups within the local community to benefit from its housing services.
 - 5.3.4 Ensure equality of opportunity and treatment for all people in relation to the employment of staff.

- 5.3.5 Ensure that all staff and Management Committee members are aware of the Association's commitment to, and obligations in relation to, equality and human rights.
- 5.3.6 Be mindful of its equality's commitments in relation to the procurement of contractors/consultants.
- 5.3.7 Consider the 9 characteristics when reviewing requests for adaptations to properties.
- 5.3.8 Have assurance and evidence that it considers equality and human rights issues properly when making all of its decisions, in the design and review of internal and external policies, and in its day-to day service delivery.
- 5.4 The Action Plan will be reviewed annually by the Management Committee, with 6-monthly progress reports being presented to the Management Committee.

6. Positive Action

6.1 The Equality Act 210 outlines two types of positive action which, in certain circumstances, are permissible:

6.1.1 General

If the Association believes that persons who share a protected characteristic suffer a disadvantage or have different needs because of that characteristic, then action may be taken to help overcome the disadvantage or address the needs. The Act points out that any action should be proportionate.

6.1.2 Recruitment and Promotion

An example could be addressing imbalances in the workforce by encouraging members of underrepresented groups to apply for jobs. Positive action may be applicable in setting equality targets aimed at encouraging people from a particular group or groups to apply for a vacancy, but no quotas will be set.

7. Equality Impact Assessment

7.1 An Equality Impact Assessment (EIA) tool has been prepared to ensure EIAs are carried out when introducing new or reviewing existing policies. In line with good practice the completed EIA will be published alongside the policy to which it relates.

7.2 The steps involved in developing this tool, including timescales, are outlined in the Association's Equality and Human Rights Action Plan.

7.3 The EIA will be accompanied by guidance for staff on how to use the tool, and

any staff member using the tool for the first time will receive training and be supported by their Team Leader.

- 7.4 Where there is a need for follow-up action, the tasks and timeframe for achieving them shall be noted in the Equality and Human Rights Action Plan to ensure they are addressed.

8. Risk Management

- 8.1 The Association recognises the potential risks should we fail to adhere to the Equality and Human Rights Policy and/or the accompanying Action Plan. In order to combat this, Section 15 of this policy outlines the method of investigation that would be adopted should any allegation of a breach be made.

9. Communications in Alternative Formats

- 9.1 One of the ways in which people can be indirectly discriminated against is by information sometimes being inaccessible. For example, a visually impaired customer may not be able to read the allocations policy in the print size usually available. Similarly, someone whose first language is not English may not be able to communicate effectively with staff.
- 9.2 To help deal with this, the Association will provide information to customers in different formats as requested. Different formats may include:
- Large print.
 - USB stick.
 - Translations into community languages.
 - Use of language or sign interpreters/other preferred methods for those hard of hearing.
 - Braille.

We note that it is not practical to have all possible formats available immediately upon request. Our commitment therefore relates to the ability and willingness to produce documents in the formats required (or an interpreter if requested) within a period of ten working days. All reasonable costs in relation to this will be borne by the Association.

- 9.3 During the development of this Policy, we have considered RNIB guidance which advises the minimum font size should be 12 point. This will be the minimum font size for our publications; however publications can be made available in larger font sizes upon request.

10. Publicising Our Equality and Human Rights Policy

10.1 We will publicise this Policy in the following ways:

10.1.1 We will consult with local residents during community events.

10.1.2 We will consult directly with the members of our Residents Panel.

10.1.3 We will provide a consultation platform for our customers and service users via our website and quarterly newsletters.

10.2 All employees, and contractors will be notified of the existence of our Policy and will be asked to familiarise themselves with it within 5 working days of the Policy being approved by the Management Committee (or within five working days of returning to work for anyone who has been absent when the policy is reviewed by the Management Committee).

10.3 Copies of the Policy will automatically be provided for successful job applicants within their Induction pack and to contractors and suppliers as part of their appointment process.

10.4 Management Committee members and staff will continue to receive on-going equality and human rights training. All Management Committee members and staff will be encouraged to keep up to date with developments in the area of good practice in equality and human rights.

11. Target Setting

11.1 Whilst embracing the principles of equality and human rights is something that the Association takes very seriously, it is nonetheless important that there is a system in place to demonstrate that we actually achieve our objectives and targets (or, perhaps more importantly, to highlight areas where we do not). In other words, we must ensure that this Policy statement is not used merely to pay lip service to equality and human rights; we must be able to demonstrate outcomes.

11.2 One of the ways of doing this is to develop a set of targets against which our performance can be measured, although we note that we are not able at present to set targets for all protected characteristics groups (please see section 14). What is crucial, however, is that we set a range of targets that are realistic and achievable for the Association.

11.3 We will incorporate targets within our Equality and Human Rights Action Plan and provide a progress report to the Management Committee every 6 months,

with the Plan being revised annually. These targets will be informed by the monitoring information gathered by the Association in relation to the protected characteristics of our new and existing tenants, prospective tenants, staff and Management Committee and shareholding members.

- 11.4 We acknowledge that target setting and monitoring targets is an area for improvement, which will be reflected in our Action Plan, which will over time be informed by the publication of additional guidance for the housing section and learning from good practice examples.

12. Identifying Problems and Taking Remedial Action

- 12.1 Because the Association is monitoring progress against our Equality and Human Rights Action Plan every 6 months, and revising the Plan on an annual basis, any issues of concern in relation to achieving targets or identifying any areas of concern will be flagged up so that remedial action can be taken.
- 12.2 It is not possible to be prescriptive about how the Association should identify problems and take appropriate action in this Policy statement as there are too many potential outcomes. The general process to be followed by staff is:
- 12.2.1 Provide the Management Committee with a 6 monthly progress update on implementing the targets; including actions taken to date.
- 12.2.2 Make suggestions for further areas for improvement, based on our own data, additional guidance for the housing sector and examples of good practice.
- 12.2.3 Agree refinements to the Equality and Human Rights Action Plan and implement these.
- 12.3 Realistically, it may emerge that some tasks are difficult to achieve and this is something that the Association recognises. This does not mean, however, that we will cease trying to achieve any such targets or actions. The Association will do all that is possible and reasonable to ensure that equality and human rights targets are met.
- 12.4 The Association will respond promptly to any complaints and treat complaints involving discrimination, harassment, or victimisation very seriously, and ensure such complaints are tackled in within agreed targets.
- 12.5 Complaints are monitored and reported to the Management Committee quarterly. In addition, the Association will ensure that complaints' reports, separate general complaints from those related to equality and human rights issues.

13. Dissemination of Key Targets and Performance

- 13.1 The Management Committee will consider an annual report on equality and human rights at its April or May meeting. This will be produced by the Line Managers and will be based on the outturn figures to the end of March.
- 13.2 Our performance will be summarised in the “Annual Statement on Equality and Human Rights”. This will be distributed to all tenants and members within the Summer newsletter and posted on the website.
- 13.3 The Association will report clearly on its performance, and this will include highlighting areas where targets have not been met.

14. Areas Not Currently Subject to Target Setting

- 14.1 As noted in the opening section to this Policy, the Association actively promotes equality of opportunity and treatment for all groups in society.
- 14.2 It is a regulatory expectation and a good practice requirement that RSLs must collect data relating to each of the protected characteristics for their existing tenants, new tenants, people on housing lists, governing body members and staff.
- 14.3 In August 2021 the SFHA (Scottish Federation of Housing Associations) released a new guide to support with equalities data collection. We will use this to set the Association’s equality targets and include these in our Equality & Human Rights Action Plan.

15. Breaches of The Equality and Human Rights Policy

- 15.1 The Association has a policy of zero tolerance as far as discriminatory practices and breaches of equal opportunities are concerned.
- 15.2 Any allegations against a member of staff or a Management Committee member will therefore be investigated thoroughly by the Association’s Director. If the allegation is made against the Director, the investigation will be conducted by the Chairperson and an appropriate member of the staff team (not directly involved).
- 15.3 Before the investigation begins, the Association will seek advice from Employers in Voluntary Housing and/or the Association’s solicitor.

- 15.4 The member(s) of staff/Management Committee member(s) should be advised of the allegations and informed of what action the Association is planning to take by way of investigation. They should also be advised to contact an independent representative, such as a solicitor or Trade Union representative.
- 15.5 The Association's disciplinary procedures for staff and Code of Conduct for the Management Committee, and the Notifiable Events Policy should then be followed as appropriate.
- 15.6 If the allegation is against a resident of the Association's property, the Director should ensure that the solicitor is contacted for advice (as there may be tenancy implications under certain circumstances).
- 15.7 In the event that our tenant(s) or other customer(s) display unacceptable behaviour towards staff, Management Committee members or consultants, we will consider initiating appropriate action, e.g. taking action against the tenancy; reporting the matter to Police Scotland; or reviewing communication arrangements with the Association. We would investigate these matters in keeping with our Unacceptable Behaviour Policy.
- 15.8 In breaches of this policy by consultants, contractors, or service providers, we will consider the level of breach and any recurrence to inform our decision on whether to terminate the contract.
- 15.9 In situations where a Management Committee member or Line Manager is alleged to have breached this Policy, this would constitute a notifiable event as outlined by the Scottish Housing Regulator. The notifiable event would be reported to the Regulator by the Director or the Chairperson, depending on the person(s) alleged to have breached the policy. In the event there is a serious breach by the Director, the Notifiable Events Policy on how to handle a serious complaint made about the Director would be initiated.

16. Policy Review

- 16.1 The Equality and Human Rights Policy will be reviewed every three years by the Management Committee. The next review will therefore take place in March 2025, or earlier if required.
- 16.2 As an operational document, the Equality and Human Rights Action Plan will be reviewed by the Management Committee annually normally in March.

17. Data Protection

- 17.1 We will treat personal data in line with our obligations under the current data protection regulations and our Data Protection Policy. Information regarding how data will be used and the basis for processing data is provided in our Employee, Customer, Shareholder and Management Committee Member Fair Processing Notices.