



1st Homecare

Equality and Diversity, Bullying and Harassment Policy

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1st Homecare Solutions Ltd.
5a Ridgeway Court
Grovebury Road
Leighton Buzzard
Bedfordshire
LU7 4SF

Tel: 01525 376677

1st Homecare (Oxford) Ltd
Ground Floor,
8 Isis Business Centre
Pony Road
Oxford
OX4 2RD

Tel: 01865 744174

1st Homecare Kings Langley
Unit 15 Sunderland Estate
Church Lane
Kings Langley
WD4 8JU

Tel: 01923 269877

1 PURPOSE AND SCOPE

1st Homecare is committed to promoting equality and fairness in its employment practices and in the domiciliary care services it provides. 1st Homecare is also committed to encouraging diversity. This Policy is designed to promote and sustain an environment in which:

- There is equality of treatment for all 1st Homecare's employees and for all clients
- People are treated fairly, and with dignity and respect
- Individual differences are recognised and valued
- All people feel respected and are able to give of their best
- Training and development is available to all staff
- All decisions are based on merit
- No form of discrimination, harassment, bullying, or victimisation is tolerated.

Equality is about creating a fairer workplace at every stage of employment, where every employee can participate and has the opportunity to fulfil their potential, and every client is provided with a service that is personal and that meets the client's needs, including those arising from any protected characteristics and/or cultural needs. In providing the services, no assumptions should be made about a person or their needs, and no person should be discriminated against unlawfully, including for any reason based on sexual orientation or because of being transgender. Each client must be treated with dignity and respect.

Diversity literally means difference. It is about recognising individual differences and treating people as individuals, placing a positive value on each employee's contribution within the workforce, and recognising and valuing each client's uniqueness.

Breaches of the equality policy will be regarded as serious misconduct and will result in disciplinary proceedings.

This policy is fully supported by 1st Homecare's management and will be reviewed annually (or more often as required).

2 THE LEGAL FRAMEWORK IN OUTLINE INCLUDING TYPES OF DISCRIMINATION

1st Homecare is opposed to all forms of unlawful discrimination. The Equality Act 2010 (the "Equality Act"), which replaced the existing anti-discrimination laws with a single law, applies to 1st Homecare as a provider of domiciliary care services to clients and as an employer. Additionally, when providing services commissioned by a public body, 1st Homecare needs to have regard to the Public Sector Equality Duty introduced by the Equality Act, as well as the Human Rights Act 1998.

Protection from unlawful discrimination because of a "protected characteristic"

The Equality Act 2010 protects people from unlawful discrimination because of having a "protected characteristic". The protected characteristics are the following:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race, religion or belief
- sex
- sexual orientation

What the law prohibits

Under the Equality Act, people are not allowed to discriminate, harass or victimise another person because that person (a) has a “protected characteristic”, (b) is perceived (thought of) as having a protected characteristic or (c) because the person is *associated with someone else* who has a protected characteristic.

The Equality Act covers direct discrimination (including discrimination by association and discrimination by perception), indirect discrimination, and harassment and victimisation.

3 DISCRIMINATION

Direct discrimination

This occurs when a person is treated less favourably than another or others in the same circumstances because of a “protected characteristic” (see the list above). To give an example in relation to employment, not interviewing someone because of their ethnic background would be direct discrimination. With regard to the provision of services, refusing to provide services to someone because of their race, religion or belief would be direct discrimination.

Discrimination by association and perception

Direct discrimination can take place because of a protected characteristic a person does not personally have but which another person who they are associated with does have. This is known as unlawful discrimination *by association*.

Direct discrimination can also arise where someone is discriminated against because they are wrongly thought to have a protected characteristic or are treated as if they do. This is known as unlawful discrimination *by perception*.

Indirect discrimination

This occurs where there is a rule, a policy or a practice that applies to everyone but that particularly disadvantages people who share a particular protected characteristic. Indirect discrimination can be justified if it can be shown that the rule, policy or practice was intended to meet a legitimate objective in a fair, balanced and reasonable way. If this can be shown, then the discrimination will be lawful.

When can discrimination be lawful?

It is possible to defend certain discrimination claims by arguing that the treatment or practice is justified. Those claims are:

- Indirect discrimination
- Direct age discrimination
- Discrimination arising from disability

If an employer or service provider can show that the treatment or practice is a proportionate means of achieving a legitimate aim then the claim will not succeed.

1st Homecare's policies and practices are based on the principle of equality of opportunity for all. 1st Homecare does not unlawfully discriminate in the way that it recruits, selects, performance manages, promotes, trains and rewards, or provides services to people. All employment decisions will be based on individual merit and the ability to perform the job.

4 HARASSMENT, BULLYING AND VICTIMISATION

1st Homecare wishes to promote a safe, healthy and fair environment for its staff to work in. 1st Homecare is committed to having a workplace that is free from harassment, bullying and victimisation, and to the provision of services to clients in a manner free from harassment, bullying and victimisation.

Harassment and bullying (see definitions below) can give rise to problems including poor morale, loss of respect for managers, poor performance, ill health, absence, resignations, damage to reputation and also to legal claims. Harassment and bullying are unacceptable to 1st Homecare and if found to have occurred will be treated as a disciplinary matter, possibly resulting in dismissal.

Harassment, bullying and victimisation related to a protected characteristic – see Section 2 above - are unlawful under the Equality Act 2010 e.g sexual harassment. Promoting equality of opportunity is the responsibility of all staff of 1st Homecare. 1st Homecare actively encourages anyone who witnesses behaviour that they believe amounts to harassment, bullying or victimisation to report the incident to a manager, normally their manager, so that it can be investigated.

Any employee who feels they are being bullied or harassed should raise this with a manager as a grievance, and the matter will be investigated promptly, objectively and confidentially following the grievance procedure contained in the Discipline and Grievance Procedure, and a decision will be made as to what action needs to be taken.

When investigating the allegation, the manager should consider all the circumstances before reaching any decision. It is important when doing so to include consideration of the perception of the person who feels they are being bullied or harassed as different people feel things differently.

Harassment - definition

This is defined in the Equality Act 2010 as unwanted conduct relating to a relevant protected characteristic (see the list in Section 2 above) that has the purpose or effect of violating someone's dignity or that creates an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

Bullying

This is not defined in the Equality Act but ACAS (the Advisory, Conciliation and Arbitration Service) defines bullying as "offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient".

Examples of behaviour that may be regarded as harassment or bullying include the use of offensive language, banter or jokes; abusing authority to the detriment of another person or imposing unfair sanctions; physical conduct ranging from unacceptable touching to serious assault; displaying flags, pictures or emblems that could cause offence; non-cooperation at work; isolation of an individual or segregation of a group of individuals. It can also include "cyber-bullying" – bullying via misuse of social media.

Victimisation

Victimisation is treating someone unfavourably because they have taken some form of action, for example they have made a complaint under the Equality Act or supported somebody who is doing so. An example would be failing to promote an employee because they have made a complaint of unlawful discrimination.

Allegations of harassment bullying or victimisation of a client by an employee

Any allegations of harassment, bullying or victimisation of any client of 1st Homecare by a member of staff will be dealt with by 1st Homecare as a matter of urgency. 1st Homecare will investigate any such allegations, and deal with the matter under the disciplinary procedure if appropriate. 1st Homecare would take all necessary actions, including withdrawing the member of staff in question from caring for the client, while the matter is being investigated and dealt with. If necessary, the matter would also be handled under 1st Homecare's Safeguarding Policy.

Allegations of harassment bullying or victimisation of an employee by a client

In the event that there are any allegations of harassment (or bullying or victimisation) of a member of staff by a client of 1st Homecare, this will be immediately investigated by 1st Homecare. An example might be a client using racially abusive language against a carer because they are from a black minority or ethnic group. 1st Homecare will discuss the matter with the client and/or as appropriate their family, other carer or social worker to try and resolve the matter. In the interim, the carer would be withdrawn from caring for the client to protect them from further possible abuse.

Allegations of harassment bullying or victimisation of an employee by another member of staff

Any allegation of harassment, bullying or victimisation of any member of staff by another member of staff will be dealt with by 1st Homecare swiftly. It will be investigated thoroughly, in confidence and with sensitivity, following the 1st Homecare grievance

procedure, and action may be taken under the disciplinary procedure where it is judged necessary. In some cases, it may be possible to resolve matters informally - sometimes people are not aware that their behaviour is unwelcome or could be perceived as bullying or harassment - and where appropriate, attempts will be made to rectify the situation in this way. If it cannot be resolved in this manner or is of too serious a nature to be settled informally, other action including possible disciplinary action will be taken.

Although it is the duty of all employees to report harassment, bullying or victimisation, employees should be aware that any allegation that is made maliciously or in bad faith will result in action up to and including disciplinary action being taken against the employee making the allegation.

5 THE PUBLIC SECTOR EQUALITY DUTY

Public authorities and also other organisations carrying out “functions of a public nature” must have regard to the obligations imposed on them under the public sector equality duty contained in the Equality Act 2010. This duty applies to 1st Homecare when carrying out services commissioned by a public authority, which includes local authorities, as well as to 1st Homecare’s employees carrying out those services on its behalf.

In summary, the public sector equality duty imposes a duty on public authorities and other bodies exercising public functions, to have due regard to three aims, namely the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct prohibited under the Act, because of a protected characteristic (as set out above)
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The protected characteristic of marriage and civil partnership is only covered by the first of these aims.

The public sector equality duty is intended to accelerate progress towards equality for all by placing a responsibility on bodies that are subject to the duty to consider how they can work to tackle systemic discrimination and disadvantages affecting people with particular protected characteristics. Bodies exercising public functions need to examine current and proposed policies and practices and decisions, to ensure that they are not discriminatory or unlawful under the Equality Act (and if so, whether it is reasonable or can be objectively justified as permitted under the Equality Act).

When carrying out services commissioned by a public body, 1st Homecare will need to have due regard to the three aims of the general equality duty and any actions it needs to undertake to aspire to the achievement of those aims. This might be through a variety of actions, including the application of this Policy. 1st Homecare will consult from time to

time as appropriate with the relevant public body commissioning the services regarding the actions it might employ.

6 HUMAN RIGHTS ACT 1998

In addition to the general equality duty, 1st Homecare and its employees need to have regard to the rights enshrined in the Human Rights Act 1998. The effect of the Human Rights Act 1998 is to codify the rights and protections in the European Convention on Human Rights into UK law and to ensure that laws, practices and procedures comply with those rights. All public bodies and other bodies exercising functions of a public nature have to comply with the Convention rights. This means that when carrying out services commissioned by a public authority, such as a local authority/council, 1st Homecare and its employees need to take into account the rights set out under the European Convention on Human Rights. The rights include:

- The right to respect for private and family life, home and correspondence
- The right to freedom of thought, belief, and religion
- The right to liberty and security
- Freedom from torture and inhuman or degrading treatment
- The right to peaceful enjoyment of property
- Protection from discrimination in relation to the other rights set out in the Convention

All these rights may be relevant to someone receiving health and social care but in particular the first of the rights – the right to private and family life - is highly relevant to a person receiving health and social care. It covers for example issues of dignity and autonomy such as the right of a person to choose how to live life (where the person lives, who with, their sexual identity, how they dress); the right to make decisions about health and personal welfare (including the right to refuse medical treatment), and the right to have personal information kept confidential.

In practice, all these rights represent just what good person-centred care and support should mean at a day-to-day level, such as a client being able to eat a meal when he or she is hungry rather than when the service provider wants to provide the meal or being able to bath in privacy and comfort.

Additionally, as a health and social care provider carrying out regulated activities, 1st Homecare must also comply with the fundamental standards of quality and safety, which protect people's rights using human rights principles.

7 PRIVACY, DIGNITY AND RESPECT

Dignity focuses on the significance and value of every person as a unique individual and embodies the belief that everybody has equal worth and is entitled to be treated respectfully. 1st Homecare is committed to providing services to its clients in a manner that upholds their dignity, and that is free from unlawful discrimination. Clients have the

right to live as they wish, always be consulted with, addressed as they want to be addressed and cared for in the manner they prefer to be cared for. 1st Homecare will always seek to meet cultural and religious needs that clients may have. It will not make assumptions or be discriminatory in relation to clients on grounds of sexual orientation or gender re-assignment.

1st Homecare is committed to providing a service where the values of dignity and respect are at the heart of the care provided to clients. 1st Homecare provides person-centred care to its clients. Each client has a care plan developed in discussion with the client and, where appropriate, the client's family and others involved in his or her care, ensuring that the client has choice and control over the care he or she receives, and that the client's needs, preferences and diversity are taken into account.

Dignity training is included in the induction and ongoing training given to staff and this includes taking staff through this Policy and ensuring they understand what it means and what it requires of them. Any failure by a member of staff to treat other staff members and clients with dignity and respect will be investigated and dealt with appropriately, including under 1st Homecare's Discipline and Grievance Procedure if necessary.

1st Homecare respects its clients' right to live the life they choose with privacy and dignity. All matters relating to, and information held regarding, clients are treated with the utmost confidentiality and disclosed only to those within 1st Homecare who need to know. Additionally, 1st Homecare complies with its obligations under the Data Protection Act in relation to its clients' personal data. 1st Homecare's Data Protection Policy and its Confidentiality Policy set out further 1st Homecare's policies and procedures with regard to these areas.

8 MONITORING AND QUALITY ASSURANCE

1st Homecare monitors the quality of its services, including the application of this Policy, through a variety of means, which are set out in 1st Homecare's Standards for Quality Assurance Policy. Among other things, 1st Homecare writes to its clients asking them to complete an annual survey commenting on the service they have received and whether it meets their needs. 1st Homecare conducts ongoing monitoring for example through its direct contact with clients (e.g. communications between clients and the office); through its staff who visit clients and are responsible for care plans; through telephone monitoring; through Care Plan review meetings; through supervision meetings with staff; through spot checks on staff, and through staff training. Additionally, any external feedback received about its service eg. from a commissioning body, stakeholder or relative will be welcomed and acted on as may be necessary.

9 GENERAL

This Policy may be amended by 1st Homecare at any time and staff will be notified of any amended version. Any new Policy will replace the previous version.

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CHANGE HISTORY

Issue	Date	Description of Change and Reason
1	November 2012	First Issue
2	December 2013	Second Issue
3	January 2014	Third Issue
4	November 2014	Fourth Issue
5	June 2016	Fifth Issue – change of address and overall review, one change inserted regarding use of telephone monitoring as one of means of quality assurance
6	February 2017	Sixth Issue – changes to make applicable to both businesses and to delete the reference to former Registered Manager being a Dignity Champion
7	June 2018	Seventh Issue – no substantive changes, just minor changes to wording for clarification.
8	December 2018	Eighth Issue – changes to section on bullying and harassment to clarify that it can occur also where there is no protected characteristic (ie. Where it does not amount to unlawful discrimination), also tidying up typos.
9	January 2020	Ninth Issue – change to include KL office address
10	July 2021	Tenth Issue – changes to tidy up references and typos, change to reference to “senior carers” to “staff” in paragraph 8
11	September 2022	Eleventh Issue – changes to improve grammar, to highlight certain elements to improve clarity, plus the addition of a sentence in Section 8 to include feedback from external sources as part of quality monitoring and assurance.

DOCUMENT CONTROL

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