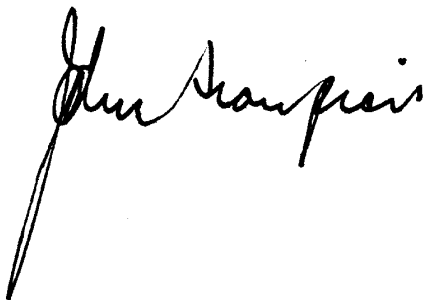


Equal Opportunities Statement by the Commissioner

Equality of opportunity is not only a requirement of law, it also makes good business sense for our Organisation. It helps to maintain morale and commitment which in turn contributes to improved performance standards. For our customers and the external organisations we deal with, it means we will act impartially and professionally.

All staff and managers should be aware of the OISC's equal opportunities policy and should apply it to all aspects of the business.

As Commissioner, I fully support the OISC's equal opportunities policy and the need for it to be fully integrated into the OISC's work, including operational policies, procedures and practices. Valuing diversity amongst staff and customers is an essential ingredient of the OISC's work.



JOHN SCAMPION
Immigration Services Commissioner

Equal Opportunities Policy

Contents	Page
Equal Opportunities Statement by the Commissioner	1
1. Equal Opportunity Policy Statement	3
2. Commitment	3
3. Training and Development.....	3
4. Monitoring.....	3
5. Selection.....	3
6. Appraisal Reviews.....	4
7. Working environment.....	4
8. Dealing with external organisations/ advisers.....	4
9. Statement by the OISC Senior Management Team	4
10. Pledge to individuals.....	5
11. Accountability and awareness	5
12. Equal opportunities enhances the OISC's business	5
13. The benefits of equal opportunities.....	5
14. Our practical support	5
Annex 1 - Guidance on discrimination	7
Annex 2 - Guidance on harassment.....	9
Annex 3 - Guidance on bullying	11
Annex 4 - My rights and responsibilities – what are they?	14
Annex 5 - Guidance on how to complain.....	16
Annex 6 - Guidance for those subject to a complaint	20

Office of the Immigration Services Commissioner

1. Equal Opportunity Policy Statement

- 1.1 The OISC is committed to equal opportunities in the selection and development of its staff and to the provision of a work environment free from discrimination and harassment. We aim for all staff to be committed to the principles of equal opportunities and to be aware of the part they play. We also aim to be respected by our customers and other external organisations for the professionalism and impartiality of our staff with a reputation as a good and effective regulatory authority in the immigration industry.

2. Commitment

- 2.1 The OISC is committed to the fair treatment of all staff. Discrimination is actively discouraged and we expect all staff to act in line with this policy. Staff should be aware that discrimination, victimisation, harassment and bullying are serious matters and that the consequences of such behaviour could lead to disciplinary proceedings and individual liability under the relevant legislation. We also aim to provide equal access to service for all our customers. Managers have particular responsibilities and accountability for equal opportunities and Senior Managers are responsible for applying equal opportunities in an exemplary manner both internally within the OISC and externally to other organisations/individuals.

3. Training and Development

- 3.1 All reasonable effort will be made to arrange essential training in ways that meet the needs of all staff, including those working part time, those with caring responsibilities and those with disabilities.

4. Monitoring

- 4.1 The Human Resources Manager will monitor equal opportunities progress using objective measures. Progress will be published annually within the OISC or at earlier intervals upon request.

5. Selection

- 5.1 All candidates are told about the OISC's equal opportunities policies. Advertisements will include commitment to equal opportunities and we will endeavour to advertise to the widest appropriate audience.
- 5.2 The OISC supports the employment of people with disabilities. We will take all reasonable steps to meet the special needs of disabled staff by providing equipment, adaptations and making appropriate organisational arrangements.

5.3 Selection procedures are designed not to discriminate directly or indirectly, but are based on objective work-related criteria. Appointments will be made on merit, on the basis of fair and open competition. All suitable staff are encouraged to apply for job opportunities within OISC. Training and guidance on equal opportunities is provided for recruitment and promotion boards and those completing reports.

6. Appraisal Reviews

6.1 The Line Manager and Reviewing Officer's comments and decisions should be clear, objective and free from discrimination. Appraisal review guidance and training on relevant equal opportunities issues will be provided for those completing reports.

7. Working environment

7.1 The OISC is committed to providing a workplace environment which is consistent with its equal opportunities policies. We accept flexible working arrangements, new patterns of working and part-time employment. Every effort will be made to retain staff who are disabled. The OISC does not tolerate discrimination, victimisation, harassment or bullying. All staff will be made aware of the equal opportunities complaints procedure and when necessary, may make use of it. Managers have a particular responsibility to ensure complaints are handled sensitively and effectively and must not wait for a formal complaint if they detect unacceptable behaviour.

8. Dealing with external organisations/ advisers

8.1 We want to create an environment for customers where they feel able to discuss issues openly and where customers have equal access to our services. Regarding applications for registration/ exemption, the OISC has set objective written criteria against which applications will be considered and this criteria will be applied consistently to all applicants. These written standards are set out in the Commissioner's Rules, the Guidance to Advisers: Competences booklet and the Code of Standards. The OISC will also make sure applications are considered by more than one person to ensure fairness in the decision making process.

9. Statement by the OISC Senior Management Team

9.1 Equal opportunities is a high priority for the OISC. This statement serves to affirm our commitment to equal opportunities

- Jointly as members of the Senior Management Team and
- Individually as managers.

10. Pledge to individuals

10.1 We will not tolerate discrimination, victimisation, harassment or bullying. Everyone has the right to make a complaint about such behaviour without fear of recrimination and to have their complaint dealt with as quickly as possible in a fair and sensitive way. Managers have a particular responsibility to spot unacceptable behaviour and to treat complaints sensitively and seriously. We also encourage staff to challenge discrimination and actively promote equal opportunities.

11. Accountability and awareness

11.1 We recognise our leading role in promoting and making sure that real equality of opportunity is offered to all staff and customers. The Commissioner, has set out his personal views elsewhere in this document. Accountability for equal opportunities operates throughout the OISC and we will ensure that our staff are aware of their rights and responsibilities under the OISC's policies.

12. Equal opportunities enhances the OISC's business

12.1 Equal opportunities is neither an optional extra nor a vague aspiration in an efficient organisation. It underpins all aspects of our work and is an integral part of good working practice and good management. This is particularly true in terms of pressure, challenges and change.

13. The benefits of equal opportunities

13.1 Properly implemented, equal opportunities gives operational and business benefits, and helps to:

- Attract the best people for our jobs and retain them thereafter;
- Develop people to their full potential;
- Value and utilise the different qualities people bring to the job;
- Improve motivation, efficiency and effectiveness;
- Establishes and maintains our reputation as a good and effective service provider in the immigration industry.

14. Our practical support

14.1 We intend to show our positive commitment to equal opportunities by:

- Supporting equal opportunities initiatives;
- Communicating equal opportunities developments to OISC staff;

- Ensuring staff whose duties include equal opportunities issues receive the appropriate training and backing;
- Regularly including equal opportunities issues on the agenda at meetings;
- Looking at initiatives being taken in other organisations considering their viability in the OISC;
- Listening to the views of staff on how improvements can be made;
- Listening to our customers and other external organisations on how we can improve our service.

EQUAL OPPORTUNITIES – GUIDANCE ON DISCRIMINATION

What is Discrimination?

Discrimination is when you are treated unfairly or less favourably than people from other groups.

There are two types of discrimination:

- Direct
- Indirect

Direct discrimination

Direct discrimination is when you are treated less favourably than others in similar circumstances because of your:

- gender
- nationality
- race
- colour
- ethnic origin
- marital status
- responsibility for dependants
- disability
- sexual orientation (lesbians, gay men, gender re-orientation)
- age
- AIDS/HIV positive status
- Religious or political beliefs
- Trade Union activities

Indirect discrimination

Indirect discrimination is when a condition or requirement is applied to everybody **but**

- 1** it is harder for a particular group to satisfy that condition; **and**
- 2** the condition cannot be justified in terms of performing the job.

Discrimination by way of victimisation

Victimisation is when you are treated unfairly or less favourably than others because:

- you have made a complaint
- you have given evidence of information about someone else's complaint
- you have gone to an Employment Tribunal

EQUAL OPPORTUNITIES – GUIDANCE ON HARASSMENT

What is harassment?

Harassment is if someone's behaviour towards you makes you feel:

- embarrassed
- humiliated
- intimidated
- angry

Harassment may be due to one or more of the following:

- gender
- nationality
- race
- colour
- ethnic origin
- marital status
- responsibility for dependants
- disability
- sexual orientation (lesbians, gay men or gender re-orientation)
- age
- AIDS/HIV positive status
- religious or political beliefs
- Trade Union activity

Here are some examples of harassment:

- verbal or physical threats and abuse
- use of derogatory stereotypes
- touching, grabbing or brushing up against others
- innuendo, mockery, jokes or lewd remarks
- intrusive questioning about your:
 - ethnic origin
 - marital status
 - sexual orientation (lesbians, gay men, gender re-orientation)
 - disability
- leering, lewd gestures or racially insulting gestures
- graffiti and the display or circulation of material which is offensive on racial, sexual and other grounds
- suggestions that sexual favours may further your career or that if you do not offer them your career will suffer
- an offensive manner of communicating with you which is not used with other colleagues

Bullying

If you feel harassed but it does not seem to fall within the descriptions listed above, you may be being bullied.

If you are not sure, read the separate guidance on Bullying – What is it?

EQUAL OPPORTUNITIES – GUIDANCE ON BULLYING

What is bullying?

A definition of bullying is:-

“Persistent, offensive, abusive, intimidating or insulting behaviour. It includes the kind of persistent criticism, personal abuse or abuse of power which makes the recipient feel fearful, threatened or vulnerable, and which undermines the recipient’s self confidence and may cause them to suffer physical ill health and mental distress.”

Workplace bullying is when someone treats you, either as an individual or as a member of a group of staff, offensively and tries to undermine you by being:

- vindictive
- cruel
- malicious
- humiliating you
- assuming authority which is inappropriate to their role
- misusing their power or position

You can be bullied by one individual or a group of staff who are at:

- a higher level
- a lower level
- the same level, i.e. your peers

Bullying may take many forms. You may not recognise it immediately.

Obvious bullying behaviour

- repeatedly shouting or swearing at you both in public and in private
- spontaneous rages often over trivial matters
- public humiliation
- personal insults and name calling

- persistent criticism
- spreading unfounded malicious rumours
- freezing out, ignoring or excluding
- persecution through threats or instilling fear
- groundless withdrawal of an office, being relegated to a small office or the corner of an office
- deliberately talking to a third person to isolate you
- constantly undervaluing effort
- dispensing punishment out of the blue
- labelling you
- always cutting across you in conversation
- never listening to your point of view
- physical attack

Less obvious bullying behaviour

- replacing areas of responsibility with menial tasks
- deliberately sabotaging or impeding work performance
- refusing to delegate
- constantly changing targets or work guidelines
- withholding work-related information or supplying incorrect information
- over-monitoring you without your knowledge, and with malicious intent
- deliberately interfering with post and other communications
- setting you up to fail by imposing impossible deadlines for an increased workload, giving you tasks you were not contracted to do
- blocking applications for leave, training or promotion
- tampering with personal report marks or appraisal
- using lengthy memos to make wide and inaccurate accusations

- instigating complaints from a client or customer to make you seem unreliable or incompetent
- knowingly destroying your relationships with other people
- discouraging you from pursuing grievances or using grievance procedures

Although individual actions described above can constitute bullying, particularly those of a serious nature e.g. public humiliation, physical attack, etc., it is more usual for bullying to be established by a persistent pattern of behaviour involving repeated application of one or more of the descriptions above.

Bullies

Bullying is not confined to those groups you may usually think of in cases of harassment, e.g.:

- men/women
- white/ethnic minority
- non-disabled/disabled

It can involve people similar to yourself bullying you, eg:

- white men bullying white men
- women bullying women
- ethnic minority staff bullying staff from a similar ethnic background
- disabled member of staff bullying someone else who is disabled

EQUAL OPPORTUNITIES – My rights and responsibilities – what are they?

Staff rights

You have the right to:

- ***work in an environment free from:***
 - unjustifiable discrimination
 - harassment
 - bullying

- ***equal access to:***
 - training relevant to your job
 - career development/promotion opportunities

- ***complain, without fear of victimisation, when you think you have been:***
 - discriminated against
 - harassed
 - bullied

It is important to understand these rights so you can decide whether you have received fair treatment.

There are other guidance notes which provide information about discrimination, harassment and bullying.

There is also guidance on how to complain. This advises you on the various options available to you if you think you have not been treated fairly.

Staff responsibilities

You must not discriminate against, harass and bully anyone on **any** grounds including:

- gender
- nationality
- race
- colour
- ethnic origin
- marital status

- responsibility for dependants
- disability
- sexual orientation (lesbians, gay men or gender re-orientation)
- age
- AIDS/HIV positive status
- religious or political beliefs
- Trade Union activity

EQUAL OPPORTUNITIES – Guidance on how to complain

Should I put up with discrimination, harassment or bullying?

No. Usually the problem will not go away by itself. Others will not change their behaviour if they are not aware their actions are annoying or upsetting you.

What should I do?

It is usually advisable to deal with the situation as soon as possible after it occurs. You can sometimes avert the need for making a formal complaint by making sure your colleagues know you do not like them to use certain words or behaviour.

Acting quickly can often resolve a situation with as little unpleasantness as possible. Dealing with differences on a colleague to colleague basis or at as informal a level as possible is usually less traumatic for everyone concerned. It also helps to maintain better working relations within the OISC.

If you think it is better to involve others in handling the complaint, you have the right to expect them to handle it:

- impartially
- promptly
- seriously
- confidentially
- sensitively

Depending on the nature of the complaint and how you feel about it there are various ways to complain. These are set out below.

Dealing with the situation yourself

You may decide to confront the person in a straightforward, factual and assertive manner and tell them their behaviour is unacceptable.

This may be appropriate when the remark or action is an isolated one and the person involved was unaware of the effect of their behaviour.

In some circumstances, before you confront someone who you believe is harassing, bullying or discriminating against you or someone else, you may want to:

- write down or keep a diary of, what happened, when and who witnessed it
- get advice from your Line Manager, a Senior Manager, Human Resources or a staff representative. You can ask them to be with you when you confront the person

You may feel no further action is needed if the person involved:

- 1 apologises; and
- 2 agrees not to do it again.

Ask your line manager to deal with it

If you do not feel comfortable dealing with the situation yourself you may want to discuss it with your Line Manager or bring it to their attention. Your Line Manager can then deal with it in their day to day management role by discussing it with the Line Manager of the person involved.

Remember they cannot preserve your anonymity if they are going to deal with specific complaint. They will need to ask the other person for their side of the story. The Line Manager will try to resolve the issue in a low-key, amicable way.

Make an informal complaint

If you do not want to deal with the situation yourself and do not want to involve your Line Manager, you can make an informal complaint.

Do not be misled by the word, informal. There will be a thorough investigation involving interviews with:

- yourself
- the person (s) you are complaining about
- any witnesses

Make your complaint by speaking or writing to:

- your Line Manager
- another Senior Manager in your unit
- your Human Resources Manager

Make sure you give clear details of:

- the main points of your complaint
- who you are complaining about
- any witnesses

The investigation will be carried out by a suitable officer from within the OISC. This officer is appointed by the Human Resources Manager.

Make a formal complaint

If you choose this option, the investigation of the complaint is carried out and controlled by a Senior Manager within the OISC. Where there are exceptional circumstances, experienced investigators may be called in from outside the OISC.

You should make your complaint by:

- Writing a letter or memo to the Human Resources Manager stating you want to make a formal equal opportunities complaint.
- Make sure you give a clear picture about the main points of your complaint. Give the names of the person you are complaining about and any witnesses to the incident (s).
- If you want to you can send it via your Line Manager.

Investigation procedure

In any investigation, whether for an informal or formal complaint, staff investigating the complaint interview:

- yourself
- any witnesses
- the person(s) complained about

Each of these has:

- the right to have a colleague or staff representative present at the interview. You, as complainant can bring a friend instead if you wish.

After the interviews have finished the investigating officers prepare a report with their findings. You will not normally receive a copy of this but both you and the person(s) complained about will be told whether:

- your complaint has been upheld or not; and
- disciplinary action is appropriate.

Any staff involved in an investigation must not talk to anybody else about the complaint, either during or after an investigation has finished.

Talking about a complaint and the investigation can damage working relationships and can affect the reliability of the evidence.

You should not talk to other staff to try to get witnesses for your case. If you think they could be witnesses give their names to the investigators.

Complaint to an Employment Tribunal

You are entitled to complain directly to an Employment Tribunal under the following provisions:

- Sex Discrimination Act 1975
- Race Relations Act 1976
- Race Relations (Amendment) Act 2000
- Trade Union and Labour Relations (Consolidation) Act 1992
- Disability Discrimination Act 1995
- Protection from Harassment Act 1997
- Discrimination on other grounds is not yet covered by legislation

Your Human Resources Manager or staff representative can advise you on how to apply.

EQUAL OPPORTUNITIES – Guidance for those subject to a complaint

What are my rights if someone complains about me?

You have the right to:

- be treated fairly
- expect the investigation to be handled:
 - impartially
 - promptly
 - seriously
 - confidentially
 - sensitively

What happens if someone complains?

Depending on the nature of the complaint and how the complainant feels about it there are various ways for them to complain. These are set out below.

Sometimes an individual may tell you they find your behaviour or language unacceptable. In this situation you should listen to the individual and be sensitive to the fact that people have different perceptions of what is acceptable.

Read the guidance relating to the following:

- What is Discrimination?
- What is Harassment?
- What is Bullying?
- My rights and responsibilities – What are they?

Make sure your behaviour is in keeping with OISC's equal opportunities policies. If appropriate, apologise to the individual.

Your Line Manager deals with the complaint

A complainant may ask your line manager to speak to you. You will be told who has made the complaint and what it is about. You will be asked for your side of the story. The Line Manager will try to resolve the issue in a low-key, amicable way.

The complainant makes an informal complaint

Do not be misled by the word, informal. There will be a thorough investigation involving interviews with:

- the complainant
- yourself
- any witnesses

The investigation will be carried out by a suitable officer from within the OISC. This officer is appointed by the Human Resources Manager

The complainant makes a formal complaint under the equal opportunities procedures

The investigation of the complaint is carried out and controlled by a Senior Manager within the OISC. Exceptionally, investigators may be called in from outside the OISC.

Investigation procedure

In any investigation, whether for an informal or formal complaint, staff investigating the complaint interview:

- the complainant
- any witnesses
- yourself

Each of these has:

- the right to have a colleague or staff representative present at the interview.

After the interviews have finished the investigating officers prepare a report with their findings. Both you and the complainant will be told whether the complaint has been upheld or not. If the complaint is upheld and the Human Resources Manager decides disciplinary action is appropriate, you will receive copies of the report and evidence gathered. You will be given the opportunity to respond.

Any staff involved in an investigation must not talk to anybody else about the complaint, either during or after an investigation has finished.

Talking about a complaint and the investigation can damage working relationships and can affect the reliability of the evidence.

You should not talk to other staff to try to get witnesses for your case. If you think they could be witnesses give their names to the investigators.

The complainant makes a complaint to an Employment Tribunal

The complainant may complain to an Employment Tribunal and cite you in a complaint of discrimination on the grounds of:

- sex
- race
- disability
- Trade Union activity

Harassment is a form of discrimination and may feature in the complaint.

If you receive training in equal opportunities and have had official warnings that your behaviour is unacceptable, you may be held personally responsible if you persist in discriminating against, harassing or bullying others.

The Employment Tribunal may decide you should pay compensation to the complainant. **In these cases OISC will not pay compensation on your behalf.**

Employment Tribunals are independent judicial bodies. They decide allegations of discrimination brought under the provisions of the:

- Sex Discrimination Act 1975
- Race Relations Act 1976
- Race Relations Act (Amendment) 2000
- Trade Union and Labour Relations (Consolidation) Act 1992
- Disability Discrimination Act 1995
- Protection from Harassment Act 1997

Discrimination on other grounds is not yet covered by legislation.

If you receive forms from an Employment Tribunal, you should show them to your Line Manager and the Human Resources Manager. They will advise you on what action to take. You may also want to contact your staff representative as they may be able to help you with legal advice.

If there has not already been an internal investigation of the complaint, there is likely to be one.

Police involvement

If the complainant alleges you have assaulted them, or if the alleged behaviour is considered to be a criminal offence, the complainant may contact the police.

Under the Criminal Justice and Public Order Act 1994 and the Protection from Harassment Act 1997, harassment and intentional harassment are now arrestable offences with criminal penalties leading to either imprisonment or a fine.

OISC is not held liable under this Act. Individuals are responsible for their own actions.

Victimisation

You should not take any retaliatory action against the complaint.