



## **Equality and human rights policy**

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**Date Approved by Management Committee:**  
**Latest review date:**

April 2021  
April 2025

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# Equality and human rights policy



## 1. Introduction

- 1.1 This document outlines the Association's equality and human rights policy. It updates the previous "equal and diversity policy" which was approved by the Management Committee in May 2015. It has been developed in collaboration with both staff and Committee members who formed part of a working group, as well as local residents who were consulted with during February 2021 and consideration of changes to recommended practice since the previous review.
- 1.2 The policy addresses the legal and regulatory requirements the Association must meet, and how we will translate into tangible outcomes that will benefit our customers, communities, employees, Management Committee members and external stakeholders.
- 1.3 The Association is committed to ensuring our people and the tenants and residents in our communities do not face discrimination, victimisation, harassment or social exclusion due to any of the following protected characteristics (identified in the Equality Act 2010): age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion and belief; sex or sexual orientation.
- 1.4 The Policy applies to all of the Association's services and activities, including:
- *Membership and governance*
  - *Services to tenants and other service users*
  - *Resident participation and consultation*
  - *Community regeneration*
  - *Employment*
  - *Contracts with external companies and organisations*
- 1.5 The policy is supported by an action plan 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. The action plan is a separate document which is revised on an annual basis.
- 1.6 To help us ensure that those wishing to use our services, including the general public, tenants, prospective tenants and contractors as well as our employees, are clear about our commitment to equality of opportunity, the Association will:

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- a) Place a notice in the interview rooms publicising the policy's existence and that it is available in a variety of formats
- b) Feature the new Policy in one of our newsletters during 2021/22 and outline the main elements of the action plan on our website, [www.cernachha.co.uk](http://www.cernachha.co.uk)
- c) Continue to ensure staff and Committee receive appropriate training in the area of equality and human rights – we have recently conducted staff and Committee training and will revisit this at regular intervals in accordance with regulatory guidance and good practice.

## 2. Legal, regulatory and good practice context

2.1 This Policy takes account of legal, regulatory and good practice requirements, including (but not limited to):

- a) The Equality Act 2010
- b) Human Rights Act 1998
- c) The Housing (Scotland) Act 2010
- d) Regulation of Social Housing in Scotland
- e) The Scottish Social Housing Charter Outcome Number 1
- f) Section 5.3 of the Regulatory Standards of Governance and Financial Management
- g) Getting the Balance Right (published by the Scottish Federation of Housing Associations in 2011)
- h) The Equality and Human Rights Commission “Human Rights at Home” guidance for social housing providers

2.2 The Scottish Government published the Scottish Social Housing Charter in April 2017. The Government’s commitment to ensuring that RSLs behave in away that promotes equality and eliminate discrimination is characterised by the fact that Outcome 1 states that social landlords should:

*“.....perform all aspects of their services so 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.”*

2.3 Section 5 of the Standards of Governance and Financial Management, published in February 2019, requires all RSLs to “conduct their affairs with honesty and integrity and, within this, RS5.3 requires RSLs to pay *“due regard to the need to eliminate discrimination, advance equality diversity and foster good relations across the range of protected characteristics in all*

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*areas of its work, including its governance arrangements”.*

- 2.4 This policy also takes account of the revised Regulatory Framework (Regulation of Social Housing in Scotland) which came into effect on the 1 April 2019, which includes the following as part of its requirements of RSLs:

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- *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.”*
- 2.5 The Management Committee wishes to be clear, however, that its work in equalities and human rights is motivated by a belief and commitment to ensuring equal opportunities for all and stresses we are doing it because we want to and not because we have to. Whilst the policy refers to legal, regulatory and best practice requirements to ensure that we are not placing the Association at risk of a legal or regulatory breach, our main motivation in reviewing the policy is because we want to continue to improve our approach in this area.
- 2.6 Compliance with the policy is expected from all staff, Committee members, tenants and others with whom the Association may work (for example, contractors, consultants, suppliers, etc.).
- 2.7 The Association will seek to ensure all external suppliers of goods or services comply with equality legislation and have adequate policies and procedures in this area. Accordingly, information will be issued with all tender documents stipulating our expectations in respect of equal opportunities, and tendering organisations will be required to submit details of their own equal opportunities policies as part any tendering process; when working with organisations employing less than ten people, it will be acceptable for those organisations to confirm their willingness to operate in accordance with the Association’s equality and human rights policy.
- 2.8 **The Equality Act 2010** (referred throughout this Policy as the Act) is the main piece of UK legislation relating to equalities. The 2010 Act consolidates much of the previous equality’s legislation into one single Act. It replaces, for

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example, the Sex Discrimination Act 1975, the Race Relations Act 1976 and the Disability Discrimination Act 1995.

2.9 The Act has two key principles which were to:

- Identify groups who needed additional protection due to their “protected characteristics”
- Identify “unlawful behaviour” which should be avoided by RSLs as landlords and as employers of staff

These key principles will be discussed in sections three and four.

2.10 **The Human Rights Act 1998** specifies that every individual has the right to own and enjoy the ownership of property; the right to respect for private life; the right to respect for family life; and the right to respect for their home. The Act provides protection against discrimination with regard to these rights and could affect many of the housing and other services the Association provides.

2.11 The European Convention on Human Rights contains articles setting out the rights that are protected, and that alleged breaches of the articles are heard by the European Court of Human Rights (ECHR). It is likely the status of the Act and the jurisdiction of the ECHR will change due to the UK’s exit from the European Union.

2.12 **Scotland specific legislation** – although equalities is a matter reserved to the UK Parliament, the Scottish Parliament has powers under the Scotland Act 1998 to “encourage and promote” equal opportunities. Accordingly, The Housing (Scotland) Act 2010, section 39 states:

*“Social landlords when performing housing services must act in a manner which encourages equal opportunities and in particular the observance of the equal opportunity requirements of the law for the time being related to equal opportunities”.*

## 3. Policy statement, general principles and protected characteristics

3.1 The policy has two main aims:

- 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

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capacity by the Association<sup>1</sup>, is treated less favourably than any other person, group of persons or organisation – put more simply, anyone who has any sort of contact with Cernach Housing Association.

- 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 / policy principles in any way

3.2 We will seek to promote and achieve equality of treatment and opportunity for all groups in society without discrimination or prejudice on any grounds. The Equality Act introduced the term “protected characteristics” to describe groups against whom any sort of discrimination is unlawful. Section 4 of the Act specifies nine protected characteristics:

- Age
- Disability
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Gender reassignment
- Sexual orientation

3.3 The Association is keen to emphasise that it will not tolerate any sort of unfair treatment or discrimination on any grounds. In addition to the above, our zero tolerance will be broadened (but not confined) to the following:

- National origin
- Cultural background (ie if a specific group of tenants or prospective tenants have a specific need, custom or practice)
- Ethnic origin (ie any significant percentages of tenants or prospective tenants from a specific country)
- Ability to speak or understand English
- Tenure
- Issues relating to literacy or numeracy
- Employment status
- Domestic circumstances

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<sup>1</sup> This includes Committee members, contractors, consultants, agents and anyone attending in a voluntary capacity for work experience.

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- Gender (ie if the gender pronoun a resident identifies themselves by is different from their 'assigned' gender at birth)

This list is not exhaustive and may be changed to reflect legislative or regulatory changes.

- 3.4 To help achieve the main aims as outlined in section 3.1, the Association has devised the following six statements, which will form the basis of the separate action plan.
- a) ensure that no one is discriminated against on the basis of any of the nine protected or eight other characteristics noted above
  - b) ensure equality of opportunity and treatment for all people in relation to the provision of housing and non-housing services
  - c) actively assist disadvantaged minority groups within the local community to benefit from its housing services
  - d) ensure equality of opportunity and treatment for all people in relation to the employment of staff
  - e) ensure that all staff are aware of the Association's commitment to and obligations in relation to, equality and human rights
  - f) be mindful of its equality's commitments in relation both to the procurement of contractors/consultants and to the composition and operation of the Management Committee

Please note staff and Committee training should highlight these six statements and their importance to the Association.

## 4. Types of discrimination

- 4.1 The Act highlights seven types of discrimination (which it identifies as unlawful behaviour) which RSLs must avoid in how they deliver their services and how they act as an employer of staff. The Association has added an eighth category, institutionalised discrimination, for the purposes of this policy and this is outlined as 4.2h.

### 4.2 Discrimination

#### a) Direct discrimination

This is less favourable treatment of an individual or group compared to others, and this treatment is because of a protected characteristic. An example of this would be to refuse to employ somebody because they

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had an impairment, which had no relevance to their ability to carry out the job they had applied for.

## b) **Associated discrimination**

This is direct discrimination against someone because they are associated with another person who possesses a protected characteristic. For example, a non-disabled person is discriminated against because they need to take care of disabled dependent.

## c) **Discrimination by perception**

This is direct discrimination against someone because othersthink that they possess a particular protected characteristic. They do not necessarily have to possess the characteristic, just be perceived to. For example, a person is not shortlisted for a job on the basis that the recruiter assumes the applicantdoes not have the correct visa to work in the UK as they have a foreign-looking name on their application form.

## d) **Indirect discrimination**

This is when an apparently neutral requirement or condition impacts adversely, or has a disproportionate effect, on a particular equality group. An example of this could be holding meetings at times which are inconvenient for people with childcare responsibilities and not providing crèche facilities.

## e) **Harassment**

This occurs when a person engages in unwanted conduct which is related to a protected characteristic, and which has the purpose or the effect of (i) violating the dignity of another person or (ii) creating for that person an intimidating, hostile, degrading, humiliating or offensive environment. An example might be displaying a topless calendar on a wall where this makes the workplace an offensive place to work for any employee.

## f) **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.

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## g) **Victimisation**

This occurs when someone faces discrimination because they have made an allegation of unlawful discrimination or because of assisting or supporting a complainant. An example might be refusing to consider someone for a promotion because they gave evidence on behalf of a colleague who made a complaint of unlawful race discrimination.

## h) **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.”

The Association extends the above to cover all actions where these are related to a protected characteristic.

## 5. **Positive action**

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

- General
- Recruitment and promotion

5.2 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.

5.3 Recruitment and promotion – an example could be addressing imbalances in the workforce by encouraging members of under-represented 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.

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- 5.4 The Association will periodically assess the demographic profile and ethnic backgrounds of our employees, Committee members and our members to review the level of representation with our tenants and other customers in our work. The Association will take positive action to ensure recruitment seeks to address any imbalances. This will take account of data collection guidance currently being developed by the SHR when this policy review was undertaken.

## 6. Equality Impact Assessments

- 6.1 Because equality and human rights issues are fundamental to how the Association operates each policy developed or reviewed by the Association will be subject to an Equalities Impact Assessment (EIA). EIAs allow the Association to take proactive steps to identify and remove potential discrimination or, in some cases, the relevant action will be to adapt a policy or practice to better advance equality. It is important to recognise that providing the same service in the same way to everyone can sometimes create a disadvantage.
- 6.2 The Equality and Human Rights Commission in Scotland states that a policy or practice, which proactively considers equality, particularly using relevant evidence and consultation or involvement, is likely to be a better quality policy in terms of it being more responsive to the needs of those affected. It further recognises that EIAs assist in mainstreaming equality considerations into policy and decision-making.
- 6.3 The Association's action plan confirms the Association is reviewing its current EIA tool, and once the new tool has been developed, they will training relevant staff in its use.

## 7. Risk management

- 7.1 The Association recognises the potential risks should we fail to adhere to the equality and human rights policy and/or the accompanying action plan. It is not only the Association's credibility that would be compromised, but that of the Management Committee should there be a major deviation from the policy, and possibly even the sector as a whole. In order to combat this, Section 14 of this Policy outlines the method of investigation that would be adopted should any allegation of a breach be made.

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## 8. Communications in alternative formats

8.1 One way in which people can be indirectly discriminated against is by information sometimes being inaccessible. For example, a visually-impaired resident 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. This type of indirect discrimination is important to address as it can often be inadvertent and there is therefore perhaps more scope for it to occur.

8.2 To help combat this, the Association will provide information to customers in any special formats, which may include:

- Large print
- CD/data stick/voice file
- Translations into community languages
- Use of language or sign interpreters
- Braille

Please note that it is impractical to have all possible formats available immediately. The Association's commitment therefore relates to the ability and willingness to produce documents in the formats required (or an interpreter if requested) within a period of five working days or as soon as reasonably practicable. All reasonable costs will be borne by the Association.

8.3 At the time of writing, the Association is fortunate to have a number of staff and Committee members fluent in a number of community languages other than English and we have made use of these skills in the past for non-formal translation. We also have strong links with the Drumchapel Asian Forum who provide assistance to people across a whole range of languages – staff regularly signpost people to the Forum, but we recognise that we will not be aware of everyone who would benefit from this, so it is important to publicise it to reach a wider audience.

8.4 During the development of this policy, we consulted with the Royal National Institute for the Blind (RNIB) on font size. The RNIB confirmed that the Association's current approach of all letters, policies and information being produced in 14 point as a minimum on request.

8.5 To ensure that this strategy is effective, the availability of documents in other formats will be publicised on our website, on documents / policies

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and on the notice board within the interview rooms.

## 9. Publicising the equality and human rights policy

- 9.1 It is absolutely critical that the policy is publicised if it is to stand any chance of being successfully implemented. The level of interest in the policy will vary from one person to another depending on a whole range of factors. To help respond to this, we will publicise the policy in the following ways:
- a) we will publicise the policy review and the Association's work in relation to promoting equality of opportunity in one of our 2021/22 newsletters
  - b) we will ensure that all new tenants are made aware of the Association's commitment to equality and human rights as part of the sign-up process
  - c) the Policy will also be available on the Association's website.
- 9.2 All employees, applicants for employment and contractors will be notified of the existence of the policy and will be asked to familiarise themselves with it within a week of it being approved, or within five days of returning to work for anyone who is absent when the policy is reviewed (the Director will send an email to all staff informing them that it has been approved and signposting them to the copy on the common drive). Staff training recently took place on the new policy principles and staff have been encouraged to raise any queries they have relating to the policy to their line manager in the first instance.
- 9.3 Copies of the policy will automatically be provided for successful job applicants within their Induction and Staff handbook.
- 9.4 Committee members will continue to receive ongoing equality and human rights training. All members will be encouraged to keep up to date with development in the area and will receive period reports on the delivery of the Association's action plan objectives.

## 10. Target setting

- 10.1 Whilst embracing the principles of equality and human rights is something that the Association takes very seriously, it is nonetheless important that there is some system in place to demonstrate that we actually achieve our objectives (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.

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- 10.2 The Association will assess the profile/composition of employees (and potential employees), Management Committee, tenants and applicants on our housing list. This will assist us as we strive to be representative and inclusive. This will take account of data collection guidance currently being developed by the SHR when this policy review was undertaken.
- 10.3 The most up-to-date Census information relates to the 2011 figures. It is widely accepted that demographics are constantly changing, and the Census information is therefore increasingly unreliable for the purposes of equality action planning. To further complicate matters, the 2021 Census in Scotland has been postponed until 2022 in Scotland, with the results unlikely to be available before 2023. Whilst we will take cognisance of the Census, we will also make use of other information that may be available, such as that from our own housing lists and those of the other local RSLs.

## 11. Identifying problems and taking remedial action

- 11.1 As the Association reviews progress against the equality and human rights action plan on an annual basis, areas where there may be problems will be flagged up so that remedial action can be taken. In addition, each of the action plan's objectives have specific delivery dates and progress against each objective will be reported periodically to the Committee.
- 11.2 It is not possible to be prescriptive about how the Association should identify problems and take appropriate action in relation to this policy statement as there are too many potential outcomes, all different from each other. The general process to be followed by staff is:
- i) Advise the Committee of the underachievement
  - ii) Outline action(s) already taken to achieve the objective
  - iii) Make suggestions for further action(s), in consultation with other RSLs who may have solved similar problems
  - iv) Agree refinements to the equality and human rights action plan's objectives and implement these
- 11.3 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 them. The Association will do all that is possible and reasonable to ensure that equality and human rights targets are met.

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- 11.4 In accordance with its complaints handling procedure, the Committee will receive quarterly complaints reports. These reports must include a separate section highlighting any complaints relating to equality or human rights issues.
- 11.5 The Association will respond promptly to any complaints received, and treat any involving discrimination, harassment or victimisation seriously, and ensure they are tackled in line with agreed procedures.

## 12. Staff and Committee responsibilities

- 12.1 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.
- 12.2 Responsibility for ensuring the Committee is kept adequately informed of progress and alerted to any areas of underachievement lies with the Association's management team<sup>2</sup>. It will therefore be the management team's responsibility to ensure the quality and completeness of information and recommendations being presented to the Committee.

## 13. Dissemination of key targets and performance

- 13.1 The Committee will consider an annual report on equality and human rights at its April or May meeting, beginning in 2022. This will be produced by the management team and will be based on the outturn figures to the end of March.
- 13.2 In May or June, this performance will be summarised in the "Annual Statement on Equality and Human Rights". This will be distributed to all tenants and members by way of a newsletter and posted on the website. Again, this will begin in 2022.
- 13.3 The Association will report clearly on its performance, and this will include highlighting areas where targets have not been met.

## 14. Breaches of the equality and human rights policy

- 14.1 The Association has a policy of *zero tolerance* to discriminatory practices

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<sup>2</sup> The management team comprises the Director, the Housing Services Manager, the Senior Housing Officer and the Senior Maintenance Officer.

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and where breaches of equal opportunities are concerned.

- 14.2 Any allegations against a member of staff or Committee will be investigated thoroughly by the Association's Director. If the allegation is made against the Director, the investigation will be conducted by the Chairperson, who will be assisted by the Housing Services Manager, and the Director will not be directly involved.
- 14.3 Before any investigation begins, the Association will seek advice from Employers in Voluntary Housing (EVH). Unless there is very good reason not to, the advice of EVH will be followed. It is also advisable to contact the Association's solicitor.
- 14.4 The member(s) of staff/Committee 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.
- 14.5 The Association's disciplinary procedures should then be followed as appropriate – these differ between staff and Committee.
- 14.6 We will also notify the Scottish Housing Regulator irrespective of whether or not it is considered a notifiable event.
- 14.7 If the allegation is against a resident of the Association's property, the Director, via the Housing Services Manager, should ensure the Association's solicitor is contacted for advice (as there may be tenancy implications under certain circumstances) – management of any investigation would normally be led by the Housing Services Manager.

## 15. Policy review

- 15.1 As a strategic document, this policy will be reviewed at least every four years, or sooner in response to legal, regulatory or best practice requirements. The latest review date is April 2025.
- 15.2 As an operational document, the action plan will be reviewed by the Management Committee annually.