

The Ferguslie Group

Equalities and Human Rights Policy



Ferguslie Group

Date of Last Review August 2022

Date of Next Review August2025

Signed FPHA Chair

NTC Chair

If you require this policy in an alternative format please contact admin@fpha.org.uk

Equality and Human Rights Policy

1. Our Commitment

The Ferguslie Park Group is made up of the Ferguslie Park Housing Association (FPHA) and the New Tannahill Centre. The Group is committed to meeting its equality duties and performing its functions in a way which encourages equal opportunities and respect for human rights. The Group will comply with equality and human rights legislation, we will work to understand the individual needs of our customers, and deliver services that recognise and meet these needs. The Group is committed to promoting a rights respecting culture within our organisation by promoting the human rights principles of fairness, respect, equality, dignity and autonomy (self-rule).

This policy sets objectives and success measures to June 2022. The Group CEO is responsible for the policy's day to day implementation.

2. Statement

3. Application

All agents of the Group, Employees, Board and Executive Committee Members are required to abide by this policy. The policy will be provided to contractors and integrated into the procurement process. The policy will also form part of the leasing arrangements for the NTC. This policy also applies to behavior by members of the public, tenants and those who use the services of FPHA and the NTC.

Equalities and human rights should not be 'bolted on' but an obligatory process required at the start of the decision-making process on services, policies, contracts and funding.

The Group will provide training for staff and Management Board and Committee Members on the delivery of this policy. The Group will seek advice where appropriate and access existing resources from the Equality and Human Rights Commission¹ and the Scottish Human Rights Commission². The Group will develop practical materials and tools to enable compliance with equalities and human rights legislation.

4. Our Duties

This policy sets out how we will act to meet the equalities requirements of the Housing (Scotland) Act 2010, the general public sector duties of the Equalities Act 2010 and the provisions of the Human Rights Act 1998. We also understand that human rights are more broadly defined under the Scotland Act 1998.

¹ See EHRC Guidance for Social Housing providers at <https://www.equalityhumanrights.com/en/advice-and-guidance/guidance-social-housing-providers>

² For example, see SHRC website at <http://eqhria.scottishhumanrights.com/index.html>

Under the Human Rights Act 1998, FPHA must comply with the European Convention on Human Rights and the ratified Optional Protocols.³ In addition, there are acts of the Scottish Parliament which refer to ratified international human rights treaties such as the UN Convention on the Right of the Child⁴. There are also specific initiatives on compliance such as on the UN Convention on the Rights of Persons with Disabilities⁵ and the development of Scotland's National Action Plan on Business and Human Rights which will impact on our procurement policy.⁶

In making any decision which may impact on the equal enjoyment of human rights there is a duty to ensure that decisions taken do not adversely and unjustifiably affect the enjoyment of rights by tenants, residents, those accessing services in the community. Reasonable steps must be taken to protect people from adverse circumstances. If a decision may negatively impact on the equal enjoyment of human rights, there are three criteria to consider before any action is taken:

- Is it lawful and in pursuit of a legitimate aim?
- Is it absolutely necessary?
- Is it a proportionate response in the circumstances?

Under the Housing (Scotland) Act 2010, FPHA performs its functions in a way which encourages equal opportunities and in particular the observance of the requirements of the law relating to equal opportunities.

The Equality Act 2010 introduced a public sector equality duty so in exercising its functions, FPHA must have due regard to the need to:

- **eliminate** unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Equality Act 2010;
- **advance** equality of opportunity between people who share a relevant characteristic and those who do not; and
- **foster** good relations between people who share a protected characteristic and those who do not.

The protected characteristics listed in the Equality Act 2010 are:

- age
- disability
- gender
- gender reassignment
- marriage or civil partnership
- pregnancy and maternity
- race
- religion or belief

³ For a full list of rights go to the Council of Europe website http://www.echr.coe.int/Documents/Convention_ENG.pdf

⁴ For example, see the Children and Young People (Scotland) Act 2014

⁵ See 'A Fairer Scotland for Disabled People' published by the Scottish Government at <http://www.gov.scot/Publications/2016/12/3778/0>

⁶ For more information see SHRC website at <http://www.snaprights.info/action-areas/better-world/business-and-human-rights>

- sex and sexual orientation.

The requirement to have due regard to the need to eliminate discrimination applies to all the 'protected characteristics' protected by the Equality Act. The second and third requirements (to have due regard to the need to advance equality of opportunity and foster good relations) apply to all the protected characteristics apart from marriage or civil partnership.⁷

There is a positive obligation requiring people to think proactively about how they can achieve these aims in the way that they go about their business. The Board and staff of The Ferguslie Group must also attach appropriate weight to the need to do so. Factors to consider are:

- **When assessing whether a policy advances equality and diversity** it will help to consider if it removes or minimises disadvantage, meets the needs of different groups, encourages increased participation of particular groups and takes account of disabled people's impairments.
- **When assessing whether a policy affects good relations**, it will help to consider if it tackles prejudice and promotes understanding.

The Equality Act 2010 requires organisations to consider how they can positively contribute to a more equal society through advancing equality and good relations in their day-to-day business, to:

- take effective action on equality
- make the right decisions, first time around
- develop better policies and practices, based on evidence
- be more transparent, accessible and accountable
- deliver improved outcomes for all.

The Group will consider equality across all its functions including decision-making, in the design of internal and external policies and in the delivery of services, and for these issues to be kept under review. In advancing equality of opportunity we will have due regard to the need to:

- Remove or minimise disadvantage suffered by people due to their protected characteristics.
- Take steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people.
- Encourage people with certain protected characteristics to participate in public life or in other activities where their participation is disproportionately low.

In practice, this means

- Meeting different needs includes (among other things) taking steps to take account of disabled people's disabilities.
- Fostering good relations means tackling prejudice and promoting understanding between people from different groups.
- Meeting the general equality duty may involve treating some people more favourably than others.

⁷ 'Human rights at home: Guidance for social housing providers' pub by EHRC 2016 pg. 40, available at https://www.equalityhumanrights.com/sites/default/files/human_rights_at_home.pdf

In order to meet the general duty, we will keep in mind that:

- Those who exercise our functions must be aware of the general equality duty's requirements. Compliance with the general equality duty involves a conscious approach and state of mind. General regard to the issue of equality is not enough to comply.
- The duty places equality considerations, where they arise, at the centre of policy formulation, side by side with all other pressing circumstances (such as financial constraints), however important these might be.
- The duty is on the decision maker personally in terms of what he or she knew and took into account. A decision maker cannot be assumed to know what was in the minds of others giving advice on the decision.
- Each need of the duty must be considered. The requirement to have due regard to the need to advance equality of opportunity is a separate obligation, in addition to the need to avoid unlawful discrimination.
- The general equality duty must be complied with before and at the time a policy is under consideration, as well as at the time a decision is taken.
- We will consciously think about the need to do the things set out in the general equality. Having due regard is not a matter of box ticking. The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.

Definitions

Protected Characteristics: The Equality Act 2010 specifies nine protected characteristics which are the grounds on which discrimination is prohibited by law. Claims of discrimination cannot be made on any grounds other than the afore listed nine protected characteristics

- **Diversity:** This means valuing individual differences. The Ferguslie Group is committed to valuing and managing people's differences to enable all employees and governing body members to contribute and realise their full potential. We recognise that people with different backgrounds, skills, attitudes, and experiences, can bring fresh ideas that can enhance our organisation and the services we provide.
- **Equality:** This means making sure people are treated fairly and given fair chances. It is not about treating everyone in the same way but recognising that different needs may have to be met in different ways.
- **Discrimination:** The term discrimination refers to the unfavourable or unfair treatment of people who are different, or from minorities within society. Challenging discrimination is a principle of equality, and central to the ethos of the Ferguslie Group.
- **Direct Discrimination:** This means treating someone less favourably than others based on a protected characteristic.
- **Indirect Discrimination:** This can occur where a policy, procedure or practice applies to everyone in the same way, but might disadvantage a particular protected group, and cannot be objectively justified.
- **Associated Discrimination:** This is discriminating against a person because they have an association with someone with a protected characteristic. For

example, a non-disabled person is discriminated against because of the action they need to take to care for a disabled dependent.

- **Perceptive Discrimination:** This is when a person is discriminated against because the discriminator thinks the person possess a protected characteristic. For example, a person is not shortlisted for a job because the recruiter assumes that they don't have the correct Visa to work in the UK as they have a foreign looking name on their application form.
- **Harassment:** This is conduct that violates a person's dignity or creates an intimidating, hostile degrading, humiliating or offensive environment. The intention of the perpetrator is irrelevant; it is the impact on the individual which determines whether harassment has taken place.
- **Victimisation:** This is 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.
- **Positive Action:** This means addressing imbalances, for example in the workforce by encouraging members of under-represented groups to apply for jobs. Positive action may be applicable in setting equality targets.
- **Failure to make Reasonable Adjustments:** This is where arrangements disadvantage an individual because of a disability and reasonable adjustments are not made to overcome the disadvantage.

5. The Regulatory Framework

Under the current Regulatory Framework for RSLs, FPHA will mainstream equalities and work in a way which meets its statutory obligations under the Housing (Scotland) Act 2010 and the Regulatory Standards of Governance and Financial Management for RSLs. The latter require us to conduct our affairs with honesty and integrity and pay due regard to eliminate discrimination, advance equality and foster good relations across the range of protected characteristics. Our processes will enable us to demonstrate that we can meet these Regulatory Standards.

The standards of direct relevance to this policy are noted below:

- *Standard 1: The Governing Body leads and directs the RSL to achieve good outcomes for its tenants and other service users.*
- *Standard 2: The RSL is open and accountable for what it does. It understands and takes account of the needs and priorities of its tenants, service users and stakeholders. And its primary focus is the sustainable achievement of these priorities.*
- *Standard 4: The governing body bases its decisions on good quality information and advice and identifies and mitigates risks to the organisation's purpose.*
- *Standard 5: The RSL conducts its affairs with honesty and integrity.*
- *Standard 6: The governing body and senior officers have the skills and knowledge they need to be effective.*

Our approach to considering the equalities and human rights impacts of our organisational decision-making has resulted in the adoption of an Equalities and Human Rights Impact Assessment tool (EqHRIA). Therefore, we can advise the Scottish Housing Regulator if and how we have considered equalities and human

rights impacts in decisions including those that require its consent. We have summarised this assessment tool into a cover sheet to be attached to each policy as and when they are presented for approval.

6. Needs of Tenants and Stakeholders

FPHA recognises that tenants and other service users have different needs and priorities and therefore we must deliver services that recognise and meet these needs. We are committed to gathering data and information to enable informed decisions and recognise that this will also be used to complete annual returns under the Scottish Social Housing Charter. FPHA recognises that by seeking the views, priorities and experiences of tenants and service users, we can deliver better services and agree more attuned policies. The data and information will also be used to complete EqHRIAs.

7. Promoting an equalities and human rights culture within our organisation.

The Group promotes equalities and human rights via our recruitment and staffing policies. We contract with Employers in Voluntary Housing (EVH) to implement HR policies that advance equality of opportunity between people who share a relevant characteristic and those who do not. The Group recognises that workplace policies that prevent discrimination and protect and promote people's rights to an inclusive and safe working environment can not only reduce costs but enable us to retain and attract the best staff and improve our productivity and performance.⁸ Our policies for recruitment, promotion and management of staff comply with the law, attract talented employees and get the best out of them. Workplace policies that prevent discrimination and harassment, and that allow our employees to balance their work and home lives, help us to retain workers and reduce our recruitment costs.⁹

8. Equality and Human Rights Outcomes

FPHA and the NTC can demonstrate their commitment to and implementation of, equalities and human rights in the following five ways:

1. We understand the perspective of people with protected characteristics who use our services.
2. We safeguard the interests of tenants and other service users with protected characteristics.
3. We are accessible, and we engage with tenants, service users and other stakeholders in a way that meets their needs.
4. We encourage diversity and promote equality as an employer.
5. Our staff are knowledgeable on equality and human rights issues and how they impact on our work.

9. Monitoring and Evaluation

The Group understands that delivering equalities and human rights duties is a continuous process both to ensure compliance and be prepared for changes in law

⁸ EHRC website at <https://www.equalityhumanrights.com/en/advice-and-guidance/guidance-small-businesses-and-human-rights>

⁹ <https://www.equalityhumanrights.com/en/publication-download/understanding-legal-definitions-discrimination-and-unlawful-behaviour-0>

and practice. In meeting the outcomes, we will provide an evidence trail that there is ownership and understanding of the public sector equality duty across the organisation.

- I. By integrating this policy across the operation of The Ferguslie Group underpinned by training for staff, Board and Committee members.
- II. Board and Committee members will use this policy to set the strategic direction, review performance and ensure good governance of the organisation.
- III. Senior managers will use this policy in overseeing the design, delivery, quality and effectiveness of the organisation's functions.
- IV. The Staff Team will use this policy to human rights within the organisation and how they can be supported to deliver on their responsibilities.
- V. This policy will be used to ensure equality and human rights considerations are consistent across employment policies and procedures.
- VI. Equalities and human rights considerations will be built into all stages of the policy making process including review and evaluation.
- VII. This policy will be integrated with the communications which are both internal and external.
- VIII. This Policy will be implemented by frontline staff in how they meet the needs of people who share a relevant characteristic and those who do not.
- IX. This policy will be used by procurement and commissioning staff in how they build equality and human rights considerations into the organisation's relationships with suppliers.
- X. FPHA will take reasonable steps to involve people who share a relevant protected characteristic and anyone who appears to the association to represent the interests of those people, in consulting on policy and service changes.

An Equalities and Human Rights Implementation Group has been established to oversee progress.