





 **Review Sheet**

 Last Reviewed 24 Oct '24	 Last Amended 24 Oct '24	 Next Planned Review in 12 months, or sooner as required.
Business impact	 <p>These changes require action as soon as possible.</p> <p><b>HIGH IMPACT</b></p>	
Reason for this review	Change in legislation	
Were changes made?	Yes	
Summary:	This policy has been updated in light of the new Worker Protection (Amendment of Equality Act 2010) Act 2023 which comes into force on 26th October 2024. It now includes reference to sexual harassment but also signposts to the new Sexual Harassment Policy and Procedure which is available in QCS Compliance Centre.	
Relevant legislation:	<ul style="list-style-type: none"> <li>• Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2012 (Amendment to Parts 4 &amp; 5)</li> <li>• Care Quality Commission (Registration) and (Additional Functions)</li> <li>• The Worker Protection (Amendment of Equality Act 2010) Act 2023</li> <li>• Care Quality Commission (Registration) Regulations 2009</li> <li>• Equality Act 2010</li> <li>• Equality Act 2010: Chapter 1 (Protected Characteristics) Chapter 2 (Prohibited Conduct) and Chapter 3 (Services and Public Functions)</li> <li>• Data Protection Act 2018</li> <li>• Gender Recognition Act 2004</li> <li>• UK GDPR</li> </ul>	
Underpinning knowledge - What have we used to ensure that the policy is current:	<ul style="list-style-type: none"> <li>• Author: Equality and Human Rights Commission, (2011), <i>Employment Statutory Code of Practice</i>. [Online] Available from: [Accessed: ]</li> <li>• Author: Government, (2010), <i>Equality Act 2010</i>. [Online] Available from: <a href="https://www.legislation.gov.uk/ukpga/2010/15/contents">https://www.legislation.gov.uk/ukpga/2010/15/contents</a> [Accessed: 24/10/2024]</li> <li>• Author: Equality and Human Rights Commission, (2019), <i>Equality Act guidance</i>. [Online] Available from: <a href="https://www.equalityhumanrights.com/guidance">https://www.equalityhumanrights.com/guidance</a> [Accessed: 24/10/2024]</li> </ul>	
Suggested action:	<ul style="list-style-type: none"> <li>• Encourage sharing the policy through the use of the QCS App</li> </ul>	
Equality Impact Assessment:	QCS have undertaken an equality analysis during the review of this policy. This statement is a written record that demonstrates that we have shown due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations with respect to the characteristics protected by equality law.	



## 1. Purpose

1.1 To ensure that all members of staff can work in an environment that is free from harassment or discrimination.

1.2 aebal leisure is committed to ensuring that all members of staff and job applicants receive equal treatment, regardless of their Protected Characteristics, namely age, disability, gender reassignment, marriage or civil partnership, pregnancy and maternity, race, religion or belief and sex.

1.3 This policy applies to all aspects of employment with aebal leisure. For the avoidance of doubt, this includes recruitment, pay and conditions, training, appraisals, promotion, conduct at work, disciplinary and grievance procedures, business trips or at work-related events or social functions and termination of employment.

1.4 To support aebal leisure in meeting the following Key Lines of Enquiry/Quality Statements (New):

Key Question	Key Lines of Enquiry	Quality Statements (New)
SAFE	S1: How do systems, processes and practices keep people safe and safeguarded from abuse?	QSS3: Safeguarding
WELL-LED	W2: Does the governance framework ensure that responsibilities are clear and that quality performance, risks and regulatory requirements are understood and managed?	QSW5: Governance, management and sustainability
RESPONSIVE	No equivalent KLOE	QSR5: Equity in access

1.5 To meet the legal requirements of the regulated activities that aebal leisure is registered to provide:

- | Health and Social Care Act 2008 (Regulated Activities) (Amendment) Regulations 2012 (Amendment to Parts 4 & 5)
- | Care Quality Commission (Registration) and (Additional Functions)
- | The Worker Protection (Amendment of Equality Act 2010) Act 2023
- | Care Quality Commission (Registration) Regulations 2009
- | Equality Act 2010
- | Equality Act 2010: Chapter 1 (Protected Characteristics) Chapter 2 (Prohibited Conduct) and Chapter 3 (Services and Public Functions)
- | Data Protection Act 2018
- | Gender Recognition Act 2004
- | UK GDPR



## 2. Scope

2.1 The following roles may be affected by this policy:

- | All staff

2.2 The following Service Users may be affected by this policy:

- | Service Users

2.3 The following stakeholders may be affected by this policy:

- | Family
- | Commissioners



### 3. Objectives

- 3.1 To set out the zero-tolerance approach of aebal leisure to the perpetrators of discrimination in the workplace and to set out the approach of aebal leisure to diversity, equity and inclusion.
- 3.2 To ensure that aebal leisure has an open and transparent approach to all aspects of employment, free from discrimination.
- 3.3 To ensure that all members of staff are able to thrive in an inclusive environment.
- 3.4 To create a working environment which enables everyone to work to the best of their skills and abilities without the threat of discrimination or harassment in the workplace.



### 4. Policy

- 4.1 All forms of discrimination are unlawful and prohibited under this policy. aebal leisure takes a zero-tolerance approach to any type of discrimination, bullying, harassment and/or victimisation which one member of staff may perpetrate against another and/or against any other person, including but not limited to former employees, job applicants, Service Users, customers, suppliers and visitors.
- 4.2 This policy applies to all aspects of employment with aebal leisure, including recruitment, pay, benefits and conditions, flexible working and leave, training, appraisals, promotion, conduct at work, disciplinary and grievance procedures, work related trips, work related social events and termination of employment.
- 4.3 Equally, this policy not only applies in the workplace but also outside of it when the member of staff is dealing with customers, suppliers or other work-related contacts, or when wearing a work uniform and on work-related trips or events including social events.
- 4.4 Any data collected as part of this policy will be processed in accordance with UK GDPR, data protection legislation, the Privacy Notice issued to staff and the Data Security and Data Retention Policy and Procedure of aebal leisure. aebal leisure appreciates that certain health data and medical reports will be special category data and aebal leisure will process this data accordingly.
- 4.5 aebal leisure complies with the Equality Act 2010 in all its processes regarding employees.
- 4.6 This policy does not form part of any employee's contract of employment and we may amend it at any time.



## 5. Procedure

**5.1** aebal leisure will promote awareness and provide appropriate training on recognising and avoiding discrimination, harassment, victimisation and promoting equal opportunities and diversity in the areas of recruitment, development and promotion.

**5.2** aebal leisure is committed to following the European Human Rights Commission Employment Statutory Code of Practice and has appointed an appropriate senior manager to have responsibility for equal opportunities training.

**5.3** aebal leisure will provide regular training to ensure that everyone is aware of and understands the contents of this policy. Following the training, members of staff will be required to confirm that they have read, understood and will comply with this policy.

### **5.4 Discrimination**

Members of staff must not unlawfully discriminate against or harass other people, including current and former job applicants, clients, customers, suppliers or visitors. This applies in the workplace, outside the workplace (when dealing with customers, suppliers or other work related contracts or when wearing a work uniform) and on work related trips or events including social events.

Direct Discrimination, Indirect Discrimination, Harassment, Victimisation and Disability Discrimination are prohibited under this policy and are unlawful.

### **5.5 Recruitment and Selection**

Any selection exercises including recruitment, promotion and redundancy selection, amongst others, will be carried out with regard to objective criteria which specifically avoid any issues of discrimination. Similarly, where possible, aebal leisure will ensure that such exercises are carried out by more than one person.

Any vacancies will be advertised to as wide and diverse an audience as possible. Such advertisements will not discourage any individual or group from applying. Job applicants will not be asked questions which might suggest an intention to discriminate on grounds of a Protected Characteristic. For example, applicants should not be asked whether they are pregnant or planning to have children.

Job applicants will not be asked about health or disability before a job offer is made, except in the very limited circumstances allowed by law, for example, to check that the applicant could perform an intrinsic part of the role, for example, heavy lifting (taking account of any reasonable adjustments), or to see if any reasonable adjustments may be required at an interview. Where necessary, job offers can be made conditional on a satisfactory medical check. Health or disability questions may be included in equal opportunities monitoring forms; these forms will not be used for selection or decision-making purposes.

### **5.6 Training, Promotion and Conditions of Service**

Training needs will be identified through regular appraisals which will be based entirely on an objective assessment of performance and will not be influenced by any Protected Characteristics that a member of staff may have. Members of staff will be given appropriate access to training to enable them to progress within the organisation and all promotion decisions will be made on the basis of merit.

### **5.7 Sexual Harassment**

aebal leisure is committed to providing a working environment free from sexual harassment and ensuring that all staff are treated, and treat others, with dignity and respect. aebal leisure recognises that sexual harassment can occur both in and outside of the workplace.

Please see the Sexual Harassment Policy and Procedure for further information on the approach of aebal leisure to preventing the sexual harassment of workers.

### **5.8 Disabilities**

aebal leisure is committed to ensuring that all members of staff have the ability to thrive in their career. If a member of staff is disabled or becomes disabled, whether this disability is obvious or not, aebal leisure encourages them to tell Gemma Toulson about their condition so that aebal leisure can consider what reasonable adjustments or support may be appropriate.

aebal leisure may wish to consult with the member of staff's medical adviser about possible adjustments or obtain a medical report on the staff's medical condition to understand what adjustments may be put in place to facilitate the individual in the workplace. aebal leisure will consider the matter carefully and try to accommodate the needs within reason. If aebal leisure consider a particular adjustment would not be reasonable, aebal leisure will explain the reasons and try to find an alternative solution where possible. aebal leisure will monitor the physical features of our premises to consider whether they might place anyone with a disability at a substantial disadvantage. Where necessary, aebal leisure will take reasonable steps to improve access.

### **5.9 Immigration Status**

aebal leisure will not make any assumptions about immigration status based on appearance or apparent nationality.

However, aebal leisure is required by law to ensure that all of its employees are entitled to work in the UK. Therefore, all prospective employees, regardless of nationality, must be able to prove their right to work in the UK before their employment commences at aebal leisure. Please refer to the Right to Work Checks Policy and Procedure at aebal leisure for further details.

#### **5.10 Part-time and Fixed-term Work**

Part-time and fixed-term employees should be treated the same as comparable full-time or permanent employees and enjoy no less favourable terms and conditions (on a pro-rata basis where appropriate), unless different treatment is justified.

#### **5.11 Neurodiversity**

Neurodiversity is a broad term that is used to describe the infinite number of ways the human brain can operate (most commonly used in the context of autism spectrum disorder (**ASD**), as well as other neurological or development conditions such as ADHD, dyslexia, dyscalculia and dyspraxia).

aebal leisure appreciates that members of staff may be neurodivergent and aebal leisure promotes neurodiversity within the workplace and will ensure that neurodivergent employees are not treated unfairly or suffer any detriment due to their neurodivergence.

In order to support any neurodivergent employees, aebal leisure encourages those employees who are living with a neurodiverse condition to speak to their line manager to inform them of their condition. aebal leisure will deal with any information disclosed in confidence, sensitively and in accordance with its data protection requirements.

If an employee has a neurodiverse condition, their line manager may discuss with them how, if at all, their condition affects their ability to complete their role and where necessary, complete a "needs assessment" to help identify any workplace adjustments that can be put in place to support them within the workplace and help the employee complete their role. Examples of workplace adjustments that can be put in place include but are not limited to:

- | Amending duties
- | Putting in place visible instructions next to equipment
- | Allowing employees to use noise cancelling headphones
- | Allocating work areas with more natural light; and
- | Providing an area that is considered 'quiet' or a location away from busy areas

aebal leisure is committed to ensuring that neurodivergent employees feel comfortable in the workplace and is committed to raising awareness of neurodiversity by:

- | Providing training to managers on supporting neurodiverse employees
- | Creating neurodiverse support networks for employees
- | Encouraging employees to speak about neurodiversity; and
- | Creating neurodiverse champions

#### **5.12 Termination of Employment**

aebal leisure will ensure that redundancy criteria and procedures are fair and objective and are not directly or indirectly discriminatory.

aebal leisure will also ensure that disciplinary procedures and penalties are applied without discrimination, whether they result in disciplinary warnings, dismissal or other disciplinary action.

#### **5.13 Disciplinary Procedure**

aebal leisure takes a strict approach to breaches of this policy. If any member of staff found to be in breach of this policy will be subject to disciplinary action. Serious cases of deliberate discrimination may amount to gross misconduct, resulting in dismissal.

Please see the Discipline Policy and Procedure for further information.

#### **5.14 Grievance Procedure**

If a member of staff believes that they have suffered discrimination, then they should raise these issues through the Grievances Policy and Procedure and/or the Anti-Bullying Policy and Procedure and the Harassment Policy and Procedure at aebal leisure. A member of staff will not be bullied or victimised for raising issues under this policy. However, if a complaint is made in bad faith and/or is knowingly false, the member of staff may be subject to the Discipline Policy and Procedure of aebal leisure.

**5.15** All staff should understand their responsibility to show consideration to, and to not discriminate

against, disabled colleagues, and this will be reinforced in supervision.



## 6. Definitions

### 6.1 Protected Characteristics

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

### 6.2 Disability

- | A physical or mental impairment which has a substantial and long-term adverse effect on an individual's ability to carry out normal day-to-day activities. The effect must have lasted for 12 months or be likely to last 12 months. An effect that is likely to recur is treated as continuing for this purpose

### 6.3 Special Category Data

- | Special Category Data is a category of data which is more sensitive than normal personal data. This includes data which relates to:
  - | Race
  - | Ethnic origin
  - | Politics
  - | Religion
  - | Trade union membership
  - | Genetics
  - | Biometrics (where used for ID purposes)
  - | Health
  - | Sex life; or
  - | Sexual orientation

### 6.4 Direct Discrimination

- | Direct discrimination can include associative discrimination, where a person is treated less favourably because of their association with an individual with a protected characteristic, and perception discrimination, where a person is treated less favourably because of the mistaken belief that they possess a protected characteristic
- | Treating someone less favourably because of a protected characteristic, for example, rejecting a job applicant because of their religious views or because of their sexuality

### 6.5 Indirect Discrimination

- | A provision, criterion or practice that applies to everyone but adversely affects people with a particular protected characteristic more than others and is not justified. For example, requiring a job to be done full-time rather than part-time may adversely affect women because they generally have greater childcare commitments than men. Such a requirement would be discriminatory unless it can be justified

### 6.6 Harassment

- | This includes sexual harassment and other unwanted conduct related to a protected characteristic, which has the purpose or effect of violating someone's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them
- | Harassment is dealt with further in our Anti-Bullying Policy and Procedure and our Harassment Policy and Procedure

### 6.7 Victimisation

- | Retaliation against someone who has complained or has supported someone else's complaint about discrimination or harassment. This includes where someone mistakenly believes that the person victimised has done so. For example, Person A raised a complaint of being subject to discrimination, following which their manager subjected Person A to a disciplinary process

### 6.8 Bullying

- | This is categorised as offensive, intimidating, malicious or insulting behaviour involving the misuse of power that can leave an employee feeling vulnerable, upset, humiliated, undermined or threatened
- | Bullying is dealt with further in our Anti-Bullying Policy and Procedure

### 6.9 Discrimination

- | The act of unjustified or prejudicial treatment towards other people based on their Protected Characteristics
- | There are a number of types of discrimination, including distinctions between people based on the groups, classes, or other categories to which they belong or are perceived

#### 6.10 Disability Discrimination

- | This includes direct and indirect discrimination, any unjustified less favourable treatment because of the effects of a disability, and failure to make reasonable adjustments to alleviate disadvantages caused by a disability

#### 6.11 Sexual Harassment

- | Any unwelcome conduct, advances, requests for sexual favours, or other verbal or physical conduct of a sexual nature that interfere with an individual's work performance or create an intimidating, hostile or offensive work environment
- | Examples include unwanted comments, gestures, inappropriate jokes or any form of unwarranted sexual attention



### Key Facts - Professionals

Professionals providing this service should be aware of the following:

- | Issues of discrimination, harassment and victimisation should be treated with the utmost care and attention
- | aebal leisure should ensure that all decisions on recruitment and internal promotions are made with reference to objective criteria which do not discriminate against any individual or group
- | This policy applies both in the workplace and outside of it where the individual is representing aebal leisure
- | Procedures must ensure that reasonable adjustments are made in a timely manner to enable workers with disabilities to enjoy equality with colleagues



### Key Facts - People affected by the service

People affected by this service should be aware of the following:

- | Service Users and those involved in their care who make derogatory statements that are of a discriminatory nature to any staff should be aware that they will be challenged about their behaviour
- | Similarly, aebal leisure may receive reports of derogatory statements made by staff from Service Users and will endeavour to investigate such reports as fully and fairly as possible



## Further Reading

As well as the information in the 'underpinning knowledge' section of the review sheet we recommend that you add to your understanding in this policy area by considering the following materials:

**ACAS - Discrimination and the Equality Act 2010:**

<https://www.acas.org.uk/discrimination-and-the-law>

**ACAS - Disability Discrimination:**

<https://www.acas.org.uk/disability-discrimination>

**ACAS - Equality, Diversity and Inclusion - What they are:**

<https://www.acas.org.uk/improving-equality-diversity-and-inclusion>

**ACAS - Managing Pregnancy and Maternity - Discrimination:**

<https://www.acas.org.uk/managing-your-employees-maternity-leave-and-pay/discrimination-because-of-pregnancy-and-maternity>

**ACAS - Using Protected Characteristics to make Decisions - What the law says:**

<https://www.acas.org.uk/employer-decision-protected-characteristic>

**ACAS - Handling Bullying and Discrimination - Approaching a Complaint:**

<https://www.acas.org.uk/handling-a-bullying-harassment-discrimination-complaint>

**Napthens - The Ageing Workforce: Creating a Diverse Workforce:**

<https://www.napthens.co.uk/blog/the-ageing-workforce-creating-a-diverse-workforce/>

**AfterAthena (Part of Napthens)/QCS Blog - What is your Equality, Diversity & Inclusion Focus for 2023?**

<https://www.qcs.co.uk/equality-diversity-inclusion-focus-2023/>

**ACAS - Thinking Differently About Neurodiversity Podcast:**

<https://www.acas.org.uk/podcast/thinking-differently-about-neurodiversity>

**QCS Podcast - Neurodiversity in the Workplace:**

<https://www.qcs.co.uk/hr-podcast-neurodiversity-in-the-workplace/>

**BBC News - Does your company nurture neurodiverse talent?**

<https://www.bbc.co.uk/news/uk-51014028>

**GOV.UK - Access to Work:**

<https://www.gov.uk/access-to-work>

**ACAS - Sexual Harassment:**

<https://www.acas.org.uk/sexual-harassment>

**ECHR - Sexual Harassment - Employer 8-step Guide: Preventing sexual harassment at work:**

<https://www.equalityhumanrights.com/employer-8-step-guide-preventing-sexual-harassment-work>

**Harassment Policy and Procedure**

**Anti-Bullying Policy and Procedure**

**Sexual Harassment Policy and Procedure**



## Outstanding Practice

To be 'outstanding' in this policy area you could provide evidence that:

- 1 aebal leisure provides training to all members of staff on equality and diversity and keeps this training up to date
- 1 aebal leisure ensures that decisions for selection are always taken by more than one manager
- 1 aebal leisure considers taking positive action to remedy disadvantage, meet different needs or increase the participation of people who share a protected characteristic
- 1 aebal leisure offers training to members of staff who have been absent for a period (maternity, paternity, ill-health due to a disability, etc.) to meet any need
- 1 The wide understanding of the policy is enabled by proactive use of the QCS App





## Forms

Currently there is no form attached to this policy.

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