

Sex, Sexual Orientation and Gender Discrimination Policy

1. Sex, Sexual Orientation and Gender Discrimination Mission
2. Sex Discrimination Defined
3. Sexual Orientation Defined
4. Gender Defined
5. Discrimination Defined
6. Sex, Sexual Orientation and Gender Discrimination Statement
7. Action Plans
8. Breaches of the Policy – What to do
9. Diversity and Equality Policies Structure
10. Responsibilities
11. Monitoring, Review and Feedback
12. Legislation

1. Sex, Sexual Orientation and Gender Discrimination Mission

APTSL is committed to developing an environment that is inclusive, fair, open and welcoming of individuals irrespective of their sexual orientation or gender. APTSL values the principles of equality and diversity and respect for individual differences.

APTSL recognises that many individuals and communities experience unlawful and unfair discrimination and oppression on the grounds of their sex, sexual orientation, and gender. We consider such discrimination unacceptable and will not tolerate it in any form.

APTSL also recognises the existence of homophobia and heterosexist assumptions in society. We aim to create an environment in which all staff and students, whatever their sexuality, feel equally welcome and valued, where students and staff experience fairness and equity of treatment, and are treated with dignity and respect.

2. Sex Discrimination Defined

Legal definitions of sex discrimination are set out in the Sex Discrimination Act 1975.

The Act makes discrimination unlawful on the grounds of sex and marital status, and gender reassignment in a limited manner.

The Equal Treatment Directive makes provisions for equality between men and women in terms of access to employment, vocational training, promotion and other terms and conditions of work. There is no qualifying period for employees: protection under the sex discrimination legislation

begins from day one of employment. The Equal Pay Act 1970 also regulates discrimination by implying an equality clause into a contract of employment.

3. Sexual Orientation Defined

Legal definitions of sexual orientation are set out in the Employment Equality

(Sexual Orientation) Regulations 2003. The Regulations seek to protect all individuals, whatever their sexual orientation.

Sexual orientation is defined as having a sexual attraction to:

- ❖ Persons of the same sex (lesbians and gay men)
- ❖ Persons of the opposite sex (heterosexuals)
- ❖ Persons of both sexes (bisexuals)

It is important to note that the Regulations also protect those who are perceived by others to be of a particular sexual orientation, whether or not they are.

What the legislation doesn't cover:

The Regulations do not protect people on account of their involvement in sexual practices, preferences or fetishes. For example, sado-masochism, or paedophilia are not covered by the Regulations.

4. Gender Defined

The following groups are covered by gender related legislation:

Transgender

Transgender people are protected under the Sex Discrimination Act (Amendment) Regulations of 1999. For transgender people, their internal sense of identity is different from the sex ascribed at birth and how others perceive them. Because gender and sexuality are not the same things, someone who is transgender may be straight, lesbian, gay or bisexual. A transgender person is said to be going through transition when they move from living as a member of their assigned gender to living in their 'true' gender. They may not choose to have hormone treatment and/or surgery as part of this process.

Transsexual

A transsexual is an individual who feels a consistent and overwhelming desire towards transition and fulfilling their life as a member of the opposite gender. Most transsexual people wish to complete gender re-assignment. However, it is important to note that not all-transsexual people are able to go through surgery for medical reasons.

Gender Reassignment

Gender Reassignment is defined for the purposes of the Sex Discrimination Act as "a process which is taken under medical supervision for the purpose of reassigning a person's sex by changing physiological or other characteristics of sex, and includes any part of such a process". The Sex

Discrimination (Gender Reassignment) Regulations 1999 make it expressly clear that transsexual men and women are covered by the Sex Discrimination Act where they suffer discrimination because they have undergone, or are about to undergo, gender reassignment.

The Gender Recognition Act 2004 ensures transsexual people who have successfully registered with the Gender Recognition Panel will be able to marry and obtain a new birth certificate using their acquired gender.

Intersex people

One in 4,000 people are born with both male and female organs. Normally the decision on gender is taken at birth but often gender re-assignment takes place in adulthood. An intersex person may be heterosexual, homosexual, lesbian or bisexual.

What the legislation doesn't cover:

Transvestites and cross-dressers are people who dress in the clothing of the opposite sex, but who will not normally wish to change their physical characteristics. They are not covered by legislation.

5. Discrimination Defined

Annex 1 of this policy provides details of the five categories of discrimination:

- ❖ Direct Discrimination
- ❖ Indirect Discrimination
- ❖ Harassment
- ❖ Victimisation
- ❖ Failure to make reasonable adjustments (for someone who is disabled under the provisions of disability discrimination legislation)

6. Sex, Sexual Orientation and Gender Discrimination Statement

APTSL recognises it is unlawful for anyone to discriminate, harass or victimise employees of APTSL on grounds of their sex, sexual orientation or gender. Any such discrimination, harassment or victimisation carried out by a member of staff will be likely to result in disciplinary action under the appropriate disciplinary procedures.

APTSL will provide a supportive environment for staff all who wish it to be known that they are lesbian, gay or bisexual. We recognise an individual's right to choose whether they wish to be open about their sexual orientation. To 'out' someone without their permission is a form of harassment and will be treated as such.

APTSL welcomes, and will provide appropriate support for, lesbian, gay or bisexual staff and student groups.

No member of staff should be allowed to refuse to work with someone because of his or her actual or perceived sexual orientation.

APTSL recognises rights to freedom of thought, conscience and religion are absolute. However, any manifestation of beliefs has to take account of the rights and reasonable sensitivities of others. Staff and students will have a range of views on same-sex relationships. This policy does not infringe

anyone's rights to hold these views but does seek to prevent them being manifested in such a way that intimidates or humiliates, is hostile or degrading, or results in discrimination.

APTSL recognises assumptions should not be made that partners of staff are of the opposite sex. If the opportunity for social gatherings is being extended to the partners of staff, care will be taken with the wording of invitations, posters etc., to ensure inclusivity.

Sexual harassment in the form of unwanted sexual advances or similar behaviour is unacceptable irrespective of the sexual orientation of the victim or perpetrator.

APTSL regards any harassment in respect of someone's sex, sexual orientation (real or perceived), or gender unacceptable. Equally, any harassment in respect of those with whom an individual is associated (e.g., teasing someone who is heterosexual about their having a gay son) will not be tolerated.

APTSL's Harassment Policy gives details of the kinds of behaviour which may be considered tantamount to harassment. Any such harassment is unacceptable whether expressed orally, in writing, through graffiti, via email or texting, or any other medium.

APTSL will ensure all opportunities, benefits and conditions of service apply equally to all staff, irrespective of their sex, sexual orientation, or gender wherever it is possible to do so. In limited circumstances this may not be possible, such as the benefits of pension schemes where benefits may be restricted, for example, to married partners only. Where APTSL has a choice of a provider of benefits, equal treatment of staff will be one of the criteria for selection.

7. Action Plans

We will implement, monitor and review the following action plans that will enable us to realise our Sex, Sexual Orientation and Gender Discrimination Mission:

- ❖ Sex, Sexual Orientation and Gender Action Plan
- ❖ Harassment Action Plan.

8. Breaches of the Policy - What to do

Students or members of staff who feel that they are being subjected to sexual/gender discrimination or harassment should not feel that it is their fault or that they have to tolerate it. It is desirable to take action or seek advice or help so that the matter can be dealt with and resolved at an early stage. Advice is available from Personnel (for staff) or Student Support (for students).

When an individual identifies a concern with another individual's behaviour, the person alleging harassment should, wherever possible, meet with the alleged harasser to discuss the issue informally and to make it clear to the person causing the offence that such behaviour is unacceptable. This may be sufficient to stop it. If the person alleging harassment does not feel able to talk to the alleged harasser, this does not constitute consent to the harassment, nor will it prejudice any formal complaint that is brought.

If it is not possible to speak to the person concerned, or if, having spoken, the behaviour persists, it is important to begin to keep a note of the details of any relevant incidents causing distress,

including dates and times and the names of any other people present. The individual should try to avoid being alone with the person who has caused the discrimination or harassment.

If it is not possible to resolve the situation informally, the person alleging harassment should invoke the Grievance Policy (for staff). Any formal complaint of discrimination or harassment will be handled sensitively, in a timely and confidential manner with a view to ensuring, so far as practicable, minimal stress to those involved.

In discrimination and harassment cases, the format of the normal procedures shall be utilised but, at the Chair's discretion, amended to the extent that the alleged perpetrator of the discrimination or harassment will not be asked to attend a meeting at the same time as the complainant, or any witness, without prior agreement via the senior manager conducting the procedure. Any questions the person facing allegations of discrimination or harassment wishes to ask the complainant, or any witness, should be submitted to the senior manager conducting the procedure, who will then inform the person of the response.

Where, after full investigation, evidence of discrimination/harassment is found to be sufficient to warrant disciplinary action, consideration will be given, where practicable, to transferring or rescheduling the work of one of the employees concerned rather than requiring them to work or study together against the wishes of either party.

Whilst it is fully expected that all employees will act responsibly regarding this issue, it should be made clear that false accusations of discrimination or harassment can have a serious effect on innocent individuals. Therefore, should investigations show that a false accusation has been made in bad faith, appropriate disciplinary action will follow and could result in summary dismissal or expulsion. Wherever possible, APTSL will try to ensure that the parties are not required to work/study together whilst the complaint is under investigation. This could involve giving the alleged victim the option of remaining home on special leave. In serious cases, the person facing allegations of discrimination or harassment may be suspended during any investigating and/or disciplinary proceedings.

9. APTSL Diversity and Equality Policies Structure

The Sex, Sexual Orientation and Gender Discrimination Policy is not a stand alone policy. It supports the Diversity and Equality Policy and several other policies relating to the diversity and equality agenda.

The relationships within this group of policies are set out below:

Diversity and Equality Policy

- ❖ Race
- ❖ Equality
- ❖ Policy
- ❖ Disability
- ❖ Policy
- ❖ Harassment
- ❖ Policy

- ❖ Sex, Sexual Orientation and
- ❖ Gender Discrimination Policy
- ❖ Religion and Belief Policy

Action plans for each of the policies supporting the Diversity and Equality Policy will be used to enable APTSL to realise its Diversity Mission.

10. Responsibilities

All employees have a duty to co-operate with APTSL to ensure this policy is effective in ensuring equal opportunities for all and to prevent all forms of direct and indirect discrimination and/or harassment.

- ❖ Failure of individuals to comply with the Sex, Sexual Orientation and Gender Discrimination Policy will be treated as a disciplinary offence.
- ❖ Serious breaches of the Sex, Sexual Orientation and Gender Discrimination Policy will be treated as gross misconduct and could render employees liable to exclusion and dismissal respectively.
- ❖ Individuals can be held personally liable as well as, or instead of, the University College for any act of unlawful discrimination.
- ❖ Individuals who commit acts of discrimination in the areas of sex, sexual orientation and/or gender may be guilty of a criminal offence.

11. Monitoring, Review and Feedback

All APTSL's procedures will be reviewed on a regular basis to identify and eliminate any processes, practices or eligibility criteria which may unlawfully discriminate (directly or indirectly) against any particular group or category of employees.

In order to ensure maximum effectiveness of this policy, it is essential all employees are encouraged and enabled to give constructive feedback and make suggestions for amendments to this policy.

If you believe there is action that APTSL needs to take in order to address discrimination on grounds of sex, sexual orientation, or gender, or if you would like to speak to someone confidentially, please contact the following people who will be happy to discuss your concerns and ideas with you:

- ❖ Ged Queenan
- ❖ David Sweeney

12. Legislation

The current legislative framework this policy relates to consists of:

- ❖ Equal Pay Act 1970
- ❖ Sex Discrimination Acts 1975 and 1986
- ❖ Equal Treatment Directive 1976 (EC)
- ❖ Employment Rights Act 1996 (provisions relating to maternity leave and dependant carer leave)
- ❖ Protection from Harassment Act 1997
- ❖ Maternity and Parental Leave Regulations 1999
- ❖ Sex Discrimination (Gender Reassignment) Regulations 1999
- ❖ Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000
- ❖ Employment Equality (Sexual Discrimination) Regulations 2003

- ❖ Employment Equality (Sexual Orientation) Regulations 2003
- ❖ Gender Recognition Act 2004
- ❖ Occupational Pensions Schemes (Equal Treatment) (Amendment) Regulations 2005

To access this legislation, please contact Personnel.

ANNEX 1: Definitions of Discrimination

1. Direct Discrimination

Direct Discrimination occurs where a person is treated less favourably than someone else for reason of their sex, ethnicity, disability, age, sexual orientation, religion or belief, or (under the terms of the Disability Discrimination Act) when service providers/employers fail to make reasonable adjustments to meet the needs of a disabled person (unless that failure can be justified).

2. Indirect Discrimination

Indirect discrimination occurs where a requirement is applied equally to all groups, but has a disproportionate effect on the members of one group because a considerably smaller proportion of members of that group can comply with it.

3. Harassment

Harassment is the use of threatening, abusive, or insulting words (written or spoken) or behaviour causing alarm or distress. Harassment does not have to be directed at a particular individual and occurs wherever someone is caused alarm or distress. Harassment violates a person's dignity and/or creates an intimidating, hostile, degrading, humiliating and/or offensive environment. An isolated event can constitute harassment.

4. Victimisation

Victimisation is discrimination against someone because of their involvement in a discrimination complaint either as the complainant, as a witness, or as someone who has previously been accused and found not guilty of harassment.

5. Failure to Make Reasonable Adjustments (for someone who is disabled under the provisions of disability discrimination legislation)

Where arrangements disadvantage an individual because of a disability, organisations are expected to make reasonable adjustments to overcome the disadvantage. Not making those adjustments is discrimination.

Signed:.....

D J Sweeney

4th January 2012