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REFRESHING MINDS

Equality and Diversity Policy

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1. STATEMENT OF CORE PRINCIPLES

- 1.1 Refreshing Minds is a charity providing vocational activities for young girls
- 1.2 Under the Equality Act 2010, it is unlawful for organisations, in the course of providing their services or in the treatment of their staff, to discriminate against people on the basis of a "Protected Characteristic". The Protected Characteristics recognised by law are: disability, gender reassignment, pregnancy or maternity, age, marriage or civil partnership, race, religion or belief, sex, or sexual orientation. Protection from discrimination can also apply to a person who does not hold a Protected Characteristic, but is wrongly perceived to do so, or because they associate with someone who has a Protected Characteristic.
- 1.3 Refreshing Minds is committed to treating all human beings with equal dignity and respect, whether in its provision of services to the Orthodox Jewish community, or in its associations and dealings with the wider public.
- 1.4 [Refreshing Minds recognises that people within the Orthodox Jewish community may experience discrimination because of additional Protected Characteristics (i.e. disability, gender reassignment, pregnancy or maternity, age, sex, or sexual orientation). Refreshing Minds is committed to promoting equal opportunities to all groups within the Orthodox Jewish community it serves.

Lawful exemptions (provision of goods and services)

- 1.5 In very limited circumstances, the Equality Act 2010 permits organisations to provide or restrict services to people with a particular Protected Characteristic. These circumstances are summarised in the attached Schedule. Refreshing Minds has reviewed the Schedule and taken specific legal advice in relation to the exemptions and Refreshing Minds work, and is satisfied that it benefits from one or more of the lawful exemptions.

Equality and diversity in employment

- 1.6 Refreshing Minds embraces the principles of equal opportunities in employment. It aims to encourage, value and manage diversity and it recognises that talent and potential are distributed across the general population. Not only are there moral and social reasons for promoting equality of opportunity, it is in the best interest of this organisation to recruit and develop the best people for the job from as wide and diverse a pool of talent as possible. That diversity adds value and fosters strong links across different communities.
- 1.7 Refreshing Minds recognises that many people in society experience discrimination, which is defined below at paragraph 6.
- 1.8 All forms of discrimination are unacceptable, regardless of whether there was any intention to discriminate or not. All staff have a duty to co-operate with Refreshing Minds to ensure that this policy is effective in ensuring equal opportunities and in preventing discrimination. All staff should draw the attention of their line manager to suspected discriminatory acts or practices or cases of bullying or harassment



2. EQUAL OPPORTUNITIES STATEMENT

- 2.1 Refreshing Minds is committed to promoting equal opportunities for all staff and job applicants and to delivering fair and equal treatment in its provision of services. All staff, job applicants, service-users and the public will receive equal treatment, regardless of any Protected Characteristic, except in the limited circumstances permitted in law, as summarised in the attached Schedule. We will always seek legal advice before taking such action.
- 2.2 Refreshing Minds will not discriminate against staff, job applicants, service-users or members of the wider public on the basis of any Protected Characteristic, except in the limited circumstances permitted in law, as summarised in the attached Schedule. We will always seek legal advice before taking such action.
- 2.3 This policy applies to all aspects of employment with us, including recruitment, pay and conditions, training, appraisals, promotion, conduct at work, disciplinary and grievance procedures, and termination of employment. It also applies to Refreshing Minds' provision of services to the community and in its dealings with the wide public.

3. WHO IS COVERED BY THE POLICY?

- 3.1 This policy covers all individuals working at all levels, including trustees (Directors), employees and volunteers (collectively referred to as **staff** in this policy). It also covers people Refreshing Minds comes into contact with through providing its services to the Orthodox Jewish community and to its dealings with the wider public.
- 3.2 All staff, including employees, consultants, workers, and volunteers must comply with this policy and must not unlawfully discriminate against or harass other people including current and former employees, job applicants, service-users, clients, customers, suppliers and visitors. This applies in the workplace, outside the workplace (when 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. (Your attention is drawn to our separate anti-harassment and bullying policy.)
- 3.3 This policy does not form part of any member of staff's contract of employment and may be amended at any time.

4. WHO IS RESPONSIBLE FOR THIS POLICY?

- 4.1 Refreshing Minds' board of trustees has overall responsibility for the effective operation of this policy and for ensuring compliance with discrimination law. Day-to-day operational responsibility, including regular review of this policy, has been delegated to Ms Miriam Landau



4.2 Ms Miriam Landau will lead by example and ensure that all staff adhere to the policy and promote our aims and objectives with regard to equal opportunities. She will be given appropriate training on equal opportunities awareness and equal opportunities recruitment and selection best practice.

4.3 Any questions about the content or application of this policy, or requests for training or further information should be addressed to the Ms Malky Halberstam

5. SCOPE AND PURPOSE OF THE POLICY

5.1 This policy applies to all aspects of Refreshing Mind's relationship with staff and to all aspects of service delivery.

5.2 This policy applies to the all aspects of Refreshing Minds employment-related activities, including job advertisements, recruitment and selection, training and development, opportunities for promotion, conditions of service, pay and benefits, conduct at work, disciplinary and grievance procedures, and termination of employment.

5.3 This policy also applies to all aspects of Refreshing Minds provision of services to the community and its dealings with the wider community and public.

5.4 We will take appropriate steps to accommodate all requirements of different religions, cultures, and domestic responsibilities as they apply to our staff members. Please see the following for specific information on our approach to these issues: Flexible working policy, Holiday and Leave policy and Observing the laws of Yichud in the workplace policy.

6. FORMS OF DISCRIMINATION

6.1 Discrimination by or against a member of staff, or in Refreshing Minds's provision of services, is prohibited unless there is a specific legal exemption. Discrimination may be direct or indirect and it may occur intentionally or unintentionally.

6.2 Direct discrimination occurs where someone is treated less favourably because of one or more of the Protected Characteristics in 1.2 above. For example, rejecting an applicant because of their race on the basis that they would not "fit in" would be direct discrimination.

6.3 Indirect discrimination occurs where someone is disadvantaged by an unjustified provision, criterion or practice that also puts other people with the same Protected Characteristic at a particular disadvantage. For example, a requirement to work full-time puts women at a particular disadvantage because they generally have greater childcare commitments than men. Only permitting working people to pay for services by instalments would put pensioners at a disadvantage, as they are not "working". Such requirements will need to be objectively justified.



6.4 Harassment (in employment) related to any of the Protected Characteristics is prohibited. Harassment is unwanted conduct that 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-harassment and Bullying Policy. (In the provision of services, harassment related to any Protected Characteristic **except for** pregnancy and maternity, religion or belief or sexual orientation is prohibited. However, less favourable treatment because of pregnancy and maternity, religion or belief or sexual orientation may amount to direct discrimination.)

6.5 Victimisation is also prohibited. This is less favourable treatment of someone who has complained or given information about discrimination or harassment, or supported someone else's complaint.

7. RECRUITMENT AND SELECTION

7.1 We aim to ensure that no job applicant suffers discrimination because of any of the Protected Characteristics, except where there is a lawful exemption (for example a need to recruit a woman, where this constitutes a genuine occupational requirement. An example of a genuine occupational requirement might be the need to recruit a female counsellor to work with female victims of domestic abuse). In every instance legal advice will be sought. Our recruitment procedures are reviewed regularly to ensure that individuals are treated on the basis of their relevant merits and abilities. Job selection criteria are regularly reviewed to ensure that they are relevant to the job and are not disproportionate. Shortlisting of applicants must be done by more than one person.

7.2 Job advertisements should generally be advertised to a diverse section of the labour market and should avoid stereotyping or using wording that may discourage particular groups from applying.

7.3 Applicants should not be asked questions which might suggest an intention to discriminate on grounds of a Protected Characteristic, for example whether they are pregnant or planning to have children.

7.4 Applicants should not be asked about health or disability before a job offer is made. There are limited exceptions which should only be used on taking legal advice. For example:

7.4.1 Questions necessary to establish if an applicant can perform an intrinsic part of the job (subject to any reasonable adjustments).

7.4.2 Questions to establish if an applicant is fit to attend an assessment or any reasonable adjustments that may be needed at interview or assessment.

7.4.3 Positive action to recruit disabled persons.

7.4.4 Equal opportunities monitoring (which will not form part of the decision-making process).

7.5 Applicants should not be asked about past or current pregnancy or future intentions related to pregnancy. Applicants should not be asked about matters concerning age, race,



religion or belief, sexual orientation, or gender reassignment without taking prior legal advice.

7.6 We are required by law to ensure that all employees are entitled to work in the UK. Assumptions about immigration status should not be made based on appearance or apparent nationality. All prospective employees, regardless of nationality, must be able to produce original documents (such as a passport) before employment starts, to satisfy current immigration legislation. The list of acceptable documents is available from UK Visas and Immigration.

8. STAFF TRAINING AND PROMOTION AND CONDITIONS OF SERVICE

8.1 Staff training needs will be identified through regular staff appraisals. All 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.

8.2 Workforce composition and promotions will be regularly reviewed to ensure equality of opportunity at all levels of the organisation. Where appropriate, steps will be taken to identify and remove unjustified barriers and to meet the special needs of disadvantaged or underrepresented groups.

8.3 Our conditions of service, benefits and facilities are reviewed regularly to ensure that they are available to all staff who should have access to them and that there are no unlawful obstacles to accessing them.

9. TERMINATION OF EMPLOYMENT

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

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

10. DISABILITY DISCRIMINATION IN EMPLOYMENT

10.1 If you are disabled or become disabled, we encourage you to tell us about your condition so that we can support you as appropriate.

10.2 If you experience difficulties at work because of your disability, you are encouraged to discuss with your line manager any reasonable adjustments that would help overcome or minimise the difficulty. Your line manager may wish to consult with you and your medical adviser(s) about possible adjustments. We will consider the matter carefully and try to accommodate your needs within reason. If we consider a particular adjustment would not be reasonable we will explain our reasons and try to find an alternative solution where possible.

10.3 We will monitor the physical features of our premises to consider whether they might place anyone with a disability at a substantial disadvantage. Where necessary, we will take reasonable steps to improve access



11. PART-TIME, FIXED-TERM AND FLEXIBLE WORK

- 11.1 Part-time and fixed-term staff should be treated the same as comparable full-time or permanent staff and enjoy no less favourable terms and conditions (on a pro-rata basis where appropriate), unless different treatment is justified.
- 11.2 The Refreshing Mindshas a separate Flexible Working Policy.

12. SERVICE DELIVERY

- 12.1 Refreshing Minds works to tackle discrimination and inequality in respect of the Orthodox Jewish community's access to wider services and information. Within this context, Refreshing Minds is committed to the pursuit of equal opportunities throughout the services offered. Refreshing Minds will work to implement this policy in order to ensure that no user of our services receives less favourable treatment on the grounds of any Protected Characteristic.
- 12.2 The Board of Trustees intends to ensure that equal opportunities in its service delivery are a reality in practice.
- 12.3 Refreshing Minds is committed to consult with service-users in order to ensure that our policies and work programmes are based on the expressed needs and wishes of our service users.
- 12.4 We will monitor the physical features of our premises to consider whether they might place anyone with a disability at a substantial disadvantage. Where necessary, we will take reasonable steps to improve access
- 12.5 Refreshing Minds encourages board-level participation from members of the Orthodox Jewish community. Appropriate training and information is available to members of the Orthodox Jewish community who need additional support to stand for election to the Board of Trustees and effectively participate in the Committee.
- 12.6 In order to assess the effectiveness of our equal opportunities policy, Refreshing Minds will monitor take-up of services, will identify which groups are and are not benefiting from its services, and to put in place positive measures to promote equality of access across different groups within the Orthodox Jewish community.
- 12.7 All staff and service-users should be made aware of this Policy.

13. BREACHES OF THIS POLICY

- 13.1 We take a strict approach to breaches of this policy, which will be dealt with in accordance with our disciplinary procedure. Serious cases of deliberate unlawful discrimination may amount to gross misconduct resulting in dismissal.
- 13.2 If you believe that you may have been discriminated against you are encouraged to raise the matter through our Grievance Procedure or Complaints Procedure (depending on whether you are a member of staff or a service user). If you believe that you may have been subject to harassment you are encouraged to raise the matter through our Anti-



harassment Policy. If you are uncertain which applies or need advice on how to proceed, you should speak to Ms Miriam Landau. Complaints will be treated in confidence and investigated as appropriate.

- 13.3 There must be no victimisation or retaliation against staff who complain about discrimination. However, making a false allegation deliberately and in bad faith will be treated as misconduct and dealt with under our Disciplinary Procedure.

14. MONITORING AND REVIEW OF THE POLICY

- 14.1 Refreshing Minds will undertake an annual Equality and Diversity Audit in order to ensure it is up-to-date and legally compliant. Recommendations for change should be reported to the Ms Miriam Landau.
- 14.2 We will continue to review the effectiveness of this policy to ensure it is achieving its objectives.
- 14.3 Staff are invited to comment on this policy and suggest ways in which it might be improved by contacting Ms Miriam Landau.

15. RELATED POLICIES

- 15.1 This policy is supported by the following other policies and procedures:

- (a) Anti-Harassment and Bullying Policy.
- (b) Grievance Procedure.
- (c) Disciplinary Procedure.
- (d) Flexible Working Procedure.
- (e) Maternity, Paternity, Adoption and Shared Parental Leave Policies.
- (f) Parental Leave Policy.
- (g) Time Off for Dependants Policy.
- (h) Dress Code.
- (i) Homeworking Policy.
- (j) Career Break Policy.



Schedule - Discrimination: Exceptions

This schedule is a summary only of the legal position as at the date of this Policy and does not constitute legal advice. Refreshing Minds has taken legal advice and shall do so in advance of any exception being exercised.

EXCEPTIONS IN EMPLOYMENT

Occupational requirement (OR)

The Equality Act 2010 sets out a number of "occupational requirement" exceptions that employers might rely on when facing discrimination claims. These apply to claims concerning recruitment; access to promotion, transfer or training; and dismissal. They are summarised below:

- **General occupational requirement.** This exception is available where, having regard to the nature or context of the work, being of a particular sex, race, disability, religion or belief, sexual orientation or age (or not being a transsexual person, married or a civil partner) is an OR.
- **Organised religion.** This only applies where the employment is "for the purposes of an organised religion". To comply with the doctrines of the religion or to avoid conflicting with the strongly held religious convictions of a significant number of the religion's followers, the employer might apply an OR that the employee be of a particular sex; that the employee not be a transsexual person, married or a civil partner; that the employee not be married to, or the civil partner of, a person who has a living former spouse or civil partner; relating to circumstances in which a marriage or civil partnership came to an end; or related to sexual orientation.
- **Employers with religious ethos.** This is available to an employer with an ethos based on religion or belief. The employer may, in certain circumstances, show that being of a particular religion or belief is an OR.

An employer is only entitled to apply an OR where doing so is a "proportionate means of achieving a legitimate aim".

Positive action

The Equality Act 2010 contains provisions concerning lawful "positive action", which are designed to apply where persons who share a protected characteristic suffer a disadvantage, have particular needs or are disproportionately under-represented. Employers can take certain actions to address these problems without opening themselves up to discrimination claims brought by people without the relevant protected characteristic.



General positive action

The general positive action provision can apply where an employer reasonably thinks that either:

- Persons who share a protected characteristic suffer a disadvantage connected to the characteristic.
- Persons who share a protected characteristic have needs that are different from the needs of persons who do not share it; or
- Participation in an activity by persons who share a protected characteristic is disproportionately low.

In these circumstances, the employer can take any action which is a proportionate means of achieving the aim of:

- Enabling or encouraging persons who share the protected characteristic to overcome or minimise the disadvantage identified.
- Meeting the needs identified; or
- Enabling or encouraging persons who share the protected characteristic to participate in that activity.

Positive action must be proportionate

The positive action taken must be proportionate. The Equality and Human Rights Commission Code states that "proportionate" refers to the balancing of competing relevant factors. The employer may need to consider:

- Is the action appropriate to achieve the stated aim?
- If so, is the proposed action reasonably necessary to achieve the aim, or would it be possible to achieve the aim as effectively by other means that are less likely to result in less favourable treatment of others?

Positive action in recruitment and promotion

Section 159 applies where an employer reasonably thinks that either:

- Persons who share a protected characteristic suffer a disadvantage connected to the characteristic.
- Participation in an activity by persons who share a protected characteristic is disproportionately low.

In those circumstances, the employer could (but is not obliged to) take proportionate action with the aim of enabling or encouraging persons who share the relevant characteristic to overcome or minimise the disadvantage or participate in that activity. This is only allowed where:



- The person in question is **as qualified as** another to be recruited or promoted;
- The employer **does not have a policy** of treating persons who share the protected characteristic more favourably in connection with recruitment or promotion than persons who do not share it; and
- Taking the action is a **proportionate means of achieving a legitimate aim**.

EXCEPTIONS IN THE PROVISION OF SERVICES

For all groups of people with characteristics protected under the Equality Act to benefit equally from the services provided by voluntary and community organisations, some groups may need more help or encouragement than others. This is because some groups are disadvantaged or under-represented, or have different needs from the population as a whole due to past or present discrimination or exclusion or particular experiences.

The Equality Act allows service providers to take action that may involve treating one group more favourably where this is a proportionate way to help members of that group overcome a disadvantage or participate more fully, or in order to meet needs they have that are different from the population as a whole. This is called 'positive action'.

You can take positive action when three conditions are met:

1. You must reasonably think that a group of people who share a protected characteristic and who are, or who could be, using your services:
 - suffer a disadvantage linked to that characteristic
 - have a disproportionately low level of participation in this type of service or activity, or
 - need different things from this service from other groups.

'Reasonably think' means that you can see the disadvantage, low level of participation or different needs, but you do not have to show any detailed statistical or other evidence.

2. The action you take is intended to:
 - meet the group's different needs
 - enable or encourage the group to overcome or minimise that disadvantage, or
 - enable or encourage the group to participate in that activity.

3. The action you take is a proportionate way to increase participation, meet different needs or overcome disadvantage. This means that the action is appropriate to that aim and that other action would be less effective in achieving this aim or likely to cause greater disadvantage to other groups.



Permissible activity not classed as positive action

A service provider can take action to benefit those from one particular protected group that does not involve less favorable treatment of those from another protected group. Although this would not be classed as positive action, it would be allowed.

REFRESHING MINDSEXCEPTION

For a charity (or proposed charity) whose governing document restricts its benefits to people with a shared protected characteristic, there are two possible tests that can be used to show that this is allowed by the charities' exception. Only one of these tests has to apply.

Test A - Tackling disadvantage. Test A can be met if:

- the governing document restricts benefits to people with a shared protected characteristic; and
- the benefits are provided in order to tackle a particular disadvantage or need linked to that protected characteristic.

Test B - Achievement of a legitimate aim. Where Test A cannot be used, Test B provides an alternative justification for a charity to discriminate. Test B can be met if:

- the governing document restricts benefits to people with a shared protected characteristic; and
- the restriction can be justified as being a fair, balanced and reasonably necessary way of carrying out a legitimate aim, taking into account the discrimination involved.

Restricting membership of associations

An association is any group:

- with 25 or more members
- which has rules to control how someone becomes a member

Associations, including charitable associations, may restrict membership and benefits to people who share a protected characteristic provided membership is not based on someone's colour.

Membership based on religious belief

Some charities, which are not set up for religious purposes, have membership requirements which are based on religious belief.

The Act allows these charities to continue to require members or prospective members to make a statement that asserts or implies membership or acceptance of a religion or belief.

This is only allowed if this type of membership requirement has been in place continuously from a date before 18 May 2005.

Charities can restrict access to benefits to those members who make such a statement.