

EQUALITY, DIVERSITY AND HUMAN RIGHTS POLICY

(Formerly the Equal Opportunities in Employment Policy, and incorporating the Valuing Diversity Strategy)

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DOCUMENT DETAIL

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Consultation: This document has been reviewed with the following individuals and groups	Trust Policy Group, HR Team, Heads of Nursing, Physical & Sensory Impairment Group, BME Forum
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1. INTRODUCTION

This Policy sets out University Hospital Bristol NHS Foundations Trust's (UH Bristol) commitment to challenge any form of discrimination, promote equality, diversity and human rights for both staff and service users in all areas of employment practice and service delivery.

Ensuring the dignity of, and maintaining respect for patients and staff is a core principle of UH Bristol. As a major employer and healthcare provider with a large, diverse workforce and patient population, the Trust recognises that promoting equality, diversity and human rights whilst challenging any form of inequality, discrimination and harassment are central to our Values:

Respecting Everyone
Embracing Change
Recognising Success
Working Together

This policy will be amended as appropriate to meet the requirements of future legislation.

2. PURPOSE

The Policy outlines rights and responsibilities of the Trust (as an employer and service provider), staff (as employees) and patients (as users of services) to ensure the development and enhancement of a culture of inclusion in the organisation where dignity, respect, fairness and equality for all based upon the protected characteristics defined by the Equality Act 2010 and other status covered by the Human Rights Act 1998 is promoted.

It is the aim of the Trust to ensure that there is no unlawful or undesirable discrimination, whether direct, indirect or by way of victimisation, against its service users, carers, visitor, existing employees or those wishing to seek employment with the Trust. The purpose of this policy is to set out the steps that the Trust will take to achieve this.

This policy seeks to ensure that all decisions are fair and based on valid and relevant criteria and not based on prejudice or bias. The policy also sets out the steps for individuals to raise concerns, if they feel that they have not been treated fairly.

3. GENERAL PRINCIPLES

All new policies, strategies and service restructuring will undergo an equality analysis to ensure that no protected characteristic group is impacted negatively and if so, monitored to ensure adequate mitigation against adverse impact.

Staff will receive initial equality, diversity and human rights training as directed by the Trust's Essential Training Core Group. Additional training will be provided as identified and required.

Where appropriate service users, including staff, will be involved in the development of new policies, services and the monitoring of progress to achieve action plans.

Trust employees will receive equitable treatment in all relevant aspects of the employment relationship.

Breaches of this policy will be regarded as misconduct and could lead to disciplinary proceedings.

4. DEFINITIONS

Bullying – There is no single definition for bullying, but it may be defined as follows:
Bullying: Persistent, unjustified behaviour – either physical or non-physical and often involving a misuse of strength or status – to intimidate, humiliate, harm, or cause loss of confidence to another group or individual.

(Please see the Trust's Tackling Harassment & Bullying at Work Policy for more information.)

Discrimination – Direct Discrimination is where a person or a group of people are treated less favourably than another on the grounds of their protected characteristics.

Indirect Discrimination is when conditions or requirements are set out that exclude or disadvantage people of a particular protected characteristic unless it can be justified as a means of achieving a legitimate aim.

Equality Act 2010 Replaces previous discrimination law (eg Disability Discrimination Act 1995) and includes the following:

- Extends the groups protected (protected characteristics)
- Removal of health questionnaires
- Bans discrimination by association
- Bans direct and indirect discrimination
- Bans harassment, victimisation and failure to make reasonable adjustments
- Replaces all previous discrimination law
- Introduces harassment by third parties

Also relates to provision of services to patients, not just employment.

A list of associated secondary legislation is included in the References section at the end of this Policy.

Equality Analysis (Equality Impact Assessment – EIA) is the process of systematically analysing a policy or service function to identify what effect or likely

effect will follow from the implementation and/or operation of the policy or service function on the people from the different protected characteristic.

Equality Delivery system (EDS) is the tool that supports the NHS to deliver better outcomes for patients and communities and better working environments for staff, which are personal, fair and diverse.

Harassment is unwanted conduct related to any of the nine protected characteristics or other characteristic such as political belief, trade union membership or other belief, social origin, association with a minority, domestic circumstances, property, birth or other status, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

The key is that the actions or comments are reasonably viewed as demeaning, hostile and unacceptable to the recipient. The conduct is unreciprocated or unwanted and affects the dignity of employees at work.

Note that an employee can claim, or raise a concern about, harassment even if the harassment was not actually directed at them, eg, where an employee overhears a colleague being verbally harassed by another colleague and they feel that it violates their own dignity.

Monitoring Equality Monitoring is the process by which the Trust asks for and gathers personal information from patients, service users and staff.

Protected Characteristics (part of the Equality Act 2010) are:

- Age
- Disability
- Gender Reassignment
- Marriage and Civil Partnership
- Race
- Religion or Belief
- Sex
- Sexual Orientation
- Pregnancy and Maternity

Reasonable Adjustments (part of the Equality Act 2010)

An 'adjustment' is a change. This can be a physical change or a change in the way something is done. 'Reasonable' will depend on a number of circumstances but the tests include:

- How much will a reasonable adjustment reduce the disadvantage?

- The practicality of the change
- The financial (and other costs) and the extent of any disruption caused
- The extent of the Trust's financial and other resources

Although the Trust must consider reasonable adjustments for employees who have a disability or are pregnant, it is best practice for them to be considered for all employees to facilitate attendance and implemented where service delivery allows.

Victimisation is when an individual is treated less favourably because they have complained about discrimination or have supported someone else to make a complaint.

5. DUTIES (Roles and Responsibilities)

The Trust – UH Bristol has a moral and legal responsibility for promoting equality and human rights, valuing diversity and tackling discrimination.

The Trust will ensure equality of access and provision of services which meet the needs of its service users.

As a provider of healthcare in a diverse community, UH Bristol will seek to work in partnership with a diverse group of stakeholders in order to achieve better health outcomes for all irrespective of their protected characteristic.

The Chief Executive has ultimate responsibility, devolved to the Director of Workforce and Organisational Development, with day to day responsibility carried out by the Assistant Director of Human Resources - Reward.

The Assistant Director of HR - Reward is responsible for the effective operation of this policy and for providing advice and assistance on its implementation with the support of the Divisions and their Human Resources Business Partners; the Employee Services Team; Heads of Nursing and the Patient Involvement Team.

The Equality & Diversity/Health & Wellbeing Group will guide and oversee the Trust's approach to equalities, diversity and human rights and the effective implementation of this policy.

Managers are responsible for ensuring that:

- all employees are aware of this policy and their responsibilities within it
- this policy is implemented in all areas of employment including:
 - a) recruiting and selecting staff using positive action when necessary and adhering to the limitations upon pre-employment health questions as outlined by the Equality Act 2010, and have received training in this area;
 - b) undertaking an equality analysis/equality impact assessment of all change programmes prior to implementation to measure impacts and benefits, and mitigate against negative disproportionate impacts found;

- c) making transparent, fair and equitable decisions on promotion or incremental pay increases and staff development;
 - d) applying Trust policies and procedures with an understanding of the application of equality and diversity and human rights in this context;
 - e) allocating training using positive action when necessary to target training for under-represented groups of staff in line with the protected characteristics and fair practices in employment;
 - f) conducting fair and transparent appraisals;
 - g) dealing fairly and transparently with requests for flexible working;
 - h) ensuring staff involvement and implementation of staff consultation exercises and making reasonable adjustments when necessary;
 - i) making fair and equitable selection for transfer and redundancy;
 - j) dealing assertively with harassment, bullying and victimisation – ensuring timely and appropriate responses to the types of harassment and bullying behaviour which occurs in reference to each respective protected characteristic, for example, an appropriate response to homophobic bullying or harassment may differ from the response required for sexist bullying or harassment;
 - k) dealing assertively with reported incidents of harassment, bullying or discrimination by patients, service users or their relatives towards a member of staff – ensuring that staff are supported and the matter is dealt with fairly and transparently;
- complaints made under this policy are dealt with in a fair and consistent manner, and must be acknowledged within 48 hours of receipt
 - contractors working within the Trust adhere to the principles of the Policy
 - they demonstrate the elimination of discrimination and promotion of equality, diversity and human rights within their service area and in service delivery to patients and their families

All Employees are responsible for

- compliance with and promotion of equal opportunities, together with a clear understanding of what this means
- challenging the unwanted behaviour at the first instance, if it is appropriate and they are able to do so
- informing their line manager or Employee Services if they suspect or are aware that discrimination of any kind is taking place
- treating all individuals with respect and dignity, in line with Trust Values
- not victimising or attempting to victimise individuals on the grounds that they have made complaints or provided information on discriminatory practice

- not harassing, bullying or intimidating other employees, including their peers, subordinates or seniors. This includes homophobic, racial or sexual harassment
- raising any issues either individually or via the various self-organised groups, for example the BME Forum and Physical & Sensory Impairment Group

Volunteer Staff and Contractors – All volunteer staff and contractors working within the Trust must adhere to the principles of this Policy.

6. EMPLOYMENT PROCEDURES AND PRACTICES

6.1 Recruitment and selection

All jobs, secondments and fixed term posts will be advertised so that there are equal opportunities for all interested persons to apply. An exception to this applies when special arrangements are made for those employees who would otherwise be at risk of redundancy or redeployment on the grounds of ill health or organisational change.

All advertisements will include an appropriate short statement on the principles of equal opportunities.

Person specifications will reflect the requirements which are necessary for the effective performance of the job.

The chair of a recruitment and selection panel must have undertaken recruitment and selection training or been formally accredited for prior learning before conducting interviews.

The Guaranteed Interview Scheme is in place to support those with a disability who are seeking employment. This means that any applicant with a disability who meets the essential criteria for the post will be offered an interview.

The requirements of job applicants and existing members of staff who have, or have had a disability, will be reviewed to ensure that wherever possible, reasonable adjustments are made to enable them to enter into or remain in employment with the Trust. Job applicants will not be asked pre-application health questions other than in certain limited circumstances, such as to establish if the applicant is able to carry out a function intrinsic to the work concerned.

6.1.1 Genuine Occupational Requirements (GOR)

It is **ONLY** lawful to discriminate in recruitment in favour of certain protected characteristics in defined situations. Where the nature of employment means that being of a particular sex, having a particular racial, ethnic or national origin, or

being disabled is a genuine and determining occupational requirement – it is lawful to discriminate in these circumstances.

For example: a female worker for a domestic violence unit, the justification being the women are seeking refuge from men; a same sex lavatory attendant, justification being privacy and decency; an organisation for deaf people might legitimately employ a deaf person who uses British Sign Language to work as a counsellor to other people whose preferred language is BSL. Evidence must be provided in all cases where such an occupational requirement is deemed to be applicable and this must be clearly stated in all recruitment activity.

6.2 Training and Development

Staff will access initial training in Equality, Diversity and Human Rights as part of the Trust's Essential Training as directed by the Trust's Essential Training Core Group. Additional training may be identified by staff and managers as part of service reviews and/or personal development plans and sourced with support from the Trust's Teaching and Learning team and the Assistant Director of HR – Reward.

All staff will be appraised annually and this will involve a discussion to identify available and appropriate training opportunities.

Training programmes will be designed to support the aims of this policy. Wherever practical, training will be arranged so that all categories of staff, including part-time and shift workers, may attend.

6.3 Cultural and Religious Needs

The Trust will accommodate cultural and religious needs of employees wherever they are compatible with the safe and efficient running of the service. Guidance for managers is also available on HR Web (Religious Observance in the Workplace – guidance for managers).

6.4 Disability

If a member of staff has a disability or a long-term health condition that places them at a disadvantage, then reasonable adjustments can be made, working in partnership with Occupational Health and their line manager, and external bodies where appropriate.

6.5 Working Environment

The Trust is committed to ensuring that every member of the staff has a working environment which promotes dignity and respect, and where individual differences and the contributions of staff are recognised and valued. This is reflected in the Staff Conduct Policy, issued to all staff with their final offer letter, and available on HR Web

Allegations of harassment or discriminatory action by patients, relatives, staff on staff, service users or members of the public towards staff, will be taken very

seriously and action will be taken by the appropriate manager to support the employee and eliminate the problem.

6.6 Languages

The language of the Trust is English. All staff are expected to be competent in English – this is essential for good communications between staff, with patients, visitors and carers, and for health & safety reasons. The Trust respects that a number of our staff speak English as a second (or other) language. All staff are free to speak to one another in their preferred languages while off duty or informally in the conduct of their duties (being mindful of colleagues who do not share the language in which they are speaking). However, English should be spoken at all times when patients are present. This is to ensure that our patients, staff and visitors feel safe and comfortable.

6.7 Grievance and Disciplinary Procedures

Any person who feels that they have been treated less favourably than others in the same circumstances has the right to use the Trust's Grievance Procedure to seek redress. All complaints and grievances in respect of equal opportunity issues will be thoroughly investigated and dealt with fairly and consistently.

Discriminatory behaviour on any grounds, or any breach of this policy will not be tolerated and may result in disciplinary action up to and including dismissal in accordance with the Trust's Disciplinary Procedure.

Information about both of these policies and procedures is on HR Web.

7. MONITORING AND ASSURANCE

To ensure that this policy operates effectively (and for no other reason) the Trust will maintain a record of employees' and applicants' sex, age, ethnicity, disability, religion or belief, marriage & civil partnership status, pregnancy and maternity status and sexual orientation. Ongoing monitoring and regular analysis of such records provide the basis for appropriate action to eliminate unlawful direct and indirect discrimination and promote equality, diversity and human rights.

The Equality and Diversity/Health and Wellbeing Group will undertake equal opportunities monitoring and report annually on its findings to the Trust Board.

The result of the monitoring will be analysed and, where there is evidence of under-representation, the Trust will produce an action plan. This may include strategies such as target advertising or management development programmes designed to meet specific needs. The Equality Act 2010 allows measures to be taken to encourage members of under-represented communities to take advantage of employment and or training and development opportunities. Positive action is lawful and should not be confused with positive discrimination, which is unlawful.

8. REFERENCES

Equality Act 2010

UH Bristol Policies:

Staff Conduct Policy

Tackling Harassment & Bullying at Work Policy

Grievance Policy & Procedure

Disciplinary Policy & Procedure

Retirement Policy & Procedure

Leave Policies (Maternity, Adoption, Paternity, Partner, Emergency)

Flexible Working Policy & Procedure

Barts and the London NHS Foundation Trust

Associated legislation:

Criminal Justice and Immigration Act (2008)

The Racial and Religious Hatred Act (2006)

The Civil Partnership Act (2004)

The Gender Recognition Act (2004)

Criminal Justice Act (2003)

The Human Rights Act (1998)

The Protection from Harassment Act (1997)

Special Education Needs and Disability Act (2001)

EQUALITY IMPACT ASSESSMENT SCREENING FORM			
Title: Equality, Diversity & Human Rights Policy			
Author: R Ridsdale and T Sullivan		Division: Trust Services	Date: November 2013
Document Class: Policy	Document Status: approved	Issue Date: February 2014	Review Date: November 2015
What are the aims of the document? To support the development and enhancement of a diverse and inclusive culture.			
What are the objectives of the document? To outline the rights and responsibilities of the Trust, staff and patients to ensure the development and enhancement of a diverse and inclusive culture.			
How will the effectiveness of the document be monitored? Through equalities monitoring provided to the Trust Board on an annual basis; through the returns of Equality Impact Assessments.			
Who is the target audience of the document (which staff groups)? All staff groups			
Which stakeholders have been consulted with and how? Equality and Diversity/Health and Wellbeing Group; members of the HR Function; Trust Policy Group; PSIG; BME Forum; Heads of Nursing; IRG			
Who is it likely to impact on?			
<input checked="" type="checkbox"/>	Staff	<input checked="" type="checkbox"/>	Patient
<input checked="" type="checkbox"/>	Visitors	<input checked="" type="checkbox"/>	Carers
<input type="checkbox"/>	Other (please specify):		

Equality, Diversity & Human Rights Policy

Version 1

	Yes or No	Give reasons for decision	What evidence was examined?
Does the policy/strategy/function or proposed change affect one group more or less favourably than another on the basis of:	NO	The policy applies to all groups equally, including staff and patients	
Age			
Disability			
Gender reassignment			
Marriage and Civil Partnership			
Race			
Religion or belief			
Sex			
Sexual Orientation			
Pregnancy and Maternity			
Human Rights			

Action Required:	
Action Lead:	To be delivered by when:
Progress to date:	
Next steps:	
How will the impact on the policy be monitored and evaluated?	
Person completing the assignment:	Date: Review Date: