

EQUALITY, DIVERSITY AND HUMAN RIGHTS in EMPLOYMENT POLICY

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

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DOCUMENT DETAIL

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1. INTRODUCTION

This policy sets out University Hospital Bristol NHS Foundations Trust's (UH Bristol) commitment to the equality and diversity agenda and associated legislation including challenging any form of discrimination, promoting equality, diversity and human rights for staff in all areas of employment practice (including recruitment) and subsequently by improving performance in equality and diversity for the workforce and by the workforce, improving the experience of service users.

This policy will be amended as appropriate to meet the requirements of legislative changes.

2. PURPOSE

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

Good employment practice is key to ensure the Trust meets its legal responsibilities and this policy outlines the responsibilities of the Trust (as an employer and service provider) and the responsibilities of Trust staff (as employees) to ensure the Trust develops a culture of inclusion, where dignity, respect, fairness and equality for all is promoted, based upon the protected characteristics defined by the Equality Act 2010 and other status covered by the Human Rights Act 1998.

The protected characteristics are race, age, sex, disability, religion or belief (or no belief), pregnancy or maternity, civil partnership or marriage, gender reassignment and sexual orientation.

3. LEGAL ASPECTS

The Equality Act 2010 gives the NHS and its organisations opportunities to work towards eliminating discrimination and reducing inequalities in care. The general duty within the act states that all public authorities have a duty to:

- Eliminate discrimination, harassment, victimisation
- Advance equality of opportunity between persons who share a protected characteristic and persons who do not share it
- Foster good relations between persons who share a protected characteristic and persons who do not share it

The **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

The NHS already has clear values and principles about equality and fairness, as set out in the NHS Constitution and the duties under the Equality Act 2010 reinforce many of these.

The Workforce Race Equality Standard (WRES), introduced in July 2014, requires all NHS organisations to demonstrate progress against a number of indicators of workforce equality, including a specific indicator to address the low levels of BME (black and minority ethnic) Board representation.

4. PRINCIPLES

The Trust serves a diverse community through a diverse staff, and there are obligations and responsibilities for both staff and patients in delivering and receiving excellent care.

Ensuring the dignity of, and maintaining respect for patients and staff is a core principle of UH Bristol. Promoting equality, diversity and human rights whilst challenging any form of inequality, discrimination and harassment are central to the Trust's Values:

Respecting Everyone
Embracing Change
Recognising Success
Working Together

The Trust recognises that everyone is different and has something unique to offer. The Trust respects these differences and works to support and harness individual talents.

The Trust will not tolerate discrimination under any circumstances and particularly because of a protected characteristic.

The Trust will not tolerate bullying or harassment under any circumstances and particularly because of a protected characteristic. The Trust has a separate Tackling Harassment & Bullying at Work Policy.

The Trust is fully committed to adherence to the Equality Act 2010 and undertaking action under the public sector Equality Duties, as defined within the Act.

5. SCOPE

This policy applies to all employees and volunteer staff, contractors, locums, holders of honorary, research or fixed term contracts, agency staff, students and other learners working within the Trust.

The policy is applicable to all employees whilst at work or on work premises, all applicants for Trust positions and leavers from the Trust. The policy also applies outside work where the activity or situation can be associated with work – for example, team social events, staff transport, social networking. The Trust will also work with contracting partners to have similar aims.

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

6. DEFINITIONS

Equality – is about recognising differences by ensuring everyone has equality of opportunity and there is a consistent approach to the application of rules, policies and procedures. The Trust recognises that sometimes this will result in treating people differently through a fair and consistent process to achieve an equal outcome.

Diversity – is about understanding, recognising, respecting and valuing differences.

Discrimination - is defined within the Equality Act 2010 under five main headings:
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 a provision, criterion or practice is applied in a way that creates disproportionate disadvantage for people of a particular protected characteristic

Perceptive discrimination is when someone is discriminated against because others think they have a protected characteristic

Associative discrimination is when a person is discriminated against because they are associated with another person who has a protected characteristic

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

A further glossary of words and phrases often used in relation to equality and diversity can be found at Appendix A.

7. RESPONSIBILITIES

All Employees are:

- expected to treat all individuals with respect and dignity, in line with Trust Values, and recognise and value individual skills and contributions;
- responsible for their own behaviour, and expected to be aware of the potential impact of their behaviour on other people
- expected to support colleagues who face discrimination from patients, visitors or other staff
- responsible for challenging unwanted behaviour at the first instance, if it is appropriate and they are able to do so

- expected to understand their own role in promoting equality and diversity
- required to have a basic understanding of equality and diversity, demonstrated through completion of the Trust's equality and diversity training as set out by the Trust's Essential Training Core Group.

Managers and Directors are expected to visibly promote equality and diversity within the Trust and within their teams. They have a particular responsibility to ensure:

- diversity is encouraged and supported within their teams
- all staff within their area of responsibility are appropriately trained and competent in equality and diversity
- staff who experience discrimination from patients, visitors or other staff, are supported
- unacceptable behaviours are challenged and create a climate where issues can be raised without the fear of reprisals
- an environment exists in which staff are able to identify and share good practice, celebrate success and encourage positive attitudes towards diversity
- adherence to equality legislation and Trust policy; being familiar with the implications on employment practice, including using positive action in recruitment and selection where necessary
- 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;
 - making transparent, fair and equitable decisions on promotion or incremental pay increases and staff development;
 - 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;
 - conducting fair and transparent appraisals;
 - dealing fairly and transparently with requests for flexible working;
 - ensuring staff involvement and implementation of staff consultation exercises and making reasonable adjustments when necessary;
 - making fair and equitable selection for transfer and redundancy

The Trust – UHBristol 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, UHBristol 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 key members of the Workforce & OD team.

The Deputy Director of Workforce & Organisational Development 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, Information Management and Technology, the Teaching and Learning team and the Patient Involvement team.

The Equality & Diversity Group will guide, recommend and oversee the Trust's approach to equalities, diversity and human rights and the effective implementation of this policy. The Group will also provide assurance to the Trust's Workforce and OD Group (a group with delegated authority from the Trust's Senior Leadership Team).

8. EQUALITY & DIVERSITY IN EMPLOYMENT PROCEDURES AND PRACTICES

8.1 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 (as defined in the Glossary in Appendix A) 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.

Work Health Assessments are carried out in line with national NHS Employment Check Standards.

8.1.1 Genuine Occupational Requirements (GOR)

It is **ONLY** lawful to take positive action 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: 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.

8.2 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 Trust Lead for Equality and Diversity.

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.

8.3 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.

8.4 Disability/physical/sensory impairment

If a member of staff has a physical/sensory impairment or 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.

8.5 Working Environment

The Trust is committed to ensuring that every member of 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 and also 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 using the Trust's Tackling Harassment and Bullying at Work Policy.

8.6 Languages

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.

8.7 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 including monitoring is on HR Web.

9. MONITORING AND ASSURANCE

To ensure this policy operates effectively (and for no other reason) the Trust will maintain a record of employees' and applicants' protected characteristics. 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 Group will undertake equal opportunities monitoring and report annually on its findings to the Trust Board. The Group is chaired by the Deputy Director of Workforce and OD and attendees include Divisional representatives, members of the Joint Union Committee and leads from the Trust Staff groups – the Black, Asian and Minority Ethnic Staff Forum and the Living and Working with Injury and Impairments Group

10. REFERENCES

[Equality Act 2010](#) (Equality & Human Rights Commission website)
[Equality Act 2010](#) (ACAS website)
[Public Sector Equality Duty](#) (EHRC website)

UH Bristol Policies: (all available on [HR Web](#))
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
Social Media (for Personal Use) Policy

Barts and the London NHS Foundation Trust
Oxford University Hospitals NHS 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)

APPENDIX A – glossary of terms

Accessible Information Standard

The [Accessible Information Standard](#) tells organisations how they should ensure that disabled patients receive information in formats that they can understand and they receive appropriate support to help them to communicate.

Disability

The general definition of disability for the purposes of the Equality Act 2010 is a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on a person's ability to carry out normal day to day activities.

Double Tick Symbol (Positive about disabled people)

This is a symbol which can be used to show that an organisation encourages job applications from disabled people.

The Trust has gained permission from JobCentrePlus to use this symbol by showing it has made five commitments:

- to interview all disabled applicants who meet the minimum criteria for a job vacancy and to consider them on their abilities
- to discuss with disabled employees, at any time but at least once a year, what can be done to make sure they can develop and use their abilities
- to make every effort when employees become disabled to make sure they stay in employment
- to take action to ensure that all employees develop the appropriate level of disability awareness needed to make these commitments work
- to review these commitments every year and assess what has been achieved, plan ways to improve on them and let employees and Jobcentre Plus know about progress and future plans

Equality Act 2010 came into force on 1st October 2010. It brings together over 116 separate pieces of legislation into one single Act. Combined, they make up a new Act that provides a legal framework to protect the rights of individuals and advance equality of opportunity for all.

You can read the whole Act on the [Legislation.gov.uk](http://legislation.gov.uk) website.

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 characteristics.

Equality Delivery system² (EDS²) is the tool that supports NHS organisations to improve the services they provide for their local communities and provide better working environments for all groups.

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

Public Sector Equality Duty (General Duty)

The equality duty was developed in order to harmonise the equality duties and to extend it across all of the protected characteristics. It consists of a general equality duty, supported by specific duties which are imposed by secondary legislation. The

general duty applies to all public authorities, including the NHS, and these organisations must, in the exercise of their functions, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- advance equality of opportunity
- foster good relations

Public Sector Equality Duty (Specific duties)

The Specific Duties are to help public authorities meet the general duties. In England, these specific duties are:

- Publish equality information – including information relating to protected characteristics for people who are its employees and are affected by its policies and practices. This should be published every year
- Prepare and publish equality objectives – these should be specific and measurable, and should be published every four years

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.

Bullying – There is no single definition for bullying, but it may be defined as follows: 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.

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.

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

EQUALITY IMPACT ASSESSMENT SCREENING FORM			
Title: Equality, Diversity & Human Rights Policy			
Author: R Ridsdale and T Sullivan		Division: Trust Services	Date: November 2015
Document Class: Policy	Document Status: Approved	Issue Date: February 2016	Review Date: November 2017
What are the aims of the document? To support the development and enhancement of a diverse and inclusive culture within the Trust.			
What are the objectives of the document? To outline the rights and responsibilities of the Trust and its staff 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 as part of the Trust's Public Sector Equality Duty ; through the metrics of the Workforce Race Equality Standard			
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 Group; Joint Union Committee, Policy Group			
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):		

	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 application of this policy should have an equally favourable impact on all groups	
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: