

Brighton and Sussex University Hospitals

Equality, Diversity and Inclusion Policy

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What this Document is About



Everyone is different



We all want to be treated fairly



Being treated fairly might mean doing things differently



To make sure we all have the same opportunities



This document will tell us how:

- **you should be treated**
- **we can do things to meet your needs**



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1. Introduction

The Trust is committed to promoting equality, valuing diversity and inclusion and is committed to eliminating discrimination against any individual on the grounds of age, disability, gender, gender identity, marital (including same sex marriage) or civil partnership status, maternity or pregnancy status, race (including nationality or culture), religion or belief and sexual orientation.

In line with the NHS values set out in the NHS Constitution the Trust endorses that:

“We value every person – whether patient, their families or carers, or staff – as an individual, respect their aspirations and commitments in life, and seek to understand their priorities, needs, abilities and limits. We take what others have to say seriously. We are honest and open about our point of view and what we can and cannot do.”

NHS Constitution 2013

Everyone has different needs in relation to public services as both staff and as service users; certain individuals/groups could experience unfair and unequal outcomes.

The Trust aims to promote a policy of equality of opportunity and to discourage unlawful discrimination either directly or indirectly against all employees, patients and service users (including their partners), carers, guests and visitors.

The Trust also believes in building a workforce which values and whose diversity reflects the communities it serves, enabling it to deliver the best possible healthcare service to all local communities.

The Trust aims to ensure that the principles of diversity and inclusion underpin all our employment and service policies and procedures. The Trust is committed to effectively resolving any case of discrimination in the organisation and aims to ensure that managers and staff are aware of their responsibilities in this area.

The Trust will comply with all staff and patient rights, legal duties and aspirations laid out in the NHS Constitution, Equality Act 2010, Human Rights Act 1998 and Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 which is regulated by the Care Quality Commission (Fundamental Standards). See Appendix 4 for further information.

2. Purpose

The Trust's aim in relation to the Equality, Diversity and Inclusion agenda are:

- Create an organisation that actively promotes equality of opportunity for all, and a culture that is free from discrimination, harassment or victimisation.
- Promote diversity in employment and employ a workforce that reflects the communities it serves.

- Recognise and welcome the fact that people bring a range of different work experiences and personal styles, and a variety of different values beliefs and attitudes.
- Ensure that no-one receives less favourable treatment on the grounds of their age, disability, gender, gender identity, marital or civil partnership status, maternity or pregnancy status, race (including nationality or culture), religion or belief, sexual orientation, caring responsibilities, or any other irrelevant criteria in any aspect of their employment and service delivery.
- All staff can expect to be treated fairly during the course of their employment. No member of staff will be treated less favourably or unlawfully discriminated against in applying for internal jobs, training opportunities, appraisals, nor in disciplinary and grievance procedures and all other aspects of day-to-day management.
- Ensure that patients and service users (including their partners), carers and visitors are treated with dignity and respect, and do not suffer any level of discrimination, harassment or victimisation from the Trust.

3. Definitions

- 3.1. Diversity** – Defined as ‘the differences in the values, attitudes, cultural perspectives, beliefs, ethnic backgrounds, sexual orientation, skills, knowledge, and life experiences of each individual in any group of people.’ This term refers to the differences in people and is used to highlight individual needs – it is inappropriate to use ‘diversity’ as an alternative to ‘equal opportunities’.
- 3.2. Equality** – The term used to describe systems, policies and practices that tackle inequalities, aiming to ensure that all staff are treated fairly, and that service users do not experience discrimination.
- 3.3. Due Regard** - To ‘have due regard’ means that in making decisions, and in its other day-to-day activities a body subject to the Public Sector Equality Duty, must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations in a proportionate manner.
- 3.4. Inclusion** – The action or state of including or being included within a group or structure.
- 3.5. Protected Characteristics** – as defined by the Equality Act 2010. These are nine specific areas (protected characteristics) which are covered by equality legislation. The relevant protected characteristics are:
- a) Age;
 - b) Disability;

- c) Gender;
- d) Gender Identity;
- e) Marital or Civil Partnership Status (including Same Sex Marriage);
- f) Maternity or Pregnancy Status;
- g) Race;
- h) Religion or Belief;
- i) Sexual Orientation

3.6. Discrimination

3.6.1 Direct Discrimination - A person discriminates against another if they treat a person, (because of a protected characteristic), less favourably than they would treat others. For instance making jokes at the expense of someone's sexual orientation or faith.

3.6.2 Indirect Discrimination – A person discriminates against another if they apply a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic. For example if something is applied universally, but its practical effect disproportionately disadvantages one or more specific groups. For instance having an inflexible dress code or uniform policy that prohibits people wearing headwear, could potentially disadvantage certain religious groups as this is requirement of their religion.

3.6.3 Associative Discrimination – This is direct discrimination against someone because they associate with another person who possesses a protected characteristic. For instance deciding someone is unable to do a job because of their caring responsibilities for someone who is disabled.

3.6.4 Discrimination Arising from Disability – This occurs when a disabled person is treated unfavourably because of something connected with their disability and the unfavourable treatment cannot be justified (i.e. it can be demonstrated to be the least discriminatory way of delivering a service, policy or procedure – contact the EDI team for more details). For example a parent seeks admission to a crèche for their child who has a disability which means that they do not have full bowel control. The crèche says that they cannot admit the child because they are not toilet trained and the children at the crèche are required to be. The refusal to admit the child is not because of the disability itself; but due to experiencing detrimental treatment as a consequence of their incontinence.

3.6.5 Perceptive Discrimination - This is direct discrimination against an individual because others think they possess a particular protected characteristic. It applies even if the person does not actually possess that protected characteristic.

3.7 Harassment – This takes place where, for a reason that relates to person's protected characteristic, the harasser engages in unwanted conduct which

has the purpose or effect of violating the person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for him/her.

- 3.8 Victimization** – Occurs when an employee is punished or treated unfavourably as a result of complaining or supporting a complaint of discrimination/harassment. For example, an employee raises a grievance about disability discrimination and is dismissed as a result.
- 3.9 Genuine Occupational Requirement** - In limited circumstances it can be lawful for an employer to require a job applicant or worker to have a particular protected characteristic. This requirement has to be both intrinsic to the role, and has to be a proportionate means of achieving a legitimate aim. In an acute NHS setting there are very few roles that a Genuine Occupational Requirement can be successfully applied, and this should be discussed with the Equality, Diversity and Inclusion Team before applying it.
- 3.10 Hate Crime** - Any criminal activity (for example physical assault, verbal abuse, vandalism, etc.) that is targeted at a person because of prejudice towards a person's:
- Disability
 - Race or Ethnicity
 - Religion or Belief
 - Sexual Orientation (e.g. homophobia, biphobia or heterophobia)
 - Gender Identity (e.g. transphobia)
- 3.11 Biphobia** - The irrational fear, dislike or prejudice against bisexuality or bisexuals, which may include negative stereotyping or denial of the existence of bisexuals.
- 3.12 Heterophobia** - The irrational fear, dislike or prejudice against heterosexuality or heterosexuals.
- 3.13 Homophobia** - The irrational fear, dislike or prejudice against homosexuality or homosexuals
- 3.14 Transphobia** - The irrational fear, dislike or prejudice against transgender (trans) people.

4.0 Responsibilities, Accountabilities and Duties

4.1 Chief Executive

The Chief Executive has the overall responsibility for ensuring the Trust has systems and processes relating to Equality, Diversity and Inclusion at the Trust.

4.2 Human Resources Director

The Human Resources Director will have overall operational responsibility for this policy, and can assign other executives to be a champion for the needs of particular protected characteristics.

The Human Resources Director will also:

- Ensure that the Equality, Diversity and Inclusion Policy is being disseminated and implemented within the Trust
- Provide a management forum for the co-ordination of activity around Equality, Diversity and Inclusion
- Define statutory equality schemes and monitor progress against associated action plans and the collection and reporting of data
- Provide a route for monitoring compliance with statutory and other compliance requirements
- Provide assurance to the People Board on progress and issues to be addressed
- Share best practice and emerging themes and initiatives

4.3 Diversity Matters Steering Group

They have responsibility to:

- Set strategic direction in line with statutory responsibilities
- Gain assurance that this policy along with the Four Year Equality Plan and action plans has been implemented and applied throughout the organisation
- Hold leads accountable for the delivery of agreed equality action plans
- Provide leadership and role modelling of Equality, Diversity and Inclusion

4.4 Managers

Every manager has the responsibility for ensuring that they understand the policy and implements it within their areas of responsibility. This will require:

- Understanding the legislation involved and the implication of not carrying out this policy and seeking HR advice where appropriate
- Demonstrating commitment to diversity and inclusion by positively promoting the Trust's Equality, Diversity and Inclusion Policy and leading by example at all times

- Ensuring that all their employees are clear about their responsibilities under this policy; any breaches of this policy will be dealt with under one of the following Human Resources Directorate policies whichever is deemed most appropriate following advice from HR; Dignity at Work, Disciplinary and Grievance policies. Cases of discrimination will be taken seriously and may be considered gross misconduct and subject to summary dismissal
- Applying all organisational policies and procedures in a fair and consistent manner
- Committing to the elimination of discrimination and bias in recruitment, promotion, training opportunities or any other employment matter
- Attending relevant training events to ensure that individuals possess the necessary skills and knowledge to implement good equitable practice
- Ensuring that employees are aware of their rights and obligations laid out in the NHS Constitution
- Where required ensure that mechanisms are in place to support reasonable adjustments for staff, patients, service users and carers.
- Adhere and enforce the principles from the values and behaviours in line with our Patient First approach.
- Provide governance for safety and quality for their areas of responsibility – this includes ensuring ‘due regard’ is given to equality considerations

4.5 Trades Union Representatives

Trades Union Representatives have responsibility to:

- Explain and positively promote the Trust’s Equality, Diversity and Inclusion Policy to their members;
- Discourage their members from any involvement in discriminatory practice;
- Take action when discrimination is identified.

4.6 Staff Members

Every employee has a part to play in ensuring that the Trust provides an environment in which everyone is treated fairly and with respect. Employees are expected to abide by the Trust’s Behaviour Blueprint, and to adhere to the Trust’s values and behaviours in line with our Patient First approach.

The NHS Constitution gives clear guidance on employee’s legal duties:

“Not to discriminate against patients or staff and to adhere to equal opportunities and equality and human rights legislation.” – The Handbook to the NHS Constitution p.124

In addition employees must:

- Support the Trust in promoting equality of opportunity and adhere to this policy
- Not to harass, abuse or intimidate any employee, patient or visitor to the Trust on any grounds, but with particular reference to the protected characteristics – see appendix 6
- Not make remarks or commit acts that are likely to cause offence
- Not to induce or coax others to discriminate against any colleague, patient or visitor to the Trust
- Challenge or draw to the attention of management any concerns regarding incidents, or suspected incidents of discrimination at all times
- Support patients and service users by ensuring that any reasonable need or adjustment is met.
- Support colleagues, patients or service users (including their partners) or carers who make a complaint of discrimination and/or harassment
- Not to victimise or attempt to victimise people on the grounds that they have made a complaint or provided information about a concern in relation to discrimination and/or harassment
- Undertake training for Equality, Diversity and Inclusion – EDI Awareness training is mandatory for all staff
- To ensure that any equipment issued by the Trust (e.g. laptop computers, personal computers, mobile phones, Blackberry, etc) are used for work purposes only, and not in anyway used in activities or communications that are discriminatory, harassing or contributing to victimisation. This also includes the use of social media e.g. Twitter, Facebook, etc.

4.7 Patients or Service Users (including their partners), Carers and Visitors

The Trust requires any person who comes into contact with the organisation, whether as a patient, service user (and their partners), carers or visitor, to abide by this policy. The Trust will not tolerate any discrimination towards its staff or other patients or service users (including their partners), carers or visitors and will take appropriate action.

4.8 Legal Liability of the Trust

Individual members of staff can be held personally liable for acts of unlawful discrimination.

The Trust as an employer may be liable for any unlawful discrimination committed by its staff during the course of their employment, unless it can be proved that all reasonable and practicable steps had been taken to prevent such an act from occurring. The Trust has a primary legal and moral responsibility for ensuring that discrimination does not occur.

5 Policy

5.1 Values and Behaviours

The Values and Behaviours workstream highlights the expected behaviours of every member of Trust staff is required to both display and promote.

The values of the organisation and expected behaviours are summarised in the Behavioural Blueprint which can be found on the Trust's Info-net site.

5.2 Recruitment Advertising

The Trust will ensure that no job applicant will receive less favourable treatment than another, due to any of the protected characteristics. With the exception of posts that have been specifically 'ring fenced' for at risk or displaced staff, all job vacancies will be open to competition and publicised externally.

Where there may be a need to apply a Genuine Occupational Requirement, Recruiting Managers will give careful consideration to the specifications of the post against the justification for specifying applicants from a particular protected characteristic in line with advice from the Human Resources Directorate and/or Equality, Diversity and Inclusion Department.

The Trust will not discriminate directly or indirectly when advertising a post by including any requirement or criteria, which is unnecessary to the post and which may, unintentionally, exclude certain groups of potential applicants from applying.

No discriminatory language will be included in advertisements; further advice can be sought from the Human Resources Employment Service, Human Resources Directorate or Equality, Diversity and Inclusion Department.

5.3 Disability Provisions

The Trust is committed to both employing and retaining people with disabilities. To show this commitment, the Trust holds the **Disability Confident Employer Level 2 accreditation**. Disability Confident is administered by the Department for Work and Pensions (DWP), and there are three levels:

- Disability Confident Committed – Level 1
- Disability Confident Employer – Level 2
- Disability Confident Leader – Level 3

Our commitment as a level 2 employer is as follows:

- a) Actively looking to attract and recruit disabled people.
- b) Providing a fully inclusive and accessible recruitment process.
- c) Offering an interview to disabled people who meet the minimum criteria for the job.
- d) Flexible when assessing people so disabled job applicants have the best opportunity to demonstrate that they can do the job.
- e) Making reasonable adjustments as required.
- f) Encouraging our suppliers and partner firms to be Disability Confident.
- g) Ensuring employees have sufficient disability equality awareness.

There is specific guidance for supporting disabled staff in the Trust's 'Disability and Reasonable Adjustments Guidelines' in the 'policy and guidelines section within 'resources' of the EDI Info-net site.

5.4 Recruitment and Selection

The intention of the Recruitment and Selection Procedures is to ensure the appropriate response to any employment vacancies in the Trust. This means that candidates for any post within the Trust will be assessed (where appropriate) solely on qualifications, relevant knowledge, skills, experience and job related criteria regardless of marital status, domestic responsibilities, social background and any of the protected characteristics. At the same time, the Trust has a duty to promote employment opportunities to address areas of under representation. For example:

- Providing development and training programmes for a particular group of people who share a protected characteristic in areas where they have been underrepresented.
- Strictly adhering to the commitments of **Disability Confident Scheme Level 2 (See section 5.3)**.

In the Equality Act 2010, there is the provision to select a candidate that has an underrepresented protected characteristic and is qualified and/or has adequate skills and experience to fulfil the requirements of the post. In theory it is possible to select this candidate above other candidates with equivocal qualification and

skills/experience, but without an underrepresented protected characteristic. However, this is a rather unlikely situation, and this provision will not be implemented without consultation with the Human Resources Directorate and/or Equality, Diversity and Inclusion department.

However, all selection decisions will always be based on the suitability of the candidate for the post. The Trust recognises that positive discrimination in most cases as opposed to positive action is unlawful. This means, for example, that it is unlawful to discriminate in favour of a female or ethnic minority candidate at the point of selection (under this premise there could be other better qualified candidates).

In accordance to the Rehabilitation of Offenders Act 1974, the Trust will not discriminate against or dismiss the applications of candidates with spent convictions for posts which are not exempt from this legislation.

5.5 Training and Development

Every new employee should receive an appropriate trustwide and departmental induction training and practice at work as specified within the Induction Policy and Procedure.

Opportunities for support, supervision, training, promotion and career development will be available to all staff on the basis of individual and service needs.

For staff that have a learning difficulty, Learning Disability or health condition that puts them at a disadvantage for training, they should raise this issue with their Line Manager, course facilitator, Learning and Development department or Equality, Diversity and Inclusion department. This will enable any reasonable adjustments/alternatives to be fully explored.

Positive Action initiatives may be used for underrepresented groups (as identified during the diversity monitoring process) to enable staff to pursue career development opportunities.

The Trust will ensure that all staff especially those involved in the recruitment process receive Equality, Diversity and Inclusion Awareness training.

5.6 Managing Performance

Managers will ensure that performance management process e.g. appraisal and development schemes, and disciplinary procedures are applied fairly, objectively and within the spirit of this policy and the Capability Policy.

Every member of staff should have a development plan that is designed to meet their specific needs.

5.7 Dealing with Complaints

All staff should be aware that direct or indirect discrimination, victimisation and instances of harassment or abuse are in contravention of the Trust's policies and/or the law. Such incidents will be treated as disciplinary offences and will be subject to the Trust's Disciplinary and Dignity at Work Policy and Procedures.

If a staff member believes that the Equality, Diversity and Inclusion Policy has not been applied in a particular case involving themselves or another they should advise their manager of the complaint.

There will be prompt acknowledgement of the complaint. The Manager or a member of Human Resources Directorate will ensure that the complaint is dealt with quickly, effectively and confidentially, that it is fully investigated, and that any necessary action is taken in accordance with the Trust's Grievance Procedures. Managers should consult the Human Resources Directorate for further advice.

Any incidents that constitute a hate crime should be addressed using the appropriate policy (see above), in addition a DATIX Incident Reporting form should be completed and if appropriate a Hate Crime Reporting Form. Further details are in the Hate Crime Guidelines which can be found on the Trust Info-net site.

Complaints by a patient or service users (including their partners), carer, visitor or member of the public will be dealt by the Complaints Department in accordance with the Trust's complaints procedure.

5.8 Disciplinary Action

All allegations of discrimination will be investigated in accordance to the Dignity at Work Procedure and the Disciplinary Policy and Procedures.

The Trust will not tolerate any form of discrimination and any behaviour or action which goes against the essence or letter of the Equality, Diversity and Inclusion Policy. Any proven act of discrimination will be subject to the Trust's full disciplinary procedures and sanctions up to and including potential dismissal.

Managers must take particular care to deal effectively with all allegations of discrimination, victimisation, bullying or harassment. It should not be assumed that such allegations arise out of over-sensitivity. Failure to undertake the responsibility of dealing appropriately with allegations of discrimination may be regarded as a disciplinary offence. All members of staff can use the Trust's policies if they feel that they have been discriminated against.

5.9 Terms and Conditions of Employment

The Human Resources Directorate will ensure that policies covering pay, benefits, banding and other terms and conditions are formulated and implemented to be free from bias against any group likely to experience discrimination on any of the grounds identified in the policy introduction.

5.10 Hours of Work

The Trust will positively look at opportunities to adjust hours of work where such adjustment would be helpful in promoting equal employment opportunities (e.g. in the case of a member of staff returning to work after maternity leave etc.) Further information can be found in the Flexible Working Policy.

5.11 Working Environment

Managers will ensure that employees are provided with an environment where they are able to work free from harassment or intimidation, and where due regard is paid for their individual needs. This will include taking action whether the source of bullying, harassment or intimidation is a member of staff, a patient, service user or member of the public.

The Equality Act 2010 makes it unlawful to discriminate against current or prospective members of staff, patients or service users (including their partners), carers and visitors with disabilities. Discrimination includes treating a disabled person less favourably than other people for reasons relating to their disability, without justification, or for failing to comply with a duty to make reasonable adjustments.

In compliance with this, managers will be responsible for making arrangements for reasonable adjustments to working conditions or the physical environment where that help would overcome the practical effects of disability. Further guidance can be found in the 'Disability and Reasonable Adjustments Guidelines', which is available on the EDI Info-Net site, under the 'resources' section.

Advice can be obtained from Human Resources, Occupational Health or Equality, Diversity and Inclusion Departments about potential external sources of funding and other help available.

5.12 Providing for Cultural and Religious Needs

Where a member of staff has particular cultural and religious needs which may conflict with existing work requirements, the Trust will consider whether it is reasonably practical to vary or adapt these requirements to enable such cultural/religious needs to be met.

The Trust will work closely with the Chaplaincy Service to identify where the needs are, and try to find solutions to those needs.

If a member of staff requests an extended period of annual leave or unpaid leave in order to visit relatives or attend religious events overseas, sympathetic consideration will be given. However, the request will ultimately depend on business/service needs.

If a member of staff requests time off for additional religious holidays to the English public holidays that should be regarded as annual leave. However, sympathetic consideration will be given to requests for unpaid leave, or

exchanging English public holidays for religious holidays (if the service's needs permits).

When a patient is admitted into any of the Trust's facilities every effort should be made to identifying whether the patient has any religious or cultural requirements. Further advice can be sought from the Chaplaincy Service, and in terms of dietary requirements the Nutrition and Dietetics Department/Main Kitchen (please see the Trust's Nutrition and Hydration Policy for further information).

5.13 Trans Staff and Patients

Specific guidance on how to support Trans patients and staff are available. This document is called 'Guidelines for Supporting Trans Staff and Patients' and can be found in the 'policy and guidelines section within 'resources' of the EDI section of the Info-net.

5.14 Providing a Fair and Equitable Service

The Trust is committed to ensuring that no one should have negative experiences when in receipt of a Trust service especially relating to their protected characteristic. The Trust will regularly review patient experience via the Patient Experience Panel using local or national surveys, interviews, complaints monitoring and other methodology to understand patient experience. The Trust will ensure any issues identified are dealt with quickly and appropriately.

All staff will endeavour to meet the language and communication needs of patients by making sure that appropriate interpreters, accessible information and/or additional support is provided to meet the patient or service user's individual needs in line with the 'Supporting Staff and Patient's Language and Communication Needs Policy' and the 'Accessible Communications Guidelines' which is available on the EDI Info-Net under the 'resources' section.

In line with the pledges on patient rights outlined in the NHS Constitution the Trust commits to:

- Provide convenient, easy access to services within the waiting times set out in the Handbook to the NHS Constitution
- Make decisions in a clear and transparent way, so that patient and the public can understand how services are planned and delivered
- Make the transition as smooth as possible when patients are being referred between services, and to include patient or services users (including their partners) and their carers in relevant discussions.

5.15 Commissioning and Procurement

Any external organisation that supplies or undertakes work on behalf of the Trust will be required to demonstrate that they are operating in an equitable manner that is compliant with the principles set out in the Equality Act 2010.

This will be built into tendering process and will form part of the contract which will be monitored. For further details contact the Procurement Department.

5.16 Due Regard Assessments

To ensure that positive steps are taken to ensure prevention of discrimination in the development and application of Trust Policies, procedures and service developments the Trust will use a Due Regard Assessment (DRA) process. DRAs provides the means for the Trust to consider how processes policies might create adverse negative effects for any of our service users and staff.

DRAs will be undertaken for all internally produced policies, procedures and guidance documents developed by or introduced into the Trust. This will therefore include both Trust-wide policies applicable to all staff and service users, as well as local level or departmental policies covering smaller groups of staff/and or service users.

There is specific guidance on how to conduct a Due Regard Assessment in the Trust's 'Due Regard – Guidance for Managers and Service Deliverers' and the 'Due Regard Assurance Flowchart'. Both documents can be found in the 'policy and guidelines section within 'resources' of the EDI section of the Info-net.

6 Training Implications

All Trust staff are required to undertake the mandatory Equality, Diversity and Inclusion training once every three years. The course content underpins the principles set within this policy.

7 Links to Other Trust Policies

- 7.10** Disciplinary Policy and Procedures (HR023)
- 7.11** Dealing with Employee Concerns: Grievance Policy and Procedure (HR014)
- 7.12** Capability Policy (HR012)
- 7.13** Dignity at Work Policy (HR009)

- 7.14** Investigation Policy and Procedure (HR036)
- 7.15** Flexible Working Policy (HR026)
- 7.16** Employment Checks Policy (HR018)
- 7.17** Policy and Procedure for the Management of Formal Complaints from Patients or their Representatives (PALS and Complaints Policy) (TW097)
- 7.18** Nutrition and Hydration Policy (C062)
- 7.19** Supporting Staff and Patient's Language and Communication Needs Policy (TW020)
- 7.20** Religion and Belief Policy (TW018)

8 Associated Documentation

- 8.10 Disability and Reasonable Adjustment Guidelines
- 8.11 Support for Trans Staff and Patients
- 8.12 Due Regard – Guidance for Managers and Service Deliverers
- 8.13 Due Regard Assurance Flowchart

9 References

Equality Act 2010. London: Stationery Office. Available at www.opsi.gov.uk

Human Rights Act 1998. London: Stationery Office. Available at: www.opsi.gov.uk

10. Monitoring Arrangements

Measurable Policy Objective	Monitoring / Audit Method	Frequency	Responsibility for Performing Monitoring	Where is Monitoring reported and which Groups / Committees will be Responsible for Progressing and Reviewing Actions Plans
Recruitment Monitoring – at application, shortlisting and appointment stage to identify if there is any bias within the recruitment and selection process.	Collate and analyse recruitment data.	Annually	Recruitment Services Manager.	Published in equality annual report, and the HR Directorate will assume responsibility for performance managing any actions.
Workforce Monitoring – to identify any under representation within the organisation.	Collate and analyse workforce demographic data	Annually	Head Employment Services.	Published in equality annual report and the HR Directorate will assume responsibility for performance managing any actions.
Employee Relations Data – to identify if there is any bias within the policies, procedure or application – in addition to see the number of breaches within this policy.	Collate and analyse employee relations data.	Annually	Head Employment Services.	Published in equality annual report and the HR Directorate will assume responsibility for performance managing any actions.
Complaints – to assess if there is any particular group that is unfairly	Collate and analyse complaints	Annually	Head of Complaints.	Breakdown to be provided to HR Directorate will

treated.	data.			assume responsibility for performance managing any actions.
All policies to have an Due Regard Assessment Completed.	This is built into the ratification board/panel to ensure that DRAs are completed as part of the ratification process.	Ongoing	Ratification panel/boards	Reports of any non-compliance to EDI Team, to centrally collate.

Appendix 1 - Due Regard Assessment Screening

		Yes/No	Comments
1.	Does the document/guidance affect one group less or more favourably than another on the basis of:		
	<ul style="list-style-type: none"> • Age 	Yes	<p>This policy deals with the day to day operational application of EDI within the organisation. It reinforces the need to support all staff and seeks to remedy any imbalance within the organisation.</p> <p>The policy fully supports the use of positive action and application of Genuine Occupational Requirement, which aims to redress any imbalance or unfavourable treatments that people with a particular protected characteristics might have. However, both processes can only be applied once discussions with the EDI team have been completed to ensure the proposed action is both fair and proportionate to achieving a legitimate aim.</p>
	<ul style="list-style-type: none"> • Disability 		
	<ul style="list-style-type: none"> • Gender 		
	<ul style="list-style-type: none"> • Gender identity 		
	<ul style="list-style-type: none"> • Marriage and civil partnership (including same sex marriage) 		
	<ul style="list-style-type: none"> • Pregnancy and maternity 		
	<ul style="list-style-type: none"> • Race 		
	<ul style="list-style-type: none"> • Religion or belief 		
	<ul style="list-style-type: none"> • Sexual orientation, including lesbian, gay and bisexual people 		
2.	Is there any evidence that some groups are affected differently and what is/are the evidence source(s)?	Yes	Yes this policy seeks to address historical areas of disadvantage. Evidence can be found in the Trust's Annual Equality Workforce Report and numerous national statistics.
3.	If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable?	Yes	Positive action – this is justifiable under the Equality Act following objective justification.
4.	Is the impact of the document/guidance likely to be negative?	No	
5.	If so, can the impact be avoided?	N/A	
6.	What alternative is there to achieving the document/guidance without the impact?	N/A	
7.	Can we reduce the impact by taking different action and, if not, what, if any, are the reasons why the policy should continue in its current form ?	N/A	
8.	Has the policy/guidance been assessed in terms of Human Rights to ensure service users, carers and staff are treated in line with the FRED A principles (fairness, respect, equality, dignity and autonomy)	Yes	The policy aims to ensure that the organisation gives full 'Due Regard' to the Human Rights Act 1998 in whilst delivering its public functions.

Appendix 2

Patients/Visitors Guidelines to Rights and Responsibilities

Rights

- As a patient you have the right to be treated with respect and courtesy and to have privacy, confidentiality and dignity respected at all times irrespective of the following:
 - Disability
 - Race
 - Gender
 - Gender Identity
 - Religion and Belief
 - Sexual Orientation
 - Employment Status
 - Health
 - Marital or Civil Partnership Status
 - Membership or Non-Membership of a Trades Union
 - Nationality, Ethnic Origin
 - Domestic Circumstances
 - Social & Employment Status
 - HIV Status
 - Age
 - Pregnancy and Maternity

- To receive clear understandable information about your treatment and care and to be able to ask questions if unsure.

- To know the name of the person treating you and their professional capacity.

- To be kept informed on waiting times, delays and cancellations.

- To be accompanied by a partner, friend or relative during consultation or examination if you so desire.

- To be treated and cared for by staff with necessary skills, knowledge and experience to provide an efficient and effective service.

- To be given information on the hospital catering arrangements.

- To have the opportunity to make comments, suggestions or complaints and receive relevant, timely responses.

You have the Responsibility:-

- To treat all our staff with dignity, courtesy and respect at all times.
- To behave in an acceptable and reasonable manner.
- To inform the hospital of any special requirements you may have e.g. interpreter, transport, etc.
- To confirm that you understand the treatment being provided and course of action.
- To follow treatment plans recommended and to recognise / to take consequences of refusing treatment of not following professional advice.
- To be considerate to other patients by assisting in the control of noise, smoking and by restricting the number of visitors.
- To notify the hospital if you cannot make an appointment – alternative arrangements can be made, benefiting others.
- To behave in a courteous and polite manner, abusive or violent behaviours will not be tolerated and the Hospital will report anyone whose behaviour is unacceptable to Hospital Security as outlined in the Trust's Management of Physical Security Policy.

Appendix 3

Equality, Diversity and Inclusion Statement

Brighton and Sussex University Hospitals NHS Trust is committed to the promotion of equality of opportunity.

We value the diversity and the potential that people with differing backgrounds, skills and abilities bring to BSUH. Equality, Diversity and Inclusion is essentially about removing bias, prejudice and stereotyping so that people are happy with their work and the patients benefit from a well motivated workforce.

It is our policy to provide employment and services equally to all irrespective of:

- Disability
- Race
- Gender
- Gender Identity
- Religion and Belief
- Sexual Orientation
- Employment Status
- Health
- Marital or Civil Partnership Status
- Membership or Non-Membership of a Trades Union
- Nationality, Ethnic Origin
- Domestic Circumstances
- Social & Employment Status
- HIV Status
- Age
- Pregnancy and Maternity

The Trust is opposed to all forms of discrimination. All full time and part time employees and job applicants (actual or potential) will be treated fairly. Selection for employment, promotion, training or any other benefit will be on the basis of aptitude and ability.

Our Equality, Diversity and Inclusion Policy will help all employees to develop their full potential.

The Trust is committed to:

- Preventing any form of direct or indirect discrimination, harassment or victimisation
- Promoting equal opportunities
- Openness and equality in our dealings with each other and in the way we provide services to people

- Promoting a good and harmonious working environment where all staff are treated with respect and dignity and in which no form of intimidation or harassment will be tolerated
- Fulfilling all legal obligations under the relevant legislation and associated Codes of Practice
- Reviewing the effectiveness of the Equality, Diversity and Inclusion Policy at regular intervals

Breaches of the Equality, Diversity and Inclusion Policy and practice could be regarded as misconduct and could lead to disciplinary proceedings.

Appendix 4

Legislative Framework

This policy is supported by key elements of the legislative framework that governs equality in the United Kingdom. These are as follows:

Equality Act 2010

The Equality Act 2010 aims to create: “A society built on fairness and respect where people are confident in all aspects of their diversity.”

This Act harmonises discrimination law, and strengthens the law to support progress on equality. The Act replaces all existing equality legislation including the Equal Pay Act. The main provisions of this Act came into effect on 1 October 2010, with an integrated public duty that came into effect April 2011 and a ban on age discrimination in 2012.

The act strengthens the law in a number of key areas by:

- Creating a general public duty.
- Extending the range of lawful positive action to overcome or minimise a disadvantage arising from a protected characteristic.
- Extending the circumstances in which a person is protected against discrimination, harassment or victimisation because of a protected characteristic.

The Marriage (same sex couples) Act 2013

The Act, which applies to England and Wales:

- allows same sex couples to marry in civil ceremonies
- allows same sex couples to marry in religious ceremonies, where the religious organisation has ‘opted in’ to conduct such ceremonies and the minister of religion agrees
- protect those religious organisations and their representatives who do not wish to conduct marriages of same sex-couples from successful legal challenge
- enables civil partners to convert their partnership to a marriage, if they wish
- enables married individuals to change their legal gender without having to end their marriage

The Civil Partnership Act 2004

The Act creates a new legal relationship of civil partnership, whereby two people of the same-sex can form by signing a registration document. It also provides same-sex couples who form a civil partnership with parity of treatment in a wide range of legal matters with those opposite-sex couples who enter into a civil marriage.

The Human Rights Act 1998

All national legislation is underpinned by the Human Rights Act 1998, which came fully into force on 2 October 2000. The Act gives further effect in the UK to rights contained in the European Convention of Human Rights (ECHR), signed on 4 November 1950. The ECHR in turn stems from the Universal Declaration of Human Rights, adopted by the United Nations on 10 December 1948. The Act:

- Makes it unlawful for a public authority to breach Convention rights, unless an Act of Parliament meant it could not have acted differently;
- Means that cases can be dealt with in a UK court or tribunal;
- Says that all UK legislation must be given a meaning that fits with the Convention rights, if that is possible.

The key articles relevant to the delivery of health services within the Convention include:

Article 2 - Everyone has the right to life, except in very limited circumstances, e.g. defending oneself or someone else from unlawful violence.

Article 3 - No one shall be subjected to degrading or dehumanising treatment

Article 5 - Everyone has the right to liberty and security of person

Article 8 - Everyone has the right to respect for their private and family life, home and correspondence

Article 9 - Everyone has the right to freedom of thought, conscience and religion subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, public order, health, morals, or the freedoms of others

Article 10 - Everyone has the right to freedom of expression (subject to the same requirements as Article 9), but the exercise of those freedoms carries duties and responsibilities to the rights of others

Article 11 - A person has the right to assemble with other people in a peaceful way. They also have the right to associate with other people, including the right to form a trades union. These rights may be restricted only in specified circumstances

Article 14 - Prohibition on Discrimination. The enjoyment of the rights and freedoms set forth in the convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin. (Not a standalone right)

The Universal Declaration of Human Rights forms a basis that underpins all of our work in the NHS - see NHS Constitution for more information about rights for staff and service users.

Health and Social Care Act 2008 (Regulated Activities) Regulations 2014

The Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 were made on November 6 2014 and published on November 11 2014. The regulations are monitored and regulated by the Care Quality Commission. They introduce:

- a) new 'fundamental standards' applicable to the care provided by registered providers;
- b) a statutory duty of candour; and
- c) a fit and proper persons requirement for directors and equivalents (FPPR).

The main regulations that are applicable to the Equality Act 2010 and the Human Rights Act 1998 include:

- Regulation 5 - Fit and Proper Persons: Directors
- Regulation 9 - Person-Centred Care
- Regulation 10 – Dignity and Respect
- Regulation 13 – Safe Care and Treatment
- Regulation 15 – Premises and Equipment
- Regulation 17 – Good Governance
- Regulation 18 – Staffing
- Regulation 19 – Fit and Proper Persons Employed

Further guidance and information is available on the Care Quality Commission's website: <http://www.cqc.org.uk/>

Appendix 5

General Principles – The Public Sector Equality Duties

The Equality Act 2010 created a new harmonized '**General Duty**' (Section 149 of the Act) that all public authorities must enforce which is to:

- a) eliminate discrimination, harassment, victimisation.
- b) advance equality of opportunity between persons who share a protected characteristic and persons who do not share it.
- c) foster good relations between persons who share a protected characteristic and persons who do not share it.

Although there are some important differences between protected characteristics, the **specific** duties relevant to public authorities include the following:

- **Publication of Information** which demonstrates compliance with the (general) duty imposed by section 149 (1) of the Equality Act 2010. This information should include information by protected characteristic for employees and other persons affected by the organisation's policies and practices. This should be published on an annual basis.
- **Equality Objectives** must be published and reviewed within 4 years (of initial publication date) of any specific and measurable objectives the organisation needs to undertake to be compliant with the (general) duty imposed in paragraphs (a) to (c) of subsection (1) of the section 149 of the Equality Act.

Appendix 6

Examples of Bullying and Harassment

- making insults and threats based on a protected characteristic
- making unnecessary and degrading references about any protected characteristic relating to an individual
- engaging in banter or making jokes which are degrading to a person's protected characteristic (or perceived protected characteristic)
- outing an individual without their permission
- ignoring or excluding a colleague from activities because of a particular protected characteristic
- spreading rumours or gossip about an individual because of a particular protected characteristic
- asking intrusive questions about an individual's private life
- making assumptions and judgements about a colleague based on a protected characteristic
- using religious belief to justify bullying and harassment

Further details of unacceptable behaviour can be found in the Trust's Dignity at Work Policy.