

Equality Diversity Inclusion and Human Rights Policy

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Version Control Table

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Consultation Table

This document has been developed in consultation with the groups and/or individuals in this table:

Name of Individual or group	Title	Date
WPPG	Workforce Policy Group	09/02/23
BAME staff network	Mike Dickens	15/09/21
Disability staff network	January Newton-Baxendine	16/10/21
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1. Introduction

The Trust is committed to equality of opportunity, treatment and behaviour, employment, promotion, and development. This encompasses giving equal access to all services wherever possible, having 'due regard' as we develop services and ensuring equality and diversity is an integral part of the Trust's decision-making processes.

As a public organisation we will not only comply with current legislation but regularly review our services to enable us to exceed expectations of all who use, visit or work for us,

We are proud of our diverse workforce who are representative of the communities we serve and support us in the delivery of our equality agenda. In addition, by continuing to work closely with internal and external stakeholders we will continue to improve our services to provide a fairer, more inclusive NHS Trust.

In accordance with The NHS Constitution and the Public Sector Equality Duty, we actively work to remove any discriminatory practices, eliminate all forms of harassment and promote equality of opportunity in our recruitment, training, performance management and development practices to ensure that no employee, or potential employee, receives less favourable treatment on the grounds of gender, race, ethnic or national origin, sexual orientation, marital status, religion or belief, age, trade union membership, disability, offending background, domestic circumstances, social and employment status, HIV status, gender reassignment, political affiliation or any other personal characteristic.

Our People Strategy ([People Strategy \(esht.nhs.uk\)](https://www.esht.nhs.uk)), which is based on the NHS People Plan ([NHS England » NHS People Plan](#)), prioritises a culture that supports and grows our people. Looking after our people means creating a positive, engaging working environment and keeping colleagues safe and healthy – both physically and psychologically. It is everyone's responsibility to contribute to an inclusive culture where all colleagues feel that they are treated according to trust values and demonstrate those values in our own compassionate behaviour, to inspire each one of us to thrive and develop to our full potential.

Everyone has different needs in relation to public services both in the workplace and as service users; it is widely accepted, at times certain individuals/groups can experience unfair and unequal outcomes, therefore we will use new and current legislation and give regard to The NHS Constitution in the exercise of our daily functions to aid us in eliminating those inequalities.

The Trust aims to ensure that the principles of equality, diversity and inclusion underpin all our employment, 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 as laid out in the NHS Constitution, Equality Act 2010, Human Rights Act 1998, Health and Social Care Act 2012, Accessible Information Standard, and the Care Quality Commission's Essential Standards of Quality and Care. See Appendix B for further information.

2. Purpose

This policy aims to eliminate inequalities and barriers enabling the Trust to:

- Deliver better health outcomes
- Improve patient and staff experience
- Promote an inclusive, diverse workforce
- Eliminate unlawful discrimination,
- Advance equality of opportunity
- Foster good relations.

2.1. Rationale

As a public organisation the Trust has a legal obligation to comply with The Equality Act 2010. More specifically, section 149 - the Public Sector Equality Duty (PSED). Within the PSED there are two main duties, as follows, that the Trust will endeavour to adhere to at all times during the exercise of its functions:

2.1.1. General Equality Duty:

The public sector Equality Duty came into force on 5 April 2011. The General Equality Duty requires public bodies to consider all individuals when carrying out their day-to-day work. This includes shaping policy, delivering services and in relation to employees. The 3 aims of the General Equality Duty are to have due regard to the need to:

- Eliminate unlawful discrimination, harassment, and victimisation and any other conduct that is prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

The General Equality Duty also requires organisations to consider how they could positively contribute to the advancement of equality and good relations. It requires equality considerations to be reflected into the design of policies and the delivery of services, including internal policies, and for these issues to be kept under review.

2.1.2. Specific Duties

The Specific Duties came into force on 10 September 2011. The Specific Duties require public bodies to publish relevant, proportionate information showing compliance with the Equality Duty, and to set equality objectives.

2.2. Principles

This policy aims to assist the Trust to:

Ensure that no-one receives less favourable treatment on the grounds of their age, disability, gender identity, marital or civil partnership status, maternity or pregnancy status, race (including nationality or culture), religion or belief, sex, sexual orientation, caring responsibilities, or any other irrelevant criteria in any aspect of their employment.

Create an organisation that provides a culture free from discrimination, harassment or victimisation and actively promotes equality of opportunity for all, including patients and their carer's, relatives, partners, service users, visitors and staff.

Promote diversity in employment and employ a workforce that is representative of 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.

Meet the Trust's legal requirements including those set out in the Equality Act (2010), and the Accessible Information Standard

2.3. Scope

As set out in the NHS Constitution, all staff can expect to be treated fairly during their employment. No member of staff will be treated less favourably or unlawfully discriminated against when applying for internal jobs, training opportunities, appraisals, nor in disciplinary and grievance procedures and all other aspects of day-to-day management.

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

Protected Characteristics

As defined by the Equality Act 2010

- **Age**
- **Disability (including carers)**
- **Gender Reassignment**
- **Marriage & Civil Partnership**
- **Pregnancy & Maternity**
- **Race**
- **Religion or belief**
- **Sex**
- **Sexual Orientation**

Diversity – Recognising, respecting, and valuing people's individual differences. These can be along the dimensions of culture, race, ethnicity, sex, sexual orientation, age, gender reassignment, physical abilities, religious beliefs or not, or other ideologies. Valuing people's differences enables individuals to realise their potential and promotes participation.

Equality – The term used to ensure individuals or groups of individuals are treated fairly and no less favourably because of a protected characteristic, therefore providing equal access to opportunities to all who come into contact with the Trust or any of the services provided by the Trust. Promoting equality aims to minimise disadvantage, eliminate discrimination, and maximise individual potential.

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

Reasonable Adjustments – Making reasonable adjustments aims to ensure that a disabled person, as far as is reasonable, has the same access to healthcare services or everything that is involved in getting and doing a job as a non-disabled person. When the duty arises, the Trust is under a positive and proactive duty to take steps to remove, reduce or prevent the obstacles faced as a disabled patient, service user, employee or job applicant. The Trust only has to make adjustments where it is aware, or reasonably aware, that a person has a disability.

Discrimination - as defined by the Equality Act 2010

- **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.

- **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 or their religion.
- **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.
- **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. 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.
- **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.

Health Inequalities- differences in access, experience or outcomes between populations and groups. This can be related to protected characteristics.

Harassment – as defined by the Equality Act 2010. 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.

Victimisation – 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.

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.

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 Race or Ethnicity, Disability, Sexual Orientation (e.g., biphobia, homophobia, heterophobia), Gender Identity (e.g., transphobia).

Biphobia - The irrational fear, dislike or prejudice against bisexuality or bisexuals, which may include negative stereotyping or denial of the existence of bisexuals.

Heterophobia - The irrational fear, dislike or prejudice against heterosexuality or heterosexuals.

Homophobia - The irrational fear, dislike or prejudice against homosexuality or homosexuals

Transphobia - The irrational fear, dislike or prejudice against transgender (trans) people

4. Accountabilities and Responsibilities

4.1. Chief Executive

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

4.2. Chief of Staff

The Chief of Staff will have overall operational responsibility for this policy and can assign other Directors/Managers to be a champion for the needs of particular protected characteristics.

4.3. Equality, Diversity & Human Rights (EDHR) staff and the Head of Health Inequalities (Including EDHR patients) (collectively referred to here as 'EDHR leads')

The EDHR Leads will:

- Ensure that the Equality, Diversity, Inclusion and Human Rights Policy is being disseminated and implemented within the Trust. 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 Management Board and Workforce Equality Group on progress and issues to be addressed.
- Share best practice and emerging themes and initiatives.

4.4. The Trust Board

Has responsibility to

- Set strategic direction in line with statutory responsibilities.
- Gain assurance that this policy along with the Four-Year Equality objectives are being 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, Inclusion and Human Rights

4.5. Services

Every service has responsibility for ensuring that the service is delivered in line with the requirements set out in the Equality Act (2010) and meets the Trusts Equality and Health Inequalities duties and expectations.

Services should:

- Ensure that where patient systems allow, they record demographic information relevant to health inequalities. This includes protected characteristics, postcode and carer status.
- Routinely review patient access, outcome and patient experience data
- Use Equality and Health Inequality Impact Assessment (EHIA) to systematically review the potential for their service to lead or contribute to differences in access, experience or outcomes for patient groups and take action to mitigate any potential or identified.

4.6. Managers

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

- Understanding the legislation involved and the implication of not carrying out this policy
- Demonstrating commitment to diversity and inclusion by positively promoting the Trust's Equality, Diversity, Inclusion and Human Rights Policy and always leading by example.
- 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 (HR) 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 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
- Ensuring (where relevant) that employees are aware of and acting on the need to ensure that patient's demographic information is collected and recorded in an appropriate manner in line with Trust policies
- Where required ensure that mechanisms are in place to support reasonable adjustments for staff, patients, service users and carers.
- Adhere to and support the principles of the Trust's values and behaviours
- Provide governance for safety and quality for their areas of responsibility – this includes ensuring 'due regard' is given to equality considerations

4.7. Trades Union Representatives

Trades Union Representatives have responsibility to:

- Explain and positively promote the Trust's Equality, Diversity, Inclusion and Human Rights Policy to their members
- Discourage their members from any involvement in discriminatory practice
- Take action when discrimination is identified
- Ensure appropriate action of the policy through the staff side JSC.

4.8. Employees

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, adhere to, and support the principles of our Values and Behaviours

In addition, employees must:

- Support the Trust in promoting equality of opportunity and adhere to this policy
- Not harass, abuse or intimidate any employee, patient, service user or visitor to the Trust, on any grounds, but with particular reference to the protected characteristics.
- Not make remarks or commit acts that are likely to cause offence
- Not induce or coax others to discriminate against any colleague, patient, service user 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, their carers and other service users by ensuring that, where possible, reasonable adjustments are made
- Support colleagues, patients, and 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
- Be aware of and act on the need to ensure that patient's demographic information is collected and recorded in an appropriate manner in line with Trust policies
- Undertake training for Equality, Diversity and Human Rights – EDHR Awareness training is mandatory for all staff

To ensure that any equipment issued by the Trust (e.g., laptop computers, personal computers, mobile phones etc.) are not used in any way for activities or communications that are discriminatory, harassing or contributing to victimisation. This also includes the use of social media e.g., Twitter, Facebook, etc. Further details can be found in the Trust's mobile technologies and social media policies.

4.9. 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 actions.

5. Procedures and Actions to Follow

5.1. Values and Behaviours

The Trust's values and behaviours statements (Appendix C) highlight the expected behaviour that every member of Trust staff is required to both display and promote. The values and behaviours statements can be found on the Trust's extranet, wallet sized cards and posters displayed throughout the Trust's sites.

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 accordingly.

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 Human Resources and/or Equality Diversity and Inclusion team.

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 Trust's Recruitment Team, Human Resources Department or Equality Diversity and Inclusion team.

5.3. Disability Provisions

The Trust is committed to both employing and retaining people with disabilities. To show this commitment, the Trust is a Disability Confident Employer

The Trust recognises that applicants with disabilities have abilities to perform most roles within Trust and can contribute a great deal to meeting our Trust objectives. Not only do we value the commitment and contributions made by all current employees with disabilities, but we also welcome and encourage applications from people with disabilities.

Disability Confident is voluntary and has been developed by employers and disabled people's representatives. The Disability Confident scheme has 3 levels that have been designed to support the Trust on its Disability Confident journey. Employers must complete each level before moving on to the next. A self-assessment is carried out every three years to demonstrate commitment and progress.

The Disability Confident Employer award is administered by Job Centre Plus, to employers who have agreed to meet five commitments in regard to the Recruitment, Employment, Retention and Career Development of Disabled People. The five commitments that the Trust has to meet are:

- 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 both parties can do to make sure disabled employees 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 each year and assess what has been achieved, plan ways to improve on them.

Accessible Information Standards

From 1 August 2016 onwards, all organisations that provide NHS care and/or publicly funded adult social care are legally required to follow the Accessible Information Standard. The Standard sets out a specific, consistent approach to identifying, recording, flagging, sharing and meeting the information and communication support needs of patients, service users, carers and parents with a disability, impairment or sensory loss.

The Standard says that patients, service users, carers and parents with a disability, impairment or sensory loss should:

- Be able to contact, and be contacted by, services in accessible ways, for example via email or text message.
- Receive information and correspondence in formats they can read and understand, for example in audio, braille, easy read or large print.
- Be supported by a communication professional at appointments if this is needed to support conversation, for example a British Sign Language interpreter.
- Get support from health and care staff and organisations to communicate, for example to lip-read or use a hearing aid.

5.4 Religion and Religious Observance

Religion and Belief (which includes humanistic beliefs) or none is a protected characteristic. ESHT recognises the importance of religious faith or humanistic belief to many of our staff. The Trust seeks to ensure that all staff, service users and carers of all faiths and none receive equal respect and a safe place to work.

Religion and Belief (which includes humanistic beliefs) is a protected characteristic. Staff, service users and carers can expect to be treated with respect, supported in their beliefs, and not experience discrimination with respect to those beliefs. The expression of a belief is not an absolute right, however, and must be set alongside and balanced with other protected

characteristics. With respect to religious beliefs, the Trust operates a policy, with regard to spiritual support, of person-centred care. This principle should inform all dealings with patients with respect to spiritual support. It is the job of staff to support a patient in their own chosen beliefs and ethical values unless these would lead to illegal actions or harm to self or others.

Staff members requiring modifications to their working practice or environment in conformance with their religious or philosophical beliefs may make such a request to their line manager or a member of HR. This could include (but is not limited to): requests for time off, dietary needs, prayer needs and clothing. The UK provides two religious bank holidays a year Good Friday and Christmas Day. Upon receiving a request, reasonable options and alternatives will be explored in consultation with the individual staff member. The requests will be considered (alongside health and safety considerations) to see if policies or procedures are discriminating or not. Where reasonable the Trust will try wherever possible to accommodate staff needs and avoid adverse impact. The Trust Spirituality guidelines provide for a Spiritual Room in each inpatient unit, suitably resourced, where staff, patients and carers may practice their faith. The Trust employs a Spiritual Support team to ensure the spiritual and religious needs of staff, service users and carers are met, and resources provided, including links to faith communities.

5.5 Age Discrimination

No individual or population groups will receive less favourable treatment on the ground of their age or compared with groups of different age. This will apply to employment laws and the delivery of our services Our services provide provisions to recognise age within our services such as older age and children and young people's services.

Employment laws work in conjunction with the Equality Act 2010 to ensure that we do not discriminate against any individual relating to their age in the recruitment employment at the trust. Any issues arising from age harassment discrimination are managed in accordance with the Trust's Dignity at Work (Harassment and Bullying) Policy and/or Prevention & Management of Violence & Aggression

5.6 Sexual Orientation Discrimination

The Equality Act 2010 makes it unlawful to discriminate against anyone because of their sexual orientation or perceived sexual orientation. The law applies equally whether someone is a lesbian, gay, heterosexual, or bisexual.

The Act defines sexual orientation as: • orientation towards people of the same sex (lesbians and gay men) • orientation towards people of the opposite sex (heterosexual) • orientation towards people of the same sex and the opposite sex (bisexual). Any individual working for the Trust will not harass or victimise another individual on the grounds of sexual orientation. Any issues arising from sexual harassment discrimination are managed in accordance with the Trust's Dignity at Work (Harassment and Bullying) Policy and Procedure and/or Prevention & Management of Violence & Aggression.

5.7 Transgender Discrimination

The Equality Act 2010 protects anyone who proposes to start, starts or has completed a process to change their gender from discrimination. This includes someone who is not currently undergoing medical supervision, or a transgender individual who decides they do not want to have any medical procedures

Any time off an individual needs because of gender reassignment issues, such as counselling, advice or surgery is protected under the Equality Act 2010. Any issues arising from Transgender harassment discrimination are managed in accordance with the Trust's Dignity at Work (Anti-harassment and Bullying) Policy and the Management of Violence and Aggression Policy. See also Supporting transitioning staff at work Policy

5.8 Pregnancy & Maternity Discrimination

The Trust will not treat any individual or population group unfairly on the ground of pregnancy, the potential to become pregnant maternity or breastfeeding status. Under the Equality Act of 2010 the Trust must not give any unfavourable treatment or victimisation to our staff, service users, patients, carers and members of the public on the grounds of pregnancy or maternity. The right for women to breastfeed in public is covered by the act and it is unlawful to discriminate or harass an individual from breastfeeding on any of the Trust's premises.

For more information on Trust employee benefits of maternity, adoption, maternity support (paternity) and additional paternity leave available to all staff please refer to the Maternity, Adoption & Maternity Support (Paternity) Leave policy

5.9 Race Discrimination

The Equality Act of 2010 makes it unlawful to discriminate against anyone on the grounds of their race; this includes skin colour, nationality and ethnic or national origin. This will also include the Gypsy Roma and Traveller communities All staff, service users, patients and carers have a legal duty not to discriminate between populations who share a race/ethnicity and those who don't share the same race/ethnicity.

Any issues arising from race discrimination should be managed in accordance with the Trust's Dignity at Work (Anti-harassment and Bullying) Policy and the Management of Violence and Aggression Policy

5.10 Sex Discrimination

Men and women have the right not to be discriminated based on their sex under the Equality Act 2010. This applies to all our staff and service users, patients and carers

The Equality Act however says it is lawful to separate services for men or women if this is a better or more effective way of providing services. e.g., single sex accommodation

Any issues arising are managed in accordance with the Trust's Dignity at Work (Anti-harassment and Bullying) Policy and the Management of Violence and Aggression Policy

5.11 Marriage & Civil Partnerships Discrimination

The Equality Act 2010 protects individuals from discrimination because of marriage and civil partnership. Neither marriage nor civil partnership is defined in the Act but the legislation is taken to broadly cover

- People who are married in a legally recognised union. Either same sex or opposite sex
- People who are in a civil partnership, a legally recognised and registered relationship between two people of the same sex.

The protected characteristic of marriage and civil partnership does not cover:

- People living together as a couple (also known as cohabiting) who are not married or registered civil partners
- Individuals who are engaged to be married, who are intending to marry or enter into a civil partnership
- People whose civil partnership has been dissolved
- Divorced people
- Widows or widowers
- Single people.

Any issues arising are managed in accordance with the Trust's Dignity at Work (Anti-harassment and Bullying) Policy.

5.12. Recruitment and Selection

The intention of the Recruitment and Selection Policy 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 a Disability Confident employer (see section 6.6).

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 equivalent 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 Operational Human Resources and/or Equality, Diversity and Inclusion team.

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 with 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.

5.13. Training and Development

Every new employee will receive appropriate Trust-wide and departmental induction training as specified within the Induction procedure that can be found on the Extranet.

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 Human Rights 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 Equality & 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 receives Equality, Diversity and Human Rights Awareness and Recruitment and Selection training (if appropriate) courses.

5.14. 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 Performance Improvement Procedure.

Every member of staff will have a personal development plan that is designed to meet

their specific needs.

5.15. Grievance & 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 Dignity at Work Procedure and /or Disciplinary Procedure which could result in dismissal. These procedures can be found on the Extranet.

If a staff member believes that the Equality, Diversity, Inclusion and Human Rights Policy has not been applied in a particular case involving themselves or another, they should in the first instance, seek advice from their manager, Occupational Health, Union representative and or the Equality, Diversity and Inclusion Lead, who will then, if appropriate, consult with Human Resources and or refer to the Grievance Policy.

When a grievance is received by Human Resources there will be prompt acknowledgement of the complaint and 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 Policy and Procedures.

Managers should consult the Human Resources Department for further advice.

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

5.16. Disciplinary Action

All allegations of discrimination will be investigated in accordance with the Dignity at Work Procedure or Disciplinary Procedure.

Behaviour or action which goes against the essence of the Equality, Diversity, Inclusion and Human Rights Policy will normally constitute serious misconduct liable to disciplinary action, which may include 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 grievance procedure (or appeals procedure in relation to disciplinary matters) if they feel that they have been discriminated against.

5.17. Terms and Conditions of Employment

The Human Resources Department 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.

5.18. 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 Work Life Balance and Special Leave Policy.

5.19. 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 given for their

individual needs. This will include taking action where there is bullying, harassment or intimidation regardless of whether that person 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 (but not limited to) 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 obtained by contacting Occupational Health.

Advice can be obtained from the Human Resources, Occupational Health Departments about potential external sources of funding, such as Access to Work, and other help available.

5.20. Cultural and Religious Needs

Where a member of staff has cultural and or religious needs which may conflict with existing work requirements such as meetings, training days and other day to day functions, the Trust will consider whether it is reasonably practical to vary or adapt these requirements to enable such cultural/religious needs to be met. However, the request will ultimately depend on business/service needs.

The Trust will work closely with the Chaplaincy Service to identify where the needs are and explore ways to accommodate 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 permits)

When a patient is admitted into any of the Trust's facilities every effort should be made to identify 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, or the Trust's Nutrition Policy. Printed booklets are available from Chaplaincy and the EDHR department to provide guidance on religious and cultural dietary requirements and end of life procedures.

5.21. Trans Staff and Patients

Specific guidance on how to support Trans patients and staff are available on the Trust Equality & Diversity extranet page, Further support can be obtained from HR, OH, Director of Nursing and the Trust EDHR Lead.

5.22. Providing a Fair and Equitable Service

The Trust is committed to ensuring that no one should receive a negative experience when accessing any Trust services, especially relating to their protected characteristics. The Trust will regularly review patient experience via the 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.

5.23 Translation and interpreting

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, including those set out in the Accessible Information Standard, and in line with the 'Language and Communication Policy' and the 'Staff Guide to Accessing Interpreters' which is available on the EDHR extranet under the 'Equality Extranet pages.

To support our Equality and health inequalities duties we also make arrangements to support the communication needs of people who do not speak and/ or read English, including for British Sign Language users.

This includes:

- Translation of appointment, admission and clinical information for patients into community foreign languages
- Access to interpreters on demand through telephone and/ or video interpretation services for speakers of community foreign languages and people who use British Sign Language (BSL), including to support remote appointments and telephone calls to patients
- Access to pre-booked in person interpreters (with sufficient notice) in community foreign languages and BSL
- Access to bi-lingual advocacy for more complex situations (availability from April 2023)

How to access communication support

- For on demand telephone and video translation please read the detailed guidance on how to access this on Trust devices on the Trust's Equality Extranet
- To request bookable and in person services please complete the interpretation and translation request form on the Equality Extranet pages
- Services requiring frequent translation of documents can request direct access to the booking system for our external provider (please ask the accessible information team for this)

For further advice please contact the accessible information team: [Interpreter request and cancellations \(Equality and diversity\) - tasks and guides \(esht.nhs.uk\)](#) Email: esh-tr.accessibleinformation@nhs.net

5.24. 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. Further details can be obtained by contacting the Procurement Department.

6. Equality and Health Inequality Impact Assessments (EHIA)

To ensure the Trust is compliant with the Public Sector Equality Duty, positive steps are taken to ensure prevention of discrimination in the development and application of Trust Policies, strategies, procedures, and service developments.

Equality and Health Inequalities Assessments (EHIA) are an effective way of improving policy development and service delivery, making sure that we consider the needs of the community, identify potential steps to promote equality and do not discriminate.

The Trust has developed guidance for staff to ensure that all staff understand how to complete an EHIA when:

- Considering any new or changing activity
- Developing or changing service delivery
- Procuring services
- Developing projects
- Developing a policy / procedure / guidance or changing or updating existing ones

Guidance on how to complete the EHIA can be found on the Equality extranet page.

7. Training

All Trust staff are required to undertake the mandatory Equality, Diversity and Human Rights training once every three years. The course content underpins the principles set within this policy. Additional non-mandatory training is available to support Managers with completion of EHIA for policies, procedural documents, strategies and service delivery & change.

The Trust employs a dedicated Equality, & Inclusion Team who will conduct mandatory and non-mandatory training or find other organisations to deliver training on a specific topic.

8. Monitoring Compliance with the Document

Element to be Monitored	Lead	Tool for Monitoring	Frequency	Responsible Individual/Group / Committee for review of results/report	Responsible individual/group/ committee for acting on recommendations/action plan	Responsible individual/group/ committee for ensuring action plan/lessons learnt are Implemented
Recruitment Monitoring -from, shortlisting to appointment stage to identify if there is any inequality relating to race, within the recruitment and selection process.	Recruitment Services Manager and EDI Lead.	Collate and analyse recruitment data. Published EDS2 and WRES.	Annually	WPPG, Workforce Race Equality Standard & Equality Steering Group (ESG)	WPPG, WRES & Equality Steering Group	WPPG, WRES & Equality Steering Group
Workforce Monitoring – to identify any BME under representation within the organisation.	Recruitment Services Manager and EDI Lead.	Collate and analyse workforce demographic data Published in EDS2 and WRES	Annually	WPPG, WRES & Equality Steering Group (ESG)	WPPG, WRES & Equality Steering Group (ESG)	WPPG, WRES & Equality Steering Group (ESG)
Patient Complaints – to assess if there is any particular group that is unfairly treated within.	Patient Experience Manager and EDI Lead.	Collate and analyse complaints data. Published in EDS2 & WRES.	Annually	PESG EDHRSG	PESG EDHRSG	PESG EDHRSG
All policies, strategies & procedural documents to have a Equality & Human Inequality Assessment completed.	EDI Lead	Data collected from Ratification Groups Published in EDS2	Annually	EDHRSG	EDHRSG	EDHRSG

9. References

The NHS Constitution 2015. Available at www.gov.uk

Equality Act 2010. Available at www.opsi.gov.uk

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

NHS England – Online: Equality Hub. Available at www.england.nhs.uk

Equality & Human Rights Commission – Online: Public Sector Providers. Available at www.equalityhumanrights.com

Appendix A: EHRA Form

A Due Regard, Equality & Human Rights Analysis form must be completed for all procedural documents used by East Sussex Healthcare NHS Trust. Guidance for the form can be found [here on the Equality and Diversity Extranet page](#).

Due Regard, Equality & Human Rights Analysis

Title of document: Equality, Diversity & Human Rights Policy
Who will be affected by this work? staff, patients, service users, visitors and partner organisations.
Please include a brief summary of intended outcome: To ensure all who come into contact with the Trust and it's services, whether they are an employee, visitor, patient, service user, carer or relative - are aware of their legal and moral duties to make the Trust a fair and discrimination free organisation.

		Yes/No	Comments, Evidence & Link to main content
1.	Does the work affect one group less or more favourably than another on the basis of: (Ensure you comment on any affected characteristic and link to main policy with page/paragraph number)		
	<ul style="list-style-type: none"> • Age 	Yes	Section 2.2 Principles Section 3 - Definitions
	<ul style="list-style-type: none"> • Disability (including carers) 	Yes	Section 2.2 Principles Section 3 - Definitions Section 5.2 Disability Two Ticks Scheme
	<ul style="list-style-type: none"> • Race 	Yes	Section 2.2 Principles Section 3 – Definitions Monitoring table to identify under represented groups.
	<ul style="list-style-type: none"> • Religion & Belief 	Yes	Section 2.2 Principles Section 3 - Definitions Section 5.12 Cultural and Religious Needs
	<ul style="list-style-type: none"> • Gender 	Yes	Section 2.2 Principles Section 3 - Definitions
	<ul style="list-style-type: none"> • Sexual Orientation (LGBT) 	Yes	Section 2.2 Principles Section 3 - Definitions
	<ul style="list-style-type: none"> • Pregnancy & Maternity 	Yes	Section 2.2 Principles Section 3 - Definitions
	<ul style="list-style-type: none"> • Marriage & Civil Partnership 	Yes	Section 2.2 Principles Section 3 - Definitions
	<ul style="list-style-type: none"> • Gender Reassignment 	Yes	Section 2.2 Principles

			3 - Definitions
	<ul style="list-style-type: none"> Other Identified Groups 	No	
2.	Is there any evidence that some groups are affected differently and what is/are the evidence source(s)?	Yes	The aim of this policy is to provide protection to all groups
3.	What are the impacts and alternatives of implementing / not implementing the work / policy?	Implementing the policy along with training will ensure all staff are aware of their legal and moral obligations regarding Equality.	
4.	Please evidence how this work / policy seeks to “eliminate unlawful discrimination, harassment and victimisation” as per the Equality Act 2010?	Section 3 – Definitions; gives clear definitions of the types of discrimination and phobias Section 5.8 – Disciplinary Action	
5.	Please evidence how this work / policy seeks to “advance equality of opportunity between people sharing a protected characteristic and those who do not” as per the Equality Act 2010?	Section 3 – Definitions; gives clear definitions of the types of discrimination and phobias giving clear direction of the types of behaviour that is not accepted within the Trust Section 5.12 - Cultural and Religious Needs Section 5.2 – Disability Two Ticks Scheme Section 5.2 – Disability Two Ticks Scheme Monitoring table to identify under represented groups.	
6.	Please evidence how this work / policy will “Foster good relations between people sharing a protected characteristic and those who do not” as per the Equality Act 2010?	Section 4.6 - Employees Section 5.12 - Cultural and Religious Needs Monitoring table to identify under represented groups and promote recruitment of under-represented groups. Section 5 & 5.7 -	
7.	Has the policy/guidance been assessed in terms of Human Rights to ensure service users, carers and staff are treated in line with the FREDA principles (fairness, respect, equality, dignity and autonomy)	The entire policy aims to promote the FREDA principles and the pledges contained in the NHS Constitution. Section 1	
8.	Please evidence how have you engaged stakeholders with an interest in protected characteristics in gathering evidence or testing the evidence available?	See consultation table page 1	
9.	Have you have identified any negative impacts or inequalities on any protected characteristic and others? (Please attach evidence and plan of action ensure this negative impact / inequality is being monitored and addressed).	None as this policy seeks to eliminate inequalities.	

Legislation

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.”

The Equality Act 2010 simplifies and harmonises several pieces of legislation, 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, followed by the Public Sector Equality Duty that came into effect April 2011 and then 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.

Appendix C: Trust Values

East Sussex Healthcare NHS Trust Values

Respect and compassion

We care about acting with kindness. We want our staff, patients and local people to have a positive experience of us.

Working together

We care about building on everyone's strengths. We develop strong teams and partnerships to benefit local people.

Engagement and involvement

We care about involving people in our planning and decision-making. We want patients, staff and the public to help us to shape the delivery of high quality and safe care.

Improvement and development

We care about striving to be the best. We want to continue to improve our services and make the best use of our people and resources for the benefit of our patients.

