Policy No. (HR12)
Equality and Diversity Policy
(Encompassing Employment and Service Provision)

The following personnel have direct roles and responsibilities in the implementation of this policy:

- All Trust Staff

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<td>Ratified by</td>
<td>Executive Committee</td>
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<tr>
<td>Date Ratified</td>
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<td>Specialist Forum Approved by</td>
<td>Hospital Management Forum</td>
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<td>Trust Contact</td>
<td>HR Manager</td>
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## Version Control Schedule

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Statement on Trust Policies

Staff Side and Trade Unions
The University Hospital of North Staffordshire NHS Trust is committed to ensuring that, as far as is reasonably practicable, the way in which we provide services to the public and the way in which we treat our staff reflects their individual needs and does not discriminate against individuals or groups on any grounds.

Equality and Diversity
The University Hospital of North Staffordshire aims to promote equality and diversity and value the benefits this brings. It is our aim to ensure that all staff feel valued and have a fair and equitable quality of working life.

Equality Impact Assessment
The organisation aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. The Equality Impact Assessment tool is designed to help you consider the needs and assess the impact of your policy.

Information Governance
Any Trust policy which impacts on or involves the use and disclosure of personal information (patient or employee) must make reference to and ensure that the content of the policy is comparable with the relevant statutory or legal requirement and ethical standards.

Data Protection Act 1998 and the NHS Confidentiality Code of Practice
The Data Protection Act (DPA) provides a framework which governs the processing of information that identifies living individuals. Processing includes holding, obtaining, recording, using and disclosing of information and the Act applies to all forms of media, including paper and images. It applies to confidential patient information but is far wider in its scope, e.g., it also covers staff personnel records. The DPA provides a legal gateway and timetable for the disclosure of personal information to the data subject (e.g., health record to a patient, staff file to an employee).

Whilst the DPA applies to both patient and employee information, the Confidentiality Code of Practice (COP) applies only to patient information. The COP incorporates the requirements of the DPA and other relevant legislation together with the recommendations of the Caldicott report and medical ethical considerations, in some cases extending statutory requirements and provides detailed specific guidance.

Freedom of Information Act 2000
The Freedom of Information Act 2000 (FOIA) is an Act which makes legal provision and creates a legal gateway and timetable for the disclosure, to the public, of the majority of corporate information held (but not necessarily created) by this Trust. The Trust has a legal responsibility to proactively provide a large amount of information to the public and to proactively respond to specific requests for information. Information will not be disclosed when the Trust can claim legal exemption. Any non-disclosure must be conveyed in writing; quoting the relevant exemption together with signposting to internal and external methods of complaint. Locally, guidance on the DPA, FOIA and COP can be obtained from the Information Governance Manager or the Caldicott Guardian.

Mental Capacity Act
Any Trust policy which may affect a person who may lack capacity should comply with the requirements of the Mental Capacity Act 2005 (MCA)

The MCA and its associated Code of Practice provides the framework for making decisions on behalf of individuals who lack the mental capacity to do these acts or make these decisions for themselves. Everyone working with and/or caring for adults who lack capacity, whether they are dealing with everyday matters or life-changing events in the lives of people who lack capacity must comply with the Act.

In a day to day context mental capacity includes making decisions or taking actions affecting daily life – when to get up, what to wear, what to eat etc. In a legal context it refers to a person’s ability to do something, including making a decision, which may have legal consequences for the person lacking capacity, or for other people.

The Code provides guidance to all those working with and/or caring for adults who lack capacity, including family members, professionals and carers. It describes their responsibilities when acting or making decisions with, or on behalf of, individuals who lack the capacity to do this for themselves. In particular, it focuses on
those who will have a duty of care to a person lacking capacity and explains how the legal rules set out in the Act will work in practice.

The Health Act: Code of Practice for the Prevention and Control of Health Care Associated Infections
The purpose of the Code is to help NHS bodies plan and implement how they can prevent and control HCAI. It sets out criteria by which managers of NHS organisations are to ensure that patients are cared for in a clean, safe environment, where the risk of HCAI is kept as low as possible. Failure to observe the Code may either result in an Improvement Notice being issued by the Care Quality Commission, or in the Trust being reported for significant failings and placed on ‘Special Measures’.

The Code relates to healthcare provided by all NHS bodies. Each NHS body is expected to have systems in place sufficient to comply with the relevant provisions of the Code, so as to minimise the risk of HCAI to patients, staff and visitors.

The Trust Board must have an agreement outlining its collective responsibility for minimising the risks of infection and the general means by which it prevents and controls such risks.

Effective prevention and control of HCAI must be embedded into everyday practice and applied consistently by all staff.

Human Rights
The Trust is committed to the principles contained in the Human Rights Act. We aim to ensure that our employment policies protect the rights and interests of our staff and ensure that they are treated in a fair, dignified and equitable way when employed at the Trust.

Sustainable Development
University Hospital North Staffordshire NHS Trust recognises the impact that its operations have on the environment as well as the strong link between sustainability, climate change and health. The trust is committed to continual improvement in minimising the impact of activities on the environment and expects all members of staff to play their part in achieving this goal and in particular to work towards a 10% carbon reduction by 2015. The Green Aware Campaign is designed to support you to do this. All trust policy should embed sustainability and refer to our Sustainable Development Management Plan where relevant. Further information and guidance can be obtained from the Trust Sustainability Manager.
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1. **INTRODUCTION**

The University Hospital of North Staffordshire NHS Trust as a major employer and service provider is committed to building a workforce which is valued and whose diversity reflects the community it serves, enabling it to deliver the best possible healthcare service to those communities.

The Trust’s Equality and Diversity Policy (hereafter known as The/This Policy) has been developed taking into account current UK and EC legislation and guidelines issued by the Equalities and Human Rights Commission on compliance with the Equality Act 2010.

All Trust policies and procedures will dovetail into the Equality and Diversity Policy.

2. **STATEMENT**

The University Hospital of North Staffordshire NHS Trust believes that unlawful discrimination is unacceptable. The Trust aims to become an equal opportunities organisation by ensuring that all patients, applicants, employees, contractors, agency staff and visitors will receive appropriate treatment and will not be disadvantaged by conditions or requirements which cannot be shown to be justified. This is particularly on the grounds of a protected characteristic as defined in the Equality Act 2010 i.e. age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, gender or sexual orientation. They will also not be disadvantaged because of their trade union activity or political belief.

The Trust as an employer will not discriminate against any member of staff or treat them less favourably because of a protected characteristic or because they perceive the employee to have a protected characteristic (discrimination by perception). It will also ensure that a member of staff with a protected characteristic is not disproportionately disadvantaged as compared to those who do not share that characteristic. It will also ensure that there is no discrimination against an employee because they associate with another person who possesses a protected characteristic (discrimination by association).

Equal opportunities and the embracing of diversity will be central to everything we do from advertising vacancy, shortlisting candidates, interviewing, promotion, transfer, training, terms and conditions and dismissal.

This Policy and its implementation strategy is fundamental to the delivery of good quality patient care. This can only be achieved by the Trust valuing and respecting the diverse talents of its employees and continuing to recruit and apply good employment practice in order to enrich this diversity.

This Policy is written on the premise that inequalities in employment will lead to inequalities in service delivery. By addressing any inequalities in employment practices, the Trust seeks to ensure that all service users receive fair and equal treatment.

The Trust is committed to improving services and meeting the needs of the communities it serves. It recognises the importance of effective consultation and communication. This Policy seeks to satisfy service users by providing services that reflect the needs of the local community.
3. **SCOPE**

This policy applies to all areas of the Trust and all individuals employed by the Trust including contractors, voluntary workers, students, locum and agency staff and those holding honorary contracts. The overarching principles are included as appendix 1.

4. **DEFINITION OF TERMS**

**Protected Characteristics** The Equality Act 2010 protects against discrimination on the grounds of Age, Disability, Gender reassignment, Marriage and civil partnership, Pregnancy and Maternity, Race, Religion or belief, Sex or Sexual orientation. These are described in the Act as Protected Characteristics.

**Direct Discrimination** is where a person treats another person or group less favourably because of their protected characteristic.

**Indirect Discrimination** arises when an organisation has selection criteria, policies, employment rules or any other practices which, although applied equally to all employees can have the effect of disadvantaging a person or group because of their protected characteristic.

**Discrimination by Association** Discrimination occurs if an employer discriminates against an employee because they associate with another person who possesses a protected characteristic.

**Discrimination by Perception** 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 characteristic.

**Harassment** This is defined in the Equality Act 2010 as “unwanted conduct related to a relevant protected characteristic which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual”

5. **RESPONSIBILITIES**

5.1 **Executive Board**

Lead responsibility for the implementation of this Policy rests with the Executive Board, who will ensure the Policy is observed within their sphere of responsibility and that it is reviewed on a corporate basis, as appropriate. The Lead Directors responsible for this are the Director of Human Resources and the Chief Nurse.

5.2 **Managers and Supervisors**

Managers and Supervisors are responsible for ensuring that all staff are aware of their responsibilities under the Policy and that it is implemented throughout their sphere of responsibility. They also have a responsibility under this Policy to ensure that proper records of employment decisions are maintained (see also Trust Policies on Recruitment & Selection, Dignity at Work and Grievance).
5.3 Employees, Contractors, Sub Contractors and Volunteers

Whilst the primary responsibility of providing equal opportunity for all is an organisational responsibility, it is also expected that all staff have responsibility for the implementation of this Policy.

Good employee relations and practices depend upon staff attitudes and activities at work. In particular, individual employees and contractors;

- Should operate within established policy and take positive steps to eliminate unlawful discrimination and promote equal opportunity. This applies in terms of applicants, other employees, contractors, agency staff, patients and visitors.

- Should not unlawfully discriminate against other employees, applicants, patients or visitors, or to encourage other employees, unions or management to practice unlawful discrimination.

- Should not victimise individuals on the grounds that they have made complaints or provided information on unlawful discrimination.

- Should be proactive in informing management of unlawful discrimination.

- Should maintain personal awareness of the Policy and associate its principles to their own responsibilities in terms of their contractual obligations and the service that they provide.

5.4 Staff Side

PARTNERSHIP STATEMENT

The University Hospital of North Staffordshire NHS Trust and the Trade Unions representing the workforce are committed to developing local collective bargaining machinery and agreeing a range of industrial relations policies. The Trust and the trade unions are committed to working in partnership to achieve these and other Trust wide, local and national objectives.

It is the role of staff side to raise concerns, or provide support on a member’s behalf as necessary in relation to this policy.

6. EDUCATION AND TRAINING

The Trust is committed to providing appropriate training to all staff on equal opportunities in order to provide positive assistance in the implementation of the Equal Opportunities policy. All staff will have access to awareness raising sessions and training workshops.

The principles of the Equal Opportunities policy are incorporated into the Trust’s Corporate Induction course and included in all local induction packages for newly appointed employees. This is also included in statutory and mandatory training as outlined in Trust policy HR53 Statutory, Mandatory and Best Practice and the Training Needs Analysis. All training should be recorded within staff personal record ideally on ESR.

It is expected that the chair of interview panels will have undertaken Recruitment/Equality and Diversity training.

It is also expected that those involved in chairing disciplinary panels and leading investigations will have undertaken Equality and Diversity training.
For Appointments Advisory Committees to recruit to permanent Consultant posts, all members of the panel are required to have received training in Equal Opportunities.

7. MONITORING AND REVIEW

7.1 Employment

All job applicants are asked for information on ethnic origin, age, gender, sexual orientation, religion or belief and disability.

The Human Resources Directorate produces a report periodically at least every two years for the Trust Board which includes an analysis of the workforce by ethnicity, age, gender and disability. The report also analyses recruitment, promotions, employee relations cases and leavers by ethnicity, age, gender and disability: This report is also presented to TJNCC and the Equality and Diversity Employment Group.

7.2 Service Provision

Complaints about the service the Trust provides are recorded and analysed by the Clinical Governance department to ascertain whether there are trends to suggest perceived discrimination against under-represented groups. Should trends be identified, recommendations will then be made on the approach required to rectify the issue.

Patient information will be collected to address issues for the particular requirements of the community.

In keeping with the requirements of the NHS Plan the Trust has a Patient Advice and Liaison Service (PALS). PALS provide a service whereby patients, carers or visitors may seek rapid resolution of problems or concerns. PALS also has a responsibility to actively seek the views of service users about the services provided, and ensure that this information is utilised to change services accordingly. Patients and members of the public can use PALS not only to gain information about services but also to be referred to specialist advocacy services. Finally PALS will ensure that those who wish to contribute to the development and shaping of local healthcare are enabled to do so.

PALS provide many opportunities to assist in determining the quality of service provision and therefore the improvement of services. For those who may be in groups at risk of discrimination, such issues may impact on an individual or on a whole group. PALS can also make a contribution to ensuring that minority groups can access appropriate advocacy services and can be actively involved in shaping present and future service provision.

7.3 Review

The impact of the Equality and Diversity Policy will be reviewed by the Director of Human Resources and the Chief Nurse in consultation with the appropriate Senior Management and staff groups, every three years, or in line with changes to legislation. The outcome of this review will be made available to TJNCC and LNC for information and policy improvement.

The Director for Human Resources and the Chief Nurse will undertake regular consultation, as appropriate, particularly in respect of any positive action proposals arising from this Policy and its regular review, with all concerned parties. This will include Trade Unions, the Equality and Human Rights Commission and local community groups.
8. REFERENCES

The Equality Act Guidance published by the Equality and Human Rights Commission
NHS Employers Briefing – The Equality Act 2010 Employment implications for the NHS

The NHS Zero Tolerance Campaign

The NHS Constitution

Trust Documents:

Recruitment & Selection Policy and Procedure
Dignity at Work Policy and Procedure
APPENDIX 1

OVERARCHING PRINCIPLES

Workforce Planning & Development

The Trust applies the principle of designing services around the needs of the patient. This principle is followed through in the design of all job roles. In doing so, the Trust aims to serve the needs of its patients by recruiting the staff best able to deliver patient centred care through these roles. The Trust’s workforce plan is continually developed and refined on this basis.

In order to deliver the workforce plan, the Trust has implemented a Recruitment & Selection Protocol, aimed at recruiting the best person for a role. The policy also outlines the responsibilities of recruiting managers in complying with legal and locally agreed requirements. At every stage of the recruitment process, Managers will treat all applicants equally, showing no discrimination on the grounds of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, trade union activity, political belief, sex or sexual orientation. Applicants will be selected against criteria based solely on objective, job related criteria and their ability to do the job applied for. The Trust will consider providing appropriate assistance to ensure equality for all.

Relevant educational, training and development opportunities are open to all staff and all staff should have an opportunity to discuss their training needs with their manager usually at their annual appraisal discussion. Information on education, training and development opportunities is widely publicised, and attendance monitored for audit purposes.

Monitoring information is gathered periodically to ensure there are no inequalities in opportunities for promotion.

Employee Relations

The Trust has developed a number of ‘Employee Friendly’ Policies and also has in place Disciplinary, Dignity at Work and Grievance Policies to process employee relations issues. As with any Trust Policy these are fair and consistent in their manner. Trust policies do not discriminate on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, trade union activity, political belief, sex or sexual orientation.

Instances of harassment under any of the above are treated very seriously and are addressed under the Dignity at Work and Disciplinary Policies. This includes Third Party Harassment (See Definition of Terms Section 10).

All staff have equal access to the staff support services, such as Occupational Health Department, Health & Safety training, and support from Staff Support Counselling services.

Monitoring information is gathered periodically which highlight any inequalities in any employee relations issues and resulting implementation of such policies.

Staff Involvement is an important element in the Trust’s life. This Policy, along with the policies mentioned above, were developed with staff involvement which is ongoing in relation to initiatives such as ‘Improving Working Lives’
Zero Tolerance

The University Hospital of North Staffordshire NHS Trust is committed to developing and maintaining a safe and secure environment, for its patients, staff and visitors and has a duty to take all reasonable steps to protect and support its staff.

Violent and abusive behaviour includes bullying and/or harassment of any description. Violent or abusive behaviour by patients, visitors or staff is not tolerated and decisive action will be taken to protect staff, patients and visitors. This includes combating behaviour contrary to the principles outlined in this Policy on the grounds outlined in the Policy Statement.

Security incidents, including verbal and physical assaults, thefts and criminal damage, are reported using the Trust online reporting system, Datix, and in accordance with the Trust Policy for Reporting and Management of Untoward Incidents including Serious Incidents (RM07). Appropriate investigations and remedial actions are taken. Datix reports facilitate the ability to identify trends in Security related occurrences.

Service Provision

The Trust aims to ensure that its healthcare and facilities are not discriminatory and, wherever possible, attend to the physical, psychological, spiritual, and social and communication needs of any patient or visitor showing no discrimination on the grounds of ethnic origin or nationality, disability, gender, gender reassignment, marital status, age, sexual orientation, race, trade union activity or political or religious beliefs.

Contractors, Agency staff and voluntary workers undertaking work at the Trust are expected to associate the principles of this Policy with their own responsibilities in terms of their contractual obligations and the service they provide.

The Trust investigates any complaint or claim of discrimination in relation to the services it provides. Information relating to comments and complaints about service provision is available in languages appropriate to the community the Trust serves.

The Trust provides an Ecumenical Chaplaincy team that offers spiritual, religious and pastoral care to patients, relatives, carers and staff. The Chaplains are available for all, whatever their beliefs. Within the Trust there is a Prayer Centre Chapel, Mosque and Contemplation Centre on the Lower Ground Floor 2 in the Main Building; they are available for worship, prayer and quiet reflection. The Chaplaincy Service has some local contacts with non-Christian Faith groups.