

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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Trust Contact:	Workforce Equality Manager and Head of Patient Experience
Executive Lead:	Director of HR

University Hospitals of North Midlands NHS Trust
Equality & Diversity Policy

Version Control Schedule

Final Version	Issue Date	Comments
1	November 1995	Policy developed and approved by Executive Committee
2	February 2005	Ratified
3	March 2005	Ratified
4	August 2008	Ratified
5	November 2010	Ratified
6	September 2013	Policy reviewed and approved by Executive Committee
7	November 2016	

Statement on Trust Policies to be included in all policies

Staff Side and Trade Unions

The University Hospitals of North Midlands 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 Hospitals of North Midlands 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 Bill, General Data Protection Regulations (GDPR) and the NHS Code of Confidentiality

GDPR replaces the EU Data Protection Directive of 1995 and supersedes the law of member states that were developed in compliance with the Data Protection Directive 95/45/EC. Its purpose is to protect the “right and freedom” of natural persons (i.e. living individuals) and to ensure that personal data is not processed without their knowledge, and, wherever possible, that it is processed with their consent.

Processing includes holding, obtaining, recording, using and disclosing of information and 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 personal records

While GDPR applies to both patient and employee information, the Confidentiality Code of Practice (COP) applies only to patient information. The COP incorporates, the requirements of GDPR and other relevant legislations together with the recommendations of the Caldicott report and medical ethics 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 pro-actively 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

The University Hospitals of North Midlands NHS Trust (UHM) is committed to demonstrating leadership in sustainability and has a Trust Board approved Sustainable Development Management Plan (SDMP): Our 2020 Vision: Our Sustainable Future which sets out the route to developing a world-class healthcare system that is financially, socially and environmentally sustainable.

There are three 'Key Priorities' to aim for by 2020. With the help of employees, key partners and other stakeholders the trust will embed opportunities to:

1. Reduce our environmental impact, associated carbon emissions and benefit from a healthier environment;
2. Improve the resilience of our services and built environment as a result of severe environmental and climatic changes;
3. Embed sustainable models of care and support our local community to be well-connected, healthy, resilient, independent and managing their lives in a positive way.

The SWITCH campaign is designed to achieve these priorities. It is relevant to all departments and all members of staff. The focus is on using resources sustainably in order to provide better patient care, improve health and our working environment.

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1. INTRODUCTION

The University Hospitals of North Midlands 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 Equality 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 Hospitals of North Midlands 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 as an organisation to create a workplace in which people feel valued, treating people fairly and with dignity and respect at all stages of the employment process from recruitment to termination of employment; access to learning and development and career progression.

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 conditions or 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”.

Victimisation occurs when an employee is treated less favourably (suffers a detriment) because they have made or supported a complaint of discrimination under The Equality Act 2010 or is suspected of doing so.

5. RESPONSIBILITIES

5.1 Executive Board

Lead responsibility for the implementation and promotion 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, have a duty to ensure that discrimination and harassment, or any other breaches of Trust policies do not occur in their departments or areas of work. They also have a duty to give positive support to any measures that will promote equality, diversity and inclusion. Specific responsibilities include:

- Ensuring that all staff are aware of their responsibilities under the Policy and have attended the appropriate mandatory equality and diversity training.

- Ensure that proper records of employment decisions are maintained (see also Trust Policies on Recruitment & Selection, Dignity at Work and Grievance).
- Ensure that Equality Impact Assessments are undertaken on services, organisation change and on appropriate policies/procedures that they have responsibility for.
- Ensure service users who wish to contribute to the development and shaping of local healthcare are enabled to do so.

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 and that they act within the spirit of the Policy and participate in Equality and Diversity Training every 3 years.

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

- Should act in ways that are in accordance with this Policy and with Trust values.
- Act fairly and compassionately.
- 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 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 about unlawful discrimination.
- Should be proactive in informing management if they suspect that discrimination, harassment, bullying, abuse, victimisation or offensive banter has taken place
- 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 Hospitals of North Midlands NHS Trust and the Trade Unions representing the workforce are committed to developing and agreeing a range of industrial relations policies as laid out in the Trust Policy for Recognition and Local Collective Bargaining Arrangements HR06. 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

Appropriate mandatory training will be provided to ensure that staff and managers understand their responsibilities under the Policy. Equality, diversity and inclusion themes will be integrated into other Trust learning and development programmes as appropriate.

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 Monitoring Compliance

Analysing data from both a service and a workforce perspective is essential to inform decisions in the organisation. The Annual Equality Report sets out how the Trust has met the Public Sector Equality Duty, along with the Annual Equality and Diversity Workforce Report. These reports will be published on the Trust website.

The Trust, in order to meet its legal requirements adopted the Equality Delivery System (EDS2) as the mechanism of demonstrating how the Trust delivers better outcomes for patients and communities and better working environments for our staff. The Trust will review the EDS2 annually and set equality objectives at least every four years.

7.2 Employment

Equality monitoring for all job applicants, starters, and leavers is recorded for ethnic origin, age, gender, sexual orientation, religion or belief and disability status.

The Human Resources Directorate produces an annual report 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, Diversity and Inclusion Group.

7.3 Service Provision

Complaints about the service the Trust provides are recorded and analysed by the Quality, Safety and Compliance 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.

As a result of patient feedback the Patient Experience Department is able to 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. The Patient Experience Group 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.

7.4 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

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 personal development review, which includes the Maximising Conversation Toolkit, a national inclusive approach to talent management for all NHS Staff. 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 (instances where employees are harassed by people who are not employees of the Trust, such as patients or members of the public).

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 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 part of the Trust's staff engagement strategy.

Zero Tolerance

The University Hospitals of North Midlands 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 SRI and STEIS Reportable 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 at Royal Stoke Hospital and a Chapel and Prayer Room at County Hospital; they are available for worship, prayer and quiet reflection. The Chaplaincy Service has some local contacts with non-Christian Faith groups.