

Workforce Equality and Diversity Policy

Type of Document	Policy
Code:	STHK0088
Policy Sponsor	Deputy Human Resources Director
Lead Executive	Human Resources Director
Recommended by:	Policy Sub-Group
Date Recommended:	April 2014
Approved by:	Workforce Council
Date Approved :	May 2014
Author(s):	Equality and Diversity Lead
Date issued:	July 2014
Review date:	31 st January 2018
Target audience:	All Staff
Document purpose	The purpose of this policy is to provide guidance and advice to managers and ensure that there is no unlawful or unfair discrimination on any grounds.
Training requirements	Equality and Diversity Training is mandatory for all staff.
Associated documents and Key References	<p>Equality Act 2010 The Human Rights Act 1998 Employment Rights Act 1996 Recruitment and Selection Policy Respect and Dignity at Work Policy Disciplinary Policy Attendance Management Policy Flexible Working Policy Special Leave Policy</p> <p><i>“What Equality Law means for you as an Employer”</i>. Equality and Human Rights Commission.</p> <p><i>“The Equality Act 2010: Employment Implications for the NHS”</i> Briefing 74, NHS Employers.</p> <p><i>“Equality Act Statutory Code of Practice”</i> Equality and Human Rights Commission.</p>
Financial Resource Implications	No additional resources required

Consultation, Communication and Implementation

Consultation Required	Authorised By	Date Authorised	Comments
Analysis of the effects on equality	Equality and Diversity Lead	April 2014	
External Stakeholders	No Applicable		
Trust Staff Consultation via Intranet	Start date: April 2014 - via Policy Sub Group		End Date: June 2017

Describe the Implementation Plan for the Policy (and guideline if impacts upon policy) (Considerations include; launch event, awareness sessions, communication / training via Divisions and other management structures, etc)	Timeframe implementation for	RAG	Who is responsible for delivery
Policy will be disseminated via Team Brief and staff advised that the policy is available on the Intranet. HR Business Partners will raise awareness at Divisional meetings	July/August 2014		Equality and Diversity Lead
Part of corporate induction and mandatory training	July 2014 onwards		Assistant Director of OD

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Monitoring Compliance with the Policy

Describe Key Performance Indicators (KPIs)	Target	How will the KPI be Monitored?	Which Committee will Monitor this KPI?	Frequency of Review	Lead
Ensure "Equality Analysis" is completed for all Trust Policies	100%	Audit of Policies published on Trust Intranet	Equality and Diversity Steering Group reporting to Workforce Council	Every 3 Months	Equality and Diversity Lead

Performance Management of the Policy

Who is Responsible for Producing Action Plans if KPIs are not met?	Which committee will monitor these action plans?	Frequency of Review (To be agreed by Committee)
Head of HR	Workforce Council	annual

How will Learning occur?	Who is responsible
Equality & Diversity Training is mandatory for all Trust Staff. Understanding of the Policy will be supplemented by coaching as required	Assistant Director of OD
Archiving including retrieval of archived document	By whom will policy be archived and retrieved

Document Version History

Date	Version	Author Designation	Summary of key changes
June 2011	01	Patient & Workforce Equality Lead	Updated to reflect Equality Act 2010
Feb 2017	02	Patient & Workforce Equality Lead	Updated to reflect updated legislation relating to Third party harassment
June 2017	03	Project Administrator	Review date extended from June 2017 to 31 st January 2018

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Executive Summary

1. Policy Aim

To prevent direct discrimination (including associative and perceptive discrimination and discrimination arising from a disability), indirect discrimination, harassment (including associative and perceptive harassment) and victimisation for all staff and potential employees.

The policy relates to the management of the Trust's Workforce and does not relate to patient care.

To ensure equality by eliminating conditions, requirements, procedures and practices that are discriminatory and unjustified.

To recruit, develop and retain a high quality workforce which is representative of, and appropriate to, the diverse needs of our patients.

To ensure that staff have access to development and are supported to realise their potential, which will enable the Trust to continuously improve services.

2. Policy Description

It is Trust policy to provide employment equality for all and no applicant, employee or worker will receive less favourable treatment on the grounds that they possess a "protected characteristic" as defined by the Equality Act 2010 or any other individual characteristic, for example, social class or carer status.

The protected characteristics are as follows:-

- gender,
- race,
- disability,
- age,
- sexual orientation,
- religion or belief,
- gender reassignment.
- marriage or civil partnership,
- pregnancy and maternity

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The Trust will ensure that all its policies are compliant with the Equality Act 2010 (Appendix 1 gives details of the legislation underpinning previous policies which has now been superseded by Equality Act 2010).

The purpose of this policy is to ensure that there is no unlawful or unfair discrimination on any grounds.

The Trust opposes all forms of unlawful and unfair discrimination and recognises the right of all employees to be treated with dignity and respect in all working relationships.

1. Introduction

St Helens and Knowsley Teaching Hospitals NHS Trust recognises that discrimination is unacceptable and is committed to a policy of equal opportunity.

The Trust recognises that everyone is different and that as an organisation we must value and respect this diversity in order to ensure that staff are encouraged to realise their full potential. Capitalising on the knowledge and skills of its staff this will enable the Trust to maximise efficiency and ensure delivery of a first class service to all patients.

The Trust recognises the importance of developing and retaining a workforce that is representative of the community that it serves in order to ensure that the diverse needs of different groups and individuals are met.

2. Policy Objectives

The objectives of the policy are to ensure that the Trust

- is legally compliant
- promotes the Policy within the organisation
- provides an easily understood ethos for staff and applicants for employment in relation Equality and Diversity

3. Definitions

Definitions

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- **Direct Discrimination**

Direct discrimination occurs when someone is treated less favourably than another person because they possess a particular protected characteristic.

- **Associative Discrimination**

Associative Discrimination is direct discrimination against someone because they associate with another person who possesses a protected characteristic. For example, you cannot refuse to recruit or promote somebody because they have to care for an elderly relative or a disabled child

- **Perceptive Discrimination**

Perceptive Discrimination is direct discrimination against someone because others think they possess a particular protected characteristic, even if that person does not actually possess the characteristic. For example, you cannot refuse to recruit somebody because you think they are Muslim (whether they are or not) or to promote somebody purely because the perception is that they don't look old enough.

- **Discrimination Arising from Disability**

“Discrimination arising from Disability” is a new concept. For the purposes of the Equality Act 2010 a person has a disability if he or she has a physical or mental impairment and the impairment has a **substantial** and **long-term** adverse effect on his or her ability to carry out normal day to day activities.

A long-term effect of an impairment is one:

- which has lasted at least twelve months; or
- where the total period for which it lasts, from the time of first onset, is likely to be at least 12 months; or
- which is likely to last for the rest of the person affected

Whether a person satisfies the definition of a disabled person for the purposes of the Act will depend upon the full circumstances of the case and is generally determined by reference to the **effect** that an impairment has on that person's ability to carry out normal day-to-day activities.

Unlike the Disability Discrimination Act 1995, the Equality Act 2010 does not require a disabled person to demonstrate that, where their impairment

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adversely affects their ability to carry out a normal day-to-day activity, that activity involves one of a specified list of capacities.

- **Indirect Discrimination**

Indirect discrimination can occur when there is a condition, rule, policy or practice that is applied to everyone, but which particularly disadvantages people who share protected characteristics.

- **Harassment**

Harassment is “unwanted conduct related to a relevant protected characteristic which has the purpose or effect of violating an individual’s dignity or creating an intimidating, humiliating or offensive environment for that individual.

Employees are also protected from harassment because of association or perception.

Employees can also complain of behaviours they find offensive even if it is not directed at them.

Complainants need not possess the relevant protected characteristic themselves

- **Victimisation**

Victimisation occurs when an employee is treated badly because they because they have made or supported a complaint, or raised a grievance, under the Equality Act 2010, or because they are suspected of doing so. An employee is not protected from discrimination if they have maliciously made or supported an untrue complaint.

4. Duties Accountabilities and Responsibilities

Trust Board

The lead Director for this policy is the Director of Human Resources. In addition all Executive Directors are responsible for ensuring that equality and diversity is integrated into all Trust business, both in terms of service delivery and the treatment of staff

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Managers

Will ensure that this policy is implemented within their area of responsibility and that all staff are aware of what it means to them.

Will raise awareness of diversity, acting as a role model for others and developing their skills to deal with issues relating to discrimination, harassment and victimisation.

Will work with the Human Resources Team to ensure the resolution of issues relating to discrimination, harassment and victimisation within their work area are dealt with in accordance with the Trust's Respect and Dignity at Work and Disciplinary policies.

All Staff

Will maintain a professional working environment, treating other employees and service users with respect at all times.

Will be aware of their responsibilities under this policy and report any inappropriate behaviours to their line manager, HR or their professional representative body.

Human Resources Department

Will ensure that all HR policies, practices and procedures are in line with the legislative requirements of the Equality Act 2010.

Will provide communication and training to managers and staff to ensure awareness of this policy and of their responsibilities under it.

Will monitor the effectiveness of this and other policies and procedures, taking necessary action as appropriate

Will report relevant equality and diversity monitoring information to the Board.

Will work with managers to resolve issues relating to harassment and discrimination within their work area, in accordance with the Trust's Respect and Dignity at Work and Disciplinary policies.

5. Policy Information

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Equality and Human Rights

St Helens and Knowsley Teaching Hospitals NHS Trust is committed to creating a culture that promotes equality and embraces diversity in all its functions as both an employer and a service provider. It aims to provide a safe environment, free from discrimination, and a place where all individuals are valued and are treated fairly. The Trust adheres to legal requirements and seeks to mainstream the principles of equality and diversity through all its policies, procedures and processes. This policy will be implemented with due regard to this commitment.

All policies, procedures and practices will be reviewed to ensure that they do not have any adverse impact on those people possessing a protected characteristic.

Recruitment and Selection

- Decisions concerning recruitment and selection must be based solely on objective and job-related criteria, which should be applied fairly and consistently to everyone.
- When specific qualifications are requested, managers must be able to justify fully their need in objective terms and make it clear that equivalent qualifications and, where appropriate, experience will be considered
- The Trust will ensure that job applicants and prospective and current employees are treated solely on the basis of their merits, abilities and potential without any unjustified or unlawful discrimination on the grounds of gender, race, disability, age, sexual orientation, religion or belief, marriage or civil partnership, pregnancy and maternity and gender reassignment or any other individual characteristic, for example, social class or carer status.
- Vacancies must be advertised in a way that is accessible to a large and diverse audience.
- Short-listing panels must consist of at least two people and decisions must be based on skills and ability alone. The rationale for decisions must be clearly recorded and these will be subject to audit to ensure that they are unbiased.

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- Where more than one applicant demonstrates the required competence, the individual who is more competent or offers the best skill mix should be appointed.
- The Trust will continue to develop fair and open recruitment procedures and will ensure that all staff with a responsibility for recruitment are trained in the role.
- Recruitment procedures will be regularly monitored to identify areas for improvement.
- All applicants should be informed that the Trust encourages equal opportunities and operates a Workforce Equality and Diversity policy.

Promotion

- Opportunities for promotion must be advertised as widely as possible and decisions will be based solely on the individual's merits, abilities, experience and possession of appropriate and necessary qualifications
- Promotion procedures will be regularly monitored to identify areas for improvement.

Learning and Development

- Participation in training courses will be monitored to ensure that all staff groups are taking part.
- The style, location and suitability of training should also be reviewed in order to ensure that there are no barriers to any particular group and to ensure that everyone is encouraged to participate.
- Information on learning, training and development opportunities will be widely publicised throughout the Trust and all employees will be encouraged to access opportunities to enable them to progress.
- The performance appraisal system must be regularly audited to ensure that it is working fairly and without bias and that managers are not making any judgments on the basis of preconceptions.

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Disability-Related Absence

Where an absence occurs which is related to a disability, the absence may be considered a reasonable adjustment when it is to allow the employee time for treatment, assessment or rehabilitation. Such absences will not be recorded as an absence due to sickness but as a disability-related absence. (The employee must be classified as disabled under the Equality Act 2010 and have previously disclosed their disability.)

Partnership Working

The Trust is committed to working with partners and other groups to integrate Equality and Diversity into policy-making, service delivery and monitoring arrangements.

Dissemination

The Trust acknowledges the importance of awareness training for line managers to ensure the effective dissemination and implementation of this policy. Working in partnership, the Human Resources Department will provide appropriate support including policy briefing sessions and information at Trust induction.

Respect at Work

- Any employee who feels that they have been the subject of bullying, harassment or victimisation on any grounds should raise their concerns with their Line Manager under the Trust's Respect and Dignity at Work Policy
- Any employee witnessing such behaviour has a responsibility to report this in conjunction with the Trust's Raising Concerns Policy.
- Behaviour found to be in breach of this Policy may result in action being taken in accordance with the Trust Disciplinary Procedure. Furthermore, the individuals concerned may be subject to criminal prosecution.

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Monitoring of Compliance

This policy will be reviewed every three years unless changes in practice in practice/legislation necessitate more frequent reviews.

Additionally, all policies, procedures and practices will be reviewed to ensure that they do not have an adverse impact on any of the protected characteristics:- gender, race, disability, age, sexual orientation, religion or belief, marriage or civil partnership, pregnancy and Maternity and gender reassignment or any other individual characteristic, for example, social class or carer status.

If a policy, procedure or practice is found to have an adverse impact, the author/s must consider all other alternatives, which may more effectively achieve the promotion of equality of opportunity. This may include the development of specific measures to mitigate the adverse impact.

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6. Equality Analysis

		Yes/No	Comments
1.	Does the document/guidance affect one group less or more favourably than another on the basis of:		
	• Ethnicity	No	
	• Age	No	
	• Disability - learning disabilities, physical disability, sensory impairment and mental health problems	Yes	Disability Related Absence
2.	Is there any evidence that some groups are affected differently?	Yes	
3.	If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable?	Yes	Legal – Equality Act 2010
4.	Is the impact of the document/guidance likely to be negative?	No	
5.	If so, can the impact be avoided?	N/A	
6.	What alternative is there to achieving the document/guidance without the impact?	N/A	
7.	Can we reduce the impact by taking different action?	N/A	

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7. Training

Appropriate Equality and Diversity training will be undertaken by all staff in order to reduce the likelihood of discrimination, harassment and victimisation taking place and limit liability if a complaint is made. Training provided will be in line with the needs identified in Training Needs Assessments (TNAs).

8. Appendixes

APPENDIX 1

THE EQUALITY ACT

The Equality Act 2010 aimed to strengthen, harmonise and streamline previous equality legislation. It replaced the following legislation:-

- Equal Pay Act 1970,
- Sex Discrimination Act 1975,
- Race Relations Act 1976,
- Disability Discrimination Act 1995
- Equality Act 2006
- Employment Equality (Religion or Belief) Regulations 2003,
- Employment Equality (Sexual Orientation) Regulations 2003,
- Employment Equality (Age) Regulations 2006, and
- Equality Act (Sexual Orientation) Regulations 2007.

The Act introduced the new terminology of “protected characteristics” to which it then applies, in a consistent way. the prohibited behaviours of direct discrimination, indirect discrimination, victimisation and harassment. The protected characteristics are: - gender, race, disability, age, sexual orientation, religion or belief, marriage or civil partnership, pregnancy and maternity and gender reassignment

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