

Equality, Diversity and Inclusion Policy

Version:	5.0.1
Bodies consulted:	Recognised Trade Unions Equality, Diversity and Inclusion Committee
Approved by:	Trust Board
Date Approved:	February 2019
Lead Manager:	Deputy Director of Education & Training HR Business Partner Service Directors
Responsible Director:	Director of Quality and Patient Experience Director of HR & Corporate Governance Director of Education and Training / Dean of Post Graduate Studies
Date issued:	February 2019
Review date:	February 2024



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Equality, Diversity and Inclusion Policy

1 Introduction

The Tavistock and Portman NHS Foundation Trust (the Trust) opposes all forms of unfair and unlawful discrimination, therefore, all job applicants, employees, services users, students and individuals that interact with the trust will be treated fairly and equally.

2 Purpose

This policy states the Trust's commitment and intent to creating an organisation that is diverse, inclusive and provides equality of opportunity for all.

3 Scope

The following policy applies to all members of staff, service users, students and other individuals that provide services delivered by and on the Trust's behalf.

This policy also applies to third parties such as contractors, agency workers, service users and service users' relatives.

4 Definitions

Equality

Equality is about ensuring that every individual has an equal opportunity to make the most of their lives and talents.

It is also the belief that no one should have poorer life chances because of the way they were born, where they come from, what they believe, or whether they have a disability.

Equality recognises that historically certain groups of people with protected characteristics such as age, disability, gender re-assignment, sex, sexual orientation, race or due to the fact that they have chosen to have children have experienced discrimination.

Diversity

Diversity is about recognising difference and understanding and respecting those differences. It is acknowledging the benefit of having a range of perspectives in decision-making, widening participation and making a workforce representative of the organisation's service users.

Inclusion

Inclusion is where difference is seen as a benefit, and where perspectives and differences are shared, leading to better decisions. An inclusive working environment is one in which everyone feels valued, that their contribution matters and they are able to perform to their full potential, no matter their background, identity or circumstances. An inclusive workplace enables a diverse range of people to work together effectively.

Protected characteristic

It is against the law to discriminate against someone because of:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex

- Sexual orientation

These are called protected characteristics.

Direct discrimination

Takes place when a person or group of people are treated less favourably than other people in the same or similar circumstances. For example, choosing not to employ somebody to meet the requirements of the job because they are black, married with children, because they have a disability, because they are gay or lesbian or that they over 55 would all constitute direct discrimination.

Indirect discrimination

Takes place when a requirement or condition has the effect of discriminating unfairly and unjustifiably between one group, or individual, over another. This can be quite unintentional. However, particular attention must be taken to avoid this form of discrimination since it tends to occur more readily and frequently than direct discrimination. For example, standard entry qualifications applied automatically across a wide range of jobs, may lead to a situation where applicants are asked to meet requirements which are not actually relevant to the needs of the job. Insisting on higher language standards than are necessary for safe and effective job performance would tend to disqualify people for whom English is not their first language, at a higher rate than others. Insisting on an unnecessary physical requirement could discriminate against one sex in favour of another, and so on.

Institutional discrimination

The collective failure of an organisation to provide an appropriate and professional service to people because of their race, sex, age, sexual orientation or any other protected characteristic. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and stereotyping which causes disadvantage.

Discrimination by perception

Where an employee is discriminated based on an incorrect perception that an individual has a protected characteristic. For example that an employee is disabled when they are not.

Associative discrimination

Where someone is discriminated against because of their association with someone who has a protected characteristic.

Harassment

Individual or repeated, and unwelcome comments, actions, suggestions or physical contact that are found objectionable by a person from a particular group covered by this policy and would cause them discomfort in their job. Harassment cannot be justified on the grounds that it was carried out in jest.

Victimisation

Is unlawful. A person is victimised, for example, if they are given less favourable treatment than others because it is suspected or known that they have brought legal proceedings against an employer or given evidence or information relating to such proceedings, or alleged that discrimination has occurred.

Genuine occupational qualification (GOQ)

Enables an employer to recruit, train, promote or transfer a person of a particular sex or racial group where the job involves providing personal services to the respective groups to promote their welfare or education and the services could most effectively be provided by a person of that group or where considerations of decency or privacy require the job to be held by a person of a particular sex or religion (e.g. an advert for a Christian Chaplain).

A GOQ cannot be used to justify a dismissal. Also a GOQ cannot be claimed simply because the job calls for physical strength or stamina.

5 Policy Statements

Commitment to equality

We are committed to equality of opportunity, therefore, it is our policy that no service user; former, present or future employee; or, job applicant receives less favourable treatment (actual or perceived) on the grounds of age, disability, gender reassignment, marriage or civil partnership, maternity and pregnancy, race, religion or belief, sex or sexual orientation.

Our commitment is expanded to ensure that an individual who is associated with or perceptually associated with an individual with a protected characteristic is protected by the provisions of this policy.

The chief executive and trust board will ultimately be responsible for ensuring that this policy is implemented, however, staff and managers will play the biggest role in ensuring that no individual is subject to less favourable treatment.

Any individual that feels they are subject to discrimination has the right under this policy to seek redress through appropriate policies whether that be a formal complaint or a grievance.

Employing workers with disabilities

Where applicants identify that they have a disability, throughout the course of recruitment, they will be guaranteed an interview should they meet the minimum essential criteria set to perform the duties of the role.

The above provisions will then extend to considering, exploring and making reasonable adjustments to support individuals with disabilities to attend interviews or perform the duties of a role. In all instances our employee health and wellbeing service will advise on how individuals with disabilities can have reasonable adjustments made.

Under-represented groups

People from underrepresented groups will be encouraged to apply for training and employment opportunities. Wherever possible, relevant training will be provided to prepare them to compete on genuinely equal terms of

jobs and promotion. However, actual appointment to all jobs will be strictly on merit.

Where necessary, we will use lawful (General Occupational Qualifications) exemptions to recruit suitably qualified people to cater for the specific requirements needs of particular groups.

Wherever possible efforts will be made to identify and remove unnecessary/unjustifiable barriers and provide appropriate facilities and/or conditions of service to meet the special needs specific requirements to disadvantaged and/or underrepresented groups.

6 Duties and responsibilities

The Trust board will:

Commit to eradicating discrimination within the work place and ensure that this policy is applied and where it does occur to ensure managers are equipped to respond appropriately and seriously.

Ensure that all policies and procedures are compliant with the provisions of the Equality Act 2010 and the Specific Duties Regulations 2011.

Conduct equality impact assessments on all of its policies, procedures and when developing clinical and non-clinical services.

Publish its service user, student and workforce reports annually and produce an action plan to address issues of inequality.

Establish appropriate management and scrutiny groups to ensure that national requirements are implemented and that the Trust is responding the unique needs of the organisation.

Line managers will:

Be responsible for implementing this policy at an operational level and ensure that the principles are applied to service delivery.

Ensure that staff they manage are compliant with all appropriate mandatory training.

Challenge and manage behaviours that are not acceptable, constitute bullying or harassment or victimisation and contradict our living values or the principles of this policy.

Ensure grievances relating to discrimination are investigated thoroughly and appropriate action is taken.

Members of staff will:

Uphold the trust's living values and the key principles as set out within this policy and understand our expectations.

Access training on equality and diversity and they will be expected not to subject any service user, student or colleague to discrimination or less favourable treatment.

May be liable for disciplinary action should they breach any of the provisions of this policy.

Have the right to raise a concern under the trust's harassment and bullying in the workplace procedure or the grievance and collective disputes procedure.

The human resources directorate will:

Report on the diversity of the workforce and develop procedures and tools that will assist managers tackle work place discrimination.

Ensure that appropriate support channels are available to staff who experience work place discrimination.

Provide training and guidance on issues relating to equality and diversity.

Equip managers with the right skills to be able to proactively manage disciplinary and grievance processes that arise from complaints of discrimination.

Ensure that all adverts and job descriptions outline the Trust's commitment to equality of opportunity.

The director of quality and patient experience will:

Report on the service user diversity data and make recommendations of how care can be adapted to meet the future needs of our changing client base.

Promote a vision of equality and inclusion across the clinical workforce.

Ensure that all clinical policies are compliant with the equality legislation.

The director of education and training / dean of postgraduate studies will:

Report on the student diversity and make recommendations of how education can be adapted to meet the future needs of our changing student base.

Promote a vision of equality and inclusion across the education workforce.

Ensure that all education and training policies are compliant with the equality legislation.

7 Procedures

Statutory Reporting

As a public sector body, we have a legal and moral obligation to tackle discrimination and promote equality in employment practices, the provision of services and through delivering education and training.

There will be an ongoing commitment to developing our employment practices and services, this will be affirmed through our annual equality, diversity and inclusion objective setting process.

The annual report will provide an analysis of our service user, student and workforce data and identify areas where we could and should further develop our opportunities for equality. This in turn will assist us in developing a

capable and competent workforce that have the right skills to deliver excellent patient and / or student outcomes and experience. The annual report also provides an update of our achievements towards an inclusive culture and will be available to all members of service users (including their carers) staff and students and visitors through the Trust website.

Development

The Trust will ensure that it provides a comprehensive annual staff education and development programme that is informed by the Trust appraisal process and through other appropriate learning needs analyses. This will include assessing representation and participation by staff from all protected characteristics.

Transitioning Gender

Transitioning gender is a personal and very sensitive subject. When a member of staff confirms their intent to pursue gender re-assignment, each case will be handled carefully with the individual. The line manager, with HR support, will work with the individual to plan the best ways for managing this life changing decision.

In addition to the above, the civil service (HM Government, 2014) have developed a cross public sector guide which will inform the approaches taken to supporting staff who chose to transition gender.

The Trust has a number of leave arrangements and these will be discussed with an individual who plans to transition gender.

8 Training Requirements

The principles of this policy will be addressed in the Trust’s Equality, Diversity and Inclusion training programmes. Equality and Diversity training forms part of the Trust’s mandatory training requirements.

9 Process for monitoring compliance with this policy

Report	Lead	Tool	Frequency	Reporting Arrangements
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Report	Lead	Tool	Frequency	Reporting Arrangements
Public Sector Equality Duty Report	Director of Quality & Patient Experience	CareNotes ESR MyTAP	Annually	Report to Board and published on trust website
WRES	HR Business Partner	ESR and the NHS Staff Survey	Annually	Report to Board and published on trust website
WDES	HR Business Partner	ESR and the NHS Staff Survey	Annually	Report to Board and published on trust website
Gender Pay Gap	HR Business Partner	ESR	Annually	Report to Board and published on trust website

10 References

Chartered Institute of Personnel and Development (CIPD) (2018) *Diversity and Inclusion in the Workplace* <https://www.cipd.co.uk/> [Accessed: August 2018]

Equality and Human Rights (2018) *What is Equality?* <https://www.equalityhumanrights.com/> [Accessed: August 2018]

HM Government (2010) *The Equality Act (2010)*. HM Stationery Office. London.

HM Government (2011). *The Equality Act 2010 Specific Duties Regulations (2011)*. HM Stationery Office. London.

HM Government (2014). *The Workplace and Gender Re-Assignment [online]*. HM Stationery Office. London. Available from: <https://www.gov.uk/government/publications/the-workplace-and-gender-reassignment> [Accessed on 31 December 2018].

11 Associated documents¹

- Annual Leave Procedure
- Special Leave Procedure
- Recruitment and Selection Procedure
- Disciplinary Procedure
- Grievance Procedure
- Bullying and Harassment Procedure
- Raising Concerns and Whistleblowing Procedure

¹ For the current version of Trust procedures, please refer to the intranet.

12 Appendix: Equality Impact Assessment

Completed by	Craig de Sousa
Position	Director of HR & Corporate Governance
Date	05 February 2019

The following questions determine whether analysis is needed	Yes	No
Is it likely to affect people with particular protected characteristics differently?		X
Is it a major policy, significantly affecting how Trust services are delivered?	X	
Will the policy have a significant effect on how partner organisations operate in terms of equality?	X	
Does the policy relate to functions that have been identified through engagement as being important to people with particular protected characteristics?	X	
Does the policy relate to an area with known inequalities?	X	
Does the policy relate to any equality objectives that have been set by the Trust?	X	
Other?		X

If the answer to *all* of these questions was no, then the assessment is complete.

If the answer to *any* of the questions was yes, then undertake the following analysis:

	Yes	No	Comment
Do policy outcomes and	X		Provisions are made within the

service take-up differ between people with different protected characteristics?			policy around the Trust's duty to apply certain provisions for those with disabilities, the need for a GOC or for those that take maternity / paternity / adoption leave.
What are the key findings of any engagement you have undertaken?	X		A Trust wide policy statement and action is needed.
If there is a greater effect on one group, is that consistent with the policy aims?	X		Described above regarding the exemptions which are legally appropriate.
If the policy has negative effects on people sharing particular characteristics, what steps can be taken to mitigate these effects?		X	
Will the policy deliver practical benefits for certain groups?	X		
Does the policy miss opportunities to advance equality of opportunity and foster good relations?		X	
Do other policies need to change to enable this		X	

policy to be effective?			
Additional comments			

If one or more answers are yes, then the policy may unlawful under the Equality Act 2010 –seek advice from Human Resources.