



TRUST POLICY FOR INCLUSION

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To be used in conjunction with:				

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TRUST POLICY FOR INCLUSION

1. Introduction

The Trust is committed to promoting equality, valuing diversity and protecting human rights and is committed to eliminating discrimination against any individual on the grounds of gender, gender reassignment, disability, age, race, ethnicity, sexual orientation, marital status and pregnancy, socio-economic status, language, religion or beliefs, appearance, nationality or culture.

In line with the NHS values set out in the NHS Constitution the Trust endorses that:

‘We value each person as an individual, respect their aspirations and commitments in life, and seek to understand their priorities, needs, abilities and limits. We take what others have to say seriously. We are honest about our point of view and what we can and cannot do.’ NHS Constitution

The Trust recognises that employees, patients, carers, guests and visitors have different needs. It aims to ensure that the principles of diversity and inclusion underpin all our employment and service policies and procedures and to promote a policy of equality of opportunity.

The Trust aims to discourage unlawful discrimination either directly or indirectly against any individual and is committed to dealing effectively with any cases of discrimination and to ensure that managers and staff are aware of their responsibilities in this area.

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See Appendix 1 for Statement of Equality, Diversity and Human Rights at University Hospitals of Derby and Burton NHS Foundation Trust.

See Appendix 2 for University Hospitals of Derby and Burton NHS Foundation Trust Inclusion Charter.

2. Purpose and Outcomes

The aim of this policy is to establish the principles to equality of opportunity and human rights within the Trust and create a framework whereby a culture of awareness, respect and versatility may be incorporated into the Trust’s employment opportunities and service provision.

This policy underpins the Trust’s Inclusion Framework for implementing equality and human rights.

It is the aim of this policy to ensure the equality towards; gender, including gender reassignment; marital or civil partnership status; pregnancy and maternity; having or not having dependents; religious belief or political opinion; race (including colour, nationality, ethnic or national origins); disability (including learning disability or mental illness); sexual orientation; age; spent criminal convictions; blood born virus; socio-economic status and Trade Union membership.

3. Policy Definitions

Equality - Equality is about creating a fairer society where everyone has the opportunity to fulfil their potential.

Equal Opportunities - The term used to describe policies and practices that tackle inequalities, aiming to ensure that all staff are treated fairly, and that service users do not experience discrimination.

Diversity - Defined as 'the differences in the values, attitudes, cultural perspectives, beliefs, ethnic backgrounds, sexuality, skills, knowledge and life experiences of each individual in any group of people.' This term refers to differences between people and is used to highlight individual need.

Inclusion - Inclusion is about an individual's experience within the workplace and in wider society and the extent to which they feel valued and included.

Protected characteristics under discrimination law

The relevant protected characteristics are; age; disability; gender reassignment; race; religion or belief; sex; sexual orientation; marriage and civil partnership; pregnancy and maternity.

Discrimination

Also refer to the Trust Equality, Diversity and Human Rights Policy for further detail. Definitions are as defined by 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.

- **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 specific group

- **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 characteristic. For instance assuming that someone cannot carry out a certain role or position because they look too young.

- **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 carer duties for someone who is disabled.

Positive Action

This is described as a range of lawful action seeking to redress imbalances in employment opportunities among target groups who may be under represented in the workplace. An example of positive action would be taking measures that encourage or enable members of a previously disadvantaged group to apply for a post.

4. Procedural Responsibilities

Patients, carers and visitors

The Trust requires any person who comes into contact with the organisation, whether as a patient, carer or visitor, to abide by this policy. The Trust will not tolerate any discrimination towards its staff or other patients, carers or visitors and will follow appropriate actions.

Employees

Employees are expected to abide by the Trust's Compassion, Openness and Excellence (COE) Values and standards for CARE.

The NHS Constitution gives clear guidance on employees' legal duties:

"Not to discriminate against patients or staff and to adhere to equal opportunities and equality and human rights legislation." (The Handbook to the NHS Constitution, p.102)

In addition employees must:

- Support the Trust in promoting equality of opportunity and adhere to this policy
- Not to harass, abuse or intimidate any employee, patient or visitor to the Trust on any grounds but with particular reference to protected characteristics.
- Not make remarks or commit acts that are likely to cause offence
- Not to induce or tempt others to discriminate against any colleague, patient 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 colleagues, service users or carers who make a complaint of discrimination

- Not 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
- Attend training on equality and diversity as appropriate.

Managers

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

- Understanding the legislation involved and the implications of not carrying out this policy;
- Demonstrating commitment to diversity and inclusion by positively promoting the Trust's Inclusion Policy and leading by example at all times;
- Ensuring that all their employees are clear about their responsibilities under this policy;
- 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 inclusion practices within the organisation;
- Ensuring that employees are aware of their rights and obligations laid out in the NHS constitution

Trade Union Representatives

Trade Union Representatives have responsibility to:

- Explain and positively promote the Trust's Inclusion Charter and Policy for their members;
- Take action when discrimination is identified

Inclusion Advisory Group

The objectives of the Inclusion Advisory Group to are to implement, facilitate and inspire compliance, and to drive improvements through the workforce and equality agendas.

The Committee will:-

- Give an overview of inclusion, equality and human rights issues to set the Trust's strategic agenda.

- Provide assurance to the Board and its subcommittees that the Trust is fulfilling the legislative and regulatory requirements relating to the inclusion, equality and human rights agenda.
- Oversee the design, implementation and periodic review of the Trust's equality objectives (at least every four years) and to review action plans to reflect national guidance.
- Provide a focus for all inclusion, equality and human rights issues within the Trust and provide a forum for discussion, ensuring joint working with the Trust's community partners, ISS, patients, and the public.
- Oversee the implementation, completion, monitoring, audit and evaluation of the Equality Impact Assessment process for policy and procedures.
- Oversee the involvement of stakeholders, including staff, governors, patients, carers, families and the public, through a variety of channels, individual engagement, internal forums, local community groups and engagement with national organisations.
- Chair of the Inclusion Committee to feed in to the workforce committee in place at the time to enable constructive debate and feedback in relation to employment issues.

Executive Director of People and Organisational Development (OD)

The Executive Director of People and OD has responsibility for the systems and processes relating to Inclusion at the Trust.

Trust Board of Directors

The Trust Board of Directors have responsibility to:

- Set strategic direction in line with statutory responsibilities
- Gain assurance that this policy along with the Equality Delivery System and action plan is being implemented and applied throughout the organisation
- Hold leads accountable for the delivery of agreed equality action plans
- Provide leadership and role modeling of inclusion, equality and human rights

The Workforce Policy Review & Approval Process

The recognised formal committees and forums in place at the time are responsible for the review, approval and monitoring of this policy

5. Inclusion Policy

The Trust aims to ensure that the principles of inclusion, equality and human rights are embedded throughout the organisation. By doing so, the Trust will enhance the experiences of employees, patients, carers, visitors and any other individuals who are associated with the Trust.

The NHS Equality Delivery System outlines the action plan for implementing equality and human rights within the Trust. To achieve our aim of putting our principle into practice, the Trust is committed to:

- Promoting equality of opportunity for all persons.
- Promoting an inclusive environment in which all persons are treated as individuals and with respect.
- Preventing occurrences of unlawful direct discrimination, indirect discrimination, harassment and victimisation
- Fulfilling all our legal obligations under the equality legislation, associated codes of practice and public authority duties
- Complying with the Trust's Inclusion policy and associated policies.
- Taking lawful affirmative or positive action, where appropriate
- Regarding all breaches of equal opportunities as misconduct which could lead to disciplinary proceedings.

5.1 Equality Delivery System

The Equality Delivery System 2 (EDS2) provides a toolkit and framework for assessing how the Trust is performing with regard to equality, diversity and human rights and includes expected outcomes under 4 goals, encouraging the Trust to embrace key local health inequalities.

The four goals are:

1. Better health outcomes for all
2. Improved patient access and experience
3. Empowered, engaged and well-supported staff
4. Inclusive leadership at all levels

The EDS and action plan contain detailed commitments to equality and diversity both to service users and staff. EDS supports the practical implementation of this policy and the actions required by the Trust to meet its equality duty obligations under UK law. (See Appendix 3).

5.2 Inclusion Framework & Delivery Plan

The Trust have developed and implemented an Inclusion Framework, which was updated for the merged organisation and aims to be flexible as possible, so that it can be adapted to the changing needs of the new organisation. This will be achieved by ensuring that the Trust values inclusion, equality and human

rights and that it is the golden thread that runs through all aspects of service provision and employment.

The Inclusion Framework includes 4 EDS2 Goals/objectives and further objectives which supports the Trust People Strategy inclusion aims. The Workforce Annual Equality Report, Gender Pay Gap Report, Workforce Race Equality Standards and Workforce Disability Equality Standards, all support this policy.

Key Inclusion Priorities within the Framework:

- Inclusion – embedding an inclusive culture at all levels of the organisation
- Develop an Embedded Approach to Inclusion
- Inclusive Leadership Model
- A representative, supported workforce at levels
- Improved patient and service user access and experience
- Better Health outcomes for all patient and service users, reducing health inequalities
- Commitment to Partnerships

5.3 Equality Impact Risk Assessments

To ensure that positive steps are taken to enable prevention of indirect discrimination in the development and application of Trust policies, procedures and service developments the Trust will use our Equality Impact Risk Assessment (EIRA) process. The EIRA provides the means for the Trust to consider how processes / policies might create adverse or negative effects for any of our service users and / or staff. A copy is available on the intranet along with guidance on completing the assessment. .

EIRAs will be undertaken for all internally produced policies, procedures and guidance documents developed by or introduced into the Trust. This will therefore include both Trust-wide, local level or departmental decisions applicable to all staff and service users

5.4 Creating and Supporting a Diverse Workforce

The Trust's endorses the NHS Constitution that the NHS is "committed to building an NHS workforce which is valued and whose diversity reflects the communities it serves, enabling it to deliver the best possible healthcare service to those communities." As such the Trust is proactively looking at ways to build and maintain a diverse workforce, creating opportunities for its employees to develop their full potential.

The Trust's People Strategy reflects this commitment with the Equality and Diversity strand being the driver to embed the inclusion, equality and human rights agenda and outline the strategic action plan for the Trust.

The Trust's Inclusion Advisory Group oversees inclusion, equality and human rights issues and enables the assurance framework which informs the Trust's Board and sub-committees.

The Trust also encourages staff to be Inclusion Ambassadors, in accordance with the Inclusion Framework objective. The role will contribute to Supporting progression of the inclusion agenda.

The Trust encourages staff to join the NHS Personal, Fair and Diverse (PFD) campaign and become diversity champions committed to taking action to develop fairness and diversity every day and delivering services that are personal, fair and diverse.

Staff are also encouraged to join the Trust Staff Support Network Groups. The networks will offer support to colleagues, improve community relations and empower employees to have their voices heard at all levels across the organisation.

5.4.1 Recruitment and Selection

The Trust will ensure that its recruitment and employment decisions will be made on the basis of fair and objective criteria and in accordance with the organisation's Recruitment and Selection Policy.

In accordance with the Trust's EDS2 the organisation will ensure effective monitoring of recruitment and selection activity.

All vacancy adverts will contain a short statement on equality of opportunity.

5.4.2 Promotion and Development

The Trust is committed to ensuring all its employees have the opportunities to train, develop and progress in the organisation. Where a particular group is under represented within the workforce or at a senior level the Trust may consider positive action to redress the balance. Such action may include improving access to training and/or giving encouragement to apply for vacancies.

5.4.3 Training and development

Training is key in promoting and embedding a culture of inclusion, equality of opportunity and embracing diversity. The Trust provides training to all employees to increase awareness of inclusion, equality and human rights so that people can perform their jobs effectively and develop their full potential. In addition, unconscious bias awareness training is included in management courses.

5.4.4 Adapting Working Environment and Practices

The Trust is committed to recognising cross cultural differences and will respect an individual's needs regarding the observance of their faith such as specific prayer times. Time off for religious festivals will be respected and accommodated as far as practically possible. It would be expected that time off for religious festivals would be accommodated within normal leave allocations.

Flexible working patterns which promote equality of opportunity and which enhance the quality of working life will be considered where possible, including where individuals are associated with individuals with protected characteristics.

The wearing of items arising from cultural or religious norms is in most circumstances welcomed by the Trust, providing that the Health and Safety, Trust Infection Control Guidance and security of patients is not compromised. The Trust's Dress Code Policy provides further information relating to wearing facial coverings for religious reasons, henna tattoos and the rules on wearing of jewellery.

The requirements of job applicants and existing members of staff who have or have had a disability will be reviewed to ensure that, wherever possible, reasonable adjustments are made to enable them to enter into or remain in employment with the Trust.

5.5 Providing a fair and equitable service

The Trust is committed to ensuring that no one should have negative experiences when in receipt of a Trust service relating to their protected status. The Trust will regularly review patient experience via the Patient Experience Team (PET) using local or national surveys, patient diaries, interviews, complaint monitoring and other methodology to understand the patient experience. The Trust will ensure any issues identified are dealt with quickly and appropriately. Detailed plans of assessment and improvements will be outlined in the Trust EDS2 and specific Equality Impact Risk Assessments.

In line with the pledges on patient rights outlined in the NHS Constitution the Trust commits to:

- provide convenient, easy access to services within the waiting times set out in the Handbook to the NHS Constitution;
- make decisions in a clear and transparent way, so that patients and the public can understand how services are planned and delivered; and
- make the transition as smooth as possible when you are referred between services, and to include you in relevant discussions.

5.5.1 Access

The Trust acknowledges that some groups in society have greater issues and potential barriers to accessing public services. Therefore the Trust will regularly review its services to ascertain possible barriers to access. The Trust will gain this knowledge through issues raised via the PET and/or through analysis of access statistics.

5.5.2 Treatment and Experience

The Trust is committed to ensuring that no one should have negative experiences when in receipt of a Trust service relating to their protected status. The Trust will regularly review patient experience via the PET and any local or national surveys to ensure any issues identified are dealt with quickly and seriously. Detailed plans of assessment and improvements will be outlined in the Trust Equality Delivery System and specific Equality Impact Risk Assessments.

5.6 Complaints – Discrimination, Harassment and Bullying on grounds of protected status

Employees who believe that they have suffered any form of discrimination, harassment or victimisation are entitled to raise the matter through the Trust Dignity at Work Policy (Dealing with Discrimination, Bullying and Harassment). All complaints of discrimination will be dealt with seriously, promptly and confidentially.

Patients, carers or visitors who have suffered any form of discrimination, harassment or victimisation are encouraged to raise complaints via the Patient Advice and Liaison Service (PALS) or Complaints department.

6. Monitoring Compliance and Effectiveness

Trust Policy for Equality, Diversity and Human Rights will be monitored in a composite report presented through our Monitoring Report Template:

Monitoring Requirement :	<p>Monitoring compliance with the requirements of:</p> <ul style="list-style-type: none"> • Process for raising concerns about discrimination and/or harassment • Monitoring trends / incidents of discrimination & harassment complaints by both patients and employees • Patient access and experience of services by protected strands • Employment opportunities by protected strands
Monitoring Method:	<ul style="list-style-type: none"> • Retrospective review of incidents & cases to determine compliance with the process with raising & dealing with the concerns • Analysis of number of complaints raised by race, gender, sexual orientation, disability, age and religious belief of the complainant, the level of the employees affected and the outcome. • Capture and analysis of data on access and experience of services • Analysis of workforce data broken down by legislative requirements for reporting against

	protected strands <ul style="list-style-type: none"> • Recommendations and action plans will be developed from the analysis and will be part of the reporting mechanism.
Report Prepared by:	Head of Equality and Inclusion
Monitoring Report presented to:	Inclusion Advisory Group
Frequency of Report:	Six Monthly

7. References

The following Acts of Parliament may be connected to Equality, Diversity & Human Rights:

- Equality Act 2010
- Public Sector Equality Duty
- Human Rights Act 1998
- Health & Social Care Act 2012
- Civil Partnership Act 2004
- Civil Partnerships, Marriage and Death (Registration) Act 2019
- Health and Safety at Work Act 1974
- Health Bill 2009
- Data Protection Act 2018 /the General Data Protection Regulations (GDPR)

University Hospitals of Derby and Burton is committed to upholding the NHS Constitution 2009 which outlines a number of commitments and pledges to uphold patient dignity and human rights.

Appendix 1

Statement of Equality, Diversity and Human Rights at University Hospitals of Derby and Burton NHS Foundation Trust

- University Hospitals of Derby and Burton is committed to the fair and equitable treatment of all people. The Trust is firmly opposed to any discrimination, bullying or harassment of its employees, patients, carers or visitors based on aspects of their diversity.
- University Hospitals of Derby and Burton will ensure that no user of the service, present or future employee or job applicant, receives less favorable treatment on grounds of their diversity.
- University Hospitals of Derby and Burton will take account that different communities have different needs, in access and treatment, and commits itself to take action necessary to remove barriers and discrimination in all its service provision.
- University Hospitals of Derby and Burton places a positive value on diversity and believes that differences in the workforce can add value to the organisation and make it stronger, more flexible and ultimately more capable of delivering health care services that meet the needs of the local population.
- University Hospitals of Derby and Burton is committed to taking positive action to promote diversity in the workforce and will continue to actively work towards employing a workforce that reflects the composition of the community it serves.
- University Hospitals of Derby and Burton will investigate fully all reported incidents of alleged discrimination. An employee, who is believed to have discriminated against others, intentionally or otherwise, will face disciplinary action in accordance with the Trust's disciplinary procedure.
- University Hospitals of Derby and Burton encourages staff to become PFD champions committed to taking action to develop fairness and diversity every day and delivering services that are personal, fair and diverse.

Inclusion Charter

I expect to be:

- Respected and included as a valued member of the Trust, regardless of my background
- Able to contribute at work to the best of my ability
- Encouraged to grow my capabilities and fulfil my potential
- Appreciated for the work I do, whatever my role
- Able to raise concerns about issues that I feel are important and confident that they will be properly considered
- Treated fairly and not limited by others' assumptions about me
- Able to strike a work-life balance that works for me and the Trust
- Able to observe the commitment to building a sustainable inclusive environment

I will:

- Listen to other people and seek to understand
- Recognise the needs of others and treat them with respect and consideration
- Take action and ownership to make others feel included and valued
- Keep an open mind to different ways of thinking and doing things
- Develop my skills and knowledge to maximise my potential and the contribution I can make
- Challenge behaviours that I feel are not in line with Derby Hospitals NHS Foundation Trust values
- Treat every patient, visitor and colleague with respect and dignity

We welcome views from staff, patients and visitors on how we could best develop our policies and procedures from an inclusion point of view, both internally and externally to improve our service to the Community we serve. Please submit your views or

suggestions by completing the Your Views Matter form, which can be obtained from Trust staff members.

Appendix 3 - Legislative framework

This policy is supported by key elements of the legislative framework that governs equality in the United Kingdom. These are as follows:

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."

This Act harmonises discrimination law, 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 1st October 2010, with an integrated public duty, which also came in force April 2011 and a full ban on age discrimination due in 2012.

The Bill strengthens the law in a number of key areas by:

- creating a general public duty. University Hospitals of Derby and Burton will have to consider how it's policies, strategies and service delivery will affect people with the protected characteristics;
- 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;
- allowing employment tribunals to make recommendations in discrimination cases which apply to the whole workforce.

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 Civil Partnerships, Marriage and Death (Registration) Act 2019

Section 2 of this Act gives provision for the extension of civil partnerships to two people (couples) not of the same sex.

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; and
- 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 trade 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

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 4 - General Principles – The Public Authority Duties

The Equality Act 2010 created a new harmonized '**General Duty**' that all public authorities must enforce which is to:

- a) eliminate discrimination, harassment, victimisation.
- b) advance equality of opportunity between persons who share a protected characteristic and persons who do not share it.
- c) foster good relations between persons who share a protected characteristic and persons who do not share it.

Public Authorities currently have specific requirements to meet under the existing Race, Disability and Gender Duties. In April 2011 these duties were replaced by the Public Sector Equality Duty.

Although there are some important differences between equality strands, the **specific** duties relevant to public authorities include the following:

- prepare and publish an equality scheme, showing how it will meet its general and specific duties through agreeing equality objectives
- gather and use information on how the public authority's policies and practices affect equality in the delivery of services and within the workforce
- consult stakeholders (i.e. service users and employees) and take account of relevant information in order to determine its equality objectives
- assess the impact of its current and proposed policies and practices on equality
- implement the actions set out in its scheme within three years, unless it is unreasonable and impracticable to do so
- report against the scheme every year and review the scheme at least every three years