

Equality, Diversity and Human Rights Policy

Version: 2

Summary:	<p>This policy provides a framework for Southern Health NHS Foundation Trust to meet requirements of the Equality Act 2010 and Human Rights Act 1998.</p> <p>The policy demonstrates the Trusts commitment to equality of opportunity and anti-discriminatory practice both in the provision of services and as an employer.</p>	
Keywords:	Equality; Diversity; Human Rights; EDS2; Equality Act; Protected Characteristics; Equality Delivery System	
Target Audience:	Patients, Carers, Families, all Southern Health employees	
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Approved & Ratified by:	<p>JCNC Staff Side Scrutiny Group Patient Experience, Engagement Caring Group</p>	<p>Date of meeting: 23 May 2017 29 March 2017 9 March 2017</p>
Date issued:	June 2017	
Author:	Ricky Somal, Equality and Diversity Lead	
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Version Control

Change Record

Date	Author	Version	Page	Reason for Change
July 2015	Louise Hartland	1	15	Updated TNA (Appendix 1)
March 2017	Ricky Somal	V2	E&D Toolkits	Updated Policy due to Review Date (March 2017)

Reviewers/contributors

Name	Position	Version Reviewed & Date
HR Scrutiny Group and HR Team		Version 1, December 2012
Staff side scrutiny		Version 1, January 2013
JCNC		
SWC		Version 1; January 2013
Ricky Somal	Equality and Diversity Lead	V2 March 2017
Patient Experience, Engagement, Caring Group		V2 March 2017
Louise Jones	Senior HR Manager	V2 March 2017

Quick Reference Guide

For quick reference, this page summarises the actions required by this policy. This does not negate the need to be aware of and to follow the further detail provided in this policy.

Southern Health staff and those working or training under other arrangements are expected to:

1. Understand our equality objectives (i) better health outcomes for all; (ii) improved patient access and experience; (iii) empower, engage and support staff; and (iv) inclusive leadership at all levels.
2. Treat everyone who comes into contact with us with dignity and respect
3. Work towards a positive and inclusive work environment
4. Place a high value on diversity and fairness
5. Challenge and overcome obstacles in mainstreaming equality and diversity issues
6. Take part in Equality and Diversity events and promotions
7. Understand the vision, values and behaviours of the trust
8. Respond positively to the quality, safety, operational and financial obligations of the Trust.

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Equality, Diversity and Human Rights Policy

1. Introduction

- 1.1 As an equal opportunities employer, Southern Health NHS Foundation Trust (the 'Trust') will promote equality and diversity with due regard to the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 1.2 Everybody has a right to be treated with dignity and respect and in doing so; the Trust recognises its legal duties under the Equality Act 2010 and Human Rights Act 1998.
- 1.3 The Trust is committed to creating a culture in which equality, diversity and human rights are promoted actively and unlawful discrimination is not tolerated. The Trust recognises that the experiences and needs of every individual are unique and strives to respect and value the diversity of its patients, service users, carers, public and staff.
- 1.4 Promoting E&D is one of the cornerstones of all the Trusts' functions and activities. This policy and its associated guidance will apply to:
 - patients and all areas of service provision; and
 - all staff directly employed by the Trust. This also includes trainees, secondees and staff on honorary contracts or on joint contracts with the Trust and another employer, visitors, patients, contractors and staff from other organisations working on Trust premises.

2. Definitions

2.1 Equality is not about treating everyone the same.

2.1.1 Equality recognises that:

- everyone has individual needs and the right to have those needs respected;
- inequality exists and that unlawful discrimination needs to be tackled;
- employment and Trust services should be accessible to all; and
- it is about treating people fairly where everyone can participate and have the opportunity to fulfil their potential.

2.2 Diversity is about respecting and valuing individual difference.

2.2.1 Diversity recognises that:

- everybody is different;
- we need to understand, value, and respect those differences; and
- diversity can include individuals and groups with varying backgrounds, experiences, styles, perceptions, values and beliefs.

2.2.2 A diversity approach aims to recognise, value and manage differences to enable all patients, service users and staff to contribute and realise their full potential. Diversity challenges us to recognise and value all sorts of differences in order to make the Trust a better working environment and to ensure that we provide an excellent service for all people.

2.3 Prohibited Conduct – Behaviour banned by the Equality Act 2010

2.3.1 The Trust will actively eliminate and avoid unlawful discrimination including: direct discrimination; indirect discrimination; associative discrimination; perceptive discrimination; harassment;

victimisation; disability-related less favourable treatment; failure to comply with a duty to make reasonable adjustments and social exclusion.

2.4 Direct discrimination means treating someone less favourably compared to others because they have certain protected characteristics or;

- because they are thought to have a protected characteristics (Perception); and
- are associated with someone who has a protected characteristic (Association). This is new in the protected characteristics of Age, Disability, Gender Reassignment and Sex.

2.5 Indirect Discrimination can occur when you have a rule or policy that applies to everyone but disadvantages a person with a particular protected characteristic.

2.6 Harassment, in general terms, is unwanted conduct affecting the dignity of men and women in the workplace. It may be related to any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as unwanted conduct that violates people's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment. It is difficult to categorise all forms of harassment, but examples of some more easily recognisable forms of harassment are covered in more detail in the Bullying and Harassment Policy.

2.7 Victimisation is prohibited conduct. It happens when a person is treated less favourably because they complain about discrimination or they witness it and give evidence about it.

2.8 Due Regard

2.8.1 The Equality Act 2010 requires us to pay 'Due Regard', when considering the effects on different groups protected from discrimination (protected characteristics). Due regard can be demonstrated by carrying out an equality impact analysis (EqIA).

2.9 Equality Analysis

2.9.1 The organisation has an equality analysis process which assesses services and employment policies to determine any adverse impact on the protected characteristics. The assessment will be in line with the Equality Act 2010 and other relevant equalities legislation.

2.9.2 Human Rights will be incorporated into the process and through effective training; staff will ensure that they apply the basic fundamentals of the equality legislation when carrying out the analysis.

3. Legislation

3.1 The Equality Act 2010 provides protection against discrimination at work and in the provision of services. The Act simplifies, strengthens and harmonises previous equality legislation.

3.2 The protected characteristics covered by the Equality Act are:

- **Age:** This refers to a person having a particular age (for example, 32 years old) or being within an age band (for example, 18-25, 40-50 years old);
- **Disability:** A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. A progressive condition is a condition that gets worse over time. People with progressive conditions can be classed as disabled. However, you automatically meet the disability definition under the Equality Act 2010 from the day you're diagnosed with HIV infection, cancer or multiple sclerosis;
- **Gender reassignment:** This is the process of transitioning from one sex to another;

- **Marriage and civil partnership:** A union between a man and a woman or the legal recognition of a same-sex couple's relationship;
- **Pregnancy and maternity:** The condition of being pregnant or the period after giving birth. It is linked to maternity leave in the employment context;
- **Race:** It refers to a group of people defined by their nationality (including citizenship), ethnic or national origins
- **Religion or belief:** The religion a person belongs to. A belief, including lack of belief, should affect your life choices or the way you live for it to be included
- **Sex:** Someone being a man or a woman; and
- **Sexual orientation:** This is whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes

3.3 Public Sector Equality Duty (PSED)

3.3.1 The general equality duty is set out in section 149 of the Equality Act <http://www.homeoffice.gov.uk/equalities/equality-act/equality-duty/>. In summary, those subject to the general equality duty must demonstrate due regard in the exercise of their services and functions to:

- eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

3.3.2 There is a statutory requirement for NHS organisations to publish information to demonstrate compliance with the PSED. This requirement arises from the Equality Act 2010 (Specific Duties) Regulations 2011:

- Publishing information to demonstrate compliance with the general duty including information relating to employees and other persons affected by the Trust policies and practices who share a relevant protected characteristic; and
- Prepare and publish equality objectives that are specific and measurable. The Trust equality objectives can be found within the equality and diversity pages of the Trust website.

3.4 Human Rights Framework

3.4.1 The Human Rights Act 1998 sets universal standards to ensure that a person's basic needs as a human being are recognised and met. Public authorities should have arrangements in place to ensure that they comply with the Human Rights Act 1998, and it is unlawful for a healthcare organisation to act in a way that is incompatible with the Act. The Act urges public authorities to apply a human rights framework to decision making across public services in order to achieve better service provision.

3.4.2 In practice this means treating individuals with fairness, respect, equality, dignity and autonomy whilst also safeguarding the rights of the wider community when developing policies and procedures and carrying out our functions. The Trust will consider these human rights principles in relation to our staff and patients at all times, aiming to demonstrate our commitment to quality outcomes which will improve the patient experience and provide satisfaction to staff that they are undertaking a job that is valued.

3.4.3 The Care Quality Commission standard stipulate requirements related to human rights. The organisations core purpose of putting patients first embodies the principles of respecting human rights.

3.4.4 The Human Rights Act 1998 brought the European Convention on Human Rights into UK law. There are articles that are particularly relevant to the commissioning, employment and provision of healthcare services.

3.5 The equality benefits of a human rights based approach include:

- An improved quality of health services – patients treated with fairness, respect, equality and dignity.
- More person-centred care.
- A reduced risk of complaints and litigation.
- Improved decision making overall.
- A broader range of marginalised groups being involved and considered.
- More meaningful engagement of patients, carers and families.

4. Duties and responsibilities

4.1 Trust

4.1.1 The Trust has a statutory responsibility to have due regard to the Equality Act 2010 and the Human Rights Act 1998. NHS Constitution also specifies that NHS organisations look after the wellbeing of their patients and workforce. It is therefore essential a culture is established where unlawful discrimination is unacceptable and will not be tolerated

4.1.2 In addition, the Trust Board will:

- ensure that the organisation has equality objectives that meet the requirements of the Public Sector Equality Duty as set out under the provisions of the Equality Act 2010;
- receive and consider regular reports in order to evaluate the effectiveness of the policy; and
- review and approve the Annual Equality Report.

4.2 The Equality Impact Group (EIG)

4.2.1 The EIG has responsibility for ensuring the development and delivery of the Trust's Equality and Diversity strategy. The EIG will be accountable to the Trust Board.

4.2.2 The EIG is set up with the delegated responsibility from the Trust Board to lead on the Equality and Diversity agenda and monitor progress for the Trust to ensure that it provides equality with regards to access, experience and outcome. The equality strategy, 'Equality Standard' and reports are available on the Trust website:

4.2.3 The EIG will:

- provide long-term and continuing support, and leadership, for equality and diversity across the Trust and in support of our legal and regulatory obligations; and
- monitor Divisions on their progress in embedding equality and diversity through the performance management of the Trust Equality Standard

4.3 Diversity Champions Network (VOX POP)

4.3.1 The responsibility for individuals within the organisation to promote equality and challenge unlawful discrimination is equally as important, and this is where 'diversity champions' are critical, because they can push for achieving equality of opportunity and valuing diversity.

4.3.2 Diversity champions are staff who have volunteered and challenged themselves to demonstrate excellence in their approach to actively support and embed equality and diversity within the organisation.

4.4 Equality and Diversity Manager

4.4.1 It is the responsibility of the Equality and Diversity Manager to:

- Promote and advise on the Equality and Diversity agenda to help ensure that this policy is followed fairly and consistently;
- advise the organisation on requirements and performance against equality legislation;
- support the Trust with setting and achieving equality objectives;
- build and maintain relationships with key stakeholders who have a role to play in ensuring the Trust meets equality objectives;
- manage and report on the Equality Standard;
- support the Learning and Education Department to ensure that staff are able to access high quality and appropriate equality training and ensure that the principles of promoting equality are embedded into all training materials as appropriate;
- work with Directors and Managers to ensure that they are achieving their equality objectives and that Due Regard (equality analysis) is proportionate and meaningful; and
- obtain feedback from service users, staff and key stakeholders on how the organisation is performing

4.5 Managers

4.5.1 All managers have a responsibility to adhere to this policy and to bring it to the attention of staff in their work area in order to establish and maintain an inclusive environment free of unlawful discrimination. Managers have a responsibility to:

- set a positive example by treating others with respect and setting standards of acceptable behaviour;
- promote an inclusive working environment where unlawful discrimination is unacceptable and not tolerated;
- ensuring any allegations of discriminatory behaviour or practices are correctly investigated and appropriate action taken in accordance to the Trust Bullying and Harassment Policy and Management of Violence and Aggression Policy;
- ensure that their teams work effectively together;
- ensure staff are given equal opportunity to access learning and development opportunities;
- consult with the Human Resources Team and Equality and Diversity Manager for advice and support regarding E&D issues;
- assisting with the monitoring of compliance within their area of responsibility in respect of the Equality Delivery System 2 (EDS2) outcomes; and
- implement the Equality Standard.

4.6 Staff

4.6.1 All staff have a personal responsibility for their own behaviour and for ensuring that they comply with the Equality Act 2010. The Trusts expects all staff to:

- understand the Trust Values and how this impacts on everything we do;
- have a personal responsibility to adhere to the Policy. This means staff should not undertake any acts of discriminatory practice in the course of their employment for which they will be personally liable;
- help promote an inclusive environment by treating everyone with dignity and respect;
- respecting and responding to the diverse needs of staff, service users and others;

- appropriately challenge and/or report behaviour that may be considered to be offensive when directed against themselves or others in accordance to the trust Bullying and Harassment Policy;
- have a responsibility to bring any potentially discriminatory actions or practice to the attention of their Line Manager or the Human Resources Department; and
- implement the Trust Equality Standard.

4.7 Human Resources

4.7.1 The Director of Human Resources has delegated responsibility from the Board to ensure this Policy is implemented and monitored to ensure that the Trust takes effective action to tackle unlawful discrimination.

4.8 Patients/Service Users/Carers/Visitors

4.8.1 Patients, Service Users Carers and Visitors will be expected to recognise and comply with the principles set out in this Policy whilst on the Trust's premises or whilst receiving care originating from the Trust. Every effort will be made by the Trust to ensure all relevant information is available in a suitable format to achieve this aim.

- patients, service users, carers and visitors are expected to be respectful to all staff and other patients;
- patients, service users, carers and visitors who are verbally or physically abusive or who make derogatory statements that are of a discriminatory nature to any staff or other patients should be aware that they will be challenged about their behaviour;
- where appropriate, the Trust may consider limiting or withdrawing the provision of services to, service users/carers/visitors and may seek to prosecute individuals where it deems necessary. Please refer to the Trust Management of Violence and Aggression Policy;

4.9 Trade Unions

4.9.1 Trade Union representatives have an important role to play generally in providing advice, support and, if required, representation to individuals and working in partnership with managers and the Human Resources Team in looking to ensure that the Trust's Equality and Diversity policy is applied reasonably and fairly.

5. Main policy content

- 5.1** Every day, decisions are made within the Trust that affect the lives and relationships of all our patients, service users, carers and staff. The Trust endeavours to provide a supportive environment and culture in which unlawful discrimination of any kind will not be tolerated. The delivery of this policy will promote fair and equitable practice throughout the Trust.
- 5.2** Our services will be accessible and sensitive to the needs of our diverse communities and will not unfairly discriminate on the basis of any protected characteristic. The Trust will not tolerate any practices that result in the provision of a lower standard of service due to unlawful discrimination.
- 5.3** Equality Impact Analysis is undertaken on all policies to identify the impact on protected groups and to demonstrate compliance with the requirements of the Public Sector Equality Duty.
- 5.4** The Equality Act enables Trusts to be responsive and adaptive to the individual needs of patients, service users and carers. Services will not be based on assumptions, stereotypes and prejudice of any equality groups, but on information gained through consulting with service users, carers and the public.

- 5.5 Any employee, regardless of position in the Trust, who unlawfully discriminates against another, fails to co-operate with the measures introduced to promote equal opportunity or induces others to unlawfully or unfairly discriminate, will be subject to the Trust's Disciplinary Policy and Procedure.
- 5.6 Complaints or allegations of discrimination or victimisation can be pursued through the Trust's Bullying and Harassment Policy
- 5.7 There may be cases where an individual makes an unfounded allegation of discrimination for malicious reasons. These cases will be investigated and dealt with fairly and objectively under the Disciplinary Policy.

6. Process

6.1 Embedding Equality Diversity and Human Rights (EDHR) in everything that we do

6.1.1 The Trust has a strong commitment to embed EDHR in everything that we do. The Trust is committed to promote awareness and understanding of the key issues that impact on our function as a service provider and employer. Our equality objectives include:

6.2 Service Delivery

- Better Health Outcomes for all
- Improved patient access and experience

6.3 Workforce

- Empowered, engaged and supported staff
- Inclusive leadership at all levels

7. Training requirements

7.1 The principles of this policy will be addressed in the Trust's Equality and Diversity training programmes. Equality and Diversity training forms part of the Trust's mandatory training requirements and is delivered in a range of formats that includes: e-learning; e-assessments and face to face training.

8. Monitoring compliance

Element to be monitored	Lead	Tool	Frequency	Reporting arrangements
Workforce Diversity Scorecard	Ricky Somal	E&D Annual Report	Annually	Board Paper and Scorecard published on trust website
EDS2 - SC13 Standard Contract Requirement	Ricky Somal	SC13 Board report	Annually	Board Paper and Scorecard published on trust website
WRES	Ricky Somal	WRES Report	Annually	Board Paper and Scorecard published on trust website
Equal Pay	Ricky Somal	Equal Pay Audit	Annually	Board Paper and published on trust website

9. Policy review

- 9.1** The policy will be in place for four years following approval of a review and amendments. An earlier review can take place should exceptional circumstances arise resulting from this policy; in whole or in part, being insufficient for the purpose and/or if there are legislative changes.

10. Associated trust documents

- Recruitment and Selection Policy
- Disciplinary Policy
- Grievance Policy
- Bullying and Harassment Policy
- Freedom to Speak Up; Raising Concerns (Whistleblowing) Policy
- Health and Safety Policy
- Management of Violence and Security and Aggression Policy
- Investigation Policy
- Learning and Development Policy

11. Supporting references

- NHS Employers is responsible for workforce and employment issues, working on behalf of NHS organisations in England. www.nhsemployers.org
- ACAS is an organisation devoted to preventing and resolving employment disputes. www.acas.gov.uk
- The Health & Safety Executive protects people against risks to health or safety arising out of work activities. www.hse.gov.uk
- The Dignity at Work Partnership was established to tackle the problem of bullying and harassment in the workplace. <http://www.dignityatwork.org>
- Agenda for Change Terms and Conditions Handbook
- Equality Act 2010
- Equality and Human Rights Commission Codes of Practice
- European Convention on Human Rights
- Human Rights Act 1988
- NHS Constitution

Appendix 1: Training Needs Analysis

If there are any training implications in your policy, please make an appointment with the LEaD department (Louise Hartland, Quality, Governance and Compliance Manager on 02380 874091) to complete the TNA **before** the policy goes through the Trust policy approval process.

Training Programme	Frequency	Course Length	Delivery Method	Facilitators	Recording Attendance	Strategic & Operational Responsibility
Equality and Diversity	Once – The trust has a number of training and development programmes for equality and diversity including trust induction, e-learning and training programmes/events	1 hour	e-learning	Ricky Somal	LEaD	Director of Human Resources and Organisational Development; Equality and Diversity Lead
Directorate	Service	Target Audience				
MH/LD/TQ21	Adult Mental Health	All Staff				
	Specialised Services	All Staff				
	Learning Disabilities	All Staff				
	TQtwentyone	All Staff				
ISD's	Older Persons Mental Health	All Staff				
ISD's	Adults	All Staff				
ISD's	Childrens Services	All Staff				
Corporate	All	All Staff				

Appendix 2: Equality Impact Assessment

The Equality Analysis is a written record that demonstrates that you have shown *due regard* to the need to **eliminate unlawful discrimination, advance equality of opportunity and foster good relations** with respect to the characteristics protected by the Equality Act 2010.

Stage 1: Screening

Date of assessment:	March 2017
Name of person completing the assessment:	Ricky Somal
Job title:	Equality and Diversity Lead
Responsible department:	Human Resources
Intended equality outcomes:	EDS2 objectives and outcomes WRES metrics SC13 NHS Standard Contract Requirements Equality Act 2010 Public Sector Equality Duty Equal Pay Audit
Who was involved in the consultation of this document?	Policy Review Group VOX POP Network Patient Experience and Caring Group

Please describe the positive and any potential negative impact of the policy on service users or staff.

In the case of negative impact, please indicate any measures planned to mitigate against this by completing stage 2. Supporting Information can be found by following the link:

www.legislation.gov.uk/ukpga/2010/15/contents

Protected Characteristic	Positive impact	Negative impact
Age	The policy aims to improve access, experience and outcomes for all groups protected by the Equality Act 2010.	Any negative impact will be measured through the Diversity Scorecards and discussed within the annual E&D report.
Disability	The policy aims to improve access, experience and outcomes for all groups protected by the Equality Act 2010.	Any negative impact will be measured through the Diversity Scorecards and discussed within the annual E&D report.
Gender reassignment	The policy aims to improve access, experience and outcomes for all groups protected by the Equality Act 2010.	Any negative impact will be measured through the Diversity Scorecards and discussed within the annual E&D report.
Marriage & civil partnership	The policy aims to improve access, experience and outcomes for all groups protected by the Equality Act 2010.	Any negative impact will be measured through the Diversity Scorecards and discussed within the annual E&D report.
Pregnancy & maternity	The policy aims to improve access, experience and outcomes for all groups protected by the Equality Act 2010.	Any negative impact will be measured through the Diversity Scorecards and discussed within the annual E&D report.
Race	The policy aims to improve access, experience and outcomes for all groups protected by the Equality Act 2010.	Any negative impact will be measured through the Diversity Scorecards and discussed within the annual E&D report.

Religion	The policy aims to improve access, experience and outcomes for all groups protected by the Equality Act 2010.	Any negative impact will be measured through the Diversity Scorecards and discussed within the annual E&D report.
Sex	The policy aims to improve access, experience and outcomes for all groups protected by the Equality Act 2010.	Any negative impact will be measured through the Diversity Scorecards and discussed within the annual E&D report.
Sexual orientation	The policy aims to improve access, experience and outcomes for all groups protected by the Equality Act 2010.	Any negative impact will be measured through the Diversity Scorecards and discussed within the annual E&D report.

Stage 2: Full impact assessment

What is the impact?	Mitigating actions	Monitoring of actions