

## EQUAL OPPORTUNITIES, DIVERSITY AND INCLUSION POLICY

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## Trust Vision and Values

We are guided in all we do by our vision and values. Our vision is to support healthy lives and healthy communities through the provision of excellent integrated mental and community healthcare.

Our values are

Compassion – providing care with humanity and kindness

Respect – valuing what people say and do

Being positive - a great attitude to encourage better care and services

Working together – making great partnerships between staff and the people we care for

This and all other Trust policies and supporting procedures are written in line with our vision and values.

## EQUALITY STATEMENT

Barnet, Enfield and Haringey NHS Trust aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. It takes into account its legal obligations under Equality Act 2010, the Human Rights Act 1998 and other relevant legislation.

This document has been assessed to ensure that no one affected will receive less favourable treatment on the basis of a protected characteristic - age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex (gender) and sexual orientation.

The Trust embraces the four staff pledges in the [NHS Constitution](#) and this policy is consistent with these pledges. The Trust is also committed to safeguarding and promoting the welfare of children, young people and vulnerable adults and expects all staff and volunteers to share this commitment.

The Trust will make accessible versions of this document available if requested by members of the public, service users or staff who have particular communications needs.

## CONSULTATION RECORD OF PROCEDURAL DOCUMENT FORM

Name and Title of Individual	Date Consulted
Head of Business Partnering	April 2019
Head of Recruitment	April 2019
Contributing Authors:	
Name of Committee	Date of Committee

## Version Control Summary

Version	Date	Section	Author	Comments
V1.1	13/11/2012	Various	Jide Odusina	Tighten up language to be more specific about responsibilities to all protected groups
V2.1	27/11/12	Various	Jide Odusina	Clarify language, replace details with links to existing policy/procedural documents
V3	21/12/12	Various	Jide Odusina	Reduced appendices, put in hyperlinks instead to relevant documents and reduced complexity
V3.1	13/1/13	Front page	Jide Odusina	Complete cover page details Replace URL links in the evidence with titles of documents/data consulted
V4.0	22/04/16	Various	Jide Odusina	Clarify language, revisions to take account of small changes in law, update reference to Trust objectives
V.1	29/04/19	Various	Jide Odusina	Change policy title to make its purpose clearer.  Referred to GDPR instead of Data Protection Act  Guidance on making reasonable adjustments  Clarified that managers are responsible for accessibility provisions and reasonable adjustments for their staff - Maninder  Clarified the need for services to collect equalities demographic data, review and act on any data which indicates less favourable treatment of any protected characteristic groups.  Clarified the requirement to fair recruitment and selection practice and the circumstances for any positive action provision

**\*Version Control Note:** All documents in development are indicated by minor versions i.e. 0.1; 0.2 etc. The first version of a document to be approved for release is given major version 1.0. Upon review the first version of a revised document is given the designation 1.1, the second 1.2 etc. until the revised version is approved, whereupon it becomes version 2.0. The system continues in numerical order each time a document is reviewed and approved.

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## Key factsheet

This policy brings together all aspects of Barnet, Enfield and Haringey Mental Health NHS Trust's commitment to ensuring equality of opportunities for patients and their carers, employees and other stakeholders, the protection of their human rights and the valuing of the diversity inherent in the communities we serve and in our workforce.

The specific aim of this policy is to provide a framework and guidance to all staff and contractors who provide services on behalf of the Trust on the importance of delivering equal opportunities to the people the Trust serves and its staff, the aims of this policy are to;

- Promote equality of opportunity and eliminate discrimination in the planning, delivery, monitoring and reviewing of our policies, strategies, functions and services in terms of age, disability, gender, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief and sexual orientation
- Develop, review, monitor and promote policies and practices that ensure equality of opportunity and eliminate discrimination and exclusion in all areas of employment (including recruitment, retention, learning and development, promotion, grievance, disciplinary, leave arrangements and retirement)
- Promote good relations, understanding and respect between patients, their carers, members of staff and the wider communities the Trust serves from all backgrounds
- Address bias, prejudice and negative stereotyping by raising awareness through a range of media such as training, induction, cascades, appraisals, 1:1 meetings, online toolkits and presentations
- Promote a culture of respect and inclusion for all
- Promote respect for the human rights of service users, carers and staff
- Embed the effective governance, performance management and quality improvement of equal opportunities in service outcomes for patients and staff

The Trust will deliver its commitment to equality and diversity and human rights by:

- Continuing to lead from the top on equality, diversity, inclusion human rights and cultural awareness matters
- Developing a diverse workforce at all levels of the organisation. As the Trust recognises that different groups of people offer different skills, knowledge and experiences which can add value to the quality of services it offers, particularly the quality of care to diverse communities
- Endeavouring to ensure that all patients, their carers, employees and contractors are aware of their human rights and their right to protection from discrimination, harassment or bullying
- Promoting a workplace that is fair and inclusive and providing all staff with an equal chance to learn and work free of discrimination and prejudice
- Raising awareness of equality, diversity, and human rights throughout the Trust through a range of channels such as training, induction, cascades, meetings, forums, appraisals and presentations
- Carrying out effective Equality Impact Analyses (EIAs) on new and existing policies and major service developments and practices to ensure they will not unlawfully discriminate against any particular group of individuals
- While complying with GDPR, collecting, reviewing and acting upon service outcome performance data by protected characteristics
- Using the NHS-wide Equality Delivery system to engage with our stakeholders,

- monitor and manage our performance
- Embedding equality and diversity priorities within normal business operations using the Equality Delivery System (EDS), and EIA processes and training so that progress against equality objectives can be measured easily
- Building on existing good equality and diversity practices and continuing to learn from examples of best practice in the wider economy
- Endeavouring to ensure that all aspects of its services are as accessible as possible to as wide a range of people as possible. This includes layout and environment of Trust premises, the location of its services, the opening times of services, communications systems, including telecommunications, publications, and online information .
- Making services responsible for managing the reasonable adjustments required by their staff and service users as required by law to make their service accessible.
- Delivering on the commitment to equality and diversity as a procurer of care services, goods, works and temporary staff, by complying with legislation and best practice. Trust procurement processes will be transparent, objective and non-discriminatory in the selection of our suppliers

## **Supporting documents**

- Statutory Code of Practice, produced by the Equality and Human Rights Commission (Online)
- Guidance for managers on 'Reasonable Adjustments' under the Equality Act 2010 and the Trust's Equal Opportunities, Diversity and Inclusion Policy

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## INTRODUCTION

- 1.1 This policy brings together all aspects of Barnet, Enfield and Haringey Mental Health NHS Trust's commitment to ensuring equality of opportunity for patients and their carers, employees and other stakeholders, the protection of their human rights and the valuing of the diversity inherent in the communities we serve and in our workforce. This policy informs the Trust's approach to policy development, service delivery, access to services and employment practice. This policy is non-contractual.

## AIMS

- 2.1 The specific aim of this policy is to provide a framework and guidance to all staff and contractors who provide services on behalf of the Trust on the importance of delivering equal opportunities to the people the Trust serves and its staff, the aims of this policy are to:
- Promote equality of opportunity and eliminate discrimination in the planning, delivery, monitoring and reviewing of our policies, strategies, functions and services in terms of age, disability, gender, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief and sexual orientation
  - Develop, review, monitor and promote policies and practices that ensure equality of opportunity and eliminate discrimination and exclusion in all areas of employment (including recruitment, retention, learning and development, promotion, grievance, disciplinary, leave arrangements and retirement)
  - Promote good relations, understanding and respect between patients, their carers, members of staff and the wider communities the Trust serves from all backgrounds
  - Address bias, prejudice and negative stereotyping by raising awareness through a range of media such as training, induction, cascades, appraisals, 1:1 meetings, online toolkits and presentations
  - Promote a culture of respect and inclusion for all
  - Promote respect for the human rights of service users, carers and staff
  - Embed the effective governance, performance management and quality improvement of equal opportunities in service outcomes for patients and staff
- 2.2 The Trust will deliver its commitment to equality and diversity and human rights by:
- Continuing to lead from the top on equality, diversity, inclusion human rights and cultural awareness matters
  - Developing a diverse workforce at all levels of the organisation. As the Trust recognises that different groups of people offer different skills, knowledge and experiences which can add value to the quality of services it offers, particularly the quality of care to diverse communities
  - Endeavouring to ensure that all patients, their carers, employees and contractors are aware of their human rights and their right to protection from discrimination, harassment or bullying
  - Promoting a workplace that is fair and inclusive and providing all staff with an equal chance to learn and work free of discrimination and prejudice
  - Raising awareness of equality, diversity, and human rights throughout the Trust through a range of channels such as training, induction, cascades, meetings, forums, appraisals and presentations
  - Carrying out effective Equality Impact Analyses (EIAs) on new and existing policies and major service developments and practices to ensure they will not unlawfully discriminate

against any particular group of individuals

- Using the NHS-wide Equality Delivery system to engage with our stakeholders,
- monitor and manage our performance
- Embedding equality and diversity priorities within normal business operations using the Equality Delivery System (EDS), and EIA processes and training so that progress against equality objectives can be measured easily
- Building on existing good equality and diversity practices and continuing to learn from examples of best practice in the wider economy
- Endeavouring to ensure that all aspects of its services are as accessible as possible to as wide a range of people as possible. This includes layout and environment of Trust premises, the location of its services, the opening times of services, communications systems, including telecommunications, publications, and online information .
- Making services responsible for managing the reasonable adjustments required by their staff and service users as required by law to make their service accessible.
- Delivering on the commitment to equality and diversity as a procurer of care services, goods, works and temporary staff, by complying with EU and UK legislation and best practice. Trust procurement processes will be transparent, objective and non-discriminatory in the selection of our suppliers

## **POLICY STATEMENT**

3.1 Barnet Enfield and Haringey Mental Health Trust is committed to:

- The elimination of unlawful and unfair discrimination
- The active promotion of equality of opportunities; for patients and their carers, employees and customers
- The protection of the human rights of all service users and staff
- The valuing of the diversity inherent in the communities we serve and in our workforce and the promotion of good relations, mutual respect and partnership working between all the people we serve and employ

## **SCOPE AND OUTCOMES**

4.1 The Trust aims to be a fair employer and service provider. The organisation will strive to achieve equality of opportunity for all, creating inclusive environments where everyone can work effectively towards the provision of better healthcare.

4.2 The policy will apply to:

- All employees of Barnet Enfield and Haringey Mental Health Trust
- The organisation and delivery of all its services
- Agency staff, volunteers, external providers of services, regardless of employer also have a duty to comply with this policy

4.3 The policy will apply to all processes relating to employment and training and to how the Trust serves its clients and communities.

4.4 The Trust is committed to ensuring the promotion and development of equal opportunities and valuing diversity. It set strategic objectives for equality and underpin these with a programme of milestones that will be regularly reviewed, using the Equality Delivery

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System or its replacement, as the framework.

## 4.5 The legal framework

4.5.1 The policy covers all aspects of the Trust's work. The Trust will take all reasonable steps to ensure that it and its staff do not breach the equality obligations under the following:

- the Rehabilitation of Offenders Act 1974
- the Employment Rights Act 1996
- the Human Rights Act 1998
- the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000
- the Fixed-Term Employees (Prevention of Less Favourable Treatment) Regulations 2002
- the Civil Partnership Act 2004
- the Gender Recognition Act 2004
- the Work and Families Act 2006
- the Equality Act 2010
- the Marriage (Same Sex Couples) Act 2013

4.5.2 And any other relevant legislation in force from time to time relating to discrimination in employment and the provision of goods, facilities or services.

4.5.3 In relation the Equality Act 2010, the expected outcome from the effective implementation of this policy is to ensure that the Trust is fully compliant with its legal obligations year on year.

Section 149 of the Equality Act 2010, Public sector equality duty

- (1) – A public authority must, in the exercise of its functions, have due regard to the need to:
- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act
  - (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
  - (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it

The specific duty

As a 'listed public authority', we must publish information to demonstrate its compliance with the Public Sector Equality Duty. Previous editions can be found on the Trust's website at <http://www.beh-mht.nhs.uk/equal-opportunities-and-diversity.htm>

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## DEFINITIONS OF EQUALITY AND DIVERSITY TERMS

### 5.1 Protected Characteristics

The protected characteristics as listed in the Equality Act 2010 are sex, sexual orientation, marriage or civil partnership, gender reassignment, race, religion or belief, age, disability, pregnancy and maternity.

#### Age

Age is defined in the Act by reference to a person's age group. In relation to age, when the Act refers to people who share a protected characteristic, it means that they are in the same age group.

#### Disability

A person is disabled if they have 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.

#### Gender reassignment

A transgender person is someone who proposes to, starts or has completed a process to change his or her gender. The person does not have to be under medical supervision.

#### Marriage and civil partnership

Marriage can either be between a man and a woman, or between partners of the same sex. Civil partnership is between partners of the same sex. Civil partners must be treated the same as married couples on a wide range of legal matters.

#### Pregnancy and maternity

Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth and this includes treating a woman unfavourably because she is breastfeeding.

#### Race

Race includes colour, nationality and ethnic or national origins. A racial group can be made up of two or more different racial groups (e.g. Black Britons). Case law now includes caste.

#### Religion or belief

Religion includes any religion. It also includes lack of religion. Additionally, a religion must have a clear structure and belief system. Belief means any religious or philosophical belief or a lack of such belief. To be protected, a belief must satisfy various criteria, including that it is a weighty and substantial aspect of human life and behaviour.

#### Sex

Woman or man.

#### Sexual orientation

The protected groups are - bisexual, gay, heterosexual, and lesbian people.

### Actions prohibited under the Act

#### Direct discrimination

Direct discrimination occurs when someone is treated less favourably than another person because of a protected characteristic they have or are thought to have (see perceptive discrimination below), or because they associate with someone who has a protected

characteristic (see associative discrimination below).

#### Associative discrimination

This is direct discrimination against someone because they are linked or associated with another person who possesses a protected characteristic.

#### 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.

#### Indirect discrimination

Indirect discrimination can occur when you have a condition, rule, policy or even a practice in your company that applies to everyone but particularly disadvantages people who share a protected characteristic and which cannot be justified in relation to the job.

#### 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, hostile, degrading, humiliating or offensive environment for that individual”.

#### Third party harassment

Following a public consultation on reducing red tape, on 1 October 2013 the Government abolished the specific provision in the Equality Act banning harassment of employees by people (third parties) who are not employees of our Trust, such as clients. However, there are still provisions in the Act and in other legislation which have the same effect; an employee could lodge: a direct discrimination claim, where the employer failed to act because of a protected characteristic, which results in less favourable treatment of the employee concerned when compared to how others were (or would have been) treated a harassment claim, on the basis that the employer's inaction amounts to unwanted conduct related to a protected characteristic that violates the employee’s dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for the employee.

#### Victimisation

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

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## Action permitted by the Equality Act

### Positive action

Some people with protected characteristics are disadvantaged or under-represented in some areas of life, or have particular needs linked to their characteristic. They may need extra help or encouragement if they are to have the same chances as everyone else. The new positive action provisions held within the Equality Act 2010 enable service providers to take proportionate steps to help people overcome their disadvantages or to meet their needs.

## OUR RESPONSIBILITIES

Meeting our equalities and human rights obligations is everyone in the trust's responsibility. The Chief Executive is responsible for providing leadership to the Trust in the promotion of equality and diversity. Members of the Trust Board collectively and individually are responsible for supporting the Chief Executive in this objective.

### 6.1 The Chief Executive will:

- Promote the use of this policy and ensure that training in its provisions is provided to managers and staff
- Establish systems for monitoring the application of the policy and take action to rectify any inequalities or deficiencies
- Foster a culture which embraces and values diversity, encourages best practice, equal opportunities and the protection of human rights
- Ensure that the Trust complies with current legislative and NHS policy requirements
- Work with senior staff to ensure equality of access to Trust services so that the health needs of all can be addressed
- Promote partnership working with the aim of reducing and ultimately eliminating health inequalities based on social determinants
- Ensure the protection of the legal rights of all service users, their carers and staff in relation to the operations of the Trust
- Actively encourage and support contributions from all parts of this community to the delivery of health care to the diverse communities the Trust serves
- Promote the removal of any barriers to the fair recruitment, promotion or development for all, both its employees and its service users
- Promote the public celebration of the diversity of the Trust's users, workforce and communities, promoting good relations between diverse individuals and groups
- Provide positive, active and visible leadership to the Trust's delivery of equal opportunities, respecting human rights and valuing diversity

### 6.2 Managers will:

- As leaders within the organisation, all managers and senior practitioners are duty bound to discuss the Trust's policy on equality, human rights and diversity and all the supporting policies in relation to both employment and service issues with all their team members so that they understand their responsibilities under this policy
- As managers, help create and maintain an environment which actively promotes equality, respect for human rights and diversity and is free from discrimination

- As effective leaders, managers should ensure that complaints under this policy are dealt with in a timely, fair and consistent manner, sensitively and confidentially
- All managers should apply Trust policies and procedures fairly, consistently and without discrimination, especially those relating to access to services, service quality, recruitment, training, performance management, sickness and redundancy
- As service leaders, ensure that any contractors they manage working on behalf of the Trust adhere to the principles of the policy
- Managers will encourage staff to ask service users for information on their protected characteristics and other relevant demographics and to record that data on patient information management or other secure systems. Where appropriate, managers will analyse this themselves or make the analysis of others available to their team to help inform improvements in their service delivery to all groups of service users
- Managers should take appropriate action to protect staff and service users from abuse (verbal or physical) from third parties, especially if it is motivated by hate because of a protected characteristic

### 6.3 All employees will:

- All staff are expected to co-operate with the promotion and advancement of the aims of this policy. Where there is a conflict between an individual member of staff's personal views and the requirements to comply with equality legislation, the Trust will consider those views, but ultimately expects staff to deliver public services in line with its public sector equality duty
- All staff are expected to treat all colleagues with dignity and respect and ensure they do not discriminate, either directly or indirectly, or induce others to practise discrimination
- All staff are expected to work to create a safe, friendly and caring environment, where all people are treated with respect, courtesy and dignity
- All staff are expected to challenge and report any discrimination they witness and support colleagues who are discriminated against in complaining about such behaviour
- No member of staff will unlawfully discriminate against any individual or group of people on the grounds of a protected characteristic or encourage other staff to unlawfully discriminate
- No member of staff will victimise or attempt to victimise individuals on the grounds that they have made complaints or provided information on discriminatory practice
- No member of staff will harass, bully or intimidate other employees, (peer, subordinate or senior), any service user, their carer or a contractor

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## POLICY GUIDANCE FOR SPECIFIC AREAS OF OPERATION

### 7. Employment Practices

In all its employment practices, the Trust will have regard to the guidance in the Statutory Code of Practice, produced by the Equality and Human Rights Commission or its successor bodies - [http://www.equalityhumanrights.com/uploaded\\_files/EqualityAct/employercode.pdf](http://www.equalityhumanrights.com/uploaded_files/EqualityAct/employercode.pdf)

#### 7.1.1 Recruitment and selection

- The Trust aims to recruit, develop and retain a workforce that is able to deliver high quality services that are accessible, responsive and appropriate to meet the diverse needs of different groups and individuals.
- The Trust's recruitment and selection procedures will be reviewed regularly to ensure they meet any changes in employment law.
- The Trust will publicly demonstrate its commitment to equal opportunities in recruitment and selection by seeking relevant accreditations for best practice and displaying that accreditation in its recruitment materials.
- The Trust will follow best practice in the promotion of job opportunities for people from disadvantaged groups, in particular candidates with disabilities. The Trust's procedures are set out in its recruitment and selection policy.

#### 7.1.2 Positive action in recruitment and selection

Where the Trust has empirical evidence which leads it to reasonably believe that people who share a protected characteristic:

- a) experience a disadvantage connected to that characteristic; or
- b) have needs that are different from the needs of persons who do not share that
- c) characteristic; or
- d) have disproportionately low participation in an activity compared to others who do not share that protected characteristic

7.1.1 The Trust can take 'positive action to:

- Encourage suitable qualified applicants from under-represented groups to apply for vacancies in that area
- Enhance the skills and work experience of people from those groups through targeted development programmes, to improve their chances in the normal recruitment and selection process
- Encourage a wider range of people to apply for the post by offering flexible working options

The Trust will use the provisions in the Equality Act 2010 to enhance the chances of job applicants with disabilities.

The Trust will join the Government's Disability Confident employer scheme and aim to attain and maintain the highest level of accreditation.

It will always seek to make reasonable adjustments to enable a person with disabilities to take up, remain in or develop further in employment with the Trust. The workforce directorate will provide expert advice and support to appointing teams to facilitate this. The responsibility to secure funding for any such adjustments however, remains with the appointing manager and service.

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The advice of senior staff within Workforce will be sought before any proposal for a positive action programme is put forward. Any programme would require director level approval before implementation.

## **7.2 Pay and conditions of service**

- 7.2.1 The Trust will carry out its own equality impact analysis of any local pay or conditions of service it adopts following appropriate consultation and will address any concerns which are identified in a fair and balanced manner. Where the Trust is using national pay scales and conditions of service, Trust staff will review the equality impact analysis of the national body to ensure that its local application is compliant with the law.
- 7.2.2 The Trust will monitor the pay and conditions of its workforce by protected characteristic groups where relevant and other demographics such as part-time working for indications of unlawful discrimination and take remedial action if any such discrimination is found.
- 7.2.3 The Trust will meet its legal obligations to carry out a gender pay gap review, and as far as practicable review pay gaps by ethnicity and disability.

## **7.3 Training and development**

- 7.3.1 All employees are required to undertake mandatory equality and diversity training relevant to their role within the Trust in line with Skills for health guidance. In addition elements of equalities, diversity and inclusion learning will be incorporated into all management and leadership development interventions commissioned or delivered by the Trust.
- 7.3.2 The Trust aims to ensure that all staff have fair access to appropriate, relevant and necessary training and development opportunities in order to enable them to carry out their job roles effectively and to develop their careers.
- 7.3.3 All employees will be encouraged to undertake training and development which will enable them to progress within the Trust and the wider NHS.
- 7.3.4 All employees should have an individual personal development programme which is part of their annual Appraisal and Performance Review (or its successor appraisal process), which has been agreed and reviewed regularly with their line manager.
- 7.3.5 Where specific groups of staff are identified as being underrepresented in a profession, grade or service, the Trust can consider a positive action development programme to support such staff to compete more effectively for places in that area or grade.
- 7.3.6 The Trust will monitor the uptake of training and development opportunities and the career progression of staff to ensure fairness and equal opportunities for all.

## **8. Service Delivery**

- 8.1 In developing its services the Trust will seek to ensure equitable access to all actual and potential users, this will include, wherever practicable, making specific access arrangements for its customers with disabilities, or any other protected characteristic which may apply. The Trust will attempt to ensure that none of its service policies, protocols or procedures discriminates directly or indirectly against any group or individual.

### **8.2 Access to services**

- 8.2.1 As far as is practicable the Trust will ensure that all aspects of its services are as accessible

as possible to as wide a range of people as possible. This includes our premises, the location of our services, the opening times of our services and our communications systems including telecommunications, publications, documents and web and intranet publications.

8.2.2 The Trust will actively promote the use of Plain English in all its communications, because Plain English helps everyone even those who have English as their first language. Staff will be reminded of the importance of writing in Plain English as research indicates that one in six people in the UK struggle with literacy. This means their literacy is below the level expected of an eleven year old. The Trust will adopt the NHS Accessible Information Standard.

8.2.3 To promote the widest possible accessibility of its premises the Trust will develop an Accessibility Action Plan to address physical or communications accessibility issues which arise for both staff and service users.

The principles within the plan will be:

- Full consideration of the needs of people from all protected characteristics who may have specific issues around access such as the elderly, parents of young children or those reliant on public transport.
- Trust is committed to action to ensure its facilities are as physically accessible as practicable to people with disabilities that affect their mobility or manual dexterity.
- The Trust will engage translation on demand services which can translate and provide copies of key information leaflets in the main languages used in the areas the Trust serves. To ensure that this happens, all service information leaflets, brochures and booklets must go through the Corporate Communications Team or be produced using the relevant corporate template which includes a translation block which people can use to order translations in their own languages.
- Services will be responsible for the co-ordination and funding of all work related reasonable adjustments for their staff. This includes provision for attendance at Trust events or internal or external training activities required to meet the person's job role or agreed as part of the person's personal development plan. Managers will be reminded of their legal duty to make such reasonable adjustments. Specialist advice and support will be provided by or through the workforce directorate.
- Items of correspondence for patients or carers who do not read English, or require written information in other formats (Braille, Moon, large print, easy read or Makaton etc.) must be made available as soon as practicable on request or as a matter of routine where services have identified the need.
- The Trust will provide a comprehensive face-to-face and telephone interpreting service, the availability of which will be advertised to both staff and service users at all points of contact within the Trust. Detail of how to access these resources will be made available on the intranet.
- The Trust is committed to assessing the needs of the whole person that includes people's cultural and spiritual needs.
- Holistic assessments of needs, including identifying and addressing cultural and spiritual needs will be the responsibility of the team providing the service
- As part of the clinical assessment process, all patients will be asked about their cultural and spiritual needs, and how the Trust can best meet them where appropriate. This includes any cultural traditions associated with all nine protected characteristics.

### 8.3 Meeting cultural and spiritual care needs

8.3.1 The Trust will maintain chaplaincy arrangements for appropriate world religions on its own

or in partnership with other NHS organisations where it operates inpatient services. In line with the recommendation in the impact of spirituality on mental health literature review, produced by the Mental Health Foundation, the Trust will encourage all staff to:

- Ask service users about their spiritual and religious needs upon entry to the service and throughout their care and treatment
- Help users to identify those aspects of life that provide them with meaning, hope, value and purpose
- Ensure that within their service there is appropriate access to relevant and appropriate religious and spiritual resources
- Work with the chaplaincy and or groups in the community as well as NHS estates managers to make available safe spaces where users can pray, meditate, worship or practice their faith
- Provide opportunities for service users to discuss their spirituality or religion with others building strong and effective links with religious and spiritual groups in the local community
- Avoid pathologising, dismissing or ignoring the religious or spiritual experiences of service users

8.3.2 The Trust will adopt and if necessary adapt an evidenced based model for engaging with patients' spiritual and cultural needs. The model will need to dovetail with electronic patient management systems.

8.3.3 In support of the PSED to foster good relations, staff will also be encouraged to learn about the cultural and spiritual traditions of significant groups of service users and local communities and to host events where everyone can share or learn about key festivals and celebrations.

8.3.4 It is not practicable for staff to learn everything about every cultural and religious group, so the Trust will work to improve the cultural competency of staff so that they are able to ask the appropriate questions about services users' cultural and spiritual needs and to identify resources within the Trust, the wider health and social care community or further afield to meet those needs.

## 9.0 Data collection and analysis

9.1 The Trust fully complies with the requirement of the General Data Protection Regulations (GDPR). Any data, either qualitative and or quantitative, required to monitor performance against the duties in the Equality Act 2010, will be collected where it is reasonable, proportionate and practical to do so.

9.2 Staff will also be made aware of their obligations under the Gender Recognition Act 2004 and their responsibility to protect the privacy of all transgender patients, particularly those with a certificate of gender recognition or who have applied for such a certificate.

9.3 The Trust will ensure that relevant staff are trained to ensure there is no disclosure of information in breach section 22 of the Act.

9.4 The Trust will always seek written consent to from transgender patients to share information about them within the multi-disciplinary teams providing their care. The Trust will seek this consent in a sensitive way at an appropriate point in the patient's path through our services.

9.5 Declining to consent will not affect our willingness to treat a patient unless it would be clinically unsafe to do so.

- 9.6 The Trust will develop procedures to systematically monitor and report on key service outcomes for patients by protected characteristics. This will be used to ensure that no unlawful discrimination is taking place and to promote good practice in tackling health inequalities.
- 9.7 The responsibility for gathering and processing the data will lie with those staff who produce performance data for the Trust; the specific analysis for equalities outcomes rests with the Trust's equalities lead.
- 9.8 All staff collecting demographic data from patients, carers, job applicants or other members of staff will be informed of their data protection rights and the purpose of the collection of the data.
- 9.9 There are links between protected characteristics and health needs. The linkage is through the social determinants of health model. The social determinants of health are the conditions in which people are born, grow, live, work and age, including the health system.
- 9.10 The Trust will ensure that relevant staff are aware of their responsibilities under the Gender Recognition Act 2004 and are trained to ensure there is no disclosure of information in breach section 22 of the Act.
- 9.11 The Trust will always seek written consent from Transgender patients to share information about them within the multi-disciplinary teams providing their care. The Trust will seek this consent in a sensitive way at an appropriate point in the patient's path through our services.

Declining to give consent will not affect the Trust's willingness to treat a patient, unless it makes it clinically unsafe to do so.

## **10.0 Conducting Equality Impact Analyses or other measures of compliance with the public sector equality duty**

- 10.1 All senior staff producing policies, procedures or overseeing service developments should carry out an equality impact analysis on the initiative to determine what the likely impacts are on different protected characteristics and disadvantaged groups and what mitigating actions might be necessary to avoid potentially unlawful discrimination. The Equality Impact Analysis guidance and form are available on the Trust's intranet.

## **11. PROTECTING HUMAN RIGHTS**

- 11.1 As an NHS organisation, the Trust is under a legal obligation to respect and protect the rights under the Human Rights Act 1998. These rights are listed below.
- the right to life
  - the right not to be tortured or treated in an inhuman or degrading way
  - the right to be free from slavery or forced labour
  - the right to liberty and security
  - the right to a fair trial
  - the right not to be punished without legal process
  - the right to respect for private and family life, home and correspondence
  - the right to freedom of thought, conscience and religion

- the right to freedom of expression
- the right to freedom of assembly and association
- the right to marry and found a family
- the right not to be discriminated against in relation to the enjoyment of any of the rights contained in the European Convention
- the right to peaceful enjoyment of possessions
- the right to education
- the right to free elections

11.2 The Department of Health provides guidance to NHS organisations on meeting those obligations in Human Rights in Healthcare, A framework for local action, published in 2008.

The rights most frequently impacting on NHS work have been usefully summarised as FRED A – Fairness, Respect, Equality, Dignity and Autonomy. These principles have also been incorporated into the NHS Constitution. In the guidance the DH sets out how the FRED A principles relate to common aspects of NHS work.

Value /	Human right	Example policy or practice
Fairness	Right to fair trial	Ensuring that there is a robust and fair process for dealing with concerns about the professional conduct or performance of a healthcare professional
Respect	Right to respect for family and private life, home and correspondence	Respecting all diverse families e.g. same-sex couples with children Avoid denying those detained or in residential care access to family without lawful reason
Equality	Right not to be discriminated against in the enjoyment of other human rights	Commitment to improving mental health services for people from black and minority ethnic groups Ensuring that people are not denied treatment solely on the basis of their age
Dignity	Right not to be tortured or treated in an inhuman or degrading way	Ensuring that there are sufficient staff to promptly change soiled bed sheets and to be given appropriate nutrition and hydration
Autonomy	The right to liberty and security Right to respect for private life	Involving people in decisions made about their treatment and care

11.3 As a provider of mental health services the Trust has to be very mindful of how it uses its powers under mental health legislation to deprive patients of their liberty, compel treatment and regulate access to contacts with other people sits with its obligations under the Human Rights Act 1998.

11.4 Staff will receive role-specific training on the protection of human rights and operation of the Mental Health Acts.

## 12. MONITORING, REVIEW AND GOVERNANCE

- 12.1 The performance management of the Trust's equality, diversity and human rights activities will be part of its mainstream management processes.
- 12.2 The Trust will use the NHS-wide Equality Delivery System to manage stakeholder engagement in the evaluation of its overall performance and the review and setting of equality objectives.
- 12.3 Responsibility for coordinating and driving the process will rest with the Trust's equality lead (Head of Equalities and Engagement). Delivery of equal opportunities and the protection of human rights on the ground is the responsibility of the managers of individual services.
- 12.4 Any significant risks or developments will be reported to relevant Board sub-committee responsible for service risk management.
- 12.5 The Board will receive an annual report on equality performance, supported by updates from the Chief Operating Officer or the executive director with lead responsibility for equalities, diversity and human rights.
- 12.6 In addition, the Trust will establish and maintain an advisory group on equalities, diversity and human rights with the remit to identify and promote examples of good equalities practice, recommend ways in which the Trust can better assess and meet the cultural and spiritual needs of patients, and promote the widest possible understanding of the Equality Delivery System and other mandated performance frameworks for the NHS and wider public sector.

## 13.0 ASSOCIATED TRUST DOCUMENTS

- 13.1 Our equality, diversity and inclusion policy informs all other Trust policies. There are some policies, however, which provide the detailed guidance necessary to delivery fairer services to all.
- Access to Healthcare for People with Learning Disability Policy
  - Disciplinary Policy and Procedures
  - Grievance Policy
  - Privacy and Dignity Policy (protocols on protecting the privacy of transgender service users)
  - Parental leave policy
  - Carers Strategy Document.
  - Performance Appraisal Development Review Policy
  - Staff Dress Code Policy
  - Protection of Pay Policy
  - Protecting adults at risk Pan London Procedure
  - Management of Organisational Change Policy
  - Prosecuting Perpetrators of Violence policy
  - Maternity Paternity and Adoption Leave Policy
  - Anti-Harassment and Bullying at Work Policy
  - Workforce Development and Study Leave Policy

- Alcohol Drug Substance Misuse policy
- Career Break Policy
- Recruitment Policy
- Capability Policy and Procedure
- Retirement Policy
- Flexible Working Policy
- Attendance Policy

## MONITORING COMPLIANCE WITH AND EFFECTIVENESS OF PROCEDURAL DOCUMENTS FORM

1.	How will the document be monitored?  (please circle as appropriate)	Audit		Review	Other, please specify; Contractual performance framework (WRES, EDS, WDES and Gender pay gap report plus reviews by ED&HR committee)
		Methodology:			
2.	What is the process for reviewing results of monitoring?	They ultimately get reported to the Trust board via the annual equality report			
3	Report to:	Trust Board via relevant sub-committees			
4.	Who is responsible for conducting the monitoring?  (please circle as appropriate)	Group / Committee		Individual	
		Name / Title (also include position of individuals): Equality, Diversity & Human Rights Committee chaired by Chief Executive Head of Equalities and Engagement			
5.	How often will the document be monitored?  (please circle as appropriate)	Monthly	6 Monthly	Yearly	Other, please specify;
		Comments:			
6	Responsibility for action planning after review	Service leads for actions in their areas			
		Head of equalities and engagement for Trust-wide actions			

## EQUALITY IMPACT ASSESSMENT AND ANALYSIS FORM

1. Please indicate the expected impact of your policy on people with protected characteristics

Characteristics (where relevant)	Significant positive	Some positive	Neutral	Some negative	Significant negative
Age:					
Disability:					
Ethnicity:					
Gender re-assignment:					
Religion/Belief:					
Sex (male or female)					
Sexual Orientation:					
Marriage and civil partnership					
Pregnancy and maternity					
The Trust is also concerned about key disadvantaged groups even though they are not protected by law					
Substance mis-users					
The homeless					
The unemployed					
Part-time staff					

Please remember just because a policy or initiative applies to all, does not mean it will have an equal impact on all.

2. Consideration of available data, research and information.

	Key questions (supports EDS Goals)	Your Response
2.1	What evidence, data or information have you considered to determine how this policy contributes to delivering better health outcomes for all?	The policy requires attention to be paid health inequalities by clinicians and service managers in line with local Joint Strategic Needs Assessments. This approach is also in line with the Five Year Forward View for Mental Health –
2.2	What evidence, data or information have you considered to determine how this policy contributes to improving patient access and experience?	3. Promoting good mental health and preventing poor mental health– helping people lead better lives as equal citizens  The policy specifically addresses attention to the specific needs of service users from diverse backgrounds and the requirement to identify and where practicable meet their needs.

2.3	What evidence, data or information have you considered to determine how this policy contributes to delivering a representative and well supported workforce?	Based on data from the trust's own WRES, gender pay gap report and other measures of outcomes it provides for positive action to address those needs.	
2.4	What evidence, data or information have you considered to determine how this policy contributes to inclusive leadership and governance?		
3. It is Trust policy that you explain your proposed development or change to people who might be affected by it, or their representatives. Please outline how you plan to do this.			
Group		Methods of engagement	
HR / Business partners		Discuss specific changes to improve alignment with other trust policies or close gaps in guidance.	
4. Equality Impact Analysis Improvement Plan			
Negative impacts identified		Actions planned	By who
None			
6. Sign off and publishing			
I have conducted this equality Impact analysis in line with Trust guidance			
Your name: 'Jide Odusina		Position: Head of equalities and engagement	
Signed: 		Date: 29/4/2019	
Approved by:			
Your name:		Position	
Sign:			
Date			

## Checklist for the review and approval of procedural document

To be completed and attached to any document which guides practice when submitted to the appropriate committee for consideration and approval.

	Title of document being reviewed:	Yes/No/Unsure	Comments
1.	Title		
	Is the title simple and clear to everyone who reads it?	Yes	
	Is it clear whether the document is a guideline, policy, protocol or standard?	Yes	
2.	Rationale		
	Are reasons for development of the document stated?	Yes	
3.	Development Process		
	Is the method described in brief?	Yes	
	Are individuals involved in the development identified?	Yes	
	Do you feel a reasonable attempt has been made to ensure relevant expertise has been used?	Yes	
	Is there evidence of consultation with stakeholders and users?	Yes	
4.	Content		
	Is the objective of the document clear?	Yes	
	Is the target population clear and unambiguous?	Yes	
	Are the intended outcomes described?	Yes	
	Are the statements clear and unambiguous?	Yes	
5.	Evidence Base		
	Is the type of evidence to support the document identified explicitly?	Yes	
	Are key references cited?	Yes	
	Are the references cited in full?	Yes	

	Title of document being reviewed:	Yes/No/Unsure	Comments
	Are local/organisational supporting documents referenced?	Yes	
6.	Approval		
	Does the document identify which committee/group will approve it?	Yes	
	If appropriate, have the joint staff side committee (or equivalent) approved the document?	Yes	
7.	Dissemination and Implementation		
	Is there an outline/plan to identify how this will be done?	Yes	
	Does the plan include the necessary training/support to ensure compliance?	Yes	
8.	Document Control		
	Does the document identify where it will be stored?	Yes	
	Have archiving arrangements for superseded documents been addressed?	Yes	
9.	Process for Monitoring Compliance		
	Are there measurable standard to support monitoring compliance of the document?	Yes	
	Is there a plan to review or audit compliance with the document?	Yes	
10.	Review Date		
	Is the review date identified?	Yes	
	Is the frequency of review identified? If so, is it acceptable?	Yes	
11.	Overall Responsibility for the Document		
	Is it clear who will be responsible for coordinating the dissemination, implementation and review of the documentation?	Yes	

# **GUIDANCE FOR MANAGERS ON ‘REASONABLE ADJUSTMENTS’ UNDER THE EQUALITY ACT 2010 AND THE TRUST’S EQUAL OPPORTUNITIES, DIVERSITY AND INCLUSION POLICY**

To be read in conjunction with the Trust’s Equal Opportunities, Diversity and Inclusion Policy, Attendance Policy and the guidance from Job Centre Plus: Access to Work for People with Disabilities

Date of Issue:

Date of review:

Policy Review:

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## 1.0 Introduction

Since the Disability Discrimination Acts 1995 and 2005, employers have been under a duty to make 'reasonable adjustments' to ensure that, where necessary, disabled employees can undertake their duties and are not disadvantaged as a result of their particular disability. That obligation has been carried forward into the Equality Act 2010.

## 2.0 Duty to make reasonable adjustments

2.1 Under the Equality Act 2010, the Trust has a duty to make "reasonable adjustments" for disabled employees as follows:

- To take whatever reasonable steps are necessary to reduce or eliminate any substantial disadvantage to disabled people caused by the physical features of our premises compared to a non-disabled person
- To make reasonable adjustments in cases where a disabled person, seeking employment with the Trust, would be placed at a considerable disadvantage compared to those without a disability
- To identify and take whatever steps are reasonable, practical and justifiable in order to comply with the duty to make reasonable adjustments

2.2 For service users - Under the Equality Act (Discrimination in the Access to Goods, Facilities and Services) – the Trust has a duty to proactively make its services accessible to people with disabilities. This may require making reasonable adjustments to buildings and services, to provide, for example, lifts, accessible toilets and hearing loops in public areas.

The Trust may undertake a risk assessment on the provision of some adjustments – such as the provision of all patient information in Braille for example, deciding whether to make it available on requested rather than hold a stock of pre-printed leaflets. In making decisions on whether to make adjustments on demand or to modify the basic service, the Trust would need to show that it had reviewed the data on the demand in the local population and the ability and convenience of those affected to express a preference.

2.3 For employees - under the Equality Act, the reasonable adjustments required for disabled employees can be applied reactively rather than proactively. It is therefore not legally necessary to make comprehensive adjustments to ensure accessibility of the workplace until there is an employee requiring those adjustments. The Trust should aim to make the necessary adjustments within a suitable time frame.

Adjustments for employees should be considered as soon as the issue is raised rather than as a last resort.

If, however, the location is also to be used by service users or members of the public, then the accessibility issues need to be considered irrespective of whether the Trust has an individual with those specific adjustment needs.

## 3.0 Examples of Reasonable Adjustments.

This list is not exhaustive.

- Adjustments to premises
  - widening doorways, providing ramps
  - installing lifts
  - relocating light switches and door handles
  - brightening the décor to assist the visually impaired, providing greater colour

contrast between walls and door frames, installing hearing loops

- rearranging furniture layout to ensure that a wheelchair can turn around
- Allocating some duties to another employee
- Allocating some subsidiary duties to another employee if the disabled person finds them difficult
- Altering working hours
- Allowing a disabled person to work flexible hours or take more breaks to overcome fatigue from the disability or to fit in with care arrangements
- Amending appointment times
- Arranging a patient's appointments to work around variations in their mobility
- Transferring to a different workplace location
- Transferring a person to a different building or workstation that is more accessible where it is considered not possible to make suitable adjustments at the present location
- Transferring treatment to a different location
- Arranging for a patient to receive treatment in another location where the usual location is inaccessible for the individual. This may be in a more accessible part of the same building, at another Trust premises or at the patient's home if appropriate (refer to the Trust's Lone Worker Policy for guidance for staff undertaking home visits)
- Acquiring modified equipment
- Providing specially adapted equipment to overcome a disability e.g. an adapted telephone for those with a hearing impairment, an ergonomic computer keyboard for someone with arthritis
- Providing training for modified equipment
- Providing training to use a piece of specially adapted equipment. All employees may need training to use a computer, but if this had to be adapted to overcome a disability, additional training would need to be provided
- Modifying instructions, manuals and patient information literature
  - Modifying the way in which these are normally given to people, depending on the individual's need e.g. In large type, in Braille, on audio-tape or with demonstrations for those with learning difficulties
- Providing a reader or interpreter. This could be a member of staff reading mail or instructions in appropriate circumstances to a colleague or patient. It may also include providing a sign language interpreter or lip reader support for hearing impaired employees attending a training event or for hearing impaired patients undertaking a clinical assessment.
- Modifying selection procedures and tests
  - Some tests can disadvantage a person with a disability e.g. written tests or time limited tests for disabled people with restricted manual dexterity or dyslexia
- Providing additional support
  - This could be a colleague acting as support worker to carry out certain tasks or help the disabled person overcome uncertainty or a lack of confidence

2.5 There is no definitive answer as to what is considered 'reasonable'. The law uses this phrase to give some flexibility and allow different solutions in different situations. However, the Code of Practice advises that 'reasonable' may vary according to the:

- Type of services provided
- Nature of the organisation and its size and resources
- Effect of the disability on the individual disabled person

2.6 In considering whether or not the adjustments required are reasonable or not, there are a number of factors, which should be considered as follows:

- The effectiveness of the steps in preventing the disadvantage or increasing the individual's productivity
- The health and safety of the individuals concerned (in the case of service users this includes the health and safety of the staff member providing the patient's care)
- The practicality of the steps, such as whether providing the service to the individual concerned would directly prevent the service from being provided to others at large. It would not be possible for a member of staff who has developed severe anxiety attacks associated with claustrophobia (fear of being locked in) to work in a secure inpatient unit as the doors have to be locked. However, this is not categorical and the degree of disruption would need to be risk assessed
- Whether the individual concerned can enter into a contract or give informed consent (refer to the Trust's Consent Policy)
- The financial and other costs which would be incurred by the Trust in taking the steps and the extent to which taking it would disrupt any of its activities
- The availability to the Trust of financial or other assistance (for example from Jobcentre Plus' "Access To Work" scheme) with respect to taking the steps

2.7 The employer alone does not decide what is 'reasonable'. Ultimately it is a judge in a court of law who decides. However for the most appropriate action under the requirements of the law, best practice suggests that decisions of reasonable adjustment should be made by the employer and the disabled person concerned, working together.

### **3.0 Funding for Adjustments**

- 3.1 The costs of any adjustment would have to be shown to be significantly disproportionate to the size of the Trust, its overall budget and the resources it has available. It would be reasonable to consider a more expensive adjustment for a permanent employee in comparison to a temporary employee, but consideration would still need to be given to both. If an employee becomes disabled, it might be more cost effective to consider the cost of the adjustment in comparison to the cost of his or her retirement, redundancy or dismissal and replacement.
- 3.2 Financial assistance for making adjustments may be available from the Jobcentre Plus Disability Service through their 'Access to Work' scheme. This can provide financial assistance for the purchase of specialist equipment as well as meeting the cost (sometimes partial cost) of adaptations to premises or existing equipment. Further details about how to access Job Centre Plus' 'Access to Work' scheme for people with disabilities can be found within the Access to Work guidance pages on the Trust's intranet.
- 3.3 Assistance in approaching Access to Work, liaison with occupational health and general advice on applying best practice in line with relevant Trust policies is available from the Business Partnering and Equalities and Organisational Development Teams.