

DIVERSITY AND INCLUSION POLICY

(ED1)

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Workforce and OD Group		May 2017	
Links or overlaps with other policies:			
Tackling Discrimination Together (ED5)			
Access Policy			
Violence and Aggression Guidelines (Policy 23)			
Wellbeing at Work Policy (WB1)			
Accessible Information Policy (ED3)			
Bullying & Harassment Policy			

Amendment History

Issue	Status	Date	Reason for Change	Authorised
V1.0	Final	December 2014	Policy ratified	LCNC
V1.1	Final	February 2014	Additional appendix (3) – Gender Reassignment	Equality and Diversity Manager
V1.2	Update	May 2017	Two yearly update	Workforce and OD Group
V1.3	Update	January 2019	General Review/Audit	Diversity & Inclusion Officer
V1.4	Update	January 2021	General Review/Audit	Diversity & Inclusion Officer

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1 Policy Statement

- 1.1 Torbay and South Devon NHS Foundation Trust believes in providing equity in its services, in treating people fairly with respect and dignity and in valuing diversity both as a health and care services provider and as an employer.

2 Introduction

- 2.1 The aim of this policy is to outline the Trust's commitment to preventing discrimination, valuing diversity and achieving equality of opportunity. Torbay and South Devon NHS Foundation Trust (TSDFT) is committed to promoting equality and diversity and promoting a culture that actively values difference and recognises that people from different backgrounds and experiences can bring valuable insights to the workplace and enhance the way we work. The Trust aims to be an inclusive organisation, where diversity is valued, respected and built upon, with ability to recruit and retain a diverse workforce that reflects the communities we serve.
- 2.2 The Trust strives to eliminate discrimination in the provision of its services, and in recruitment and employment, to ensure an environment that is characterised by dignity and respect, and which is free from harassment, bullying and victimisation. No person (staff, patient, or public) will receive less favourable treatment on the grounds of the nine protected characteristics (see Appendix 1 for definitions) as governed by the Equality Act 2010: Sexual Orientation; Gender; Age; Gender Reassignment; Pregnancy and Maternity; Disability; Religion or Belief; Race; Marriage and Civil Partnership. In addition to these nine, the Trusts will not discriminate on the grounds of domestic circumstances, social-economic status, political affiliation or trade union membership.

3 Objectives

- 3.1 The Trust's equality objectives are reviewed annually and are founded on the feedback from our staff and our community. The shared equality objectives, at the time of publication of this policy, are as follows:

Objective 1: Accessible Information

Capture, monitor and evaluate relevant demographic data in order to remove barriers and improve access to services/ information.

Objective 2: Inclusion Health Groups

Effectively engage with socially disadvantaged and hard to reach groups to actively reduce inequalities in health and care.

Objective 3: Representative and Supported Workforce

Influence the shape of the workforce through (a) an effective employability strategy whereby the primary focus is to develop a diverse workforce and (b) actively promoting a wellbeing strategy which aims to develop the talent and resilience of the workforce

Objective 4: Inclusive Leadership

Develop measurable interventions which effectively capture staff views and ideas, build cultural competence and empower leadership within a values framework for the organisation.

4 Purpose and Scope

- 4.1 This policy applies to all employees of TSDFT, students, workers, and all volunteers and persons working under the terms of an honorary contract. Where the Trust's services are provided by external contractors, sub-contractors, agencies, temporary workers or third parties on the basis of a specification set by the Trust, these parties are responsible for adhering to the Trust's Equality and Diversity Policy whilst providing services on behalf of the Trust. This Policy also applies to patients, visitors and other users of the Trust's services.
- 4.2 The Trust will use this policy and other relevant policies to ensure fair and reasonable treatment of its patients, staff and members of the public.

5 The organisation as an employer

- 5.1 The Trust values the diversity of its staff as an asset, and wishes to encourage all staff to reach their full potential. It encourages a healthy balance between home and work life through the promotion of wellbeing and mindfulness.
- 5.2 **Recruitment**
The Trust recognises the importance of ensuring that the workforce profile broadly reflects the profile of the patient population and the communities we serve. It is through the effective implementation of values-based recruitment practices and the bespoke provisions of the Employability Hub that the organisation is able to recruit and retain a representative workforce.
- 5.3 **Training**
Appropriate training is provided within available resources to enable all staff to perform their jobs effectively and to develop their careers as far as they wish. Opportunities for learning and development will be organised to take account of different working patterns as well as service requirements and promoted in a way to ensure equity of access.

6 The organisation as a service provider

- 6.1 The Trust is committed to actively reducing health inequalities in the local population and utilises the information provided in the local Joint Strategic Needs Assessment (JSNA) to effectively assess the health and wellbeing of our community.
- 6.2 The Trust employs the effective use of Quality Equality Impact Assessments to ensure that all policies, projects and services do not discriminate against, or disadvantage any people.
- 6.3 The Trust is committed to ensuring that all services are accessible for all. As part of the Accessible Information Standard, the Trust aims to ensure that people who have a disability, impairment or sensory loss get information that they can access and understand, and any communication support that they need.

7 Governance

- 7.1 The Trusts are committed to compliance with the Equality Act 2010, the Public Sector Equality Duty, the Equality Delivery System (EDS) and any other relevant Codes of Practice, including the Workforce Race Equality Standard, Workforce Disability Equality Standard and Accessible Information Standard.
- 7.2 **The Equality Business Forum**
 The Equality Business Forum will oversee the implementation of all aspects of the national and local equality frameworks for employment. Specifically the Group provides strategic leadership to drive the equality, diversity and inclusion agenda across the Trust for its staff.
- 7.3 **The Devon Wide Equality Cooperative**
 The Devon Wide Equality Cooperative whose members include Equality and Diversity Leads from NHS Trusts across Devon and other Public Sector Organisations will oversee the implementation of all aspects of the national and local equality frameworks for the effective delivery of services. Specifically the Group provides strategic leadership to drive the equality, diversity and inclusion agenda across Devon for the care of its people.

8 Roles and Responsibilities

- 8.1 The Chief Executive has overall responsibility for ensuring that the Trust complies with equality and diversity legislation.
- 8.2 **Managers**
 - 8.2.1 Heads of Department, all managers and supervisors and Human Resources staff are directly responsible for the effective implementation and monitoring of this policy and procedures at operational level. They should familiarise themselves with the policy and procedures and ensure that their staff are aware of how they can access them. They are responsible for ensuring all staff attend mandatory training on equality and diversity and refresh this training every three years. Managers are responsible for undertaking Quality

Equality Impact Assessments on services,
 organisational change and on appropriate policies.

- 8.2.2 Managers have a corporate responsibility to act as role models to staff and, as such, need to be especially aware of any methods they use to manage their staff and must act in accordance with this policy and others (such as the NHS Code of Conduct for Managers).

8.3 Employees

- 8.3.1 All staff are responsible for ensuring that they act within the spirit of the policy and procedures and participate in equality and diversity training every three years.
- 8.3.2 All employees are expected to behave in a way that is supportive of this policy. Members of staff have a responsibility to treat other individuals with dignity and respect and promote an inclusive culture. Any individual's action(s) that are inconsistent with the values of the Trusts may be subject to disciplinary action up to and including dismissal. Where the Trust uses external providers of services they will be required to ensure that the equality and diversity standards identified in this policy are met.

9 Reasonable Adjustments

- 9.1 Equality law recognises that bringing about equality for people with disabilities may mean changing the way in which employment is structured, the removal of physical barriers and/or providing extra support for a disabled worker. This is the duty to make reasonable adjustments. (See Appendix 1 for definition of disability).
- 9.2 Under the Equality Act 2010, employers must make reasonable adjustments to make sure disabled workers (including all those mentioned in section 4.1) are not seriously disadvantaged when doing their jobs.
- 9.3 There may be times during a person's working life when they experience illness or disability that affects the way they perform their duties. For some staff there may be times when this may prove to be a challenge. The Trust is committed to ensuring that all staff can carry out their duties to the best of their ability and will make reasonable adjustments to support staff wherever possible.
- 9.4 Reasonable adjustments can include:-
- Changes in the recruitment process.
 - Changes in a person's work environment
 - Installing ramps or audio visual fire alarms
 - Providing specialist equipment
 - Staff who become disabled during their employment are able to make phased return to work
 - Part Time or Flexible Working arrangements

Where any person's may benefit from reasonable adjustments to support them in their role, a discussion should take place between the individual and their line manager as soon as possible.

10 Reporting

- 10.1 If a member of staff feels they have experienced less favourable treatment, they should raise an incident form and refer to the Tackling Discrimination Together Policy (ED5). Where possible/ appropriate, a manager should be notified and/or a Freedom to Speak to Guardian.
- 10.2 If a member of the public feels they have experienced less favourable treatment, they are welcome to raise a complaint through the Patient Advice and Liaison Service. An incident form should still be raised in accordance with the Tackling Discrimination Together Policy (ED5).

11 Training and Awareness

- 11.1 Appropriate mandatory training will be provided to ensure that staff and managers understand their responsibilities under the Trust Equality and Diversity Policy. Equality and diversity issues will be integrated as appropriate into other Trust learning and development programmes.

12 Monitoring

- 12.1 Analysing data both from a service and a workforce perspective is essential for helping us to make decisions about our organisation. Monitoring information and data will be provided to the relevant Governance Group and will include information about our workforce, patients, members and national and local population data. This information will be published on the Trust's equality and diversity web pages to comply with the Equality Act 2010 requirements.

13 Appendix 1 – Definitions

Protected Characteristics (Equality Act 2010)

Age

Where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds).

Disability

A person has a disability if they have a physical/mental impairment or progressive condition which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.

A person 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

The process of transitioning from one gender to another.

Marriage and Civil Partnership

Marriage is defined as a 'legal relationship between two people'. Same sex weddings were legalised in March 2014 following the Marriage (Same Sex Couples) Act 2013. 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 - this includes ethnic or national origins, colour and nationality

Refers to the protected characteristic of race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

Religion or belief

Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

Sex

A man or a woman.

Sexual orientation

Whether a person's sexual attraction is towards their own sex, the opposite sex or both.

Discrimination

Direct discrimination

Direct discrimination occurs when someone is treated less favourable than another person because of a protected characteristic they have or are thought to have or because they associate with someone who has a protected characteristic.

Associative discrimination

This is direct discrimination against someone because they associate with another person who possesses a protected characteristic. Already applies to race, religion or belief and sexual orientation and is now extended to cover age, disability, gender reassignment and sex.

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. Already applies to age, race, religion or belief and sexual orientation and is now extended to cover disability, gender reassignment and sex.

Indirect discrimination

Indirect discrimination can occur when you have a condition, rule, policy or even a practice that applies to everyone but particularly disadvantages people who share a protected characteristic. Indirect discrimination can be justified if you can show that it is a proportionate means of achieving a legitimate aim. Being proportionate really means being fair and reasonable, including showing that you've looked at less discriminatory alternatives to any decision you make. Already applies to age, race, religion or belief, sex, sexual orientation and marriage and civil partnership and now extended to cover disability and gender reassignment.

Harassment Definitions

Harassment

Harassment is defined as 'unwanted conduct related to relevant protected characteristics, 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'.

Harassment applies to all protected characteristics except for pregnancy and maternity and marriage and civil partnership. Employees will now be able to complain of behaviours that they find offensive even if it is not directed at them, and the complainant need not possess the relevant characteristic themselves.

Third Party Harassment

The employer is liable for harassment by third parties in the workplace if the employee has been harassed on at least two other occasions and the employer failed to take reasonable steps to prevent it from happening again.

Victimisation

The definition of victimisation has a specific meaning in the context of the Equality Act. The Equality and Human Rights Commission (EHRC) defines victimisation as less favourable treatment on the basis of carrying out 'protected acts' which include the following:

- Making a claim or complaint of discrimination (under the Equality Act).
- Helping someone else to make a claim by giving evidence or information.
- Making an allegation that you or someone else has breached the Act.
- Doing anything else in connection with the Act.

If you do treat a person less favourably because they have taken such action then this will be unlawful victimisation.

14 Appendix 2 – Equality Impact Assessment

Rapid Equality Impact Assessment *(for use when writing policies and procedures)*

Policy Title (and number)	Equality and Diversity Policy (ED1)		Version and Date	V2.0 November 2016	
Policy Author	Equality and Diversity Lead				
An equality impact assessment (EIA) is a process designed to ensure that a policy, project or scheme does not discriminate or disadvantage people. EIAs also improve and promote equality. Consider the nature and extent of the impact, not the number of people affected.					
EQUALITY ANALYSIS: How well do people from protected groups fare in relation to the general population? <i>PLEASE NOTE: Any 'Yes' answers may trigger a full EIA and must be referred to the equality leads below</i>					
Is it likely that the policy/procedure could treat people from protected groups less favourably than the general population? (see below)					
Age	Yes ☐ No ☒	Disability	Yes ☐ No ☒	Sexual Orientation	Yes ☐ No ☒
Race	Yes ☐ No ☒	Gender	Yes ☐ No ☒	Religion/Belief (non)	Yes ☐ No ☒
Gender Reassignment	Yes ☐ No ☒	Pregnancy/ Maternity	Yes ☐ No ☒	Marriage/ Civil Partnership	Yes ☐ No ☒
Is it likely that the policy/procedure could affect particular 'Inclusion Health' groups less favourably than the general population? (substance misuse; teenage mums; carers ¹ ; travellers ² ; homeless ³ ; convictions; social isolation ⁴ ; refugees)					Yes ☐ No ☒
Please provide details for each protected group where you have indicated 'Yes'.					
VISION AND VALUES: Policies must aim to remove unintentional barriers and promote inclusion					
Is inclusive language ⁵ used throughout?					Yes ☒ No ☐
Are the services outlined in the policy/procedure fully accessible ⁶ ?					Yes ☒ No ☐
Does the policy/procedure encourage individualised and person-centred care?					Yes ☒ No ☐
Could there be an adverse impact on an individual's independence or autonomy ⁷ ?					Yes ☐ No ☒
If 'Yes', how will you mitigate this risk to ensure fair and equal access?					
EXTERNAL FACTORS					
Is the policy/procedure a result of national legislation which cannot be modified in any way?					Yes ☐ No ☒
What is the reason for writing this policy? (Is it a result in a change of legislation/ national research?)					
Two-yearly update for existing Equality and Diversity Policy. Updated to reflect organisational changes and changes in national context.					
Who was consulted when drafting this policy/procedure? What were the recommendations/suggestions?					
Equality Business Forum. Employee Network Groups					
ACTION PLAN: Please list all actions identified to address any impacts					
Action	Person responsible		Completion date		
AUTHORISATION:					
By signing below, I confirm that the named person responsible above is aware of the actions assigned to them					
Name of person completing the form	Emma McCluskey		Signature		
Validated by (line manager)	Helen Limmer		Signature		

Please contact the Equalities team for guidance:

For South Devon & Torbay CCG, please call 01803 652476 or email marisa.cockfield@nhs.net
For Torbay and South Devon NHS Trusts, please call 01803 656676 or email pdf.sdhct@nhs.net

This form should be published with the policy and a signed copy sent to your relevant organisation.

- ¹ Consider any additional needs of carers/ parents/ advocates etc, in addition to the service user
- ² Travellers may not be registered with a GP - consider how they may access/ be aware of services available to them
- ³ Consider any provisions for those with no fixed abode, particularly relating to impact on discharge
- ⁴ Consider how someone will be aware of (or access) a service if socially or geographically isolated
- ⁵ Language must be relevant and appropriate, for example referring to partners, not husbands or wives
- ⁶ Consider both physical access to services and how information/ communication is available in an accessible format
- ⁷ Example: a telephone-based service may discriminate against people who are d/Deaf. Whilst someone may be able to act on their behalf, this does not promote independence or autonomy