

# Equality and Inclusion Policy

## Inclusion – when everyone feels valued

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### 1. Introduction

University Hospitals Sussex NHS Foundation Trust (UH Sussex) is committed to Equality, Diversity and Inclusion. We recognise our responsibilities under the Equality Act 2010 and will work to advance the three elements of the Public Sector Equality Duty (PSED)

- Eliminating discrimination, harassment and victimisation
- Advancing equality of opportunity (eg. Enabling participation, removing or minimising disadvantages – such as health inequalities experienced by some communities)
- Fostering good relations (eg. Tackling prejudice, promoting understanding between people of different protected characteristics).

The NHS has a legal duty under the Equality Act 2010, Human Rights Act 1998 and the Public Sector Equality Duties (PSED) to provide a safe and secure environment and protect employees, patients and services users from violence, abuse and discrimination.

Everyone has different needs in relation to public services as both staff and as patients/service users: certain individuals/groups could experience unfair and/or unequal outcomes.

The Trust aims to achieve equality of opportunity and will discourage unlawful discrimination – whether direct or indirect – against all employees, volunteers, patients, and service users (including their partners), carers, guests and visitors.

The Trust will ensure that the principles of Equality and Inclusion underpins all our employment and service policies and procedures. The Trust is committed to effectively resolving any case of discrimination in the organisation and aims to ensure that managers and staff are aware of their responsibilities in this area.

The Trust will comply with all staff and patient rights, legal duties and aspirations laid out in the NHS Constitution, Equality Act 2010, Human Rights Act 1998 and Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 which is regulated by the Care Quality Commission (Fundamental Standards)

The Trust's Equality and Inclusion Policy underlines the importance of creating an environment free from prejudice, discrimination or harassment for all.

### Legal Context:

The Equality Act 2010 outlines 9 protected characteristics,

- Age
- Ethnicity/Race/Nationality
- Gender/Sex
- Disability (inc. Carers)

- Religion or Belief
- Gender Identity/Reassignment
- Pregnancy/Maternity
- Sexual Orientation
- Marriage/Civil Partnership

The NHS Constitution also provides clear guidance on an employee's legal duties:

'Not to discriminate against patients or staff and to adhere to equal opportunities and equality and human rights legislation'. – The Handbook to the NHS Constitution p. 124

## 2. Purpose

The Trust's aim in relation to Equality and Inclusion is:

- Create an organisation that actively promotes equality of opportunity for all, and a culture that is free from discrimination, harassment or victimisation
- Promote diversity in employment and employ a workforce that reflects the communities we serve

Ensure that no-one receives less favourable treatment on the grounds of a protected characteristic – and recognise the need for proactive action to advance these goals.

## 3. Types of Discrimination

**Direct Discrimination:** where someone is treated less favourably than someone else or would be on the grounds of any of the protected characteristics also including political affiliation or trade union membership. For example making jokes at the expense of someone's sexual orientation or faith.

**Indirect discrimination:** where someone is treated less favourably than someone else, where there is a rule or policy that applies to everyone but disadvantages a person with a particular protected characteristic. For instance having an inflexible dress code or uniform policy that prohibits people wearing headwear, this could potentially disadvantage certain religious groups if this is a requirement of their religion.

**Associative Discrimination:** This is direct discrimination against someone because they associate with another person who possesses a protected characteristic. For instance deciding someone is unable to undertake a job because they have caring responsibilities for someone who is disabled.

**Discrimination Arising from Disability:** This occurs when a disabled person is treated unfavourably because of something connected with their disability and the unfavourable treatment cannot be justified. For example a parent seeks admission to a crèche for their child who has a disability which means that they do not have full bowel control. The crèche says that they cannot admit the child because they are not toilet trained and the children at that crèche are required to be. The refusal to admit the child is not because of the disability itself; but due to experiencing detrimental treatment as a consequence of their incontinence.

**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 protected characteristic.

#### **4. Harassment**

This takes place where, for a reason that relates to a person's protected characteristic, the harasser engages in unwanted conduct which has the purpose or effect of violating the person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

This includes third party harassment: where an employee is harassed relating to a protected characteristic by third parties such as patients or visitors.

#### **5. Victimisation**

This occurs when an employee is punished or treated unfavourably as a result of complaining or supporting a complaint of discrimination/harassment. For example: an employee raises a grievance about disability discrimination and is dismissed as a result.

#### **6. Genuine Occupational Requirement**

In limited circumstances it can be lawful for an employer to require a job applicant or worker to have a particular protected characteristic. This requirement has to be both intrinsic to the role and has to be a proportionate means of achieving a legitimate aim. In an acute NHS setting there are very few roles where a Genuine Occupational Requirement can be successfully applied, and this should be discussed with the Inclusion Team before progressing.

#### **7. Hate Crime**

Any criminal activity (for example physical assault, verbal abuse, vandalism, etc) that is targeted at a person because of prejudice towards a person's:

- Disability
- Race or Ethnicity
- Religion or Belief
- Sexual Orientation (e.g homophobia, biphobia or heterophobia)
- Gender Identity (e.g transphobia)

#### **8. Principles**

The Board of UH Sussex are committed to ensuring that no employee, or job applicant is subject to unlawful discrimination, either directly or indirectly on the grounds of any protected characteristics.

This applies to all aspects of employment, including recruitment and selection, training, promotion opportunities, terms and conditions of employment, grievance handling, application of disciplinary procedures and selection for redundancy.

It includes ensuring that all employment opportunities are advertised and open to competition (other than where the Organisational Change policy applies), and that development programmes are available to help address under-representation of certain protected characteristic groups in more senior roles within the Trust.

UH Sussex will embed equality standards within everything it does and will seek to promote the principles of equality and inclusion in all its dealings with employees, visitors, contractors, recruitment agencies and members of the public.

It will ensure that this is underpinned by use of 'lived experience' and quantitative data – to understand any differences in the staff/workplace and patient care experience among protected characteristic groups.

## **9. Responsibilities**

All employees and those who act on behalf of UH Sussex are required to adhere to this policy when undertaking their duties or when representing UH Sussex.

Every staff member has a responsibility to bring any potentially discriminatory practices to their line manager's attention.

UH Sussex managers and heads of departments are responsible for ensuring practical application of this policy and are expected to actively promote high standards.

UH Sussex Diversity Matters Group will lead on the equality and diversity agenda – and will report to the People Committee, which has responsibility for the development and oversight of all equality-related programmes of work and activities.

The HR Department has a specific responsibility to ensure the promotion of equality and inclusion throughout its employment practices, policies and procedures.

## **10. Staff Networks**

UH Sussex currently has across the East and West of our organisation five main staff networks, these are

- Lesbian, Gay, Bisexual, Trans, Queer/Questioning Networks (LGBTQ+)
- Disability Networks
- Black, Asian and Minority Ethnic (BAME) Networks
- Armed Services Network
- Carers

They play a crucial role in helping us to deliver our goals.

UH Sussex will support our Networks to enable them to contribute experience and expertise towards the goals and values of the Trust

## **11. Policy in Practice**

UH Sussex will treat seriously all complaints of discrimination, harassment and Hate Crime made by staff. If you believe you have been discriminated against, you are encouraged to raise this matter as soon as possible with your line manager, other senior manager, Freedom to Speak up Guardian or a member of the HR Department. Your complaint will be investigated using our Resolution Policy.

Allegations regarding potential breaches of this policy will be treated in confidence and investigated thoroughly. If you make an allegation of discrimination UH Sussex is committed

to ensuring that you are protected from victimisation, harassment or less favourable treatment because you have complained.

Where UH Sussex workers have experienced a Hate Crime, we will work to provide support, signposting to relevant specialist services, and facilitate reporting to the Police where the worker wishes to do so. We recognise the additional burden of the experience of Hate Crime, in addition to the experience of the incident etc itself.

## **12. Due Regard/Equality Impact Assessment**

To ensure positive steps are taken to prevent discrimination (and promote equality of opportunity) in the development and application of Trust policies, procedures and service developments, the Trust will use a Due Regard Assessment (DRA). DRAs provide the means for the Trust to consider how processes, practices and policies might create adverse negative effects for any of our service users or staff, and opportunities to positively advance equality.

DRAs will be undertaken to support the development of all policies, procedures, practices, guidance documents, programmes/projects and capital development undertaken, commissioned (or hosted) by the Trust. This will therefore include both Trust-wide policies applicable to all staff and service users, as well as local or departmental policies covering smaller groups of staff and/or service users.

There will be specific guidance on how to conduct a Due Regard Assessment – this will be available on the Staff Intranet.