

# Equality and Diversity policy Staff

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## EXECUTIVE SUMMARY

As an inclusive employer, the trust is committed to ensuring equality of access to employment, training and development and the application of human rights for all of its staff. Additionally the trust recognises the richness that diversity can bring. This commitment is set out in our **Diversity Statement** contained in our equality and diversity annual report.

Kent Community Health NHS Foundation Trust is committed to promoting and championing a culture of diversity, fairness and equality for all our employees, potential employees, service users as well as members of the public.

The trust will work towards having a workforce representative of the population it serves.

## Scope and Purpose of Policy

The trust is committed to ensuring equality of access to employment and training opportunities. This policy aims to eliminate unlawful and unfair discrimination and ensure that all groups and individuals within the community benefit through having equal access to employment opportunities provided.

Each member of staff carries personal responsibility for their own behaviour in relation to this policy and is responsible for ensuring that their conduct is in line with the standards set out in this policy at all times. Staff should report to the appropriate manager, or trade union representative, or human resources representative, any incidents which come to their attention where this policy has been breached.

Detrimental/unfair treatment to patients/clients, members of staff, job applicants, ex-employees and visitors, including discrimination on grounds of any protected characteristic are all considered to be acts of gross misconduct under the trust's disciplinary policy and may lead to summary dismissal. Any subsequent victimisation or retaliation as a result of a claim of discrimination will also be covered by the trust's disciplinary rules.

Malicious complaints relating to allegations of discrimination will be investigated and, if established, will be treated as serious disciplinary matters.

The trust is striving to ensure that the work environment is free of harassment and bullying and that everyone is treated with dignity and respect. This is reflected in the trust vision and values.

The trust's reports on the Workforce Race Equality Standard (WRES), the Workforce Disability Standard (WDES) and the Gender Pay gap all identify our current position and the trust will publish an annual action plan to address the gaps identified.

This policy applies to:

- All staff working within the trust, employees, volunteers, contractors and staff from other organisations working on trust premises.
- Trust staff working in other premises and/or work related settings e.g. business trips and work related social events.
- Those applying for jobs within the trust and

- Ex-employees both with respect to their behaviour in so far as this is covered by an ongoing vicarious responsibility and in their entitlement to an honest and accurate reference.

### **Our Public Sector Equality Duty**

As an NHS trust we are subject to both the general public sector duty set out in the Equality Act 2010 and the specific duties which came into law on the 10 September 2011 in England. In summary this means that when delivering our services we must:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010
- advance equality of opportunity between people who share a protected characteristic and those who do not
- foster good relations between people who share a protected characteristic and those who do not

Advancing equality involves:

- removing or minimising disadvantages experienced by people due to their protected characteristics
- taking steps to meet the needs of people from protected groups where these are different from the needs of other people
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low
- taking steps to take account of Disabled people's impairments and access requirements to meet different needs

Fostering good relations includes:

- tackling prejudice and promoting understanding between people from different groups

### **Risks Addressed**

The equality and diversity policy draws together the equality and diversity risks mitigated against by a range of HR policies including disciplinary, grievance, capability and recruitment. Without the controls in place through adherence to these policies the risk to the trust of claims of discrimination would be increased. This could impact the trust financially and have a negative impact on patient experience and consequently on its reputation.

## Governance Arrangements

<b>Governance Group responsible for developing document</b>	Operational Workforce Delivery and Risk Group
<b>Circulation group</b>	Intranet, Policy Distribution
<b>Authorised/Ratified by Governance Group</b>	Staff Partnership Forum
<b>Authorised/Ratified On</b>	September 2019
<b>Review Date</b>	September 2022
<b>Review criteria</b>	This document will be reviewed prior to review date if a legislative change or other event dictates.

## Key References

The Equality Act 2010
Equality Delivery System 2 (EDS2)
Workforce Race Equality Scheme (WRES)
Workforce Disability Equality Scheme (WDES)
Values into Action Framework
NHS terms and Conditions Handbook

## Related Policies/Procedures

This policy should be read in conjunction with the trust's equality objectives under the NHS Equality Delivery System 2 (EDS2), and with the reports on Workforce Race Equality Standard (WRES), Workforce Disability Standard (WDES) and the Gender Pay gap

In addition the Agenda for Change "NHS Terms and Conditions Handbook" gives a general statement on equality and diversity which should be read in conjunction with this policy.

This policy has been written after consultation with accredited employee representatives. We welcome the continued involvement of employees in implementing this policy.

The policy links with the trust's objectives under the NHS Equality Delivery System 2, which aim to promote all forms of equality and human rights relevant and appropriate to the work of the Trust. This relates to the Trust's role as employer, and a provider and commissioner of services.

<b>Title</b>	<b>Reference</b>
Recruitment Policy	HR 030
Salary on Appointment Policy	HR 041
Probationary Period Policy	HR 008
Acting Up Policy	HR 011
Bullying and Harassment Policy	HR 020
Disciplinary Policy	HR 004
Capability Policy	HR 003
Grievance Policy	HR 006

## Document Tracking Sheet

<b>Version</b>	<b>Status</b>	<b>Date</b>	<b>Issued to/Approved by</b>	<b>Comments/Summary of Changes</b>
2.1	Approved	November 2010	Staff Partnership Forum	
2.2	Approved	November 2012	Staff Partnership Forum	
2.3	Approved	December 2014	Staff Partnership Forum	Contact Point Amended
2.4	Approved			Minor amendments
2.5	Final	May 2017	Compliance Officer	Minor amendments
2.6	Final	November 2018	Engagement Manager	Minor amendments
2.7	Draft	August 2019	Acting Head of Employee Relations and Corporate Business Partnering	Included references to Workforce Disability Equality Standard (WDES) and Gender pay Gap Addition of "assistive technologies and the trusts responsibilities to provide these as a reasonable adjustment"

### Summary of Changes

- a) Points changed to include all protected characteristics where previously just Disability
- b) Formatting tidied

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## 1.0 INTRODUCTION

### 1.1 Equality and Diversity are not interchangeable terms.

1.1.1 **Equality** is essentially about **creating a fairer society** where everyone can participate and has the opportunity to fulfil their potential. It is backed by legislation designed to address unfair discrimination (past, present or potential) that is based on membership of a particular group. In some circumstances, positive action is encouraged to address discrimination and to ensure equality of access and opportunity .

1.1.2 **Diversity** is about the **recognition and valuing of difference** in its broadest sense. It is about creating a working culture and practices that recognise, respect, value and harness difference for the benefit of the organisation and the individual.

1.1.3 The legislation lists nine protected characteristics covered by the Equality Act 2010. The protected characteristics are:

- age
- Disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex (gender)
- sexual orientation.

### 1.2 Types of Discrimination

1.2.1 **Direct discrimination** is where a person is treated less favourably than another in comparable circumstances on a prohibited ground. E.g. refusing to employ a woman because she was pregnant.

1.2.2 **Indirect discrimination** is where a provision, criterion or practice is applied which is such that it would be to the detriment of a considerably larger portion of a relevant group, than to others, which is not objectively justifiable and which is to an individual's detriment. E.g. requiring a certain number of year's continuous experience for a post could be discriminatory against women because they are more likely to take a career break.

1.2.3 **Associative discrimination** is where a person is discriminated against because they have an association with someone with a particular protected characteristic, eg the carer of a Disabled person.

1.2.4 **Discrimination by perception** occurs where a person is discriminated against because the discriminator thinks the person possesses the characteristic even if they do not.

1.2.5 **Victimisation** is where someone is treated less favourably than others because he or she has alleged unlawful discrimination or supported someone to make a complaint or given evidence in relation to a complaint

- 1.2.6 **Harassment** is where there is unwanted conduct related to one of the prohibited grounds which has the purpose of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person or is reasonably considered by that person to have such an effect, even if that effect was unintended. Employers are potentially liable for harassment of their staff by people they don't employ (Harassment by a third party).
- 1.2.7 **Failure to make reasonable adjustments** is where arrangements disadvantage an individual because of a protected characteristic and reasonable adjustments are not made to overcome the disadvantage.

### 1.3 Equality, Diversity and Inclusion

- 1.3.1 Communication and the provision of information are essential tools of good quality staff engagement. To ensure full involvement and understanding of staff with protected characteristics, in particular staff with disabilities, all forms of communication (e.g. assistive technology, sign language, visual aids, interpreting and translation, or other means) should be considered and made available if required. These principles should be enshrined in all HR policies, strategies and organisational change documents.
- 1.3.2 Kent Community Health NHS Foundation Trust is committed to ensuring that staff who require assistive technology and other reasonable adjustments are provided with these in order to perform their duties and to enable both professional and personal development and career progression. Staff who require adjustments due to religious practices will receive these wherever possible. No staff member should be prevented from access to training, development or career progression because of a protected characteristic or because reasonable adjustments are required.
- 1.3.3 Staff must be aware of personal responsibilities under Equality legislation, given that there is a corporate and individual responsibility to comply with Equality legislation. This also applies to contractors when engaged by the trust, for NHS business.

### 1.4 Equality Analysis

- 1.4.1 The Equality Analysis for this policy is available upon request by contacting the Engagement Team via [kchft.equality@nhs.net](mailto:kchft.equality@nhs.net)
- 1.4.2 Kent Community Health NHS Trust is committed to promoting and championing a culture of diversity, fairness and equality for all our staff, patients, service users and their families, as well as members of the public.
- 1.4.3 Understanding of how policy decisions, behaviour and services can impact on people with 'protected characteristics' under the Equality Act 2010 is key to ensuring quality and productive environments for patient care and also our workforce.
- 1.4.4 Protected Characteristics under the Equality Act 2010 are described at paragraph 1.1.3 above.
- 1.4.5 To ensure full involvement of staff in systems and process that affect their day to day work the trust will make reasonable adjustments and take into account the access needs of staff who use assistive technology or communication aids related to a Disability or long-term health condition.

- 1.4.6 The privacy and dignity (human rights) of staff must be considered alongside any working practices, in recognition of the fundamental link between good staff experience and equality.

## **2.0 ROLES AND RESPONSIBILITIES**

### **2.1 Trust Board**

- 2.1.1 The trust board is accountable for ensuring that the trust abides by the Equality Act (2010) and for complying with its statutory duties.

### **2.2 Directors**

- 2.2.1 The Executive team has appointed champions for each of the Staff Networks (BAME, Disability and Carer and LGBTQ+). This is an ongoing relationship and will ensure that the staff networks feel supported by the Executive and are able to raise issues with them directly.
- 2.2.2 One of the trust's equality objectives relates to leadership and is to ensure that equality and diversity is embedded in the business of KCHFT.
- 2.2.3 The Directors are responsible for providing assurance to the trust board that the trust is compliant with the Equalities Act (2010), the Equality Delivery System 2 (EDS2), the Workforce Race Equality Standard (WRES), Workforce Disability Equality Standard (WDES) Gender Pay Gap reporting and any subsequent mandatory equality duties.

### **2.3 Committees**

- 2.3.1 A Workforce Equality Group has been formed to progress work linked with both EDS2, the WRES, WDES and the Gender Pay Gap. This group reports into the Operational Workforce Delivery and Risk Group which is a sub group of the Strategic Workforce Committee.

### **2.4 Heads of Service / Managers**

- 2.4.1 Managers have a personal responsibility as a staff member and in addition for ensuring that this policy is applied in all aspects of the employment of their staff including recruitment, promotion, opportunities for training, pay and benefits, discipline and selection for redundancy.

### **2.5 Staff**

- 2.5.1 All employees have a personal responsibility for their own behaviour and for ensuring that they comply with the policy. Employees can be held personally liable as well as, or instead of, the trust for any act of unlawful discrimination. Employees who commit serious acts of harassment may be guilty of a criminal offence.
- 2.5.2 All employees are expected to challenge stereotypes, to treat all sectors of the workforce and the community fairly and consistently. This includes respecting different lifestyles, recognising the benefits of a diverse workforce and focussing on what people can do rather than what they cannot. All employees are expected to champion equality and diversity, implement policy and remind their team of it on a regular basis

### **2.6 HR Directorate**

- 2.6.1 The HR Directorate has a responsibility to ensure that the policy is followed, fairly and consistently. Their duties will involve:
- advising managers on the application of the policy
  - advising managers where individuals feel that the policy is not being adhered to.
  - ensuring the effective implementation of the policy
  - monitoring the incidents and outcomes relating to discipline, grievance and bullying and harassment cases.
  - Monitoring flexible working applications, exit interviews etc to establish trends
  - Monitoring recruitment data.
  - Advancing the equality, diversity and inclusion agenda through the achievement of the equalities action plans on Race, Disability and Gender

## **2.7 The Engagement Team**

- 2.7.1 The Engagement Team's role is to ensure that the trust develops, promotes and implements best practice for the positive management of diversity in all aspects of health care delivery for the benefit of all staff and the trust population.
- 2.7.2 The Engagement team can advise on equalities issues including equality analysis (EAs) and engaging and involving with people with protected characteristics.

## **3.0 EQUALITY IN EMPLOYMENT**

- 3.1 The trust will work to eliminate unlawful discrimination in all aspects of employment including recruitment, promotion, opportunities for training, pay and benefits, discipline and selection for redundancy.
- 3.2 The trust's recruitment policy outlines the processes to ensure equality of opportunity applies during recruitment and selection including taking account of any reasonable adjustments that may be required for candidates with a Disability.
- 3.3 A Disabled applicant that meets the minimum selection criteria will be guaranteed a job interview.
- 3.4 The trust will consider any possible indirectly discriminatory effect of its standard working practices, including the number of hours to be worked, the times at which these are to be worked and the place at which work is to be done, when considering requests for variations to these standard working practices. The trust's flexible working policy refers to the importance of equality and sets out a framework for making decisions relating to flexible working requests in a fair and consistent manner.
- 3.5 The trust will also make reasonable adjustments to its standard working practices to overcome barriers caused by protected characteristics to enable an employee to carry out their duties. These may include, but are not limited to, provision of specialist equipment and training, job redesign, retraining, flexible hours, remote working and/or a place to express milk or pray.
- 3.6 The trust has a statutory duty under the Workforce Race and Disability Equality Standards to publish data annually about the number of BAME staff versus white staff, Disabled versus non-Disabled staff and the grades and career progression these

groups. The trust also has to consider the representation of BAME and Disabled people at board level. The trust must identify gaps and put in place actions to address gaps. The Care Quality Commission (CQC) will assess NHS Trust's performance under its 'Well-led' domain.

- 3.7 The trust cannot lawfully discriminate in the selection of employees for recruitment or promotion, but it may use appropriate lawful methods, including lawful positive action, to address the under-representation of any group which the trust identifies as being underrepresented in particular types of job.

#### **4.0 DIGNITY AT WORK / ACCEPTABLE BEHAVIOUR**

- 4.1 The trust has a policy concerning issues of bullying and harassment on any ground, and how complaints of this type will be dealt with.
- 4.2 The trust has developed guidance for staff in dealing with discrimination from patients and service users. These guidelines are available on Intranet.
- 4.3 The trust supports the No Bystanders campaign to reduce unacceptable behaviours by encouraging staff to speak up and to challenge these behaviours.
- 4.4 The Trust's Freedom to Speak Up Guardian and Ambassadors have a role in promoting fairness and supporting staff to raise concerns related to discrimination.

#### **5.0 TRAINING AND AWARENESS**

- 5.1 The trust will provide training in equality and diversity to managers and others likely to be involved in recruitment or other decision making where equality or diversity issues are likely to arise.
- 5.2 Training in equality and diversity is mandatory for all staff and for most employees is delivered at induction. The Values into Action Framework forms part of the appraisal process and all staff are required to evidence how they demonstrate the desired behaviours.
- 5.3 The trust will provide training to all employees to help them understand their rights and responsibilities and what they can do to help create a working environment free of discrimination, bullying and harassment. To access online learning employees should refer to the e-learning section on TAPs.

## 6.0 MONITORING COMPLIANCE AND EFFECTIVENESS OF THIS POLICY

- 6.1 This policy will be monitored annually by the trust to judge its effectiveness and will be updated in accordance with changes in the law.
- 6.2 In accordance with its statutory duties, including the WRES and the WDES, and as detailed in the Equality Delivery System 2 the trust will monitor and publish at least annually, the ethnic, Disability and gender composition of the existing workforce and of applicants for jobs (including promotion), and the number of people with disabilities within these groups.
- 6.3 The trust will also monitor and publish anonymous information summarising the incidents and outcomes relating to discipline, grievance and bullying and harassment cases.
- 6.4 Exit interviews will also be monitored for trends.
- 6.5 Where the results shown by the monitoring indicates that reconsideration is necessary the trust will undertake a review of the relevant policy, implementing changes as appropriate.
- 6.6 Information provided by job applicants and employees for monitoring purposes will be used only for these purposes and will be dealt with in accordance with the Data Protection Act 2018. The trust will monitor the ethnic origin, gender, sexual orientation, religion Disability and age composition of the existing workforce and of applicants for jobs (including promotion). We will consider and take any appropriate action to address any problems which may be identified as a result of the monitoring process.

## 7.0 MONITORING MATRIX

What will be monitored?	How will it be monitored?	Who will monitor?	Frequency
Workforce data analysed by protected characteristic	Themes and trends investigated	Strategic Workforce committee	At least annually
Progress made against the WRES Action Plan	Progress reviewed against	Workforce Equality Group	Bi-monthly
Progress made against the WDES Action Plan	Progress reviewed against	Workforce Equality Group	Bi-monthly
Progress made against the Gender Pay Gap Action Plan	Progress reviewed against	Workforce Equality Group	Bi-monthly
Progress against Goal 3 of the EDS2	Reports detailing progress and detailed discussion and investigation	Workforce Equality Group	1 Outcome will be discussed at each bi-monthly meeting meaning that each outcome is discussed annually

## 8.0 EXCEPTIONS

- 8.1 There are no exclusions from this policy other than if compliance with this policy would negatively impact the health and safety of staff, public or patients.

## 9.0 GLOSSARY AND ABBREVIATION

<b>Abbreviation</b>	<b>Meaning</b>
KCHFT	Kent Community Health Foundation Trust
EDS 2	Equality Delivery System 2
WDES	Workforce Disability Equality Standard
WRES	Workforce Race Equality Scheme
BAME	Black, Asian and minority ethnic
LGBTQ+	Lesbian, gay, bisexual, transgender and queer, plus