

Promoting Equality, Valuing Diversity and Protecting Human Rights Policy

If being read as a paper copy, please refer to the LG net to ensure this is the current version

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Responsible Director:	Janet Lynch Director of Workforce & Education
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Target Audience:	All Trust Staff, Service Users and Contractors
Equality Impact Assessment:	EIA carried out and impact expected to be highly positive
Review Date:	June 2017

Review and Amendment Log

Version	Date	Author	Type of Change	Summary of Change(s)
1.1	2nd April 2009	Gemma Novis		Required updating following consultation with Directorate of Workforce & Education
1.2	29 April 2009	Gemma Novis		Amended via comments made by Director of Knowledge & Governance
1.3	4 June 2009	Gemma Novis		For consultation
1.4	18 June 2009	Gemma Novis		Post – consultation Amended following comments from Head of Risk
1.5	September 2009	Gemma Novis		
1.6	June 2014	Fay Blackwood Lucille Appeti	<i>Inclusion of new Equality Laws and new NHS Equality Delivery Framework</i>	<i>Amended to reflect new cross cutting equality law; The Equality Act 2010 and associated Public Sector Equality Duty, Specific Duties Regulations, and Implementation of a new equality delivery framework; the NHS Equality Delivery System (EDS)</i>

Dissemination Plan

Audience	Method	Paper or Electronic	Responsible Staff Member
All Trust employees and new recruits.	<p>The policy will be available electronically on the Workforce & Education Intranet Page. Staff will be made aware of how to access the revised policy document through an all desk email</p> <p>All new staff, including temporary and locum staff will be made aware of this policy during induction</p> <p>Existing staff are required to complete mandatory Equality and Diversity awareness training every 3 years</p>	Electronic	Lucille Appeti/Fay Blackwood

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1. Introduction

This Policy provides a framework for the Trust that will ensure compliance with the Equalities Act 2010 and Human Rights Act 1998 in respect of our duties as an employer and a provider of NHS services.

The Trust is committed to promoting equality, valuing diversity and protecting human rights and to eliminating unfair and unlawful discrimination against any individual (where individual means employees, patients, services users and carers).

The Trust recognise that everyone has different needs in relation to public services, and that in both the workplace and as service users, certain individuals / groups of individuals can experience unfair and unequal outcomes.

As a public body, the Trust has a duty to eliminate discrimination and advance equality across all its functions. The management of equality and diversity is also important to the Trust as it helps to:

- promote the corporate reputation of the organisation as an employer of choice
- recruit a diverse workforce that meets capacity and service delivery needs
- increase productivity through maximising individual contributions to provide better patient care
- protect the organisation from financial detriment or corporate embarrassment as a result of litigation

2. Purpose and Scope

Lewisham and Greenwich NHS Trust oppose all forms of discrimination and discriminatory practices on legal, business and moral grounds, and it is committed to creating and sustaining fully inclusive and accessible services.

Making equality and diversity an integral part of the organisation will enable the Trust to enhance the services it delivers and better meet the needs of patients and staff. The Trust's goal is firstly to deliver patient centred services that are accessible to everyone; and secondly to become a model employer that attracts and retains the best employees who reflect the diverse population that we serve.

This Policy seeks to ensure that the Trust creates and sustains a fair, diverse and equal culture in which the workforce and service users are protected from discrimination because of any of the nine "protected characteristics" as stated in the Equality Act 2010 and Public Sector Duty.

This Policy sets out how the Trust will use Equality legislation as a lever to enable us to achieve two critical goals: firstly to deliver patient centred services that are accessible to everyone; and secondly to become a model employer that attracts and retains the best employees who reflect the population that we serve.

This Policy applies to all staff working within the Trust, (including temporary staff, contractors, students and those with honorary contracts) and relates to other Trust staff, contractors and staff from other organisations working on Trust premises.

It applies to all activities and functions undertaken by, or on behalf of, the Trust. It applies to all Trust premises and to all Trust staff working in other premises.

2.1 Legal Context

The Human Rights Act 1998¹

Human Rights are the basic rights all individuals have, regardless of who they are, where they live or what they do. Human rights represent all the things that are important to human beings, such as the ability to choose how to live their lives and being treated with dignity and respect.

All national legislation is underpinned by the Human Rights Act 1998, which came fully into force on 2 October 2000.

The Equality Act 2010²

The Equality Act 2010 provides a single cross-cutting legislative framework to protect the rights of individuals, tackle disadvantage and discrimination of people with protected characteristics, and advance equality of opportunity for all.

The Act makes it unlawful to discriminate, harass or victimise a person on the grounds of the following nine protected characteristics:

- Age
- Disability³
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion and belief
- Sex
- Sexual orientation

Public Sector Equality Duty (PSED)

The Equality Act 2010 has brought with it a new, legal, public sector equality duty (PSED) requiring public bodies in exercising of their functions to have due regard to the need to:

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

¹ [Human Rights Act 1998](#)

² [Equality Act 2010](#)

³ Under the [Equality Act 2010](#), a person has a disability if they have a physical or mental impairment that has a 'substantial' and 'long-term' negative effect on their ability to carry out normal daily activities.

Specific Duties Regulations 2011

The Specific Duties Regulations require the Trust to publish information showing how we are complying with the PSED when taking decisions and making policies including the impact of policies on both employees and the public by;

- Publishing information to demonstrate how we have given due regard to the general duty
- Publishing information relating to persons who share relevant protected characteristics and are employees or other persons affected by our policies and procedures
- Preparing and publishing one or more equality objectives covering a 4 year period

3. Strategic Equality Framework

3.1 Equality Steering Committee

The Trust has established an Equality Steering Committee that is embedded in its governance arrangements. The Steering Committee has a responsibility to ensure that the policy is followed. Their duties involve:

- Ensuring the effective implementation of the policy
- Reviewing and amending the policy as necessary
- Reporting to the Trust Board on progress

3.2 Equality Delivery System (EDS)⁴

The Trust has chosen to implement the Department of Health Equality Delivery System (EDS) for the NHS. Implementing this system will help us to ensure that the Trust meets the requirements of the Equalities Act 2010.

The EDS requires the Trust, in collaboration with local interest “groups”, to analyse and grade our own performance, and set defined equality objectives supported by an action plan. It is designed as a tool to be used to help the Trust and all our staff understand how equality can drive improvements and strengthen the accountability of services to patients and the public. It will help ensure that everyone - patients, public and staff - have a voice in how the Trust is performing and where it should improve.

Equality performance is assessed against 18 outcomes grouped under the following four objectives:

1. Better health outcomes for all
2. Improved patient access and experience
3. Empowered, engaged and inclusive staff
4. Inclusive Leadership

From the results of the assessment the Trust sets defined equality objectives, supported by an action plan. Performance against the objectives is to be assessed annually.

Please refer to [Lewisham Healthcare NHS Trust Equality Delivery System](#) for the most recent report.

⁴ [Equality Delivery System \(EDS\)](#)

4. Roles and Responsibilities

It is the responsibility of every person to act in ways that support equality and diversity. Equality and diversity is related to the actions and responsibilities of everyone – users of services including patients, clients and carers; work colleagues; employees; people in other organisations; the public in general. Where diversity and equality are not integral to an organisation, discrimination may occur.

4.1 The Board and Chief Executive

The Trust Board and Chief Executive have a role in promoting equality, valuing diversity and protecting human rights throughout the Trust.

The Trust Board has overall corporate responsibility for ensuring that the Trust complies with their legal and ethical obligations with regard to equality, diversity and human rights in its dealings with staff, service users, patients, the public and other stakeholders. In addition the Board will:

- Ensure that the Trust has equality objectives that meet the requirements of the public sector equality duty as set out under the provisions of the Equality Act 2010
- Receive and consider regular reports in order to evaluate the effectiveness of the policy
- Provide governance and visible leadership for equalities, diversity and human rights within the Trust and among external stakeholders

It is the responsibility of the Chief Executive to ensure that all reasonable steps are taken to prevent unlawful discrimination and promote equality, diversity and human rights within the Trust.

4.2 Managers and Team Leaders

All managers have a responsibility to implement this Policy and to bring it to the attention of staff members in their work area, in order to establish and maintain a work environment free from discrimination.

Managers should be aware that they will be expected to positively promote high equality standards in line with the requirements of the Act.

Managers, and other employees in supervisory positions, have a particular duty to ensure that discrimination, or any other breaches of this Policy, do not occur in any areas of work for which they are responsible and to give positive support to any measures which will promote equality, diversity and human rights. In addition they must:

- Act in accordance with the guidance and values set out in the NHS Constitution⁵
- Set a positive example by treating others with respect and setting standards of acceptable behaviour
- Ensure that any allegations of discriminatory behaviour or practices are correctly investigated and that the appropriate action taken to tackle and resolve incidents of discrimination

⁵ [NHS Constitution](#)

- Conduct Equality Impact Analysis at an early stage and at key stages in the development of policies, procedures and service changes
- Assist with the monitoring of compliance within their area of responsibility in respect of EDS outcomes
- Consult with the Workforce and Education Department at any time for advice and support, raising any areas of concern through the appropriate channel and via the Equality Steering Committee

4.3 Staff

Good employee relations and practices depend on employees' attitudes and activities at work. All staff members are responsible for their own behaviour and for ensuring that they comply with this Policy on a day to day basis. In particular individual employees are required to:

- Take account of their own behaviour and its effect on others, and should not undertake any acts of discriminatory practice in the course of their employment
- Positively promote high equality standards in the course of their employment wherever possible, acting in ways that acknowledges and recognises people's expressed beliefs, preferences and choices, respects diversity and values people as individuals
- Identify and take action when own or others' behaviour undermines equality and diversity, bringing any potentially discriminatory practice to the attention of their Line Manager, the Human Resources Department or relevant Trade Union/Professional Associations
- Must not victimise individuals on the grounds that they have made complaints or provided information on discrimination, but must be active in informing management of discrimination

4.4 External Contractors and Agencies

External contractors and agencies providing services on behalf of the Trust, on Trust premises will be expected to make their staff aware of the Trust's Equality policy and comply with it. Contractors and their staff have an equal responsibility to ensure that this Policy is adhered to and will be the subject of any contract compliance monitoring. Discrimination on the grounds listed in this Policy will not be tolerated by the Trust, whether committed with intent or negligence.

4.5 Patients/Service Users/Carers/Visitors

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

Patients, Service Users, Carers and Visitors are expected to be respectful to all staff and other patients.

Patients, Service Users, Carers and Visitors who are verbally or physically abusive or who make derogatory statements that are of a discriminatory nature to any staff or other patients should be aware that they will be challenged about their behaviour. Where appropriate, the Trust may consider limiting or withdrawing the provision of services to, Service Users/Carers/Visitors and may seek to prosecute individuals where it deems necessary.

5. Putting the Policy into Action

In terms of putting the policy into action we have a number of policies and activities which promote equality and diversity.

The Trust's Equality and Diversity policy is underpinned and supported by a number of other Trust policies. These can be found on the LG net at:

<http://nwww.uhl.nhs.uk/index.php?id=532>

- Recruitment, selection and general employment
- Employing people with a disability
- Bullying and harassment in the workplace
- Grievance procedure
- Work life balance policy (including flexible working)
- Training and development
- Service Delivery – communication, accessibility etc
- Procurement
- Service User Involvement and Engagement and Feedback

The Trust's Equality and Diversity Policy is further underpinned and supported through:

- The gathering and analysis of Staff and Patient data, experiences and satisfaction across the protected characteristics, in order to comply with the PSED when taking decisions and making policies
- The development and implementation of an Equality Action Plan to meet the equality objectives derived from the EDS process.

5.1 Specific Duties Compliance

The Equality Act seeks to ensure transparency and requires public bodies to publish a range of equality information relating both to the workforce and the services provided.

The Trust is required to annually publish workforce equality information, including areas such as gender pay, ethnic minority employment and disability employment. The Trust will monitor and publish information on all the required "protected characteristics" and will consider and take any appropriate action to address any problems that may be identified as a result of the monitoring process. Refer to [equality and diversity pages](#) of Trust website for the most recent workforce profile.

The Trust, in consultation with stakeholders will adopt and publish its Equality Objectives to help meet the General Duty under the Equality Act 2010.

5.2 Equality Impact Assessments (EIA)

Equality Laws do not prescribe a method for assessing the impact of policy decisions. However, to ensure that positive steps are taken to prevent indirect discrimination in the development and application of Trust policies, procedures and service developments, we will use our Equality Impact Analysis (EIA) process.

An EIA is a systematic way of evaluating a policy, to check its potential or actual impact on equality of treatment or outcomes. Through applying an EIA individuals and teams will formally think about the likely impact of their work and make sure that, as far as possible, any negative outcomes for protected characteristic groups are eliminated or minimised and that opportunities for promoting equality are maximised.

EIAs will be undertaken for all internally produced policies, procedures and guidance documents developed by or introduced into the Trust. This will therefore include both Trust-wide policies applicable to all staff and service users, as well as local level or departmental policies covering smaller groups of staff and/or service users.

See related guidance on completing EIAs; and references to [recently completed EIAs](#).

5.3 Judicial Reviews

Judicial review is a process by which a person who has been affected by a particular decision, action or inaction by a public authority may make an application to the High Court. The court may provide a remedy if it decides that the public authority has acted unlawfully. Emphasis is not placed on the merits of the decision, but whether the public body has acted lawfully.

An application for a judicial review can be made to the courts where a public authority has breached the General Equality Duty. Judicial review cases in respect of equality duties concern whether or not a public authority has paid or had due regard to the general equality duty when: making a decision, acting or failing to act.

The key inquiry during a judicial review process tends to focus on the weight given to the duty when the decision by the public authority was made, or the act or failure to act occurred. This emphasises the need to consider equality issues thoroughly in the context of the duties before any significant individual decisions are made, any policy is introduced or subject to significant change. Equality impact assessments may provide important evidence as to whether the Trust has complied with its duties.

6 Training

Trust staff complete mandatory Equality and Diversity training in line with the Lewisham and Greenwich NHS Trust's Training Needs Analysis. The processes for how the organisation records completion of relevant training, and for how the Trust follows up those staff who do not complete relevant training programmes, are described in the Trust's Statutory and Mandatory Training Policy.

7 Monitoring Compliance

Element (s) to be monitored	Person (Position) responsible for the monitoring	Method	Monitoring frequency	Committee or group monitoring is reported to including responsibility for action plans and changes in practice.
<p>The Trust has the responsibility of collecting and monitoring equality data on the status and background of staff and service users, to assess the impact on those affected by its policies and procedures. This will demonstrate;</p> <p>Compliance with the Public Sector Equality Duty and the Specific Duties Regulations.</p>	<p>Associate Director of Education & Development</p> <p>Head of Patient Experience</p>	<p>The NHS Equality Delivery System (EDS)</p> <p>The EDS is a comprehensive tool designed by the NHS for the NHS in order to support NHS organisations to comply with their duties under the Equality Act 2010</p> <p>The process for monitoring legal compliance and effectiveness is based on the requirements to refresh and publish relevant information, before 31st January, on an annual basis. This includes regular corporate reporting mechanisms as well as continued meaningful engagement with community organisations, local interest groups and workforce representatives</p>	<p>Annual Workforce Reporting</p> <p>4 yearly equality Objectives</p>	<p>Equality Steering Committee</p> <p>General Public via The Trust Internet</p> <p>Through update to this policy, equality objectives and action plans with named leads.</p>

All staff retain their right not to declare personal information to their employer.

The effectiveness of this policy will also be monitored and reported through the Annual Equality Report, based on performance against equality objectives and actions outlined in the equality work plan and related EDS processes.

Staff, patients, service users, staff side and other stakeholders will be encouraged to provide feedback on the organisations' performance against their equality objectives through a variety of accessible forums.

8 References

The following Acts of Parliament may be connected to Promoting Equality, Valuing Diversity & Protecting Human Rights:

- Civil Partnership Act 2004
- Crime and Disorder Act 1998
- Criminal Justice and Public Disorder Act 1995
- Employment Act 2002
- Employment Rights Act 1996
- Gender Recognition Act 2004
- Health and Safety at Work Act 1974
- Health Bill 2009
- Human Rights Act 1998
- Protection from Harassment Act 1997
- Racial and Religious Hatred Act 2006
- The Equality Act 2010

9 Associated Documentation

The associated Trust documentation may be found on the LG net and are entitled:

- Disciplinary Policy
- Grievance Policy
- Harassment and Bullying in the Workplace Policy
- Induction Policy
- NHS Constitution
- Violence and Abuse to Staff Policy
- Whistleblowing Policy

Appendix 1 - Definitions

Bullying	Bullying is offensive, intimidating, malicious, or insulting behaviour, an abuse of misuse or power through means intended to undermine, humiliate, denigrate or injure the recipient.	
Equal opportunities	Emphasises the structures, systems and measures of groups within society and within organisations. Equal opportunity is about addressing representation and balance.	
Equality	Is 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 based on membership of a particular group.	
Diversity	Is about the recognition and valuing of difference in the 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 individuals.	
Discrimination	Direct	Is where a criterion is applied usually overtly, that results in less favourable treatment of someone because of their ethnicity, gender, maternity, marriage or civil partnership, disability, religion or belief, sexual orientation, or age.
	Indirect	Is where a group of people of the same race, ethnicity, gender, marital or civil partnership status, disability, religion or belief, sexual orientation or age are unjustifiably at a disadvantage in their ability to comply with a specific provision, criterion or practice.
	By Perception	This happens when someone is treated less favourably than another person because they are wrongly thought to have a particular protected characteristic and are treated as if they do.
	By Association	This is when someone is treated less favourably than another person because of the protected characteristic of someone with whom they are associated
Harassment	Where there is unwanted conduct, related to one of the protected characteristics (although the act does not explicitly include marriage and civil partnerships, and pregnancy and maternity for harassment) that has the purpose or effect of violating a person's dignity; or creating an intimidating, hostile, degrading, humiliating or offensive environment. It does not matter whether or not this effect was intended by the person responsible for the conduct.	
Human Rights	The basic rights and freedoms that belong to every person in the world. They are the fundamental things that human beings need in order to flourish and participate fully in society. Human rights belong to everyone, regardless of their circumstances. They cannot be given away or taken away from you by anybody – although some rights can be limited or restricted in certain circumstances.	
Victimisation	Treating someone badly because they have done a “protected act”. A “protected act” is: <ul style="list-style-type: none"> • Making a claim or complaint of discrimination (under the Equality Act) • Helping someone else to make a claim or giving evidence or information • Making an allegation that the Trust or someone else has breached the Act • Doing anything else in connection with the Act 	

<p>you have and how has this been collected? None / Some / Substantial</p>	<p>this EIA has been drawn from a variety of reliable sources including:</p> <ul style="list-style-type: none"> ▪ The Equalities Objectives Workplan – Nov 2012 ▪ Lewisham Healthcare NHS Trust Workforce profile – 2012 ▪ Trust Board Report, Equality Diversity and Inclusion, June 2013 ▪ Lewisham Healthcare NHS Trust Equality Delivery System Report 2012 ▪ Various census data for The Boroughs of Lewisham and Greenwich ▪ South London Healthcare Workforce Monitoring Report 2013 • Lewisham Hospital NHS Trust Single Equality Scheme 2009-2012 • Annual Staff Survey Results • South London Healthcare Equality Objectives 2012/13 • Various minutes of Board meetings • Relevant patient data 	
<p>8. Have you engaged and consulted those people who might be affected by the policy?</p>	<p>YES / NO (If 'YES', please give details of those involved) Yes, please see the front cover and dissemination plan.</p>	
<p>9. If the policy positively promotes equality please explain how?</p>	<p>The policy provides a framework through which the Trust can meet the requirements of the PSED to advance equality of opportunity and to foster good relations between people who share a protected characteristic and people who do not share it.</p>	
<p>10. From the screening process do you consider the policy will have a positive or negative impact on equality groups?</p> <p>Please rate the level of impact* and summarise the reason for your decision</p>	<p>Equality Group</p>	<p>Impact*</p>
	<p>Race</p>	<p>High Positive Impact – but dependent on adherence to the Policy and the implementation of the Equality Action Plan. So the monitoring and governance of the policy needs to be effectively aligned with the ambition of the policy.</p>
	<p>Disability</p>	<p>As above</p>
	<p>Gender</p>	<p>As above</p>
	<p>Age</p>	<p>As above</p>
	<p>Sexual orientation</p>	<p>As above</p>
	<p>Gender Reassignment</p>	<p>As above</p>
	<p>Pregnancy/Maternity</p>	<p>As above</p>
	<p>Marriage & Civil Partnership</p>	<p>As above</p>
<p>Religion/Belief</p>	<p>As above</p>	
<p>Other (e.g.: refugees / behavioural difficulties)</p>	<p>Neutral</p>	

*Positive: High/Medium/Low

(High - highly likely to promote equality of opportunity and good relations; Medium - moderately likely to promote; Low - unlikely to promote)

***Negative: High/Medium/Low**

(High - highly likely to have a negative impact on equality of opportunity and good relations; Medium - moderately likely to have; Low – likely to have little impact)

***Neutral: High - highly likely to have neither a positive nor a negative impact.**

Date completed: 21/01/2014

Print names: Fay Blackwood

***If the screening process has shown potential for a high negative impact you will need to carry out a full equality impact assessment (part 2) – see Workforce and Education area of Trust intranet or contact Fay Blackwood**