

Equality and Diversity Policy

Key Points

- This policy sets out the framework for equality and fairness in employment and is a statement of the Trust's commitment to equality and diversity in the workplace
- The Trust is opposed to all forms of unlawful discrimination and victimisation and expects its staff to treat all patients, visitors and service users and colleagues with dignity and respect, in a non-discriminatory manner and in accordance with their individual needs.
- This policy applies to all potential and existing employees, Board Members, Non-Executive Directors, Governors, Directors, Clinical, Non-Clinical staff and temporary or bank staff and volunteers.
- The implementation of this policy is through the fair and appropriate application of all Trust employment policies
- This policy will be monitored annually by reviewing the application of employment policies by protected characteristic in line with the requirements of the Equality Act 2010

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This is a controlled document. If you are using a printed copy, check it against the version on the intranet to ensure you are using the latest edition.

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1. INTRODUCTION

1.1 This policy sets out the framework for equality and fairness in the Trust and is a statement of commitment to promoting equality to this effect.

The Trust is committed to:

- Creating a workplace in which people feel valued.
- Treating people fairly and with dignity and respect at all stages of the employment process from recruitment to termination of employment.
- Embedding Trust values and behaviours that highlight treating others as we would wish to be treated ourselves.

The Trust is opposed to all forms of unlawful and/or unfair discrimination and victimisation. The Trust expects its staff to treat all patients, visitors, service users and colleagues with dignity and respect, in a non-discriminatory manner and in accordance with their individual needs, irrespective of age, disability, gender, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief and sexual orientation.

Trust recognises its legal responsibilities as contained in the Equality Act 2010 and the aims of the Public Sector Equality Duty which are listed in Section 49 (1) of the Equality Act 2010 as follows:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited under the Act.
- Advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it.
- Foster good relations between people who share a relevant protected characteristic and people who do not share it.

1.2 Frimley Health NHS Foundation Trust is committed to the provision of a service that is fair, accessible and meets the needs of all individuals.

2. SCOPE OF THE POLICY

2.1 This policy applies to all potential and existing employees, Non-Executive Directors and governors, temporary or bank staff and volunteers. The policy will be drawn to the attention of students on clinical placement, work experience, contractors, agency and other visiting workers (whether NHS or non-NHS employees). The Trust expects these groups to conform to the spirit and intention of the policy.

3. DEFINITIONS

3.1 **Public Sector Equality Duty:** The Trust must, in the exercise of its functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- 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.

- 3.2 **Diversity:** Recognises the differences that are a natural part of society and focuses on how to harness differences between people to drive forward creativity and excellence in performance.
- 3.3 **Equality:** This can be understood from three perspectives:
- Moral - equality is based on fairness; no one should suffer detriment on the basis of his or her external and/or not visible characteristics.
 - Legal - legislation imposes a minimum standard of behaviour on service providers, employers and individuals.
 - Change - embracing change by valuing and encouraging the diversity of employees, customers and partners.
- 3.4 **Equal Opportunities:** This is an ongoing process to give everyone a fair chance to fulfil his or her potential and its implementation is supported by various legislation.
- 3.5 **Discrimination:** A result of prejudice, misconception, and stereotyping. It is any situation in which a group or individual is treated less favourably usually based on the grounds of any of the 9 protected characteristics or any combination of these.
- 3.6 **Direct Discrimination:** When an individual is or would be treated less favourably than another in the same or similar circumstances. For example, encouraging only men to study for professional qualifications.
- 3.7 **Indirect Discrimination:** When a condition, criterion or practice is applied which, whether intentional or not, adversely affects one group considerably more than another, and this cannot be shown to be justifiable. There's a clause in your contract which says you may have to travel around the South East at short notice. This could be difficult for a woman with young children and this clause places them at a particular disadvantage as they're more likely to be the carers of children. This clause could be challenged.
- 3.8 **Dual Discrimination:** Where an individual, who believes that he or she has been treated less favourably because of a combination of two protected characteristics, can bring a combined claim, but only for direct discrimination (does not currently cover marriage/civil partnership and pregnancy/maternity).
- 3.9 **Disability:** A person has a disability if he or she has a physical or mental impairment, which has a substantial and long-term effect on their ability to carry out normal day-to-day activities. A disability can also be hidden/not evident which is present at birth or acquired through life. A long-term effect is one which:
- Has lasted 12 months or

- The period for which it lasts is likely to be at least 12 months or
- Is likely to last for the rest of the life of the person affected

- 3.10 **Reasonable Adjustment:** The removal of barriers that prevent disabled persons from integrating fully into the workplace. Employers are required to make reasonable adjustments to any of their provisions, criteria or practices that place a disabled person at a particular disadvantage compare to non-disabled persons.
- 3.11 **Positive Action:** Addressing under-representation in the workforce through firstly monitoring and analysing access to learning, development, and employment opportunities in order to devise ways of removing identified barriers that may be placing staff with one or more protected characteristic at a disadvantage.
- 3.12 **Associative Discrimination:** An individual is directly discriminated against or harassed for association with another individual who has a protected characteristic.
- 3.13 **Perceptive Discrimination:** An individual is directly discriminated against or harassed based on a perception that he or she has a particular protected characteristic when he or she does not, in fact, have that protected characteristic.
- 3.14 **Bullying:** Characterised as a wide range of misconduct offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, unfairly criticise or injure the recipient
- 3.15 **Harassment:** Demeaning and unacceptable to the person(s) experiencing them and may be related to age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, creed, colour, ethnic or national origin, religion & belief, sex, sexual orientation, social background, trade union membership or any other grounds, as covered by law and may be continuous despite objection to it or an isolated incident
- 3.16 **Victimisation:** When an employee is subjected to a detriment, such as being denied a training opportunity or a promotion because he or she made or supported a complaint or raised a grievance under the Equality Act 2010, or because he or she is suspected of doing so or being about to do so.

4. PURPOSE OF THE POLICY

- 4.1 The purpose of the policy is to communicate the Trust's commitment to equality and diversity for staff in the workplace and with respect to staff behaviour towards patients, visitors and service users.

5. THE POLICY

The Trust will:

- 5.1 Apply the definition of institutional racism from the McPherson Inquiry¹. This can be applied to all forms of unlawful discrimination impacting on the nine protected characteristics and social demographics which could be aggravating factors in unfair treatment.
- 5.2 Keep under review its functions, policies, procedures, and practices to ensure that people are not disadvantaged by any unnecessary conditions or requirements.
- 5.3 Take measures to eliminate not only overt acts of discrimination, but also requirements and practices that are discriminatory in nature.
- 5.4 Include an appropriate short statement on all vacancies, reflecting our commitment to equality of opportunity.
- 5.5 Ensure that person and job specifications only include those criteria that are necessary for the effective performance of the job and not according to any factors which may be potentially discriminatory.
- 5.6 Ensure that all candidates are selected on merit only and that other factors are not taken into consideration.
- 5.7 Adhere fully with the Equality Act 2010 to ensure that wherever possible reasonable adjustments are made and reviewed as appropriate, to enable staff to enter into employment with the Trust and contribute fully in the workplace
- 5.8 Ensure that all Trust staff who chair interview panels or interview are up to date with their mandatory equality and diversity training or have attended recruitment and selection training which has a section on equality and diversity.
- 5.9 Make existing procedures as inclusive as possible without placing any other applicants at a disadvantage to ensure our staff profiles remain reflective of the local community the Trust serves.

6. DUTIES / ORGANISATIONAL STRUCTURE

- 6.1 The Chief Executive is ultimately accountable for this policy document.
- 6.2 The nominated Executive Director is the Director of People and has lead responsibility for the implementation of the policy.

1. The report from the McPherson Inquiry into the racist murder of Stephen Lawrence defined Institutional racism as the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin. It can be seen or detected in the processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people.

- 6.2.1 The Executive Director may, where appropriate, delegate responsibility for a policy to an Implementation Lead or Authorised Individual. The Implementation Lead / Authorised Individual for this policy is the Equality & Diversity Manager.
- 6.3 The Committee responsible for approving and oversight of compliance / monitoring of this policy is the Equality and Diversity Steering Group.
- 6.4 Line Managers
Managers and supervisors are responsible for ensuring that they:
- Communicate the policy to their staff and is understood and adhered to.
 - Seek advice and tap into resources which will support them in managing their teams in culturally competent ways.
 - Act in accordance with equality legislation, policies and procedures that implement and promote equality and diversity within the Trust.
 - Lead by example, adopting standards of behaviour that align with Trust values.
 - Act to meet people's additional needs, preferences and choices - managing chronic/long term health conditions, observing remembrance days/dates, religious/belief times.
 - Set standards centred on inclusion which take into account their own behaviour and its effect on others.
 - Challenge unacceptable behaviour and deal promptly with incidents or potential incidents of harassment or discrimination if they do occur.
 - Act fairly in the application of employment policies while taking account of individual differences.
 - Make staff aware of notable dates and encourage attendance at webinars to mark these dates.
 - Contribute to the promotion of equality for patients, visitors and service users in the design and review of their functions, services, policies and procedures.
- 6.5 All Staff
Staff are responsible for:
- Acting in ways that are in accordance with this policy and with Trust values.
 - Are up to date with their equality and diversity training.
 - Treating everyone with whom they come into contact with courtesy.
 - Acting fairly and compassionately.
 - Treating other people as individuals responding to their needs.
 - Respecting others' privacy and dignity.
 - Ensuring they do not discriminate, harass or intimidate others or encourage other people to do so.
 - Using language that other people understand when carrying out duties.

- Taking account of their own behaviour and its effects on others.
- Undertaking relevant equality and diversity training and where possible attending online events about inclusion.
- Informing their manager if they become aware of any behaviour that undermines equality and diversity.

6.6

HR Business Partners

HR Business Partners will advise all staff on the:

- Application of this policy, equality legislation and best practice.
- Fair application of other Trust employment policies in relation to equality and diversity issues.
- Promotion of equality and diversity in the design of employment policies and procedures and by working towards external standards of best practice.

6.7

Occupational Health

Occupational Health will:

- Advise managers and HR Advisers on reasonable adjustments that would enable applicants and employees with disabilities to be employed and retained within the organisation.

6.8

Equality and Diversity Manager:

The Equality and Diversity Manager will:

- Ensure the Trust meets requirements of the Equality Act 2010.
- Provide support and advice for all staff in relation to equality and diversity issues.
- Submit national reporting for the Workforce Standards for Race and Disability, Gender Pay Gap.
- Raise awareness of equality and diversity through various approaches including holding online events to mark notable dates.
- Co-ordinate the activity of the Trust's three staff forums to ensure staff from diverse groups have a voice in taking forward Trust priorities.
- Produce workforce reports for the Board which show the Trust's journey towards promoting equality for our staff.
- Continue to provide expert advice and ensure that Equality and Diversity training is delivered at all levels for managers and staff.
- Be responsible for updating this policy in keeping with any future changes to equality and employment legislation.

7. RAISING AWARENESS / IMPLEMENTATION / TRAINING

- 7.1 All staff will be made aware of this policy, appropriate legislation and what this means for their actions at work through training.
- 7.2 Guidance and training in recruitment procedures will be given to managers to ensure that managers fully understand and adhere to the Equality and Diversity Policy.
- 7.3 Staff will be made aware, by their appropriate line managers, of training and development opportunities available to them such that no group of employees is disadvantaged.
- 7.4 Equality and Diversity training within the Trust will reflect the Trust's Equality Objectives 2015 - 2019.

8. MONITORING COMPLIANCE OF POLICY

- 8.1 The Trust is committed to monitoring the effectiveness of this policy in accordance, with statutory requirements and will include producing reports by equality characteristic on:
- Workforce diversity
 - Staff Survey findings
 - National reporting for NHS Workforce Equality Standards
 - Job applicants, short listed candidates and successful appointments
 - Provision of clinical and non-clinical continuing professional development & Leadership Development training
 - Staff turnover
 - Staff who have attended equality and diversity training
 - Numbers of staff attending equality and diversity training
 - Formal disciplinary and grievance hearing outcomes.
- 8.2 The results of monitoring will be reviewed at regular intervals by the Equality and Diversity Steering Group to ascertain the effectiveness of the implementation of this policy and will make recommendations where corrective action is needed.

9. EQUALITY IMPACT ANALYSIS

This policy has been analysed for impact on equality and does not have an adverse impact on any protected characteristic. The Trust will continue to monitor its effect annually in the way employment policies are applied within the organisation.

10. REFERENCES

Equality and Human Rights Commission (2019) Equality Act codes of practice
Available at: <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>

Equality and Human Rights Commission (2019) Equality Act codes of practice
Available at: <https://www.equalityhumanrights.com/en/advice-and-guidance/equality-act-codes-practice>

Disability Discrimination Act 1995, c. 50. Available at:
<https://www.legislation.gov.uk/ukpga/1995/50/contents>

Disability Discrimination Act 2005, c.13. Available at:
<https://www.legislation.gov.uk/ukpga/2005/13/contents>

MacPherson W, 1999. The Stephen Lawrence Inquiry. Report of an Inquiry. United Kingdom: The Stationary Office. Available at:
<http://webarchive.nationalarchives.gov.uk/20130814142233/http://www.archive.official-documents.co.uk/document/cm42/4262/4262.htm>

Human Rights Act 1998, c. 42. Available at:
<https://www.legislation.gov.uk/ukpga/1998/42/contents>

APPENDIX A

Equality Act 2010 – General and Specific Duties

The general public sector equality duty under s.149 of the Equality Act 2010 requires public bodies to eliminate discrimination, advance equality of opportunity and foster good relations between different groups. The specific duties are aimed at enabling better performance of, and demonstrating compliance with, the general equality duty.

Under proposed specific duties, public bodies will be required to:

- Prepare and publish one or more equality objectives.
- Publish information to demonstrate compliance with the general equality duty, including information relating to persons who share a relevant protected characteristic who are its employees, and other persons affected by its policy and practices.

Implication of the Equality Act 2010

The Equality Act 2010 has removed the list of capacities that must be impaired and which previously defined a disability. These included physical, mental, hearing and sight impairments, manual dexterity and progressive conditions like HIV, cancer, epilepsy, multiple sclerosis, diabetes.

People with disabilities are no longer required themselves to establish that their treatment is less favourable than that experienced by a non-disabled colleague. An employee must simply establish that unfavourable treatment is because of something connected with their disability.

There is a new protection from discrimination arising from a disability, where it is discriminatory to treat a person unfavourably because of something connected with their disability, e.g., tendency to make spelling mistakes arising from dyslexia.

This type of discrimination is unlawful where the employer or other person acting for the employer knows, or could be reasonably expected to know, that the person has a disability.

It could only be justified if the employer can show that it is a proportionate means of achieving a legitimate aim.

Every effort should be made to understand any employee requirements and put into place appropriate measures to accommodate for such situations

APPENDIX B

Human Rights Act 1998

The Human Rights Act gives the European Convention on Human Rights (ECHR) a legal basis in UK law and makes it easier to enforce the rights that the ECHR gave to people. The ECHR has different parts to it called articles, which are listed below:

1. The right to life
2. Freedom from torture and degraded treatment
3. Freedom from slavery and forced labour
4. The right to liberty
5. The right to a fair trial
6. The right not to be punished for something that wasn't a crime when you did it
7. The right to respect for private and family life
8. Freedom of thought, conscience, and religion
9. Freedom of expression
10. Freedom of assembly and association
11. The right to marry or form a civil partnership and start a family
12. The right not to be discriminated against in respect of these rights and freedoms
13. The right to own property
14. The right to an education
15. The right to participate in free elections

FULL VERSION CONTROL

Version:	2.0
Role of Policy Lead(s):	Equality & Diversity Manager
Role of Executive Lead:	Director of People
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Version History

Version	Date	Policy Lead(s)	Status	Comment
1.0	Nov 2017	Policy Officer	Final	Approved by HEB
1.1	April 2021	Equality & Diversity Manager	Draft	References to, social justice movements, staff networks and hidden disabilities added
2.0	October 2021	Equality & Diversity Manager	Final	Comments from E&D Steering Group. Ratified at SLC.

Document Location

Document Type	Location
Electronic	Trust intranet (ourplace) https://ourplace.xfph-tr.nhs.uk/our-trust/trust-policies
Paper	N/A

Related Documents

Document Type	Document Name
Policy	Appraisal Policy
Policy	Harassment and Bullying procedure and policy
Policy	Recruitment and Selection policy and procedure
Policy	Grievance procedure and policy
Policy	Maternity, adoption, paternity, shared parental and ordinary parental leave policy
Policy	Special Leave Policy
Policy	Flexible Working Policy
Policy	Organisational change policy
Policy	Training and Education policy