

EQUALITY, INCLUSION & HUMAN RIGHTS POLICY

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KEY CHANGES FROM PREVIOUS VERSION	3 year review, substantially rewritten	
AUTHOR	EPUT Equality Advisor	
CONSULTATION GROUPS	Equality and Inclusion Sub-Committee (EPUT), Employee Experience Lead, Workforce, Development and Training, Patient Experience Team, Operational services (MH and Community) Quality Committee	
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POLICY SUMMARY		
<p>Essex Partnership University NHS Foundation Trust (EPUT) has a statutory duty to ensure that all practices within the Trust are carried out in a fair, reasonable and consistent manner in line with the Equality Act, 2010. This policy aims to promote equality of opportunity between people who share a protected characteristic and those who do not, prevent discrimination and foster good relationships.</p> <p>EPUT has produced this policy to regulate and monitor the Trust's compliance with the Equality Act (2010) and general and specific Public Sector Equality Duty (PSED) including the EDS2, as well as explaining key concepts.</p>		
The Trust monitors the implementation of and compliance with this procedure in the following ways:		
<p>Equality and Inclusion Sub-Committee will ensure that compliance is monitored regularly against:</p> <ul style="list-style-type: none"> • The Equality and Inclusion Sub-Committee Annual Work plan and schedule • The Equality Delivery System (EDS2) action plan • Annual review of its effectiveness to ensure it meets requirements. 		
Services	Applicable	Comments
Trustwide	✓	

**The Director responsible for monitoring and reviewing this procedure is
Executive Director of People & Culture**

ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST

EQUALITY, INCLUSION AND HUMAN RIGHTS POLICY

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SAMPLE ONLY

ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST

EQUALITY, INCLUSION AND HUMAN RIGHTS POLICY

1.0 POLICY STATEMENT

- 1.1 The purpose of this policy is to ensure that all practices within the Trust are carried out in a fair, reasonable and consistent manner.
- 1.2 The Trust is committed to providing a service that promotes equality, inclusion and human rights, and does not discriminate against any Trust workers, potential Trust workers, service users, relatives, carers or anyone that interacts with the Trust in any way.
- 1.3 This policy is at the heart of enabling the Trust to deliver its Core Values. Through the implementation of this policy Essex Partnership University NHS Foundation Trust (EPUT) will ensure that commitment to fairness and equality is evident in every department and at every level throughout the Trust and that everyone has equal access to opportunities, fair treatment and freedom from discrimination within EPUT, regardless of background or personal characteristics.
- 1.4 The Policy introduces the Trust's Principles in relation to ensuring equality in employment practices, service provision and respecting diversity among staff, service users and carers.
- 1.5 The Trust will promote equality and integrate an anti-discriminatory approach into all areas of its work. It will ensure that barriers to accessing services and employment are identified and removed, and that no person is treated less favourably on the grounds of their race, ethnicity, religion or belief, age, biological sex, marital status, gender identity, disability or long term condition, sexual orientation or pregnancy and maternity (protected characteristics defined by Equality Act 2010). The Trust also commits to providing equal access to services and employment regardless of mental health status, caring responsibilities or socio-economic background.
- 1.6 The Trust recognises the importance of this policy in both the employment relationship and service provision, and will reflect these commitments in all Trust policies. The basis for employment, assessment of performance, advancement and training will be objective criteria only (e.g. ability, qualification and skills).
- 1.7 Trust staff have the right to be treated in a fair, reasonable and consistent way with dignity and respect and without the fear of discrimination, harassment or victimisation.
- 1.8 Trust staff have the right to be protected against discriminatory behaviour from service users and carers.
- 1.9 Service Users, their relatives and their carers have the right to be treated in a fair, reasonable and consistent way with dignity and respect and without the fear of discrimination, harassment or victimisation.

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- 1.10 Anyone that deals with the Trust, including Partners and stakeholders will receive equitable treatment whether they are receiving a service, providing a service, tendering for a contract or any other relationship.
- 1.11 The Trust will uphold the Human Rights of all service users, carers and staff and anyone else with a relationship to the Trust. These include practices which reflect the principles of the right to a fair trial, respect for private and family life and freedom of thought, conscience and religion. Any restriction placed on the rights of service users, for example those detained under the Mental Health Act (1983) or subject to the Mental Capacity Act (2005), will be considered and proportionate. The 'least restrictive principle' will always be applied.
- 1.12 The Trust is committed to the ongoing development of staff awareness of Equality, Inclusion, and Human Rights issues throughout an individual's relationship with the Trust.
- 1.13 The Trust is committed to monitoring, evaluating and reporting on issues of Equality and Inclusion in services, carers and the workforce.
- 1.14 The Trust recognises these benefits which will arise from implementation of the Equality, Inclusion and Human Rights policy:
- Flexible provision of service that will meet individual service users' and carers' needs and will ensure a high level of satisfaction with services.
 - Employing staff from diverse backgrounds will allow for a better understanding of the needs of all service users and carers, and will create a diverse workforce that reflects the wider community.
 - Employing a diverse workforce will provide greater flexibility within working practices.
 - Valuing staff and ensuring they have been treated fairly and that their protected characteristics are considered when making decisions will improve morale, motivation, physical and mental health and job satisfaction, and reduces staff turnover.
- 1.15 The Trust will continually review best practice standards of Equality & Inclusion under the Equality Act (2010) and the Human Rights Act (1998).
- 1.16 The Trust will work to reduce health inequalities for service users and carers.
- 1.17 The Trust will continue to be transparent and report on disciplinaries, grievances and harassment in conjunction with regulatory requirements

2.0 RELEVANT LEGISLATION

2.1 The key articles of legislation underpinning this policy are:

- The Human Rights Act (1998)
- The Equality Act (2010)
- Care Act (2014)

3.0 SCOPE OF POLICY

3.1 This policy applies to substantive and fixed term contract staff, and all Agency and Bank Workers who work for this organisation.

3.2 The policy also applies to service users, their families and carers, throughout their relationship with the Trust.

3.3 This is not an exhaustive list. The policy applies to anyone that has dealings with the Trust.

4.0 DEFINITIONS & TYPES OF DISCRIMINATION

4.1 **Direct Discrimination:** When a person or group is treated less favourably than others are due to no other reason other than a protected characteristics.

4.2 **Indirect discrimination:** Occurs when a provision, criterion or practice is applied, whether intentionally or not, which adversely affects one protected characteristic group more than others and cannot be justified.

4.3 **Discrimination by association:** When someone is treated less favourably than others are due to no other reason other than their connection with a person from a protected characteristic group.

4.4 **Discrimination by perception:** When someone is treated less favourably than others are due to no other reason other than the perception that the person is from a protected characteristic group (even if this is perception is incorrect).

4.5 **Victimisation:** Occurs when a person or group is treated less favourably because they have: brought proceedings in relation to this policy; or provided information in support of a third party claim in relation to this policy; or made an allegation that a breach of this policy has taken place. See policy on **Whistleblowing (CP53)**

4.6 **Harassment:** The violation of dignity or creation of an offensive environment Harassment is subjective, the individual decides on whether they feel conduct is either acceptable or offensive. See also the **Dignity, Respect (Bullying, Harassment and Discrimination) Grievance Policy (HR2)**

4.7 **Vicarious Liability** means that the Trust can be held responsible for the discriminatory actions of its workers, even if they are carried out without the Trust's knowledge or approval, if due care is not provided in upholding this

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policy within working practices and raising staff awareness of the Trust's position on equality, inclusion and human rights.

- 4.8 **Genuine Occupational Requirement** occurs in limited circumstances when jobs can be legally ring-fenced to a particular protected characteristic group on the grounds of authenticity or to preserve privacy and dignity.
- 4.9 **Burden of Proof** In any accusation, this falls upon on the respondent, once the applicant has evidence of behaviours or actions that could be interpreted as discriminatory.
- 4.10 **Unconscious Bias** Unconscious bias refers to discrimination that takes place unknowingly, and can happen inadvertently when protected characteristics are not considered. It is a bias that occurs when making quick judgments and assessments of people and situations, influenced by our background, cultural environment and personal experiences.
- 4.11 **Macro-aggressions and Micro-aggressions:** A Macro-aggression is an overt act of aggression or discrimination against someone based on their protected characteristics. A Micro-aggression is an intentional or unintentional verbal, behavioural or environmental action that communicates hostile, derogatory or prejudicial attitudes towards a minority or culturally marginalised group.
- 4.12 **Racism:** The Trust is committed to eliminating racism in the workplace and works with a range of action plans and guidelines to tackle racism and racial harassment including the Workforce Race Equality Standard and the NHS People Plan. We are committed to working in partnership with the Black, Asian and Minority Ethnicity (BAME) Staff Equality Network.

5.0 GUIDING PRINCIPLES

- 5.1 All new Trust policies, procedures and practices must be Equality Impact Assessed to ensure that the any changes in the policies may have on protected characteristic groups are discussed and considered.
- 5.2 Equality Impact Assessments should be reviewed at any significant change to a policy and at the standard three year review.
- 5.3 Service users and carers should be involved in the development of new policies, services and the monitoring of progress to achieve actions plans, where appropriate.
- 5.4 Trust employees will receive equitable treatment in all relevant aspects of the employment relationship in line with Trust with Trust HR policy and procedures.
- 5.5 Training in Equality and Inclusion will be provided to all staff in accordance with the Trust's approved training matrix.

- 5.6 The Trust will aim to ensure that there are no barriers to opportunity within the Trust for people potentially at a disadvantage e.g. providing reasonable adjustments that will allow persons with a disability to carry out their duties or receive an equitable service.
- 5.7 Everyone has the right to seek redress of any perceived injustice. This will ordinarily be through the **Dignity, Respect (Bullying, Harassment and Discrimination) Grievance Policy (HR2)** for Trust workers, or the **Complaints Policy (CP2)** for Service Users or any other non-Trust workers.
- 5.8 **EPUT's 2018-2022 Equality Strategy** defines the Trust's objectives as the following during this period:
- **Equality Objective 1:** We will ensure that everyone is able to access our buildings, services and information.
 - **Equality Objective 2:** We will empower our staff to build strong and healthy communities by being open and compassionate when involving people from all communities and groups.
 - **Equality Objective 3:** We will ensure all staff feel safe, included and have fair access to employment.
- 5.9 The Equality Duty requires that the Trust, in the exercise of its functions, pays due regard to the need to:
- 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.

6.0 ROLE OF THE TRUST

- 6.1 The Trust has legal and moral responsibility for ensuring equality of opportunity, respect for diversity and inclusion of minority or marginalised groups. The Trust Board and Executive Directors have primary legal and moral responsibility for ensuring that it and its employees do not discriminate unlawfully and that it should not merely seek to avoid such discrimination, but should develop positive policies & practices and strong governance arrangements to monitor and promote inclusive behaviours.
- 6.2 The Equality Delivery System (EDS2) will serve as an Equality and Inclusion Workplan that will be monitored by the Trust's Equality Advisor and will be one of the main focuses of the Equality and Inclusion Sub-Committee.
- 6.3 The Executive Director of People & Culture has overall responsibility for the co-ordination of this policy and the Trust Wide Equality and Inclusion Sub-Committee. This is overseen by the Executive Chief Officer of the Trust.
- 6.4 All managers will be responsible for ensuring that principles of equality, inclusion and human rights are understood and applied within their areas of responsibility, and that legal requirements are observed.
- 6.5 All operational leads and team managers will be responsible for ensuring an Equality Impact Assessment (Appendix 1) is completed when a new Trust policy, service or function is developed within their services.
- 6.6 An initial EIA will be developed for all new policies, services or functions within the Trust. A full EIA will be completed if concerns of positive or negative impacts on minority or marginalised groups are identified. The full EIA will ensure that these are taken into account with actions to develop, reduce or negate these.
- 6.7 All staff will have a wellbeing and inclusion discussion with their manager at least once annually to ensure that any personal and individual needs regarding their protected characteristics are being met, and to support them in attending Staff Equality Networks or Equality and Inclusion Training and Learning opportunities as part of the Trust's commitment to Equality and Inclusion.
- 6.8 All managers have a responsibility for ensuring that any allegations of discrimination, harassment or victimisation are fully reported and appropriate action taken in line with policy.

- 6.9 Any employee who feels that they have been discriminated against or victimised by another member of staff or the Trust should raise this with the Trust resources below:
- The Trust's Equality Advisor
 - Their Line Manager
 - EPUT Equality Champions
 - The Staff Engagement Team
 - Their Human Resources Advisor or Human Resources Team (for a formal grievance)
 - The relevant Equality Network
 - EPUT's Freedom to Speak up Guardians (confidential)
 - Their Trade Union (if applicable)
- 6.10 All managers have a responsibility to ensure that a Datix Incident Report is completed when a staff member experiences discriminatory abuse from a Staff Member or Service User and that these are reported to the Local Security Management Specialist (within the Risk Management Team)
- 6.11 Managers should facilitate and resolve Equality & Inclusion issues raised by the families and carers of Service Users in an open and approachable manner.
- 6.12 Operational managers should deal with equality and inclusion issues raised by families and carers of service users in an open, transparent and approachable manner. Service users and carers with a concern should use the EPUT PALS or Complaints Procedures.
- 6.13 Every employee has a duty to comply with this policy and Equality and Inclusion legislation and should be aware of their responsibilities, the basic legislative framework and how they can be involved in these projects.
- 6.14 All staff members should have an understanding of Equality and Inclusion as part of their training and personal development and will be encouraged to do so by the Trust, including but not limited to:
- Micro-aggressions
 - Unconscious Bias
 - Challenging Discrimination and Inequality
 - Promoting and living a positive culture of Equality and Inclusion in EPUT as part of our "Be You" Programme and Trust Engagement
 - The Equality Framework within the Trust including EPUT Equality Champions and Staff Equality Networks
 - Raising concerns of discrimination within the Trust
- 6.15 It is everyone's responsibility to inform their manager, the Equality Advisor or their Human Resources Advisor if they suspect that discrimination, harassment or victimisation is taking place, anywhere within the Trust.
- 6.16 Ongoing training on Equality and Inclusion issues and concepts will be available and mandatory for those who manage staff, or are members of recruiting panels. Staff should be encouraged to raise these needs with their line manager if they are unaware of how to access this.

- 6.17 Trade Unions / Professional Associations have an important role to play in working in partnership with the Trust to prevent discrimination and victimisation and to promote equality and inclusion. They must seek to ensure that their members are treated with dignity and respect, at all times.
- 6.18 Where employees have particular needs in relation to their protected characteristics under the Equality Act (2010), the Trust will not only consider whether it is reasonably practicable to vary and/or adapt work requirements to meet these needs (reasonable adjustments) – but take as many steps as they can to not only ensure this employee is not placed at a disadvantage but that they are supported and retained at work in employment with the Trust in a positive way.

7.0 MONITORING

- 7.1 In order to assess the effectiveness of its Equality, Inclusion and Human Rights Policy the Trust will maintain, analyse and publish the following information for staff:
- 7.1.1 Gender, age, disability, sexual orientation, religion or belief and ethnic origin of job applicants, short-listed candidates and existing and new employees and their deployment within the Trust.
 - 7.1.2 Details of selection, decisions for recruitment, redeployment, promotion, transfer and training and reasons for these decisions.
 - 7.1.3 The Trust will maintain, analyse and publish anonymous/statistical information on the protected characteristics of service users/carers.
 - 7.1.4 Reviewing current progress against statistical tools available (Including Staff Survey scores, the NHS Friends and Family Test for patients and carers, the WDES and the WRES) will be used for measuring the achievement of the Trust's in comparison to the Public Sector Duty, and effectiveness of the Trust's Equality and Inclusion Sub-Committee.
- 7.2 Where information is collated in line with the Equality, Inclusion and Human Rights Policy, it will be published using established communication mechanisms in line with the Trust **Data Protection and Confidentiality Policy (CP59)**

8.0 REFERENCES TO OTHER TRUST POLICIES

- **Dignity Respect (Bullying, Harassment and Discrimination) Grievance Policy (HR2)**
- **Complaints Policy (CP2)**
- **Raising Concerns (Whistleblowing) Policy (CP53)**
- **Data Protection and Confidentiality Policy (CP59)**

END