

## EQUALITY, INCLUSION & HUMAN RIGHTS PROCEDURE

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<b>AUTHOR:</b>	EPUT Equality Advisor	
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<b>PROCEDURE SUMMARY</b>		
<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 procedure 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 procedure 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>		
<b>The Trust monitors the implementation of and compliance with this procedure in the following ways:</b>		
<p>Equality and Inclusion Sub-Committee will ensure that compliance is monitored regularly against:</p> <ul style="list-style-type: none"> <li>• The Equality and Inclusion Sub-Committee Annual Work plan and schedule</li> <li>• The Equality Delivery System (EDS2) action plan</li> <li>• Annual review of its effectiveness to ensure it meets requirements.</li> </ul>		
<b>Services</b>	<b>Applicable</b>	<b>Comments</b>
Trustwide	✓	

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

**ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST**

**EQUALITY, INCLUSION & HUMAN RIGHTS PROCEDURE**

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ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST

EQUALITY, INCLUSION AND HUMAN RIGHTS PROCEDURE

1.0 INTRODUCTION

The purpose of this procedure is to ensure that all practices within the Trust are carried out in a fair, reasonable and consistent manner. The Trust is committed to providing a service that promotes equality, inclusion, human rights and does not discriminate.

In order achieve this the Trust will implement systems and processes to comply with national legislation, Department of Health and Social Care, NHS England and NHSI requirements and good practice set out in this procedure below.

2.0 THE HUMAN RIGHTS ACT (1998)

The Human Rights Act (1998) brought the European Convention on Human Rights (ECHR) into UK law. As a result key human rights applicable for healthcare include:-

- **Article 2, the right to life:** This has implications for treatment decision-making and providing access to services and places a positive obligation on the government and public bodies, to preserve life.
- **Article 3, the right not to be tortured or treated in an inhuman or degrading way:** This protects patients over poor conditions, lack of regard to dignity, neglect or abusive treatment, excessive force and treatment without consent.
- **Article 5, the right to liberty and security of person:** This article has led to the Deprivation of Liberty Safeguards amendment to the Mental Capacity Act (2005)
- **Article 8, the right to respect for private and family life, home and correspondence:** This protects patients over issues of consent, privacy and access to records, ensures that people are involved in decisions made about their treatment and care and that there is respect for diverse families and access to family visits;
- **Article 14, the right not to be discriminated against in the enjoyment of other human rights:** This means we must not deny treatment solely on the basis of a person's protected characteristics, and should provide services that are equal and inclusive of all.

High quality care services that respect people's dignity and the rights listed above should:

- Have a zero tolerance of all forms of abuse
- Support and care for our staff and the people using our service
- Treat each person as an individual by offering person-centred care
- Enable people to maintain the maximum possible level of independence, choice and control
- Listen and support people to express their needs and wants
- Respect people's right to privacy

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- Consider their protected characteristics and make sure this is reflected in their care, and ensure that those from marginalised or minority groups are not negatively affected
- Treat people equally without discrimination
- Ensure people feel able to provide positive or negative feedback without fear of retribution, and that mechanisms to do this are accessible to all
- Engage with family members and carers as care partners
- Assist people to maintain confidence and positive self-esteem as part of their care

### **3.0 THE EQUALITY ACT (2010) AND PUBLIC SECTOR EQUALITY DUTY**

As a public sector organisation, EPUT has a statutory duty to ensure that equality, inclusion and human rights are embedded into all its functions and activities as required by the Equality Act (2010), the Human Rights Act (1998) and the NHS Constitution.

The Equality Act (2010) replaces all previous equality legislation, such as the Race Relations Act (1965), the Disability Discrimination Act (1995), the Sex / Gender Discrimination Act (1975), Religion and Belief Regulations (2003) and Sexual Orientation Regulations (2003).

The Equality Act is a key part of the legal framework that underpins the way the Trust provides its services and supports its staff.

The Trust will ensure compliance with the requirements of the Equality Act 2010 specifically as follows:

#### **3.1 Compliance with Public Sector Equality Duties (PSED)**

The Equality Act (2010) places a Public Sector Equality Duty on all public authorities in the form of General and Specific Duties.

3.1.1 The **General** Duty requires that we:

- Eliminate discrimination.
- Promote and advance equality of opportunity.
- Foster good relations between protected characteristics.

3.1.2 The **Specific** Duty requires that we:

- Set out and publish our Equality Objectives
- Report on the progress on meeting those objectives, using our Equality and Diversity System 2 framework
- Publish our equality objectives and an annual progress report on those objectives. This includes collecting, analysing and publishing workforce equality data and service user equality data
- Gather and analyse this data to improve equality and inclusion outcomes
- Consult with and involve service users and carers
- Pay due regard to the Personal Protected Characteristics
- Review the Trust's approach every four years

### 3.2 Protected Characteristics

The Equality Act 2010 provides protection for individuals with the following “protected characteristics”:

- Race,
- Sex (referring to a person’s biological Sex)
- Disability (including long term conditions),
- Age,
- Sexual orientation,
- Gender reassignment,
- Religion or belief,
- Pregnancy and maternity and
- Marriage and civil partnership.

Under this act, it is unlawful for the Trust to discriminate against an individual in any of the following ways:

- **Direct discrimination:** A person or group treated less favourably than others are, or would be, treated in the same or similar circumstances due to no other reason other than their protected characteristics
- **Indirect discrimination:** Applying a provision, criterion or practice that has the intentional or unintentional effect of disadvantaging those from certain protected characteristic groups
- **Discrimination by association:** Treating somebody less favourably or harassing them because of their connection with a person who has a protected characteristic
- **Discrimination by perception:** Treating somebody less favourably because they are believed to have a protected characteristic even if that perception is mistaken
- **Victimisation:** Treating someone 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, this in line with the **Raising Concerns (Whistleblowing) Policy (CP53)**
- **Harassment** - unwanted conduct that has the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for an individual, or violating an individual’s dignity. See also the **Grievance Policy (HR2)**.
- **Third party harassment** – Harassment of an employee related to a protected characteristic under the Equality Act 2010 (other than marriage and civil partnership, and pregnancy and maternity) by third parties, for example service users or customers.

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- **Failure to make reasonable adjustments:** The Act extends the duty to make reasonable adjustments to prevent staff being placed at a disadvantage in the workplace due to their protected characteristics (Most commonly pregnancy, maternity and disability or mental health). Occupational Health Assessments should be provided to EPUT Staff members who request reasonable adjustments, or who are identified to be placed at a disadvantage by their supervisor.

Whilst the Equality Act (2010) covers nine protected characteristic groups, care should also be taken to include all marginalised communities (those that may receive less support or may be stigmatised or discriminated against in society), these include but are not limited to a person's medical status (for example a person who is or is suspected of testing positive for a medical condition), homeless people, travelling communities or those with dietary requirements (including allergies and faith or belief based diets including Vegetarianism and Veganism)

### 3.3 The NHS Equality Delivery System (EDS2):

The EDS2 is a mandatory tool and is mandated in the NHS standard contract.

The Trust undertakes with key stakeholders an annual self-assessment against the EDS2 domains and areas identified for improvement are included within the Trust equality objectives, and service operational action plans where appropriate. These action plans are monitored via the EDS2 framework by the Equality and Inclusion Committee.

The Trust also publishes an annual Equality and Inclusion report on our progress on our own Trust website.

### 3.4 Equality Impact Assessments

3.4.1 An Equality Impact Assessment (EIA) is a process designed to ensure that a policy, project, service development or scheme does not discriminate against any disadvantaged or vulnerable people. The Trust strongly believes that Equality Impact Assessment processes improve and promote equality and inclusion and therefore should be standard practice in everything that we do.

3.4.2 Staff are required to undertake an initial Equality Impact Assessment (EIA) when developing any new Trust policy, service or function. This would then be sent to EPUT's Compliance, Assurance & Risk Assistant / Trust Policy Controller. If these initial screening questions identify that certain groups will be negatively impacted by this policy, service or function, a full screening will need to be conducted by the author of this policy, service or function and this will need to be approved by the EPUT Equality and Inclusion Sub-Committee

3.4.3 Authors of new policies, services or functions must gauge their impact on the nine protected characteristic groups under the Equality Act (2010). The lead assessor is responsible for ensuring these actions are incorporated into the departmental plan, and it is the responsibility of the assessor to notify their Director and any nominated staff members of these actions.

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- 3.4.4 Templates together with guidance have been developed to enable staff to undertake either EIA screening **See Appendix 1**
- 3.4.5 This also links to the Quality Impact Assessment process which is completed for all Cost Improvement Programmes.
- 3.4.6 The Trust is required to reference Equality Impact Assessments within the Annual Governance Statement signed off by the Chief Executive Officer as part of NHSI Annual Reporting Requirements.

### **4.0 WORKFORCE RACE EQUALITY STANDARD (WRES)**

Implementing the Workforce Race Equality Standard (WRES) is a requirement for all NHS commissioners and NHS provider organisations and forms part of the annual NHS Standard Contract.

Each year the Trust will produce a report, reviewing the performance across the relevant workforce metrics. An action plan will be developed to address and reduce any inequalities between Black, Asian and Minority Ethnicity Group (BAME) staff experiences in comparison to White staff (for the WRES)

### **5.0 THE WORKFORCE RACE DISABILITY EQUALITY STANDARD (WDES)**

Implementing the Workforce Disability Equality Standard (WDES) are requirements for all NHS commissioners and NHS provider organisations and forms part of the annual NHS Standard Contract.

Each year the Trust will produce a report, reviewing the performance across the relevant workforce metrics. An action plan will be developed to address and reduce any inequalities between staff experiences of those with disabilities in comparison to staff members who do not have disabilities.

### **6.0 ACCESSIBLE INFORMATION STANDARD**

The Accessible Information Standard aims to ensure that people who have a disability or sensory loss receive information that they can access and understand, for example in large print, braille or via email, and professional communication support if they need it, for example from a British Sign Language interpreter.

The Accessible Information Standard recommends a specific and consistent approach towards *identifying, recording, flagging, sharing and meeting information and communication* needs of patients, carers and friends or family members of patients (henceforth referred to under the collective term 'service-users') that relate to disability.

Promotional materials to share this with staff and service users are available on the Trust Intranet and from the Equality Advisor for the Trust, and should be displayed at all sites.

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Compliance with the Accessible Information Act is the responsibility of all staff, with information on the Trust intranet to help staff record and understand the communication needs of service-users. Support is available from the Communications Team for requesting accessible versions of Trust documents.

### 7.0 “WE ARE THE NHS” PEOPLE PLAN 2020-21

- 7.1 The NHS People Plan was developed by NHS England in August 2020, and sets out actions to support transformation across the whole NHS. It focuses on how we must all continue to look after each other and foster a culture of inclusion and belonging, as well as actions to grow our workforce, train our people, and work together differently to deliver patient care. This guidance applies to all organisations in the provision or commissioning of NHS care.
- 7.2 The section “Belonging in the NHS” highlights the support and actions needed to create an organisational culture where everyone feels they belong and all staff have a voice within the Trust.
- 7.3 EPUT will follow this guidance and use the systems provided by NHS England to ensure that they are providing Equality and Inclusion in line with all other NHS organisations, and to meet the expectations of commissioners.

### 8.0 HOW DO WE IMPLEMENT OUR PUBLIC SECTOR DUTIES?

#### 8.1 EQUALITY AND INCLUSION SUB-COMMITTEE (EIC)

The Equality and Inclusion Sub-Committee is a sub-committee of the People, Innovation and Transformation (PIT) Committee and has delegated responsibilities to:

- Ensure that the Trust remains compliant with Public Sector Equality duties
- Provide assurance and support in respect of compliance and delivery of the Equality Delivery System (EDS2 Framework) and work plan. The EDS2 provides the Trust with a framework to monitoring our progress on our PSED.

The E&IC is chaired by an Executive Director who is the executive lead for Equality and Inclusion and the Equality Lead

This committee should be attended by operational leads and should have representation from all facilities and services within the Trust. Members of the committee will play an active part in ensuring this information is shared with the Trust.

The E&IC meets regularly to monitor the equality work plan and is responsible or ensuring that the Trust delivers on our Public Sector Equality duties, and our mandatory reporting and publication requirements, as outlined above.

This sub-committee reports to the People, Innovation and Transformation (PIT) Committee and Trust Board.

### 8.2 RECORDING OF INFORMATION

8.2.1 In order to assess the effectiveness of its Equality, Inclusion and Human Rights Policy and Procedure the Trust will maintain, analyse and publish the following information for staff:

- a. Gender, age, disability, sexual orientation, religion or belief and ethnic origin of:
  - Job applicants
  - Short-listed candidates;
  - Existing and new employees and their deployment within the Trust.
- b. Details of selection decisions for recruitment, redeployment, promotion, transfer and training and reasons for these decisions.

8.2.2 The Trust will maintain, analyse and publish anonymous/ statistical information on the protected characteristics of service users/ carers.

8.2.3 Statistical information will be used for measuring the achievement of the Trust's Public Sector Duty, and effectiveness of the Trust's Equality and Inclusion Steering Group.

8.2.4 Where information is collated in line with the Equality & Diversity Policy, it will be published using established communication mechanisms and in line with the **Data Protection and Confidentiality Policy (CP59)** where required.

8.2.5 Although Staff do not have to declare their equality information, the Trust encourage staff to share this with us to ensure we can reflect their needs at work.

### 8.3 TRAINING AND DEVELOPMENT

It is essential that all employees understand and appreciate their responsibilities in relation to equality and inclusion. It is therefore mandatory for all employees to undertake Equality and Inclusion training, as new employees, as part of the Trust's Corporate Induction Programme, and on an annual refresher basis through the OLM E-learning module.

### 8.4 EQUALITY AND INCLUSION NETWORKS

#### 8.4.1 Staff Equality Networks

There are five Staff Equality Networks within the Trust; these Networks are created based on Staff feedback as well as identified needs of the Trust. They work in conjunction with existing staff functions including Human Resources, Chaplaincy, Communications and the Equality and Inclusion Sub-Committee. At present the Trust has the following Staff Equality Networks.

- Black, Asian and Minority Ethnicity (BAME) Staff Equality Network
- Disability and Mental Health Staff Equality Network
- Faith and Spirituality Staff Equality Network

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- Lesbian, Gay, Bi, Trans and any other sexual or gender minority group (LGBTQ+) Staff Equality Network
- Staff Carers Staff Equality Network

The role of these Networks includes:

- Discussing and creating actions to improve staff experience for their represented group
- Raising awareness of Equality and Inclusion for their represented group
- Allowing all staff members to attend and share their lived experience and feedback, also providing advice and signposting if required
- Completing an Action Log after each Network to document their actions and the progress made on these actions
- The Chair will attend the Equality and Inclusion Sub-Committee and provide feedback on behalf of their Network
- Network Chairs will attend quarterly meetings with the Executive Director of People and Culture and will attend relevant Equality and Inclusion events where appropriate

### 8.5 EQUALITY AND INCLUSION, THE ROLE OF STAFF

The success of this procedure requires the active commitment of everyone in the organisation from Board to front-line service delivery. All EPUT staff play a vital role in delivering a service which promotes equality and inclusion:

- Recognising discrimination and identifying risks of discrimination - whether direct discrimination, indirect discrimination or harassment
- Understanding the potential consequences of discrimination
- Challenging discrimination and understanding how to raise these concerns within the Trust
- Playing an active part in supporting colleagues from other groups, engaging with them and helping to create a positive workplace culture that does not tolerate discrimination of any form
- Being able to identify and respond to the specific needs of diverse patients, service users and carers which arise from their personal, social or cultural background;
- Supporting a service which demonstrates good equality and diversity practice;
- Supporting the empowerment of patients, service users and their carers so that they may be involved in their own care and health improvement.

Good equality and inclusion practice involves:

- Communicating with patients, service users and carers in a way that is accessible to them;
- Supporting colleagues who have experienced discriminatory behaviour and reporting this through the correct channels;
- Ensuring that teams not only have an Equality Champion, but also that teams are aware of how to access these resources to support patients and staff.
- Making reasonable adjustments in the way we do our work and deliver our services to take account of the particular needs of disabled people;

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- Understanding the role that cultural and religious beliefs play in health care and peoples' experiences of health services;
- Ensuring that everyone gets care which takes account of their individual needs;
- Managers ensuring that staff members have reasonable adjustments in place for disabilities, mental health conditions, faith and spirituality and any other protected characteristic.
- Ensuring that all staff members (not only Equality Champions or Staff Network Members) are able to participate in equality and inclusion training / feedback opportunities provided by the Trust;
- Treating everyone with dignity and respect at all times

### 9.0 EQUALITY CHAMPIONS

Equality Champions are members of EPUT Staff who volunteer to promote Equality and Inclusion within the Trust alongside the Equality Advisor. The purpose of the Equality Champion role is to play an active part in raising awareness of and supporting Equality, Inclusion and Protected Characteristics within the Trust, as well as sharing relevant information from the Equality and Inclusion Sub-Committee and the Staff Equality Networks.

This includes:

- Sharing good practice
- Providing advice and support, advising colleagues who want to know more about specific equality issues
- Ensuring their teams are aware of how to access Trust Equality and Inclusion resources and signpost staff members to find information about these subjects
- Give opinions and suggestions about work practices and improvements that can be made
- Draw attention to matters of concern so that the organisation can take action to address them
- Participate in equality accreditations and charter marks;
- Promote Equality Champions and Staff Equality Networks across the organisation
- Take part in Equality and Inclusion projects across the Trust, including workshops, seminars and forums

Equality Champions act as volunteers to help promote a positive culture of Equality and Inclusion as well as an extension of the Equality Advisor role, promoting Equality and Inclusion projects within the Trust and sharing service user and staff lived experience, feedback and concerns.

**10.0 MONITORING**

- 10.1 The Equality and Inclusion Sub-Committee has responsibility for overseeing the implementation of the Equality, Inclusion and Human Rights Policy and associated procedure.
- 10.2 The committee will ensure that progress is monitored regularly against the EDS2 action plan, which also acts as an Annual Work plan and schedule
- 10.3 The committee will ensure that the People, Innovation and Transformation Committee (PIT) is kept informed of any issues or significant risks through regular assurance reports.
- 10.4 The Equality and Inclusion Sub-Committee will also undertake an annual review of its effectiveness to ensure it meets requirements as set out in its terms of reference and provides robust assurance to the PIT.
- 10.5 The Trust through its approved governance structure and arrangements will receive a range of reports detailing complaints, compliments and serious incidents and will challenge these for evidence of any actual or potential non-compliance with the Human Rights Act (1998) or Equality Act (2010).

**11.0 REFERENCES TO OTHER TRUST POLICIES**

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

**END**