NHS
Southern Health
NHS Foundation Trust

SH HR 38

Equality, Diversity and Human Rights Policy

Version: 3

Summary	This policy provides a framework for Southern Health NHS Foundation Trust to meet requirements of the Equality Act 2010 and Human Rights Act 1998. The policy demonstrates the Trusts commitment to equality of opportunity and anti-discriminatory practice both in the provision of services and as an employer.
Keywords	Equality; Diversity; Human Rights; Equality Act; Protected Characteristics; Equality Delivery System
Target audience	Patients, Carers, Families, all Southern Health employees and temporary workers
Date issued	February 2022
Approved & Ratified by	People Priority Project Group – Inclusive Policies JCNC - virtual	**Date of meeting:** April – October 2021 13 December 2021
Next review date	February 2025
Author	Sarb Birk, Head of Diversity and Inclusion
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Equality Impact Assessment (for policies only)

The Equality Impact Assessment has been completed. The assessment document is held centrally and is available by contacting policies@southernhealth.nhs.

Version Control

Change Record

Date	Author	Version	Page	Reason for Change
July 2015	Louise Hartland	V1	15	Updated TNA (Appendix 1)
March 2017	Ricky Somal	V2	E&D Toolkit	Updated Policy due to Review Date (March 2017)
Oct 2021	Sarb Birk	V3		Update of Policy
Feb 2022	Portia Owen	V3		Update

Reviewers/contributors

Name	Position	Version Reviewed & Date
HR Scrutiny Group and HR Team		Version 1, December 2012
Staff side scrutiny		Version 1, January 2013
JCNC		
SWC		Version 1; January 2013
Ricky Somal	Equality and Diversity Lead	V2 March 2017
Patient Experience, Engagement, Caring Group		V2 March 2017
Louise Jones	Senior HR Manager	V2 March 2017
Priority People Project Policy Review Group		V4 April - October 2021
Portia Owen	Diversity and Inclusion Professional Lead	V4 November 2021

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Quick Reference Guide

For quick reference, this page summarises the actions required by this policy. This does not negate the need to be aware of and to follow the further detail provided in this policy.

Southern Health staff and those working or training under other arrangements are expected to:

1. Understand our equality objectives; (i) For everyone to feel accepted and valued for who they are (ii) to feel supported by Allies at every level, (iii) feel there is equality of access to opportunities at Southern Health, (iv) feel part of an organisation that does not tolerate harassment or discrimination.

2. Treat everyone who comes into contact with us with dignity and respect

3. Work towards a positive and inclusive work environment

4. Place a high value on diversity and fairness

5. Challenge and overcome obstacles in mainstreaming Equality and Diversity issues

6. Take part in Equality and Diversity events and promotions

7. Understand the vision, values and behaviours of the Trust

8. Respond positively to the quality, safety, operational and financial obligations of the Trust.

Contents

Equality, Diversity and Human Rights Policy

1.   Introduction

1.1   As an equal opportunities employer, Southern Health NHS Foundation Trust (the 'Trust') will promote equality and diversity with due regard to the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

1.2   Everybody has a right to be treated with dignity and respect and in doing so; the Trust recognises its legal duties under the Equality Act 2010 and Human Rights Act 1998.

The Trust

1.2.1   The Trust has a statutory responsibility to have due regard to the Equality Act 2010 and the Human Rights Act 1998. NHS Constitution also specifies that NHS organisations look after the wellbeing of their patients and workforce. It is therefore essential a culture is established where unlawful discrimination is unacceptable and will not be tolerated.

1.3   The Trust is committed to creating a culture in which equality, diversity and human rights (EDHR) are promoted actively and unlawful discrimination is not tolerated. The Trust recognises that the experiences and needs of every individual are unique and strives to respect and value the diversity of its patients, service users, carers, public and staff.

1.4   The Trust has a strong commitment to embed EDHR in everything that we do. The Trust is committed to promoting awareness and understanding of the key issues that impact on our function as service provider and employer.

1.5   People and OD Strategy - Our equality objectives include:

1.5.1   Service Delivery and Workforce Milestone Measurements

1.5.2   Promoting E&D is one of the cornerstones of all the Trusts' functions and activities. This policy and its associated guidance will apply to:
- patients and all areas of service provision; and all staff directly employed by the Trust and temporary workers. This also includes trainees, secondees and staff on honorary contracts or on joint contracts with the Trust and another employer, visitors, patients, contractors and staff from other organisations working on Trust premises.

2.   Duties and responsibilities

In addition, the Trust Board will:
- Ensure that the organisation 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; and
- review and approve the Annual Equality Report.

2.1   Diversity Dashboard

Each division will be accountable for their own diversity dashboard, which will be sent to them quarterly. This will allow them to benchmark against other divisions and NHS trusts to ensure that we are fair in all our practices.

3.   Definitions

3.1   **Equality is not about treating everyone the same**. Sometimes treating everyone the same can lead to indirect discrimination, it is important that we do things in equity at all times; the right way for everyone.

3.1.1   **Equality recognises that:**
- everyone has individual needs and the right to have those needs respected, citizens, users' carers and staff
- inequality exists and that unlawful discrimination needs to be tackled.
- employment and Trust services should be accessible to all; and
- it is about treating people fairly where everyone can participate and have the opportunity to fulfil their potential.

3.2   **Diversity is about respecting and valuing individual difference.**

3.2.1   **Diversity recognises that:**
- everybody is different.
- we need to understand, value, and respect those differences; and
- diversity can include individuals and groups with varying backgrounds, experiences, styles, perceptions, values and beliefs.

3.2.2   A diversity approach aims to recognise, value and manage differences to enable all patients, service users and staff to contribute and realise their full potential. Taking a diversity approach challenges us to recognise and value all sorts of differences in order to make the Trust a better working environment and to ensure that we provide an excellent service for all people.

3.3   **Prohibited Conduct – Behaviour banned by the Equality Act 2010**
Anti-Discriminatory Practice: The Trust will actively eliminate unlawful discrimination including direct discrimination; indirect discrimination; associative discrimination; perceptive discrimination; harassment; victimisation; disability-related less favourable treatment; failure to comply with a duty to make reasonable adjustments and social exclusion.

3.4   **Direct discrimination** means treating someone less favourably compared to others because they have certain protected characteristics or;
- because they are thought to have a protected characteristic (Perception); and
- are associated with someone who has a protected characteristic (Association). This is a newer concept in the protected characteristics of Age, Disability, Gender Reassignment and Sex not always previously acknowledged.

3.5   **Indirect Discrimination** can occur when you have a rule or policy that applies to everyone but disadvantages a person with a particular protected characteristic.

3.6   **Harassment** in general terms, is unwanted conduct affecting the dignity of people in the workplace. It may be related to any personal characteristic of the individual and may be persistent or an isolated incident. The key is that the actions or comments are viewed as unwanted conduct that violates people's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment. It is difficult to categorise all forms of harassment, but examples of some more easily recognisable forms of harassment are covered in more detail in the Discrimination, Bullying and Harassment Policy.

3.7   **Victimisation** is prohibited conduct. It happens when a person is treated less favourably because they complain about discrimination or they witness it and give evidence about it.

3.8   **Due Regard**

3.8.1 The Equality Act 2010 requires us to pay 'Due Regard', when considering the effects on different groups protected from discrimination (protected characteristics). Due regard can be demonstrated by carrying out an equality impact analysis (EqIA).

3.9   **Equality Impact Assessments**

3.9.1 The organisation has an equality analysis process which assesses services and employment policies to determine any adverse impact on the protected characteristics. The assessment will be in line with the Equality Act 2010 and other relevant equalities legislation.

3.9.2 Human Rights will be incorporated into the process and through effective training; staff will ensure that they apply the fundamentals of the equality legislation when carrying out the analysis.

3.10   **Leadership programmes**
       Inclusion training embedded into all management and leadership curricula.

3.11   **Scope**
       Whilst we recognise the equality analysis mandated centrally through the EDS and WRES schemes nationally, the Trust is committed to having internal equality analysis that is broader covering both staff and clinical Metrix. This is evidenced by the Diversity dashboard linked to the Equality standard.

4.   Legislation

4.1   The Equality Act 2010 provides protection against discrimination at work and in the provision of services. The Act simplifies, strengthens and harmonises previous equality legislation.

4.2   **The protected characteristics covered by the Equality Act are:**
       - **Age:** This refers to a person having a particular age (for example, 32 years old) or ranges of ages (for example 18- to 30-year-olds).
       - **Disability:** A person has a disability if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. A progressive condition is a condition that gets worse over time. People with progressive conditions can be classed as disabled. However, you automatically meet the disability definition under the Equality Act 2010 from the day you're diagnosed with HIV infection, cancer or multiple sclerosis.
       - **Gender reassignment:** This is the process of transitioning from one sex to another; to undergo gender reassignment usually means to undergo some sort of medical intervention, but it can also mean changing names, pronouns, dressing differently and living in their self-identified gender. Gender reassignment is a characteristic that is protected by the Equality Act 2010, and it is further interpreted in the Equality Act 2010 approved code of practice.
       - **Marriage and civil partnership:** A union between two individuals
       - **Pregnancy and maternity:** The condition of being pregnant or the period after giving birth. It is linked to maternity leave in the employment context.
       - **Race:** Refers to a group of people defined by their nationality (including citizenship), ethnic or national origins
       - **Religion or belief:** Refers to any religion, including lack of religion. Belief refers to any religious or philosophical belief and included a lack of belief. Generally, a belief should affect your life choices of the way you live for it to be included in the definition.

- **Sex:** Assigned to a person on the basis of primary sex characteristics (genitalia) and reproductive functions. Sometimes the terms 'sex' and 'gender' are interchanged to mean 'male' or 'female'.
- **Sexual orientation:** A person's sexual attraction to other people, or lack thereof. Along with romantic orientation, this forms a person's orientation identity.

4.3 Public Sector Equality Duty (PSED)

4.3.1 The general equality duty is set out in section 149 of the Equality Act http://www.homeoffice.gov.uk/equalities/equality-act/equality-duty/ In summary, those subject to the general equality duty must demonstrate due regard in the exercise of their services and functions to:
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

4.3.2 There is a statutory requirement for NHS organisations to publish information to demonstrate compliance with the PSED. This requirement arises from the Equality Act 2010 (Specific Duties) Regulations 2011:
- Publishing information to demonstrate compliance with the general duty including information relating to employees and other persons affected by the Trust policies and practices who share a relevant protected characteristic; and
- Prepare and publish equality objectives that are specific and measurable. The Trust equality objectives can be found within the equality and diversity pages of the Trust's public website.

4.4 Human Rights Framework

4.4.1 The Human Rights Act 1998 sets universal standards to ensure that a person's basic needs as a human being are recognised and met. Public Authorities should have arrangements in place to ensure that they comply with the Human Rights Act 1998, and it is unlawful for a healthcare organisation to act in a way that is incompatible with the Act. The Act urges Public Authorities to apply a human rights framework to decision making across public services in order to achieve better service provision.

4.4.2 In practice this means treating individuals with fairness, respect, equality, dignity and autonomy whilst also safeguarding the rights of the wider community when developing policies and procedures and carrying out our functions. The Trust will consider these human rights principles in relation to our staff and patients at all times, aiming to demonstrate our commitment to quality outcomes which will improve the patient experience and provide satisfaction to staff that they are undertaking a job that is valued.

4.4.3 The Care Quality Commission standard stipulate requirements related to human rights. The organisations core purpose of putting patients first embodies the principles of respecting human rights.

4.4.4 The Human Rights Act 1998 brought the European Convention on Human Rights into UK law. There are articles that are particularly relevant to the commissioning, employment and provision of healthcare services.

4.5 The equality benefits of a human rights-based approach include:
- An improved quality of health services – patients treated with fairness, respect, equality and dignity.
- More person-centred care.

- A reduced risk of complaints and litigation.
- Improved decision making overall.
- A broader range of marginalised groups being involved and considered.
- More meaningful engagement of patients, carers and families.

5.   Vox Pop (Voice of Our People Staff Networks)

Our VOX POP Equality Networks have been established to increase awareness and appreciation of equality, diversity and inclusion at Southern Health. They aim to provide a platform where people can find support and where equality objectives can be progressed. Our Vox Pop networks are open forums, run by staff and for staff to provide a safe and supportive environment to discuss issues relating to protected characteristic.

5.1   We have 4 staff networks currently:
- VOX POP Staff BAME & Allies Network
- VOX POP Staff Disability & Allies Network
- VOX POP Staff LGBT+ & Allies Network
- VOX POP Staff Spiritual & Allies Network

5.2   Network Co Chairs
The network Co Chairs enable the networks to be staff and community led with the aim to give those people from seldom heard groups a platform within the organisation with the intention to improve experience and outcomes across the employee journey. The events combine a sprinkle of academic research and our organisational values to offer a fresh and exciting way to promote inclusion and celebrate diversity.

5.3   Head of Diversity and Inclusion

5.3.1   It is the responsibility of the Head of Diversity and Inclusion to:
- Promote and advise on the Equality and Diversity agenda to help ensure that this policy is followed fairly and consistently.
- advise the organisation on requirements and performance against equality legislation
- support the Trust with setting and achieving equality objectives
- build and maintain relationships with key stakeholders who have a role to play in ensuring the Trust meets equality objectives.
- manage and report on the Equality Standard.
- support the Learning and Education Department to ensure that staff are able to access high quality and appropriate equality training and ensure that the principles of promoting equality are embedded into all training materials as appropriate.
- work with Directors and Managers to ensure that they are achieving their equality objectives and that due regard (equality analysis) is proportionate and meaningful; and
- obtain feedback from service users, staff and key stakeholders on how the organisation is performing

5.3.2   **Equality Delivery Standard**
To ensure better connection with the divisions, we will relaunch our Equality Delivery Standard 2 in 2022/23, based on key People and OD strategy milestones. Each division must be working towards these standards until the refresh to Equality Delivery Standard 3.

5.3.3   **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. For further information please refer to the Trust Management of Violence and Aggression Policy

5.4 Managers

5.4.1 All managers have a responsibility to adhere to this policy and to bring it to the attention of staff in their work area in order to establish and maintain an inclusive environment free of unlawful discrimination. Managers have a responsibility to:
- set a positive example by treating others with respect and setting standards of acceptable behaviour
- promote an inclusive working environment where unlawful discrimination of any kind is unacceptable and not tolerated
- ensuring any allegations of discriminatory behaviour or practices are correctly investigated and appropriate action taken in accordance with the Trust Discrimination, Bullying and Harassment Policy and Management of Violence and Aggression Policy.
- ensure that their teams work effectively together.
- ensure staff are given equal opportunity to access learning and development opportunities.
- consult with the Human Resources Team and Head of Diversity and Inclusion for advice and support regarding E&D issues.
- assisting with the monitoring of compliance within their area of responsibility in respect of the Equality Standard and the trust vision of all divisions achieving gold standard by 2023/2024.

5.5 Staff

5.5.1 All staff have a personal responsibility for their own behaviour and for ensuring that they comply with the Equality Act 2010. The Trust expects all staff to:
- understand the Trust Values and how these impacts on everything we do.
- Have a personal responsibility to adhere to the Policy. This means staff should not undertake any acts of discriminatory practice in the course of their employment for which they will be personally liable.
- help promote an inclusive environment by treating everyone with dignity and respect.
- respecting and responding to the diverse needs of staff, service users and others.
- appropriately challenge and/or report behaviour that may be considered to be offensive when directed against themselves or others in accordance with the trust Discrimination, Bullying and Harassment Policy;
- have a responsibility to bring any potentially discriminatory actions or practice to the attention of their Line Manager or the Human Resources Department; and
- Implement the Trust's Equality Standard.

5.5.2 **Diversity and Inclusion Allies**
The responsibility for individuals within the organisation to promote equality and challenge unlawful discrimination is equally as important, and this is where Allies are critical, because they can push for achieving equality of opportunity and valuing diversity.

Diversity champions are staff who have volunteered and challenged themselves to demonstrate excellence in their approach to actively support and embed equality and diversity within the organisation and undertaken our Becoming a Southern Health Ally session.

All Allies at Southern Health have pledged to:
- To promote equality in Disability, LGBT+, Religious diversity and Race within Southern Health.
- To participate in Equality and Diversity events, promotions and VOX POP networks.
- To work with Network members to support, develop and achieve the networks key priorities
- To attend Network Meetings
- To provide support and be an Ally
- To lead by example and represent the network role by demonstrating positive behaviours
- Treat others with dignity and respect
- Create a positive work environment
- Place a high value on diversity and fairness
- Speak out ensuring that behaviours and decisions are not prejudiced or biased
- Remove any barriers that may impede on progress around equality and diversity issues
- Challenge and overcome obstacles in mainstreaming Equality and Diversity issues
- Deliver key Diversity and Inclusion messages to their workplace
- Responsible for instilling a diverse and accepting workplace culture
- Passionate about promoting diversity.
- Signpost people to the Freedom to Speak Up Guardian, Head of Diversity and Inclusion and Head of Health and Wellbeing
- Amplifying the humanity
- Use materials to promote key events
- To wear their badge to ensure that they are approachable to people who may need support.
- Where appropriate be willing to get involved in publicity materials to amplify equality of appointments and combat intolerance.
- Be willing where time permits to make recruitment panels as diverse as our shortlisted candidates.

6.   Recruitment

6.1.1   Diverse Panels
The People and OD Strategy sets out targets for improving diversity in its recruitment. The Workforce Team are establishing Diverse Panels from September 2021. Research shows (Best Practice, Roger Kline), that although not intentional, some of the processes that we use for recruitment can be unfair. We therefore need inserted accountability at all stages of recruitment and emphasis on de-biasing the process. The Equality, Diversity and inclusion team will support recruiting managers in having recruitment allies on panels.

6.1.2   **Workforce & Human Resources**
The Director of Workforce, OD and Communications has delegated responsibility from the Board to ensure this Policy is implemented and monitored to ensure that the Trust takes effective action to tackle unlawful discrimination.

6.1.3   **Trade Unions**
Trade Union representatives have an important role to play generally in providing advice, support and, if required, representation to individuals and working in partnership with managers and the Workforce & Human Resources Team in looking to ensure that the Trust's Equality and Diversity policy is applied reasonably and fairly.

7.   Process

7.1   **Embedding Equality Diversity and Human Rights (EDHR) in everything that we do**
The Trust has a strong commitment to embed EDHR in everything that we do. The Trust is committed to promote awareness and understanding of the key issues that impact on our function as a service provider and employer. Our equality objectives include:

7.2   **Service Delivery**
- Better Health Outcomes for all
- Improved patient access and experience

7.3   **Workforce**
Empowered, engaged and supported staff. Inclusive leadership at all levels

8.   Training requirements

Mandatory ED&I training launched in 2020/21
Yearly mandatory training on Diversity and Inclusion, based on real life-based scenarios of discrimination in the workplace.

9.   Monitoring compliance

Element to be monitored	Lead	Tool	Frequency	Reporting arrangements
Dashboard that will link to the Equality Standard include key data sets from the WRES and WDES and contain incident data relating to staff experience	Sarb Birk, Head of Diversity and Inclusion	E&D Annual Report	Annually	Board Paper and Scorecard published on trust website
WRES, MWRES, WDES and Stonewall WEI	Sarb Birk, Head of Diversity and Inclusion	Board Equality report	Annually	Board Paper and Scorecard published on trust website
biannual WODC Reports	Sarb Birk, Head of Diversity and Inclusion		biannual	Board Paper and Scorecard published on trust website
Equal Pay Gender Pay Gap Ethnicity (From 2022/23) Disability (from 2022/23)	Kerry Salmon, Deputy Director of Workforce	Equal Pay Audit	Annually	Board Paper and published on trust website

10.   Policy review

The policy will be in place for three years following approval of a review and amendments. An earlier review can take place should exceptional circumstances arise resulting from this policy; in whole or in part, being insufficient for the purpose and/or if there are legislative changes.

11.   Associated trust documents

- Recruitment and Selection Policy
- Disciplinary Policy and Procedure
- Grievance Policy and Procedure
- Discrimination, Bullying and Harassment Policy
- Freedom to Speak Up; Raising Concerns (Whistleblowing) Policy
- Health and Safety Policy
- Management of Violence and Security and Aggression Policy
- Workforce Investigation Policy and Procedure
- Education and Development Policy
- People and OD Strategy

12.   Supporting references

- NHS Employers is responsible for workforce and employment issues, working on behalf of NHS organisations in England. www.nhsemployers.org
- ACAS is an organisation devoted to preventing and resolving employment disputes. www.acas.gov.uk
- The Health & Safety Executive protects people against risks to health or safety arising out of work activities. www.hse.gov.uk
- The Dignity at Work Partnership was established to tackle the problem of bullying and harassment in the workplace. http://www.dignityatwork.org
- Agenda for Change Terms and Conditions Handbook
- Equality Act 2010
- Equality and Human Rights Commission Codes of Practice
- European Convention on Human Rights
- Human Rights Act 1988
- NHS Constitution

13.   Stonewall

Southern Health is a member of the Stonewall Diversity Champions Programme, further details can be found here:
https://www.stonewall.org.uk/diversity-champion-programme-logos - you will need your log in to access the site.

Details about the programme are here: https://www.stonewall.org.uk/diversity-champions-programme

Appendix 1

Equality Standard
https://www.england.nhs.uk/about/equality/equality-hub/equality-standard/