

Equality, Inclusion and Human Rights Policy

(This policy supersedes The Equal Opportunities Policy)

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Formulated Via	Workforce Committee, Trade Unions (JOSC) and Staff Networks (Disability and Neurodiversity, BAME and LGBT+ Staff Networks)	

POLICY CONTEXT:

Birmingham and Solihull Mental Health NHS Foundation Trust (BSMHFT) is dedicated to continued compliance with the Public Sector Equality Duty as set out in the Equality Act (2010) and the Equality & Human Rights Commission's Code of Practice.

This policy outlines the Trust's responsibilities against national standards including the NHS Workforce Race Equality Standard (WRES), NHS Workforce Disability Equality Standard (WDES), Gender Pay Gap Reporting, Accessible Information Standard (AIS) and Sexual Orientation Monitoring (SOM).

The policy will support the Trust's commitment towards its Equality, Diversity and Inclusion Framework (2017-2020) which focuses on key actions arrived from the Equality Delivery System (EDS2) in order to address inequalities and overcome barriers. Ensuring that patients, staff, visitors and the public are treated fairly with dignity, respect and compassion at all times.

POLICY REQUIREMENT (see Section 2)

The policy supports two core principles;

- To embed equality of opportunity, and create services and care pathways that reduce wide variations in health outcomes for protected and vulnerable groups
- To ensure fairness and equity in relation to employment is based upon the values of the NHS Constitution.

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1.0 Introduction

Birmingham and Solihull Mental Health NHS Foundation Trust (BSMHFT) aims to be an exemplar organisation which people want to access for care, recovery and employment. The Trust understands that diversity brings richness and innovation and welcomes applicants from the diverse population it serves and will endeavour to meet its Corporate Social Responsibility as a major employer across the City. The Trust will support its employees through their employment journey and make reasonable adjustments where possible enabling staff to feel valued and safe. The Trust wants staff to feel they can make their distinctive contributions and achieve their full potential.

1.1 Rationale

BSMHFT is committed to building a workforce which is valued and whose diversity reflects the communities it serves, enabling it to deliver the best possible mental health services to its service users and communities. This policy is written on the premise that inequalities in employment contribute to inequalities in service delivery. By addressing any inequalities in employment practices, the Trust seeks to deliver equitable services to all.

1.2 Scope

The Trust does not tolerate any form of bullying or harassment, intimidation, victimisation, humiliation or abuse against any of the protected characteristics including Xenophobia, homophobic, biphobic and transphobic and will ensure that patients, staff, visitors and the public are treated fairly with dignity, respect and compassion. Our aim is to break down all barriers of discrimination, prejudice, fear or misunderstanding which can damage working relationships and service effectiveness for service users and carers. Any incidents reported will be taken seriously and investigated in line with the Dignity at Work Policy.

1.2.1 This policy applies to **all**, including applicants applying for a job, staff including agency, bank and volunteers, service users and carers, visitors, stakeholders and any other third party organisations who work in partnership with the Trust.

This Policy should be read in conjunction with the following:

- Equality, Diversity and Inclusion Framework and Action Plan
- Recruitment and Selection Policy
- Volunteers Policy
- Employment of Service Users
- Dignity at Work Policy
- Trans Equality Policy for Employees
- Accessible Information and Communication Policy
- Equality Impact Assessment Guidance
- Flexible Working

- Retire and Return Policy
- Maternity, Paternity and Adoption Leave
- Carers Leave
- Flexible Retirement
- Employment Break Policy
- Whistleblowing Policy

(This is not an exhaustive list)

1.3 Principles

This policy provides a framework from which strategy, policy and procedures should be developed. It sets the standards to enable the Trust to meet its duties in line with the Equality Act (2010), Public Sector Equality Duty (PSED) and the Human Rights Act (1998) as both an employer and a service provider.

1.3.1 Equality Act (2010)

The Equality Act received Royal Assent on 8 April 2010. It harmonises and consolidates existing equality legislation to ensure that there is no discrimination against groups of people with protected characteristics. These groups are as follows:

- 1) Age
- 2) Disability
- 3) Gender Reassignment (The Trust aim to go beyond the law and also protect employees on the grounds of gender identity and gender expression)
- 4) Marriage and Civil Partnership
- 5) Pregnancy and Maternity
- 6) Race
- 7) Religion or Belief (including lack of belief)
- 8) Sex (i.e. gender)
- 9) Sexual Orientation

1.3.2 Public Sector Equality Duty (PSED)

The Equality Act 2010 creates a new general duty on the NHS, when carrying out their functions to have due regard to:

- Eliminate discrimination, harassment and victimisation
- Advance equality of opportunity between persons who share a relevant protected characteristic and those who do not
- Foster good relations between people who share a relevant protected characteristic and people who do not (which will therefore cover good relations between people of different faiths and between people who have a religious faith and those who do not).

The Trust also has specific duties under the PSED to:

- Publish information to demonstrate compliance with the PSED annually
- Prepare and publish specific and measurable equality objectives at least every four years.

The Equality Act (2010) places a further duty on the NHS and other public bodies to have due regard to the desirability of carrying out their functions, in a way that is designed to further reduce inequalities

In order to do this The Trust supports to:

- Provide protection from “prohibited conduct” for groups of people with protected characteristics: Examples of prohibited conduct includes, direct discrimination, indirect discrimination, associative discrimination, perceptive discrimination, harassment and victimisation.
- Allow positive action to be carried out, as a means by which the Trust can give additional support, to some disadvantaged groups. Some people with protected characteristics are disadvantaged or under-represented in some areas of life or have particular needs linked to their characteristic. They may need extra help or encouragement if they are to have the same chances as everyone else. The positive action provision enables public sector organisations to take proportionate steps to help people overcome their disadvantages or to meet their needs.

1.3.3 Human Rights Act (1998)

The Human Rights Act (1998) is the legislation which protects human rights in the UK through specific “articles” which go beyond the nine protected characteristics to outlaw discrimination on all grounds.

As a public authority the Trust must ensure that none of our policies, procedures or strategies infringe the human rights of staff or patients. In practice this means treating individuals in line with the **FREDA** Principals: **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.

2.0 Policy

2.1 BSMHFT will not tolerate any unlawful discrimination and ensures that all service users, applicants, employees, contractors, agency staff and visitors will receive appropriate treatment and will not be disadvantaged by conditions or requirements which cannot be shown to be justified, particularly so on the grounds of age, disability, sex, sexual orientation, gender reassignment, gender

identity, gender expression, marriage and civil partnership, pregnancy and maternity, race or religion and belief.

2.2. In addition to the protected characteristics the Trust is committed to the Trades Union Congress (TUC) declaration called the 'Dying to Work Charter' which allows the Trust to be supportive and compassionate towards staff that may have a terminal or long standing illness. TUC is campaigning nationally to have terminal illness recognised as a protected characteristic, and the Trust have pledged to ensure that we amend our local policies and procedures to support staff members dealing with such challenging life decisions.

2.3 The implementation of this policy is fundamental to the delivery of good quality patient care.

- This policy will be applied fairly and equitably to all staff
- Enable every member of staff to have access to appropriate training and development in relation to their equality responsibilities
- Encourage and allow individuals to feel safe when raising any concerns in relation to the application of this policy.
- This policy underpins the development of all strategies, policies and procedures to ensure that equality & human rights are embedded into everything we do and make it a part of the inclusion agenda across the Trust.

3.0 Procedures

3.1 Inclusion Action Plan

The Trust has an overall equality, diversity and inclusion (EDI) action plan based around its national objectives, this aids to improve services for patients, carers and visitors and to promote equality of opportunity across all protected characteristics. EDI reports are produced to monitor progress against this plan and reports are submitted bi- monthly to the workforce subcommittee and discussed at the Integrated Quality Committee (IQC) and Trust Board. All reports in relation to the national equality standards and action plan can be found on the Trust website.

3.2 Equality Delivery System (EDS2)

EDS2 is a national framework to improve services for people who belong to vulnerable and protected groups. The framework enables the Trust to assess health inequalities, free of discrimination. EDS2 will support the Trust in delivering better outcomes for patients and communities and create better working environments for staff, which are **personal, fair and diverse**. The implementation of EDS2 supports our strategic objective to promote equality throughout the planning, development and delivery of our services whilst appreciating and respecting the diversity of our local community and workforce embracing the inclusion agenda.

In order to ensure we maintain our commitment towards continuous equality improvements and meet our requirement under the Equality Act (2010), the Trust participates at least every two years in reviewing its EDS2 objectives. Performance indicators will be evaluated and re-assessed in partnership with patients and the public, staff and stakeholders to review equality performance and to identify future priorities and actions, these will then form part of the overall inclusion action plan.

3.3. Workforce Race Equality Standard (WRES)

NHS England incorporated the WRES into the NHS Standard Contract in 2015. The standard requires the Trust to report their WRES data and demonstrate progress against the nine workforce race equality indicators. The standard ensure employees from Black, Asian and Minority Ethnic (BAME) backgrounds have equal access to career opportunities and receive fair treatment in the workplace. Progress reports and associated action plans are discussed at the workforce subcommittee, IQC and Trust Board. The Trust is required to submit annual update reports to its Clinical Commissioning Group.

3.4. Workforce Disability Equality Standard (WDES)

The NHS Equality and Diversity Council (EDC) have recommended that a Workforce Disability Equality Standard should be mandated via the NHS Standard Contract, in England from April 2018. A preparatory year has been designated from 2017-2018. The standard will allow the Trust to compare the experiences of disabled and non-disabled staff.

WDES will follow similar process as the WRES through a set of metrics and action plan. Similarly the Trust is required to share its data and report annually against the metrics and identify any trends or issues supported by actions.

3.5. Sexual Orientation Monitoring (SOM) Standard

SOM information standard was published on 5 October 2017 and provides a consistent mechanism for recording the sexual orientation of all patients/service users aged 16 years or above across all health services in England. The Trust is required to record this data where relevant by using a standardised format.

This is a significant milestone in promoting Lesbian, Gay, Bi and Tran's equality in England. Recording sexual orientation will allow the Trust to better identify health risks and will help support targeted preventative and early intervention work to address the health inequalities for people who are Lesbian, Gay, Bi or Trans.

3.6. Accessible Information Standard (AIS)

From 1st August 2016, all organisations that provide NHS care and/or publicly-funded adult social care have been legally required to follow the Accessible Information Standard.

The Trust has implemented the Accessible Information and Communication Policy alongside training to support with this and ensure that we have processes

and practices in place to identify, record, flag, share and meet the information and communication support needs of individuals, service users and carers who may have a disability, impairment or sensory loss.

3.7. Gender Pay Gap Reporting

The Gender Pay Gap reporting regulations came into effect on 31 March 2017, in accordance with the Equality Act (2010) and PSED. The Trust must report its gender pay gap data and publish any subsequent reports annually.

Gender pay gap reporting is a different requirement to carrying out an equal pay audit.

The Equality Act defines the gender pay gap by stating that 'Regulations may require employers to publish information relating to the pay of employees for the purpose of showing whether, by reference to factors of such description as is prescribed, there are differences in the pay of male and female employees.'

Equal pay means that men and women in the same employment performing equal work must receive equal pay, as set out in the Equality Act (2010). Gender pay gap on the other hand is a measure of the difference between men's and women's average earnings across an organisation or the labour market.

As an exemplar employer the Trust aims to bridge the gender pay gap by continuing to analyse its data and put in place clear actions. The Trust will work in partnership with neighbouring Trusts to reduce and eliminate any inequalities present and commit to sharing good practice.

3.8. Workforce Monitoring

The Trust has a statutory duty in line with PSED to gather, analyse and publish equality data annually on all of the protected characteristics to improve data capture for both staff and service users as identified by the Equality Act (2010).

The analysis of this information assists the Trust to identify areas of health inequality and take appropriate actions and set objectives to improve the quality of services that are provided.

This information enables the Trust to assess trends in employment practices and the management of employee relation issues as well as inform positive action in relation to the overall inclusion agenda.

3.9 Equality Impact Assessment (Equality Analysis)

An equality impact assessment is a vital tool for ensuring that the services we provide, the work we do and our practices meet the needs of our diverse community and workforce. The Trust's equality impact assessment process ensures that any areas of inadvertent discrimination are detected and mitigating action implemented in order to improve and promote equality in everything we do. Managers should follow the Trust Equality Analysis Guidance when completing an equality impact assessment and forward a copy to the senior Equality, Diversity and Inclusion Lead.

We aim to design and implement policies, procedures and functions to meet the diverse needs of our service users, population and workforce, ensuring that they receive good access, outcome and experience. We have developed and initiated a rolling Equality Impact Assessment Training Programme for this purpose and also to ensure it complies with the general duties referred to in the Equality Act (2010). Further information about the programme can be sought from the Senior Equality, Diversity and Inclusion Lead.

3.10 Employee Relations

The Trust has developed a number of HR policies including, Disciplinary, Grievances and Disputes, Dignity at Work, Sickness Absence, Trans Equality, Performance Management and Organisational Change (this is not an exhaustive list). Such policies will be applied fairly and equitably to ensure that staff do not receive any adverse impact as a result of them belonging to a personal protected characteristic. Any instances of bullying, harassment or victimisation on the grounds of any protected characteristic is a disciplinary matter and will be fully investigated and treated very seriously.

Formal management cases will be recorded within HR and be monitored and analysed by relevant personal protected characteristics. Monitoring information relating to employee relations activity will be assessed and where inequalities exist, they will be investigated and addressed. All staff members have equal access to all staff well-being services.

3.11 Management of Violence and Abusive Behaviour

The Trust is committed to maintaining a safe and secure environment for its patients, staff and visitors and has a duty to take necessary steps where required.

Violent and abusive behaviour, including bullying, harassment or victimisation will not be tolerated and decisive action will be taken to protect staff, patients and visitors combating behaviour contrary to the principles outlined in this policy.

3.12 Freedom to Speak Up (FTSU) Guardian

The Freedom to Speak up guardian, in line with the Whistleblowing Policy aims to give staff the assurance that concerns will be listened to within a safe environment and investigated appropriately. The FTSU guardian will outline a fair and easy process enabling staff to raise concerns at work.

In order to deliver high quality patient care and protect the interests of patients, staff and the organisation, the Trust aims to encourage a culture of openness and transparency, in which members of staff feel comfortable about raising legitimate concerns. It is hoped that by providing clear procedures and channels for staff to raise concerns, issues can be addressed at the earliest opportunity, in the most

appropriate way, so that positive steps can be taken to resolve them and reduce future risks and discrimination.

The FTSU guardian will work alongside The Trust's Board of Directors to support the Trust in becoming a more open and transparent place to work, where all staff are actively encouraged and enabled to speak up safely.

The FTSU Guardian role is designed to contribute to achieving the following outcomes:

- A culture of speaking up is instilled throughout the Trust
- Speaking up processes are effective and continuously improved
- Staff become more confident to speak up and managers have the capability to support those who are speaking up
- All staff are supported appropriately when they speak up or support others who are speaking up
- The Board is fully committed and engaged in all matters and issues that are raised with the FTSU guardian, providing assurance and a safe space.

The Freedom To Speak Up Guardian can be contacted by email at BSMHFT.speakup@nhs.net.

3.13 Staff Engagement / Values and Behaviours

Our values are consistent with those of the NHS constitution and support the Trust's approach to equality and inclusion:

- **Honest and Open** - We will keep each other well informed through regular communication. We will have the honest conversations and explain our decisions.
- **Compassion** - We will bring compassion to all our dealings with service users and carers and expect it in our colleagues
- **Dignity and Respect** - We will respect all those whom we deal with at work, especially our service users and staff and take action to address those who do not
- **Commitment** - We commit to help our colleagues, provide the best care services that we can. We do what we say we will

3.14 Role design, Recruitment, Training and Development

The Trust applies the principle of designing services around the needs of its service users. This principle is followed through in the design of all job roles. In doing so, the Trust aims to serve the needs of its patients by recruiting the staff best able to deliver patient-centred care. The Trust's workforce plan is continually developed and refined on this basis.

The Trust's Recruitment & Selection Policy ensures that at every stage of the recruitment process, managers treat all applicants equally, showing no unlawful

discrimination on the grounds of any protected characteristic. Appropriate assistance will be provided as requested by applicants.

The Trust reserves the right to take positive action in recruitment, selection and appointment where this is appropriate to meet the requirements of specialist services, areas of work or staff development.

A wide range of working options are available to staff including part-time, job share, annualised hours contracts and term-time only contracts. Managers are encouraged to positively consider requests to work flexibly where at all possible.

The Trust is currently recognised as being a Disability Confident Employer. This has been attained through the Disability Confident Scheme that is designed to help recruit and retain disabled people and people with health conditions for their skills and talent. It aims to help employers think differently about disability, and improve how they attract, recruit and retain disabled workers.

All managers who chair a recruitment and selection panel are required to have completed the recruitment and selection training and must be confident in challenging any biases understanding the importance of equality prior to undertaking that role.

Relevant training and development opportunities are open to all staff and the Trust aims to ensure that all staff receive an Annual Appraisal and have a Personal Development Plan (PDP) with agreed development where required, regarding equality and human rights competence.

3.15 Staff Networks

The Trust believes that staff networks are a great asset to make us more inclusive. Staff Networks within the Trust have been created at the request of staff to improve the visibility, experience and potential of employees. They are already helping us develop a deeper understanding of the different needs and expectations of our staff, patients and communities and have a key role in developing and overseeing the implementation of action plans that aim to improve the experiences of staff from all protected characteristic groups.

4.0 Responsibilities

4.1 The Trust

The Trust is responsible for ensuring compliance with Equality and Human Rights policy and legislation. The Trust has developed an Inclusion Action Plan which sets out its commitment to tackle inequalities and prejudice both for staff and its service users.

The Trust recognises the need to treat all employees fairly by providing equality of opportunity in employment, development, promotion and retention of skills and experience. It also recognises the need to provide fair and equal access to service users, carers and visitors.

4.2 Chief Executive

The Chief Executive has the ultimate responsibility for the implementation and monitoring of Trust policies.

4.3 Executive Directors

Executive Directors are accountable for ensuring that their service areas are aware of this policy and the overall inclusion agenda.

Executive Directors also have nominated board sponsor responsibility towards Staff Networks to support them in developing their capacity, confidence and capability.

4.4 Deputy Director of Workforce and Inclusion

The Deputy Director of Workforce and Inclusion has accountability for the people plan and inclusion agenda. They are closely involved in the development and consultation of this policy and any other equality and inclusion projects which include final ratification prior to implementation. Ratification takes place at the Workforce Committee following consultation and approval process.

4.5 Clinical Directors and Associate Directors

Clinical Directors and Associate Directors have delegated accountability for ensuring that their service areas are aware of the policy and their responsibilities. Where possible they should support the release of staff to undertake training and participate in staff networks.

4.6 Equality and Diversity Leads

The Head of Community Engagement and Inclusion and the Senior Equality and Diversity Lead are responsible for leading the equality and inclusion agenda across the Trust in line with the NHS contractual standards and the values based on the NHS Constitution.

4.7 Human Resources

The Human Resources Directorate will ensure that support and training is provided in relation to Equality & Human Rights responsibilities and practice. The HR function will update policies as appropriate and keep relevant case-logs to identifying any inequalities.

4.8 Line Managers

Line managers are responsible for ensuring that this policy is applied fairly and consistently within their own area. Specific responsibilities in relation to this policy are as follows:

- Cascading this policy to ensure all staff are aware of their responsibilities under the policy and that it is implemented throughout their sphere of responsibility
- Ensuring that accurate records of employment decisions are maintained
- Ensuring that statutory & mandatory training, which includes equality and diversity training, is completed by staff within the area of their responsibility and applied within their role
- Ensuring that staff, service users, carers and visitors are treated appropriately with due regard to any requirements as a result of their

protected characteristic, ensuring any reasonable adjustments are made as required.

4.9 Employees, Contractors, Sub-Contractors and Volunteers

Whilst the primary responsibility of providing equal opportunity and access for all is an organisational responsibility, it is also expected that anyone delivering services on behalf of the Trust have responsibility for the implementation of this policy.

Good employee relations and practices depend upon staff attitudes and behaviours at work. Staff should understand the application of this policy and have a general understanding of their statutory and contractual rights and responsibilities.

Specific responsibilities in relation to this policy are as follows:

- Operate within established policy and take positive steps to eliminate unlawful discrimination and promote equal opportunity. This applies in terms of applicants, other employees, contractors, agency staff, service users and visitors.
- Must not unlawfully discriminate against other employees, applicants, patients or visitors or encourage others to practice unlawful discrimination.
- Must not victimise individuals on the grounds that they have made complaints or provided information on unlawful discrimination.
- Be proactive in challenging and informing management of unlawful discrimination
- Support the Trust's published Values and Behaviours.

The performance of contractors in relation to issues outlined within this policy will be managed through the contracts monitoring process. If a contractor's actions are proven to be discriminatory towards any protected characteristic, this will lead to a withdrawal of the contract for their services.

4.10 Staff Side

The Trust and the Trade Unions representing the workforce are committed to partnership working in the development, consultation and agreement of employee relations policies. Staff side will provide advice and support to staff on concerns and queries relating to the implementation of this policy.

4.11 Staff Networks and Freedom to Speak Up (FTSU) Guardian

Both Staff Networks and the FTSU guardian are considered as positive steps towards eliminating discrimination within services and the workplace. Staff Networks and the FTSU guardian have a crucial role to play in engaging with staff at all levels and enabling their voices to be heard.

5. Development and Consultation Process

Consultation summary		
Date policy issued for consultation		May 2018
Number of versions produced for consultation		3
Committees / meetings where policy formally discussed		JOSC - June 2018
Workforce Committee		July 2018
Staff Networks (Disability and Neurodiversity, BAME, LGBT)		May-June 2018
Where received	Summary of feedback	Actions / Response

6.0 Reference Documents

All documents referenced below should be ready in conjunction with section 3 of this policy

Accessible Information Standard (AIS)

<https://www.england.nhs.uk/2016/08/accessible-information-standard/>

The Autism Act (2009)

<https://www.legislation.gov.uk/ukpga/2009/15/contents>

<https://www.gov.uk/government/publications/adult-autism-strategy-statutory-guidance>

Equality Delivery System 2(EDS2)

<https://www.england.nhs.uk/about/equality/equality-hub/eds/>

Sexual Orientation Monitoring (SOM) Standard

<https://www.england.nhs.uk/about/equality/equality-hub/sexual-orientation-monitoring-information-standard/>

Workforce Disability Equality Standard (WDES)

<https://www.england.nhs.uk/about/equality/equality-hub/wdes/>

Workforce Race Equality (WRES)

<https://www.england.nhs.uk/about/equality/equality-hub/equality-standard/>

7.0 Bibliography

The Equality Act (2010) - <http://www.legislation.gov.uk/ukpga/2010/15/contents>

The Human Rights Act (1998) - <http://www.equalityhumanrights.com/human-rights/Employment Act 2008>

The NHS Constitution - <https://www.gov.uk/government/publications/the-nhs-constitution-for-england>

8. Glossary

Age Where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds).
Bullying is the use of force, threat, or coercion to abuse, intimidate or aggressively dominate others. The behavior is often repeated and habitual. One essential prerequisite is the perception, by the bully or by others, of an imbalance of social physical power
Diverse Widely varied. In the sense of a diverse population, people are from a range of backgrounds, ethnicities and cultures.
Direct discrimination This refers to less favourable treatment against an individual because of that person's protected characteristic.
Dignity A value owed to all humans, to be treated with respect.
Disability A person may be identified as having a disability if they have a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.
Economic, Social and Cultural rights Rights that concern the production, development, and management of material for the necessities of life. Rights that give people social and economic security, sometimes referred to as security-oriented or second generation rights. Examples are the right to food, shelter, education and health care.
Equality Equality is about ensuring that every individual has an equal opportunity to make the most of their lives and talents, and believing that no one should have poorer life chances because of where, what or whom they were born, or because of other characteristics. Equality recognises that historically, certain groups of people with particular characteristics e.g. those of certain races, disabled people, women and the LGBT community have experienced discrimination.
Gender Often expressed in terms of masculinity and femininity, gender is largely culturally determined and is assumed from the sex assigned at birth.
Gender Reassignment The process of transitioning from one gender to another: A way of describing a person's transition. 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 protected characteristic under the Equality Act (2010).
Harassment Unwanted conduct related to a protected characteristic that has the purpose or effect of violating a person's dignity or creates an intimidating, hostile, degrading, humiliating or

<p>offensive environment. It may also involve unwanted conduct of a sexual nature or be related to gender identity or gender expression or sex. The conduct can either be a serious one-off event or be a 'course of conduct', i.e. it happens on a number of occasions.</p>
<p>Human rights Human rights are the basic rights and freedoms to which all humans are entitled. They ensure people can live freely and that they are able to flourish, reach their potential and participate in society. They ensure that people are treated fairly and with dignity and respect. You have human rights simply because you are human and they cannot be taken away.</p>
<p>Identity The characteristics and qualities of a person, considered collectively, and regarded as essential to that person's self-awareness.</p>
<p>Indirect discrimination This is when a provision, criterion or practice is applied in a way that creates disproportionate disadvantage for a person with a protected characteristic as compared to those who do not share that characteristic, and this is not a proportionate means of achieving a legitimate aim.</p>
<p>Justice The moral principle ensuring fairness and reasonableness in the way people are treated, as well as the administration of the law, and the authority in maintaining this process. This is a value the European Convention on Human Rights was founded on, although it is not mentioned in the actual text.</p>
<p>Legal rights Rights that are laid down in law and can be defended and brought before courts of law.</p>
<p>Legislation Law made by the UK Parliament, the Scottish Parliament, and the Welsh Assembly.</p>
<p>Marriage and civil partnership Marriage is the legally recognised union of two people as partners in a personal relationship. You can get married or form a civil partnership in the UK if you are 16 or over, are free to marry or form a civil partnership, and are not closely related. Only same sex couples can form a civil partnership.</p>
<p>Positive action Special activities that employers may take within the law aimed at reducing the disadvantage or under-representation experienced by those with any of the protected characteristics.</p>
<p>Positive Discrimination Treating someone with a protected characteristic more favourably to counteract the effects of past discrimination. It is generally not lawful although the duty to make reasonable adjustments is an exception where treating a disabled person more favourably may be required by law, so it is legitimate to provide reasonable adjustments which favour of a disabled person.</p>
<p>Pregnancy and maternity Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a person unfavourably because they are breastfeeding. After 26 weeks,</p>

sex discrimination protection applies.
<p>Prejudice Judging someone without knowing them, on the basis of what they look like or what group they belong to, e.g. all black people are good dancers.</p>
<p>Protected characteristics These are the grounds upon which discrimination is unlawful. The characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.</p>
<p>Public authority Organisations and individuals that carry out public functions - this would include government departments, local authorities, health authorities and hospitals, schools, prisons, and police for example.</p>
<p>Public bodies (Non-Departmental) Public bodies are defined as bodies which have a role in the processes of national Government but are not a Government department or part of one. They operate to a greater or lesser extent at arm's length from Ministers, and include the Equality and Human Rights Commission.</p>
<p>Public sector equality duty The duty on a public authority when carrying out its functions to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, foster good relations and advance equality of opportunity.</p>
<p>Race Refers to the protected characteristic of Race. It refers to a group of people defined by their race, colour, and nationality (including citizenship), ethnic or national origins.</p>
<p>Racism Treating someone unfairly because of their race, colour, nationality or ethnic or national origins.</p>
<p>Ratify The formal procedure by a state to finalise an agreement, Convention or Treaty, making it official and binding.</p>
<p>Reasonable Adjustment</p> <p>The Equality Act (2010) requires that reasonable adjustments are made within services, working conditions, policies and practices that put a disabled member of staff or service user at a disadvantage, this could be due to physical, non- physical, emotional and mental health disabilities.</p> <p>Managers are advised to take steps to identify if reasonable adjustments are needed at the start of a recruitment process i.e. when an applicant applies for a post or wherever the need arises during the employment cycle i.e. during supervision, return to work interviews after sickness absence and when accessing training.</p> <p>Similarly reasonable adjustments would be required for service user's i.e. Making sure there is wheelchair access, having in place easy read appointment letters, or giving someone a priority</p>

appointment if they need it.
<p>Respect</p> <p>Taking into account the views and desires of others in how you treat people.</p>
<p>Religion or belief</p> <p>Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.</p>
<p>Right</p> <p>A right is a moral or legal entitlement to have or do something.</p>
<p>Sex</p> <p>Assigned to a person on the basis of primary sex characteristics (genitalia) and reproductive functions.</p>
<p>Sexual orientation</p> <p>A person's emotional, romantic and/or sexual attraction to another</p>
<p>Stereotypes</p> <p>Thinking all people who belong to a certain group are the same and labelling them, e.g. all young people who wear hoodies are thugs and all effeminate men are gay.</p>
<p>Transgender</p> <p>An umbrella term to describe people whose gender is not the same as, or does not sit comfortably with, the sex they were assigned at birth. Trans people may describe themselves using one or more of a wide variety of terms, including (but not limited to) transgender, transsexual, gender-queer (GQ), gender-fluid, non-binary, gender-variant, crossdresser, genderless, non-gender, third gender, two-spirit, bi-gender, trans man, trans woman, trans masculine and trans feminine.</p>
<p>Transitioning</p> <p>'The steps a trans person may take to live in the gender with which they identify. Each person's transition will involve different things. For some this involves medical intervention, such as hormone therapy and surgeries, but not all trans people want or are able to have this.</p> <p>Transitioning also might involve things such as telling friends and family, dressing differently and changing official documents.'</p>
<p>Values</p> <p>NHS values show, working together for patients. The value of "working together for patients" is a central tenet guiding service provision in the NHS and other organisations providing health services which include:</p> <p>Respect and dignity Commitment to quality of care</p>

Compassion
Improving lives
Everyone counts

Victimisation

Subjecting a person to a detriment because they have done a protected act or there is a belief that they have done a protected act i.e. bringing proceedings under the Equality Act 2010; giving evidence or information in connection with proceedings under the Act; doing any other thing for the purposes or in connection with the Act; making an allegation that a person has contravened the Act.

9. Audit and Assurance

The Trust recognises that regular monitoring of equal opportunities is an essential element of good practice that supports the effectiveness of implementation.

In order to provide assurance of the effective implementation of this policy the following areas will be monitored as sources of evidence:

Element to be monitored	Lead	Tool	Frequency	Reporting Arrangements	Acting on Recommendations and Lead(S)	Change in Practice and Lessons to be shared
Progress against Inclusion Action plan (EDS2, WRES, WDES, Gender pay gap reporting, SOM and AIG)	Project leads	Action Plan	Bi-monthly	Workforce Subcommittee	Projects leads/Equality Leads	Equality leads/HR and service leads
Monitor Casework to Identify any trends/patterns present of inequality against protected characteristics	Employee Relations Team	Audits of ER case work	Ad hoc	Workforce Subcommittee	Actions to be put in place to eliminate any inequalities identified	Employee Relations Team/Equality leads

10.0 Appendices

Appendix 1 – Equality Analysis

Appendix 1 - EQUALITY ANALYSIS

Equality Analysis Screening Form

Title of Proposal	Equality, Inclusion and Human Rights Policy		
Person Completing this proposal	Bina Saini Staff Networks (Disability and Neurodiversity, BAME, LGBT)	Role or title	Senior Equality, Diversity and Inclusion Lead
Division	Human Resources	Service Area	Workforce and Inclusion
Date Started	May 2018	Date completed	July 2018
Main purpose and aims of the proposal and how it fits in with the wider strategic aims and objectives of the organisation.			
BSMHFT takes its obligations under Equality Legislation seriously and aims to provide fair and equitable treatment to, and value diversity in, its staff, service users and communities. In doing so we aim to ensure that our actions and working practices comply with both the spirit and intention of the Human Rights Act (1998) and the Equality Act (2010)			
Who will benefit from the proposal?			
The promotion of equality and achieving the elimination of unlawful discrimination within the organisation is a key priority. This will be achieved by ensuring the philosophy of equality, diversity and inclusion runs through all aspects of policymaking, service redesign, service provision and employment and forms part of the core of the organisation.			
The policy will benefit staff and support managers in dealing with raised concerns within services and the working environment. The policy will also advocate the Trust is providing an inclusive culture for all and will not tolerate any form of discrimination.			

Impacts on different Personal Protected Characteristics – Helpful Questions:

<p><i>Does this proposal promote equality of opportunity? Yes</i></p> <p><i>Eliminate discrimination? Yes</i></p> <p><i>Eliminate harassment? Yes</i></p> <p><i>Eliminate victimisation? Yes</i></p>	<p><i>Promote good community relations? Yes</i></p> <p><i>Promote positive attitudes towards disabled people? Yes</i></p> <p><i>Consider more favourable treatment of disabled people? No</i></p> <p><i>Promote involvement and consultation? Yes</i></p> <p><i>Protect and promote human rights? Yes</i></p>
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Please click in the relevant impact box or leave blank if you feel there is no particular impact.

Personal Protected Characteristic	No/Minimum Impact	Negative Impact	Positive Impact	Please list details or evidence of why there might be a positive, negative or no impact on protected characteristics.
Age			Yes	All individuals will be treated with dignity and respect regardless of their age. HR policies are in place for apprenticeships (all ages) and those who wish to retire and return.
<p>Including children and people over 65</p> <p>Is it easy for someone of any age to find out about your service or access your proposal?</p> <p>Are you able to justify the legal or lawful reasons when your service excludes certain age groups</p>				
Disability			Yes	<p>All individuals will be treated with dignity and respect regardless of whether they have a disability or not.</p> <p>The Trust has recently developed a reasonable adjustments passport to support staff. Reasonable adjustments will be put into place where possible and the passport will help to identify what is</p>

				<p>required and reviewed as a minimum every 12 months with their line manager.</p> <p>Any inequalities identified through the WDES will be discussed in consultation with the Disability and Neurodiversity Staff Network with clear actions put in place.</p> <p>The Trust is also aspiring to achieve level 3 accreditation through the Disability Confident Scheme.</p>
<p>Including those with physical or sensory impairments, those with learning disabilities and those with mental health issues</p> <p>Do you currently monitor who has a disability so that you know how well your service is being used by people with a disability?</p> <p>Are you making reasonable adjustment to meet the needs of the staff, service users, carers and families?</p>				
Gender			Yes	<p>The policy promotes individual rights in particular around gender identity, and provides support to managers as to how this can be achieved in the working environment.</p>
<p>This can include male and female or someone who has completed the gender reassignment process from one sex to another. This is inclusive of people of all genders, including non-binary people</p> <p>Do you have flexible working arrangements for people of all genders/a particular gender?</p> <p>Is it easier for people of a particular gender to access your proposal?</p>				
Marriage or Civil Partnerships			Yes	<p>All individuals will be treated with dignity and respect regardless of their marital status.</p>
<p>People who are in a Civil Partnerships must be treated equally to married couples on a wide range of legal matters</p> <p>Are the documents and information provided for your service reflecting the appropriate terminology for marriage and civil partnerships?</p>				

Pregnancy or Maternity			Yes	Individuals will have equal rights for pregnancy or maternity based on their gender identity in line with the Pregnancy, Maternity and Adoption policy. Flexibility will be discussed during an individual's pregnancy/maternity and supported by their line manager.
<p>This includes pregnant employees and employees who have just given birth</p> <p>A Mother can be defined as 'the person who is pregnant/gives birth to the child' This is to be inclusive of trans men and non-binary people who may be able to give birth and also acknowledge that if a same sex female couple has a baby, both will be mothers but only one will qualify for maternity leave and the other would be eligible for paternity leave.</p> <p>Does your service accommodate the needs of expectant and postnatal mothers both as staff and service users?</p> <p>Does your service treat staff and patients with dignity and respect in relation to pregnancy and maternity?</p>				
Race or Ethnicity			Yes	All individuals will be treated with dignity and respect regardless of their race or ethnicity. Any inequalities identified through the WRES will be discussed in consultation with the BAME Staff Network with clear actions in place.
<p>Including Gypsy or Roma people, Irish people, those of mixed heritage, asylum seekers and refugees</p> <p>What training does staff have to respond to the cultural needs of different ethnic groups?</p> <p>What arrangements are in place to communicate with people who do not have English as a first language?</p>				
Religion or Belief			Yes	All individuals will be treated with dignity and respect regardless if they have a religion or not. This policy will embrace all cultures and faiths and the Trusts Spirituality Team can support where necessary.
<p>Including humanists and non-believers</p>				

Is there easy access to a prayer or quiet room to your service delivery area?				
When organising events – Do you take necessary steps to make sure that spiritual requirements are met?				
Sexual Orientation			Yes	<p>This policy ensures that individuals will be treated fairly regardless of their sexual orientation.</p> <p>Positive action will be taken to promote and be inclusive of the LGBT community. This will be achieved by working closely with Stonewall and the Trusts LGBT staff network.</p>
Including gay men, lesbians and bi people				
Does your service use visual images that could be people from any background or are the images mainly heterosexual couples?				
Does staff in your workplace feel comfortable about being 'out' or would office culture make them feel this might not be a good idea?				
Transgender or Gender Reassignment			Yes	<p>The policy promotes individual rights in particular around gender identity and gender expression and provides support to managers as to how this can be achieved in the working environment through the Trans Equality Policy for employees. The LGBT Staff Network also supports service managers when dealing with such issues within a clinical setting.</p>
This will include people who are in the process of or in a care pathway changing from one gender to another				
Have you considered the possible needs of trans staff and service users (including non-binary people in the development of your proposal or service)?				
Human Rights			Yes	<p>The policy aims to treat all equitably and in accordance with their Human Rights. Managers are encouraged and expected to implement this policy in a fair and consistent manner.</p>
Affecting someone's right to Life, Dignity and Respect?				

Caring for other people or protecting them from danger?

The detention of an individual inadvertently or placing someone in a humiliating situation or position?

If a negative or disproportionate impact has been identified in any of the key areas would this difference be illegal / unlawful? I.e. Would it be discriminatory under anti-discrimination legislation. (The Equality Act 2010, Human Rights Act 1998)

		No		
What do you consider the level of negative impact to be?	High Impact	Medium Impact	Low Impact	No Impact
			Yes	

If the impact could be discriminatory in law, please contact the **Equality Diversity and Inclusion Lead** immediately to determine the next course of action. If the negative impact is high a Full Equality Analysis will be required.

If you are unsure how to answer the above questions, or if you have assessed the impact as medium, please seek further guidance from the **Equality, Diversity and Inclusion Lead** before proceeding.

If the proposal does not have a negative impact or the impact is considered low, reasonable or justifiable, then please complete the rest of the form below with any required redial actions, and forward to the **Equality, Diversity and Inclusion Lead**.

Action Planning:

How could you minimise or remove any negative impact identified even if this is of low significance?

The Policy will support staff, service users, visitor, carers and partnering organisations feel supported and empowered; this will mitigate any potential

negative impact.

How will any impact or planned actions be monitored and reviewed?

Any issues will be reviewed regularly through the appropriate channels and committees. The Policy will be reviewed every 3 years or before if required.

How will you promote equal opportunity and advance equality by sharing good practice to have a positive impact other people as a result of their personal protected characteristic.

The policy will support staff to embed good practice into their everyday role. Training on Equality, Diversity and Inclusion will be provided to all staff in order to highlight any inequalities and allow staff not to be afraid to challenge discriminatory behaviour, creating an inclusive culture for all.

Please save and keep one copy and then send a copy with a copy of the proposal to the Equality and Diversity Lead Bina Saini The results will then be published on the Trust's website. Please ensure that any resulting actions are incorporated into Divisional or Service planning and monitored on a regular basis.