



Equal Opportunity in Employment Policy

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POLICY CONTEXT:

- This policy provides support and information for managers and staff to provide equal opportunity as part of the Trust's requirement to deliver its responsibilities for the Equality Act 2010
- This policy is relevant to ALL staff in all Locations
- This policy is also to be taken in context with the Recruitment and Selection Policy

POLICY REQUIREMENT (see Section 2)

- Ensuring we deliver equality of opportunity in our employment in practice
- The need for standards & targets against which progress can be measured
- Importance of ensuring managers & staff are properly trained in equality & diversity
- Embedding of equal opportunity in employment objectives & standards in individual performance management
- Creating an environment where discrimination not tolerated and challenged by setting behavioural standards

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1.0 Introduction

- 1.1 Birmingham and Solihull Mental Health Foundation Trust (hereafter referred to as the Trust) is committed to being an equal opportunities employer and will endeavour to meet its Corporate Social responsibility as a major employer across the city.

1.2 Rational

- 1.2.1 This policy is to ensure that no staff member or job applicant receives less favourable treatment as a result of their personal protected characteristics. The Trust upholds the *Equality Act* 2010, and is committed to promoting measures that eliminate all forms of unlawful or unfair discrimination on the basis of the 'protected characteristics' of age, disability, gender (sex), gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation. (Appendix 2)
- 1.2.2 The policy is written in accordance with relevant employment and equality legislation and is an over-arching policy embracing all aspects of equal opportunities.
- 1.2.3 The policy aims to address the following objectives:
- How the ethos of equal opportunities is to be embedded into everyday practice without any exception.
 - To set the Trust's expectations of all employees in regards to upholding equal opportunities in the workforce.
 - To support the behavioural profile expected from staff and managers by the Trust

1.3 Scope

- 1.3.1 This policy applies to all staff employed by the Trust, regardless of the type of contract under which they are employed, or hours worked. It also applies to anyone who applies for a job with the Trust.
- 1.3.2 Staff not employed by the Trust, but who work alongside Trust staff and are employed by a partner organisation or contractor, or provided by a staffing agency, will be expected to comply with the requirements of this policy.
- 1.3.3 This Policy and Procedure replaces all previous Birmingham and Solihull Mental Health NHS Trust Equal Opportunities Policies.



1.3.4 This Policy should be read in conjunction with the following;

- Recruitment and Selection Policy
- Volunteers Policy
- Employment of Service Users
- Relevant equality objectives, schemes, strategies or plans
- Guidance when employees require access to Mental Health Services
- Grievance and Dispute Policy
- Disciplinary Policy

1.4 Principles

1.4.1 The Trust places high a value on all members of its workforce, and is committed to ensuring that individuals are treated fairly, with mutual respect and dignity, and decisions in recruitment, selection, training, promotion, development and redeployment are based solely on objective organisational factors and job related criteria.

1.4.2 The purpose of this policy is to provide guidance about equal opportunity to all those who are:

- Employed by the Trust
- Applying for jobs within the Trust
- Volunteering for the Trust
- After leaving employment for the Trust

1.4.3 The Trust recognise that all forms of discrimination are unacceptable and is committed to a policy of equal opportunities and a 'zero tolerance' approach to discrimination in its recruitment and employment practices. This approach also applies to the way that service users behave towards our staff and other service users.

2. Policy Statement

2.1 The Trust will not tolerate any form of discrimination on the grounds of age, disability, gender (sex), gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation. Although this list is not exhaustive and may be updated during future reviews of this policy, these are the areas currently protected by the Equality Act 2010.

2.2 This policy is written on the premise that inequalities in employment will lead to inequalities in service delivery. This policy and its implementation therefore are fundamental to the delivery of good quality, culturally sensitive and responsive care.



2.3 The Trust believes that excellence will be achieved through recognising and valuing the contribution of every individual. The Trust's aim is to be an Employer of Choice by creating the environment that respects the diversity of staff and enables them to achieve their full potential, to contribute fully and to derive maximum benefit for development and enjoyment from their employment with the Trust.

2.4 All Trust employees are to be made aware of the existence of the Policy, its aims and objectives and their role in its implementation.

3. Procedures

3.1 The following procedures and associated guidance support the Equal Opportunities in Employment policy, detailing how the Trust will seek to avoid discrimination and promote equality throughout all of its employment practices.

3.2 Recruitment & Selection

3.2.1 The Recruitment and Selection Policy provides detailed guidance on all aspects of the recruitment and selection process and provides template letters and forms to assist recruiting managers in applying the policy fairly and consistently. The Policy and supporting guidelines/appendices have been developed in line with the requirements of the Equality Act 2010, the NHS Constitution, Standards for Better Health and the NHS Employers "Safer Recruitment".

3.3 Advertising

3.3.1 The most appropriate way of attracting candidates will depend on the job in question but may include one or more forms of advertising. Staff are to ensure that advertisements are in a style and in the correct media most likely to attract responses from suitable candidates and from diverse communities that the Trust is seeking to recruit from.

3.3.2 All Trust posts are advertised on the NHS Jobs website. In addition, where appropriate the Trust's vacancy bulletin will be circulated every two weeks to a wide range of community groups and networks within the Birmingham and Solihull areas. Other advertising media will be used at the same time where there is a clear rationale to do so.

3.3.3 All advertisements will include a reference to the Trust's commitment to Equal Opportunities and will display the Two Ticks symbol with a statement when appropriate that applications from individuals from under-represented groups are particularly welcomed.



3.3.4 All advertisements will include a statement encouraging applications from different protected characteristics or request for application information in different format if required.

3.3.5 Where possible the Trust will attend local job and recruitment fairs in order to raise the Trust's profile and the variety of opportunities on offer.

3.4 *Selection*

3.4.1 Every role must have a detailed job description and an up-to-date person specification which describes the relevant qualities, qualifications, values and competencies a person requires to be able to do the job. This will be used as the benchmark during the selection process. It is vital that the person specification does not include any criteria or requirements which are unnecessary for the post that may exclude applicants from particular groups. For example, attention needs to be given to qualifications to ensure that equivalents, including those gained overseas, are recognised where appropriate.

3.4.2 The Trust encourages applications from a wide range of candidates, including those with criminal convictions, as long as the conviction does not undermine the individual's ability to undertake the role for which they have applied. For some roles there is a requirement to complete a Disclosure and Barring Service (DBS) to assess an applicants' suitability for these roles.

3.4.3 All interview panels will consist of two (2) or more panel members and that at least one member of the panel have attended the Trust's Recruitment and Selection one-day workshop. The interview structure should be consistently applied to all candidates and must be confined to gathering job-related information, avoiding any questions, which might be construed as discriminatory. Detailed guidance about good practice in interviewing is provided in the Recruitment and Selection Policy. This includes the composition of the panel, types of selection tests, questioning, and accessibility of the interview location.

3.4.4 Individuals will be appointed solely on the basis of their relevant experience, abilities and their suitability to do the job in accordance with the objective criteria laid down in an appropriate person specification.

3.5 *Ring-fencing of Posts*

3.5.1 On occasions posts may be ring-fenced for employees who are at risk of redundancy or for employees seeking medical redeployment due to ill health. This would mean that a vacant post would not be advertised if an individual or individuals awaiting redeployment meet the essential criteria for the post.

3.6 *Training in Equal Opportunities including Recruitment and Selection*



3.6.1 All managers who chair a recruitment and selection panel are required to have completed the recruitment and selection training prior to undertaking that role.

3.7 *Promotion*

3.7.1 All employees are eligible to seek promotion in order to advance their career. Promotion will be based solely on an individual's merits, abilities, experience and possession of the appropriate and necessary qualifications, if applicable.

3.7.2 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.

3.8 *Dismissal (including redundancy)*

3.8.1 Managers and staff who have responsibility for taking decisions about dismissals and redundancies will not discriminate in the process as a result of staff belonging to any of the personal protected characteristics identified by the Equality Act. Staff should not receive any adverse impact as a result of their employment, domestic or their socio economic status.

3.9 *Flexible Working and Work/Life Balance*

3.9.1 The Trust has achieved Improving Working Lives Practice Plus status. This demonstrates the Trust's commitment to create well managed, flexible working environments that support staff, promote their welfare and development and respect their need to manage a healthy and productive work life balance. A number of policies have been developed to ensure that staff are aware of, and access these opportunities, including:

- Flexible Working
- Maternity Leave
- Carers Leave
- Flexible Retirement
- Employment Break Policy

3.9.2 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.



3.9.3 A discounted childcare voucher scheme is available to all staff with childcare responsibilities as are discounts negotiated for all NHS staff for day nurseries and holiday schemes within Birmingham and Solihull.

3.10 *Terms and Conditions of Employment, Benefits, Facilities and Services (Part-time Employees and Employees on fixed term contracts)*

3.10.1 Part-time staff and staff on fixed term contracts will not be discriminated against in respect of terms and conditions of service, access to benefits, facilities and services in line with the Part Time Workers (Prevention of Less Favourable Treatment Regulations (2000) and Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations (2001)

3.11 *Equal Pay*

3.11.1 For a majority of staff, the grade or band of post in the NHS is determined using the NHS Job evaluation scheme under 'Agenda for Change'. The scheme has been specifically developed for the NHS, has been agreed with Trade Unions and Staffside representatives. The Trust is committed to the requirements of the Equal Pay Act and will ensure that staff will be paid fairly and consistently irrespective of their personal protected characteristics.

3.12 *Grievance and Disciplinary Policies and Procedures*

3.12.1 The Trust will ensure that its disciplinary and grievance procedures are applied fairly and equitably and that staff do not receive any adverse impact as a result of them belonging to a personal protected characteristic.

3.12.2 Staff will not be discriminated against in the application of the grievance and disciplinary policy, for example by victimising an individual through disciplinary measures because he or she has complained about discrimination.

3.12.3 Grievances and disciplinary matters should be dealt with fairly and consistently by applying the relevant policies and adhering to timescales.

3.13 *Performance Management*

3.13.1 The Employee Appraisal and Development/Working Better Together Policy 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. Formal performance management cases will be recorded within HR as casework and will be monitored and analysed by relevant personal protected characteristics.

3.14 *Harassment and Bullying*



3.14.1 Any employee who feels that they have suffered racial, sexual or any other form of harassment or bullying can make a complaint using the procedure outlined in the Harassment and Bullying Policy. Complaints raised under this policy must be dealt with fairly, sensitively and with regard to confidentiality. Support should be offered to individuals who have cause to raise a complaint under the policy including access to Staff Support Service.

3.15 *Training and Development*

3.15.1 The Trust is fully committed to equipping all employees and teams with the skills, knowledge and attitudes required to improve and deliver services. The Trust believes that the diversity of its workforce is the most valuable asset it has and must play a key part in shaping education, training and development.

3.16 *Equality Analysis*

3.16.1 The Trust is committed to ensuring that the way we recruit and treat our staff and provide services reflects individual needs, promotes equality and does not discriminate unfairly against any particular individual or group.

3.16.2 As a requirement of the Public Sector Equality Duty, there is a requirement to conduct an Equality Analysis in the development or review of all policies, strategies, organisational change or redesign proposals and pay “due regard” to the personal protected characteristics.

3.16.3 In order to meet that requirement an Equality Analysis Guidance and Tool is attached at Appendix 3. The aim of the analysis is to remove or minimise any adverse or disproportionate impact that our proposals may have on staff, service users or the community as a result of them belonging to a particular protected characteristic.

3.16.4 If an analysis identifies that there is a need to carry out a full Equality Analysis, then you are to contact the Senior Equality and Diversity Lead for further support.

3.16.5 An Equality Analysis has been conducted on this policy and where possible all negative impacts identified at the time of development have been considered, reduced, removed or justified. If however at the time of implementation a negative impact is identified, please inform the responsible manager or the Trust Secretary so that any relevant action can be taken.

4.0 Responsibilities

4.1 *Trust Board*



- The Trust Board has primary legal, moral and social responsibility for ensuring that employees, service users and contractors do not discriminate
- The Trust's is ultimately accountable to eliminate discrimination, advance equality and to promote equality in employment and the provision of services
- The Chief Executive Officer has the ultimate responsibility for the effective implementation of this policy
- The Associate Director of Human Resources responsible for the implementation and monitoring of the policy and to ensure that all employment policies, procedures, and practices will be reviewed regularly to ensure they are, and remain, non-discriminatory and are consistent with the equality aims of the Trust
- The Trust's Equality and Diversity Strategic Group has responsibility for ensuring the development and delivery of the Trust's Equality and Diversity agenda. The Group is ultimately accountable to the Trust Board, via the Executive Committee
- It is the Trust's responsibility to create a working environment that is safe from any discrimination, harassment or victimisation

4.2 *Trust Managers:*

- It is the responsibility of all managers, to ensure that all employees are aware of the purpose and consequent requirements of this policy and have received appropriate training to uphold these values and set appropriate standards of behaviour.
- Managers are to ensure all disciplinary or grievances are dealt with equity, consistency and are non-discriminatory.
- Managers are responsible for ensuring that complaints are dealt with promptly, taken seriously and sensitively without being discriminatory.
- Human Resources department will be responsible for supporting the implementation of this policy through a robust monitoring process.
- Managers will not participate in any forms of harassment, bullying or intimidating behaviour.

4.3 *All Trust Employees:*

- Employees have a responsibility to co-operate fully with this policy and embed it into everyday practice
- Employees are to bring to the attention of the Trust (managers) all discriminatory acts or practices at the earliest opportunity



- Employees and contractors will not participate in any forms of harassment, bullying or intimidating behaviour
- Employees should not discriminate in the process of employment, promotion, or employee relations or in the provision of services
- Employees are to ensure that staff or service users are not victimised for raising, or being suspected of raising, alleged complaints or grievances
- It is the responsibility of all Trust employees to uphold the relevant policies around equality and diversity and to embrace the visions and values of the organisation. This means everyone can play their part in promoting equality and challenging discrimination.

5. Development and Consultation Process

Consultation summary		
Date policy issued for consultation		January 2014
Number of versions produced for consultation		2
Committees / meetings where policy formally discussed		Date(s)
Workforce Committee		January 2014
HR Team Meeting		December 2013
Where received	Summary of feedback	Actions / Response

6.0 Reference Documents

- The Equality Act 2010
- The Trust's Equality Objectives
- Trust Bullying and Harassment Policy and Procedure
- Trust Disciplinary Policy and Procedure
- Trust Sickness Absence Policy and Procedure
- Trust Grievance Policy and Procedure
- Trust Recruitment and Selection Policy
- Trust Management of Organisational Change Policy
- Trust Concerns, Complaints and Compliments Policy

7.0 Bibliography

- The Equality Act 2010
- The Human Rights Act
- The NHS Constitution

8. Glossary



8.1 The Trust is bound by the legal responsibilities outlined in the *Equality Act 2010 and the Public Sector Equality Duty*, which states that under law, employees are protected from discrimination on the grounds of the following 'protected characteristics': age, disability, gender reassignment, gender (sex), marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation (Appendix 1).

8.2 *Equal Opportunity:*

Equal Opportunity is a stipulation that all people should be treated equitably, unconstrained by artificial prejudices, bias or preferences except when it can be explicitly justified.

8.3 *Discrimination:*

Discrimination is the unjust or prejudicial treatment of somebody on the grounds of a 'personal protected characteristic'. In employment, discrimination may happen as a result of bias (conscious or unconscious), prejudice, misconceptions and stereotyping which may hinder an individual's ability to work. There are several types of discrimination defined and offer protection under the *Equality Act 2010*.

8.4 *Direct Discrimination:*

This occurs when a person is treated less favourable as a result of them belonging to a 'personal protected characteristic'.

8.5 *Indirect Discrimination:*

This can happen when a criterion, policy, practice or procedure that is the same for everyone, but has a greater negative impact on a person with a particular 'protected characteristic'.

8.6 *Associative Discrimination*

This can be direct or indirect discrimination against someone because they are associated with another person who possesses any of the 'personal protected characteristic'.

8.7 *Discrimination by Perception:*

This is direct or indirect discrimination against someone because others think that they possess a particular 'protected characteristic'. They do not necessarily have to possess the characteristic, just be perceived to have or belong to one.

8.8 *Harassment or Bullying:*



This is behaviour that is deemed to create an offensive, humiliating, intimidating, hostile environment to the recipient. Employees can complain of this unwanted behaviour even if it not directed at them. For further information please refer to the Trust's Bullying and Harassment Policy.

8.9 *Harassment by a third party:*

Employers are potentially liable for the harassment of their staff or service users by people they don't themselves employ, i.e. a contractor or other service users. The Equality Act places a requirement for the Trust to put appropriate policies and measures in place to create a safe environment for staff and service users in the delivery of its functions.

8.10 *Victimisation:*

This occurs when someone is treated badly because they have made or supported a complaint or grievance under the *Equality Act 2010*. Individuals are not protected if they have malevolently made or supported an untrue complaint.

8.11 *Intent to cause harm and Vexatious Claims:*

The above definitions do not rely on the potential perpetrator(s) intent to course harm but how the potential victim(s) perceives the harm caused by the behaviour.

The Trust may take disciplinary action against any member of staff who wilfully misuses this policy to undermine another member of staff, manager of service.

8.12 *Positive Action*

Positive action is described as a range of measures, which may be adopted to assist with and encourage opportunities for particular personal protected characteristics in areas where they are under-represented and where there clear benefits in doing so.

9. **Audit and Assurance**

9.1 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
Recruitment Process	HR	ESR	Quarterly	Workforce Committee



Consistency of selection panels and panel members	HR	Panel observations	Quarterly	Workforce Committee
Recruitment Activity (Applications to Appointment)	HR	NHS Jobs2 and ESR	Quarterly	HR Team Meetings and Workforce Committee

9.2 It is also important that the Trust is able to measure the impact that this policy will have in relations to expected outcomes. The Human Resources Department will monitor all grievances, disciplinary actions, capability issues and allegations of harassment or bullying and exit information for employees leaving the Trust.

Key Performance Indicator	Method of Assessment	Period of Assessment
1. Breakdown of Personal Protected Characteristics in recruitment	Audit from ESR	Quarterly and annual report
2. Monitoring of bullying, harassment and grievances	<ul style="list-style-type: none"> • HR records Audit • HR Case Load • Compliments and complaints • PALs 	Quarterly
3. Staff Survey	Staff Survey	Annually

10.0 Appendices

Appendix 1 – Summary of relevant legislation – The Equality Act 2010

Appendix 2 – Definitions of ‘Personal Protected Characteristics’ under the *Equality Act* 2010:

Appendix 3 – Equality Analysis Guidance and Tools



Summary of relevant legislation

1 ***Equality Act 2010***

The *Equality Act 2010* contains all the UK legal requirements on equality. It affects equality law in the workplace and in delivering services. It replaces the previous equality legislation including the *Sex Discrimination Act 1975*, the *Race Relations Act 1976*, and the *Disability Discrimination Act 1995*. Most of the new law is based on previous discrimination legislation which has been streamlined to advance equality between the different personal protected characteristics.

Whether at work as an employee or in using a service, the purpose of the Equality Act is to ensure that everyone has the right to be treated fairly. It protects people from discrimination on the basis of them belonging to certain protected characteristics.

There are nine 'personal protected characteristics' for employees: age, disability, gender reassignment, gender (sex), marriage or civil partnership, pregnancy and maternity, race, religion or belief, sexual orientation.

There are eight 'personal protected characteristics' for people who use services: age, disability, gender reassignment, gender (sex), pregnancy and maternity, race, religion or belief, sexual orientation.

The Act places a Public Sector Equality Duty on all public sector organisations to have "Due Regard" to the nine personal protected characteristics. The duty is defined as the General and Specific Duty and includes:

- To Eliminate discrimination
- Promote equal opportunity
- Advance equality on all personal protected characteristics

The Specific Duty requires that we:

- Publish our equality objectives
- Gather and analyse equality data on an annual basis
- Report our findings and progress on an annual basis and
- Review or approach every 4 years

For more information on the Equality Act go to:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/85017/individual-rights1.pdf



Definitions of 'Personal Protected Characteristics' under the *Equality Act 2010*:

Age

Refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds). In terms of service usage, protection started from April 2012 but only for those over 18 years of age.

Disability

A person has a disability if s/he has 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. There is no longer a requirement for the disability to last for at least one year. Conditions covered include mental health, learning disability, cancer and HIV.

Gender reassignment

The process of transitioning from one gender to another. There is no longer a requirement for medical supervision.

Gender (sex)

A man or a woman. (Male or Female)

Marriage and civil partnership

Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters.

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 woman unfavourably because she is breastfeeding.

Race

This term refers to a group of people defined by their colour, culture and nationality (including citizenship) ethnicity or national origins.



Religion and belief

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.

Sexual orientation

Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes

For further information on the law:

www.homeoffice.gov.uk/equalities/equality-act

- Equality Act 2010 -
<http://www.legislation.gov.uk/ukpga/2010/15/contents>
- Human Rights Act 1998 -
<http://www.equalityhumanrights.com/human-rights/Employment Act 2008>
- Data Protection Act 1998 -
<http://www.legislation.gov.uk/ukpga/1998/29/contents>
- NHS Constitution -
<https://www.gov.uk/government/publications/the-nhs-constitution-for-england>
- Employment Act 2008 -
<http://www.legislation.gov.uk/ukpga/2008/24/contents>



1. Introduction

1.1 The Trust is committed to the requirements of the Equality Act 2010 and the implementation of the Public Sector Equality Duty (PSED). The introduction and implementation of this policy is in support of that commitment to ensure that staff are constantly taking the opportunity to eliminate discrimination, promote equal opportunity and reduce health inequality between the different protected characteristics.

What is an Equality Analysis (EA)?

An Equality Analysis (EA) supersedes the need to carry out Equality Impact Assessments and is a requirement under the Equality Act 2010 for public sector organisations. An Equality Analysis is a way of considering the impact that a policy, strategy, project or service change may have on different groups within the community including staff, service users and carers as a result of their Personal Protected Characteristics. This requirement is known as having to pay “**due regard**” to the personal protected characteristics. These may be people from different ethnic groups, different age groups, different religions, different genders, disabled people and people with different sexual orientations.

Ultimately, EAs are about how we treat people and reflecting on whether we are being fair in all we do. An EA consists of two stages:

- An EA Screening process and,
- A Full EA - if the initial screening has identified a possible high negative impact.

*We will use the word ‘**proposal**’ to mean all policies, strategies, projects and services redesign. This is to highlight that an assessment should form part of the process from inception and be given consideration throughout.*

1.2 Rationale – Why do we carry out EAs?

1.2.1 Because we want to: The aim of an EA is to ensure that all our activities as a Trust help to promote equality, challenge discrimination, reduce or eliminate inequality and provide services and relevant information are genuinely accessible to all. EA’s offer a proactive approach to achieving fair and appropriate outcomes for staff, the local community and service users.

1.2.2 Because we have to: EA’s helps us fulfil our legal obligations under equality legislation. Previous equality legislation, such as: the Race Relations Act 2000, the Disability Discrimination Act 2005 and the Gender Equality Act 2006,



stated that public sector organisations need to undertake race, disability and gender impact assessments on new and existing policies.

These pieces of legislation have now been superseded by the Equality Act 2010, which places a Public Sector Equality Duty on all public authorities. This General Duty and Specific Duty requires public sector organisations to pay “**Due Regard**” to the 9 Personal Protected Characteristics when developing and reviewing a proposal. The personal protected characteristics are:

- | | |
|--|---|
| <ul style="list-style-type: none">• Age• Disability• Ethnicity• Gender or Sex• Gender Reassignment or Transgender | <ul style="list-style-type: none">• Marriage or Civil Partnerships• Pregnancy or Maternity• Religion or Belief• Sexual Orientation |
|--|---|

The Equality Act also requires public sector organisations to publish the results of EAs undertaken to demonstrate the Trust’s transparency and openness to eliminate discrimination and reduced health inequalities.

1.2.3 This policy is to enable all managers to adopt and deliver good practice in the analysis of policies, strategies or change management process (proposals) in the provision of a safe working environment and the delivery of services that is fair and accessible.

1.3 **Scope** – When should we do EAs?

1.3.1 An EA is be carried out when developing a new proposal, reviewing or amending an existing proposal (policy, strategy or service redesign) or when the Trust has identified an initiative specifically requiring an EA.

1.3.2 An EA will be most effective when it is carried out as the proposal is being created or developed, as part of the whole process rather than an add on at the end of the process. It will also require open and honest assessment of the potential impact on people as a result of their personal protected characteristics.

1.3.3 Who should be involved with an EA?

1.3.4 The manager responsible for the proposal under consideration is the person responsible for ensuring that an EA is carried out. It is also very important to involve any other relevant staff in the process, and where necessary, community members from the 9 protected characteristics, to provide scrutiny and challenge of the established way of doing things. It is also important to make use



of relevant qualitative and quantitative data in relation to the proposal to assist with the decision making process.

1.3.5 The implementation of this guidance applies to all trust staff that have a responsibility for the development and review of Trusts policies, strategies and proposals. The policy also applies to all staff who act as chairman to Trust's committees, groups and forums.

1.4 Principles

1.4.1 The implementation of the Equality Analysis Guidance and Tools policy will:

- Make staff aware of their key responsibilities and behaviours expected by the Trust
- Support managers/staff to be able to fully take on their responsibilities relating to the decision making process of the Trust
- Reduce or eliminate the potential of negative or disproportionate impact on individuals or groups as a result of them belonging to a particular protected characteristic
- Enable the new member of staff to be familiar and understand the overall culture of the organisation

2. Policy

2.1 The policy requires the assessment of potential negative or positive impact or the identification of important gaps in the Trust's knowledge and information about likely impact to protected groups. It is worth noting that what is being considered is the practice surrounding or resulting from the proposal as well as the proposal itself. An effective way to find out if a proposal is likely to impact negatively or positively on sections of the community, is to analyse existing data or research already in existence, or to directly consult representatives of those groups or relevant community organisations. If there is no data available, you must state how data will be collected in the future.

2.2 Ultimate accountability for ensuring that EAs are completed and published lies with the Trust Board. The Chief Executive and Board will ensure that governance arrangements are in place to provide assurance that EAs are being undertaken on the development and review of all proposals.

2.3 The EA process requires a good awareness level of the discrimination that could be faced by different groups, or support and advice should be sought from a wider group of people to carry out of the assessment, particularly from the relevant community. The process may appear confusing to begin with and it is not the intention that one individual should complete the form in the first instance



without the support and advice of others. Further support can be provided by the Senior Equality and Diversity Lead.

3. Procedure – Guidance and notes for completing the EA Screening Form

3.1 The Screening Form is used to identify impacts on people as a result of their personal protected characteristics and highlight any changes that could be made as a result of the assessment. It is also used to determine whether a Full EA is required. The form also gives an opportunity to record and celebrate positive impacts that the proposal might have on different individuals or groups.

3.2 The initial section asks for basic details on who is completing the form, purpose and aims of the proposal, and who will benefit from it. The second section takes the form of a table listing the different groups or issues which may be impacted on as a result of the proposal. There is a column to add comments on how you think a particular group may be impacted upon either positively or negatively. The final section of the form is for recording the overall level of impact and details of the decision of whether to proceed to a Full EA as well as a record of any changes that need to be made to minimise negative impact.

3.3 Guidance and notes for completing the Full EA Form

3.3.1 If the screening form has highlighted a possible high negative impact it will be necessary to carry out the Full Equality Analysis process. The first section of the form asks for details of the particular areas of concern and a summary of the high negative impact areas highlighted in the screening form.

3.3.2 The next section asks for details of any planned consultation, or any consultation that has already taken place, around the issues of concern. This might be with relevant community groups, reference groups or with staff groups.

3.3.3 There is also an opportunity to look at any national, local data or research about the potentially disadvantaged groups. For example, if you were considering the impact of a new patient assessment process which did not take account of people's religious needs, this would be regarded as a high negative impact for people of different religious groups. In carrying out a Full EA Assessment, you may want to look at research around culturally sensitive assessment tools, the benefits of meeting people's spiritual needs, human rights issues around this area of care or seek support and advice from the spiritual care team. It is also beneficial to give consideration to existing work streams, such as Respect and Dignity, Essence of Care and Patient-Led Assessments of the Care Environment.

3.3.4 You may want to talk with local religious groups about what is required to be included in the tool and you may want to look at local demographics around religion and belief. There may also be an opportunity to identify any gaps which you are aware still remains in terms of information to support necessary changes.



3.3.5 The final section on the form is the creation of an action plan for changes that need to be made, with details of how this will be monitored and reviewed. Further support can be provided by the Senior Equality and Diversity Lead.

3.4 Standard Proposal Statement

3.4.1 The very nature or requirement for an EA is because the demographics and needs of the communities we serve are in constant change. Just by having conducted an EA may not identify all of the positive or negative impacts on different individual or groups as a result of them belonging to certain personal protected characteristics. Therefore, to provide assurance to the Trust, the following statement should be used on all proposals:

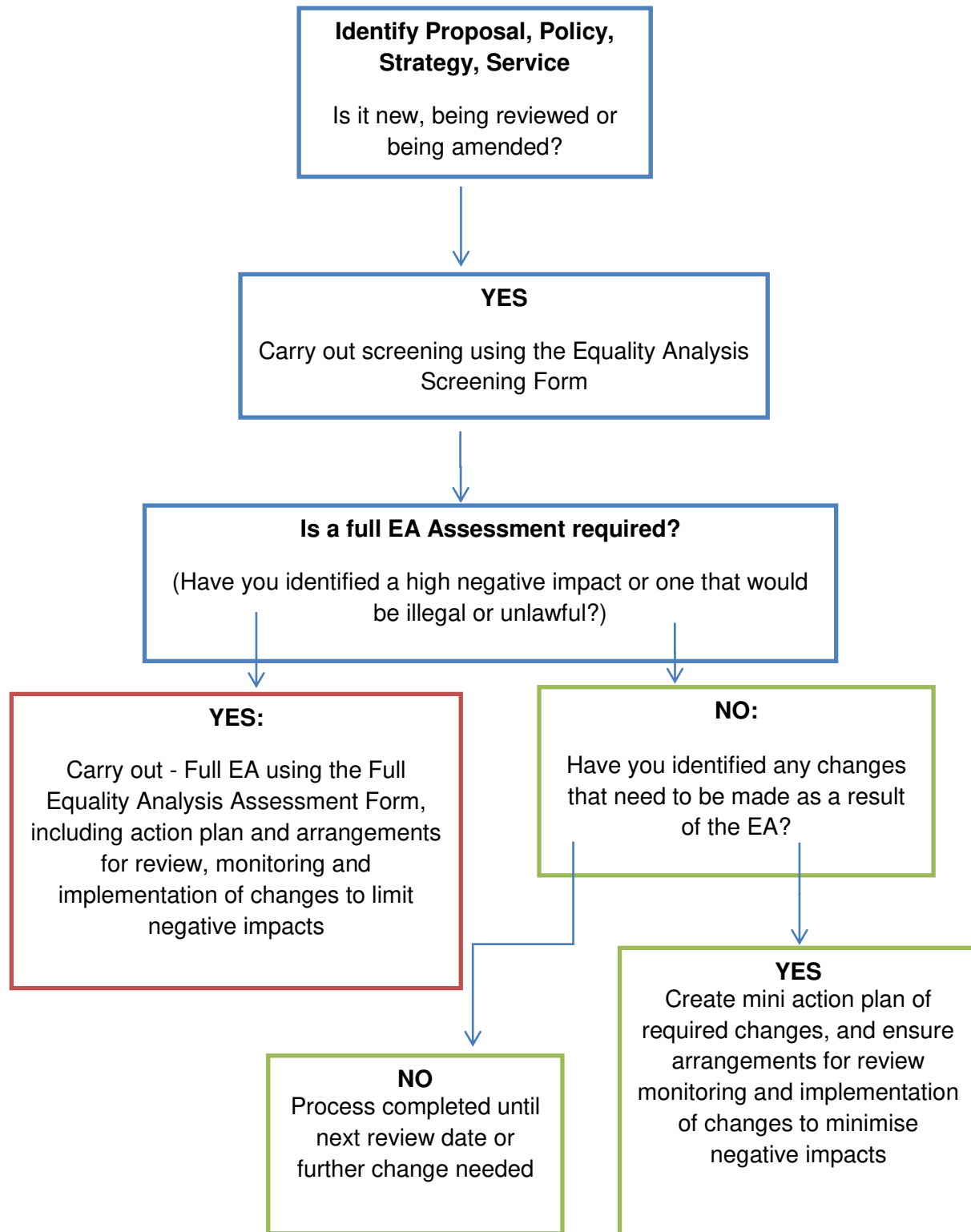
“An EA has been conducted on this policy and where possible all negative impacts identified at the time of development have been considered, reduced, removed or justified. If however at the time of implementation a negative impact is identified, please inform the responsible manager or the Trust Secretary so that any relevant action can be taken”

3.5 Partnership Working

3.5.1 The public sector equality duty to “pay due regard” to protected characteristics and assess the impact of policies and functions on equality apply to partnerships and contractual relationships. The EA procedures apply to all proposals where the Trust is the lead agency in a multi-agency partnership. On joint projects and initiatives where the Trust is not the lead organisation, the Trust should raise the issue of the need to carry out an EA in order to comply with the requirements of the Equality Act 2010 and the public sector equality duty.



Procedure - Equality Analysis Process flow chart





4. Responsibilities

5.1 Proposals that are being presented to the Trust Board must provide assurance to the Board that an EA has been conducted by completing the relevant section of the front page of the proposal. It is vital that the Chairs of committees and groups within the Trust are fully aware of their responsibilities to challenge proposals where an EA has not been conducted.

5.2 For the purposes of transparency and openness, a list of completed EAs is required to be published on the Trust's Internet site. The Senior Equality and Diversity Lead will carry out regular audits or checks to ensure that EAs are being conducted correctly and support implementation, wherever necessary. In addition any themes that are identified and require addressing will be reported through the relevant governance process.

5.3 It is the responsibility of the Division in which the EA has been undertaken, to ensure that any resulting actions are incorporated into the planning, review and reporting processes of their functional area.

5: Development and Consultation process

Consultation summary		
Date policy issued for consultation		February 2014
Number of versions produced for consultation		1
Committees / meetings where policy formally discussed		Date(s)
Workforce Committee		January 2014
Where received	Summary of feedback	Actions / Response
Workforce Committee		

6.0 Reference Documents

- Equality Act 2010 - <https://www.gov.uk/equality-act-2010-guidance>
- The Trust's Equality Objectives
- The Trust's Management and Development of policies

7.0 Bibliography

- The Equality Act 2010
- The Human Rights Act



➤ The NHS Constitution

8. Glossary

8.1 Negative

A negative impact is when a person or a group of people is left at a disadvantage as a result of them belonging to particular personal protected characteristic(s). This may require an action or initiative that will minimise, reduce or eliminate the impact, or the justification of that negative impact.

Example: An event that was held in a building with no induction loop facilities would have a negative impact on some attendees with a hearing impairment.

8.2 Positive

A positive impact is when a proposal could have a positive effect on one or more groups or communities, or improve equal opportunities and/or relationships between communities. **The Trust should always look to making a positive impact and share or celebrate with wider protected characteristics.**

Example: A targeted training programme for black and minority ethnic women would have a positive impact on black and minority ethnic women. It would not, however, necessarily have a negative impact on white women and men.

8.3 Low, Medium and High Equality Impact

Low – The proposal **has limited or no relevance** to the Public Sector Equality Duty and little impact on people as a result of their personal protected characteristics.

Medium – There is some concern or some evidence available that people from different personal protected characteristics may be affected, positively or negatively. The proposal **may be relevant** to parts or all of the Public Services Equality Duty.

High – There is strong evidence or concern to suggest that different groups will be affected

8.4 Prompts to consider as you are developing your proposal

8.4.1 Does the proposal affect our general duties to?



- Promote equality of opportunity?
- Eliminate discrimination?
- Eliminate harassment and victimisation?
- Promote good community relations?
- Promote positive attitudes towards disabled people?
- Advance equality of opportunity between different groups?
- Consider more favourable treatment of disabled people?
- Consult and Involve?
- Protect and promote human rights?

9. Audit and Assurance

9.1 The Trust recognises that regular monitoring of EAs being undertaken is an essential element of good practice and supports the effectiveness of implementation.

9.2 A database of completed Equality Analysis will be created and a list published on the Trust's Internet to demonstrate transparency and openness in relation to the consideration of due regard of the personal protected characteristics.

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
Number of EAs undertaken	Senior Equality Lead	EA Database	6 Monthly	Workforce Committee
Quality of EA's	Senior Equality Lead	Regular Audit of EA Database	6 Monthly	Workforce Committee

10. Training

10.1 It is vital that the members of staff responsible for undertaking of EAs have the relevant competencies to carry out their roles. The Trust will provide the necessary training to support staff in the following areas:

- Chairs and Vice-Chairs of committees and groups where proposals are presented
- Relevant managers who develop and review proposals
- Members of staff who develop, review or implement care pathways
- Members of staff involved in organisational restructuring and redesign
- Members of staff who carry out commissioning and procurement for the Trust



10.2 The above list is not exhaustive and should be seen as a guide. If there is a need for you or someone you manage requires EA training, then it is vital that they attend the training and reduce the risk for the organisation.

When you have completed the EA Screening Form, or the Full EA Assessment Form, please send a copy to EqualityAnalysis@bsmhft.nhs.uk along with a copy of the proposal.



Equality Analysis Screening Form

A word version of this document can be found on the HR support pages on Connect

<http://connect/corporate/humanresources/managementsupport/Pages/default.aspx>

Title of Proposal				
Person Completing this proposal		Role or title		
Division		Service Area		
Date Started		Date completed		
Main purpose and aims of the proposal and how it fits in with the wider strategic aims and objectives of the organisation.				
Who will benefit from the proposal?				
Impacts on different Personal Protected Characteristics – Helpful Questions:				
<i>Does this proposal promote equality of opportunity?</i> <i>Eliminate discrimination?</i> <i>Eliminate harassment?</i> <i>Eliminate victimisation?</i>		<i>Promote good community relations?</i> <i>Promote positive attitudes towards disabled people?</i> <i>Consider more favourable treatment of disabled people?</i> <i>Promote involvement and consultation?</i> <i>Protect and promote human rights?</i>		
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				
Including children and people over 65 Is it easy for someone of any age to find out about your service or access your proposal? Are you able to justify the legal or lawful reasons when your service excludes certain age groups				
Disability				
Including those with physical or sensory impairments, those with learning disabilities and those with mental health issues				



Do you currently monitor who has a disability so that you know how well your service is being used by people with a disability? Are you making reasonable adjustment to meet the needs of the staff, service users, carers and families?				
Gender				
This can include male and female or someone who has completed the gender reassignment process from one sex to another Do you have flexible working arrangements for either sex? Is it easier for either men or women to access your proposal?				
Marriage or Civil Partnerships				
People who are in a Civil Partnerships must be treated equally to married couples on a wide range of legal matters Are the documents and information provided for your service reflecting the appropriate terminology for marriage and civil partnerships?				
Pregnancy or Maternity				
This includes women having a baby and women just after they have had a baby Does your service accommodate the needs of expectant and post natal mothers both as staff and service users? Can your service treat staff and patients with dignity and respect relation in to pregnancy and maternity?				
Race or Ethnicity				
Including Gypsy or Roma people, Irish people, those of mixed heritage, asylum seekers and refugees What training does staff have to respond to the cultural needs of different ethnic groups? What arrangements are in place to communicate with people who do not have English as a first language?				
Religion or Belief				
Including humanists and non-believers 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				
Including gay men, lesbians and bisexual 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				
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 transgender staff and service users in the development of your proposal or service?				



Human Rights				
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)				
	Yes	No		
What do you consider the level of negative impact to be?	High Impact	Medium Impact	Low Impact	No Impact
If the impact could be discriminatory in law, please contact the Equality and Diversity 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 and Diversity 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 and Diversity Lead .				
Action Planning:				
How could you minimise or remove any negative impact identified even if this is of low significance?				
How will any impact or planned actions be monitored and reviewed?				
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.				
Please save and keep one copy and then send a copy with a copy of the proposal to the Senior Equality and Diversity Lead at hr.support@bsmhft.nhs.uk . 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.				



Full Equality Analysis Form

Title of Proposal			
Person Completing this proposal		Role or title	
Division/Department		Service Area	
Date Started		Date completed	
Looking back at the screening tool, in what areas are there concerns that the proposal treats groups differently, unfairly or disproportionately as a result of their personal protected characteristics?			
Summarise the likely negative impacts		Summarise the likely positive impact	
What previous or planned consultation or research on this proposal has taken place with groups from different sections of the community?			
		Please provide list of groups consulted.	Summary of consultation / research carried out or planned. If already carried out, what does it tell you about the negative impact?
Group(s) (Community, service user, stakeholders or carers)			
Staff Group(s)			
What up-to-date information or data is available about the different groups the proposal may have a negative impact on?			
Are there any gaps in your previous or planned consultations, research or information? If so are there any other experts, groups that could be contacted to get further views or evidence?			
Yes		No	
If yes please list below			



As a result of this Full Equality Analysis and consultation, what changes need to be made to the proposal? (You may wish to put this information into an action plan and attach to the proposal)					
Will any negative impact now be:					
Low:		Legal:		Justifiable:	
Will the changes made ensure that any negative impact is lawful or justifiable?					
Have you established a monitoring system and review process to assess the successful implementation of the proposal? Please explain how this will be done below.					
Action Planning: How could you minimise or remove any negative impact identified even if this is of low significance?					
How will any impact or planned actions be monitored and reviewed?					
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?					

Please save and keep one copy and then send a copy with a copy of the proposal to the Senior Equality and Diversity Lead at hr.support@bsmhft.nhs.uk. 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.