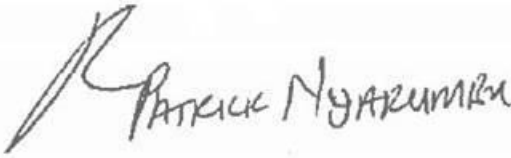




Equality, Inclusion and Human Rights Policy

Policy number and category	HR 28	Workforce and Inclusion
Version number and date	4	March 2022
Ratifying committee or executive director	Transforming Culture and Staff Experience Committee	
Date ratified	July 2022	
Next anticipated review	July 2025	
Executive director	Executive Director, People, Strategy and Partnerships	
Policy lead	Head of Equality, Diversity, and Inclusion	
Policy author (if different from above)	Senior Equality, Diversity and Inclusion Lead	
Exec Sign off Signature (electronic)		
Disclosable under Freedom of Information Act 2000	Yes	

Policy context

The 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).

Policy requirement (see Section 2)

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) 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 and in line with our Trust Values of Compassion, Commitment and Inclusive

Contents Page

Headings	Page Number
1: Introduction	3
1.1 Rationale	3
1.2 Scope	3
1.3 Principles	3
2: The Policy	3
3: Procedure	4
4: Roles & Responsibilities	8
5: Development and Consultation process	8
6: Reference documents	9
7: Bibliography:	9
8: Glossary:	10
9. Audit and assurance	10
10: Appendices	11

1: Introduction

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. 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 Values are Inclusive, Compassionate and Committed and will ensure this is evidenced throughout all areas.

1.2 Scope

The purpose of the policy is to promote equality and remove any discrimination to ensure that everyone can fulfil their full potential within a Trust that is inclusive, compassionate, and committed. The Trust will endeavour and encourage you to bring the best version of yourself without feeling discriminated or intimidated. This is keeping in line with our Trust values, the NHS People's Plan commitment to equality, diversity and inclusion and reflects the provisions of the Equality Act 2010.

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

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), Human Rights Act (1998) and Accessible Information Act as both an employer and a service provider.

2: The Policy

The Trust will not be accepting racism, homophobia, misogyny, sexism, transphobia or any form of discrimination through ignorance or lack of understanding and for everyone to take personal responsibility and accountability for the impact of our own behaviour on all of those around. It is vital that all of us are valued and understood as individuals, in order that all of us have a fair opportunity to be the best we can.

3: The Procedure

What does this mean for staff?



- All staff have a duty not to discriminate against any of their colleagues/service users because of any of the protected characteristics
- All staff must comply with the policy to ensure that colleagues/service users are treated with respect and dignity
- All staff are under the duty not to engage in any behaviour that could be interpreted as harassment on related to any of the protected characteristic irrespective of motive
- All staff must take accountability and be responsible for their own actions.
- All staff must report if experienced or witness inappropriate behaviour (reporting method below)

What does this mean for the Trust?



NHS
Birmingham and Solihull
Mental Health
NHS Foundation Trust

- The Trust is legally responsible for any act of discrimination carried out by their employees during their employment.
- The Trust have a duty to ensure that employees and potential employees are not subject to discrimination because of any of the protected characteristics.
- The Trust will promote equality and diversity in the workplace as good practice
- The Trust should place a positive duty on all their employees to comply with the employer's equal opportunities policy and to ensure that their colleagues are treated with respect and dignity.
- It is important to both communicate and promote the equal opportunities policy to employees on a regular basis.

What does this mean for the Service User?

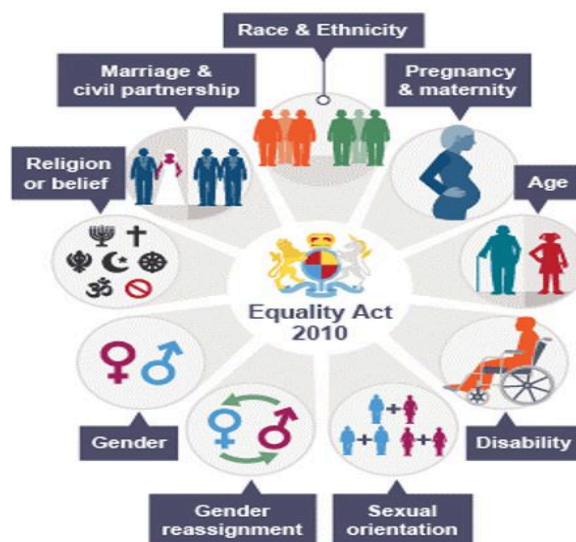


- All service users will be treated equally by all staff, get the dignity and respect they deserve and that their differences are celebrated
- All service users have a duty not to discriminate against any staff or service users because of any of the protected characteristics
- All service users are under the duty not to engage in any behaviour that could be interpreted as harassment on related to any of the protected characteristic irrespective of motive
- All service users must take accountability and be responsible for their own actions.
- All service user must report if experienced or witness inappropriate behaviour (reporting method below)

3.1 Equality Act (2010)

The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. [Equality Act 2010 \(legislation.gov.uk\)](https://legislation.gov.uk)

There are 9 protected characteristics, and these groups are as follows:



3.2 Human Rights Act (1998)

The Human Rights Act (1998) is the legislation which protects human rights in the UK [Human Rights Act 1998 \(legislation.gov.uk\)](#)

Socio-economic Background

This relates to a combination of an individual's income, occupation, and social background. Socio-economic background is a key determinant of success and future life chances. The Trust recognises socio economic background as a focus to help people and communities overcome inequalities.

3.3 Equality, Diversity, and 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.

3.4 Equality Delivery System (EDS2)

EDS2 is a national framework to improve services for people who belong to vulnerable and protected groups. [NHS England » Equality Delivery System](#)

3.5 Workforce Race Equality Standard (WRES)

NHS England incorporated the WRES into the NHS Standard Contract in 2015. The standard ensures employees from Black, Asian, and Minority Ethnic (BAME) backgrounds have equal access to career opportunities and receive fair treatment in the workplace. [NHS England » NHS Workforce Race Equality Standard](#)

3.6 Workforce Disability Equality Standard (WDES)

This is a set of ten specific measures (metrics) which enables NHS organisations to compare the workplace and career experiences of Disabled and Non-Disabled staff. [NHS England » Workforce Disability Equality Standard](#)

3.7 Sexual Orientation Monitoring (SOM) Standard

SOM 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 [NHS England » Sexual Orientation Monitoring Information Standard](#)

3.8 Accessible Information Standard (AIS)

The Accessible Information Standard aims to ensure that people who have a disability, impairment or sensory loss are provided with information that they can easily read or understand with support so they can communicate effectively with services [NHS England » Accessible Information Standard comes into force](#)

3.9 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: guidance for employers - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/gender-pay-gap-reporting)

3.10 Equality Impact Assessment (Equality Analysis)

The Trust's equality impact assessment process ensures that any areas of inadvertent discrimination are detected, and mitigating action implemented to improve and promote equality in everything we do.

3.11 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:



- **Compassion** – We will bring compassion to all our dealings with service users and carers and expect it in interactions between colleagues
- **Commitment** – We commit to help our colleagues, provide the best care services that we can. We do what we say we will
- **Inclusive** – We will work to create a culture and environment that promotes cultural safety and recognises, appreciates, embraces, and celebrates our differences.

3.12 Role design, Recruitment, Training and Development

The Trust's Recruitment & Selection, including promotion, should take place in accordance with the associated Recruitment and Selection Policy and associated procedures. Reasonable adjustment will be made for staff with disabilities/conditions that affect their ability to carry out their tasks appropriately.

Reporting Method

It is our duty as staff within BSMHFT to report any behaviour of discrimination either having experienced or witnessed this. The Trust will provide support and encourage all staff to do so by using any of the below methods and this will support us in making BSMHFT a better place of work and ensure we all have a fair opportunity to be the best that we can be.

Issues raised	Report to	
---------------	-----------	--

Witness or experience inappropriate behaviour/discrimination	Eclipse	As part of the Trust Reporting Process, all incidents are required to be reported on Eclipse
Witness or experience inappropriate behaviour/discrimination	Line Manager	Line Managers should be notified of all issues and support staff where necessary.
Witness or experience inappropriate behaviour/discrimination. Line Manager can raise on behalf of staff	Human Resources	The Human Resources Directorate will ensure that support is provided to you without discrimination
Witness or experience inappropriate behaviour/discrimination from Line Manager	Human Resources	The Human Resources Directorate will ensure that support is provided to you without discrimination
Witness or experience inappropriate behaviour/discrimination. Line Manager can raise on behalf of staff	EDI Team	The EDI Team will provide further support offer and ensure all confidentiality is kept
Witness or experience inappropriate behaviour/discrimination. Line Manager can raise on behalf of staff	Freedom to Speak Up Guardian	The Guardian service is committed to providing you with a psychologically safe, inclusive, and supportive environment

4: Responsibilities

Post (s)	Responsibilities
Chief Executive	The Chief Executive has the ultimate responsibility for the implementation and monitoring of Trust policies
Executive Directors	Executive Directors are accountable for ensuring that their service areas are aware of this policy and the overall inclusion agenda.
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

Line Managers	To apply all Trust policies fairly, consistently and without discrimination. All complaints of discrimination are properly addressed and in a timely manner
Trade Unions	Be familiar with policy and able to provide advice and support to their members. Assist in raising awareness and communication of the policy
All Staff	Treat all colleagues/service user with dignity and respect and ensure that they do not unlawfully discriminate. Challenge and/or report any discrimination that they witness.
Service Users	Treat all staff/service user with dignity and respect and ensure that they do not unlawfully discriminate. Challenge and/or report any discrimination that they witness.

5: Development and Consultation process

Consultation summary		
Date policy issued for consultation	March 2022	
Number of versions produced for consultation	1	
Committees / meetings where policy formally discussed	Date(s)	
PDMG	11 th May 2022	
JOSC	9 th June 2022	
Where received	Summary of feedback	Actions / Response
LGBTQ+ Staff Network	Terminology	Amended
BAME Staff Network	Terminology	Amended
Disability & Neurodivergence Staff Network	Terminology	Amended

6: Reference documents

All documents referenced below should be ready in conjunction with section 5 of this policy

Equality Delivery System 2(EDS2)
[NHS England » Equality Delivery System](#)

Workforce Race Equality (WRES)

[NHS England » NHS Workforce Race Equality Standard](#)

Workforce Disability Equality Standard (WDES)

[NHS England » Workforce Disability Equality Standard](#)

Sexual Orientation Monitoring (SOM) Standard

[NHS England » Sexual Orientation Monitoring Information Standard](#)

Accessible Information Standard (AIS)

[NHS England » Accessible Information Standard comes into force](#)

Gender Pay Gap Monitoring

[Gender pay gap reporting: guidance for employers - GOV.UK \(www.gov.uk\)](#)

Associated policies and Procedural Documents

The Trust is responsible for ensuring compliance with Equality and Human Rights policy and legislation.

This Policy should be read in conjunction with the following:

- [Dignity at Work Policy](#)
- [Disciplinary Policy](#)
- [Equality Inclusion and Human Rights policy](#)
- [Duty of Candour Policy](#)
- [Recruitment and Selection Policy](#)
- [Volunteers Policy](#)
- [Trans and Non-Binary Equality Policy](#)
- [Accessible Information and Communication Policy](#)
- [Flexible Working Policy](#)
- [Special and Carers Leave Policy](#)
- [Employment Break Policy](#)
- [Freedom of Information Policy](#)

(This is not an exhaustive list)

7: Bibliography

The Human Rights Act (1998) - [Equality Act 2010 \(legislation.gov.uk\)](#)

The Equality Act (2010) - [Equality Act 2010 \(legislation.gov.uk\)](#)

Accessible Data Act - [NHS England » Accessible Information Standard](#)

8: Glossary consisting of:

Equality The same status, rights, and responsibilities for all the members of a society, group, or family. Ensuring that every individual has an equal opportunity to make the most of their lives and talents.

Diversity A range of things which are very different from each other. Recognising individual as well as group differences.

Inclusion The act of making a person or thing part of a group or collection

Direct Discrimination is where someone is treated less favourably because of a protected characteristic

Discrimination by Perception is direct discrimination where an individual is discriminated against because someone perceives they have a protected characteristic

Discrimination by Association is direct discrimination of someone because of their association with someone with a protected characteristic

Indirect Discrimination is where there is a rule, condition or policy applies to everyone but disadvantages a group with particular characteristics

Harassment is unwanted conduct related to a protected characteristic which has a purpose or effect of violating an individual's dignity or creating an intimidating, degrading, humiliating or offensive environment.

Victimisation is where someone is treated less favourably because they have either made or supported a complain under the Equality Act 2020

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
The Public Sector Equality Duty (PSED)	Head of EDI/EDI Lead	Action Plan	Annually	Transforming Culture & Staff Experience Committee	Analyse and publish equality data on all protected characteristics to improve data	Head of EDI and Service Leads
Progress against WRES Report	Head of EDI/EDI Lead	Action Plan	Annually	Transforming Culture & Staff Experience Committee	WRES report and action plan	HR and Service Leads
Progress against WDES Report	Head of EDI/EDI Lead	Action Plan	Annually	Transforming Culture & Staff Experience Committee	WDES report and action plan	HR and Service Leads
Gender Pay Gap Report	Director of People	Action Plan	Annually	Transforming Culture & Staff Experience Committee	Gender Pay Gap report and action plan	Head of EDI and Service Leads
Staff Survey	Staff Engagement Lead	Data	Annually	Transforming Culture & Staff Experience Committee	Analyse and publish data	HR and Service Leads

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		Equality, Inclusion and Human Rights Policy		
Person Completing this proposal	Lynn Phung	Role or title	Senior EDI Lead	
Division	Corporate	Service Area	EDI	
Date Started	February 2022	Date completed		
Main purpose and aims of the proposal and how it fits in with the wider strategic aims and objectives of the organisation.				
The purpose of the policy is to promote equality and remove any discrimination to ensure that everyone can fulfil their full potential within a Trust that is inclusive, compassionate, and committed.				
Who will benefit from the proposal?				
This policy applies to all , including applicants applying for a job, staff including agency, bank and volunteers, services users and carers, visitors, stakeholders, and any other third-party organisations who work in partnership with the Trust				
Impacts on different Personal Protected Characteristics – Helpful Questions:				
<i>Does this proposal promote equality of opportunity?</i>		<i>Promote good community relations?</i>		
<i>Eliminate discrimination?</i>		<i>Promote positive attitudes towards disabled people?</i>		
<i>Eliminate harassment?</i>		<i>Consider more favourable treatment of disabled people?</i>		
<i>Eliminate victimisation?</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			√	As part of the Equality Act – Age is a protected characteristic, this is not monitored in terms of EDI, however, is collated through our recruitment process, dependent on individual being open about their

				age. It is anticipated that age will not have a negative impact in terms of discrimination as this policy ensures that all employees should be treated in a fair, reasonable and consistent manner irrespective of their age.
<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			√	<p>WDES Data is showing 4.7% colleagues across our Trust have long-term condition or illness. Currently we have the Disability and Neuro Diversity Staff Network Group who currently support staff with disability. We also support staff with Reasonable adjustment with the Government 'Access to Work' Grant. Therefore, it is anticipated that disability will not have a negative impact in terms of discrimination as this policy ensures that all employees should be treated in a fair, reasonable and consistent manner irrespective of their disability. This is dependent on the individual feel comfortable about being open about their disability especially where this may be a hidden disability or mental health issues. The current WDES is showing the Trust is ranked in the top 10% nationally in Recruitment and Reporting of harassment, bullying and abuse.</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			√	<p>Currently gender is collated and there is a disparity around gender pay gap overall with an increase from 6.99% to 11.17%. It is anticipated that gender will not have a negative impact in terms of discrimination as this policy ensures that all employees should be treated in a fair, reasonable and consistent manner irrespective of</p>

				their gender identity. The Trust has now set up a Women's Network who will be meeting on a monthly basis
<p>This can include male and female or someone who has completed the gender reassignment process from one sex to another</p> <p>Do you have flexible working arrangements for either sex?</p> <p>Is it easier for either men or women to access your service and proposal?</p>				
Marriage or Civil Partnerships			√	Although this is a protected characteristic, this is not recorded. It is anticipated that marriage or civil partnership will not have a negative impact in terms of discrimination as this policy ensures that all employees should be treated in a fair, reasonable and consistent manner irrespective of their marriage or civil partnership. This is dependent on staff feeling comfortable about being open about their Marriage or Civil Partnership
<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			√	Although this is a protected characteristic, this is not recorded. It is anticipated that pregnancy and maternity will not have a negative impact in terms of discrimination as this policy ensures that all employees should be treated in a fair, reasonable and consistent manner irrespective of this. However, the Trust will provide necessary support and reasonable adjustment for an employee who is pregnant or on maternity, paternity or adoption leave and this may be pausing the procedure for a temporary time. This is dependent on staff feeling comfortable about being open about their or their partners pregnancy, including miscarriage. We also have started the Women's Network where these matters can be discussed and shared there.
<p>This includes having a baby and just after having a baby. This also includes miscarriage, still birth and neo natal deaths and this effects men as well as women.</p>				

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			√	Our WRES Data is showing our black and minority ethnic workforce representation is 37% and in 2021 we showed a small increase on the 35% reported in 2020 (+ive). There are current workstreams underway highlighting the disparities and the EDI teams are working with specific areas. A new Anti Racist policy will be created and be aligned to the EDI policy as the Trust is working towards a Anti Racist organisation. It is anticipated that Race or Ethnicity will not have an negative impact in terms of discrimination as this policy ensures that all employees should be treated in a fair, reasonable and consistent manner irrespective of this. This is also dependent on staff feeling comfortable about being open about their heritage or refugee status
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 to find out about your service or access your proposal?				
Religion or Belief			√	Although this is a protected characteristic, we have some recorded data and this is subject to staff completing this. The Trust will provide necessary support and reasonable adjustment for an employee and we also have the Spiritual Care Team. It is anticipated that religion or belief will not have a negative impact in terms of discrimination as this policy ensures that all employees should be treated in a fair, reasonable and consistent manner irrespective of this. This is also dependent on staff feeling comfortable about being open about their 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? Are there any barriers to people of religion or belief to finding out about your service or access your proposal?				
Sexual Orientation			√	Although this is a protected characteristic we have some recorded data and this is subject to staff completing this. We currently have LGBTQ Staff Network who meet regularly where information is shared. It is anticipated that sexual orientation will not have a negative impact in terms of discrimination as this policy ensures that all employees should be treated in a fair, reasonable and consistent manner irrespective of this
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? Do 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			√	Although this is a protected characteristic, this is not recorded. It is anticipated that Transgender or Gender Reassignment will not have a negative impact in terms of discrimination as this policy ensures that all employees should be treated in a fair, reasonable and consistent manner irrespective of this. This is also dependent on staff feeling comfortable about being open about being Transgender or undergoing Gender Reassignment. There is also a Trans and Non Binary Policy to support this.
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			√	This policy is written to promote equality and remove any discrimination to ensure that everyone can fulfil their full potential within a Trust that is inclusive, compassionate, and committed. This is keeping in line with our Trust values, the NHS People's Plan commitment to equality, diversity and inclusion and reflects the provisions of the Equality Act 2010.

				This policy applies to all , including applicants applying for a job, staff including agency, bank and volunteers, services users and carers, visitors, stakeholders, an any other third-party organisations who work in partnership with the Trust
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?				
EDI Leads will work with the organisation to reduce impact of any detriment experienced by reports of concerns				
How will any impact or planned actions be monitored and reviewed?				

Feedback from reporters of concerns, escalating concerns through governance routes.

Regular audits and policy updates, communication to managers through Operational Meetings

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.

EDI Communications plan and trust wide promotion in ways accessible to ALL staff without the reliance upon electronic communications

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 bsmhft.hr@nhs.net . 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

