

## Equality, Diversity and Inclusion Policy (HR-026)

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*Policies should be accessed via the Trust intranet to ensure the current version is used*

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## 1. INTRODUCTION

Humber Teaching NHS Foundation Trust is committed to fostering an inclusive and supportive culture. It is within our best interest to promote diversity and eliminate discrimination in the workplace and the Trust recognises that good employment practice is the key to ensuring the Trust meets its legal obligations under the Public Sector Equality Duty, as outlined in the Equality Act 2010.

The Trust is committed to eliminating individual and institutional discrimination, harassment and victimisation across all protected characteristics set out in the Equality Act 2010 which are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex, sexual orientation. However, the Trust recognises the terms gender reassignment and sexual orientation doesn't cover gender expression, protected individuals who may express their gender in a way that doesn't always conform with societal expectations and subsequently the Trust reiterates its commitment to being an organisation that will not discriminate and will pro-actively make the work environment more welcoming for gender-nonconforming, questioning, non-binary, and transgender colleagues.

The aim is for our workforce to be truly representative of all sections of society and our service users, and for each employee to feel respected and able to give their best.

The Trust, in providing services, is also committed to protect against unlawful discrimination of service users or the public.

This policy supports the compliance with the Care Quality Commission Regulation 10:

Dignity and respect which is concerned with ensuring every individual coming into contact with the service is treated with dignity and respect.

## 2. SCOPE

This policy applies to all employees directly employed by the Trust and casual staff, contract workers and volunteers, irrespective of age, race, colour, religion/belief, disability, nationality, ethnic origin, sex, gender, sexual orientation or marital status, domestic circumstances, social and employment status, HIV status, gender reassignment, gender identity, gender expression, political affiliation or trade union membership.

The aim is to implement a fair and consistent approach across all staff groups.

## 3. POLICY STATEMENT

As part of this policy, we reiterate our commitment to providing equal employment opportunities to all and to not discriminate against anyone based on their age, disability, gender reassignment, gender identity, gender expression, marriage, civil partnership, pregnancy, maternity, race, ethnicity, colour, nationality, religion or belief, or sexual orientation. We are opposed to all forms of unlawful and unfair discrimination.

The policy's purpose is to:

- provide equality, fairness and respect for all in our employment, whether temporary, part-time or full-time
- not unlawfully discriminate because of the Equality Act 2010 protected characteristics of age, disability, sex, gender reassignment, gender identity, gender expression, marriage and civil partnership, pregnancy and maternity, race (including colour, nationality, and ethnic or national origin), religion or belief, and sexual orientation.

- oppose and avoid all forms of unlawful discrimination. This includes in pay and benefits, terms and conditions of employment, dealing with grievances and discipline, dismissal, redundancy, leave for parents, requests for flexible working, and selection for employment, promotion, training or other developmental opportunities.

#### 4. PUBLIC SECTOR EQUALITY DUTY

Equality, Diversity, and Inclusion is not just about compliance with legislation, it's about leading change, improvement initiatives, engaging, motivating and improving the potential of all staff. The Public Sector Equality Duty (PSED) brings this into law for all public bodies in the United Kingdom.

The Public Sector Equality Duty requires public bodies and others carrying out public functions to have due regard to the need to eliminate discrimination, to advance equality of opportunities and foster good relations. The duty applies to all nine areas of discrimination listed in the Equality Act 2010.

Through the Public Sector Equality Duty, the Trust commits to:

- encourage equality, diversity and inclusion in the workplace as they are good practice and make business sense.
- create a working environment free of bullying, harassment, victimisation and unlawful discrimination, promoting dignity and respect for all, and where individual differences and the contributions of all staff are recognised and valued.
- this commitment includes training managers and all other employees about their rights and responsibilities under the equality policy. Responsibilities include staff conducting themselves to help the organisation provide equal opportunities in employment, and prevent bullying, harassment, victimisation and unlawful discrimination.
- all staff should understand they, as well as their employer, can be held liable for acts of bullying, harassment, victimisation and unlawful discrimination, in the course of their employment, against fellow employees, customers, suppliers and the public.
- take seriously complaints of bullying, harassment, victimisation and unlawful discrimination by fellow employees, customers, suppliers, visitors, the public and any others in the course of the organisation's work activities.

Such acts will be dealt with as misconduct under the organisation's grievance and/or disciplinary procedures, and any appropriate action will be taken. Particularly serious complaints could amount to gross misconduct and lead to dismissal without notice.

Further, sexual harassment may amount to both an employment rights matter and a criminal matter, such as in sexual assault allegations. In addition, harassment under the Protection from Harassment Act 1997 – which is not limited to circumstances where harassment relates to a protected characteristic – is a criminal offence.

Through its work to meet the Equality Act 2010 the Trust commits to:

- make opportunities for training, development and progress available to all staff, who will be helped and encouraged to develop their full potential, so their talents and resources can be fully utilised to maximise the efficiency of the organisation.
- decisions concerning staff being based on merit (apart from in any necessary and limited exemptions and exceptions allowed under the Equality Act).
- review employment practices and procedures when necessary to ensure fairness, and also update them and the policy to take account of changes in the law.
- monitor the make-up of the workforce regarding information such as age, sex, ethnic background, sexual orientation, religion or belief, and disability in encouraging equality and diversity, and in meeting the aims and commitments set out in the equality policy.
- monitoring will also include assessing how the equality policy, and any supporting action

plan, are working in practice, reviewing them annually, and considering and taking action to address any issues.

- Seek advice from occupational health to ensure individuals with health-related disabilities are supported adequately through the consideration and implementation of adjustments so far as is as reasonably practicable.

## 5. DUTIES AND RESPONSIBILITIES

The following are overarching responsibilities for this policy. Additional responsibilities unique to each leave type are named within each section.

### **Chief Executive**

The Chief Executive is ultimately responsible for the content of all policies and their implementation.

### **Executive Directors**

To ensure that this policy is acted on through policy dissemination and implementation in collaboration with senior managers.

### **Legal Liability**

The equality policy is fully supported by senior management and has been agreed with trade unions and/or employee representatives. The Trust as an employer may be liable for any act of unlawful discrimination committed by its staff during the course of their employment, unless it can be proved that all reasonable and practicable steps had been taken to prevent such an act from occurring. The Trust has a primary legal and moral responsibility for ensuring that discrimination does not occur.

Individual members of staff can be held personally liable for acts of unlawful discrimination.

### **Senior Leaders and Clinicians**

To ensure that this policy is acted on through delegation of responsibility for the development and implementation of the policy and that it complies with UK law requirements.

Ensure all staff within their area of responsibility are informed about the contents of this and other associated policies and procedures and apply this policy and procedure in a fair and equitable manner.

Consult with the relevant Workforce and OD contact for advice and assistance prior to taking any formal action.

Develop a culture where employees are supported and assisted to understand, achieve and maintain the required standards of conduct.

To record details of all meetings with the employee under this procedure and to keep a copy of such notes.

Where the matter concerns a safeguarding issue, to ensure that the safeguarding team and/or the Local Authority Designated Officer (LADO) are aware.

### **Managers**

It is the responsibility of all managers to ensure this policy is fairly and consistently applied by and to all of the staff they manage. All managers should ensure that:

- All staff are made aware of the contents and the importance of observing the principles of Equality and Diversity.
- All practices and policies address any unfair practices of which they are aware, whether or not a complaint has been made.
- Any allegations of discriminatory behaviour or practices are properly investigated, all

- relevant documentation retained, and disciplinary action taken (where appropriate).
- They are positive role models for their staff.
- They address any discriminatory practices or behaviours from service users and ensure that staff are supported appropriately.
- Ensure staff have valid and up to date Equality and Diversity training.
- Staff with health-related disabilities are referred to occupational health to ensure appropriate support is implemented.

### **Individual Responsibility**

All employees will comply with this and any other associated policies and procedures. They will co-operate with investigations, attend meetings, interviews and hearings convened in accordance with this policy and its associated procedure. Individuals in particular will ensure that:

- They maintain professional behaviour and good management practices at all times, as the reputation of the organisation within the community relies on this. Professional attitudes and good conduct and behaviour are crucial to equality in the delivery of services and the carrying out of its functions.
- They take responsibility to ensure that they do not discriminate, harass or bully anyone and promote a climate free from unacceptable behaviour. Each individual must ensure that their own conduct, and that of their colleagues, does not cause offence. Staff are encouraged to challenge and discourage offending behaviour and support colleagues who are experiencing harassment, discrimination or bullying.
- They co-operate and adhere to measures introduced by the organisation to ensure equality of opportunity and non-discrimination in employment and service delivery.
- They do not discriminate, when they are involved in recruitment and selection decisions, promotion, transfer or training.
- They do not induce or attempt to induce other members of staff, union members or management to practice unlawful discrimination, harassment or bullying, when delivering a service.
- They do not victimise or attempt to victimise any individual on the grounds that they have made a complaint/grievance or assisted someone who has.
- They do not harass, abuse, intimidate or bully other members of staff or the public.
- They inform their managers, if they suspect that discrimination, harassment, bullying, abuse, victimisation or offensive banter has taken place.
- They follow both the Trust Grievance Policy and Bullying and Harassment Policy in situations where they have experienced discrimination, bullying or harassment.

The Trust is committed to fostering a culture where staff can approach their manager or supervisor and raise a concern about their human rights. Whatever their concern, they have a right for it to be considered and discussed and resolved where possible. Staff are signposted to the Trusts bullying and harassment policy, for examples of what inappropriate behaviour might look like based on protected characteristics.

### **Workforce and OD**

W&OD are the point of contact for employees and managers if they have concern over the delivery and implementation of this policy:

- Provide advice and guidance to managers and staff on the implementation of this policy.
- To ensure the policy and associated procedures are monitored and reviewed in accordance with Trust governance arrangements.

They also have responsibility for ensuring that the duty to promote is observed and the general and specific duties of equality legislation are observed.

### **Trade Union Representatives**

The standards required from employees will apply to Trade Union Representatives.

## **6. IMPLEMENTATION**

This policy and procedure will be disseminated by the method described in the Policy and Document Control Policy.

To achieve implementation of this policy, Humber Teaching NHS Foundation Trust will:

- Undertake equality monitoring for starters, leavers, and casework.
- Create an environment through which individual differences and contribution of all staff are recognised and valued.
- Create a working environment within which staff respect and value each other developing positive working relations.
- Assess the impact of current and proposed policies, practices and services using Equality Impact Assessments.
- Ensure staff receive effective equality and diversity training at regular intervals.
- Ensure discrimination is eliminated in pre-employment recruitment and all other employment practices through effective monitoring and training.
- Set equality objectives annually and outline action required to achieve these objectives.
- Publish an annual equality report.

## **7. MONITORING AND AUDIT**

This explains how the policy is to be monitored or audited, and who is responsible for carrying this out, when and how often.

- The policy will be monitored through the EDI Steering Group and staff networks.
- Annual objectives will be set, and an annual report will be produced for the Board.
- The Equality, Diversity and Inclusion Partner will be responsible for developing and monitoring the policy, the Workforce Race Equality Standard (WRES), the Workforce Disability Equality Standard (WDES), the Trust Gender Pay Gap Report and the Equality Delivery System.

## **8. REVIEW AND REVISION**

This policy will be reviewed every three years, however there may be some review and revision as and when needed to accommodate changes to tribunal decisions and legislation. These reviews and revisions will be in consultation with the Trust's recognised Trade Unions.

## **9. EQUALITY IMPACT ASSESSMENT**

An Equality and Diversity Impact Assessment has been carried out on this document using the Trust-approved EIA (Appendix 3).

This policy is regarded as equitable to all and as a result of its implementation no individual will suffer any form of discrimination, inequality, victimisation, harassment or bullying.

## **10. REFERENCES/EVIDENCE/GLOSSARY/DEFINITIONS**

Equality Act 2010 – See Appendix 1: Delivering Equality and Diversity: ACAS.

## **11. RELEVANT TRUST POLICIES/PROCEDURES/PROTOCOLS/GUIDELINES**

Grievance Policy and Procedure;  
Bullying & Harassment Policy;  
Transitioning at Work Policy;  
Maternity, Paternity and Adoption Policy;  
Annual Equality,  
Diversity and Inclusion Report;  
Gender Pay Gap Report and Action Plan;  
Workforce Race Equality Standard Action Plan;  
Workforce Disability Equality Standard Action Plan;  
Equality Delivery System 2 Action Plan.



## APPENDIX 1: SUPPORT WITH TRANSITIONING AT WORK

### INTRODUCTION

The Trust is committed to equality of opportunity for a transgender (trans) person throughout recruitment and employment, including supporting trans employees through any transitioning process. The Trust will not tolerate discrimination, victimisation or harassment on the basis of a person's gender identity, gender expression or trans status. The Trust seeks to provide a supportive environment for gender-nonconforming, questioning, non-binary, and transgender colleagues, and to create a culture and environment where trans staff are able to thrive and are well supported during any process of transition.

The purpose of this guidance is to assist managers and trans employees in the Trust with practical information on workplace support.

### SCOPE

'Trans' or 'transgender' describes people whose gender identity differs from their sex (gender) assigned at birth. They are umbrella terms covering people who:

- identify as having a gender different from that which they were assigned at birth and are planning or have had medical interventions such as hormones or surgery;
- identify as having a gender different from that which they were assigned at birth, but who are not planning any medical intervention; and/or;
- are intending to transition, are currently transitioning, or have transitioned at any stage;
- are non-binary – that is, they are not solely (identify as) male or female. They may define themselves as both, neither or something entirely different. They may or not have medical interventions to align their body with their non-binary gender identity.

These are not mutually exclusive alternatives, 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. Transitioning also might involve things such as telling friends and family, dressing differently, and changing official documents.

Humber Teaching NHS Foundation Trust acknowledges that transitioning is an individual process and is committed to supporting each person in their decisions.

### EMPLOYEES WHO ARE TRANSITIONING AT WORK

If a staff member states that they are intending to transition at work, their line manager, in conjunction with other appropriate colleagues, should aim to make this process as smooth as possible. Managers should be aware that it can be an extremely difficult step for someone to approach their manager about transitioning. They are likely to worry about the response.

Humber Teaching NHS Foundation Trust is committed to reassuring all staff members that they will be supported and respected. The transition process will provide the person full control of the process to ensure they are fully comfortable at each stage and are fully aware what will happen and when.

#### Telling colleagues

The manager and member of staff will discuss their preferences in relation to informing others, including other managers, colleagues, service users and other relevant contacts. They will agree whether the person will do this, whether they would prefer the manager or a work colleague to do

this, or a mixture of these options. They will also get express written agreement from the person about when and how this will happen, including the details of the message and who it will be shared with. Levels of disclosure may vary in detail for different types of contacts and will be agreed in advance.

### **Uniforms and dress codes**

If a uniform is in place for the role, managers will ensure that the trans employee has access to the uniform that is most appropriate at all times. Managers will be flexible and will support the preferences of the trans person wherever possible. Trans staff members have the right to comply with any dress codes in a way that reflects their gender identity and gender expression as do non-binary staff.

### **Changing facilities, toilets and other single gendered facilities**

Trans people are entitled to use facilities in accordance with their identified gender. For non-binary people, this might mean using gender-neutral or accessible facilities or using a combination of different facilities. However, a trans person will never be required to use accessible toilets unless they wish to do so.

### **Updating records**

Electronic records will be updated, to coincide with the date on which the workplace transition begins. Care will be taken to ensure that records do not link back to the former name – this may entail creating a whole new email address rather than simply changing the name on the existing one, for instance. The manager and employee will work together to ensure that nothing is missed.

New security passes with the correct name and a new photograph will be issued, without any replacement cost to the trans employee.

Paper records will be updated where possible. Those which cannot be updated – for instance, paper copies of references relating to the employee's recruitment – will be stored in a secure place, and clearly marked as only to be looked at by named persons.

### **Customer facing roles**

There is no reason why an employee who is transitioning should not continue in a customer facing role. However, some staff members might prefer a period of redeployment during transition, or as a permanent change. Managers and Workforce and OD will work with the trans person to find a solution that meets the needs of the person and meets the operational requirements of the service.

### **Attendance at appointments and time needed for treatment and surgery**

Paid special leave will be given in order for the transitioning person to attend related appointments. These absences will not be counted in relation to absence monitoring, included in absences for references, taken into consideration for performance monitoring or, for instance, during redundancy procedures.

Appointments may require some long-distance travel or be given at short notice. Reduced hours or duties, or other changes to usual working arrangements, for a temporary period following some treatments can be negotiated. Managers will be as flexible as possible to accommodate this.

### **Action plan or check list**

The trans person and their manager might find it helpful to put in place an action plan, or to agree a check list to clarify the actions that will be taken over the course of the employee's transition, dates by which these will be done, and the person who will take responsibility. Please see appendix 2 for an example, which can be modified to suit the individual's needs.

### **Discrimination and abuse**

Humber Teaching NHS Foundation Trust has a zero-tolerance approach towards discrimination and harassment based on gender identity, gender expression or gender history.

Persistent misuse or refusal to use correct names and pronouns may legally constitute harassment, discrimination, bullying or victimisation. Discrimination including harassment, third party harassment and victimisation are covered by the Equality Act 2010. Managers are responsible for taking timely action where misconduct occurs on the grounds of an employee's gender identity, in line with the harassment policy. This will be monitored and followed up.

### **Support available**

Counselling and support are available from our Occupational Health team, who are based at Skidby House, Willerby Hill and can be contacted on Tel: 01482 389335/01482 389333.

### **Privacy**

- Employees have a right to decide whether and when to disclose and discuss their gender and identity.
- Management, Workforce & OD, and other colleagues should not disclose or discuss an employee's transgender status without obtaining prior consent.
- Disclosing an employee's transgender status can constitute a violation of this policy.

### **Legal protection for trans people**

#### **Gender recognition act 2004**

The UK Gender Recognition Act 2004 (GRA) enables people aged over eighteen to gain full legal recognition for the gender in which they live. Applications are considered by the Gender Recognition Panel. Once a person receives a Gender Recognition Certificate (GRC), they are legally of that gender for every purpose and have all the rights and responsibilities associated with that gender.

Employment rights do not depend on whether a person has a Gender Recognition Certificate. Employers should not ask for a person's GRC and it should never be a precondition for transitioning at work. To make an application for a GRC, a person needs to show they have been living – and working - in that gender for at least two years. So being asked to show a GRC as a condition of changing employment details is like being asked to show a full driving licence before you can apply for a provisional one.

The GRA 2004 gives anyone applying for or holding a Gender Recognition Certificate particular privacy rights. It is a criminal offence to pass on information acquired 'in the course of official duties' about someone's gender recognition, without the consent of the individual affected. 'Official duties' include employment, trade union representation or supply of business or professional services.

It should be noted that most documents can be changed without a GRC (for example bank accounts, driving license and passport) and that not all trans people are able to apply for a GRC (for example non-binary people, trans people who haven't had any transition related medical treatment or trans people without the necessary documentation).

#### **Equality Act 2010**

The Equality Act 2010 (England, Scotland and Wales) protects against discrimination because of gender reassignment in employment and service delivery. It bans direct and indirect discrimination and victimisation.

The Act makes clear that it is not necessary for people to have any medical diagnosis or treatment to gain this protection; it is a personal process of moving away from the gender assigned at birth to their identified gender.

People discriminated against because they are wrongly perceived to be a trans person, or who are discriminated against because of their association with trans people or issues, are also protected.

### **Genuine occupational requirements**

In most cases, the gender of a worker is of no relevance to their ability to do a particular job. However, the Equality Act 2010 does allow for an exception where being of a particular gender is an 'occupational requirement' of that post. If this is the case for an employee transitioning at work, they will be redeployed into a suitable position.

### **Recruitment**

A person who has already transitioned has no obligation to disclose their gender history. Job applicants and interviewees will not be asked their gender identity during the recruitment process – it is not a relevant criterion in selection. Neither is there any obligation for a transgender person to disclose this as a condition of employment. If they choose to disclose, or there is subsequent disclosure, it is not grounds for dismissal. Appointing officers who become aware that an applicant is trans will maintain full confidentiality in relation to this.

### **References**

Where a reference request is received for an existing employee who has transitioned, The Trust will respect the employee's privacy and only respond using the employee's correct name and gender in the reference.

Disclosure on sickness absence will not include time taken off for medical appointments related to transition. This information is strictly confidential, and managers must be very careful of any record keeping in this.

When the Trust requests a reference, we will make the request using the prospective employee's correct name and gender since transitioning. We will not mention previous names or gender identity, unless specifically asked to do so (in writing) by the trans person.

### **Criminal record checks/disclosure and barring**

If the appointment requires criminal record checks, the Trust will offer assurances that we will confidentially apply for it in any previous name/s?

### **Qualification certificates**

The Trust recognises that it can be difficult and expensive for a trans person to change their qualification certificates. If these are in a former name then where possible a record will be made that the certification has been seen, but a copy will not be taken. If it is absolutely necessary for the Trust to store a copy, they will be stored securely and only accessed by named persons.

### **Professional registration**

If the employee's job involves professional registration, we will check whether the registration body has a specific, confidential process for gender transition.

### **Pensions and national insurance**

Where pensions, national insurance contributions or other benefits are dependent on legal gender, the employee should seek advice of the different implications of whether they do or do not have a Gender Recognition Certificate.

### **Roles and responsibilities**

#### **Employee**

- Engaging with managers and Workforce and OD around the logistics of transitioning in the workplace.
- Reporting any instances of harassment, victimisation or discrimination.

#### **Manager**

- Ensuring that colleagues are informed about the employee's transition in a manner that best suits the employee.

- Maintaining confidentiality at all times.
- Thoroughly investigating any instances of harassment, victimisation or discrimination.
- Supporting the employee in any way that is necessary and appropriate, including:
  - Employees should be classified according to their lived gender, not assigned sex at birth.
  - Do not make assumptions about whether a transgender employee would be comfortable or uncomfortable attending and reporting on an event or community that separates groups by gender. Consult the employee.

### **Workforce and OD**

- Ensuring that this policy is followed at all times .
- Maintaining confidentiality, including securing paper documents and files

### **IT Department / Support Services**

- Changing names, titles and pronouns on email and other systems.
- Issuing updated security passes and ID badges.

### **Learning and development**

- Providing trans equality training as a general part of the equality and diversity training programme.

### **Trade unions**

- Supporting the employee if they experience harassment, victimisation or discrimination.
- Discussing and agreeing any changes to this policy.

### **Support for employees with a family member who is transitioning**

If an employee is supporting a family member who is transitioning, they may need to take time off to attend appointments and treatment or give assistance following surgical procedures. Some of these may be at short notice and may involve travelling a long distance. Managers will be as flexible as possible to accommodate this.

### **Promotion of trans equality**

As well as ensuring that trans staff members are fully supported, the Trust will demonstrate our commitment to trans equality in the following ways:

- Ensuring that all training courses that are delivered are fully inclusive of trans people – this includes both face-to-face training and e-learning.
- Marking important dates for the trans community, such as Trans Day of Visibility (31<sup>st</sup> March) and Transgender Day of Remembrance (20<sup>th</sup> November).
- Including trans people in publicity and marketing materials.
- Ensuring that all forms and surveys are inclusive of trans people, including non-binary people for both staff and service users.
- Including trans equality as a core part of the organisation's equality agenda and objectives.
- Investigating fully all complaints of harassment, victimisation or discrimination on the grounds of gender identity, gender history, trans status or gender expression.
- Monitoring the implementation of this policy.

### **Workplace education**

- The Trust will provide and encourage consistent workplace education on transgender issues, regardless of whether a workplace contains any out transgender employees. This will improve coverage of transgender issues as well as foster an environment where transgender employees feel safe.
- Whenever possible, this education should come from professional organisations that provide in-person, or virtual workplace training. Mandatory online programs are also acceptable if bringing in trained professionals is not feasible.

- If necessary, additional education should be provided when transgender employees enter the workplace. However, general education already provided to employees should cover any topics that would become relevant upon an out transgender employee entering the workplace.
- LGBTQ and other underrepresented employees should not be asked to provide workplace education to their co-worker's.

## Glossary of terms

**Gender identity:** a person's deeply felt internal and individual experience of gender, which may or may not correspond to the sex assigned to them at birth.

**Gender expression:** a person's external gender-related behaviour and appearance, including clothing.

**Transgender or trans person:** a person whose gender identity does not conform to the gender they were assigned at birth and people who have a more complex sense of their own gender than either 100% female or 100% male.

**Gender binary:** the classification of sex and gender into two distinct and disconnected forms of masculine and feminine.

**Gender variance:** gender expression that does not match society's norms of female and male.

**Nonbinary person:** a person who does not identify as solely male or female. They may identify as both, neither or something entirely different.

**Gender fluid:** having a gender identity which varies over time.

**Transsexual person:** legal/medical term for someone who lives (or wishes to live) permanently in the 'opposite' gender to that assigned at birth, however the term can be considered offensive and its use is discouraged.

**Gender dysphoria:** medical term for deep-rooted and serious **discomfort or distress because of a mismatch between a person's biological sex and gender identity**; overwhelming desire to live in a different gender to that assigned at birth.

**Gender reassignment:** the process of transitioning from the gender assigned at birth to the correct gender. This may (or may not) involve medical and surgical procedures.

**Legal sex:** The sex recorded on your birth certificate. Rarely relevant at work. Currently binary in the UK. Changed by applying to Gender Recognition Panel.

**Gender Recognition Certificate:** issued by the Gender Recognition Panel – signifies full legal rights in acquired gender and allows the issuing of a replacement birth certificate.

Not all trans people will apply for a GRC and you currently have to be over 18 to apply.

You do not need a GRC to change your gender markers at work or to legally change your gender on other documents such as your passport.



## Action plan (who needs to know?)

Name:			
Comments: (e.g. what do you want the process look like, what are your expectations etc.)			
Are there any temporary or permanent changes / reasonable adjustments to the role which should be considered to support the employee? Considerations should include security aspects such as lone working, night working.			
Is any time off required? If so, how will this be managed? Consider flexible working methods, if appropriate)			
What will the employee's title and name be? What pronouns will be used? When will they start using these? Will there be any phasing?			
Are there any dress codes to be considered? Are new uniforms needed?			
If applicable, how will single gendered working requirements be managed?			
When and how should colleagues be informed of the transition?			
Is there any guidance material which the employee wishes to share with managers and colleagues?			
Should the employee encounter unacceptable behaviour towards them (colleagues or service users) who should this be reported to?			
Are there any other actions not covered by above?			
Is there an agreed date for when this action plan will be disposed of in accordance with the requirements of the Data Protection Act 1998?			
Actions agreed			
Date of next meeting			
	Who will tell them?	When?	Date completed
Senior Manager			
Workforce and OD Representative			
Line manager			
Team members			
Other colleagues			
Others (specify)			

### Changes to records

	Who will do this?	When?	Date completed
ESR Records			
Name badge			
IT systems including email			
Website			
Voicemail			
Internet/intranet address entry			
Union membership			
Pension scheme			
Certificates/awards			
Personal file and related data			
Other:			

### Details of meetings

Date	Comments	Actions	Date of next meeting



## Appendix 2: Equality Act 2010

The Equality Act 2010 came into force on 1st October 2010 and was introduced to bring together a complex set of overlapping legislation into one simplified and harmonious Act. This new Act brought together previous legislation including the Equal Pay Act 1970, the Sex Discrimination Act 1975, the Race Relations Act 1976, the Disability Discrimination Act 1995 and additional delegated legislation which prevented discrimination in employment on the basis of religion, belief, sexual orientation and age. Additionally, this also brought about the introduction of the new Public Sector Equality Duty for all Public Authorities.

The Public Sector Equality Duty applies to all public organisations and includes any non-public organisations that carry out public functions. The aim of the Public Sector Equality Duty is to embed equality considerations into the day to day work of public authorities, so that they tackle discrimination and inequality and contribute to making society fairer.

The Public Sector Equality Duty consists of a general duty, (set out in section 149 of the Equality Act 2010); and specific duties (set out in secondary legislation to accompany the Equality Act 2010). The specific duties are designed to help public bodies meet the general duty.

The aim of the general duty is to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

### Protected Characteristics

**Age** – where the Act refers to the protected characteristic of age, it means a person belonging to a particular age or age group. An age group includes people of the same age and people of a particular range of ages. Where people fall in the same age group, they share the protected characteristic of age.

**Disability** – a person has a disability if the person has a physical or mental impairment, and the impairment has a substantial and long-term adverse effect on person's ability to carry out normal day-to-day activities.

**Gender reassignment** – another way of describing a person's transition. To undergo gender reassignment usually means to undergo, undergoing or having undergone a process to reassign your sex, which can be through changing names, pronouns, dressing differently, living in their self-identified gender, undergoing medical treatment or surgery

**Marriage and civil partnership** – people who have or share the common characteristics of being married or of being a civil partner can be described as being in a marriage or civil partnership. A married couple in a civil partnership both share the protected characteristic of marriage and civil partnership, regardless of the gender of an individual or their partner/spouse. People who are not married or civil partners do not have this characteristic.

**Pregnancy and maternity** – relates to a pregnant person or within their allocated maternity period. People who are not pregnant nor within their maternity period do not share this protected characteristic.

**Race** – for the purposes of the Act, 'race' includes colour, nationality and ethnic or national origins. People who have or share characteristics of colour, nationality or ethnic or national origins can be described as belonging to a particular racial group. A racial group can be made up of two or more different racial groups.

**Religion or belief** – the protected characteristic of religion or religious or philosophical belief, is also stated to include a lack of religion or belief. It is a broad definition in line with the freedom of thought, conscience and religion guaranteed by article 9 of the European Convention on Human Rights. For example, Baha'i faith, Buddhism, Christianity, Hinduism, Islam, Jainism, Judaism, Rastafarianism, Sikhism and Zoroastrianism are all religions for the purposes of this provision. Beliefs such as humanism and atheism would be beliefs for the purposes of this provision but adherence to a particular football team would not be.

**Sex (Gender)** – assigned to a person on the basis of primary sex characteristics (genitalia) and reproductive functions. Sometimes the terms 'sex' and 'gender' are interchanged to mean 'male' or 'female'.

**Sexual orientation** – the protected characteristic of sexual orientation relates to a person's sexual attraction to other people, or lack thereof. Along with romantic orientation, this forms a person's orientation identity. This could include a number of identities, such as gay and lesbian people, bisexual people, asexual or aromantic people, straight people and many other sexual orientations.

## APPENDIX 3: TYPES OF DISCRIMINATION COVERED UNDER EQUALITY ACT 2010

**Direct discrimination** – occurs when someone is treated less favourably than another person because of a protected characteristic they have or are perceived to have (see perceptive discrimination below), or because they associate with someone who has a protected characteristic.

**Associative discrimination** – this is direct discrimination against someone because they associate with another person who possesses a protected characteristic.

**Perceptive discrimination** – discrimination against an individual because it is believed that they possess a particular protected characteristic. It applies even if the person does not actually possess that characteristic.

**Indirect discrimination** – can occur when you have a condition, rule, policy or even a practice in your company that applies to everyone but particularly disadvantages people who share a protected characteristic. Indirect discrimination can be justified if you can show that you acted reasonably in managing your business, i.e. that it is 'a proportionate means of achieving a legitimate aim'. A legitimate aim might be any lawful decision you make in running your business or organisation, but if there is a discriminatory effect, the sole aim of reducing costs is likely to be unlawful. Being proportionate really means being fair and reasonable, including showing that you've looked at 'less discriminatory' alternatives to any decision you make.

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

Harassment applies to all protected characteristics except for pregnancy and maternity and marriage and civil partnership. Employees will now be able to complain of behaviour that they find offensive even if it is not directed at them, and the complainant need not possess the relevant characteristic themselves. Employees are also protected from harassment because of perception and association.

**Third party harassment** – the Equality Act makes you potentially liable for harassment of your employees by people (third parties) who are not employees of your company, such as customers or clients. You will only be liable when harassment has occurred on at least two previous occasions, you are aware that it has taken place, and have not taken reasonable steps to prevent it from happening again.

**Victimisation** – occurs when an employee is treated badly because they have made or supported a complaint or raised a grievance under the Equality Act; or because they are suspected of doing so. An employee who makes spurious or maliciously complaints will be dealt with through our disciplinary policy.

## APPENDIX 4: EQUALITY IMPACT ASSESSMENT (EIA)

### For strategies, policies, procedures, processes, guidelines, protocols, tenders, services

1. Document or Process or Service Name: EDI Policy
2. EIA Reviewer (name, job title, base and contact details) John Duncan, EDI Partner
3. Is it a **Policy**, Strategy, Procedure, Process, Tender, Service or Other? Policy

Main Aims of the Document, Process or Service		
<p>The Equality, Diversity &amp; Inclusion policy aims to provide diversity and equality to all in employment, irrespective of their gender, gender identity, gender expression, race, ethnic origin, disability, age, nationality, national origin, sexuality, religion, or belief, marital status, and social class. We oppose all forms of unlawful and unfair discrimination. Trans employees often face distinct challenges in the workplace. Developing a trans-inclusive environment will enable the Trusts trans employees to be themselves in the workplace and perform to the best of their ability. This policy also aims to support and foster improved trans inclusion across the Trust.</p>		
<p>Please indicate in the table that follows whether the document or process has the potential to impact adversely, intentionally or unwittingly on the equality target groups contained in the pro forma.</p>		
Equality Target Group	Is the document or process likely to have a potential or actual differential impact with regards to the equality target groups listed?	How have you arrived at the equality impact score?
Age Disability Sex Marriage/Civil Partnership Pregnancy/Maternity Race Religion/Belief Sexual Orientation Gender re-assignment	<p><b>Equality Impact Score</b>            Low = Little or No evidence or concern (Green) Medium = some evidence or concern (Amber) High = significant evidence or concern (Red)</p>	<ol style="list-style-type: none"> <li>1. who have you consulted with</li> <li>2. what have they said</li> <li>3. what information or data have you used</li> <li>4. where are the gaps in your analysis</li> <li>5. how will your document/process or service</li> </ol>

Equality Target Group	Definitions	Equality Impact Score	Evidence to support Equality Impact Score
<b>Age</b>	Including specific ages and age groups: Older people, Young people, Children, Early years	Low	Historically older colleagues have faced discrimination in the workplace through career development opportunities and flexible working, this policy looks to ensure an equitable approach to workplace decisions and there is no evidence that this equality group is negatively affected by the policy
<b>Disability</b>	Where the impairment has a substantial and long term adverse effect on the ability of the person to carry out their day to day activities:  Sensory, Physical, Learning, Mental Health (and including cancer, HIV, multiple sclerosis)	Low	Historically disabled colleagues have faced discrimination in the workplace through career development opportunities and flexible working, this policy looks to ensure an equitable approach to workplace decisions and here is no evidence that this equality group is negatively affected by the policy
<b>Sex</b>	Men/Male, Women/Female	Low	Women have historically faced equal pay discrimination in the workplace, and through the Trusts commitment to gender pay gap reporting it will ensure fairness with regard to pay and there is no evidence that this equality group is negatively affected by the policy
<b>Married/Civil Partnership</b>		Low	There is no evidence that this equality group is negatively affected by the policy
<b>Pregnancy/ Maternity</b>		Low	Historically those on maternity have faced discrimination in opportunities for learning and development as well as career progression, however, there is no evidence that this equality group is negatively affected by the policy
<b>Race</b>	Colour, Nationality, Ethnic/national origins	Low	People from diverse ethnic backgrounds have faced historical and systemic discrimination across society and this policy looks to address these issues to ensure a fair and equitable workplace, and there is no evidence that this equality group is negatively affected by the policy
<b>Religion or Belief</b>	All Religions Including lack of religion or belief and where belief includes any religious or philosophical belief	Low	The Trusts commitment to celebrate culturally diverse religious festivals such as Diwali, Hanukkah and Ramadan will help foster better understanding between colleagues and there is no evidence that this equality group is negatively affected by the policy
<b>Sexual Orientation</b>	A person's emotional, romantic and/or sexual attraction to another person e.g. Heterosexual, Lesbian, Gay, Bisexual, Asexual	Low	LGBTQ+ people have faced historical discrimination in society, and this policy is very clear in its support to the LGBTQ+ community, and goes beyond sexual orientation to include gender identity and gender expression as such there is no evidence that this equality group is negatively affected by the policy
<b>Gender</b>	Where people are proposing to undergo, or have undergone a	Low	Trans people have historically suffered discrimination in society and this policy contains a very clear section

<b>Re-assignment</b>	process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attribute of sex		supporting those staff who are transitioning at work, as well as inclusive practice to help make the work environment more welcoming for gender-nonconforming, questioning, non-binary, and transgender colleagues. There is no evidence that this equality group is negatively affected by the policy
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<b>Summary</b>	
<i>Please describe the main points/actions arising from your assessment that supports your decision above:</i>	
This policy clearly states how the Trust will create a fair and equitable workplace for all staff with protected characteristics and there is no evidence to suggest that any of the protected characteristic groups are negatively impacted	
<b>EIA Reviewer:</b>	John Duncan, Equality, Diversity & Inclusion Lead
<b>Date completed:</b>	November 2023
<b>Signature:</b>	J Duncan

## APPENDIX 5: DOCUMENT CONTROL SHEET

This document control sheet, when presented to an approving committee must be completed in full to provide assurance to the approving committee.

Document Type	Policy		
Document Purpose	To ensure equality of opportunity for all Trust staff and ensure we meet requirements of the Equality Act 2010 and Public Sector Equality Duty		
Consultation/ Peer Review:	Date:	Group / Individual	
<i>List in right hand columns consultation groups and dates</i>	TCNC	12.10.23	
	Workforce and OD	23.06.23	
	EDI Groups	08.06.23	
Approving Committee:	EMT	Date of Approval:	13 November 2023
Ratified at:	Board	Date of Ratification:	30 November 2023
Training Needs Analysis: <i>(please indicate training required and the timescale for providing assurance to the approving committee that this has been delivered)</i>		Financial Resource Impact	
Equality Impact Assessment undertaken?	Yes [ x ]	No [ ]	N/A [ ] Rationale:
Publication and Dissemination	Intranet [ x ]	Internet [ ]	Staff Email [ x ]
Master version held by:	Author [ ]	HealthAssure [ x ]	
Implementation:	<i>Describe implementation plans below - to be delivered by the Author:</i>		
	<ul style="list-style-type: none"> <li>Policy will be sent to all staff through the weekly global and held on the intranet for staff to access.</li> <li>Implemented through Equality, Diversity &amp; Inclusion Working Group</li> </ul>		
Monitoring and Compliance:	See section 7		

Document Change History:			
Version Number / Name of procedural document this supersedes	Type of Change i.e. Review / Legislation	Date	Details of Change and approving group or Executive Lead (if done outside of the formal revision process)
V2.0	First review	May 2011	Known as Equalities policy
V2.01	Review	July-2013	Reviewed with minor amends approved at Governance Committee
V3.0	Review	Jan-2016	Rewrite and update of policy with name changed to 'Equality and diversity Policy' Approved at TCNC 21 January 2016
V3.1	Review	Jan 2020	Reviewed and updated with minor amends – Approved at Workforce and OD Committee 22 January 2020 (Jan-23 expiry extended by 12 months to Dec-23 by director signoff)
V3.2	Review	Nov-23	Reviewed and updated with minor amends Approved at EMT 14 November 2023 and ratified at Trust Board 30 November 2023