

Our Ref: NG/RM/24157
Date: 2nd May 2024

Nicola Griffiths
Deputy Director of Governance
North Staffordshire Combined Healthcare NHS Trust
Lawton House
Bellringer Road
Trentham
ST4 8HH

Reception: 0300 123 1535

Dear

Freedom of Information Act Request

I am writing in response to your e-mail of the 26th April 2024. Your request has been processed using the Trust's procedures for the disclosure of information under the Freedom of Information Act (2000).

Requested information:

1. How many complaints of each of the following types of discrimination were reported to your organisation in 2021, 2022 and 2023:
 - a. Disability discrimination. **0**
 - b. Race or ethnicity discrimination. **0**
 - c. Sexual orientation discrimination. **0**
2. How many complaints were reported to your organisation about discrimination related to a person's HIV status in:
 - a. 2021. **0**
 - b. 2022. **0**
 - c. 2023. **0**
3. If HIV-related discrimination complaints were reported to your organisation, how many of the following incidents were reported?
 - a. Refusal of a service after HIV status was shared. **0**
 - b. Failure to make reasonable adjustments for a person's HIV status. **0**
 - c. Harassment related to a person's HIV status. **0**
 - d. Use of an organisational policy that discriminated against a person based on their HIV status. **0**
 - e. Another kind of HIV discrimination incident. **0**
4. If HIV-related discrimination complaints were reported to your organisation, were they reported by?
 - a. Members of the public. **None received.**
 - b. Employees of your organisation. **None received.**
5. If HIV-related discrimination complaints were reported to your organisation, how many complaints were upheld? **None received.**

6. Does your organisation have a policy to deal with incidents of HIV discrimination reported to them at a strategic level? If so, could you explain what the policy is or attach a copy of said policy?

Please see Appendix 1 attached.

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review of the management of your request. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to: Dr Buki Adeyemo, Chief Executive, North Staffordshire Combined Healthcare Trust, Trust Headquarters, Lawton House, Bellringer Road, Trentham, ST4 8HH. If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours sincerely



Nicola Griffiths
Deputy Director of Governance



Chair: Janet Dawson
Chief Executive: Dr Buki Adeyemo
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Document level:
Policy Ref No: 3.12
Issue number: x

Inclusion at Work

Lead executive	Chief People Officer
Authors details	Diversity & Inclusion Lead

Type of document	Policy
Target audience	All
Document purpose	Policy review / update

Approving meeting	PWG JNCC PCDC	Meeting date(s)	8 th August 2023 23 rd November 2023 4 th December 2023
Implementation date	Policy ongoing.	Review date	31 st January 2027

Trust documents to be read in conjunction with	
	Freedom to Speak Up Policy (Being Open)
	Bullying & Harassment at Work Policy
	Management of Change Policy
	Recruitment and Selection Policy
	Flexible Working and Employment Break Policy
	Disciplinary Policy
	Resolution and Grievance Policy
	Transgender Inclusion Policy

Document change history	Version	Date
What is different?	<ul style="list-style-type: none"> - Update of terminology throughout policy and note on language of inclusion (including removal of disused BAME acronym) – linking to new guidance to go on CAT - Include reference to Trust People Plan 2023-28, D&I statement, SPAR priorities and anti-racism statement. - Neurodiversity added. - 'must do's' updated re WRES, WDES, pay gaps etc. update wording re flexible working and home/remote working 	Aug-Oct 2023
Appendices / electronic forms	<ul style="list-style-type: none"> - Inclusion of Combined People Plan summary 2023-28 	
What is the impact of change?	<ul style="list-style-type: none"> - Bringing up to date the policy to current terminology and approaches 	

Training requirements	No changes to training requirements
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Document consultation	
Directorates	DABS Project Manager, Partnership Working Group. Inclusion Council, including staff network leads and staff side
Corporate services	As above
External agencies	None

Financial resource implications	N/A
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External references
1.

Monitoring compliance with the processes outlined within this document	Through annual diversity and inclusion reporting and review/scrutiny in appropriate Trust committees
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Equality Impact Assessment (EIA) - Initial assessment	Yes/No	Less favourable / More favourable / Mixed impact
Does this document affect one or more group(s) less or more favourably than another (see list)?		
– Age (e.g. consider impact on younger people/ older people)	y	Positive impact
– Disability (remember to consider physical, mental and sensory impairments)	y	Positive impact
– Sex/Gender (any particular M/F gender impact; also consider impact on those responsible for childcare)	y	Positive impact
– Gender identity and gender reassignment (i.e. impact on people who identify as trans, non-binary or gender fluid)	y	Positive impact
– Race / ethnicity / ethnic communities / cultural groups (include those with foreign language needs, including European countries, Roma/travelling communities)	y	Positive impact
– Pregnancy and maternity, including adoption (i.e. impact during pregnancy and the 12 months after; including for both heterosexual and same sex couples)	y	Positive impact
– Sexual Orientation (impact on people who identify as lesbian, gay or bi – whether stated as 'out' or not)	y	Positive impact
– Marriage and/or Civil Partnership (including heterosexual and same sex marriage)	y	Positive impact
– Religion and/or Belief (includes those with religion and /or belief and those with none)		Positive impact
– Other equality groups? (may include groups like those living in poverty, sex workers, asylum seekers, people with substance misuse issues, prison and (ex) offending population, Roma/travelling communities, and any other groups who may be disadvantaged in some way, who may or may not be part of the groups above equality groups)	y	

If you answered yes to any of the above, please provide details below, including evidence supporting differential experience or impact.
If you have identified potential negative impact: - Can this impact be avoided? Staff are required to complete mandatory education to ensure a safe service provision.

- What alternatives are there to achieving the document without the impact? Can the impact be reduced by taking different action?

This policy is expressly for the purpose of improving equality, diversity, inclusion and belonging in the workplace and is intended to have a positive impact on the experiences of individuals from across all the protected characteristics groups, other equality groups and all working for and on behalf of the Trust.

No negative impact envisaged.

There is a risk that staff may perceive positive action as inappropriate or unfair disadvantage e.g. to white staff. This perception needs to be actively managed through awareness raising and statement of the facts (such as utilising Trust and/or national WRES data or staff survey data in relation to the experience of minority/minoritized or frequently disadvantaged groups).

There is a risk that attempts to improve equity for one group may impact on equity for another group. Where this happens, the impact will be reviewed as it is not the intention of this policy for the inclusion rights and experiences of one group to diminish the inclusion rights and experiences of another group. One group's rights do not 'trump' those of another group.

Do any differences identified above amount to discrimination and the potential for adverse impact in this policy?	No / None
If YES could it still be justifiable e.g. on grounds of promoting equality of opportunity for one group? Or any other reason	n/a
Enter details here if applicable	
<ul style="list-style-type: none"> - Where an adverse, negative or potentially discriminatory impact on one or more equality groups has been identified above, a full EIA should be undertaken. Please refer this to the Diversity and Inclusion Lead, together with any suggestions as to the action required to avoid or reduce this impact. - Discussed the above with the Inclusion & Diversity Lead – adjustments offered and made ensured equality and inclusion. - For advice in relation to any aspect of completing the EIA assessment, please contact the Diversity and Inclusion Lead at Diversity@combined.nhs.uk 	
Was a full impact assessment required?	no
What is the level of impact?	Medium positive impact

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1 Policy Statement

- 1.1 This policy is intended to assist the Trust to put this commitment to outstanding inclusion into practice. Compliance with this policy is not only intended to ensure that workers do not commit unlawful acts of discrimination but, importantly, also to support the creation of a positive culture of inclusion and belonging, where civility, kindness and respect for individuals are the norm and where individuals, teams and the organisation can flourish.
- 1.2 This policy supports application of our Trust Proud to CARE Values (see below) which guide our actions and behaviour as an employer and provider of services, and as individual workers.

Our Trust Values:-

Compassionate	Caring with compassion, it's about how we, what we say and what we do
Approachable	Friendly, welcoming, sharing ideas and being open
Responsible	Taking personal and collective responsibility, being accountable for our actions
Excellent	Striving for the best, for high-quality safe care and continually improving

- 1.3 This policy also supports Our Combined People Plan 2023-2028 (see Appendix 1).
- 1.4 The Trust will not tolerate any form of racist, cultural, religious, sexist, misogynistic, ableist, biphobic, homophobic and/or transphobic discrimination, bullying and/or harassment in any of our services, whether from service users and patients, members of the public, or those working on behalf of the Trust. Action will **always** be taken where this occurs. Personal beliefs will not be a defence for non-inclusive language and behaviours, and one protected characteristic(s) does not supersede another person's right to inclusive treatment. Acts of discrimination, harassment, bullying, victimisation or abuse are disciplinary offences and will be dealt with under the Trust's disciplinary procedure in line with 'Just Culture' principles where we endeavour to keep an open mind when incidents occur and do not seek to attribute blame. Discrimination, harassment, bullying or victimisation may constitute gross misconduct and could lead to dismissal without notice.
- 1.5 The Trust recognises that, whilst much unites us, people are not all alike. Everyone is different and individual, and the rich diversity of our local communities and the healthcare workforce is very much to be celebrated and helps to support more diverse thinking and more equitable solutions. This diversity consists of visible and non-visible factors. Whilst celebrating individuality, we recognise the tendency to group people, and that we all exist within multiple overlapping groups (known as intersectionality). Grouping people in this way can be helpful for analysis and planning but may also potentially hide other views and perspectives and individual experience and consideration should always be given to this.

- 1.6 In addition to the characteristics that are protected under The Equality Act 2010 (see Appendix 2) these also include (but are not limited to) personal characteristics such as:
 - background
 - cultural group
 - gender identity and expression
 - personality
 - size and appearance, and
 - work style
- 1.7 Harnessing these differences creates a productive environment in which everybody feels valued, their talents are fully utilised and organisational goals are met most effectively to the highest quality.
- 1.8 The Trust is committed to being an **inclusive and anti-racist** organisation. An inclusive employer is one which recognises people's different needs, situations and goals, and removes the artificial barriers that limit progress and attainment. It is a place where all people are treated with civility, kindness and respect, demonstrated through spoken and written word, actions and behaviours.
- 1.9 Anti-racist organisations are pro-active in tackling all forms of racism. As a Trust, we are committed to doing this by:-
 - a. Acknowledging the harmful impacts of racism in our own organisation, in the NHS and in the wider environment, and ensuring that our actions do not perpetuate structural or systemic racism.
 - b. Never tolerating racism where we see it, and we will challenge and proactively change policies, behaviours and beliefs that perpetuate racist ideas and actions.
 - c. Developing an open and positively inclusive culture in which we celebrate diverse perspectives in everything we do.
 - d. Recognising where we have not done (and do not do) enough to support staff who have experienced racism at work and beyond, and who have suffered the effects of structural racism.
 - e. Committing to doing better and that we are ready to set challenging targets for delivering tangible change on race inclusion, and to be held to account for our progress.
- 1.10 The Trust will continuously strive to ensure greater equality, diversity and inclusion in employment and fostering a sense of belonging. This will apply to all aspects of employment, including (but not limited to): recruitment, promotion, development opportunities, pay and benefits, discipline, management of change and selection for redundancy. We will also publish and address our Gender Pay Gap and work to commence work on identifying and beginning to address our Ethnicity and Disability Pay Gaps from 2023 and 2024 respectively.
- 1.11 In pursuit of the above, we will seek to comply fully with the equality legislation and NHS/ health and care mandated equality-related requirements and standards. The

Trust also recognises its additional responsibility under The Equality Act (2010) Public Sector Equality Duty (PSED) general duty to eliminate discrimination, harassment and victimisation; advance equality of opportunity, and foster good relations (see 4.1 below).

2 Diversity and Inclusion Statement

- 2.1 The implementation and application of this policy is intended to ensure that no job applicant or employee receives less favourable treatment because of their race, colour, nationality, ethnic or national origin, or on the grounds of their gender, gender reassignment, marital status, disability, age, sexuality, religion or trade union membership, or is disadvantaged by conditions or requirements which are not justified by the requirements of the job. This applies to all aspects of employment for existing staff and potential employees.
- 2.2 This policy has had an Equality Impact Assessment which has been completed by the People Operations Team and signed off by the Trust's Diversity and Inclusion Lead.

3 Scope

- 3.1 This policy applies to all staff working for or on behalf of the Trust, including substantive employees, bank workers, agency workers, volunteers, people on honorary appointments and those employed by partner organisations who work alongside Trust staff.
- 3.2 All workers are required to assist the Trust to meet its commitment to provide diversity and equitable representation in employment, to avoid unlawful discrimination, and to develop a culture of outstanding inclusion and belonging. Trust leaders at every level have special responsibility with regard to the Public Sector Equality Duty (PSED).
- 3.3 Workers can be held personally liable as well as, or instead of, the Trust for any act of unlawful discrimination. Workers who commit serious acts of discrimination, harassment, bullying, victimisation or other abuse (see Appendix 2 for definitions) may be guilty of a criminal offence.
- 3.4 This policy should be read in conjunction with related Trust policies, including:
 - 3.02 Resolution and Grievance Policy
 - 3.07 Management of Change Policy
 - 3.09 Freedom to Speak Up Policy (Being Open)
 - 3.25 Flexible Working and Employment Break Policy
 - 3.01 Disciplinary Policy
 - 3.13 Bullying and Harassment at Work Policy
 - 3.24 Recruitment and Selection Policy
 - 3.50 Transgender Inclusion Policy

4 Duties under this Policy

4.1 The Chief Executive, Trust Board, Senior Leadership Team, heads of service and the People Directorate are responsible for ensuring that:

- i. this policy is implemented and operated throughout the Trust and that the correct tone is set for the creation of inclusive culture of civility, kindness and respect, thus engendering a sense of belonging for all our workforce.
- ii. all decision making and proposed service and workforce changes will consider the potential impact on service and workforce equality through appropriate Equality Impact Assessment (EIA).
- iii. due regard is given to the need under the Equality Act PSED general duty (see s4 of this policy) to eliminate unlawful discrimination, harassment and victimisation but also importantly to advance equality of opportunity and foster good relations between different groups. This will include:-
 - removing or minimising disadvantages suffered by people due to their protected characteristics;
 - taking steps to meet the needs of people from protected groups where these are different from the needs of other people;
 - encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

4.2 All Trust managers are responsible for ensuring that:-

- i. they actively role model inclusive working and inclusive leadership and take reasonable steps to ensure that they are up to date with evolving inclusion topics, language and terminology, noting that this is a greater level of expectation than that for all;
- ii. workers in their area of responsibility are aware of the requirements of this policy;
- iii. practices within their area comply with this policy and the leadership culture supports application of this policy and development of a positive approach to developing outstanding inclusion, civility, kindness and respect, thus engendering a sense of belonging for all our workforce;
- iv. adequate monitoring systems are in place so that they are aware of their department's performance in relation to this policy;
- v. recruitment and selection (R&S) practices meet the standards of this policy and adhere to the Trust's R&S protocol requirements and all decisions relating to recruitment and career progression, training and development, pay and conditions of employment, requests for references, leave, discipline, grievance and retirement, are taken in accordance with the inclusive principles of this policy;
- vi. all Trust managers who are involved in any stage of the recruitment and selection process will have completed diversity and inclusion training, and will ensure there is no unlawful discrimination in terms of shortlisting or any interviewing and selection procedures, and are individually responsible for their part in creating an inclusive process and outcome;
- vii. Chairs of selection panels should have additionally attended specific Trust approved inclusive recruitment training and must work actively to minimise bias through the process at every stage.

4.3 All staff are responsible for ensuring that they:

- i. comply with the requirements of this policy, treating all people with civility, kindness and respect and mindful of individual differences and preferences;
- ii. seek to use considerate and inclusive language and terminology and take reasonable personal responsibility for keeping up to date with the latest inclusive language and how terminology in inclusion is changing, given that language usage is continually evolving;
- iii. are up to date with all relevant diversity and inclusion training (including PSED training for those with leadership responsibility) and take appropriate personal responsibility for being up to date on key inclusion topics;
- iv. challenge or raise their concerns about any behaviour or conduct that they feel contravenes this policy, acting as active allies to colleagues in minoritised or under-represented groups.

Suggestions of members of the Trust to raise issues with are:

- Line Manager
- People Business Partner / People Advisor
- Diversity and Inclusion Lead
- Associate Directors / Heads of Service
- Freedom to Speak Up Champion or Guardian
- Staff Network Leads (eg ENRICH, LGBT+ and Differently Abled Networks)
- Staff Side Representatives

4.4 Staff delivering education and development are responsible for ensuring that:

- i. all education and development activities across the Trust are accessible across all protected characteristics groups, are free from discrimination and are appropriately inclusive and culturally sensitive to the needs of different groups and support the advancement of equity and inclusion.
- ii. monitoring and acting on equality data in relation to development activities as appropriate.

5 The Law

5.1 The **Equality Act (2010)** is the key piece of legislation protecting against discrimination, harassment and victimisation against people in minoritised groups (as listed on page 1 of this policy). It expressly relates to the dual aspects of service provision and employment, in both public and private sector organisations and services.

5.2 In addition, the Act places a specific additional responsibility on public sector organisations, known as the **Public Sector Equality Duty (PSED)**, [s149 of the Act]. The PSED requires public bodies to consider minoritised groups (and individuals within minoritised groups) when carrying out the day-to-day work of the organisation – in shaping policy, in delivering services, and in relation to their own workforce.

5.3 The PSED consists of (a) the general duty and (b) specific duties (set out in supporting legislation), as set out below:-

5.3.1 General duty under Public Sector Equality Duty to:

- eliminate discrimination, harassment and victimisation;
- advance equality of opportunity (positive action in recruitment and promotion), and
- foster good relations between people of different characteristics when carrying out their activities.

5.3.2 Specific duties under the Public Sector Equality Duty:-

- public bodies are required to be transparent about how they are responding to the PSED – requiring them to publish relevant, proportionate information showing compliance with the Equality Duty, and to set equality objectives, enabling our stakeholders to hold Trust leaders to account for their performance on equality and inclusion.

5.4 Further detail on key concepts associated with the Equality Act 2010 is outlined in Appendix 2.

5.5 The Trust will of course work to ensure it complies with all equality-related legislation as well as NHS requirements as these emerge or change. This includes participating (at the time of writing) in:-

- Workforce Race Equality Standard (WRES)
- Workforce Disability Equality Standard (WDES)
- Equality Delivery Standard (EDS)
- Gender Pay Gap Reporting
- Accessible Information Standard
- Sexual Orientation Monitoring Standard

6 Implementation

6.1 Recruitment

- i. The Trust will work to ensuring inclusive recruitment and selection, addressing identified under-representation in our workforce at all levels and all staff groups, and actively debiasing our people processes at every stage by design. Examples of measures to limit bias include:
 - bulk / batch recruitment (recruiting to multiple posts at once);
 - recruiting collectively for across a number of services / teams;
 - including job relevant work simulation exercises / tasks in the assessment process;
 - encouraging interview panel members with least 'power' (this may include minoritised characteristics as well as position power) to feedback first and the most 'powerful' to feedback last;
 - reflecting overnight before discussing candidate performance, scores and making outcomes;
 - applying 'slow thinking' – considered and analytical reflection rather than gut feel when making R&S decisions.

- ii. Person and job specifications will be limited to those requirements that are necessary for the effective performance of the job.
- iii. Recruitment processes should be positively inclusive by design, and will seek to take account of the diverse needs of all candidates, including diverse thinking styles and abilities.
- iv. Candidates for employment or promotion will be assessed objectively against the requirements for the job, taking account of any requirement for discretion, flexibility or reasonable adjustment as appropriate. Examples where this is appropriate include:-
 - adapting the selection process or venue to enable an individual with a disability or neurodifference to compete effectively;
 - having a practise of appropriate flexibility when comparing academic or work attainment / experience of individuals from minoritised groups or who have qualified overseas.
- v. Where there is a 'genuine occupational requirement' (GOR) for a postholder who has a particular identity / characteristic, then this must be clearly stated and justifiable. The threshold for GOR is high and advice must always be sought from a Trust People or Recruitment team representative when considering the potential application of GOR.
- vi. All applicants have the right to request feedback and to question why they have not been shortlisted for interview. All interviewed candidates have the right to receive feedback if requested on how they performed at interview and the reasons for their non-appointment.
- vii. All applicants will be informed that the Trust actively seeks to create greater equity and inclusion and operates an Inclusion at Work policy.
- viii. Specific expectations include that Trust selection panels are generally diverse and include ethnic diverse membership and service user membership. whenever possible. This is a specific requirement for posts at band 7 and above (at time of writing, banding range may increase).
- ix. It is expected that shortlists will be diverse. Monitoring and challenge processes will be designed and implemented in 2023-24 to provide assurance of this. This may include shortlists being spot checked and rejected where no ethnic diverse short-listed applicants are included.
- x. The Trust monitors and reports on the ethnicity of applicants, shortlisted candidates and appointed candidates and is benchmarked nationally in relation to performance on these measures.

6.2 Working practices and flexible working

- i. The Trust will consider any possible indirectly discriminatory effect of its standard working practices when considering requests for variations to working arrangements. Such requests will only be refused if the Trust considers it has sound and justifiable business reasons - unrelated to any prohibited ground of discrimination - for doing so. 'Working arrangements' may be considered to include (but are not limited to):-
 - the number of hours to be worked
 - the times/days over which these are to be worked
 - the place at which work is to be done (including consideration of home/ remote or hybrid working, where appropriate)

6.3 Monitoring workforce composition and recruitment process applications

- i. The Trust will monitor the ethnicity, gender, disability, sexual orientation and age composition of the existing workforce annually in our Trust Diversity and Inclusion Annual Report and will work to develop quarterly monitoring through our internal Trust reporting. We will additionally monitor applicants, shortlisted candidates and appointments (offers made) for our Trust recruitment activities (including internal promotion). Consideration will be given to the need to take any appropriate action to address any issues identified.
- ii. The Trust may use appropriate lawful methods, including positive action (see Appendix 2), to address the under-representation of any group which the Trust identifies as being under-represented in particular staff groups or services.

6.4 Education and Development

- i. All employees will have equitable access to education and development opportunities to enable them to perform their duties effectively and to support them in self and career development and attainment of their career aspirations and potential.
- ii. All staff should have (as a minimum) an annual appraisal and, from this, a Development Plan which addresses their individual development needs, work-life balance and career aspirations.
- iii. The Trust's Diversity and Inclusion mandatory training will incorporate core equality legislation and the principles of this policy, alongside service user/carer focused inclusion information.

6.5 Non-typical Workers (Bank workers, Agency and Volunteers)

- i. The Trust recognises that it relies significantly on the support of bank and agency workers and volunteers to deliver high quality services to our service users and local communities. We undertake to treat these workers fairly, equitably, with respect and with a philosophy of care and support in relation to their personal needs and their personal and professional development. This may include facilitating bank workers to undertake optional/elective Trust development packages and programmes (in this case, hours spent by bank workers participating on elective training will not be payable, whilst mandatory / core required training will be deemed as working hours).

6.6 Reporting and Publishing Information on Equality

- i. In line with the Equality Act 'Specific Duties', the Trust will:-
 - publish information to demonstrate its compliance with the general equality duty at least annually, both in relation to its workforce (workers) and those who are affected by our policies and practices (ie our patients and service users).
 - prepare and publish one or more equality objectives to further any of the aims of the general equality duty at least every four years. The objectives will be specific and measurable.
 - publish this information in a manner that is accessible to the public. This will generally be by publication on our Trust external website.

7. Additional Guidance

7.1 Further information is available from the Equality and Human Rights Commission and a range of health professional organisations (by no means exhaustive):

- [EHRC quality Act 2010: Summary Guidance on Employment - Guidance for Business](#)
- [EHRC Positive action in the workplace guidance for employers](#)
- [NMC Combatting Racism guidance & resources](#)
- [RCPsych Act Against Racism guidance & resources](#)
- [NHS Confed Health & Care LGBTQ+ Inclusion Framework](#)
- [NHS Confed Supporting Trans and Non-binary Healthcare Staff](#)
- [NHS Employers Supporting Disabled Staff in the Workplace](#)
- [NHS England No More Tick Boxes resources \(re debiasing people processes\)](#)
- [NHS Providers Race Equality: What works resource](#)

END

Appendix 1: Our Combined People

This Policy is supported by our Trust People Plan 'Our Combined People' – read in full via link:-

<https://www.combined.nhs.uk/download/42/publications/13996/our-combined-people-people-plan-2003-2028.pdf>

Our Combined People Plan 2023-28

Our people systems and policies enable the Trust to deliver great services

- Consistently good customer service
- Making systems and processes for our people far easier to use
- Getting the fundamentals right

Provide the best opportunities for our people to achieve their potential and aspirations

- Enabling people to achieve their career aspirations
- Delivering great Succession Plans
- Demonstrating great leadership

We ensure our people's health and wellbeing is supported better than any employer in the NHS

- Coordinated, accessible wellbeing offer
- More happy, healthy, resilient people
- Flexibility and worklife balance



We will be inclusively representative of our communities

- Celebrating and recognising diversity
- Developing a culture of justice, belonging and inclusivity
- Representative of our diverse communities at every level

We will provide a great place to work

- Ever increasing levels of engagement and morale across the Trust
- People feel valued and supported
- Really positive team cultures

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NHS Trust

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TRUST OF THE YEAR

Appendix 2

Guide to The Equality Act 2010

Extracted on 21st April 2015 from CIPD Factsheet: *The Equality Act 2010*

The **Equality Act 2010** ('The Act') contains a number of key concepts which are listed below:-

- **Protected characteristics** - The Act offers protection to people with 'protected characteristics'. The protected characteristics are:
 - age
 - disability
 - gender reassignment
 - marriage and civil partnership
 - pregnancy and maternity
 - race / ethnicity (includes caste)
 - religion or belief
 - sex / gender
 - sexual orientation
- **Associative discrimination** - Associative discrimination was introduced by the Act as a form of direct discrimination. This is because new wording was used to define direct discrimination as discrimination 'because of' a protected characteristic'. Associative discrimination is discrimination against a person because they have an association with someone with a particular protected characteristic. Before the introduction of the Act this already applied to race, religion or belief, and sexual orientation. The Act extended it to cover age, disability, gender reassignment and sex. An example of associative discrimination might be a non-disabled worker who is discriminated against because of action she needs to take to care for a disabled dependent.
- **Perceptive discrimination** - Perceptive discrimination was introduced by the Act as another form of direct discrimination. Again this was because new wording is used to define direct discrimination as discrimination 'because of' a protected characteristic'. Perceptive discrimination is discrimination against a person because the discriminator thinks the person possesses that characteristic, even if they do not in fact do so. Before the introduction of the Act, perceptive discrimination applied to age, race, religion or belief and sexual orientation. The Act extended it to cover disability, gender reassignment and sex.
- **Indirect discrimination** - Indirect discrimination occurs where a provision, criterion or practice (PCP) applies to everybody, but the PCP has:
 - a disproportionate impact on people with a particular protected characteristic,
 - it is to the disadvantage of a person with that protected characteristic, and
 - it is not a proportionate means of achieving a legitimate aim.

For example, an employer could introduce a shift pattern which requires all employees to work until 10pm three times a week – this would be a PCP. The employer applies it to all employees. However, women (protected characteristic of sex) are going to be disproportionately affected by this PCP because women are more likely than men to

have caring responsibilities. One particular woman cannot work the shifts and she claims indirect discrimination. This would indeed be indirect discrimination unless the employer could demonstrate that there was a strong business reason for the change (a proportionate means of achieving a legitimate aim).

- **Harassment** - Harassment is defined as: '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'. Under the Act employees can complain of harassment even if they don't possess the protected characteristic or the harassment is not directed at them. Harassment applies to all protected characteristics except for pregnancy and maternity and marriage and civil partnership. However, because of the overlap with sex and sexual orientation discrimination, for practical purposes, employers should assume the same protection will be given to people with these characteristics as for other protected characteristics.
- **Direct discrimination** - This occurs when an employee is treated less favourably due to a protected characteristic.
- **Victimisation** - This occurs when an employee is treated less favourably because they have made or supported a complaint related to the Act, or they are suspected of doing so.
- **Discrimination questionnaires** – The Act maintained the statutory discrimination questionnaire process. This allowed someone who thought that they have been discriminated against to serve a questionnaire on the employer asking for more details. However, under the Enterprise and Regulatory Reform Act 2013 this process was abolished on 6 April 2014. ACAS has provided guidance setting out a recommended approach for both individuals [individuals asking questions about discrimination](#) and [employers responding to a concern about discrimination](#). The guidance does emphasise that an employer is not under a legal obligation to answer any questions, but the approach to answering the questions can be considered by a court hearing a discrimination claim.
- **Positive action** - As under previous law, the Act allows for positive action, under which employers are able to remove barriers that might prevent certain people being employed by, or progressing within, their organisation. In addition to allowing positive action, the Act allows employers to favour a candidate from an under-represented minority in cases where two candidates for a job or for promotion are equally well qualified. This provision is contained in s159 of the Act, headed 'positive action: recruitment and promotion'. It is not a requirement to apply this positive action when faced with two equal applicants, but employers are allowed to do so. See updated Government Equalities Office guidance on positive action (updated April 2023: see [link](#)).

Source: Equality and Human Rights Commission

The Equality and Human Rights Commission (EHRC) has published non-statutory guidance on the Equality Act 2010 and statutory codes of practice at <https://www.equalityhumanrights.com/en>