

Equality, Diversity & Human Rights Policy

Author:	Head of HR – Policy & Governance
Responsible Lead Executive Director:	Director of HR
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Responsible Person	Head of HR – Policy & Governance

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CONSULTATION AND DISTRIBUTION RECORD	
Contributing Author / Authors	<ul style="list-style-type: none"> Ruth Hibbert – Head of HR – Policy & Governance
Consultation Process / Stakeholders:	<ul style="list-style-type: none"> Liz Airns - GMB Donna Patrick – HR Business partner Margo Cranmer – Unison Christine Jack – Operational Manager Cathy McGinty - Unison Kirsty McMillan – Senior Nurse Annette Shorts – Senior OH Nurse Advisor Sylvia Stewart - Unite Tom Wilson - RCN
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CHANGE RECORD			
Date	Author	Change	Version No.
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May `18	Deputy HRD	General Data Protection Regulations statement added into section 3 and updated name of Data Protection Act	2
March 2020	K. Torrance	Extended until December 2021 (COVID-19).	2
November 2021	R. Hibbert	Updated to reflect job approval via Job Train and Once for Scotland Workforce policies	3

1. INTRODUCTION

This policy sets out NHS Lanarkshire's commitment to the principles, as defined below, of equality, diversity and human rights in employment and sets out the approach to be followed in order to ensure that such principles are consistently met.

While successful implementation of this policy will ensure compliance with current legislation and national policy, NHS Lanarkshire also recognises both the moral and business case for maintaining good employment practice in relation to equality, diversity and human rights.

NHS Lanarkshire recognises that it also has a unique opportunity to influence the practice of those other organisations with which it engages and to champion equality, diversity and human rights within society more generally.

As such, equality, diversity and human rights must be at the heart of NHS Lanarkshire and everything it does.

This policy has been developed in partnership with local trade union/professional organisation representatives. It reflects the best practice, and meets the minimum standards, set out within the Embracing Equality, Diversity and Human Rights in NHS Scotland Partnership Information Network (PIN) Policy.

2. AIM, PURPOSE AND OUTCOMES

This policy sets out the aims of NHS Lanarkshire to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010 and less favourable treatment of other categories of worker as set out within other relevant legislation;
- Advance equality of opportunity between people who share a protected characteristic (i.e. age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation) and those who do not; Foster good relations between people who share a protected characteristic and those who do not; and
- Ensure that the organisation has due regard for the European Convention of Human Rights (ECHR) in the discharge of its function.

3. SCOPE

The policy applies to all directly employed staff with NHS Lanarkshire, irrespective of age, sex, disability, ethnicity/race, marital or civil partnership status, sexual orientation, religion or belief, pregnancy or maternity or gender reassignment.

NHS Lanarkshire takes care to ensure your personal information is only accessible to authorised people. Our staff have a legal and contractual duty to keep personal health information secure, and confidential. In order to find out more about current data protection legislation and how we process your information, please visit the Data

Protection Notice on our website at www.nhslanarkshire.scot.nhs.uk or ask a member of staff for a copy of our Data Protection Notice.

This policy applies to all those who work within or apply to work within NHS Lanarkshire, regardless of employment status. It therefore includes permanent and fixed-term employees, members of staff on zero-hours contracts, those working within NHS Lanarkshire on behalf of other agencies, those on secondment to NHS Lanarkshire, volunteers, and those on work experience or training placements.

3.1 Who are the Stakeholders

All directly employed staff of NHS Lanarkshire.

4. PRINCIPAL CONTENT

4.1 Definitions

Equality is described by the Equality and Human Rights Commission as ‘ensuring that every individual has an equal opportunity to make the most of their lives and talents, and believing that no one should have poorer life choices because of where, what or whom they were born, or because of other characteristics’.

Managing diversity is defined as ‘valuing everyone as an individual’, recognising that a ‘one-size-fits all’ approach to managing people does not achieve fairness and equality of opportunity, given that people have different needs, values and beliefs.

Human rights are defined as ‘the basic rights and freedoms to which all humans are entitled’. They ensure that people are treated fairly and with dignity and respect.

4.2 Principles and Values

NHS Lanarkshire’s Values of;

- Respect
- Fairness
- Quality
- Working Together;

are fundamental to the successful implementation of this policy.

In addition, the following principles and values are key to the achievement of the stated aims:

- Equality, diversity and human rights must be at the heart of NHS Lanarkshire and everything it does;
- Disadvantages suffered by people due to their protected characteristics will be removed or minimised in order to create an environment in which individual differences and the contributions of all staff are recognised and valued;

- Reasonable steps will be taken to meet the needs of people from protected groups where these are different from the needs of other people;
- Steps will be taken to reduce underrepresentation of people with particular protected characteristics and increase the diversity of our workforce, both at an organisational level and within different job roles;
- A zero tolerance approach will be taken to intimidation, bullying or harassment, recognising that all staff are entitled to a working environment that promotes dignity and respect for all;
- NHS Lanarkshire will act as an agent for change within local communities by positioning equality, diversity and human rights at the heart of local delivery plans;
- While this will be achieved in part by being championed at a senior level, it can only be fully achieved through all those working within NHS Lanarkshire recognising and adhering to their own personal responsibilities in this regard, and NHS Lanarkshire will therefore take steps to ensure that everyone in the organisation understands their rights and responsibilities under the policy;
- NHS Lanarkshire will ensure that arrangements are in place to support staff who have equality, diversity and human rights issues;

4.3 Equality, Diversity and Human Rights Commitments During the Employment Relationship

4.3.1 Recruitment and Selection

It is the policy of NHS Lanarkshire to ensure that:

- All the provisions set out within the Safer Pre and Post Employment Checks PIN policy are complied with;
- Those leading the recruitment and selection process have, or will have, learning and development support in both recruitment and selection, including equality and diversity;
- Where protected characteristics are suggested in the application form or subsequent selection process, this is not used to determine the success or otherwise of the applicant;
- Job descriptions and person specifications are not discriminatory, accurately describing the job and containing only those necessary or desirable criteria which are objectively justifiable, and which are capable of being tested objectively;
- On receipt of the job approval request via Job Train, the Employment Services staff arrange for the vacancy to be presented at the next available meeting of the Redeployment panel, in accordance with NHS Lanarkshire's Redeployment policy. All vacancies, with the exception of Medical and Dental vacancies will initially be considered from the register of redeployees.

- If vacancies are unmatched following consideration by the Redeployment panel, they will then be returned to Employment services to be advertised widely, in order to select staff from as wide and diverse a pool of potential applicants as possible, with advertisements accessible to all those eligible to apply;
- Advertisements are not discriminatory, confirming that all applications will be considered solely on merit and that reasonable adjustments will be made for disabled people. Where a genuine occupational requirement exists which restricts applications to those with a particular protected characteristic, a statement will be included to this effect. Where there is a lack of representation from those with particular protected characteristics within the job role or the wider organisation, a statement will be included encouraging applications from such individuals;
- Any recruitment agencies operating on behalf of NHS Lanarkshire are expected to have due regard for the promotion of equal opportunities in the undertaking of their role and to demonstrate that they have equivalent policies in place;
- Reasonable adjustments are made for disabled applicants, during both the application and selection process stages. Disabled applicants who meet the minimum criteria for the job and who indicate, on their application form, that they wish to participate in the guaranteed interview scheme, will in all cases be short-listed for inclusion within the selection process;
- Short-listing of applicants is based only on information provided in the application form;
- Selection methods are well designed, properly administered and recognised as a reliable method of predicting an applicant's performance in a particular job;
- Interviews are conducted strictly on the basis of the application form, the job description, the person specification, and the results of any selection tests, avoiding inappropriate or irrelevant questions;
- Employment decisions are based solely on objective application of agreed scoring methods. Where there is more than one appointable candidate at this stage, and one possesses a protected characteristic under-represented in the job role or wider workforce, recruiting managers are encouraged to use this as a tie-breaker, making a decision as a proportionate means of achieving the aim of addressing disadvantage or under-representation in the workforce;
- Except in the case of individuals who are barred from undertaking regulated work, criminal convictions do not automatically prevent employment being offered;
- If pre employment checks are unsatisfactory and an offer is withdrawn, the candidate can request further information on why the offer has been withdrawn;
- The terms on which successful candidates are offered employment are free from taint of discrimination;
- Having secured a preferred candidate, all unsuccessful short-listed candidates will be offered feedback.

Comprehensive records are kept, in line with the Data Protection Legislation 1998, Scottish Government Records Management and NHS Lanarkshire practice which will

allow NHS Lanarkshire to justify each decision and the process by which it was reached, to respond to any complaints of discrimination and to enable regular monitoring to identify any significant disparities between groups of people sharing different protected characteristics. If disparities are found, NHS Lanarkshire will investigate the possible causes in each case and take steps to remove any barriers.

4.3.2 During Employment

It is the policy of NHS Lanarkshire to ensure that:

- For all staff, at all stages and in all aspects, their employment relationship with the organisation is free from discrimination, victimisation and harassment. This will be achieved through providing all staff with appropriate information, guidance or training, depending on their role;
- The local policy, developed in line with the Preventing and Dealing with Bullying and Harassment in NHSScotland PIN policy is implemented consistently, with the commitment that inappropriate behaviour within or outwith (where still considered to be within the course of employment) the workplace, including that related to a protected characteristic, will not be tolerated;
- Consideration is always given to making reasonable adjustments for disabled members of staff so as to avoid their being placed at a substantial disadvantage compared to other staff. Such staff are assured that any information disclosed about a disability will be held confidentially, only disclosed to others with the individual's consent;
- Due regard is paid to the need to address pay inequality between women and men, making every effort to identify where equal pay is an issue and, where appropriate, taking steps to address such issues;
- All staff will have the right to make a request for flexible working and that any refusal of such a request will be objectively justified (in compliance with the Supporting the Work-Life Balance PIN policy) and in accordance with the statutory provisions;
- Local policies in relation to sickness and absence from work are non-discriminatory in design (and compliant with relevant national PIN policy), and applied fairly and consistently;
- NHS Lanarkshire will engage with relevant staff or groups to understand the requirements of their religion or belief, such as religious observances, and make appropriate provision to support them in doing so, where reasonably practicable;
- If a member of staff is undergoing gender reassignment, NHS Lanarkshire will consult with them sensitively about their needs in the workplace and whether there are any reasonable and practical steps that can be taken to help them as they undergo their gender reassignment process;
- NHS Lanarkshire will comply with the Supporting the Work-Life Balance PIN policy in providing appropriate support to mothers who wish to breastfeed their children;

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- NHS Lanarkshire will comply with the National Uniform Policy and Dress Code (as contained within CEL 42 (2010)), particularly in relation to specialist items which may be required to meet religious or medical needs;

4.3.3 Learning & Development

Learning and development opportunities are made known to all relevant members of staff, with selection for training (including any criteria used for selection) being free from discrimination. Furthermore, NHS Lanarkshire will take positive action in the provision of such opportunities to remedy disadvantage, meet different needs or increase the participation of people who share a protected characteristic;

- NHS Lanarkshire will ensure that personal development planning and review/appraisal processes are free from discrimination, by ensuring that such processes are in line with the Personal Development Planning and Review PIN policy, with performance measured by transparent, objective and justifiable criteria using procedures that are consistently applied;

4.3.4 Operational management of staff

- NHS Lanarkshire will ensure that work is assigned to staff by managers in a fair and consistent manner;
- NHS Lanarkshire will ensure that decision-making processes in relation to displacement on organisational change grounds, subsequent redeployment decisions, and, where applicable, voluntary severance, are non-discriminatory in design and application, and meet the requirements of the Redeployment PIN policy;
- NHS Lanarkshire will follow the Once for Scotland workforce policies on Conduct, Capability, Sickness Absence, Grievances and Disputes and Bullying and Harassment, ensuring that they do not discriminate against members of staff either in the way in which the policies are implemented. Where changes to other policies and procedures are being considered, in addition to consulting with recognised trade unions/professional organisations, NHS Lanarkshire will also consult with trade union/professional organisation equality representatives as a first step towards understanding the diverse needs of members of staff;
- Proper records are maintained, in line with the General Data Protection Regulation 2018, of decisions taken in relation to individual members of staff, and the reasons for these decisions;
- Regular monitoring of overall workplace figures on matters such as promotion, training and disciplinary procedures is undertaken to identify any significant disparities between groups of people sharing different protected characteristics. If disparities are found, NHS Lanarkshire will investigate the possible causes in each case and take steps to remove any barriers.

4.3.5 Remedies

NHS Lanarkshire will not tolerate behaviours that may constitute discrimination, harassment or victimisation of its staff in the course of their employment. Nor will it tolerate

such behaviour by its staff whether directed against colleagues or other people with whom they come into contact during the course of their employment.

All staff must adhere to this policy, and a failure to do so may lead to disciplinary action.

4.3.6 Grievances, harassment & victimisation

Any member of staff who believes that they have been treated less favourably because of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation, part-time status, fixed-term contract status or membership (or non-membership) of a trade union/professional organisation is encouraged to raise the matter through NHS Scotland Grievance policy.

If the complaint is about harassment or victimisation, then the staff member should raise the matter using the NHS Scotland Bullying and Harassment policy.

It is the policy of NHS Lanarkshire to ensure that:

- Where a complaint is received, staff are not discriminated against in the way that the organisation responds to it; Such matters will be taken seriously and investigated promptly and not dismissed as 'over-sensitivity' on the part of the member of staff;
- The matter will be thoroughly investigated and where an investigation recommends that a disciplinary process is appropriate, the alleged perpetrator will be given a fair hearing; and
- Members of staff who have raised allegations in good faith, regardless of whether or not they are upheld, and members of staff who have participated in the process, (e.g. as a witness), must not be subject to any detriment because of having done so.

4.3.7 Assessing Impact

- NHS Lanarkshire will consider relevant evidence in order to understand the likely or actual effect of policies and practices on those with protected characteristics, or those protected from discrimination/less favourable treatment under other relevant legislation, recognising that such assessing of impact is not an end in itself, but rather an important part of policy and decision-making, which will lead to enable us to take effective action on equality; develop better policies and practices, based on evidence; and be more transparent and accountable;
- The extent to which policies should be subject to impact assessment will depend on questions of relevance and proportionality;
- NHS Lanarkshire will ensure that our locally agreed process for undertaking impact assessment is consistently applied, by requiring that those participating in such a process are appropriately trained;
- In undertaking such assessment of impact, NHS Lanarkshire will give due regard to the General Duty obligations to eliminate discrimination, advance equality of opportunity and to foster good relations; and

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- In the interests of transparency and accountability, NHS Lanarkshire will make the results of such assessments publicly available.

5. **ROLES AND RESPONSIBILITIES**

Employees must

- Ensure they are familiar with the policy and procedures
- Comply with the policy
- Attend training as necessary

Managers must

- Ensure they communicate with staff about the policy
- Consistently implement the policy at their local level
- Keep accurate records
- Enable appropriate training to be undertaken by staff

Staff Side Representatives must

- Support the principles and procedures in the policy
- Act in accordance with NHS Lanarkshire's Partnership Agreement
- Undertake training as appropriate

Human Resources Staff must

- Provide awareness training as appropriate
- Provide expert advice and support on the application of the policy
- Monitor and review the policy

6. **RESOURCE IMPLICATIONS**

There will be significant resource implications associated with learning and development commitments throughout the policy.

7. **COMMUNICATION PLAN**

Raising Awareness

To support the fair and consistent application of this policy, NHS Lanarkshire will ensure that all staff understand what this policy means for them, with regard to both rights and responsibilities, by;

- Ensuring that this policy is publicised widely using appropriate communication channels;
- Ensuring that presentation on our commitment to equality, diversity and human rights is included within the corporate induction programme;
- Requiring all staff to undertake learning and development on equality and diversity under this policy, appropriate to their role.

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- Developing and delivering additional targeted training in response to any issues identified as part of the monitoring process; and
 - Ensuring all those staff with a managerial responsibility participate in relevant management training (as soon as possible on becoming a manager and from time to time thereafter) on their vital role and responsibilities across a number of areas, including equality and diversity.

This policy will be launched using the weekly staff briefing and it will be available on Firstport.

This policy will also be discussed at the appropriate management team meetings and local partnership fora.

8. QUALITY IMPROVEMENT – Monitoring and Review

This policy will be reviewed every three years via the Joint Policy Forum.

By undertaking equality, diversity and human rights monitoring, NHS Lanarkshire can:

- Establish whether this policy is effective in practice;
- Analyse the effect of other policies and practices on staff with particular characteristics;
- Highlight possible inequalities and investigate their underlying causes;
- Set targets and timetables for reducing disparities; and
- Send a clear message to applicants and members of staff that equality, diversity and human rights issues are taken seriously within the organisation.

NHS Lanarkshire will agree, via its Equality and Diversity Steering Group, equality outcomes, which will be monitored and reviewed annually, with a plan detailing how these objectives will be met. Such action plans will detail initiatives/developments that will help the organisation address short-term, as well as medium- to long-term goals, with the aim of improving equality, diversity and human rights within the organisation.

We will ensure that communication on progress against and achievement of such objectives is made to both managers, staff and trade union/professional organisation representatives, and are published in the annual report.

Equality and diversity monitoring will be undertaken on a regular basis, with resulting improvement actions being identified and achieved; and

This policy will be subject to ongoing monitoring to ensure that it is being fairly and consistently applied and that the stated principles and values are being met. The policy will be subject to regular review, in partnership, to ensure that it remains fit for purpose.

From 2015, Equality Monitoring will be included in the Workforce Plan.

9. EQUALITY AND DIVERSITY IMPACT ASSESSMENT

This policy meets NHS Lanarkshire's EQIA



(tick box)

10. SUMMARY

This policy describes NHS Lanarkshire's commitment to the principles of equality, diversity and human rights

11. REFERENCES

- European Convention of Human Rights
- Equality Act 2010
- "Embracing Equality, Diversity & Human Rights in NHS Scotland"
Partnership Information Network (PIN) policy
- General Data Protection Regulations 2018

Uncontrolled when printed

Extract from European Convention of Human Rights – Employee Information & the Public Sector Equality Duty – a Guide for Public Authorities (Scotland)**What the Specific Duties require in terms of employee information****Duty to gather and use employee information**

The specific duties require each listed authority to take steps to gather information on the composition of the authority's employees (if any) and information on the recruitment, development and retention of people as employees of the authority with respect to, in each year, the number and relevant protected characteristics of such people.

The authority must use this information to better perform the general equality duty.

Each listed authority must also publish a mainstreaming report, on the progress it has made to make the general equality duty integral to the exercise of its functions, so as to better perform that duty.

This report must include an annual breakdown of information gathered by the authority which has not been published previously in such a report on the composition of the authority's employees, as well as the recruitment, development and retention of people as employees of the authority with respect to, in each year, the number and relevant protected characteristics of such people, and details of the progress that the authority has made in gathering and using that information to enable it to better perform the general equality duty.

The first report on mainstreaming the general equality duty must be published not later than 30 April 2013 and subsequently at intervals of not more than two years.

Duty to publish gender pay gap information

A listed authority must publish information on the percentage difference among its employees between men's average hourly pay (excluding overtime) and women's average hourly pay (excluding overtime), no later than 30 April 2013, and each second year after that.

The information published must be based on the most recent data available for a date when the authority had at least 150 employees. No publication is necessary if, since these regulations came into force or since publication was last due, the authority did not have 150 employees at any point.

Duty to publish statements on equal pay, etc.

A listed authority must publish a statement on equal pay, no later than 30 April 2013, and each fourth year after that.

The first time a listed authority publishes a statement on equal pay it is required to specify its policy on equal pay among its employees between women and men, and information on occupational segregation, being the concentration in particular grades and in particular occupations of women and men.

Subsequently a listed authority is required to publish its statement on equal pay, which must specify its policy on equal pay among its employees between women and men, and people who are disabled and people who are not, and people who fall into a minority racial group and people who do not.

It is also required to publish information on occupational segregation, being the concentration in particular grades and in particular occupations of women and men, persons who are disabled and people who are not, and people who fall into a minority racial group and persons who do not.

The information published must be based on the most recent data available for a date when the authority had at least 150 employees. No publication is necessary if, since these regulations came into force or since publication was last due, the authority did not have 150 employees at any point.

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