

## **DIVERSITY POLICY**

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## **EQUALITY AND DIVERSITY POLICY**

### **1. Introduction**

Wandsworth Teaching Primary Care Trust employs staff, provides healthcare, public health services for and commissions services for a rich diversity of people. The tPCT recognises and values the diverse backgrounds of its employees, patients, service users and local communities and is committed to harnessing the talents, experiences and diverse backgrounds to build on a common and a shared vision to deliver quality and equitable services for all.

The tPCT's policy is to ensure that all conditions of service and job requirements fit with its needs and those who work in it regardless of

*'age, beliefs, customary values, disability, employment status, gender, gender reassignment, marital status, nationality, political values, race, religion, sexuality and social status.*

### **2. Equality and Diversity, Definition**

*Equality* is about creating a fairer society in which everyone has the opportunity to fulfil their potential. This is supported by legislation such as the Race Relations Amendment (2000) Act, Employment Legislation (Religion) 2003. See Appendix B for a list of and a brief explanation of some of the core legislation.

*Diversity* is about recognising and valuing difference in its broadest and creating a workplace culture or service that respects, values and harnesses difference for the benefit of the organisation and individual.

#### **2.1 tPCT Diversity Values**

- Employees and patients shall embrace, respect, value and accept each other's beliefs, faith, experiences, gender, culture, customs, race, sexuality and ideas.
- Everyone who works with us or uses our services is treated as a valued and respected individual.
- Have a culture where we learn from each other and everyone can input on what happens in the area of equality and diversity.
- Produce visible results and celebrate achievements.
- Recognise areas where improvements are needed, supported by clearly defined measures to achieve these

### **3. Policy Aim**

The tPCT aims to ensure that current and prospective employees including job applicants are not discriminated against, excluded, marginalized or disadvantaged in any way by unjustified conditions, requirements and expectations.

### **3.1 Policy Objectives**

The tPCT recognises the effects of institutional discrimination, its effect on diverse groups and individuals, and is committed to eliminating discrimination from employment, training and development activities, including its core services. As part of this it will

- challenge inappropriate practices which prevent diverse staff and communities from accessing opportunities within the tPCT
- make sure that the needs of particular groups within the community and in the workforce are identified and addressed clearly within legal parameters.
- ensure that organisational policies, practices and individual activities promote equity, fairness and good relations
- use annual workforce and equalities monitoring data to inform improvements to its race and equalities policies, practices, procedures and training activities
- eliminate any form of institutional discrimination.

### **3.1 Policy Outcomes**

- Employment and workforce practices which promote equality of opportunity for all staff, including prospective staff
- Staff and management group able to recognise and effectively tackle discriminatory practices in employment practices, in the workforce and in services
- Diverse staff able to equitably access employment and service opportunities and to successfully develop into key and senior roles within the organisation.
- Achieve a representative staff group at all levels within the organisation
- Minimised incidents of inappropriate behaviours and harmonised relationships between diverse staff
- Staff survey, Improving Working Lives and other organisational monitoring activities, reveal that staff are skilled in equality and diversity, are able to challenge unfair practices, promote equality of opportunity for all irrespective of their backgrounds and promote good relations between diverse groups of staff.

## **4. tPCT's Responsibilities**

### **4.1 Responsibilities**

The tPCT in recognising its legal responsibility will not tolerate discrimination within any of its services and within its employment practices.

The tPCT will develop and implement a policy which recognises the diverse needs of its workforce and local patient group, is continually monitored, reviewed and takes into consideration employment, legislative, local and national changes/developments. (See page 16 for how this policy will be monitored and reviewed).

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All managers will receive relevant information and training in applying this policy and all related employment policies in a consistent manner. For the policy to be successful it will need leadership, commitment, compliance and support from the Board, Management team and every member of staff.

- 4.1.1 The Chief Executive, the Board, TSPC and the Diversity Committee have overall responsibility for co-ordinating the implementation, monitoring and review of this policy.
- 4.1.2 Managers have a duty to ensure that the policy is widely communicated to and understood by staff, applied within their service areas and to ensure that all employment practices, including recruitment, selection, promotions, training and development, management and support for staff, grievance, disciplinary and all other related staffing and employment requirements are dealt with in an open, fair, consistent and non discriminatory manner and in accordance with the tPCT's procedures.
- 4.1.3 Each member of staff at all levels within the organisation has a duty to ensure that they do not discriminate, encourage or induce other members of staff to unlawfully discriminate, harass, victimise, disadvantage another employee or service user.

## **4.2 Race Equality and Diversity Objectives**

Race equality and diversity targets/objectives will be built into the

- PEC, Board and Management Team activities
- Managers' objectives and work-plans
- Annual Development (ADP), Local Development (LDP) and Strategic Plans
- Knowledge and Skills Framework outlines and Personal Development Reviews

## **4.3 Underpinning Values**

Underpinning the diversity policy are the following values

- 4.3.1 respect for each other irrespective of differences
- 4.3.2 deliver quality health care to a diverse local population
- 4.3.3 achieve equality of opportunity for all, eliminate discrimination in line with the tPCT's objectives and statutory requirements
- 4.3.4 not to discriminate during recruitment which includes shortlisting, interview and selection of candidates, promotions, training and development
- 4.3.5 not to discriminate in secondment opportunities
- 4.3.6 not to encourage or persuade others to discriminate unlawfully
- 4.3.7 not to intimidate, victimise or make life difficult for another because they may have made complaints, reported incidents of discrimination or provided information on discrimination
- 4.3.8 not to harass, bully, abuse or intimidate employees, service users, potential employees
- 4.3.9 disciplinary, complaints, grievance processes will be handled professionally and in a fair and consistent manner

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This policy is implemented through the tPCT's employment policies and procedures (Appendix B provides a list of policies and procedures)

#### **4.4 Communication**

As part of the Race Equality Scheme (RES), RES action plan, equality and diversity legislation and the tPCT's Diversity Strategy, the tPCT will communicate its work to all sections of the community (see Appendix B for list of legislation).

#### **4.5 Training**

The tPCT will raise awareness, promote good relations and equality of opportunity for all by providing information and training for staff members and managers to enable them apply the diversity policy, human resources policies and procedures, race equality and other equality schemes fairly and consistently.

#### **4.6 Liability**

The tPCT is liable (together with employees) for unlawful discrimination by staff committed during the course of their employment, even when these unlawful activities are carried out without the tPCT's knowledge, involvement or approval.

### **5. Employment**

The tPCT employs a diverse workforce and will continue to

- employ, retain, develop, widen the diversity of its workforce at all levels within the organisation
- provide equal access to all employment and to training and development opportunities.

#### **5.1 Positive Action**

Where permissible under employment law, under-represented groups will be positively encouraged to apply for jobs, promotion and training.

Under both the Sex Discrimination and Race Relations Act, positive action is unlawful unless it comes within the scope of limited exceptions allowed by these Acts. This permits employers to offer special training to existing staff or to encourage members of a particular group in the local community to take up employment with them where there is under-representation of that group in the organisation's employment.

As a disability symbol user (two ticks symbol), the tPCT positively seeks to encourage applications from disabled people. Disabled applicants who possess the minimum criteria for the position will be automatically shortlisted for interview. The tPCT will provide reasonable facilities to enable them participate fully in interviews and in the selection process and will endeavour to make reasonable adjustments where successful applicants have special employment needs.

## **5.2 Recruitment and Selection**

In line with current legislation the tPCT has a recruitment and selection procedure which aims to ensure

- a) the recruitment of the best and most suitable candidate for a position based on their skills, qualifications and capabilities
- b) that no one applying for a job (internal or external) receives less favourable treatment than another, is disadvantaged or discriminated against on any conditions or requirements which cannot be shown to be justified
- c) that constructive and appropriate feedback is offered to unsuccessful candidates following the interview.
- d) that recruiting managers and others involved in the recruitment, short-listing and selection of staff will receive training, information and support to implement a fair and open process
- e) overseas qualifications which are comparable with those in the UK will be accepted as equivalent, provided that this does not contravene the regulations of the relevant statutory body.

### **5.2.1 Appeals process for recruitment and selection**

Where a job applicant feels they have been treated unfairly or unjustifiably or feel the recruitment and selection process has not been consistent or fair, an appeal against the selection process or selection decision can be made in writing, to the appropriate Human Resources Manager. The job applicant must explain very clearly the reasons why they feel they have been treated unfairly or why the process has been unfair. The Human Resources Manager will conduct an investigation and will endeavour to respond to the applicant within two weeks.

### **5.2.2 Job Descriptions and Person Specifications**

The recruiting manager and appropriate Human Resources Manager will review all job descriptions and person specifications, prior to advertising a vacancy. This will ensure that they are relevant, non discriminatory, accurately reflect the requirements for the post, and not designed to disadvantage particular people or groups of people. However any genuine occupational qualifications, special or unusual demands that are a requirement of the post-holder will be clearly stated.

Person Specifications should clearly reflect requirements contained in the job description and must indicate the essential and desirable qualifications, knowledge and skills, experience and abilities of a successful candidate.

Under the Disability Discrimination Act 2004, both the job description and the person specification will need to be flexible and take into account requirements for reasonable adjustments.

Job Descriptions will need to be reviewed regularly and appropriately updated.

### **5.2.3 Advertisements**

All job advertisements will be in accessible format, easy to read and to understand and must not discriminate either directly or indirectly. They will be designed and placed to attract a wide and diverse group of suitably qualified people.

It is the policy of the tPCT to advertise all jobs internally and externally. Jobs

- will be advertised on the tPCT web site and will be placed on notice boards around all tPCT premises.
- will be emailed to team assistants for circulating in their respective areas.
- will be advertised in local newspapers and professional journals to increase job opportunities for local talents
- where possible and with the financial environment of the tPCT in mind, management positions will be advertised in appropriate ethnic media to encourage under-represented groups to apply
- will be sent to the Chair of the Minority Ethnic Forum within the tPCT for distribution
- will be placed in job centres, emailed to local voluntary sector and community based organisations, to social services for dissemination to some of the groups they support, emailed for placement in newsletters which support disabled, socially excluded and disadvantaged groups in the community.

All job adverts and recruitment literature will demonstrate the tPCT's commitment to equality and diversity and to promoting flexible working practices. They will reflect the tPCT's commitment to Improving Working Lives.

All advertising, recruitment and employment agencies who work with the tPCT will be made aware of this policy through written communication, in meetings held with them and will be built into their contracts.

### **5.2.4 Selection Process**

The selection of candidates at both shortlisting and interviewing stages will take the following into consideration

- a) to focus on a person's ability to do the job
- b) acknowledge it is a competitive process, but must be non biased, non judgemental and non discriminatory
- c) ensure that more than one person carries out the selection process and that all are fully trained in recruitment and selection
- d) ensure that all recruiting and selection managers are trained in the principles of equal opportunities, be aware of and adhere to this policy
- e) ensure that interviews are as objective as possible and that they use a set of core questions that cover all aspects of the job (this policy acknowledges that every interview will differ to some extent)
- f) ensure that interview questions relate directly only to the requirements and circumstances of the job



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- g) make a note of reasons for selection and no selection which will be kept on file for a minimum of one year
- h) feedback will be mandatory for all internal applicants to enable them to skill, develop and enhance their abilities and experiences for any future opportunities which may arise. It will be optional for and dependent on external applicants contacting the tPCT for feedback.

The Human Resource Managers will monitor the recruitment and selection process annually, this will inform impact assessments of the process to ensure that it is non discriminatory, fair and consistent. As part of the monitoring arrangements, the HR Managers, working closely with the Diversity Manager will do some sampling of recruitment and selection activities and will test the process against the considerations listed above. Any gaps or areas of improvement identified from the monitoring, sampling and impact assessments will be include in the HR action plans and addressed within one year. All newly selected/appointed managers will undergo recruitment and selection training and will be encouraged to attend the Equality in Employment training.

The annual workforce monitoring data by ethnicity and equalities, an employment duty under the Race Relations Amendment Act 2000, will monitor by race and equalities, those who apply for positions in the tPCT, those shortlisted and those successful, to ensure that there is fair access and opportunity for diverse staff groups. Where it is found that particular groups are discriminated against by the process, appropriate actions will be put in place by the HR team, working closely with the Diversity Manager, to minimise impact.

The workforce monitoring report will be sent to all our partners, including the tPCT's minority ethnic forum who under the Race Equality Scheme for 2005 – 2008, can comment on or challenge if they find that the tPCT's employment activities do not promote equity. The report will also be published to staff and local communities.

The Human Resources team will organise recruitment, selection and interviewing skills training for all recruiting managers/panels. The Equality in Employment training for Managers will train managers in the principles of equality of opportunity.

The Manager's Induction and Handbook will provide guidance on how to select and interview in a fair and consistent manner.

As part of the tPCT Race Equality programme, some minority ethnic staff will be trained and encouraged to participate on interview panels.

### **5.2.5 Monitoring**

All job applicants internal and external must complete an equal opportunities monitoring form. This information will be kept confidential and will not form part of the selection process.

Information from monitoring activities will inform reviews and changes made to the recruitment and selection policy and procedures.

### **5.3 Redeployment of staff**

In situations where a member of staff is being re-deployed to accommodate a disability, health needs or for maternity reasons the employee will be offered the right of first consideration at all times.

### **5.4 Career Progression (Promotion)**

Career progression is linked to and built around a happy and healthy working life one which is actively encouraged under Improving Working Lives. The tPCT encourages staff members to develop and up-skill themselves at all times. Those who acquire further qualifications are encouraged to apply for positions as and when they are advertised.

All the tPCT vacancies are advertised internally and on the web-site and staff members who wish to progress into the next grade or senior position are positively encouraged to apply for positions as and when they are advertised. All applications will be handled in a fair and equitable manner, selection and offers of promotion will be based on merit, skills and experiences. Selection process as outlined in 5.2.

Where the tPCT advertises positions and finds that particular groups of staff are under-represented in these positions, members from these groups will be positively encouraged to apply. Information about these vacancies will be sent to the Minority Ethnic Forum, Multi-faith User Group or the Lesbian Gay Bisexual and Transgender Group.

Where promotion is as a result of an extension of an employee's existing duties, but the post will remain substantially unchanged, selection would not follow the process in 5.2.4 in order to avoid potential redundancy.

Where a staff member takes on additional responsibilities then their job description will be reviewed to ascertain whether a re-banding is appropriate or not. Re-banding to a post will not be automatic.

Staff members are encouraged to take an active role in developing their personal development plans and this must be linked to the Knowledge and Skills Framework (KSF). The tPCT provides training in the KSF and staff are encouraged to attend.

Under the Race Equality Scheme all career progressions will be monitored and published.

### **5.5 Career Planning, Counselling and Support**

The Vocational Qualification Development Manager offers confidential one to one sessions around training, career pathways and skills escalation into the NHS and other forms of advice around career and personal development for the non clinically qualified staff within the tPCT. The newly formed NVQ Assessment Centre will build on the current career planning programme, by

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working in partnership with an advice and guidance agency to run and support staff internally, through the assessment centre.

Primarily the advisory programme will be aimed at the historically disadvantaged groups in the NHS. However, it is envisaged that other health service staff will access this service. The Vocational Development Manager will be developing links with a range of services to offer this to staff along with other programmes such as literacy and numeracy development. Personal development programmes around verbal and written communication skills will also be offered.

St. Georges Hospital provides a Staff Counselling Service, career counselling and support is provided, this includes CV writing, completing applications forms and skills development.

The tPCT's Organisational Development team also provide career counselling and support.

## **5.6 Performance Management**

Under the Personal Development Reviews (PDR), Appraisal and Performance Management programme all staff will have equal access to and support to train, to develop, to skill and progress within the organisation.

Under the PDR, the staff member will need to agree

- what they are being asked to achieve as well as what they want to achieve
- what is needed to improve performance
- what they need to do to develop themselves using the NHS Knowledge and Skills Framework (KSF)

The Personal Development Review process is a joint process involving the member of staff and their manager. It is about improving standards of work and service quality through service development and through personal development.

*An essential component of the Personal Development Review is that the staff member understands the broader environment in which they work, as well as what is expected of them in their role.*

*Its aim is to:*

- Focus on the staff member's objectives derived from PCT, directorate and departmental aims and objectives
- Provide feedback on their performance<sup>1</sup> (Personal Development Review is not a substitute for regular on going one to one meetings with your manager)
- Give the manager and particularly the staff member, an opportunity to reflect on their strengths and weaknesses

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<sup>1</sup> Competencies or standards for the job from the main framework for review on performance

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- Identify training and development needs to ensure continued achievement and improvement in meeting current and future standards, objectives and competencies
- Support continual development to enable the staff member to achieve their full potential.

Learning needs should be linked into the PCT Study Leave Policy as well as linked into service priorities within the Local Delivery Plan.

Training and advice is available for both managers (reviewer) and staff (the reviewee) on the process and principles of Personal Development Review. Information can be found in the PCT Training Prospectus.

For more information about the PDR process and the KSF, contact the Organisational Development Team (the team also runs training sessions on the PDR and KSF).

## **5.7 Talents**

Staff members who demonstrate good leadership and management skills, will be encouraged to apply for leadership or management training programmes, and to apply for key positions within the tPCT as and when they arise. This will also form part of their Personal Development.

Senior Managers are encouraged to provide opportunities for staff who show talent to enhance their careers and opportunities, by for example, delegating tasks, undertaking projects, mentoring, coaching and through sign-posting.

## **5.8 Transfers**

Transfers may happen because an employee requests it due to personal or work difficulties. All the issues and reasons for asking for a transfer will be fully explored and managed in a fair and open manner.

Transfers may happen to avoid a staff member from being suspended or dismissed following a disciplinary action, or to avoid redundancy.

## **5.9 Training and Development**

All training and development opportunities will be widely publicised to staff within the tPCT and the take up will be monitored. Consideration must be made for staff who may not have access to PC's, internet and email services. Managers are encouraged to regularly pass on information about training opportunities to all their staff and to signpost them to the tPCT's Training Prospectus.

The New PDR process linked to the Knowledge and Skills Framework (KSF), details the different methods of training, of learning and development and these should be explored fully by all staff, working closely with their managers. It is important to note that development is not just centred around courses, but that there are other options and opportunities which need to be

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explored, such as on the job training, reading, mentoring, coaching, shadowing.

As part of the Race Equality Scheme, training and development activities will be monitored and impact assessed to ensure fair access and opportunity for all. Appropriate actions will be included in the HR and Training action plans to minimise any adverse impact identified. All monitoring information will be published to staff and on the tPCT web-site.

Where a staff member feels they have been treated unfairly by the Training and Development process, they can put an appeal in writing to the Head of Training and Development, explaining clearly why they feel they have been treated unfairly. The Head of Training will endeavour to respond to their appeal in two weeks.

### **5.10 Secondments**

The tPCT has a policy on Secondments, copies of which can be obtained from the Public Folders or from the Training and Development team. Staff members interested in secondment opportunities are encouraged to discuss these with their line managers and to include in their personal development plans.

Considerations for secondments can also be explored as part of applications made for advertised jobs. All requests will be handled fairly and applicants will be interviewed in line with person specification criteria.

### **5.11 Mentoring**

Staff members interested in mentoring or coaching opportunities either within the tPCT or with an external mentor/coach can seek further advice and guidance from the Organisational Development team or the Vocational Development Manager.

## **6. Diversity Training and Induction Sessions**

All staff are encouraged to participate in Diversity training sessions. Interactive training sessions will run on a bi monthly basis for tPCT staff and sessions can be organised for teams and departments. New members of staff are required to attend the tPCT's Induction Programme where they will receive a Diversity Information Pack, which includes a copy of the Diversity Policy, Dignity at Work statement and a summary of key Equal Opportunities legislation.

## **7. Promoting Dignity at Work**

The tPCT aims to develop and maintain a culture in which staff are treated with respect, with value and with dignity. The tPCT will work towards eliminating inappropriate behaviours and will adopt a zero tolerance approach to discrimination, harassment, bullying and victimisation.

The Management Team, Managers and all staff are expected to

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- behave in a fair, open and equitable manner and to ensure that any actions on their part will not be construed as harassment or bullying.
- be aware of behaviours which might cause offence and should not wait until complaints are formally brought to their attention. They should also remind their staff and colleagues of the importance of communicating with and treating people with value and respect.

(Refer to the tPCT's Dignity at Work Statement, Harassment and Bullying Policy and Procedure for handling Racist and other discriminatory incidents)

Acts of harassment, bullying and victimisation could constitute gross misconduct and could lead to dismissal.

## **8. Disability Policy**

The employment, retention and development of people with disabilities is central to the tPCT's equal opportunities practices. The tPCT will continually work towards raising disability awareness through training, information and educational programmes and will ensure that tPCT staff understand their duty to provide fair and equitable opportunities for people with disabilities. Reasonable arrangements will be made within the working environment to enable people with disabilities to take up positions for which they are qualified. The tPCT will ensure that there is a fair and equal chance for disabled people to train, develop and progress within the organisation.

Flexible arrangements will be put in place to enable employees who become disabled to have time to adjust their disability. Specialist advice will be sought where needed and staff concerned will be consulted and involved in discussions around the provision of reasonable adjustments.

As part of the Disability Equality Duties, the tPCT in consultation with disabled staff and local community groups will develop actions to promote disability equality in its employment and training practices.

## **9. Improving Working Lives**

The Human Resources Strategy, Diversity Strategy, Diversity Policy, Race Equality Scheme and related action plans complement the tPCT's Improving working Lives objective to promote equality of opportunity for all, to develop a healthy working environment, provide equitable access to training and development opportunities, improve work life balance opportunities, improve communication and involve all levels of staff in tPCT activities.

As part of this commitment, training and support will be offered to managers in applying HR policies and procedures in a fair, consistent and equitable manner. Staff will also be actively engaged and involved in decisions which affect their well-being and development within the tPCT. The tPCT will monitor improvements and changes within the workforce through an independent staff survey, through surgeries and through focus group discussions.

## **10. tPCT Policies and Procedures**

In applying the following tPCT policies and procedures care must be taken to ensure that members of particular groups are not discriminated against, disadvantaged or treated unfairly. Discrimination against particular groups or individuals within the workforce could be treated as a disciplinary offence.

As part of the Race equality duties and impending Disability Equality legislation, all employment and workforce policies, procedures and activities will be equality impact assessed, using the tPCT's template and published appropriately. All employment activities, including recruitment, training, appraisal, promotions and employee relations incidents will be monitored and the monitoring data will inform equality impact assessments and any subsequent changes or improvements made.

The Disciplinary, Harassment and Bullying, Disputes, Complaints, Grievance, Redeployment and Redundancy procedures must be applied in a fair and consistent manner. In particular the disciplinary policy must not be used to treat particular groups of staff unfavourably. The tPCT is developing a Capability policy.

Efforts must be made to address issues relating to disciplinaries informally and to provide counselling and appropriate support as and where appropriate.

## **11. Implementing the Policy**

The policy will be included in diversity training and induction sessions, on the tPCT web-site and public folders. The policy will be communicated to all staff via e-word and via their managers. Any changes, learning or improvements in employment, training and development activities will be widely communicated, including workforce monitoring and equality impact assessments.

## **12. Reviewing, Monitoring and Performance Indicators for Diversity Policy**

As part of the tPCT's commitment to achieving race equality and diversity within the workplace, equality and diversity objectives will be built into managers' objectives to ensure that existing and prospective staff are treated with value and with respect, that access to employment opportunities are fair and that employment practices promote equity for all.

### **12.1 Monitoring**

As part of this policy and equalities duties, the following racial and diverse monitoring (disability, faith, religion and sexuality, gender and age) will take place:-

- staff currently working in tPCT and at all levels
- applicants for employment, training and promotion
- staff who receive training
- staff who are involved in grievance procedure

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- staff who are the subject of disciplinary actions
- staff who benefit or suffer from performance appraisal
- staff leaving the organisation and reasons for leaving

The information gathered from the monitoring and review process will inform equality impact assessments of HR and training policies and procedures, changes made to this policy and improvements/changes to HR and training activities.

The monitoring information and actions from equality impact assessments will be published on the tPCT's web-site, in an Annual Diversity Report and will be widely communicated to all staff.

## **12.2 Reviewing the Policy**

The policy will be reviewed annually and will take into consideration comments, suggestions, feedback and input as follows:

- Feedback from Annual Staff Survey
- Feedback from open surgeries, focus group discussions, questionnaires and one to one discussions with staff members from different racial and diverse groups about how they are managed, supported, trained and developed
- Diversity and HR Training sessions for managers and staff
- Impact assessments of HR policies and procedures
- Feedback from disabled staff and service users
- Feedback from the tPCT's Minority Ethnic Forum and the Lesbian, Gay, Bisexual and Transgender group
- Feedback and monitoring from Improving Working Lives
- Performance Framework for achieving Race Equality
- Feedback and learning from the Counselling service and from the Staff Advisory Network (SALS)
- Health Care Commission Standards feedback
- Feedback from Diversity Leads

## **13. Complaints**

Anyone who believes that this policy has not been adhered to in any way can make a formal or informal complaint under relevant policies/procedures. All complaints received will be taken seriously and dealt with accordingly and without undue stress to parties involved. Complaints will be handled confidentially and professionally.

Under the Race Equality Scheme, complaints will be monitored and the results published.



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## **14. Advice and Support**

### **Internal**

Advice is available from the Human Resources Department, Staff Advisory Service or by reference to the appropriate Trade Union Representative. All calls will be treated in the strictest confidence

### **External**

The Advisory, Conciliation and Arbitration Services (ACAS), London Region, Clifton House, 83 – 117 Euston Road, London NW1 2RB

## **Equalities and Human Rights Legislation**

- Equal Pay Act
- Sex Discrimination Act 1975
- Human Rights Act 1998
- The Employment Equality (Religion or Belief) Regulations 2003
- The Employment Equality (Sexual Orientation) Regulation 2003
- The Gender Recognition Act 2004
- Civil Partnership Act 2004
- Disability Discrimination Act (1995)
- The Race Relations Amendment Act 2000
- The Disability Discrimination Act 2004 (DDA)
- Disability Discrimination Act 2005
- Employment Equality (Age) Regulations 2006
- Equality Bill 2005
- The Rehabilitation of Offenders Act 1974,
- The Disabled Persons (Employment) Act 1994
- Section 11 Health and Social Care Act 2001
- Age Discrimination Act 2006

## **Brief Summary of Equalities and Human Rights Legislation**

### **The Equal Pay Act (as amended) 1970**

The Equal Pay Act gives an individual a right to the same contractual pay and benefits as a person of the opposite sex in the same employment, where the man and the woman are doing:

- Like work; or
- Work rated as equivalent under an analytical job evaluation study; or
- Work that is proved to be of equal value.

### **The Sex Discrimination Act (as amended) 1975**

The SDA (which applies to women and men of any age, including children) prohibits sex discrimination against individuals in the areas of employment, education, and the provision of goods, facilities and services and in the disposal or management of premises.

### **The Human Rights Act 1998**

The Human Rights Act came fully into force on 2 October 2000. It gives further effect in the UK to rights contained in the European Convention of Human Rights. The Act:

- makes it unlawful for a public authority to breach Convention rights, unless an Act of Parliament meant it could not have acted differently;
- means that cases can be dealt with in a UK court or tribunal; and
- says that all UK legislation must be given a meaning that fits with the Convention rights, if that is possible.

### **Employment Equality (Religion or Belief) Regulations 2003**

These regulations outlaw discrimination (direct discrimination, indirect discrimination, harassment and victimisation) in employment and vocational training on the grounds of religion or belief. The regulations apply to discrimination on grounds of religion, religious belief or similar philosophical belief.

### **Employment Equality (Sexual Orientation) Regulations 2003**

These regulations outlaw discrimination (direct discrimination, indirect discrimination, harassment and victimisation) in employment and vocational training on the grounds of sexual orientation. The regulations apply to discrimination on grounds of orientation towards persons of the same sex (lesbians and gay men) and the same and opposite sex (bisexuals).

### **The Gender Recognition Act 2004**

The purpose of this Act is to provide transsexual people with legal recognition in their acquired gender. Legal recognition will follow from the issue of a full gender recognition certificate by a Gender Recognition Panel. In practical terms, legal recognition will have the effect that, for example, a male-to-female transsexual person will be legally recognised as a woman in English Law. On the issue of a full gender recognition certificate, the person will be entitled to a new birth certificate reflecting the acquired gender and will be able to marry someone of the opposite gender to his or her acquired gender.

### **The Civil Partnership Act 2004**

This Act creates a new legal relationship of civil partnership, which two people of the same-sex can form by signing a registration document. It also provides same-sex couples who form a civil partnership with parity of treatment in a wide range of legal matters with those opposite-sex couples who enter into a civil marriage.

### **The Disability Discrimination Act 1995**

This Act prohibits discrimination against disabled people in the areas of employment, the provision of goods, facilities, services and premises, and education; and provides for regulations to improve access to public transport to be made.

### **The Race Relations Act 1976 (as amended by the Race Relations (Amendment) Act 2000)**

The Race Relations Act (RRA) makes it unlawful to treat a person less favourably than another on racial grounds. These cover grounds of race, colour, nationality (including citizenship), and national or ethnic origin.

The Race Relations (Amendment) Act outlawed discrimination (direct and indirect) and victimisation in all public authority functions not previously covered by the RRA, with only limited exceptions. It also placed a general duty on specified public authorities to promote race equality and good race relations. There are also specific duties for listed organisations including the production of Race Equality Schemes.

### *Future/developing legislation*

## **Disability Discrimination Act 2005**

This Act makes substantial amendments to the Disability Discrimination Act 1995 (see above). The 2005 Act places a general duty on public authorities to promote disability equality and to have due regard to eliminate unlawful discrimination. Those listed bodies within the public sector will also be subject to specific duties of the 2005 Act. The specific duties provides a clear framework for meeting the general duty and includes the requirement to produce a **Disability Equality Scheme**. The Disability Equality Duty for the Public Sector will come into force in December 2006.

This will mean that DH and all NHS bodies will have to have in place by December 2006 disability equality schemes demonstrating how they intend to fulfil their general and specific duties under the Act. This will include:

- a public authority should involve disabled people in the development of the scheme
- the scheme should include a statement of:
  - the way in which disabled people have been involved in the development of the scheme
  - the authority's methods for impact assessment
  - steps which the authority will take towards fulfilling its general duty (the "action plan")
  - the authority's arrangements for gathering information in relation to employment, and, where appropriate, its delivery of education and its functions
  - the authority's arrangements for putting the information gathered to use, in particular in reviewing its action plan and in preparing the next Disability Equality Scheme
- A public authority must, within 3 years of the scheme being published, take the steps set out in its action plan (unless it is unreasonable or impracticable for it to do so) and put into effect the arrangements for gathering and making use of information.
- A public authority must publish a report containing a summary of the steps taken under the action plan, the results of its information gathering and the use to which it has put the information.

The first scheme must be published by 4 December 2006 and will have to cover the following three years and this must be a living document, regularly monitored and reviewed.

## **Employment Equality (Age) Regulations 2006**

The Age Regulations will implement the age strand of the EU Employment Directive 2000, which prohibits discrimination on specified grounds in work and vocational training. The Age Regulations will apply to all workers and to people who apply for work. In addition they will cover access to vocational training. The Age Regulations will prohibit direct and indirect age discrimination, harassment and victimisation.

## The Equality Bill

The Equality Bill was re-introduced in Parliament on the 19 May 2005 and has been through the House of Lords committee and report process. The Equality Bill will now be discussed in the House of Commons, it is hoped that the Bill will receive Royal Assent early next year. The Bill's main provisions include:

- the **creation of the Commission for Equality and Human Rights (CEHR)** which replaces the existing three equality commissions. The new Commission would give individuals suffering from discrimination easier access to support and provide employers and service providers with improved advice and information in a one-stop-shop. The purpose and functions of the CEHR are outlined in the Bill and the new Commission will be operational from October 2007 (with the Commission for Race Equality joining in 2009)
- **to make unlawful discrimination on the grounds of religion and belief** in the provision of goods, facilities and services, education, the use and disposal of premises, and the exercise of public functions; and
- to create a **duty on public authorities to promote equality of opportunity between women and men ('the gender duty')**, and prohibit sex discrimination in the exercise of public functions. This will also include a specific duty on public bodies to produce a Gender Equality Scheme.

As the Equality Bill is still going through Parliament the regulations allowing for the creation of a Public Sector Gender Equality Duty with both a general and specific duties have not yet been laid before Parliament. This will be done once the Bill receives Royal Assent early next year, and the consultation on the specific duties has concluded. EHRG have been working closely with the Department for Trade and Industry's Women and Equality Unit to work on the detail of the specific duties in particular. Whilst the regulations have not yet been drafted, we are certain that the DH and NHS will be subject to the specific duties of the Gender Duty, which will require all public bodies to produce a **Gender Equality Scheme** by April 2007.

Following amendments tabled by Lord Alli and Lord Lester (supported by Stonewall) the Government accepted an amendment to the Bill which inserts an order making power which **allows for extended protection for gay, lesbian and bisexual people in the provision of goods, facilities and services and in the exercise of public functions**. This protection will be extended in the form of secondary legislation, which is expected to come into force towards the end of 2006.

## Discrimination Law Review

The Department of Trade and Industry's Women and Equality Unit are taking the Discrimination Law Review forward. The Review will consider the opportunities for creating a clearer and more streamlined equality legislation framework, which produces better outcomes for those who experience disadvantage.

Key areas of the Review's work will include:

- A consideration of the fundamental principles of discrimination legislation and its underlying concepts and a comparative analysis of the different models for discrimination legislation;
- An investigation of different approaches to enforcing discrimination law so that a spectrum of enforcement options can be considered;
- An understanding of the evidence of the practical impact of legislation – both within the UK and abroad – in tackling inequality and promoting compliance;
- Consideration of the opportunities for creating a simpler, fairer and more streamlined legislative framework in a **Single Equality Act**. Any proposals will have due regard to better regulation principles and take into account the need to minimise bureaucratic burdens on business and public services. A key priority will be seeking to achieve greater consistency in the protection afforded to different groups while taking into account evidence that different legal approaches may be appropriate for different groups.

It is anticipated that the product is a series of proposals for a coherent, modern, outcome focused framework for this area of the law with a view to bringing forward a Single Equality Bill.

## **APPENDIX B**

### **DEFINITIONS**

#### ***Harassment***

Behaviour towards a person, or group of employees which is viewed by the person as humiliating, offensive, distressing or which interferes with the person's performance, undermines their job security, demeans the person, or creates a threatening or intimidating work environment.

#### ***Bullying***

Offensive, intimidating, insulting or humiliating behaviour, abuse of power or authority, which attempts to or undermines an individual or group of employees

#### ***Direct Discrimination***

This happens when someone or a group of people are treated less favourably than other people in the same or similar circumstances. For example, refusal to employ someone because of their ethnicity, race, colour, nationality, sexuality is direct discrimination.

#### ***Indirect Discrimination***

This happens when a requirement or condition has the effect of discriminating unjustifiably and unfairly between one group, one individual and another. It may happen un-intentionally. For example job may have an essential requirement for someone with a degree, this may however not be relevant to the needs of the job.

#### ***Race Equality Scheme***

Under the Race Relations (Amendment) Act 2000, there is a general duty to eliminate unlawful discrimination, promote equality of opportunity and promote good relations between people of different groups. A Race Equality Scheme (RES) is therefore the means for doing this and it has to have a realistic action plan. The RES summarises the tPCT's approach to race equality and its corporate aims. It should also say how the tPCT plans to carry out each of the specific duties.

The Race Equality scheme is an organic document, reviewed from time to time in light of experiences, comments, changes and circumstances. Under the scheme, the Specific duties provide the steps, methods and arrangements which should be followed to help the tPCT meet the general duty. These include identifying relevant functions and policies, assessing and consulting on proposed policies, monitoring policies for adverse impact, publishing results, enabling access to information and services, training staff about issues relevant to the general duty.

The Race Equality Scheme aims to make race equality a central, and integral part of the way public authorities work. By doing so it suggests that race equality be put at the centre of policy making, service delivery, regulation and enforcement and employment duties.

### ***Disability Discrimination***

This occurs when a person or group of people are discriminated against, treated unfairly and unfavourably than others who may not have a disability/of whom the disability does not apply and the employer cannot justify the reason for this unfair treatment. It also happens when the employer fails to comply with the legal duty to make reasonable adjustments in relation to a disabled person and again the employer cannot offer any justification.

### ***Genuine Occupational Qualification***

This is where it is possible for an employer to, for example, limit candidates for a post to a particular race or sex only. In this case the person's race or sex is a genuine occupational qualification for the job. For example for some religious, faith and cultural settings, similar gender to gender care is deemed appropriate and therefore an employer may recruit a female to offer care to female patients only from that culture or religious group.

This happens only in exceptional and extremely limited situations and care must be taken when applying this condition.

### ***Institutional Discrimination***

This is where an organisations policies, procedures, processes, practices, services, activities corporate and strategic aims, objectives and plans have discriminatory effects whether intended or not

### ***Lawful Positive Discrimination***

The Disability Discrimination Act does not prevent employers from treating disabled people favourably because of their disability than those without a disability. This means that an employer can appoint a disabled person into a position if they meet the key job requirements, over a non disabled person who meets both the essential and desirable requirements. Lawful positive discrimination is however not lawful under other equalities legislation

### ***Positive Action***

Positive action can be taken by an employer to prevent discrimination and to overcome past discrimination. This means that where an employer determines (and this may happen under the Race Equality Scheme) that particular groups or only very few people from particular groups have been able to access particular job or development opportunities, then the employer can encourage people from that group only to apply for or to access development opportunities. This enables people normally excluded to compete on equal terms with others. Note that selection will be based on merit and all who apply will have equal and fair treatment. The law does not force employers to take positive action but allows them to do so.

### ***Victimisation***

Victimisation can occur when someone has or is known to have (or thinking of) complained about discrimination, has brought proceedings against, given evidence or information relating to proceedings and is therefore treated unfavourably, unfairly or harshly. Victimisation is unlawful.



**tPCT Employment Policies and Practices**

This policy will be implemented through the tPCT's employment policies and practices and these include

- Recruitment and Retention
- Disciplinary
- Harassment and Bullying
- Grievance and Dispute
- Flexible Working
- Job Redeployment and Redundancy
- Race Equality Scheme
- Improving Working Lives
- Maternity Leave
- Investigation Policy (Draft)
- Capability Policy (Draft)
- Special Leave and other Absence
- Recognition of Service
- Work Life Balance
- Retirement Policy
- Organisational Change Policy