

<b>EQUALITY OF OPPORTUNITY IN EMPLOYMENT</b>	<b>Policy</b> <b>Register No 04001</b> <b>Status: Public</b>
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	Staff Side	21 <sup>st</sup> March 2018
	Human Resources Team	21 <sup>st</sup> March 2018
	Managers of the JCNC	27 <sup>th</sup> March 2018
Deborah Lepley	Warner Library	10 <sup>th</sup> April 2018

<b>Professionally Approved By:</b>		
Peter Waller-Flynn	Human Resources Manager	9 <sup>th</sup> April 2018

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<b>Policy to be followed by (target staff)</b>	All MEHT staff
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**Index:**

**1.0 Purpose**

**2.0 Scope**

**3.0 Statement of Intent**

**4.0 Legal and NHS National Framework**

**5.0 Equality Delivery System**

**6.0 Managing Equal Opportunities in Employment**

**7.0 Employee Responsibilities**

**8.0 Grievances**

**9.0 Monitoring**

**10.0 References**

## **1.0 Purpose**

- 1.1 The Trust is committed to providing equality of opportunity in employment and to avoiding unlawful discrimination in its employment or to service users. The Trust believes that the promotion of equality of opportunity and creating an inclusive environment for a diversity of staff, are key components of good management as well as being legally required, socially desirable and morally right. Striving to ensure that the work environment is also free of harassment and bullying and that everyone is treated with dignity and respect is a vital aspect of ensuring equal opportunities in employment.

## **2.0 Scope**

- 2.1 This policy will apply to all staff employed under a contract of service by the Trust. This policy aims to ensure that no employee or applicant for employment receives less favourable treatment on the grounds of:

- Gender and Gender Identity
- Marital or civil partnership status
- Pregnancy and maternity
- Parental/Guardian/Carer Status
- Ethnicity and nationality
- Religion, faith or Belief
- Disability
- Age
- Sexual Orientation
- Trade Union Membership, or Non-Membership, or Activity

## **3.0 Statement of Intent**

- 3.1 The Trust acknowledges that employees have different abilities to contribute to organisational goals and performance, and that appropriate support may be required to give everyone an opportunity to contribute on equal terms. Employees will be valued by the organisation as individuals, and will be treated with respect and dignity.
- 3.2 The Site Head of Human Resources has lead responsibility for ensuring that this policy translates into effective action at the operational level. All managers have responsibility for ensuring that employees are aware of the policy, and that they adhere to the terms of the policy.
- 3.3 Discrimination on the grounds listed above will not be tolerated by the Trust, whether committed with intent or negligence. Any employee who fails to comply with this policy will be liable to action under the Trust's Disciplinary Policy.
- 3.4 The Trust is also bound by the employment duty which monitors all the above in relation to staff in post, applicants for jobs, promotions, training and personal development, grievances, disciplinary action, performance appraisal, and dismissals or other reasons for leaving.

## **4.0 Legal Framework**

- 4.1 It is unlawful to discriminate directly or indirectly in recruitment or employment on the grounds of the protected characteristics stated in the Equality Act 2010: sex, gender reassignment, pregnancy and maternity, race/ethnicity/nationality, age, disability, sexual orientation, marital or civil partnership status and religion/belief. It is unlawful to treat someone less favourably on the grounds of any of the above.
- 4.2 If an employee has made an allegation of discrimination, supported someone to make a complaint or given evidence in relation to a complaint it is unlawful to treat them less favourably.

### **Direct Discrimination**

- 4.2.1 Direct Discrimination occurs when an individual is treated less favourably than others. For example, a requirement for all applicants to be male/female, or of a specific race both of which would have the effect of directly discriminating on the grounds of sex or race, or refusing to employ a woman because she was pregnant.

### **Indirect Discrimination**

- 4.2.2 Indirect Discrimination is more common and occurs when the application of a requirement or condition has the effect of treating one group less favourably than others. For example the requirement that applicants for a job must meet a minimum height may have the effect of excluding more women than men and therefore would be indirectly discriminatory.

### **Associative discrimination**

- 4.2.3 This is discrimination against a person because of their association with another person who has a protected characteristic. For example, if an employer decides not to promote an employee because it considers that person will not have time to concentrate on their job because of caring responsibilities for a disabled person, this may be associative discrimination.

## **5.0 Equality Delivery System**

- 5.1 The Trust operates the Dept. of Health Equality Delivery System (EDS), setting out how it intends to meet EDS goals.
- Better health outcomes for all.
  - Improved patient access and experience.
  - Empowered, engaged and well supported staff.
  - Inclusive leadership at all levels.
- 5.2 The Trust aligns activity across the Trust with each of the EDS outcomes related to each of the four goals above. The aim is to ensure there are no barriers for anyone working in the Trust (or receiving services and support as a patient/carer).

5.3 The Trust's EDS has been subject to external consultation and is reviewed regularly by the Equality and Diversity Steering Group (chaired by the Director of Nursing).

## **6.0 Managing Equal Opportunities in Employment**

6.1 The Trust will avoid discrimination in all aspect of employment including recruitment, progression, and opportunities for training, redeployment, redundancy, pay and benefits.

6.2 The Trust will select people for employment based on merit and may not positively discriminate at the point of selection. The Trust cannot lawfully discriminate in the selection of employees for recruitment or promotion, but may use appropriate lawful methods, including lawful positive action to address under representation of any group the Trust identifies as being under represented in particular types of job.

## **7.0 Employee Responsibilities**

7.1 Every employee is required to assist the Trust to meet its commitment to provide equal opportunities in employment and avoid discrimination. Employees can be held personally liable as well as, or instead of, the Trust for any act of discrimination. Employees who commit serious acts of discrimination may be guilty of a criminal offence.

7.2 Acts of discrimination, harassment, bullying or victimisation against employees are disciplinary offences and will be dealt with under the Trust's Disciplinary Policy. Similarly, patients or visitors to the Trust will be dealt with under the Violence and Anti-Social Behaviour Policy. Discrimination, harassment, bullying or victimisation may constitute gross misconduct and could lead to dismissal without notice.

7.3 The Trust has a duty to foster and promote good relations between all those who possess protected characteristics (all staff). As part of EDS consultation, the Trust will take steps to engage and involve staff with this requirement.

## **8.0 Grievances**

8.1 Any employee who believes they have been subjected to discrimination should raise the issue with their immediate line manager. If it is against the immediate line manager, refer to the next level management. The emphasis is placed on resolving workplace grievances informally if possible or at the managerial level closest to the source of the problem. All employees have access to the Trusts Grievance Policy when making a complaint of discrimination.

## **9.0 Monitoring**

9.1 It is the responsibility of Managers to keep a record of any incidents within their work area submitted to HR on a six monthly basis. Obtain an ESR (Electronic Staff Record) report on formal complaints for any breaches. All complaints will be reported on a six monthly basis to JCNC and HR Committee.

9.2 EDS requires the Trust to monitor the effectiveness and impact of the Trust's management of equality with stakeholders, and to report and publicise progress. More information on the way the Trust deals with equality, diversity and inclusion can be found on the website here:

<http://www.meht.nhs.uk/about-us/equality-and-diversity/>

- 9.3 Any incidence of non-compliance with Policy must be reported on a risk event form so that relevant action can be taken and that appropriate recommendations and changes can be made to prevent reoccurrence.

## **10.0 References**

Employment Rights Act 1996. (c.18). London: HMSO

Equality Rights Act 2010. (c.15). London: HMSO

Human Rights Act 1998. (c.42). London: HMSO

Council Directive 1999/70/EC of 28 June 1999 concerning the framework agreement on fixed-term work concluded by ETUC, UNICE and CEEP

Employment Act 2002. (c.22). London: HMSO

EU Directives and Legislation