

East Kent Hospitals University NHS Foundation Trust

Equality, Diversity and Inclusion Policy

Version:	7
Author:	Bruce Champion-Smith Head of Equality, Diversity & Inclusion
Approving committee:	Staff Committee
Date approved:	13 August 2020 (virtually)
Date ratified by Policy Authorisation Group:	5 August 2020
Director responsible for implementation:	Director Human Resources & Organisational Development
Date issued:	August 2020
Next scheduled review date:	July 2023
Applies to (include subsidiary companies):	All Trust staff 2gether Support Solutions

Version Control Schedule

Version	Date	Author	Status	Comment
1	May 2004	Assistant Director of Human Resources	Archive	
2	October 2009	Head of Human Resources	Archive	
3	March 2011	Head of Corporate Human Resources	Archive	Updated to reflect legislative changes
4	December 2013	Head of Corporate Human Resources	Archive	Updated to reflect legislative changes (removal of third-party harassment)
5	1 June 2016	Head of diversity and Inclusion	Archive	Updated to include Religious Observance and trust's move to inclusion.
6	30 April 2020	Head of Equality, Diversity and Inclusion	Active	Updated to include Patients

Policy Reviewers

Name and Title of Individual	Date Consulted
Director of Human Resources and Organisational Development	July 2020
Chief Nurse and Director of Quality and Patient Experience	July 2020
Head of Employee Relations	July 2020
LGBTQ+ Staff network	July 2020
Black & Minority Ethnic Staff Network	July 2020
Staff Disability Network	July 2020
ALS Project Manager	July 2020

Name of Committee	Date Reviewed
Equality, Diversity & Inclusion Steering Group	20 July 2020
Staff Committee	13 August 2020
Policy Authorisation Group	05 August 2020
Strategic Workforce Committee	26 August 2020

Summary of Key Changes from Last Approved Version

New NHS Standards included

- Workforce Race Equality Standard (WRES),
- Workforce Disability Equality Standard (WDES),
- Sexual Orientation Monitoring Information Standard (SOMIS)
- Accessible Information Standard (AIS)

New Areas Now Covered by This Policy

- Service Delivery
- Religious Observance
- Equality Analysis (EA)

Associated Documentation

- Recruitment and Selection Policy
- Disciplinary Policy
- Grievance Policy
- Bullying and Harassment Policy
- Freedom to Speak Up; Raising Concerns (Whistleblowing) Policy
- Health and Safety Policy
- Management of Violence and Security and Aggression Policy
- Learning and Development Policy
- Equality Delivery System (EDS2)
- Acting Up and Secondment Policy and Procedure
- New Starter Probation Policy

Contents

1	Policy Description	6
2	Introduction.....	6
3	Definitions.....	6
4	Purpose and Scope	8
5	Duties and Responsibilities	9
6	The Law.....	12
7	Public Sector Equality Duty	13
8	Equality, Diversity and Inclusion in Employment	13
9	Risks Addressed	14
10	Equality, Diversity and Inclusion in Service Delivery	14
11	Equality Analysis (EA)	17
12	Policy Development, Approval and Ratification	18
13	Review and Revision Arrangements	18
14	Policy Implementation	18
15	Document Control including Archiving Arrangements	18
16	Monitoring Compliance.....	18
17	References	19
	Appendix A – Equality Analysis.....	20
	Appendix B – Equality Analysis Guidance	22
	Appendix C – Policy Implementation Plan	25

1 Policy Description

- 1.1 This policy sets out the approach of East Kent Hospitals University Foundation Trust (EKHUFT) to equality, diversity and inclusion.

2 Introduction

- 2.1 The Trust is fully committed to ensuring equality, diversity and inclusion and the elimination of unlawful and unfair discrimination.
- 2.2 The Trust will not discriminate because of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race (which includes colour, nationality and ethnic or national origins), religion or belief, and sex or sexual orientation. It will not discriminate because of any other irrelevant factor and will build a culture that values openness, fairness and transparency.

3 Definitions

3.1 Diversity

- 3.1.1 The concept of diversity encompasses acceptance and respect. It means understanding that each individual is unique, and recognising our individual differences. These can be along the dimensions of race, ethnicity, gender, sexual orientation, socio-economic status, age, physical abilities, religious beliefs, political beliefs, or other ideologies. It is the exploration of these differences in a safe, positive, and nurturing environment. It is about understanding each other and moving beyond simple tolerance to embracing and celebrating the rich dimensions of diversity contained within each individual.
- 3.1.2 Diversity is a reality created by individuals and groups from a broad spectrum of demographic and philosophical differences. It is extremely important to support and protect diversity by valuing individuals and groups free from prejudice, and by fostering a climate where equity and mutual respect are intrinsic.
- 3.1.3 In simple terms, diversity is the mix; inclusion is getting the mix to work well together.

3.2 Equality

- 3.2.1 Equality is about creating a fairer society in which everyone has the opportunity to fulfil their potential. It is not about treating everyone the same but more about providing a level playing field with equal access to opportunities for all.

3.3 Inclusion

- 3.3.1 Inclusion is a state of being valued, respected and supported. It is about focusing on the needs of every individual and ensuring the right conditions are in place for each person to achieve his or her full potential. Inclusion should be reflected in an organization's culture, practices and relationships that are in place to support a

diverse workforce.

3.4 Human Rights

3.4.1 The Human Rights Act 1998 provides a complementary legal framework to the anti-discriminatory framework and the public duties.

3.4.2 Human Rights are the basic rights all individuals have, regardless of who they are, where they live or what they do. Human rights represent all the things that are important to human beings, such as the ability to choose how to live their lives and being treated with dignity and respect. The Human Rights are based on the FREDA principles: Fairness, Respect, Equality, Dignity and Autonomy. Human rights help individuals to flourish and achieve potential through:

- being safe and protected from harm
- being treated fairly and with dignity
- being able to live the life you choose
- taking an active part in your community and wider society

3.5 Direct discrimination

3.5.1 Direct discrimination is where a person is treated less favourably than another because of a protected characteristic. An example of direct discrimination would be refusing to employ a woman because she is pregnant.

3.5.2 In limited circumstances, employers can directly discriminate against an individual for a reason related to any of the protected characteristics where there is an occupational requirement. The occupational requirement must be crucial to the post and a proportionate means of achieving a legitimate aim.

3.6 Indirect discrimination

3.6.1 Indirect discrimination is where a provision, criterion or practice is applied that is discriminatory in relation to individuals who have a relevant protected characteristic (although it does not explicitly include pregnancy and maternity, which is covered by indirect sex discrimination) such that it would be to the detriment of people who share that protected characteristic compared with people who do not, and it cannot be shown to be a proportionate means of achieving a legitimate aim.

3.7 Harassment

3.7.1 Harassment is where there is unwanted conduct, related to one of the protected characteristics (other than marriage and civil partnership, and pregnancy and maternity which are covered by direct discrimination provisions in the Equality Act 2010) that has the purpose or effect of violating a person's dignity; or is reasonably considered by that person to create an intimidating, hostile, degrading, humiliating

or offensive environment. It does not matter whether or not this effect was intended by the person responsible for the conduct.

3.8 Associative discrimination

3.8.1 Associative discrimination is where an individual is directly discriminated against or harassed for association with another individual who has a protected characteristic (although it does not cover harassment because of marriage and civil partnership, and (according to guidance from the Government and the Advisory, Conciliation and Arbitration Service (ACAS) pregnancy and maternity).

3.9 Perceptive discrimination

3.9.1 Perceptive discrimination is where an individual is directly discriminated against or harassed based on a perception that they have a particular protected characteristic when they do not, in fact, have that protected characteristic (other than marriage and civil partnership, and pregnancy and maternity).

3.10 Victimisation

3.10.1 Victimisation occurs where an employee is subjected to a detriment, such as being denied a training opportunity or a promotion because they made or supported a complaint or raised a grievance under the Equality Act 2010, or because they are suspected of doing so. However, an employee is not protected from victimisation if they acted maliciously or made or supported an untrue complaint in bad faith. There is no need for a complainant to compare their treatment with someone who has not made or supported a complaint under the Equality Act 2010. For example, if a blind employee raises a grievance that the employer is not complying with its duty to make reasonable adjustments, and is then systematically excluded from all meetings; such behaviour could amount to victimisation.

3.11 Reasonable Adjustments

3.11.1 Failure to make reasonable adjustments is where a physical feature or a provision, criterion or practice puts a disabled person at a substantial disadvantage compared with someone who does not have that disability and the employer/service provider has failed to make reasonable adjustments to enable the disabled person to overcome the disadvantage.

4 Purpose and Scope

4.1 The purpose of this policy is to communicate the Trust's commitment to equality and diversity for staff in the workplace and with respect to staff behaviour towards patients, visitors and service users.

4.2 This Policy also sets out the Trust's approach to assessing the impact of equality on our policies, services and organisational change, through the use of Equality

Analyses (EAs).

- 4.3 Compliance with this policy will also ensure that employees do not commit unlawful acts of discrimination, that the work environment is free of harassment and bullying and that everyone is treated with dignity and respect.
- 4.4 The policy is applicable to all employees, clients, communities, suppliers and contractors, whether permanent or temporary. The policy applies to all processes relating to employment and training and to any dealings with suppliers, customers and clients.

5 Duties and Responsibilities

The key duties and responsibilities for the implementation of this policy.

- 5.1 Trust Board
- 5.1.1 Ensure that equality, diversity and inclusion are integrated into all Trust business, in both service delivery and in the treatment of staff.
- 5.1.2 Ensure that Board members are trained appropriately in managing equality, diversity and inclusion.
- 5.1.3 Following the Annual Report to the Board on equality, diversity and inclusion issues, support the Director of Human Resources and the Chief Nurse and Director of Quality and Patient Experience in identifying areas for improvement.
- 5.2 Chief Executive/ Executive Team
- 5.2.1 Ensure that the Trust applies the principles of managing equality, diversity and inclusion in all its operations and demonstrates a commitment to managing equality, diversity and inclusion.
- 5.2.2 Ensure that the commitment from the Trust to managing equality, diversity and inclusion is communicated to all employees of the Trust.
- 5.2.3 Lead by example, developing and promoting an organisational culture that is supportive of the benefits of managing equality, diversity and inclusion.
- 5.2.4 Provide assurance to the trust board that the trust is compliant with the Equalities Act (2010), the Equality Delivery System 2 (EDS2), the Workforce Race Equality Standards (WRES), Gender Pay Gap reporting and any subsequent mandatory equality duties.
- 5.3 Diversity Leads/Champions
- 5.3.1 The Chief Executive will appoint members of the executive team to act as Trust Leads/Champions for the following Diversity groups.
- Lesbian, Gay, Bisexual, Transgender, Queer + (LGBTQ+)
 - Women

- Religion
- Age
- Black Asian and Minority Ethnic (BAME)
- Disability

5.3.2 Each Lead/Champion will use their position to:

- raise awareness about Diversity issues for staff, patients, families and carers,
- challenge false or damaging stereotypes,
- Role model anti-discriminatory behaviour

5.3.3 Where possible the Leads/Champions will attend the meetings of relevant staff Networks and report back to the Board of Directors.

5.3.4 The Leads/Champions will attend the Equality Diversity and Inclusion Steering Group at least once every year and report on their activity throughout the year.

5.4 Director of Human Resources and Organisational Development

5.4.1 Ensure that all human resource policies, practices and procedures are consistent with legislative requirements and best practices relating to workplace equality, diversity and inclusion.

5.4.2 Ensure that staff have access to the necessary training interventions with regard to managing equality, diversity and inclusion, and that all relevant training events are supportive of the principles of this policy.

5.4.3 Monitor the effectiveness of this policy and other policies and procedures in relation to equality, diversity and inclusion, in particular through use of the staff survey, workforce profile, recruitment and selection monitoring, and incidents of harassment, taking any necessary action as appropriate.

5.4.4 Report to the Strategic Workforce Committee on an annual basis relevant data relating to equality, diversity and inclusion issues.

5.5 Chief Nurse and Director of Quality and Patient Experience

5.5.1 Ensure that all policies, practices and procedures relating to patient care are consistent with legislative requirements and best practices concerning equality, diversity and inclusion.

5.5.2 Ensure that staff have access to the necessary training interventions with regard to managing equality, diversity and inclusion for patient care, and that all relevant training events are supportive of the principles of this policy.

5.5.3 Monitor the effectiveness of this policy and other policies and procedures in

relation to equality, diversity and inclusion, in particular through use of the Friends and Family Test (FFT), National Patient Surveys, complaints and compliments monitoring taking any necessary action as appropriate.

- 5.5.4 Report to the Patient Experience Committee on an annual basis relevant data relating to equality, diversity and inclusion issues.
- 5.6 Director of Strategic Development and Capital Planning
 - 5.6.1 Ensure access to EKHUFT premises and services by removing physical and other barriers experienced by our staff and service users.
 - 5.6.2 Ensure that equality impact assessments are undertaken on all modifications to premises and service redesigns.
 - 5.6.3 Ensure all the Trust's estates schemes are designed and constructed in accordance with Disability Legislation and the Building Regulations Part M standards.
- 5.7 Equality, Diversity and Inclusion Steering Group
 - 5.7.1 Examine and recommend improvement to any strategies, policies and procedures which impact upon the Trust's aspirations to ensure equality, diversity and inclusion.
- 5.8 Associate Director of Procurement & Managed Equipment
 - 5.8.1 Ensure that the Trust promotes and influences equality, diversity and inclusion issues through its procurement process.
 - 5.8.2 Recommend action and monitor progress towards objectives.
- 5.9 Managers
 - 5.9.1 Ensure that policies and procedures relating to managing equality, diversity are implemented and communicated to all existing staff and new staff on their commencement.
 - 5.9.2 Promote a professional and positive work environment, and in doing so ensure employees' rights to pursue a career with dignity.
 - 5.9.3 Raise awareness of managing equality, diversity and inclusion, acting as a role model for others, and developing personal skills in order to handle issues relating to discrimination and harassment.
 - 5.9.4 Be directly responsible for the resolution of issues relating to harassment and discrimination in their work area, in accordance with Trust policies and procedures, including the Disciplinary Policy where necessary.
- 5.10 Employees

- 5.10.1 All employees are responsible for the promotion and advancement of this policy. Behaviour, actions or words that contravene the policy will not be tolerated and will be dealt with in line with the Trust's Discipline policy.
- 5.10.2 Maintain a professional working environment, treating other employees and service users with respect.
- 5.10.3 Comply with and promote Trust policy and procedures with regard to managing diversity.
- 5.10.4 Be aware of their responsibility, challenge inappropriate behaviour when appropriate and always report inappropriate behaviour to their manager.
- 5.11 Trade Union Representatives
- 5.11.1 Representatives of recognised trade unions and staff associations are expected to co-operate with managers in the exercising of the Trusts legal responsibility and of this policy.

6 The Law

- 6.1 The Equality Act 2010 defines direct discrimination as less favourable treatment because of a protected characteristic. The protected characteristics under the Equality Act 2010 are:
- age;
 - disability;
 - gender reassignment;
 - marriage and civil partnership;
 - pregnancy and maternity;
 - race;
 - religion or belief;
 - sex;
 - sexual orientation;
- 6.2 It is unlawful to discriminate directly or indirectly in recruitment, employment or provision of services because of a person's protected characteristics.
- 6.3 Discrimination after employment is also unlawful, e.g. refusing to give a reference for a reason related to one of the protected characteristics.
- 6.4 It is unlawful for an employer to fail to make reasonable adjustments to its requirements, working practices or the physical features of the workplace where these put a disabled job applicant or employee at a substantial disadvantage. It is also unlawful discrimination where a disabled employee is at a substantial disadvantage due to the employer's unreasonable failure to provide an auxiliary aid or service to the disabled employee.
- 6.4.1 Staff should not discriminate against or harass a patient nor a member of the public in the provision of services, goods or facilities. It is unlawful to fail to make reasonable adjustments to overcome barriers to using services caused by disability. The duty to make reasonable adjustments includes the removal,

adaptation or alteration of physical features, if the physical features make it impossible or unreasonably difficult for disabled people to make use of services. In addition, service providers have an obligation to think ahead and make reasonable adjustments to address any barriers that may impede disabled people from accessing a service.

7 Public Sector Equality Duty

7.1 In addition to the above, the Public Sector Equality Duty (PSED – section 149) requires public bodies to have due regard to the need to:

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

7.2 Specific duties, set out in regulations to the Equality Act require us to:

- Publish information to demonstrate compliance with the Public Sector Equality Duty annually. This information must be published so that it is accessible to the public, either in a separate document or within another published document.
- Prepare and publish equality objectives at least every four years. All such objectives must be specific and measurable.

8 Equality, Diversity and Inclusion in Employment

8.1.1 The Trust will avoid unlawful discrimination in all aspects of employment including recruitment, promotion, opportunities for training, pay and benefits, discipline and selection for redundancy.

8.1.2 Person and job specifications will be limited to those requirements that are necessary for the effective performance of the job. Candidates for employment or promotion will be assessed objectively against the requirements for the job, taking account of any reasonable adjustments that may be required for candidates with a disability. Disability and personal or home commitments will not form the basis of employment decisions except where necessary.

8.1.3 The Trust will consider any possible indirectly discriminatory effect of its standard working practices, including the number of hours to be worked, the times at which these are to be worked and the place at which work is to be done, when considering requests for variations to these standard working practices and will refuse such requests only if the Trust considers it has good reasons, unrelated to

any protected characteristic, for doing so. The Trust will comply with its obligations in relation to statutory requests for contract variations. The Trust will also make reasonable adjustments to its standard working practices to overcome barriers caused by disability.

8.1.4 The Trust will monitor the ethnicity, gender and age composition of the existing workforce and of applicants for jobs (including promotion), and the number of people with disabilities within these groups, and will consider and take any appropriate action to address any issues that may be identified as a result of the monitoring process.

8.2 Positive Action

8.2.1 Employers may take positive action in the form of proportionate measures to encourage or train people from an under-represented group to apply for jobs, overcome a perceived disadvantage or meet specific needs based on a protected characteristic.

8.2.2 Examples of positive action include making additional training opportunities available to enable people from underrepresented groups to compete fairly for available jobs or stating that applications would be particularly welcome from particular groups.

8.2.3 A particular racial group or sex is under-represented if, at any time during the previous twelve months, either there was no one doing the job in question, or there were disproportionately few in comparison with the group's proportion in the workforce at that establishment, or in the relevant labour market.

8.2.4 Positive action should not be confused with positive discrimination, which is unlawful. Positive action is a measure designed to allow individuals from under-represented groups to compete on an equal footing. Positive discrimination occurs when an individual is selected because of their membership of a particular under-represented group.

9 Risks Addressed

9.1 The Equality Diversity and Inclusion policy draws together the equality and diversity risks mitigated against by a range of HR policies including disciplinary, grievance, and recruitment. Without the controls in place through adherence to these policies the risk to the Trust of claims of discrimination would be increased. This could impact the Trust financially and have a negative impact on patient experience and consequently on its reputation.

10 Equality, Diversity and Inclusion in Service Delivery

In order to ensure the patient receives equal access to treatment and services, regardless of background, the Trust needs to first understand the diversity of its

patients, their ability to access services, as well as satisfaction levels.

10.1 Access to Services

- 10.1.1 EKHUFT is committed to improving access to its premises and services by removing physical and other barriers experienced by our staff and service users. We will ensure that equality impact assessments are undertaken on all modifications to premises and service redesigns. All the Trust's estates schemes are designed and constructed in accordance with Disability Legislation and the Building Regulations Part M standards. The Trust is fully committed to ensuring that it promotes and influences equality, diversity and inclusion issues through its procurement process.
- 10.1.2 In developing its services, the Trust will seek to ensure equitable access to all actual and potential users, this will include, wherever practicable, making specific access arrangements for service users with disabilities, or any other protected characteristics which may apply. The Trust will attempt to ensure that none of its service policies, protocols or procedures discriminates directly or indirectly against any group or individual.
- 10.1.3 As far as practicable, the Trust will ensure that all aspects of its services are as accessible as possible, to the widest range of people as possible. This includes our premises, the location of our services, the opening times of our services and our communication systems including; telecommunication, publications, documents, web and intranet publications.
- 10.1.4 The Trust will ensure that key patient information documents are produced in alternative formats, such as easy read, large print, braille or in audio, as appropriate.
- 10.1.5 The Trust will engage translation on demand and access to services which can translate and provide copies of key information in the form of leaflets etc.
- 10.1.6 To ensure this happens, all translated service information leaflets, brochures and booklets must be copied to the Trust Patient Information Co-ordinator for archiving. Members of staff requiring translated information leaflets, brochures and booklets must check the archive before ordering additional translations.
- 10.1.7 The Trust believes good communication to be the key to developing equality of opportunity for all members of society. This can be especially difficult for those people whose first language is not English; are deaf and/or hard of hearing; are blind or have a visual impairment or have a learning disability.
- 10.1.8 We are committed to making appropriate facilities available and accessible to enable service users and employees to; communicate effectively by providing information in a variety of formats. Where appropriate, we will ensure community

consultation and participation for involvement in policy and service planning.

10.1.9 Our Interpreter and Translation Services Policy ensures that all patients whose first language is not English and patients with disabilities, such as hearing and visual impairments, have access to quality health services regardless of the language they speak or any disability they may have. It also ensures that employees follow the correct procedures for obtaining interpreter and translation services.

10.2 Accessible Information Standard (AIS)

10.2.1 The AIS was introduced by the government in 2016 to make sure people with a disability, impairment or sensory loss are given information in a way they can understand. This includes making sure people get information in accessible formats. By law all organisations that provide NHS care must follow the Standard in full.

10.2.2 The AIS states that anyone with a disability, impairment or sensory loss should;

- be able to contact, and be contacted by, services in accessible ways, for example via email or text message and online signing
- receive information and correspondence in formats they can read and understand, for example in audio, braille, easy read or large print
- be supported by a communication professional at appointments if this is needed to support conversation, for example a British Sign Language interpreter
- be given support in order to communicate, for example to lip-read or use a hearing aid

10.2.3 The AIS requires the Trust to:

- ask people if they have any information or communication needs, and find out how to meet their needs,
- record those needs clearly and in a set way,
- highlight or flag the person's file or notes so it is clear they have information or communication needs and how to meet those needs
- share information about people's information and communication needs with other providers of NHS and adult social care, when they have consent or permission to do so
- take steps to ensure people receive information which they can access and understand, and receive communication support if they need it.

10.3 Religious Observance

- 10.3.1 The Trust will, where appropriate, endeavour to grant employees reasonable time off during working hours for religious observance insofar as this is possible and practicable, considering the needs of the service and whether or not such arrangements might cause disturbance or disruption to other members of staff and/or their work or work patterns.
- 10.3.2 The Trust reserves the right to refuse to grant some or all of any of the time off requested under any of the following circumstances:
- where an employee requests time off at a particularly busy time,
 - or at a time when the absence would otherwise cause difficulties in delivering the service,
 - or where the amount of time off requested is unreasonable or excessive (considering the needs of the service).
- 10.3.3 All employees, whatever their religion or belief, will be treated equally in respect of requests for time off for religious observance or requests for alterations to their working patterns for religious reasons.
- 10.3.4 In addition, it is the Trust's policy to ask all employees and volunteers, on a voluntary basis, to disclose their religion or belief to it so that any religious needs can be assessed and fair consideration given to what facilities and arrangements it might reasonably provide for staff. While no employee is obliged to disclose his/her religion, belief or religious practices to the organisation, employees are encouraged to do so for this reason.
- 10.4 Training
- 10.4.1 The Trust will provide training in equality, diversity and inclusion to managers and others likely to be involved in recruitment or other decision-making where these issues are likely to arise.
- 10.4.2 The Trust will provide training to all existing and new employees and others engaged to work at the Trust to:
- help them understand their rights and responsibilities under this policy;
 - the dignity at work policy; and
 - what they can do to help create a working environment free of bullying and harassment where everyone is treated with dignity and respect.

11 Equality Analysis (EA)

- 11.1 Equality Analyses (EAs) are an effective way of improving policy development and service delivery, making sure that we consider the needs of the community, identify potential steps to promote equality and do not discriminate.

11.2 The Trust has developed guidance for staff to ensure that all staff understand how to complete an EA when:

- Considering any new or changing activity
- Developing or changing service delivery
- Procuring services
- Developing projects
- Developing a policy, strategy, business case, procedure, guidance or changing or updating existing ones

11.3 Guidance on the completion of an EA is contained within Appendix B.

12 Policy Development, Approval and Ratification

12.1 Version 6 of the Equality, Diversity & Inclusion Policy supersedes version 5 of the Diversity and Inclusion policy. It has been reviewed by the Trust Equality, Diversity and Inclusion Steering Group and approved by the Trust Staff Committee.

12.2 This policy has been ratified by the Policy Authorisation Group.

13 Review and Revision Arrangements

13.1 This policy will be reviewed as scheduled in three years' time unless legislative or other changes necessitate an earlier review.

13.2 It will be ratified by the Policy Authorisation Group every three years, or when there are significant changes and/or changes to underpinning legislation in accordance with section 9.3 of the policy for the Development and Management of Trust Policies (and other Procedural Documents).

14 Policy Implementation

14.1 Refer to Appendix C.

15 Document Control including Archiving Arrangements

15.1 Archiving of this policy will conform to the Trust's Information Lifecycle and Records Management Policy, which sets out the Trust's policy on the management of its information.

15.2 This policy will be uploaded to the Trust's policy management system.

15.3 Version 5 of this policy, which this document supersedes, will be retained within the Trust's policy management system for future reference.

16 Monitoring Compliance

16.1 Application and monitoring of this policy will be monitored by the Equality, Diversity and Inclusion Steering Group and by senior human resources staff. This will

include a review by protected characteristics in line with the requirements of the Equality Act 2010 and guidance or requirements of the Equality and Human Rights Commission and healthcare regulatory bodies.

16.2 The Annual Equality report, which sets out how the Trust has met the public sector equality duty will be presented to the Equality, Diversity and Inclusion Committee along with the WRES, WDES, Gender Pay Gap (GPG) reports. These reports will be published on the Trust's website. Individual demographic information will be anonymised in reporting.

16.3 Complaints:

16.3.1 Any employee who wishes to make a complaint about the application or non-application of this policy should raise the matter through the Trust's grievance procedure.

16.3.2 Any prospective employee or other workers not directly employed by the Trust should make their complaint using the Trust's Complaints Procedure.

16.4 Discipline:

Proven acts of discrimination will be treated as disciplinary offences and dealt with in accordance with the Trust's Disciplinary Policy.

17 References

- Equality Act 2010
- Equality Act 2010 Specific Duties Regulations
- Workforce Race Equality Standard
- Workforce Disability Equality Standard
- Equality delivery system (a tool developed by the NHS Equality and Diversity Council to enable NHS organisations to review and rate their equality performance with staff, patients and the public)
- Accessible Information Standard
- Sexual Orientation Monitoring Information Standard
- Equality and Human Rights Commission Codes of Practice
- European Convention on Human Rights
- Human Rights Act 1988
- NHS Constitution
- Public Sector Bodies Accessibility Regulations 2018

Appendix A – Equality Analysis

An Equality Analysis not just about addressing discrimination or adverse impact; the policy should also positively promote equal opportunities, improved access, participation in public life and good relations.		
Person completing the Analysis		
Name	Bruce Campion-Smith	
Job title	Head of Equality, Diversity and Inclusion	
Care Group/Department	Human Resources	
Date completed	30 April 2020	
Who will be impacted by this policy	<input checked="" type="checkbox"/> Staff (EKHUFT) <input checked="" type="checkbox"/> Staff (Other) <input checked="" type="checkbox"/> Service Users	<input checked="" type="checkbox"/> Carers <input checked="" type="checkbox"/> Patients <input checked="" type="checkbox"/> Relatives
Assess the impact of the policy on people with different protected characteristics. When assessing impact, make it clear who will be impacted within the protected characteristic category. For example, it may have a positive impact on women but a neutral impact on men.		
Protected characteristic	Characteristic Group	Impact of decision Positive/Neutral/Negative
e.g. Sex	Women Men	Positive Neutral
Age	All	Positive
Disability	All	Positive
Gender reassignment	All	Positive
Marriage and civil partnership	All	Positive
Pregnancy and maternity	All	Positive
Race	All	Positive
Religion or belief	All	Positive
Sex	All	Positive

Sexual orientation	All	Positive
If there is insufficient evidence to decide about the impact of the policy it may be necessary to consult with members of protected characteristic groups to establish how best to meet their needs or to overcome barriers.		
Mitigating negative impact: Where any negative impact has been identified, outline the measures taken to mitigate against it.	No Negative Impact Identified	
Has there been specific consultation on this policy?	Yes, with and Healthwatch Kent Staff Networks and Senior Managers	
Did the consultation analysis reveal any difference in views across the protected characteristics?	No	
Conclusion: Advise on the overall equality implications that should be considered by the policy approving committee.	Only positive outcomes	

Appendix B – Equality Analysis Guidance

Equality Analysis

An Equality Analysis is a document that summarises how the Trust has had due regard to the Public Sector Equality Duty (PSED)(Equality Act 2010) in decision-making.

Public Sector Equality Duty

The Equality Act 2010 places a duty on the Trust, when exercising public functions, to have due regard to the need to:

- 1) Eliminate discrimination, harassment and victimisation;
- 2) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- 3) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

These are known as the three aims of the general equality duty.

Protected Characteristics

The Equality Act 2010 sets out nine protected characteristics that apply to the equality duty:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation
- Marriage and civil partnership*

*For marriage and civil partnership, only the first aim of the duty applies in relation to employment.

Due Regard

To 'have due regard' means that in making decisions and in its other day-to-day activities the Trust must consciously consider the need to do the things set out in the general equality duty: eliminate discrimination, advance equality of opportunity and foster good relations.

How much regard is 'due' will depend on the circumstances and in particular on the relevance of the aims in the general equality duty to the decision or function in question.

The greater the relevance and potential impact, the higher the regard required by the duty. The three aims of the duty may be more relevant to some functions than others; or they may be more relevant to some protected characteristics than others.

The following questions can help you to determine relevance, but this is not an exhaustive list:

- Does the policy, strategy, business case, procedure, guidance or changing or updating existing ones, affect service users, employees or the wider

community, and therefore potentially have a significant effect in terms of equality? Remember, relevance will depend not only on the number of those affected but also by the significance of the effect on them.

- Is it a major policy, strategy, business case, procedure, guidance or changing or updating of existing ones, significantly affecting how functions are delivered in terms of equality?
- Does the policy, strategy, business case, procedure, guidance or changing or updating existing ones relate to functions that previous engagement has identified as being important to particular protected groups?
- Does or could the policy, strategy, business case, procedure, guidance or changing or updating existing ones affect different protected groups differently?
- Does it relate to an area with known inequalities?
- Does it relate to an area where equality objectives have been set by the Trust?

When you decide that a policy, strategy, business case, procedure, guidance or changing or updating existing ones is not relevant to equality, you will need to document this, along with the reasons and the information that you used to make this decision.

A simple statement of no relevance to equality without any supporting information is not likely to be sufficient, nor is a statement that no information is available. This is particularly important where you are not familiar with methods of equality analysis or with equality concerns, as you could inadvertently overlook issues that could indicate relevance to equality. This could leave the Trust vulnerable to legal challenge.

Case law principles

A number of principles have been established by the courts in relation to the equality duty and due regard:

- Decision-makers in public authorities must be aware of their duty to have 'due regard' to the equality duty
- Due regard is fulfilled before and at the time a particular policy is under consideration as well as at the time a decision is taken. Due regard involves a conscious approach and state of mind.
- A public authority cannot satisfy the duty by justifying a decision after it has been taken.
- The duty must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.
- The duty is a non-delegable one. The duty will always remain the responsibility of the decision makers.
- The duty is a continuing one.
- It is good practice for those exercising public functions to keep an accurate record showing that they have actually considered the general duty and pondered relevant questions. Proper record keeping encourages

transparency and will discipline those carrying out the relevant function to undertake the duty conscientiously.

- The general equality duty is not a duty to achieve a result, it is a duty to have due regard to the need achieve the aims of the duty.
- A public authority will need to consider whether it has sufficient information to assess the effects of the policy, or the way a function is being carried out, on the aims set out in the general equality duty.
- A public authority cannot avoid complying with the duty by claiming that it does not have enough resources to do so.

Timing

- Having 'due regard' is a state of mind. It should be considered at the inception of any decision.
- Due regard should be considered throughout the development of the decision. Notes should be taken on how due regard to the equality duty has been considered through research, meetings, project teams, committees and consultations.
- The completion of the EA is a way of effectively summarising the due regard shown to the equality duty throughout the development of the decision. The completed EA must inform the final decision-making process. The decision-maker must be aware of the duty and the completed EA.

Appendix C – Policy Implementation Plan

To be completed for each version of policy submitted for approval.

Policy Title:	Equality, Diversity and Inclusion Policy
Version Number:	Seven (7)
Director Responsible for Implementation:	Director of Human Resources and Organisational Development
Implementation Lead:	Head of Equality, Diversity and Inclusion

Staff Groups affected by policy:	All Staff
Subsidiary Companies affected by policy:	2gether Support Solutions
Detail changes to current processes or practice:	Policy now covers service delivery
Specify any training requirements:	No additional training required
How will policy changes be communicated to staff groups/ subsidiary companies?	Through policy update process with Communications Team