

Trust Policy

Equality & Diversity Policy

Key Points

- This policy sets out the framework for equality and fairness in employment and is a statement of the Trust's commitment to equality and diversity in the workplace
- The Trust is opposed to all forms of unlawful discrimination and victimisation and expects its staff to treat all patients, visitors and service users and colleagues with dignity and respect, in a non-discriminatory manner and in accordance with their individual needs.
- This policy applies to all potential and existing employees, Non-Executive Directors and governors, temporary or bank staff and volunteers.
- The implementation of this policy is through the fair and appropriate application of all Trust employment policies
- This policy will be monitored annually by reviewing the application of employment policies by protected characteristic in line with the requirements of the Equality Act

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|---|---|
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Related Documents

| Document Type | Document Name |
|---------------|---|
| Policy | Recruitment & Selection |
| Policy | Harassment & Bullying |
| Policy | Disciplinary |
| Policy | Grievance |
| Policy | Maternity/Maternity Support/Adoption Leave Policies |
| Policy | Special Leave |
| Policy | Flexible Working |
| Policy | Redeployment |
| Policy | Redundancy |
| Policy | Training |
| Policy | Appraisal |

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1. INTRODUCTION

1.1 This policy sets out the framework for equality and fairness in employment and is a statement of commitment to equality and diversity in the workplace.

The Trust is committed to:

- creating a workplace in which people feel valued;
- treating people fairly and with dignity and respect at all stages of the employment process from recruitment to termination of employment;
- embedding Trust values and behaviours that highlight treating others as we would wish to be treated ourselves.

1.2 The Trust is opposed to all forms of unlawful and unfair discrimination and victimisation. The Trust expects its staff to treat all patients, visitors and service users with dignity and respect, in a non-discriminatory manner and in accordance with their individual needs.

1.3 Trust recognises its legal responsibilities as contained in the Equality Act 2010 and the aims of the Public Sector Equality Duty which are listed in Section 49 (1) of the Equality Act 2010 as follows:

- to eliminate unlawful discrimination, harassment and victimization and other conduct prohibited under the Act;
- to advance equality of opportunity between people who share a relevant protected characteristic and people who do not share it;
- to foster good relations between people who share a relevant protected characteristic and people who do not share it.

1.4 The protected characteristics include age, disability, gender, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief and sexual orientation.

1.5 Frimley Health NHS Foundation Trust is committed to the provision of a service that is fair, accessible and meets the needs of all individuals.

2. SCOPE OF THE POLICY

This policy applies to all potential and existing employees, Non-Executive Directors and governors, temporary or bank staff and volunteers. The policy will be drawn to the attention of students on clinical placement, work experience, contractors, agency and other visiting workers (whether NHS or non-NHS employees). The Trust expects these groups to conform to the spirit and intention of the policy.

3. DEFINITIONS

3.1 **Public Sector Equality Duty:** The Trust must, in the exercise of its functions, have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.

- Foster good relations between people who share a protected characteristic and those who do not.

- 3.2 **Diversity:** Recognises the differences that are a natural part of society, and focuses on how to harness differences between people to drive forward creativity and excellence in performance. In the workplace this means recognising individual and group differences, which means more creativity and continuous improvement.
- 3.3 **Equality:** This can be understood from three perspectives:
- Moral - equality is based on fairness; no one should suffer detriment on the basis of his or her external characteristics.
 - Legal - legislation imposes a minimum standard of behaviour on service providers, employers and individuals.
 - Change - embracing change by valuing and encouraging the diversity of employees, customers and partners.
- 3.4 **Equal Opportunities:** This is an ongoing process to give everyone a fair chance to fulfil his or her potential and its implementation is supported by various legislation.
- 3.5 **Discrimination in employment:** A result of prejudice, misconception and stereotyping which gets in the way of assessing someone's talents, skills, abilities, potential and experience. It is any situation in which a group or individual is treated less favourably usually based on their membership of a social group or association to it like age, disability, gender, race, religion and belief, sexual orientation or any combination of these.
- 3.6 **Direct Discrimination:** When an individual is, or would be treated less favourably than another in the same or similar circumstances, for example, encouraging only men to study for professional qualifications.
- 3.7 **Indirect Discrimination:** When a condition, criterion or practice is applied which, whether intentional or not, adversely affects one group considerably more than another, and this cannot be shown to be justifiable. For example, setting an age limit for management jobs, which fewer women of that age would be eligible for because of taking a career break to have a family.
- 3.8 **Dual Discrimination:** Where an individual, who believes that he or she has been treated less favourably because of a combination of two protected characteristics, can bring a combined claim, but only for direct discrimination (does not currently cover marriage/civil partnership and pregnancy/maternity).
- 3.9 **Disability:** A person has a disability if he or she has a physical or mental impairment which has a substantial and long-term effect on their ability to carry out normal day-to-day activities. A long-term effect is one which:
- Has lasted 12 months or
 - The period for which it lasts is likely to be at least 12 months or
 - Is likely to last for the rest of the life of the person affected

- 3.10 **Reasonable Adjustment:** The removal of barriers that prevent disabled persons from integrating fully into the workplace. Employers are required to make reasonable adjustments to any of their provisions, criteria or practices that place a disabled person at a particular disadvantage compare to non-disabled persons.
- 3.11 **Positive Action:** Addressing under-representation in the workforce by removing identified barriers that may be placing staff with one or more protected characteristic(s) at a disadvantage through monitoring and analysing access to learning, development and employment opportunities.
- 3.12 **Associative Discrimination:** An individual is directly discriminated against or harassed for association with another individual who has a protected characteristic.
- 3.13 **Perceptive Discrimination:** An individual is directly discriminated against or harassed based on a perception that he or she has a particular protected characteristic when he or she does not, in fact, have that protected characteristic.
- 3.14 **Bullying:** Characterised as a wide range of misconduct: offensive, intimidating, malicious or insulting behavior; an abuse or misuse of power through means intended to undermine, humiliate, unfairly criticise or injure the recipient (although this does not cover harassment towards marriage and civil partnership, and pregnancy and maternity).
- 3.15 **Harassment:** When a person is subjected to a series of comments or actions which are demeaning and unacceptable to the person(s) experiencing them and may be related to age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, creed, colour, ethnic or national origin, religion and belief, sex, sexual orientation, social background, trade union membership or any other grounds, as covered by law and may be continuous despite objection to it or an isolated incident.
- 3.16 **Victimisation:** When an employee is subjected to a detriment, such as being denied a training opportunity or a promotion because he or she made or supported a complaint or raised a grievance under the Equality Act 2010, or because he or she is suspected of doing so, or being about to do so.

4. **PURPOSE OF THE POLICY**

The purpose of the 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.

5. THE POLICY

The Trust will:

- 5.1 Apply the definition of institutional racism from the McPherson Inquiry¹. This can be applied to all forms of unlawful discrimination impacting on the nine protected characteristics of age, disability, gender, gender reassignment, marriage and civil partnership, maternity and pregnancy, race, religion and belief, and sexual orientation.
- 5.2 Keep under review its functions, policies, procedures and practices to ensure that people are not disadvantaged by any unnecessary conditions or requirements.
- 5.3 Take measures to eliminate not only overt acts of discrimination, but also requirements and practices that are discriminatory in nature.
- 5.4 Include an appropriate short statement on all vacancies, reflecting our commitment to equality of opportunity.
- 5.5 Ensure that person and job specifications only include those criteria that are necessary for the effective performance of the job and not according to any factors which may be potentially discriminatory.
- 5.6 Ensure that all candidates are selected on merit only and that other factors are not taken into consideration.
- 5.7 Comply fully with the Equality Act 2010 to ensure that wherever possible reasonable adjustments are made and reviewed as appropriate, to enable staff to enter into employment with the Trust and contribute fully in the workplace
- 5.8 Ensure that all Trust staff receive equality and diversity training prior to chairing interview panels during the recruitment and selection process.
- 5.9 Make existing procedures as inclusive as possible without placing any other applicants at a disadvantage to ensure our staff profiles remain reflective of the local community the Trust serves
- 5.10 Direct any employee who wishes to make a complaint about the application or non-application of this policy to raise the matter through the Trust's Grievance procedure or prospective employee to make their complaint using the Trust's Complaints Procedure.
- 5.11 Ensure that proven acts of discrimination will be treated as disciplinary offences and dealt with in accordance with the Trust's Disciplinary Policy.

¹ The report from the McPherson Inquiry into the racist murder of Stephen Lawrence defined Institutional racism as the collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture or ethnic origin. It can be seen or detected in the processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people.

6. DUTIES / ORGANISATIONAL STRUCTURE

6.1 Chief Executive

The Chief Executive is responsible for ensuring the effective implementation and management of this policy.

6.2 Director of Human Resources and Corporate Services

The Director of Human Resources and Facilities is responsible for:

- Leading the management of equality and diversity within the Trust with support from the Deputy Director for Organisational Development and the Equality and Diversity Manager
- Ensuring that the Trust compiles and publishes reports on equality issues relating to employment and services as required by equality legislation and healthcare regulatory bodies;
- Ensuring the communication of the policy within the Trust;
- Ensuring the provision of appropriate training through which staff and managers are made aware of equality and diversity issues and of their responsibilities in relation to colleagues, patients, visitors and the wider community.

6.3 Line Managers

Managers and supervisors are responsible for ensuring that:

- the policy is communicated to their staff and is understood and adhered to;
- they are familiar with and act in accordance with equality legislation, policies and procedures that implement and promote equality and diversity within the Trust;
- they lead by example, adopting standards of behaviour that treat all job applicants, employees, patients and service users with dignity and respect and in line with Trust values;
- they act in ways that acknowledge and recognise people's expressed beliefs, preferences and choices, thus respecting diversity and valuing people as individuals;
- they take into account their own behaviour and its effect on others;
- they set standards in their areas to avoid unfair discrimination occurring;
- they challenge unacceptable behaviour and deal promptly with incidents or potential incidents of harassment or discrimination if they do occur;
- they act fairly in the application of employment policies while taking account of individual differences;
- their staff are aware of the equality and diversity issues that relate to their posts and undertake appropriate equality and diversity training;
- they contribute to the promotion of equality for patients, visitors and service users in the design and review of their functions, services, policies and procedures.

6.4

Staff

Staff are responsible for:

- acting in ways that are in accordance with this policy and with Trust values;
- treating everyone with whom they come into contact with courtesy;
- acting fairly and compassionately;
- treating other people as individuals responding to their needs;
- respecting others' privacy and dignity;
- ensuring they do not discriminate, harass or intimidate others or encourage other people to do so;
- using language that other people understand when carrying out duties;
- taking account of their own behaviour and its effects on others;
- undertaking relevant equality and diversity training;
- informing their manager if they become aware of any behaviour that undermines equality and diversity.

6.5

HR Advisers

HR Advisers will:

- advise managers on the application of this policy, equality legislation and best practice;
- advise managers on the fair application of other Trust employment policies in relation to equality and diversity issues;
- promote equality and diversity in the design of employment policies and procedures and by working towards external standards of best practice.

6.6

Occupational Health and Safety Department

Occupational Health and Safety will:

- advise managers and HR Advisers on reasonable adjustments that would enable applicants and employees with disabilities to be employed and retained within the organisation.

7.

RAISING AWARENESS / IMPLEMENTATION / TRAINING

The implementation of this policy is through the fair and appropriate application of all Trust employment policies, with particular priority given to the following:

- Recruitment and Selection Policy
- Harassment and Bullying Policy
- Disciplinary Policy
- Grievance Policy
- Maternity/Maternity Support/Adoption Leave Policies
- Special Leave Policy
- Flexible Working Policy
- Redeployment Policy
- Redundancy Policy

- Training Policy
- Appraisal Policy

This list of policies is not exhaustive and others may be prioritised over time.

8. MONITORING COMPLIANCE OF POLICY

- 8.1 This policy will be monitored annually by reviewing the application of employment policies by protected characteristic in line with the requirements of the Equality Act (Specific Duties) Regulations 2011 and guidance or requirements of the Equality and Human Rights Commission and healthcare regulatory bodies.
- 8.2 Workforce and service monitoring reports will be prepared annually for the Trust Board and the Hospital Executive Board by the Deputy Director for Organisational Development and the Equality and Diversity Manager. Reports will be published on the Trust's website.
- 8.3 Plans for addressing issues identified in the annual monitoring reports will be encompassed within the Trust's equality objectives which are also published on the website.
- 8.4 Individual employee records will be confidential and regular validation of employee records will be undertaken to ensure the accuracy of the data held. Individual demographic information will be anonymised in reporting.

9. EQUALITY IMPACT ANALYSIS

This policy has been analysed for impact on equality and does not have an adverse impact on any protected characteristic. The Trust will continue to monitor its effect annually in the way employment policies are applied within the organisation.

10. REFERENCES

- Equality Act 2010
- Equality Act (Specific Duties) Regulations 2011
- *Equality Information and the Equality Duty. A guide for public Authorities* Equality and Human Rights Commission January 2012
- *Code of Practice on Employment* Equality and Human Rights Commission April 2011
- *Code of Practice on Services, Public Functions and Associations* Equality and Human Rights Commission April 2011

APPENDIX A**Equality Impact Assessment of the Equality and Diversity Policy**

| | | Positive (good) Impact | Negative (adverse) Impact | No impact | Comments |
|----|--|------------------------------|---------------------------------|--------------|---|
| 1. | Age | X | | | The policy sets out the framework for equality and fairness in employment and is a statement of commitment to equality and diversity in the workplace irrespective of Age in accordance with the Equality Act 2010 |
| | Disability - learning disabilities, physical disability, sensory impairment and mental health problems | X | | | The policy sets out the framework for equality and fairness in employment and is a statement of commitment to equality and diversity in the workplace irrespective of Disability in accordance with the Equality Act 2010 |
| | Race | X | | | The policy sets out the framework for equality and fairness in employment and is a statement of commitment to equality and diversity in the workplace irrespective of Race in accordance with the Equality Act 2010 |
| | Religion or belief | X | | | The policy sets out the framework for equality and fairness in employment and is a statement of commitment to equality and diversity in the workplace irrespective of Religion & Belief in accordance with the Equality Act 2010 |
| | Sex (Male, Female, Marriage) | X | | | The policy sets out the framework for equality and fairness in employment and is a statement of commitment to equality and diversity in the workplace irrespective of Sex in accordance with the Equality Act 2010 |
| | Sexual orientation (Lesbian, Gay, Bisexual, Trans, Gender Reassignment, Civil Partnership) | X | | | The policy sets out the framework for equality and fairness in employment and is a statement of commitment to equality and diversity in the workplace irrespective of Sexual Orientation in accordance with the Equality Act 2010 |
| 2. | Which protected characteristics have positive or negative impacts been identified? (Differential impact) | | | | Not Applicable |
| 3. | Is the policy directly or indirectly discriminatory under the Equality Act 2010? * | | | | No |
| 4. | If so, what action will be taken to ensure the impact is minimised or eliminated? | | | | N/A |
| 5. | What action will be taken to evidence the impact has been minimised or eliminated? | | | | N/A |

*If you require advice, please contact the Equality and Diversity Manager