

Equality Diversity and Inclusion Policy

HR01

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Applies to	All staff and those working within NHS Resolution
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Contents

1.	Equality statement and impact assessment	3
2.	Introduction.....	3
3.	Scope and purpose	3
4.	Legislation	4
5.	Definitions.....	4
6.	Public Sector Equality Duty	6
7.	Limitations of the Equality Act 2010	7
8.	Accountabilities and responsibilities	7
9.	Recruitment, Selection and Promotion	9
10.	Bullying and Harassment at Work (Dignity at Work).....	10
11.	Disciplinary and grievance procedures.....	10
12.	Equality Impact Assessments.....	11
13.	Related policies	11
14.	Document control	11
	Appendix A - Equality impact assessment	12
	Appendix B – Definitions of protected characteristics.....	13

1. Equality statement and impact assessment

- 1.1. NHS Resolution aims to design and implement services, policies and measures that meet the diverse needs of our service, population and workforce, ensuring that none are placed at a disadvantage over others. It is a requirement that we conduct equality impact assessments on all policies and services within the organisation.
- 1.2. As part of its development, this policy and its impact on equality have been reviewed in consultation with trade union and other employee representatives in line with NHS Resolution's equality impact assessment (Appendix A). The purpose of the assessment is to minimise and, if possible remove any disproportionate impact on employees on the grounds of race, sex, disability, age, pregnancy and maternity, marriage and civil partnership, gender reassignment, sexual orientation, religious or other belief.

2. Introduction

- 2.1. NHS Resolution is committed to promoting and embedding equality, diversity and inclusion (ED&I) across the organisation rather than it being viewed as an isolated agenda. Ensuring that fair treatment and social inclusion is at the heart of what we do and how we do it.
- 2.2. NHS Resolution is also committed to providing a working environment that is welcoming, inclusive, respectful and is free from unlawful discrimination and bias. It is the organisation's intention to create an environment where staff respect and value each other's diversity in order to support the delivery of its strategy and business plan.

3. Scope and purpose

- 3.1. This policy applies to all staff and those working within NHS Resolution including the Board members, secondees, agency workers, contractors, volunteers (including advisory groups), work experience, apprenticeships and student placements.
- 3.2. This policy applies equally to all aspects of the employment cycle including recruitment and selection, education, learning and development, inclusive talent management, other related policies, terms and conditions of service and termination.
- 3.3. The purpose of this policy is to:
 - ensure that NHS Resolution understands its statutory obligations as defined in the Equality Act 2010 and Public Sector Equality Duty
 - eliminate unlawful discrimination, harassment and victimisation in the workplace

- set out individual and collective responsibilities
- advance equality of opportunity and promote relations between diverse groups by upholding legislation and developing a wider awareness of diversity and inclusion
- provide a foundation for the ED&I strategy and action plan.

4. Legislation

- 4.1. The Equality Act 2010 provides a framework of protection against direct and/or indirect discrimination, harassment and victimisation in services and public functions, in premises, at work, in education, associations and transport. It protects individuals and promotes a fair and more equal society. The Equality Act 2010 includes the Public Sector Equality Duty which requires public sector bodies to consider how they can positively contribute to the advancement of equality and good relations.

5. Definitions

- 5.1. Equality is about creating a fairer society where everyone has the opportunity to fulfil their potential.
- 5.2. Diversity is about recognising and valuing difference in its broadest sense.
- 5.3. Inclusion is about an individual's experience within the workplace and in wider society, and the extent to which they feel valued and have equal access to opportunities and resources.
- 5.4. Protected characteristics, as detailed in the Equality Act 2010, are the following characteristics:
- age
 - disability
 - gender reassignment
 - marriage and civil partnership
 - pregnancy and maternity
 - race
 - religion or belief
 - sex
 - sexual orientation.

Definitions for each protected characteristic can be found at Appendix B.

- 5.5. Direct discrimination occurs when someone is treated less favourably than another person because of their protected characteristics.

- 5.6. Perception discrimination is direct discrimination against an individual because others think they possess a protected characteristic. It applies even if the person does not actually possess that protected characteristic.
- 5.7. Discrimination arising from disability is whereby a disabled person is treated less favourably because of something that is connected to their disability unless, this can be legally justified by the employer.
- 5.8. Associative discrimination is when someone is discriminated against because of their association with someone who has a protected characteristic.
- 5.9. Indirect discrimination can occur when you have a condition, rule, policy or practice that applies to everyone but particularly disadvantages people who share a protected characteristic.
- 5.10. Harassment is unwanted conduct related to a protected characteristic which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. The Equality Act 2010 prohibits three types of harassment:
 - harassment related to a protected characteristic
 - sexual harassment
 - less favourable treatment of a worker because they submit to, or reject sexual harassment or harassment related to sex or gender reassignment.
- 5.11. Victimisation occurs when an employee is treated badly or has suffered a detriment because they have made or supported a complaint, claim or a grievance under the Equality Act 2010, or because they are suspected of doing so.
- 5.12. Unconscious bias refers to biases that influence our thoughts and behaviours without our awareness.
- 5.13. Occupational requirement enables an employer, in accordance with provisions of the Equality Act 2010, to stipulate that, because of the nature of the job in question, for example, only people of a particular race, religion, age are eligible.
- 5.14. Positive action provisions mean that it is not unlawful to recruit or promote a candidate who is of equal merit to another candidate, if the employer reasonably thinks the candidate:
 - has a protected characteristic that is under-represented in the workforce; or
 - that people with that characteristic suffer a disadvantage connected to that characteristic.

- 5.15. Restorative justice is a process where those affected by an injustice have an opportunity to discuss how they have been affected and to decide what should be done to resolve the position.

6. Public Sector Equality Duty

- 6.1. The Public Sector Equality Duty, part of the Equality Act 2010, requires NHS Resolution, in the exercise of its functions, to have due regard to the need to:
- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010.
 - 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.
- 6.2. The general equality duty is underpinned by specific duties which include the requirement for NHS Resolution to:
- Publish information to demonstrate their compliance with the general equality duty at least annually.
 - Set equality objectives at least every four years.
- 6.3. Monitoring of equality, data enables NHS Resolution to meet its obligations and duties under the Public Sector Equality Duty. The following characteristics are recorded and monitored: sex, ethnicity background, age, disability, religion, sexual orientation. Employees will be regularly asked to update their monitoring form/Employee Staff Record (ESR) by HR&OD and will be assured that this is for monitoring purposes. NHS Resolution Board will be notified of the results from the monitoring of data as appropriate.
- 6.4. In line with the specific duties within the Public Sector Equality Duty and the statutory code of practice on equal pay, NHS Resolution is committed to Gender Pay Gap reporting. NHS Resolution will undertake Gender Pay Gap annual reporting to be published in line with the advertised reporting times each year. Gender Pay Gap reports conducted by NHS Resolution will remain available on our website for three years in order to show progress made.
- 6.5. In order to be compliant with the Public Sector Equality Duty, NHS Resolution will ensure that the goods and services they procure are fit for purpose and meet the needs of the user. The Public Sector Equality Duty highlights a number of factors to which Heads of Service should pay 'due regard' when making decisions about procurement. NHS Resolution and partners will ensure that procurement processes are conducted in line with our values and behaviours framework and that equality issues are at the heart of their delivery.

7. Limitations of the Equality Act 2010

- 7.1. NHS Resolution acknowledges the limitations of the Equality Act 2010 and the language used to describe the protected characteristics. This policy builds on, but is not limited to, the information included in the Equality Act 2010. NHS Resolution is committed to creating a fully inclusive culture across the organisation, based both on legislation and a wider awareness of diversity and inclusion.

8. Accountabilities and responsibilities

8.1. All staff accountabilities and responsibilities

- 8.2. Staff share responsibility for promoting equality, diversity and inclusion and ensuring that this policy is implemented in practice. All staff are responsible for consistently demonstrating NHS Resolution's values and associated behaviours framework. Staff are also expected to act in accordance with the Just and Learning Culture Charter to ensure a consistent and fair approach in relation to incidents and errors.

- 8.3. Staff, as well as their employer, can be held personally liable for or breaching the Equality Act 2010 and acts of bullying, harassment, victimisation and unlawful discrimination, in the course of their employment, against fellow employees and stakeholders.

- 8.4. Staff are responsible for familiarising themselves with this policy, ensuring that their practices are consistent with its contents and legislation, and reporting inappropriate behaviour(s) and raising any incident(s) that breach the Dignity at work policy and procedure (HR17).

8.5. Additional accountabilities and responsibilities

- 8.6. Senior Management Team (SMT) and Heads of Service will also:

- Lead by example and champion equality, diversity and inclusion across the organisation.
- Ensure that the commitment of NHS Resolution to equality, diversity and inclusion is communicated to all employees fairly and responsibly including potential employees, users of its services, staff on secondment and all those working for or on behalf of NHS Resolution such as contractors or as volunteers, including work experience placements.
- Develop and pro-actively promote equality, diversity and inclusion internally and externally.
- In fulfilling the obligations of the Public Sector Equality Duty, Heads of Service should pay 'due regard' when making decisions about

procurement to ensure processes include consideration of equality issues.

8.7. Line Managers will also:

- Take responsibility for promoting and championing equality, diversity and inclusion.
- Be responsible for creating a climate where the differences that individuals bring are valued.
- Encourage and foster good relations between all employees.
- Ensure that their direct reports attend equality, diversity and inclusion training in accordance with current requirements.

8.8. HR&OD will:

- Ensure that this policy is updated following legislative changes and revised in consultation with Trade Unions and other relevant bodies.
- Request equality information on the protected characteristics from job applicants on application to a new post and employed staff on a two yearly basis assuring staff that this information will be kept confidential.
- Provide equality monitoring reports for the Board three times a year which will be used to identify any potential barriers in relation to recruitment, selection, education and learning and career development.
- Ensure that all members of recruitment and selection panels have undertaken Recruitment and Selection training and, that all members of the Recruitment and Selection Panel has completed Equality, Diversity and Inclusion training (as per the Recruitment and Selection Policy and Procedure (HR16)) prior to undertaking these duties.
- Ensure that HR&OD policies and procedures are subject to Equality Impact Assessments in line with Process for the Approval of Policy and Procedural Documents (CG13).
- Lead on NHS Resolution's Equality, diversity and inclusion strategy and action plan.
- Advise on and manage staff complaints and grievances in relation to equality, diversity and inclusion issues.
- Advise SMT and line managers on best practice on staffing issues taking into account the principles of equality, diversity and inclusion in all advice that is provided.
- Advise line managers on handling all disability related staffing issues especially when taking into account Occupational Health advice on reasonable adjustments.
- Actively take steps to promote and embed NHS Resolution's values and behaviours framework, and the Just and Learning Culture Charter.
- Design, roll out and evaluate equality, diversity and inclusion training for all NHS Resolution employees in accordance with current requirements.

- Design, roll out and evaluate mandatory equality, diversity and inclusion workshops for all new starters at NHS Resolution, as a part of the induction process.
- Ensure that organisational learning and development events are accessible to all staff and that access to events is compliant with this policy and equality and diversity legislation.
- Ensure organisational learning and development opportunities have equality, diversity and inclusion included as an integral part of delivery.
- Promote equality, diversity and inclusion through communication channels such as Connect and Lunch and Learn events.
- Support NHS Resolution as an exemplar and a good organisation in promoting equality, diversity and inclusion.
- Contribute to organisational initiatives to promote equality, diversity and inclusion.

8.9. The Staff Engagement Group (SEG) will:

- Review equality monitoring data as a means of providing recommendations and actions that can be used to promote equality, diversity and inclusion.

8.10. Joint Negotiating Committee (JNC) will:

- Provide advice, support and representation for their members.
- Consult with relevant staff within the organisation e.g. HR&OD and SMT regarding measures needed to promote and champion equality, diversity and inclusion and prevent unlawful discrimination within NHS Resolution.

9. Recruitment, Selection and Promotion

9.1. Recruitment and selection will be undertaken in accordance with the Recruitment and Selection Policy and Procedure (HR16). Individuals will be selected on the basis of their relevant merits and ability to perform the job following an open and transparent selection process.

9.2. All vacant positions will be advertised internally and/or externally in the relevant media unless the following circumstances exist:

- Where a post is considered suitable for employees at risk, in accordance with the guidelines for the redeployment process as outlined in the Organisational Change Policy and Procedure (HR24).
- Where a post is considered suitable for an existing employee who has become disabled or has a long term medical condition which is confirmed by the Occupational Health service and, as a result of his/her disability or long term medical condition, is no longer able to carry out the principle duties of his/her present post.

- 9.3. Person specifications will only include relevant criteria that are required to perform the duties and responsibilities of the post. Where there is a genuine occupational requirement which is justified in accordance with provisions of the Equality Act 2010 e.g. relating to age, sex or race, specific reference will be made to this.
- 9.4. Where employees have needs (e.g. cultural, religious, disability, or gender based) which may require adjustments to existing workplace practice, consideration will be given to whether or not it is reasonably practicable to vary or adapt work requirements and/or practice to enable such needs to be met.
- 9.5. Candidates will be assessed only against clearly identified requirements for the job to avoid judgments on the basis of assumptions, prejudice or stereotypes as per the shortlisting process.
- 9.6. The Equality Act 2010 contains provisions to allow positive action specifically in the process of recruitment and promotion in limited circumstances. Where NHS Resolution knows, as a result of its monitoring of data under the Public Sector Equality Duty, that the workforce does not represent the diversity of the local population, positive action can be taken to encourage and support applications from under-represented groups.

10. Bullying and Harassment at Work (Dignity at Work)

- 10.1. In the event that bullying and harassment in the workplace were to occur causing a breach of this policy, it will be treated seriously and may be dealt with under the Dignity at work policy and procedure (HR17).

11. Disciplinary and grievance procedures

- 11.1. Details of NHS Resolution's disciplinary procedures can be found in Disciplinary policy and procedure (HR10). Details of the grievance procedure can be found and disciplinary policies and procedures can be found in Grievance Policy and Procedure (HR02). This includes with whom an employee should raise a grievance – usually their line manager.
- 11.2. Any staff member who feels that they have experienced bullying, discrimination, harassment, or victimisation while at work has the right to pursue their complaint through internal policies and procedures, within the values of restorative justice and a Just and Learning Culture. The use of NHS Resolution's disciplinary or grievance procedures does not affect a staff member's right to make a claim to an employment tribunal within three months of the alleged discrimination.

12. Equality Impact Assessments

- 12.1. The purpose of conducting an Equality Impact Assessment is to examine the main functions, policies and procedures of NHS Resolution to see whether they have the potential to affect people differently. As part of the Process for the Approval of Policy and Procedural Documents (CG13), all policies and procedures are subject to an Equality Impact Assessment with the aim of designing and implementing policies and procedures that meet the diverse needs of our workforce, service users and population and ensure that they receive good experience, outcome and access. Changes to this policy will be shared with ED&I staff networks and Freedom to Speak Up Guardians to ensure there is no adverse impact on people.

13. Related policies

HR02	Grievance Policy and Procedure
HR10	Disciplinary policy and procedure
HR16	Recruitment and Selection Policy and Procedure
HR17	Dignity at work policy and procedure
CG13	Process for the Approval of Policy and Procedural Documents
	NHS Resolution's values and behaviours framework
	NHS Resolution's Just and Learning Culture Charter

14. Document control

Date	Author	Version	Reason for change
23/03/2022	Jonathan Nashed and Jane Hubble	8	Reformatting Renaming of policy Inclusion of purpose Reference to Just and Learning Culture Charter Updated responsibilities Inclusion of paragraph on limitations of Equality Act 2010

Appendix A - Equality impact assessment

No	Does the document/guidance affect one group less or more favourably than another on the basis of:	Yes/No	Comments
1.	Race	No	
2.	Ethnic origins (including gypsies and travellers)	No	
3.	Culture	No	
4.	Nationality	No	
5.	Age	No	
6.	Disability - learning disabilities, physical disability, sensory impairment and mental health problems	No	
7.	Gender	No	
8.	Gender reassignment	No	
9.	Marriage and civil partnership	No	
10.	Pregnancy and maternity	No	
11.	Religion and belief	No	
12.	Sex	No	
13.	Sexual orientation including lesbian, gay and bisexual people	No	
14.	Is there any evidence that some groups are affected differently?	No	
15.	If you have identified potential discrimination, are there any exceptions valid, legal and/or justifiable?	N/A	
16.	Is the impact of the document/guidance likely to be negative?	No	
17.	If so, can the impact be avoided?	N/A	
18.	What alternative is there to achieving the document/guidance without the impact?	N/A	
19.	Can we reduce the impact by taking different action?	No	
Names and Organisation of Individuals who carried out the Assessment: Please give contact details			Date of the Assessment
Jonathan Nashed, Senior OD Adviser and Jane Hubble, Head of OD, Education and Learning			March 2022

Appendix B – Definitions of protected characteristics

Age

Refers to a person belonging to (or perceived to be belonging to) a particular age (e.g. 32 year old) or to be within a range of ages (e.g. “18 to 30 year olds” or “over fifties”).

Disability

Somebody who has (or is perceived to have) a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.

Gender reassignment

A person undergoing, proposing to undergo, or who has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex.

Marriage and civil partnership

Marriage is defined as any formal union which is legally recognised in the UK as a ‘marriage’ and can be between a man and a woman or between a same-sex couple. Civil partnership can be between same sex partners or opposite sex partners.

Pregnancy and maternity

Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. Protection from unfair treatment applies for both the pregnancy and in respect of any illness arising from the pregnancy.

Race

Refers to the protected characteristic of race or perceived race. It refers to a group of people defined by their race, colour, caste, and nationality (including citizenship) ethnic or national origins.

Religion or belief

Religion or belief (or perceived religion or belief) includes religious and philosophical beliefs and lack of religion or belief (e.g. Atheism). Generally, a belief should affect a person's life choices or the way they live for it to be included in the definition.

Sex

A man or a woman.

Sexual orientation

Whether a person's sexual orientation (or perceived sexual orientation) is towards persons of the same sex, persons of the opposite sex or to persons of any sex.