

Equality Diversity and Inclusion Policy and Procedure HR01

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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 Procedure 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 embedding equality, diversity and inclusion 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 Equality is about creating a fairer society where everyone has the opportunity to fulfil their potential. Diversity is about recognising and valuing difference in its broadest sense. Inclusion is about an individual's experience within the workplace and in wider society and, the extent to which they feel valued and included.
- 2.3 NHS Resolution is committed to providing a working environment that is welcoming, inclusive, respectful and is free from unlawful discrimination.
- 2.4 A list of some of the characteristics that are protected on the grounds of unlawful discrimination can be found in **Appendix A**. This list is not exhaustive and will be reviewed in light of future reviews of the policy.

3. Our Vision and Values

This policy is in support of NHS Resolution's Vision and Values which highlights the organisation's commitment to ensuring that all staff and stakeholders are treated fairly and equally.

Our Vision

"Achieving timely and fair resolution, enhancing learning and improving safety."

Professional

We are dedicated to providing a professional, high quality service, working flexibly to find effective and efficient solutions.

Expert

We bring unique skills, knowledge and expertise to everything we do.

Ethical

We are committed to acting with honesty, integrity and fairness.

Respectful

We treat people with consideration and respect, and encourage supportive, collaborative and inclusive team working.

4. Purpose and Scope

- 4.1 This policy and procedure applies to the Board members, all employees, as well as potential employees, service users, secondees, agency workers, contractors, volunteers, work experience, apprenticeships and student placements.
- 4.2 This policy and procedure applies equally to all aspects of the employment cycle including recruitment and selection, promotion, education, learning and development, dignity at work, grievances, sickness and absence, conduct, terms and conditions of service and reasons for termination.

5. Legislation

- 5.1 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.
- 5.2 The Public Sector Equality Duty (PSED) comprises of the General Equality Duty (GED), as set out in Section 149 of the Equality Act 2010. The Public Sector Equality Duty requires public sector bodies to consider how they can positively contribute to the advancement of equality and good relations.
- 5.3 NHS Resolution must, in the exercise of its functions have due regard to:
 - Eliminate discrimination, harassment and victimisation.
 - Advance equality of opportunity between persons who share a relevant protected characteristic and, persons who do not share it.
 - Foster good relations between persons who share a relevant protected characteristic and those who do not share it.
- 5.4 The nine 'protected characteristics' are below and these are often referred to as the equality strand.
 - Age
 - Disability
 - Gender reassignment
 - Marriage and civil partnership
 - Pregnancy and maternity
 - Race
 - Religion or belief

- Sex
 - Sexual orientation
- 5.5 The Public Sector Equality Duty applies to all of the protected characteristics with the exception of marriage and civil partnership with regard to the requirement to eliminate discrimination.
- 5.6 The definitions of the protected characteristics can be found in **Appendix B**.
- 5.7 Direct and indirect discrimination
- The protection afforded to each of the equality strands varies:
 - Direct discrimination includes discrimination by association or perception for those listed above, with the exception of marriage and civil partnership and pregnancy and maternity.
 - Indirect discrimination applies to all the strands except for that of pregnancy and maternity.
 - Harassment and, harassment by a third party applies to all the strands, with the exception of marriage and civil partnership and, pregnancy and maternity.
- 5.8 Detailed types of discrimination, harassment and victimisation can be found in **Appendix C**.

6. Accountabilities and Responsibilities

NHS Resolution's Board members, senior managers, managers, employees, Staff Engagement Group (SEG) and the Joint Negotiating Committee (JNC) all share responsibility for promoting equality, diversity and inclusion and ensuring that this policy is implemented in practice. Specific roles and responsibilities are outlined below:

6.1 Senior Management team and Heads of Service will:

- 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.

6.2 All employees will:

- Treat people in accordance with our Vision and Values
- Be aware of their responsibilities and, report inappropriate behaviour(s) and raise any incident(s) that breach the dignity at work policy and procedure
- Familiarise themselves with this policy and procedure, ensuring that their practices are consistent with its contents and legislation.

- Champion equality, diversity and inclusion in the workplace.
- Provide personal diversity information when required notwithstanding the fact that there is a right not to disclose this information.
- Be aware of their personal liability in breaching the requirements of the Section 110 of the Equality Act 2010.
- Conduct themselves in accordance with and promote NHS Resolution's Vision and Values.

6.3 Line managers will:

- Be responsible for promoting and championing equality, diversity and inclusion.
- Be responsible for creating a climate where the differences that individuals bring are valued.
- Foster good relations between all employees.
- Ensure that their direct reports attend equality, diversity and inclusion workshops every three years, in addition to corporate induction.
- Conduct themselves in accordance with and promote NHS Resolution's Vision and Values.

6.4 Human Resources & Organisation Development will:

- Ensure that the Equality, Diversity and Inclusion policy and procedure 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 at least one member of the Recruitment and Selection Panel has undertaken the Recruitment and Selection training and, that all members of the Recruitment and Selection Panel, has completed the Equality, Diversity and Inclusion training (as per the Recruitment and Selection Policy and Procedure) prior to undertaking these duties.
- Implement Recruitment and Selection training for all managers raising awareness of unconscious bias through various types of discrimination. (see Appendix C)
- Ensure that all HR policy and procedures are Equality Impact Assessed.
- Advise on and manage staff complaints and grievances in relation to equality, diversity and inclusion issues.
- Advise the Senior Management Team 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 vision and values.
- Design, roll out and evaluate mandatory equality, diversity and inclusion workshops for all NHS Resolution employees which will take place every three years.
- 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 procedure 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 the Learning Lunch programme.
- 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.

6.5 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.
- Actively promote and embrace NHS Resolution's Visions and values across the organisation.

6.6 Joint Negotiating Committee (JNC) will:

- Provide advice, support and representation for their members.
- Consult with NHS Resolution regarding measures needed to promote and champion equality, diversity and inclusion and prevent unlawful discrimination within NHS Resolution.

7. Recruitment, Selection and Promotion

- 7.1 Recruitment and selection will be undertaken in accordance with NHS Resolution's Recruitment and Selection Policy and Procedure.
- 7.2 Individuals will be selected on the basis of their relevant merits and ability to perform the job following an open and transparent selection process.
- 7.3 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.
 - 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 Department 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.
- 7.4 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.
- 7.5 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.
- 7.6 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.
- 7.7 The Equality Act 2010 contains new provisions to allow positive action specifically in the process of recruitment and promotion, in limited circumstances.
- 7.8 Positive action is voluntary; there is no requirement for an employer to use either the general provisions or those relating to recruitment and promotion.
- 7.9 Positive action provisions mean that it is not unlawful to recruit or promote a candidate who has a particular protected characteristic and who is of equal merit to another candidate, if the employer reasonably thinks:
- That participation in an activity by people who share a protected characteristic is disproportionately low; or
 - That people with that characteristic suffer a disadvantage connected to that characteristic.
- 7.10 Positive action does not allow an employer to appoint a less suitable candidate just because that candidate has a protected characteristic that is under-represented or disadvantaged.

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

- 8.1 Preventing and tackling inappropriate behaviour and conduct is essential to ensuring that NHS Resolution is well-managed and well-led and it is committed to continually working toward achieving a culture where bullying and harassment are out of place.

- 8.2 NHS Resolution Bullying and Harassment at Work Policy (Dignity at Work policy), outlines the procedure for handling such cases. This policy reinforces that bullying and harassment at work is unacceptable and that NHS Resolution is committed to providing a working environment that is free from harassment, intimidation and all forms of behaviour, which are unacceptable and offensive.
- 8.3 All managers have a responsibility to be familiar with the procedures outlined in the Bullying and Harassment at Work Policy (Dignity at Work policy) and should draw the policy to the attention of all existing employees and new employees.
- 8.4 NHS Resolution will not discriminate unlawfully or otherwise, against those using its services, suppliers or its visitors.
- 8.5 Employees who are found to have discriminated those using its services, suppliers or its visitors may be subject to formal disciplinary action, in accordance with NHS Resolution's Disciplinary Policy and Procedure.

9. Equality Monitoring

- 9.1 Monitoring of equality, data enables NHS Resolution to meet its obligations and duties under the Public Sector.
 - 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 by HR 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.

9.2 General Equality Duty

The general equality duty requires public bodies, in the exercise of their functions, to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Equality Act 2010
- Advance equality of opportunity between people who share a relevant protected characteristic and those who do not
- Foster good relations between people who share a protected characteristic and those who do not.

The Public Sector Equality Duty (PSED) covers the following protected characteristics: age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief and sexual orientation. The public sector equality duty also covers marriage and civil partnerships, with regard to eliminating unlawful discrimination in employment.

The Gender Pay Gap obligations have been introduced alongside the existing requirements for specified public bodies, including publishing annual information to demonstrate compliance under the PSED and publishing equality objectives every four years.

In line with the specific duties within the PSED and the statutory code of practice, NHS Resolution is committed to the mandatory Gender Pay Gap reporting. NHS Resolution will undertake Gender Pay Gap reporting to be published in April 2018. This cycle will then continue year on year going forward. Gender Pay Gap reports conducted by NHS Resolution will be published on our website for three years in order to show progress made.

9.3 Equality Impact Assessments

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. Our policies and procedures are impact assessed and our aim is to design and implement policies and procedures to meet the diverse needs of our workforce, service users and population, ensuring that they receive good experience, outcome and access.

9.4 Procurement

In order to be compliant with the PSED, NHS Resolution is obliged to ensure that the goods and services they procure are fit for purpose and meet the needs of the user. The Duty highlights a number of factors that Heads of service should take 'due regard' to when making decisions about procurement. NHS Resolution must ensure the procurement processes include consideration of equality issues and clarify areas of responsibilities.

10. Document control

Date	Author	Version	Reason for change
31.08.2017	Carlene White Grizzle	7	Three yearly review Reformat Standard equality assessment Update HR&OD's responsibilities Expanding on the General Equality Duty statement and the requirements under mandatory gender pay gap reporting. Expanding on the purpose of the Equality Impact Assessment

Protected characteristics

Characteristics protected on the grounds of unlawful discrimination

- Age Disability
- Sexual orientation
- Gender re-assignment
- Marriage and civil partnership
- Pregnancy and maternity
- Paternity
- Adoption
- Fostering
- Health status
- Mental health status
- Race
- Ethnicity
- Language
- Religion or belief
- Civic duties
- Political opinion
- Trade union or other opinions or belief
- Social origin or domestic circumstances

Definitions of protected characteristics

Definitions of Protected Characteristics

- **Age**

Where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year old) or a range of ages (e.g. 18 - 30 year olds).

- **Disability**

A person has a disability if s/he has 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 Re-assignment**

This is the process of transitioning from one gender to another. Under the Equality Act 2010, it is no longer necessary to be under medical care to be legally protected.

- **Marriage and Civil Partnership**

Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters.

- **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. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding. 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. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

- **Religion and Belief**

Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of religion or belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

- **Gender**

A man or a woman.

- **Sexual Orientation**

Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.

Types of discrimination

Types of discrimination, harassment and victimisation

The Act sets out protections for individuals against direct and indirect discrimination, harassment and victimisation. These protections apply to all staff - permanent, temporary and contractors. It also covers volunteers (including advisory groups) and those involved in patient and service user involvement. There is coverage by the Act in any NHS Resolution building, at work, in education and in carrying out service and policy functions.

- **Direct discrimination**

Direct discrimination occurs when someone is treated less favourably than another person because of a protected characteristic they have or are thought to have, or because they associate with someone who has a protected characteristic.

- **Discrimination by association**

This is direct discrimination against someone because they associate with another person who possesses a protected characteristic. The Equality Act will protect carers from discrimination e.g. caring for a disabled child or relative at home.

- **Perception discrimination**

This 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. However, this does not apply to pregnancy and maternity or marriage and civil partnership.

- **Indirect discrimination**

Indirect discrimination can occur when NHS Resolution creates a rule, provision, criterion, policy or a practice that applies to everyone but particularly disadvantages people who share a protected characteristic. Indirect discrimination can potentially be justified if NHS Resolution can show it acted reasonably in managing the business, i.e. that it is 'a proportionate means of achieving a legitimate aim'. A *legitimate aim* might be any lawful decision made in running the organisation, but if the sole justification for the condition, rule, provision, etc. is to reduce costs, it is unlikely to succeed as a defence to discriminatory conduct.

Being proportionate means NHS Resolution must be fair and reasonable, including showing that it has looked at other alternatives to any condition, rule, provision etc. it makes. Pregnancy and maternity is not covered by indirect discrimination but policies and practices that would put pregnant women and new mothers at a disadvantage could constitute unlawful indirect sex discrimination.

- **Harassment**

The Equality Act prohibits three types of harassment. These are:

- harassment related to a protected characteristic (age; disability; gender
- re-assignment; race; religion or belief; sex; sexual orientation);
- sexual harassment;

- less favourable treatment of a worker because they submit to, or reject sexual harassment or harassment related to sex or gender reassignment.

Harassment is “unwanted conduct related to a protected characteristic (age; disability; gender reassignment; race; religion or belief; sex; sexual orientation) 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”.

Employees can also complain of behaviour that they find offensive even if it is not directed at them, and the complainant need not possess the relevant protected characteristic themselves.

Employees are also protected from harassment because of perception and association.

- **Third party harassment**

Under section 26 of the Equality Act 2010, NHS Resolution potentially liable for harassment of its employees by people (third parties) who are not employees of NHS Resolution, such as customers or clients. NHS Resolution is only potentially liable when harassment has occurred on at least two previous occasions, it is aware that it has taken place, and reasonable steps have not been taken to prevent the harassment from happening again. It does not matter whether the harassment has been carried out by the same third party on each occasion.

- **Victimisation**

Victimisation occurs when an employee is treated badly or has suffered a detriment because they have made or supported a complaint or raised a grievance under the Equality Act; or because they are suspected of doing so. An employee is not protected from victimisation if they have maliciously made or supported an untrue complaint. There is no need for a victim to show that they have been less favourably treated than someone who has not made or supported a complaint under the Act. They need only show that they have been treated badly. This would include for example, isolating someone because he or she has made a complaint, or giving him or her more difficult work to do.

- **Unconscious bias**

Unconscious Bias refers to biases that influence our thoughts and behaviours without our awareness. These biases can influence our decision making automatically and are often triggered by our brain making quick judgments and assessments of people and situations, without all of the relevant information and instead are informed by our background, cultural environment and personal experiences.