

# Policy:

## HR 031 - Equal Opportunities and Dignity at Work Policy

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<b>Policy Owner</b>	Head of Equality and Inclusion
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<b>Approved by</b>	Executive Directors' Group
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<b>Date for review</b>	30 November 2023 (extended from 30.06.2023 at PGG on 26.6.23)

### Summary of policy –

This policy sets out the Trust policy on Equal Opportunity and Dignity at work. It also specifically includes how the Trust will meet the requirements set out in the Equality Act 2010 with regards to the workforce in preventing discrimination and advancing equal opportunity between persons who share protected characteristics and those that do not.

The changes made to this version of the policy are summarised on page 3 (amendment log).

<b>Target audience</b>	Staff, people undertaking roles in the organisation that are not employees and people who have an interest in working for SHSC.
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<b>Keywords</b>	Equal Opportunity; Dignity; Equality; Staff; Workplace
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### Storage

This is Version 5.1 – An Equality Impact Assessment Form has been added to the Policy.

This is Version 5 and is stored and available through the SHSC Intranet/Internet. This version supersedes the previous Version 4 October 2016.

Any copies of the previous policy held separately should be destroyed and replaced with

this version.

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## Version Control and Amendment Log

Version No.	Type of Change	Date	Description of change(s)
1	New policy created	2003	New policy
2	Reviewed and Updated	October 2010	Reviewed to take account of Equality Act 2010
3	Reviewed and Updated	January 2014	Full review completed as per schedule
4	Reviewed and Updated	September 2016	Full review completed
5	Reviewed and updated, Consultation, Approval, Ratification and Issue	April to July 2019	<p>Full review completed as per the HR Policy Governance schedule.</p> <ul style="list-style-type: none"> <li>- Section 4.7 updated to make it clearer that positive discrimination is unlawful.</li> <li>- Section 6.1 have deleted a paragraph that was repeated in 6.3 of original policy.</li> <li>- Added Disabled Staff Policy to list of policies (section 13).</li> <li>- Added the word 'including' in section 7.7.</li> <li>- updated appendix on legislation to take out transitional arrangements re equality act and added regulations</li> <li>- Policy considered by Joint Policy Group 4<sup>th</sup> July 2019 – Staff Side identified typos which have now been corrected. Also agreed to take out reference to the Race Equality Cultural Capability training (RECC) as this is no longer available.</li> </ul>
5.1	Equality Impact Assessment Form Added	Dec 2020	An EIA Form added to Policy after an EIA Audit was carried out by Policy Governance which high-lighted that this Policy should have an EIA Form as an Appendices.

## **Flowchart – Not applicable to this Policy**

## 1. Introduction

Equal opportunity is about the provision of equal rights; this policy is specifically focused on equal opportunity and dignity at work. This includes all areas related to work from recruitment and selection to termination of employment and everything in between. Equal opportunity is not just about working within the law it is also about recognising and responding to inequality that exists in society and impacts on our workforce and people who use our services.

Everyone who comes into contact with our organisation can expect to be treated with respect and dignity and to have proper account taken of their personal, cultural and spiritual needs.

Sheffield Health and Social Care are committed to eliminating discrimination, promoting equal opportunity and doing all that we can to foster good relations in the communities in which we provide services and within our services. We aim to recognise and promote the diversity of our organisation with respect to gender; race; ethnicity; ethnic or national origin; citizenship; religion; disability; mental health; age; domestic circumstances; social class; sexual orientation; marriage or civil partnership status and beliefs, and recognise and support trade union membership.

We believe in fairness and equality and aim to value diversity and promote inclusion in all that we do. This is reflected in our Trust Values that form the guiding principles and behaviours for the way we do our work:

Our Values are:

- Respect
- Compassion
- Partnership
- Accountability
- Fairness
- Ambition

These values are at the heart of celebrating and promoting the diversity of our organisation, prioritising equal opportunity is essential to living these values.

The Trust is committed to ensuring that all employees achieve their full potential in an environment characterised by dignity and mutual respect. Within our teams valuing difference is fundamental; it enables staff to create respectful work environments and to deliver high quality care and services whilst giving service users the opportunity to reach their full potential.

If unlawful discrimination occurs it will be taken very seriously and may result in formal action being taken against individual members of staff, including disciplinary action.

## 2. Scope

This Policy applies to all employees, agency workers, volunteers, and individuals or organisations that provide goods and/or services to the Trust.

### **3. Purpose**

The Equal Opportunities and Dignity at Work Policy aims to achieve equality, fairness and dignity at work and ensure that other relevant policies and procedures are in place to support this and promote these aims. The policy also supports the Trust to ensure that legal duties are met and ensure that employees, volunteers, job applicants and relevant Trust stakeholders are aware of the Trusts approach and their own responsibilities

### **4. Definitions**

#### **4.1. Discrimination**

Discrimination can take many forms these are legally defined in Chapter 2 of the Equality Act 2010 where the discrimination relates to a Protected Characteristic.

##### **4.1.1. 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 (see discrimination by perception below), or because they associate with someone who has a protected characteristic (see discrimination by association below).

##### **4.1.2. Indirect Discrimination**

Indirect discrimination may occur when a condition, rule, policy or practice in an organisation, that applies to everyone, particularly disadvantages people who share a protected characteristic. Indirect discrimination may sometimes be justified if it is applied as a 'proportionate means of achieving a legitimate aim'.

##### **4.1.3. Discrimination by Perception**

This is direct discrimination against an individual because others think they possess a protected characteristic even if the person does not actually possess that characteristic.

##### **4.1.4. Discrimination by Association**

This is direct discrimination against someone because they are associated with another person who possesses a protected characteristic. For example, the direct discrimination is associated with the fact that a person cares for a disabled relative.

##### **4.1.5. Disability Discrimination**

Discrimination because of a failure to comply with the duty to make reasonable adjustments for a Disabled Person

The Equality Act 2010 places a duty on organisations to make reasonable adjustments for disabled people, if an organisation fails to meet this duty this is discrimination.

#### **4.1.6. Discrimination arising from disability**

It may be discrimination to treat a disabled person unfavourably, not because of the person's disability itself, but because of something arising from, or in consequence of his or her disability. This type of discrimination may be justified and therefore not unlawful if it is a proportionate means of achieving a legitimate aim.

#### **4.2. Being treated unfairly because of Trade Union Membership**

Discrimination may occur when someone is treated unfairly because of Trade Union Membership.

#### **4.3. Being treated unfairly because of Part Time Working**

The Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 protects part time workers from being treated less favourably than a comparable full-time worker.

#### **4.4. Prohibited Conduct under the Equality Act 2010**

##### **4.4.1. Harassment**

Harassment is 'unwanted conduct related to a relevant 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'.

Harassment applies to all protected characteristics except for pregnancy and maternity and marriage or civil partnership

There are three types of harassment:

- Unwanted conduct relating to a relevant protected characteristic
- Sexual harassment; and,
- Less favourable treatment of someone because they agreed to or rejected sexual harassment or harassment related to their sex or gender reassignment.

More details regarding the definition of Harassment can be found in the Trust Bullying and Harassment Policy

##### **4.4.2. Victimisation**

Victimisation occurs when an employee is treated badly because they have made or supported a complaint, or raised a grievance under the Equality Act 2010; 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.

#### **4.5. Protected Characteristic**

The Equality Act 2010 brought together several pieces of legislation and brought in the term Protected Characteristic in relation to areas covered by previous legislation.

The Protected Characteristics are:

- Age
- Disability
- Gender Reassignment;
- Marriage and Civil Partnership;
- Pregnancy and Maternity;
- Race;
- Religion or Belief;
- Sex;
- Sexual Orientation.

Detail of the definition of each characteristic can be found in **Appendix A**

#### **4.6. Positive action**

The Equality Act allows action that may involve treating one group more favourably where this is a proportionate way to help members of that group overcome a disadvantage or participate more fully, or to meet needs they have that are different from the population as a whole. This is called 'positive action'<sup>1</sup> Positive Action is lawful if it is undertaken within the terms of the Equality Act 2010<sup>2</sup>.

#### **4.7. Positive Discrimination**

'Positive Discrimination' means treating someone more favourably only because they have a protected characteristic, for example setting a quota for recruitment from a specific group rather than setting in place action to support a disadvantaged group with the aim of increasing representation.

Positive discrimination is usually unlawful and is different from positive action which is lawful.

### **5. Detail of the policy**

The broad overview of this policy is as described in the introduction.

### **6. Duties**

#### **6.1. Executive leadership and Senior Management**

While it is expected that all employees will have responsibility for implementation of this Policy, lead responsibility for its implementation will rest with executive and senior management, e.g. Chief Executive, Executive and Clinical Directors.

Responsibility for the consistent application of this Policy, and for its monitoring and review, is with the Director of Human Resources.

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<sup>1</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/85014/positive-action-recruitment.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/85014/positive-action-recruitment.pdf)

<sup>2</sup> ss.158 or 159 of the Equality Act 2010



## 6.2. Managers

Managers, and other employees in supervisory positions, have a particular duty to ensure that discrimination, or any other breaches of this Policy, do not occur in any directorates/ departments or areas of work for which they are responsible and to give positive support to any measures which promote equality of opportunity.

Specific responsibilities include:

- 6.2.1. Ensuring that their employees are aware of and comply with the requirements of this Policy, related policies and procedures and other good practice guides;
- 6.2.2. Ensuring that their employees have undertaken the appropriate mandatory Equality and Diversity training, other Equality and Diversity training relevant to their role and if involved with recruitment and selection the necessary training to enable them to be involved in that process;
- 6.2.3. Evaluating strategies, plans, developments, working practices, etc, to ensure they do not unfairly discriminate against any person or groups of people, that they advance equal opportunity and where appropriate promote good relations between people who share protected characteristics and those who do not.
- 6.2.4. Ensuring that those who report to the manager, but are not employed by the Trust e.g. volunteers and providers of goods and/or services, take responsibility for their behaviour and conduct in the workplace and to make them aware of the practical application of this Policy.
- 6.2.5. Assisting with the monitoring of compliance with good equal opportunities practice within their area of responsibility;
- 6.2.6. Responding seriously to, and fully investigating, all allegations and complaints of discrimination or harassment in line with relevant, supporting policies.

## 6.3. Employees

All employees are expected to observe the Equal Opportunities and Dignity at Work Policy in their behaviour to other employees, job applicants, agency workers, volunteers, service users and carers and to treat all those with whom they have contact, including providers of services/goods, with dignity and respect.

Employees must operate within and actively promote actions to ensure equal opportunity and non-discrimination. They must not victimise individuals on the grounds that they have made complaints or provided information on discrimination, but must be active in informing managers of any discrimination.

Employees should be aware that they, as individuals, may be liable for unlawful discrimination as well as the Trust.<sup>3</sup>

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<sup>3</sup> Equality Act 2010 s110

## **6.4. Providers of goods and/or services**

The Trust expects that these providers adhere to the principles of this Policy and treat all those with whom they have contact while providing these goods and/or services to the Trust, with dignity and respect. The Statement of Intent, at Appendix C, will be made available to these providers.

## **7. Procedure**

The Trust, as an employer, has a legal and moral responsibility to ensure that discrimination, in any form, does not occur.

### **7.1. The Law**

The Equality Act 2010 places a duty on public authorities, which includes Sheffield Health and Social Care (The Trust), to, in the exercise of their functions, have 'due regard' to the need to:

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.<sup>4</sup>

In line with the relevant legislation, the Trust has a legal obligation to ensure that its employees do not unlawfully discriminate. Details of legislation relevant to equal opportunities and diversity is detailed in Appendix B

Some types of harassment and/or bullying will be unlawful discrimination. It is also unlawful to victimise someone because they have alleged unlawful discrimination or supported someone to make a complaint or given evidence in relation to a complaint<sup>5</sup>. The Trust Bullying and Harassment Policy has a complaints procedure which supports the Equal Opportunities and Dignity at Work Policy.

The Trust is committed to the use of positive action measures, as appropriate. When groups are under-represented in a working or training environment, the law allows an employer to positively encourage job applications from members of those groups to help them compete equally with majority groups.<sup>6</sup>

### **7.2. Advancing Equal Opportunity**

The Trust will actively seek out opportunities to enhance the diversity of the organisation and work proactively with local and national initiatives and programmes to promote

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<sup>4</sup> Equality Act 2010 s149

<sup>5</sup> Equality Act 2010 s26 and s27

<sup>6</sup> Equality Act 2010 s.180 and s159

improvement, including the NHS Equality Delivery System, The Workforce Race Equality Standard, The Mindful Employer Charter The Trust will also identify opportunities to work in partnership with other health and social care organisations and the voluntary and faith sectors to promote equality and diversity.

### **7.3. Recruitment and Selection**

The Trust acknowledges its responsibilities as an employer in ensuring that employees and job applicants are not disadvantaged by unjustified conditions and requirements throughout the recruitment and selection process and as employees of the Trust. This includes all aspects of employment including promotion, opportunities for training, pay and benefits and selection for redundancy. Discrimination after employment may also be unlawful

As an equal opportunities employer, the Trust promotes the efficient, effective, fair and consistent recruitment and selection practices for all employees and job applicants. The Trust's **Recruitment and Selection Policy and Procedures** are drafted to support these aims.

The Trust aims to be a Disability Confident Employer and to meet level three of this award. The Trust will make information available on its web site regarding the current level of achievement and progress towards level three. The Trust is committed to interview all disabled applicants who meet the minimum criteria of the person specification and will publish information for applicants regarding how the minimum criteria for a post are defined and assessed.

The Trust is committed to the employment of disabled people where the minimum criteria of the person specification are met and where they are the best candidate for the job as determined at interview. The Trust will consider and make reasonable adjustments in line with best practice and legal duties.

Training will be provided for all those involved in the recruitment and selection process. Chairs of interview panels must have attended recruitment/selection training and Equality and Diversity training.

Consistent and justifiable reasons at every stage of recruitment and selection are prerequisites for good management and best practice. Without consistency and fair application of recruitment and selection procedures, decisions are subjective and are open to claims of direct and indirect discrimination. Advertised vacancies or associated documents, will not, therefore, include any requirements or criteria which are unnecessary to the post and which, consequently, might exclude future applicants of particular or under-represented groups of people.

In very limited circumstances, it is lawful for an employer to treat people differently for a reason related to a protected characteristic or where there is a genuine occupational requirement. The occupational requirement must be crucial to the post and a proportionate means of achieving a legitimate aim. Further guidance should be sought from the HR Department.

It is the policy of the Trust to recruit the best person for each vacancy in line with the Introduction Section of this Policy. All vacancies will be advertised internally for existing employees to apply if they wish.

The Trust is committed to the use of positive action where it is deemed necessary and appropriate.

Candidates for employment or promotion will be assessed objectively against the requirements for the job, as set out in the person specification, taking account of any reasonable adjustments that may be required for candidates with a disability.

Where job applicants cannot engage in the application process, support and assistance will be considered and appropriate ways of acquiring relevant information will be sought where it is possible to do this without unlawfully disadvantaging other applicants. Disability or home commitments will not form the basis of employment decisions except where this can be objectively justified.

Each vacancy has a job description and person specification which should be reviewed every time a vacancy occurs to ensure that they remain relevant and flexible. This includes consideration of reasonable adjustments which could be made for disabled persons that may apply.

A short summary of the Equal Opportunities and Dignity at Work Policy, a Statement of Intent, (see Appendix C ), is sent out with the application form, job description and person specification; and is available on the website for people applying online.

All job descriptions will carry the following statement:  
'All employees must comply with the Trust's Equal Opportunities and Dignity at Work Policy'.

The Human Resources Department will monitor advertisements, job details and selection assessments to ensure they do not discriminate directly or indirectly.

Job advertisements must contain the following statement:

'The Trust is committed to building a workforce which reflects the diversity of and meets the needs of the Trusts local communities, we welcome all applications and in particular those from groups that are underrepresented in our workforce such as people from black and minority ethnic communities and disabled people'

Shortlisting and interviewing must be carried out by at least two people and wherever possible the interview panel should be as diverse as possible (for example a mix of age, gender, ethnicity, disabled people etc). At least the chair and/or one other member of an interview panel should have attended the Trust's recruitment and selection course.

Individuals from agencies, volunteers and providers of goods/services should be made aware of the requirements of this Policy and given a copy of the 'Statement of Intent' at Appendix C.

#### **7.4. Harassment**

Direct discrimination, victimisation and harassment will not be tolerated and will be liable to be treated as gross misconduct under the Disciplinary Policy and/or dealt with under the Bullying and Harassment Policy. All employees and managers, have a responsibility to be familiar with the procedures outlined in these policies.

The Occupational Health and Workplace Wellbeing services are able to provide a range of services for any individual who may require extra support. Support may also be provided through appropriate trade union representatives.

## **7.5. Training**

The Trust will not unlawfully discriminate in the provision and selection for training and development programmes. Appropriate training will be offered to all employees to enable them to perform effectively in their job or to pursue development opportunities.

Training in Equality and Diversity forms an integral part of the induction process, awareness training courses and other appropriate courses, e.g. recruitment and selection. All employees will be required to undertake Equality and Diversity training as part of induction and mandatory training. (See Appendix D)

Information on training and development opportunities with regards to equality and/or diversity will be widely publicised and the take up of such opportunities will be reviewed annually.

## **7.6. Complaints**

Employees who wish to make a complaint of discrimination should do so using the Bullying and Harassment Policy or the Grievance Policy. Where investigation indicates that unlawful discrimination has taken place it will be dealt with under the Disciplinary Policy.

Job applicants, at any stage of the Recruitment and Selection procedures, wishing to make a complaint of unlawful discrimination, should be referred to the Human Resources Department.

Volunteers or agency workers who wish to make a complaint should, in the first instance, raise the matter with their nominated supervisor. Thereafter, advice should be sought from the Human Resources Department.

Users or providers of good and/or services who wish to make a complaint should refer to the Trust's Complaints Policy, available via the website.

## **7.7. Equality Data Collection and Use**

All job applicants and employees are asked for information on ethnicity, age, marital status, sex, disability, sexual orientation and religion or belief. This information is collected, maintained and reviewed for purposes of monitoring Equality and Diversity, including for consideration of reasonable adjustments for candidates applying for posts. It may also be used in a non-identifiable way to meet mandatory reporting requirements. The information is confidentially stored and protected from misuse under the organisation's information governance policies and procedures

Relevant data will be collected, reviewed and published in the annual report on equality and human rights and used in analysing and planning to inequalities in relation to the workforce.

## 8. Development, consultation and approval

- V1 - Update of policy originally agreed with Staff Side
- Review of V2 - This review process considered changes to legislation and general updating of the policy. The Trust Joint Consultative Group were consulted on the draft updated policy suggestions were put forward which were incorporated into the policy (see notes of the JCF meeting which took place on the 20th of November 2013). Latest update discussed through JCF

### Version 5

- Policy based on current legal and policy position as of June 2019.
- HR and other influential colleagues considered April-June 2019.
- Policy considered by Joint Policy Group 4<sup>th</sup> July 2019 – Staff Side identified typos which have now been corrected. Also agreed to take out reference to the Race Equality Cultural Capability training (RECC) as this is no longer available.
- Policy to be approved by Policy Governance Group 15<sup>th</sup> July 2019.
- Policy to be ratified by EDG July 2019.
- The Equality Impact Assessment will be undertaken and stored separately in conjunction with Corporate Governance.

## 9. Audit, monitoring and review

<b>Monitoring Compliance Template</b>						
Minimum Requirement	Process for Monitoring	Responsible Individual/group/committee	Frequency of Monitoring	Review of Results process	Responsible Individual/group/committee for action plan development	Responsible Individual/group/committee for action plan monitoring and implementation
The policy reflects current legislation/case law and is applied in practice	Via use in practice	Head of Equality and Inclusion	Annual review	Head of Equality and Inclusion	HR Senior Managers Group	HR Senior Managers Group

The policy review date is 30<sup>th</sup> June 2023.

## 10. Implementation plan

Action / Task	Responsible Person	Deadline	Progress update
Upload new policy onto intranet and internet and remove and archive old version	Corporate Governance via the Communications Team	31/08/2019	03/10/2019
Make HR team and wider Trust aware of new policy	Head of Equality and Inclusion via HR advisors and email to all staff via Connect (Communications Team)	30/09/2019	October 2019

## 11. Dissemination, storage and archiving (version control)

<b>Version</b>	<b>Date on website (intranet and internet)</b>	<b>Date of entry in Connect (all staff communication)</b>	<b>Any other promotion/ dissemination (include dates)</b>
1	2003	-	
2	October 2010	-	
3	January 2014	-	
4	September 2016	-	
5	By 31 <sup>st</sup> Aug 2019	By 31 <sup>st</sup> Aug 2019	HR team informed By October 2019

This is Version 5 and is stored and available through the SHSC Intranet/Internet. This version supersedes the previous Version 4 - September 2016. Any copies of the previous policy held separately should be destroyed and replaced with this version.

All versions of HR policies are stored on the HR Shared Drive by the policy author and the PA to the Director of Human Resources.

Word copies of final versions of policies can be obtained from Policy Governance via the PA to the Director of Human Resources.



## 12. Training and other resource implications

A communication in Connect will be issued to make staff / managers aware of the latest policy.

The Statement of Intent (Appendix C) will be available to all job applicants, and new starters at Induction.

Reference will be made to the policy in relevant training such as recruitment.

See also (Appendix D) – Equality and Diversity Training and Development.

## 13. Links to other policies, standards, references, legislation (associated documents) and national guidance

Equality and Dignity underpin everything that the Trust does and the following list is not exhaustive however the following policies are particularly relevant:

- Recruitment and Selection procedures
- Induction Procedure
- Complaints Policy
- Flexible Working Policy and Procedure
- Bullying and Harassment Policy
- Zero Tolerance of Harassment Policy (third party)
- Disciplinary Policy
- Managers' Guide to Equality Act 2010
- Recruiters' Brief to the Equality Act 2010
- Gender Reassignment Support in the Workplace
- Disabled Staff Policy

## 14. Contact details

<b>Job Title</b>	<b>Name</b>	<b>Phone</b>	<b>Email</b>
Head of Equality and Inclusion	Liz Johnson	0114 27 16703	<a href="mailto:Liz.johnson@shsc.nhs.uk">Liz.johnson@shsc.nhs.uk</a>

## **Appendix A - Protected Characteristics**

### **Age**

A person belonging to a particular age group. An age group includes people of the same age and people of a particular range of ages. Where people fall in the same age group they share the protected characteristic of age.

### **Gender reassignment**

A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or 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.

### **Disability**

A person has a disability if they have a physical or mental impairment, and the impairment has a substantial and long-term negative effect on their ability to carry out normal day-to-day activities.

### **Marriage and civil partnership**

People who have or share the common characteristics of being married or of being a civil partner can be described as being in a marriage or civil partnership. A married man and a woman in a civil partnership both share the protected characteristic of marriage and civil partnership. People who are not married or civil partners do not have this characteristic.

### **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.

### **Race**

For the purposes of the Equality Act, "race" includes colour, nationality and ethnic or national origins. People who have or share characteristics of colour, nationality or ethnic or national origins can be described as belonging to a particular racial group. A racial group can be made up of two or more different racial groups.

The Equality Act 2010 provides for the definition of Race to be extended to include Caste, consideration should be given to any legislation or guidance issued after the date of this policy.

### **Religion or belief**

People who are of the same religion or belief share the protected characteristic of religion or belief. Depending on the context, this could mean people who, for example, share the characteristic of being Protestant or people who share the characteristic of being Christian. Religion or religious or philosophical belief, includes a lack of religion or belief. It is a broad definition in line with the freedom of thought, conscience and religion guaranteed by Article 9 of the European Convention on Human Rights. The main limitation for the purposes of Article 9 is that the religion must have a clear structure and belief system. Denominations or sects within a religion can be considered to be a religion or belief, such as Protestants and Catholics within Christianity. The criteria for determining what is a "philosophical belief" are that it must be genuinely held; be a belief and not an opinion or viewpoint based on the present state of information available; be a belief as to a weighty and substantial aspect of human life and behaviour; attain a certain level of cogency, seriousness, cohesion and importance; and be worthy of respect in a democratic society, compatible with human dignity and not conflict with the fundamental rights of others. So, for example, any cult involved in illegal activities would not satisfy these criteria.

**Sex**

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.

## **Appendix B - The Legal Framework: Relevant Legislation**

### **The Equality Act 2010**

The Act brings together existing equality and discrimination legislation. The key objectives are to harmonise and clarify existing discrimination law. The other discrimination laws are superseded by this legislation but as the Act's implementation is phased, references to the previous legislation have been retained pending full implementation. Further guidance on the Act has been issued and is available on the Intranet and from line managers.

### **For Reference the Equality Act 2010 replaces the following legislation**

- Equal Pay Act 1970
- Sex Discrimination Act 1975
- Race Relations Act 1976
- Disability Discrimination Act 1995
- Employment Equality (Religion or Belief) Regulations 2003
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Age) Regulations 2006
- Equality Act 2006, Part 2
- Equality Act (Sexual Orientation) Regulations 2007

### **Other Relevant legislation**

Equality Act 2010 (Specific Duties and Public Authorities) Regulations 2017

The Equality Act 2010 (Disability) Regulations 2010

#### [Protection from Harassment Act 1997](#)

The principal aim of this Act is to deal with stalking. However, the legislation will also provide an additional remedy for those subjected at work or outside work to racial or sexual harassment, or to harassment on the grounds of sexual orientation or disability.

[Protection of Freedoms Act 2012](#) - updated the protection from Harassment Act 1997.

#### [Trade Union & Labour Relations \(Consolidation\) Act, 1992](#)

This guarantees the right to form and join a trade union and not to be victimised for joining or not joining a trade union. An employee who is an official of a recognised trade union may claim paid time off to perform certain functions or undergo training.

### [Data Protection Act 2018](#)

The Act requires that personal data, manually or computer held, must be processed fairly and lawfully and is only used for the purpose for which it is specified. It protects the fundamental rights of individual's right to privacy in relation to the processing of sensitive and personal data.

### [Human Rights Act, 1998](#)

This provides the right to respect for privacy and family life, freedom of thought, conscience and religion, expression and freedom of assembly.

### [Part-Time Workers \(Prevention of less favorable treatment\) Regulations, 2000 \(as amended\)](#)

Makes it unlawful for employers to treat part-time workers less favourably than full-time workers, and giving them holiday pay, bank holiday pay, etc, on a pro rata basis.

### [Fixed-Term Employee Regulations, 2002](#)

Prohibits less favourable treatment of employees on fixed-term contracts than similar permanent employees and to impose limits on the use of successive fixed term contracts.

### [Employment Act 2002](#)

This Act has a wide-ranging package, covering work and parents, resolving disputes in the workplace, employment tribunal procedures, equal pay, provisions on implementing the Fixed Time Work Directive and rights to time off work.

This Act introduced the new right for employees to request flexible working. The Trust has a Policy and procedures for employees to apply for flexible working.

### [Civil Partnership Act 2004](#)

This Act introduced civil partnerships for 'same sex' couples. This Act also made it unlawful to discriminate directly or indirectly in recruitment or employment on the grounds of someone being in a civil partnership, in the same way as it is unlawful to discriminate on the grounds of marital status.

### [Marriage \(Same Sex Couple Act\) 2013](#)

This Act allows for same sex couples to marry, either in a civil ceremony (i.e. a civil ceremony in a register office or approved premises e.g. a hotel) or, provided that the religious organisation concerned is in agreement, on religious premises, with the marriage being solemnized through a religious ceremony.

## [The Equality Act, 2006 – Part 1](#)

This Act created the Commission for Equality and Human Rights (EHRC) to take over the powers of the existing commissions and also cover the other strands of discrimination law, permitting human rights legislation to be monitored and introduces a new gender equality duty for public bodies. Its role has been amended by the Enterprise and Regulatory Reform Act 2013.

## [Enterprise and Regulatory Reform Act 2013 – Part 5](#)

- Amends part of the Equality Act 2006 by making changes to some of the remit of the Equality and Human Rights Commission (EHRC)
- Removes third part harassment provisions in the Equality Act 2010
- Removes section 138 of the Equality Act 2010 which provides a mechanism and statutory forms for a person who thinks that he or she may have been unlawfully discriminated against, harassed or victimised to obtain information from the person he or she thinks has acted unlawfully against him or her

## [The Work and Families Act, 2006](#)

This extends paid maternity and adoption leave, extends the right to request flexible working to those who have caring responsibilities for adults, provides for statutory maternity pay to be extended and introduces additional paternity leave.

## [Gender Recognition Act 2004](#)

The Gender Recognition process enables transsexual people to be legally recognised in their acquired gender. Under the provisions of the Gender Recognition Act 2004, a transsexual person may submit an application to the Gender Recognition Panel. Successful applicants will receive a Gender Recognition Certificate and will, from the date of full recognition, acquire all the rights and responsibilities appropriate to a person of his or her acquired gender.

## [The Shared Parental Leave Regulations 2014](#)

Provides for parent to share parental leave.

## [The Flexible Working Regulations 2014](#)

Sets out rules around requests for flexible working.

## Appendix C - Statement of Intent

This Statement is a summary of the Policy. It will be made available to new employees at induction; and to all job applicants at the same time as other documentation, e.g. job description and person specification and used where only a short summary/statement of the Policy is required. Agency workers, volunteers, etc, and providers of goods/services should be provided with a copy.



### EQUAL OPPORTUNITIES AND DIGNITY AT WORK POLICY STATEMENT OF INTENT

The Trust is a major employer and provider of services. We are committed to building a workforce which reflects the diversity of and meets the needs of the local community.

We oppose all forms of discrimination on legal and moral grounds, and recognise that discrimination creates barriers to achieving equality for everyone.

The Trust is committed to making equality of opportunity and fair treatment a reality whereby an individual can seek, obtain and continue employment without unfair discrimination.

As an equal opportunities employer, we will ensure that all job applicants and employees receive fair and equal treatment and will not be disadvantaged by unjustified conditions or requirements.

The Trust's Equal Opportunities and Dignity at Work Policy underpins the Trust's commitment to achieve equality and fairness at work and to ensure that individuals or groups are not unfairly discriminated against.

We are committed to improving our practice through signing up to initiatives such as the Disability Standard, Disability Confident Employer and Mindful Employer Standards and working in partnership to improve opportunities for all.

*Job Sharers welcome to apply*



## Appendix D – Equality and Diversity Training and Development

### Equality and Diversity Training

#### Mandatory Options Mandatory Training Level:

All staff must undertake mandatory Equality and Diversity Training.

#### Post Mandatory Options:

- **Equality and Diversity for Managers/Leads**– This is a more in-depth course for staff with management and leadership roles.
- **Equality Impact Analysis Training**– This can be provided to management teams on request please contact Liz Johnson [liz.johnson@shsc.nhs.uk](mailto:liz.johnson@shsc.nhs.uk)

The Trust also aims to incorporate Equality and Diversity into a number of its training courses.



## Appendix E

### Equality Impact Assessment Process and Record for Written Policies - Equal Opportunities and Dignity at Work Policy

**Stage 1 – Relevance** - Is the policy potentially relevant to equality i.e. **will this policy potentially impact on staff, patients or the public?** This should be considered as part of the Case of Need for new policies.

**NO – No further action is required – please sign and date the following statement. I confirm that this policy does not impact on staff, patients or the public.**

***I confirm that this policy does not impact on staff, patients or the public.***

Name/Date:

**YES, Go to Stage 2 Yes**

**Stage 2 Policy Screening and Drafting Policy** - Public authorities are legally required to have 'due regard' to eliminating discrimination, advancing equal opportunity and fostering good relations in relation to people who share certain 'protected characteristics' and those that do not. The following table should be used to consider this and inform changes to the policy (indicate yes/no/ don't know and note reasons). Please see the SHSC Guidance and Flow Chart.

**Stage 3 – Policy Revision** - Make amendments to the policy or identify any remedial action required and record any action planned in the policy implementation plan section

SCREENING RECORD	Does any aspect of this policy or potentially discriminate against this group?	Can equality of opportunity for this group be improved through this policy or changes to this policy?	Can this policy be amended so that it works to enhance relations between people in this group and people not in this group?
Age	NO	YES	NO – already works to achieve this
Disability	NO	YES	NO – already works to achieve this
Gender Reassignment	NO	YES	NO – already works to achieve this
Pregnancy and Maternity	NO	YES	NO – already works to achieve this
Race	NO	YES	NO – already works to achieve this
Religion or Belief	NO	YES	NO – already works to achieve this
Sex	NO	YES	NO – already works to achieve this
Sexual Orientation	NO	YES	NO – already works to achieve this
Marriage or Civil Partnership	NO		

Please delete as appropriate: - Policy Amended / Action Identified (see Implementation Plan) / no changes made.

Impact Assessment Completed by: Liz Johnson Head of Equality and Inclusion October 2020