

## POLICY ON EQUAL OPPORTUNITIES & DIVERSITY

### Introduction

1. The Oxford Radcliffe Hospitals Trust strives to be an Equal Opportunities Employer and requires that all people are afforded equal opportunities in employment irrespective of their age, gender, marital status, ethnic origin, nationality, religion, sexual orientation, colour or disability. Employment covers all aspects of an individual's working life with the Trust i.e. recruitment, training and development, management of change, performance management grievance, terminations, promotions, and transfers.
2. An essential part of achieving these objectives will involve working together to ensure that the workforce reflects the community it serves and recognising that all our staff:
  - 2.1 are valued, as individuals and for the experience, knowledge and skills they can bring to the workplace
  - 2.2 are given equal opportunities for career progression, training and personal development
  - 2.3 do not suffer from harassment, bullying or victimisation
3. The aim of this policy is to make the most effective use of staff by ensuring equality of opportunity for all present and potential employees and eliminate unfair and unlawful discrimination and harassment.
4. All reasonable steps will be taken to ensure that individuals are treated equally and fairly and that decisions on recruitment, selection, training, promotion, appraisal, work allocation and career management are based on objective and job related criteria in accordance with the Recruitment and Selection Policy.
5. All people have the right to be treated with consideration, dignity and respect. Unlawful and unfair discrimination and harassment at work for whatever reason is unacceptable, and this policy sets out the procedure for raising such matters.

**Who does this policy apply to?**

6. This policy applies to all staff.
7. The Trust will require all contractors to have their own Equal Opportunities policies, monitoring and training in place in line with the Commission for Racial Equality (CRE) and Disability Rights Commission (DRC) guidance for public authorities.

**Evaluation**

8. The effectiveness of the employment policies and practices of the Trust will be monitored by the Equality Steering Group which meets twice a year and reports annually to the HR Committee which meet quarterly, and the Trust Board.
9. If the monitoring process indicates possible areas where unlawful or unfair discrimination and harassment may be occurring then recommendations will be made by the Equality Steering Group to the Trust Board.

**Race and Ethnicity**

10. The Race Relations Amendment Act (2000) extends the Race Relations Act (1976) and gives public authorities a new statutory duty to promote race equality. This means that the NHS must provide fair and accessible services and improve equal opportunities and employment. The Race Relations Act 1976 (Amendment) Regulations 2003 incorporates the EU Race Directive into UK law. This focuses on equal treatment between people, regardless of their racial or ethnic origin.

**Race Equality Scheme**

11. Under the Race Relations Amendment Act 2000, The Trust has a statutory duty to positively promote race equality in service delivery and employment. The Act requires the Trust to produce a Race Equality Scheme which explains how the Trust will work to:

- 11.1 eliminate unlawful racial discrimination
- 11.2 promote equality of opportunity
- 11.3 promote good relations between people of different racial groups

### **Religion and Belief**

- 12. The Employment Equality (Religion or Belief) Regulations 2003 makes it unlawful to discriminate against workers because of religion or similar belief.
- 13. The Regulations extend beyond the more well known religions and faiths to include beliefs such as Paganism and also cover those without beliefs.
- 14. Where employees have particular religious needs which conflict with existing work requirements, each situation and request must be treated on an individual basis. It may be appropriate, depending on the needs of the service, for the Trust to accommodate time off for an individual's religious observance and this should be done in consultation with the individual concerned e.g. swapping a Christian Bank Holiday for other religious day. **Please refer to the Trust's Policy on Annual leave and Special Leave, paragraph 21.**

### **Disabilities**

- 15. The Trust holds the disabled ♣ ♣ symbol which identifies that it supports and fulfils a number of requirements with regard to the recruitment, retention and employment of disabled people. In addition to this the Trust works in partnership with Remploy to provide support and advice to disabled applicants and employees of the Trust. We also work with other appropriate organisations as required e.g. Right Employment, Access to Work.
- 16. The Trust will take any steps which it is reasonable to have to take in order to reduce or remove any substantial disadvantage caused to an applicant or employee as a result of a physical feature of our premises or our employment arrangements.

17. The Disability Discrimination Act (DDA) 2005 extended the provisions of the Disability Discrimination Act 1995 and the Disability Discrimination Act 1995 (Amendment) Regulations 2003. It also contains new provisions which place a duty on all public bodies to promote equality of opportunity for disabled people and is similar to the duty to promote Race Equality under the Race Relations Amendment Act (2000).

### **Disability Equality Scheme**

18. The Trust will be/is required to produce a Disability Equality Scheme. In producing a Disability Equality Scheme, the Trust must:
- 18.1 Involve disabled people in producing the scheme and developing the Action Plan.
  - 18.2 Identify how it will gather and analyse evidence to inform its actions and track progress.
  - 18.3 Set out how it will assess the impact of its existing and proposed activities on disabled people.
  - 18.4 Produce an action plan for the next three years.
  - 18.5 Report on its progress every year and review and make appropriate revisions to this scheme at least every three years.

### **Sexual Orientation**

19. The Employment Equality (Sexual Orientation) Regulations 2003 prohibits discrimination on the grounds of sexual orientation throughout employment and training. Sexual orientation is defined within the Regulations as
- 19.1 orientation towards persons of the same sex (lesbian and gay men)
  - 19.2 orientation towards persons of the opposite sex (heterosexual)
  - 19.3 orientation towards persons of the same sex and opposite sex (bisexual)

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**Gender**

20. The Sex Discrimination Act 1975 makes it unlawful to discriminate on grounds of sex or marital status. The Sex Discrimination (Gender Reassignment) Regulations 1999 amended this to prohibit direct discrimination in employment on the grounds that a person intends to undergo /is currently undergoing/has undergone gender reassignment. The Gender Reassignment Act 2004 ammended the Sex Discrimination Act 1975 and the Sex Discrimination (Gender Reassignment) Regulations 1999 and allows for the legal recognition of transsexual people's gender (acquired gender). This recognition is called gender recognition and has to be applied for from the Gender Recognition Panel.

**Transsexuals and Gender Reassignment**

21. Transsexual is used to describe people who have a sense of discomfort with their gender at birth which leads to them undertaking the personal, social and medical transition to live in the gender of their desire.
22. The Trust will support all transsexual staff who wish to undertake gender reassignment. The Trust will establish from the individual how they would prefer information about their transition to be communicated to their colleagues. The individual will ensure that they update their HR Consultant on when they anticipate presenting their new gender, and how long they expect to be off work for medical assessments and surgical procedures. When the individual is absent for treatment or surgery then normal sick pay arrangements should apply. Unlawful discrimination could occur if the individual undertaking gender reassignment was treated less favourably than someone who is absent for some other medical reason.
23. There is a requirement to live as a member of the opposite sex prior to any surgical procedure. This will therefore raise issues with regards to single sex toilets. When a transsexual person wishes to change from using one set of toilets to another, this will need to be discussed with the individual concerned.

24. Openness, information and respect for the feelings of both the transsexual and their colleagues is key to a successful gender reassignment.
25. Objections to a transsexual individual using single sex toilets should be dealt with through discussion and explanation. The transsexual individual must take into account colleagues' feelings. However all staff should be reminded that a failure to treat transsexuals with dignity and respect can be seen as a breach of this policy.

### **Gender Equality Scheme**

26. With effect from 6th April 2007 the Trust has a duty to eliminate unlawful discrimination and harassment and to promote equality of opportunity between men and women.
27. The Trust is required to produce a Gender Equality Scheme which must identify the Trust's gender equality goals and describe the actions that will be taken to implement these.

### **Age**

28. The Employment Equality (Age) Regulations 2006 prohibits discrimination on the grounds of age; this includes individuals of all ages. The Trust requires that people of all ages are afforded equal opportunities during their employment with the Trust. Employment covers all aspects of an individual's working life with the Trust i.e. recruitment, grievance, termination.

### **Equal Opportunities Monitoring**

29. In order to ensure that the Trust is offering equality of opportunity to all groups of staff, the Trust will be monitoring equal opportunities data in relation to applications, interviews, promotion, training and development, appraisal, grievances, performance and conduct hearings, bullying and harassment, leavers.

30. There is a duty placed on the Trust to monitor data on a number of staff groups under legislation e.g. the Race Equality Scheme requires the Trust to undertake ethnic monitoring. The Trust has taken the view however that it will monitor all aspects of equal opportunities in order to monitor the impact of this policy. This monitoring will cover each of the areas covered by legislation, principally: ethnicity using the CRE categories, gender and gender identity, disability, sexual orientation, age and religion. This information is collected by voluntary disclosure and will be kept strictly confidential.
31. Reports will be made quarterly to the HR Committee, and annually to the Trust Board. Information will also be published on the Trust internet site and in the Trust Annual Report.

### **Policy Function Impact Assessment**

32. Under the Race and Disability Equality Schemes, the Trust is required to assess the impact of all its policies, procedures and functions (departments) e.g. Human Resources, Emergency Department, in order to eliminate any potential for discrimination.
33. The Trust will comply with best practice e.g. ACAS guidance in this area and undertake a diversity impact assessment which will include all areas of diversity as detailed in paragraph 1.

### **Learning & Development**

34. Mandatory training has been established which will incorporate diversity awareness for all staff members.

### **Complaints under the policy**

35. If staff feel that they have not been treated with dignity and/or respect and not given equality of opportunity during their employment with the Trust they should contact their Line Manager in the first instance. If the issue is not resolved staff can access the Trusts Grievance and Dispute Procedure.
36. If individuals have concerns in relation to Bullying and Harassment then they should follow the process laid out in the Trust's Policy on Bullying and Harassment.

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37. Discrimination, abuse or harassment are considered unacceptable behaviour. Any breach of the Bullying and Harassment Policy will result in the Performance and Conduct Procedure being invoked.

### Definitions

38. It is important that all staff are aware of the following definitions:

- 38.1 Direct Discrimination – This is treating a person less favourably on grounds of age, colour, disability, ethnic origin, gender, marital status, nationality, race, religion or sexual orientation. Direct discrimination on the grounds of disability, gender identity race or sex is unlawful.

Example :

- Only recruits of a particular racial group, gender or marital status to fill external or internal vacancies.
- Seeking recruits of a particular racial group, gender or marital status to fill external or internal vacancies.
- Asking questions during a selection interview relating to race, marital status or dependent children.
- Allocating work on the grounds of race, gender or marital status.
- Denying opportunities for promotion, transfer or training because of age.
- Rejecting an applicant on the grounds of disability when otherwise the applicant is the best candidate, is capable of fulfilling the requirements of the job concerned and can be accommodated without any, or with reasonable adjustment, to the working environment.

- 38.2 Genuine Occupational Qualification – This is where an employer can, for a particular job in certain defined circumstances, select, train, promote or transfer a person of a particular sex or race.

Example : Advertising for a female gynaecologist if there are no females in the department, advertising for a female care worker in a house for abused women.

38.3 Indirect Discrimination – This consists of applying a provision, criterion or practice which disadvantages people of a particular sexual orientation, religion or belief, gender, gender identity, disability, age or race and which is not justified as a proportionate means of achieving a legitimate aim. Indirect discrimination might also embrace treatment which may be described as equal between different racial groups but its effect is discriminatory on one particular racial group and effects gender and marital status.

Examples :

- Advertising a job vacancy with qualifications or experience which cannot be justified in relation to the requirements of the job
- Applying a selection test for a job vacancy which assesses skills not required for the job and which are unintentionally racially or sexually biased

38.4 Victimisation – Is the unfair treatment of individuals, including those who have made allegations or complaints of discrimination or have provided information about discrimination or harassment.

38.5 Harassment – This can take many forms and may be directed in particular against people because of their gender, ethnic origin or towards people because of their age, sexual orientation, physical or mental disability, or some other characteristic. Harassment is any conduct based on age, disability, HIV status, domestic circumstances, sex, sexual orientation, gender reassignment, race, colour, language, religion, political, trade union membership or other opinion or belief, national or social origin, association with a minority, property or area, birth or other status which affects the dignity of men and women at work. (Adapted from the Human Rights Act 1988 enacted in the UK law in October 2000 and European Community Recommendations and Code of Practice on Harassment). Please refer to the Trust's Policy on Bullying and Harassment.

**Responsibilities**

39. The Chief Executive of the Trust is responsible for the overall operation of this policy. Implementation of this policy is through agreed management arrangements. A programme of training will be provided for all members of staff.
40. The Director of Human Resources is responsible for ensuring that adequate and fair arrangements exist for both effective handling and recording of recruitment, promotion, training, redeployment, redundancies, grievance and Performance and Conduct procedures. HR Consultants will provide assistance in resolving discrimination problems in line with current legislation and codes of practice.
41. All managers and supervisors have a responsibility to ensure that the policy is communicated, understood and adhered to.
42. Supervisors and managers are responsible for ensuring that harassment and all other forms of discrimination do not occur in the areas for which they are responsible and for dealing promptly with an incident of which they are aware
43. Supervisors and managers have a duty to adopt personal standards of behaviour which treat all employees with dignity and respect.
44. Individual employees have responsibility for their own behaviour, they must not discriminate in their employment relationships with other employees, members of the public and patients during the course of their work. In particular, all employees:-
- 44.1 should be aware of how their own attitudes to people that might affect their judgment
  - 44.2 must co-operate in promoting the Equal Opportunities and Diversity policy and in preventing unlawful and unfair discrimination
  - 44.3 must not harass, abuse, victimise or bully others including any person making or helping someone to make a complaint of unlawful or unfair discrimination.
  - 44.4 should challenge offensive or discriminatory behaviour and bring it to the attention of managers or HR Consultants.

45. Patients, visitors and relatives must not discriminate in their relationships with Trust staff. The Trust considers this behaviour towards staff unacceptable and such behaviour will not be tolerated. Please refer to the Trust's Zero Tolerance Policy.
46. Further information on diversity/equal opportunities is available from the HR Department, Patient Advice and Liaison Service, and the Trust's Public Involvement Lead.
47. Expertise and access to external support on diversity/equal opportunities can be obtained through the Equality Steering Group.

Associated policies:

ORH Bullying and Harassment Policy  
ORH Performance & Conduct Policy  
ORH Recruitment & Selection Policy  
ORH Grievance & Dispute Procedure  
ORH Zero Tolerance Policy  
ORH Management of Absence Policy  
ORH Annual Leave and Special Leave Policy  
ORH Retirement Policy