

Policy Document Control Page

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- **Inclusion of definitions**
- **Inclusion of relevant sections from the 'deconstructed' Recruitment and Retention of Disabled Employees Policy**

Originator

Originated By: Kirsty Hood

Designation: Human Resources Compliance and Development Manager

Equality Impact Assessment (EIA) Process

Equality Relevance Assessment Undertaken by: Kirsty Hood

ERA undertaken on: 17 May 2013

ERA approved by EIA Work group on: 24 May 2013

Where policy deemed relevant to equality-

EIA undertaken by: Kirsty Hood

EIA undertaken on: 17 May 2013

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Integrated Governance Group

Referred for approval by: Kirsty Hood

Date of Referral: 24 June 2013

Approved by: JNCC

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Executive Director Lead: Director of Workforce and OD

Circulation

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Issued to: An e-copy of this policy is sent to all wards and departments

Policy to be uploaded to the Trust's External Website? YES

Review

Review Date: 30th September 2016

Responsibility of: Kirsty Hood

Designation: HR Compliance and Development Manager

This policy is to be disseminated to all relevant staff.

This policy must be posted on the Intranet.

Date Posted: 18th June 2013

Equal Opportunities in Employment Policy

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1. Policy Statement

- 1.1 Pennine Care NHS Foundation Trust is committed to providing a working environment, which is free from unlawful discrimination on any grounds. This includes age, gender, sexual orientation, gender reassignment, marriage and civil partnership, pregnancy and maternity, paternity, adoption, fostering, disability, health status, mental health need, race, ethnicity, language, religion, civic duties, political, trade union or other opinion or belief, social origin, domestic circumstances or offending background. Cases of discrimination will be dealt with fairly, confidentially and in accordance with the appropriate Trust policies. This list is not exhaustive and will be reviewed in light of future reviews of the policy.

2. Aims

- 2.1 The aims of the policy are:

2.1.1 To make equality of opportunity a natural and integral part of employment practices, policies and procedures.

2.1.2 To create a working environment which, nurtures dignity and mutual respect encouraging staff to achieve their full potential.

2.1.3 To attract, develop and retain a diverse workforce.

2.1.4 To increase awareness and implementation of anti-discriminatory practice amongst all staff.

2.1.5 To ensure that no employee or potential employee experiences less favourable treatment as a result of personal attributes or circumstance on grounds that cannot be shown to be justifiable.

2.1.6 To ensure that the Trust is compliant with the statutory employment duties under equality legislation (Equality Act 2010).

2.1.7 To highlight that any form of unlawful direct and indirect discrimination in employment practice is unacceptable.

3. Scope

- 3.1 This policy applies to all employees and potential employees of the Trust. This includes staff on secondment to the Trust and all those working for or on behalf of the Trust such as bank workers, contractors or as volunteers, including work experience, student placements and service user consultants.
- 3.2 The policy applies equally to all areas of employment including recruitment, selection, promotion, training, development, discipline, grievance, sickness, absence, conditions of service and reasons for termination of employment.

4. Responsibility for Implementation

4.1 Whilst ultimate responsibility for effective implementation of the policy lies with the Trust Board, Trust managers, employees and Trade Unions all share responsibility for promoting equality of opportunity and ensuring that this policy is implemented in practice.

4.2 Specific responsibilities are as follows:

4.2.1 The Human Resources Department will:

Continually review employment policies, procedures and practices and introduce revisions as necessary in consultation with Trade Unions and other relevant bodies.

Implement training programmes on Recruitment, Selection and Equality and Diversity for all managers and appointing officers.

Provide Equality and Diversity Training for all existing staff and will ensure that all new staff receive Equality and Diversity awareness training as part of their initial induction at the commencement of their employment with the Trust.

Develop and maintain systems for equality monitoring, to include employment procedures and practices and the composition of the workforce, providing an annual report to the Trust Board and for discussion with the Trade Unions. Further to this, the equality monitoring information will be used to identify any potential barriers in relation to recruitment, learning and development and promotion. Where appropriate the Trust will explore opportunities to consider the development and implementation of positive action initiatives.

Ensure that all new and revised Human Resources policies, strategies, functions and service redesign undergo Equality Analysis (EA) assessment.

Ensure that managers of the Trust have access to EA Training and are made aware that equality implications for staff should be considered as part of the EA process.

Review and revise this policy document as necessary with due regard to changes in legislation, codes of practice and Human Resource practices in consultation with the Trade Unions and other relevant bodies.

4.2.2 All employees, managers and Trade Union Representatives of the Trust:

Should familiarise themselves with this policy and ensure that their practices are consistent with its contents and legislation.

Have a responsibility to ensure that their practices promote and safeguard equality of opportunity.

Have a responsibility to champion equal opportunities, dignity and mutual respect in the workplace.

Are required to inform their line manager, the Human Resources department and / or Trade Union representative if they think that discrimination may be taking place.

4.2.3 Trust managers must:

Ensure that all staff within their line management responsibility are aware of this policy and should promote and champion the contents and principles involved.

Promote and champion equal opportunities, dignity and mutual respect in the workplace

Ensure that all staff within their line management responsibility receive further equality and diversity training, in addition to induction, within six months of their start date.

4.2.4 Recruitment and Selection Panel Chair must:

Ensure that at least one member of the selection panel has undertaken the recruitment and selection training and that all members of the selection panel, have completed the e-learning Equality and Diversity Training (as per the Recruitment and Selection Policy and Guidelines) before they sit on a selection panel.

Ensure that where service users and carers are involved in selection panels they confirm, through the Trust PALS Manager, that the service user(s) and/or carer(s) involved have completed the Trust Equality & Diversity E-learning or the Trust Equality & Diversity Induction session.

4.2.5 Trade Unions will:

Provide advice, support and representation for their members.

Consult with the Trust regarding measures needed to promote and champion equal opportunities and prevent unlawful discrimination within the Trust.

Consult with the Trust to review the policy regularly.

5. Recruitment, Selection & Promotion

5.1 Recruitment and selection will be undertaken in accordance with the Trust's Recruitment and Selection Policy and Guidelines. Individuals will

be selected on the basis of their relevant merits and ability to perform the job.

- 5.2 All positions will be advertised internally and/or externally in the relevant media unless the following circumstances exist:
 - 5.2.1 Where a post is considered suitable for employees at risk, in accordance with the guidelines for the redeployment process.
 - 5.2.2 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.
- 5.3 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.
- 5.4 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. (See section 6 for procedural variations for disabled applicants and employees).
- 5.5 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 outlined in the Recruitment and Selection Policy and Guidelines.

6. Procedural Variations for Disabled Applicants and Employees

- 6.1 The Trust recognises the value of a diverse workforce and is committed to supporting the employment of disabled people and existing employees who may become disabled during their employment with the Trust. The Trust will make all reasonable effort make reasonable adjustments (please see appendix B) to retain employees who become disabled, including engaging with third party organisations that could facilitate this. (Please refer to the Trust's Absence Management and Redeployment/Organisational Change Policy).
- 6.2 The Trust is committed to ensuring that disabled people are not disadvantaged within the recruitment process and as such has outlined the Trust's commitment to support adaptations and reasonable adjustments to the recruitment process within the Recruitment and Selection Policy and Guidelines.
- 6.3 The Trust is committed to ensuring that disabled employees have equal opportunity to access learning and development opportunities, career

development and promotion. The principles, which apply in relation to recruitment and selection, apply equally in these areas. (Please refer to the Trust's Education, Training and Development Policy).

7. Learning and Career Development

- 7.1 The Trust is committed to ensuring that all employees have equal opportunity to access learning, career development and promotion.
- 7.2 All learning and development opportunities and sessions within the Trust will be conducted in accordance with the Education, Training and Development Policy.
- 7.3 Learning and development opportunities will be provided in a manner that enables and supports all staff to: perform their jobs effectively; develop skills; increase their knowledge and pursue career development opportunities.
- 7.4 Provision for specific learning and development will be made, where necessary, for individuals returning to work following a career break, substantial time out of the workplace or for individuals who have been redeployed to an alternative post in accordance with the guidelines for the redeployment process (e.g. Return to Practice Assessment, mentorship/coaching/preceptorship programme).
- 7.5 Learning and development opportunities, including attendance at courses, which are likely to assist with career progression must be publicised to all eligible employees.
- 7.6 Where necessary shortlisting and interviews will be used to ensure a fair and measured selection process for learning and development opportunities. In such cases the panel will include the manager with responsibility for the service concerned and an independent professional. This may be either a learning and development /HR specialist or a member of the appropriate profession.
- 7.7 The granting of study leave and attendance at learning and development events will be dependent upon: associated learning and development needs; the relevance to the employee's role and job description; whether training will improve or enhance performance in the employee's job and availability of resources. Applications for study leave should be made in accordance with the Trust's Education, Training and Development Policy (CO5).

8. Positive Action

- 8.1 Where equality monitoring analysis indicates an occupational category within the Trust where there is an under-represented group, specific positive action measures in compliance with existing legislation and approved by the Trust's Equality & Diversity Steering Group, may be undertaken to counterbalance this under-representation. Positive action

can include:

- 8.1.1 Encouraging under-represented groups to apply for employment, training and promotion opportunities within the Trust.
- 8.1.2 Providing appropriate training to under-represented groups to enable them to compete on genuinely equal terms for jobs and promotion, however, the actual recruitment into all jobs will be strictly on merit.
- 8.1.3 Using lawful exemptions to recruit suitably qualified individuals to cater for the specific needs of particular groups.
- 8.1.4 Identifying and removing unjustifiable barriers to employment, training and promotion, ensuring that appropriate facilities and conditions of service are provided so as to meet the needs of disadvantaged and/or under-represented groups.

9. Enforcement and Redress

- 9.1 Any employee, regardless of position in the Trust, who unlawfully discriminates against another, fails to co-operate with the measures introduced to promote equal opportunity or induces others to unlawful or unfair discrimination, will be subject to the Trust's Conduct and Disciplinary Procedure.
- 9.2 Complaints / allegations of discrimination or victimisation can be pursued through the Trust's procedure for settling grievances and disputes. Employees will not be discouraged or penalised if they wish to contact their Trade Union or agencies such as local equality councils or the Equality & Human Rights Commission.

10. Bullying and Harassment

- 10.1 The Trust has an established Handling Bullying and Harassment at Work Policy, which outlines the procedure for handling such cases. This policy reinforces that bullying and harassment at work is unacceptable and that the Trust is committed to providing a working environment that is free from harassment, intimidation and all forms of behaviour, which are unacceptable and offensive.
- 10.2 All managers have a responsibility to be familiar with the procedures outlined in the Handling Bullying and Harassment at Work Policy and should draw the policy to the attention of all existing employees and new employees.
- 10.3 All employees have a responsibility for his/her own behaviour in accordance with the Handling Bullying and Harassment at Work Policy.
- 10.4 The Trust can potentially be liable for harassment of employees by a third party who is not an employee of the Trust (e.g. contractors, other agencies, service users and their relatives). The Trust has a duty to ensure that when they are aware of this harassment from a third party that they take steps to investigate, address and prevent reoccurrence.

11. Equality Monitoring

- 11.1 Recruitment and selection equality monitoring is undertaken. Age, disability, ethnicity, gender, religion / belief and sexual orientation data are collected and recorded via the web based vacancy and application management website www.jobs.nhs.uk. Applicants can apply on line or via a paper application form. Where a paper application is submitted Recruitment Administrators add the equality monitoring information to the electronic monitoring system.
- 11.2 Equality monitoring information is collated at the stages of application, shortlisting and appointment. A report for each vacancy is created from the NHS jobs system by the Recruitment Administrator and forwarded to the Equality and Diversity Manager. This standard report includes the equality profile of applicants on the basis of age, disability, ethnicity, gender, religion / belief, sexual orientation and court convictions.
- 11.3 A bi-annual equality monitoring report is produced providing a profile of applicants for positions, those shortlisted and those successful. The equality monitoring data is presented on a Trustwide and also borough basis.
- 11.4 Equality profile information is collected for the purposes of monitoring and analysis only. To ensure this, the application form comes in three sections, A and B and C. Section A contains personal information such as the applicant's name and contact details. Section B contains all information relevant to the selection process, such as Education and Qualifications, Professional Registrations and Employment History. Section C contains all monitoring information. Sections A and C are removed from Section B by the Recruitment Administrator before the applications are sent to the recruiting manager for shortlisting. To ensure applicants are aware of this, the following statements appear on the application form
- 11.4.1 Section A - "Details entered in this part of the form will be held in the HR department of the recruiting organisation. Access to this information will be withheld from the shortlisting panel."
- 11.4.2 Section B - "Details entered in this part of the form will be held in the HR department of the recruiting organisation and will be made available to the short-listing panel"
- 11.4.3 Section C - "This section of the application form will be detached from your application form and will be used for monitoring purposes only."
- 11.5 Monitoring information will be kept in the Human Resources Department and will not be disclosed to managers involved in recruitment and selection decisions.
- 11.6 Trust policies, procedures and practices will be subject to regular review on the basis of changing legislation, good practice and monitoring data. The policy will be monitored by the Human Resources Department.

12. Relevant Policies

This policy is to be implemented in conjunction with consideration of other relevant Trust Policies, such as:

- Recruitment and Selection Policy and Guidelines
- Education, Training and Development Policy
- Absence Management
- Bullying and Harassment Policy
- Grievance Policy
- Conduct and Disciplinary Policy
- Flexible Working Policy
- Special Leave Policy
- Career Break Policy
- Redeployment/Organisational Change Policy
- Maternity, Paternity and Adoption Policy
- Recognised Trade Union Agreement
- Retirement Policy

13. Review

The policy will be reviewed in 3 years time or in line with any legislative changes.

Appendix A

List of Definitions

Protected Characteristics

Protected characteristics covered in the Equality Act 2010 are:

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

Prejudice

Prejudice is to pre-judge, to judge without adequate information. It is the forming of a view without consideration of facts or arguments and the holding of an unfavourable opinion and unreasonable feelings formed beforehand without knowledge, thought or reason. To be prejudiced ultimately means an individual having a closed mind in the area concerned with their pre-judgement.

Direct Discrimination

Occurs when someone is treated less favourably than another person because of a protected characteristic.

Discrimination by association: This is direct discrimination against another because they associate with another person who possesses a protected characteristic.

Discrimination by perception: 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 characteristic.

Indirect Discrimination

Occurs when an organisation has a rule, policy or practice in place which, applies to everyone but particularly disadvantages people who share a protected characteristic.

Note: indirect discrimination can be justified if it is a 'proportionate means of achieving a legitimate aim'.

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 an individual.

Third party harassment: Employers can potentially be liable for harassment of employees by a third party who is not an employee of the Trust. The employee has a duty to ensure that when they are aware of this harassment from a third party that they take steps to prevent it from happening again.

Victimisation

Victimisation occurs when someone is treated less favourably because they have made a complaint or raised a grievance under the Equality Act 2010.

Appendix B

Reasonable Adjustments

The Trust has a duty in line with the Equality Act 2010 to consider and make reasonable adjustments to the workplace or working practices in order to accommodate disabled people.

These can be to the work involved or the working environment as detailed in the examples below:

- Adjustments to premises
- Reallocating part of a job to another employee
- Transferring a person to fill an existing vacancy
- Altering working hours
- Assigning a person to a different place of work
- Allowing reasonable absences during working hours for rehabilitation, assessment or treatment
- Supplying additional training
- Acquiring special equipment or modifying equipment
- Modifying instructions or reference manuals
- Modifying procedures for testing or assessment
- Providing a reader or interpreter
- Providing additional supervision
- Use of flexible working practices
- Redeployment to an alternative post

This list is not exhaustive.

When considering any of the above adjustments the Trust must consider the reasonableness of the adjustment. Consideration should be given to effectiveness, practicality and also availability of resources however advice should be sought from the HR Department and where possible the involvement of a third party disability support organisation (e.g. Access to Work).