

# Equality & Diversity Policy

Health and Social Care Act 2008 (Regulated Activities) Regulations 2014	9, 10, 11, 17
Key Lines of Enquiry	S1.3, E1.2, E1.4, E3.1, E3.2, E3.3, E5.3, C1.1, C1.4, C2.2, C2.3, C2.4, R1.2, R2.1, R2.4, R2.7, R2.8, W1.2, W1.3, W1.9, W3.1, W3.8, W7.2, W7.3

## Scope

The Equality Act 2010 legislation replaced 116 pieces of legislation with one single Act. It provided a new anti-discrimination law, which protects individuals from unfair treatment and aims to promote a fair and equal society.

This policy sets out the organisations framework for compliance with the act when delivering services to its Service Users and their families, as well as working with staff and people in the community.

This policy and procedure are provided for the regulated activity of personal care.

## Equality Statement

Our organisation is committed to equal rights and the promotion of choice, person-centred care and independence. This policy demonstrates our commitment to creating a positive culture of respect for all individuals. The intention is, as required by the Equality Act 2010, to identify, remove or minimise discriminatory practice in the nine named protected characteristics of age, disability, sex, gender reassignment, pregnancy and maternity, race, sexual orientation, religion or belief, and marriage and civil partnership. It is also intended to reflect the Human Rights Act 1998 to promote positive practice and value the diversity of all individuals.

## Key Points

- The policy fully embraces the Equality Act 2010.
- Discrimination occurs when someone is treated less favourably than another person because of a 'protected characteristic' they have or are thought to have (see perception discrimination below), or because they associate with someone who has a 'protected characteristic.'
- The nine protected characteristics are:
  - Age
  - Disability
  - Gender Reassignment

- Marriage and Civil Partnership
  - Sex
  - Sexual Orientation
  - Race
  - Religion
  - Pregnancy and Maternity
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- Person-centred care, including assessment and care planning, will be used to ensure the needs of the service users are identified and to ensure their equal rights and diversity needs are met.
  - The organisation is committed to supporting each individual the service works with, including:
    - Service user,
    - Family,
    - Staff,
    - Professional, or
    - Community member.
  - In a way that supports their:
    - Human rights,
    - Diversity, and
    - Any protected characteristic.
  - The organisation will treat any discriminatory behaviour by staff or management as gross misconduct and will deal with it under the organisation's disciplinary policies.

## Policy Statement

The organisation is aware of the importance of the Equality Act 2010 in relation to compliance with the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014 and the Fundamental Standards.

Equality and diversity will be assessed under our Good Governance Policy and Framework, including engagement and audit activities to ensure the organisation is compliant.

Staff and managers are required to read this policy and ensure they understand and implement non-discriminatory practice, and provide support to service users and their carers across the nine protected characteristics to ensure they are safe from:

- Abuse,
- Harm,
- Harassment,
- Discrimination.

Where staff and managers are concerned for a service user, their carer or family, or another staff member, they should raise this with their line manager who will contact the appropriate authorities, which may include the local authority safeguarding adults team.

If at any time a member of staff or manager feels that a service user or their carer is in immediate danger, they should dial 999 and inform the police and, as appropriate, the safeguarding adults team.

Notification to CQC will also be required following referral to these authorities.

# The Policy

The organisation is committed to protecting the rights of people who use the service, come into contact with the service and/or are employed by the organisation.

In addition, the organisation is committed to promoting equality and diversity, and supporting people's human rights through its services and interactions with the community it serves. The organisation will aim to achieve this through a range of activities which support service users and staff within the nine protected characteristics as set out in the Equality Act 2010.

These activities will include, but are not limited to:

- Person-centred care
- Service user reviews
- Risk management
- Promotion of independence and choice
- Positive risk taking
- Quality assurance and audit

Staff and managers will be provided training in equality and diversity, including how to support service users within each of the nine protected characteristics, as well as ensuring that everyone that comes into contact with the service is, at all times, treated in a positive and non-discriminatory manner.

Equality and diversity training will be provided and assessed through:

- Induction
- Annual training updates
- Staff supervision and spot checks
- Training and development plans
- Competency assessments
- Performance management
- Mentorship
- Staff and management meetings

The organisation will not tolerate any breaches of this policy, and any acts of discrimination against service users, their families, colleagues or members of the community, will be treated as gross misconduct under the organisation's disciplinary policies.

## Training

All staff, during induction, are provided with and required to read the organisation's policies and procedures, all of which are used for training updates. All policies and procedures are reviewed and amended where necessary and staff updated with any changes. Observations are undertaken to check skills and competencies.

Staff new to care will undertake the Care Certificate which includes learning about equality and diversity. All staff will undertake refresher training on a regular basis. Skills for care provide a 'Confident with Difference' resource for leaders/managers to use as a training tool with their teams. Observations and supervision are undertaken to check skills and competencies.

Devon County Council has developed a [Diversity Guide](#) to provide guidance on meeting the needs of diverse groups of people to reduce inequality.

Blackpool, Fylde and Wyre Hospitals NHS Trust developed [guidelines on religious and cultural beliefs](#) and the Royal College of Nursing provides this helpful guide: [A guide to cultural and spiritual awareness](#).

These guides can be used as an aide for staff to ensure the cultural and ethnic needs of service users are met in a way that offers privacy, dignity and respect. Important information about a service user's cultural, ethnic, religious, spiritual and

sexuality needs should be included in the person's care plan in order to support staff to understand their individual needs and preferences. Further guidance should be sought where required.

## Person-Centred Care

All Service Users will have in place:

- Assessment of needs
- Risk assessments
- Health assessment
- Aspirations and agreed outcomes
- Communication needs (see Accessible Information Standard Policy)

These documents and other information will be used to develop a Person-Centred Care Plan, which will include details on how their support and care will be delivered to meet their individual needs and to develop outcomes to support their independence and personal choices/aspirations.

As part of the assessment and care planning process, information required to support any relevant protected characteristic will be included, and will be used to develop the care plan to meet their needs and ensure their dignity.

Outcomes will include:

- Positive risk taking,
- Actions to support connection with their communities,
- Maintaining friendships and relationships,
- Actions to maintain and improve life skills, and
- Activities to minimise social isolation.

Care planning will include meeting cultural, religious and ethnic needs which may relate to carer gender, religious holidays, diet, and other important aspects of the Service Users' lives.

Staff and management are required at all times to honour and respect peoples cultural, religious and ethnic diversity and needs, and to provide care and support in line with the needs of the individual Service user.

The organisation will provide sign posting information in support of Equality and Diversity from the local authority and third sector organisations.

These organisations will include:

Tameside Council

## Nine Protected Characteristics

### Age

Relates to a person or persons age group, i.e. people of the same age and people of a particular range of ages. Where people are in the same age group, they share the protected characteristics relevant to age.

<https://www.equalityhumanrights.com/en/advice-and-guidance/age-discrimination>

### Disability

A person has a disability if they have a physical or mental impairment and it has a substantial and long-term adverse effect on their ability to undertake normal day to day activities.

People with:

- HIV
- Cancer
- Or multiple sclerosis

are protected by the Act from the point of diagnosis, and

- Some visual impairments are automatically deemed to be disabled.

Where people share the same disability, they share the protected characteristic of disability.

With regard to recruitment Criterion 10 of the Health and Social Care Act 2008: Code of Practice for the prevention and control of infections, states that all regulated activities under the *Health and Social Care Act 2008* must ensure that all staff fill in a pre-employment health questionnaire with information about residence overseas, previous and current illness and immunisation against relevant infections.

<https://www.equalityhumanrights.com/en/advice-and-guidance/disability-discrimination>

## 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. This applies to both men and women who are reassigning their sex.

The Act does not require a person to be under medical supervision to be protected; therefore, a woman who decides to live as a man but does not undergo any medical procedures would be covered.

If transsexual persons propose to undergo, are undergoing or have undergone gender reassignment, then it would be discrimination to treat them less favourably for a work absence than if they were absent due to illness or injury.

<https://www.equalityhumanrights.com/en/advice-and-guidance/gender-reassignment-discrimination>

## Marriage and Civil Partnership

Refers to people who are recognised as having the common characteristics of being married or of being civil partners in law. A heterosexual man and a heterosexual woman who are married to each other and a man and another man who are civil partners or married, and a woman and another woman who are civil partners or married all share the protected characteristic of marriage and civil partnership.

A divorcee or where civil partnerships have been dissolved means that the people no longer have this protected characteristic, and neither do people living together or who are engaged to be married.

<https://www.equalityhumanrights.com/en/advice-and-guidance/marriage-and-civil-partnership-discrimination>

## Race

Race includes:

- Colour;
- Nationality;
- Ethnic or national origins.

People which have or share characteristics, of colour nationality or ethnic or national origins can be described as belonging to a particular racial group.

Examples:

- Colour includes black or white
- Nationality e.g. being a French, Norwegian or Indian Citizen
- Ethnic or national origins include being from an Irish or Mauri heritage
- Racial group e.g. Black Britons who are black and British.

## Religion or Belief

For it to be considered a religion within the meaning of the Act, it is required to have a clear structure and belief system.

Religion and belief includes people with religious or philosophical beliefs.

Examples would include:

- Christianity, Hinduism, Islam, Judaism, Rastafarianism, Sikhism as well as many others (please see GMHNFT reference for further examples and information).

The Act considers a belief to have the following characteristics:

*"Genuinely held; be a belief and not an opinion or viewpoint; 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".*

The Act cites as examples of philosophical beliefs, including humanism and atheism.

Where a cult is involved in illegal activities, they would not satisfy the criteria nor would fanatical support of a particular sports team under the Act.

People who are of the same religion or belief share the protected characteristic of religion or belief.

<https://www.equalityhumanrights.com/en/advice-and-guidance/religion-or-belief-discrimination>

## Sex

For the purposes of the Act, sex means being a man or a woman. Men share the sex characteristics with other men and women with other women.

<https://www.equalityhumanrights.com/en/advice-and-guidance/sex-discrimination>

## Sexual Orientation

Sexual orientation means a person's sexual orientation (or attraction) towards:

- People of the same sex (i.e. being a gay man or lesbian)
- People of the opposite sex (i.e. being heterosexual)
- People of both sexes (i.e. being bisexual)

In relation to the protected characteristic of sexual orientation:

- A reference to a person who has a particular protected characteristic is a reference to a person who is of a particular sexual orientation;
- A reference to persons who share a protected characteristic is a reference to persons who are of the same sexual orientation.

<https://www.equalityhumanrights.com/en/advice-and-guidance/sexual-orientation-discrimination>

## Pregnancy and Maternity

A woman remains protected in her employment during the period of the pregnancy and any statutory maternity leave to which she is entitled. This is now separate from protection on grounds of sex, which is not available to a woman during her pregnancy and maternity. It is unlawful to take into account an employee's period of absence due to pregnancy related illness when taking a decision about her employment.

# Types of Discrimination

## Direct Discrimination

Occurs when a Service user, staff member or other person involved with the service is treated less favourably than another person because of one of the 9 Protected Characteristics they have, or are deemed to have (Perception Discrimination), or because they are associated with someone who has a Protected Characteristic (Discrimination by Association).

<https://www.equalityhumanrights.com/en/advice-and-guidance/what-direct-and-indirect-discrimination>

## Discrimination by Association

Originally applied to age, race, religion or belief and sexual orientation, and has been extended to include disability, gender reassignment and sex.

The individual is being directly discriminated against because they associate with a person who possesses a Protected Characteristic.

## Perception Discrimination

Originally applied to age, race, religion or belief and sexual orientation, and has been extended to include disability, gender reassignment and sex.

The individual is being directly discriminated against because others think, or assume, the person possesses a Protected Characteristic, and applies even where the person does not.

## Indirect Discrimination

Originally applied to age, race, religion or belief, sex, sexual orientation and civil partnership, and has been extended to include disability and gender reassignment.

Indirect discrimination can occur when there is a condition, rule, policy or a practice in the organisation that applies to everyone, but by doing so disadvantages people who share a Protected Characteristic.

Where indirect discrimination is identified, the organisation will work with the Service Users, management team and staff to:

- Review policies, procedures and practice;
- Identify and implement suitable alternatives; and
- Remove the indirect discrimination.

Where this is not possible and there is no suitable alternative, the organisation will monitor the situation and provide an alternative as soon as is practicable in line with the Equality Act 2010.

<https://www.equalityhumanrights.com/en/advice-and-guidance/what-direct-and-indirect-discrimination#indirect>

## Harassment

Harassment is unwanted conduct related to a protected characteristic, which violates an individual's dignity or intimidates, or creates a hostile, degrading, humiliating or offensive environment for that individual.

Harassment applies to all nine protected characteristics except for pregnancy and maternity, and marriage and civil partnership.

Staff and managers can complain of behaviour they find offensive even if it and does not need to be directed to them. The individual complaining does not need to have the protected characteristic. Protection from harassment includes perception and association discrimination.

## Victimisation

Victimisation happens when a person is treated badly after they have made or supported a concern regarding discrimination; or a grievance under the *Equality Act*, or because people think they have.

Staff are not protected from the consequences of maliciously making or supporting an untrue complaint, and will be dealt with in line with organisation's disciplinary policy where appropriate.

## Pregnancy and Maternity

The "Protected Characteristics" are the same as under the *Sex Discrimination Act 1975*. Women who are pregnant are protected against unfair workplace practices.

# Ethnic, Religious and Cultural Diversity

The people who use our services may come from a wide variety of ethnic, religious and cultural backgrounds. The purpose of this section of the Equality and Diversity policy is to provide staff with information about different peoples, their religions and some important aspects of their lives e.g. diet. The aim is to support staff to better understand and appreciate Service user's (and other staff) diversity including their religious and cultural needs.

The communities in which we live in today are composed of many diverse groups of peoples. Conventions which were used to guide society in the past are no longer appropriate in a multicultural society, and we all need a better understanding and appreciation of the different cultures and faiths which make up the Britain of today.

It can be very easy to make assumptions about people's needs, expectations and what is right and wrong, but without better understanding of cultures and religions it could lead to misunderstandings, people being offended and even discriminatory practice.

As an example, it is helpful to remember that the calendar system generally used in Britain may not be relevant to other faiths and cultures, who have their own calendars, New Year and festivals which are significant to their lives. Families will get together for holidays at different times of the year, with adults taking time off work and children being away from school. These may include different dietary and nutritional requirements based on faith and religious decisions which will need to be considered and supported.

Faith, religious and cultural examples are provided by Greater Manchester Health NHS Foundation Trust at

<https://www.gmmh.nhs.uk/download.cfm?doc=docm93jjjm4n901>

with information to support staff in better understanding the needs of the diverse peoples they may provide support to.

It is important to remember that all Service Users and their families need to be treated with respect and understanding.

When supporting Service Users their individual needs must be considered, as we need to remember they are not just a religion, a culture or an ethnic group, but individuals with their own interpretation and understanding of those things as they relate to themselves and their families. It is important to establish effective communication between staff and Service

Users in order to ensure their needs are met. It is always advisable to talk sensitively with the patient about their needs, including those which support and promote their links with their community, religion and culture.

## Small Business Guidance

Specific guidance is now available to small businesses via the Equality and Human Rights website in the Advice and Guidance section.

If you provide services through a website such as direct marketing or advertising, you are known as an Information Society Service Provider (ISSP).

This advice and guidance is aimed at all service providers and includes guidance about ISSP.

Guidance notes assist small businesses and are example led for different situations to support in explanations of how the Equality Act 2010 applies.

This organisation takes the advice and guidance regarding discriminatory advertising seriously and regularly reviews any marketing or advertising on its website.

## References and Further Reading

[Protected Characteristics](#)

[Equality Act Codes of Practice](#)

[Equality Act 2010 - Guidance](#)

[Skills for Care Equality and Diversity](#)

[The Human Rights Act](#)

[Discrimination: your rights](#)

[Equality and Human Rights Commission: Advice and Guidance for Small Businesses](#)

[Equality and Human Right Commission - Know your rights](#)

[CQC - Equally outstanding: Equality and human rights - good practice resource](#)

[Blackpool, Fylde and Wyre Hospitals NHS Trust - Guidelines on religious and cultural beliefs](#)

[RCN - A guide to cultural and spiritual awareness](#)

[Devon County Council - Diversity Guide](#)

[Skills for Care - Confident with Difference Training Resource](#)

[SCIE - Person Centred Care](#)

[SCIE - Cultural and religious needs of people with dementia](#)