

Title:	<b>Equality, Diversity and Human Rights Policy</b>
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Ratified and approved by:	AQuA January 2017 and November 2019 Governing Body February 2017 and December 2019
Distribution:	All staff and GP members of the CCG.
Compliance:	Mandatory for all permanent and temporary employees, contractors & sub – contractors of Rotherham CCG.
Equality & Diversity Statement	In applying this policy, the Organisation will have due regard for the need to eliminate unlawful discrimination, promote equality of opportunity, and provide for good relations between people of diverse groups, in particular on the grounds of the following characteristics protected by the Equality Act (2010); age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion, or belief, and sexual orientation, in addition to offending background, trade union membership, or any other personal characteristics.

# CONTENTS

	<b>Page</b>
1. Introduction	3
2. Purpose	4
3. Equality Objectives	5
4. Definitions	5
5. Due Regard	6
6. Legislation	7
7. Equality Analysis	7
8. Principles	7
9. Roles and Responsibility	8
10. Workforce Information	10
11. Equality Delivery System (EDS2)	11
12. Rotherham Population	11
13. Implementation	11
14. Review	12
<b>Appendix</b>	
Appendix 1 – Checklist for the Review and Approval of Procedural Documents	13
Equality Impact Assessment and Engagement Template Form	14
Reference	20

## 1. Introduction

- 1.1 The aim of this Policy is to define and promote NHS Rotherham Clinical Commissioning Group's approach to equality and diversity. Equality and diversity is central to the work of the CCG to ensure that we commission equity of access to services and treatment. The promotion of equality, diversity and human rights is central to the NHS Constitution and other national drivers to reduce health inequalities and increase the health and well-being of the population. We are committed to embedding values of equality and diversity into our commissioning processes, policies and procedures that secure health and social care for our population and into our employment practices.

This Policy applies to all service users, potential service users, staff and contractors working with Rotherham Clinical Commissioning Group staff or service users.

We are committed to equality of opportunity for all, regardless of race, gender, gender reassignment, religion or belief, sexual orientation, age, disability, maternity and pregnancy, marriage and civil partnership.

We will strive to uphold the human rights of all staff and service users in accordance with the Human Rights 1998.

### 1.2 As a commissioner of health services:

- We will work with the people of Rotherham to continually assess and understand their changing needs.
- We will use the insight they give us to plan and deliver the right health services, support and information to increase accessibility and choice.

### 1.3 As an employer

- We will create positive opportunities to employ a workforce that is representative of the population.
- We will operate and monitor fair, open recruitment and selection processes.
- We will ensure that all employees have fair access to learning and development opportunities.
- Empower our employees through open and clear communication.
- Promote and operate work life balance policies and practices that are flexible and responsive to employers' needs.

- 1.4 This policy should be read in conjunction with equality legislation and other associated documents including:

#### General

- The NHS Constitution
- Equality Act 2010
- Public Sector Equality Duty
- Human Rights Act 1998
- Health and Social Care Act 2012
- Communication and Engagement Plan

## **Employment**

- *Acceptable Standards of Behaviour Policy*
- *Access to Learning and Development Policy*
- *Alcohol, Drug and Substance Misuse Policy*
- *Annual Leave and Special Leave Policy*
- *Disciplinary Policy*
- *Employment Break Policy*
- *Flexible Working Policy*
- *Gender Reassignment Support in the Workplace Policy*
- *Grievance Policy*
- *Managing Concerns with Performance at Work Policy*
- *Managing Sickness Absence Policy*
- *Maternity, Adoption, Maternity Support (Paternity) and Parental Leave Policy*
- *Organisational Change Policy*
- *Pay Progression Policy*
- *Probationary Period Policy*
- *Procedure for Managing Stress in the Workplace*
- *Protection of Pay and Conditions Policy*
- *Recruitment and Selection Policy*
- *Secondment Policy*
- *Talent Development and Staff Retention Policy*

## **2. Purpose**

- 2.1 The purpose of this Policy is to publish information to demonstrate how NHS Rotherham Clinical Commissioning Group is meeting its Public Sector Duties in relation to the Equality Act 2010. The Clinical Commissioning Group is required to publish this information as specified in the Equality Act 2010 (Statutory Duties) regulations 2011, Section 2 – Publishing of information.

Section 149 of the Equality Act 2010 outlines the general duties the Clinical Commissioning Group will have due regard to the following in the exercising of its functions:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- Promote equality and eliminate discrimination and harassment.
- Ensure that the human rights of staff and service users are upheld as defined by the Human Rights Act 1998.

- Ensure an organisationally shared understanding of equality, diversity and human rights.
- Identify the potential risks involved with not adhering to the Policy, based on equality and human rights legislation.
- Encourage staff to develop their awareness and respond to the diverse needs of service users.

### 3. **Equality objectives**

There is a statutory requirement for NHS organisations to publish information to demonstrate compliance with the Public Sector Equality Duty. This requirement arises from the Equality Act 2010 (Specific Duties) regulation 2011:

- Publishing information to demonstrate compliance with the general duty including information relating to employees and other persons affected by the Trust policies and practices who share a relevant protected characteristic; and
- Prepare and publish equality objectives that are specific and measurable. The CCG equality objectives can be found on NHS Rotherham CCG website.

### 4. **Definitions**

#### 4.1 Equality is not about treating everyone the same.

Equality recognises that:

- Everyone has individual needs and the right to have those needs respected;
- Inequality exists and that unlawful discrimination needs to be tackled.
- Employment and CCG services should be accessible to all; and
- It is about treating people fairly where everyone can participate and have the opportunity to fulfil their potential.

#### 4.2 Diversity is about respecting and valuing individual difference.

Diversity recognises that:

- Everybody is different.
- We need to understand, value, and respect those differences; and
- Diversity can include individuals and groups with varying backgrounds, experiences, styles, perceptions, values and beliefs.

A diversity approach aims to recognise value and manage differences to enable all patients, service users and staff to contribute and realise their full potential. Diversity challenges us to recognise and value all sorts of differences in order to make the CCG a better working environment and to ensure that we provide an excellent service for all people.

**Prohibited Conduct – Behaviour banned by the Equality Act 2010.** The CCG will actively eliminate and avoid unlawful discrimination including: direct discrimination, indirect discrimination, associative discrimination, harassment, victimisation, disability related less

favourable treatment, failure to comply with a duty to make reasonable adjustments and social exclusion.

**Direct discrimination** means treating someone less favourably compared to others because they have certain protected characteristics or;

- Because they are thought to have a protected characteristics (perception); and
- Are associated with someone who has a protected characteristic (Association). This is new in the protected characteristics of Age, Disability, Gender Reassignment and Sex.

**Indirect Discrimination** can occur when you have a rule or policy that applies to everyone but disadvantages a person with a particular protected characteristic.

**Harassment**, in general terms, is unwanted conduct affecting the dignity of men and women in the workplace. It may be related to any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as unwanted conduct that violates people's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment. It is difficult to categorise all forms of harassment, but examples of some more easily recognisable forms of harassment are covered in more detail in the Bullying and Harassment Policy.

**Victimisation** is prohibited conduct. It happens when a person is treated less favourably because they complain about discrimination or they witness it and give evidence about it.

### 4.3 Human Rights Framework

The Human Rights Act 1998 sets universal standards to ensure that a person's basic needs as a human being are recognised and met. Public authorities should have arrangements in place to ensure that they comply with the Human Rights Act 1998, and it is unlawful for a healthcare organisation to act in a way that is incompatible with the Act. The Act urges public authorities to apply a human rights framework to decision making across public services in order to achieve better service provision.

In practice this means treating individuals with fairness, respect, equality, dignity and autonomy whilst also safeguarding the rights of the wider community when developing policies and procedures and carrying out our functions. The CCG will consider these human rights principles in relation to our staff and patients at all times, aiming to demonstrate our commitment to quality outcomes to provide satisfaction to staff that they are undertaking a job that is valued.

The equality benefits of a human rights based approach include:

- An improved quality of health services – patients treated with fairness, respect, equality and dignity.
- More person centred care.
- A reduced risk of complaints and litigation.
- Improved decision making overall.
- A broader range of marginalised groups being involved and considered.
- More meaningful engagement of patients, carers and families.

## 5. Due Regard

The Equality Act 2010 requires us to pay 'Due Regard', when considering the effects on different groups protected from discrimination (protected characteristics). Due regard can be demonstrated by carrying out an Equality Impact Assessment (EIA).

## 6. **Legislation**

The Equality Act 2010 provides protection against discrimination at work and in the provision of services. The Act simplifies, strengthens and harmonises previous equality legislation.

### 6.1 The protected characteristics covered by the Equality Act are:

- Age – This refers to a person having a particular age (for example, 32 years old) or being within an age band (for example, 18-25, 40-50year old).
- Disability – A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day to day activities. A progressive condition is a condition that gets worse over time. People with progressive conditions can be classed as disabled. However, you automatically meet the disability definition under the Equality Act 2010 from the day you're diagnosed with HIV infection, cancer or multiple sclerosis.
- Gender reassignment – this is the process of transitioning from one sex to another.
- Marriage and civil partnership – A union between a man and a woman or the legal recognition of a same sex couple's relationship.
- Pregnancy and maternity – the condition of being pregnant or the period after giving birth. It is linked to maternity leave in the employment context.
- Race – It refers to a group of people defined by their nationality (including citizenship), ethnic or national origins.
- Religion or belief – the religion a person belongs to. A belief, including lack of belief, should affect your life choices or the way you live for it to be included.
- Sex – Someone being a man or a woman, and
- Sexual orientation – this is whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.

## 7. **Equality Analysis**

NHS Rotherham CCG has an equality analysis process which assesses services and policies to determine any adverse impact on the protected characteristics. The assessment will be in line with the Equality Act 2010 and other relevant legislation. The equality impact assessment and engagement template form is attached at appendix 2.

## 8. **Principles**

Promoting equality and human rights is one of the cornerstones of all of Rotherham Clinical Commissioning Group's functions and activities, as an employer and commissioner. This will be applied by ensuring that:

Rotherham Clinical Commissioning Group has an ongoing equality programme of work, which includes objectives across all functions and this programme is quality assured by the Equality Steering Group.

- All policies, strategies, service redesign and commissioned services undergo an Equality Impact Assessment (EIA) at the start of the development process, and the outcomes of these are implemented.
- All staff receives equality and human rights skills through induction, staff briefings, face to face and e-learning training.
- The principle of promoting equality and meeting individual's needs is part of the ethos of all policies and service development.
- There is effective and sensitive staff support and complaints mechanisms should staff or service users feel that they have experienced discrimination.
- Workforce, service user and complaints data is monitored by Rotherham Clinical Commissioning Group in accordance with its duties under the Equality Act 2010.
- Ensure that engagement with Rotherham diverse communities informs Annual Commissioning Plan.

## 9. Roles and responsibilities

### 7.1 Governing Body

- Approve Rotherham Clinical Commissioning Group's Equality, Diversity and Human Rights Policy.
- Ensure that Rotherham Clinical Commissioning Group has equality objectives that meet the requirements of the public equality duties of the Equality Act 2010.
- Review the progress of the equality work plan through review of the Steering Group meeting minutes.

### 7.2 Chief Officer

- Have overall responsibility for ensuring that a Policy is in place for Rotherham Clinical Commissioning Group which promotes equality, eliminates discrimination and promotes good relationships between different groups and individuals.
- Ensure that the Annual Equality and Diversity Report is prepared and that it meets Rotherham Clinical Commissioning Group's equality duties under the Equality Act 2010.
- Ensure that the Equality Steering Group provides assurance that the equality programme of work is being delivered.
- Delegate the responsibility of Equality & Diversity to the Assistant Chief Officer.

### 7.3 Assistant Chief Officer and Corporate Services Manager

- Advise, support and manage the Equality Steering Group to enable them to fulfil their requirement to ensure that the Clinical Commissioning Group complies with equality and human rights legislation.
- Develop, manage, advise and report on the Equality Implementation plan.
- Work with heads to ensure that they are achieving their equality objectives and that equality impact assessment is proportionate and meaningful.
- Work with Rotherham CCG Patient and Public Engagement Manager to engage with individuals and groups from the nine protected characteristics.
- Build and maintain relationships with stakeholders who have a role to play in ensuring Rotherham Clinical Commissioning Group meets its equality objectives.

### 7.4 All Managers

- Implement this policy and bring it to the attention of staff in their sphere of responsibility.
- Treat complaints related to this policy seriously and deal with them promptly and confidentially, using the appropriate procedure (e.g. Complaints Procedure for service user complaints, Grievance Policy for staff complaints).
- Promote equality and eliminate discrimination in their working environment.
- Ensure that all staff they manage are enabled to develop the skills they need to promote equality.
- To ensure that Equality Impact Assessments are embedded and performance managed across Rotherham CCG and to ensure that they are published on our internet website.
- Ensure that equality is included in staff development reviews and identify areas of skills development in personal development plans.
- Ensure that they have the necessary skills to effectively apply the Recruitment Policy in any recruitment activity they are involved in on behalf of Rotherham Clinical Commissioning Group.

### 7.5 **Equality Steering Group**

- To manage and oversee the implementation of a strategic vision for equality, diversity and human rights in relation to Rotherham.
- To ensure equality, diversity and human rights is actively promoted, communicated across Rotherham CCG in line with core values.
- To continue to work with other partners to contribute to reducing health inequalities across Rotherham.
- Provide assurance to the Governing Body via Audit, Quality Assurance Committee, is meeting its requirements under the Equality Act 2010 and the Human Rights Act 1998.
- To ensure that Rotherham CCG meets and monitors all its statutory requirements, both national and local, relating to equality, diversity and human rights both in commissioning and employment.
- To develop and performance manage RCCG Equality and Diversity Policy including the Equality Implementation Plan.
- To ensure that the Equality Delivery System (EDS 2) framework is used to implemented and performance managed the Equality Act 2010 across Rotherham CCG.
- Promote and publish Rotherham's CCG core values and equality and diversity successes and ensure all staff are aware of the achievements.
- To maintain a high level of communication across Rotherham CCG and with all partner agencies and to ensure multi agency dialogue is sustained across North of England.

### 7.6 **All Members and Staff**

- Recognises that discrimination and victimisation are unacceptable and that it is in our interest to utilise the skills of the whole workforce, to conduct themselves in a professional and considerate manner at all times.
- Develop knowledge of diversity and support the organisation to promote equality by improving knowledge of the diverse needs of different groups, particularly with respect to cultural, language or religious differences, and sharing this knowledge with colleagues as appropriate. Where appropriate to their role, supporting the Clinical Commissioning Group by collecting equality monitoring information of staff or the public. This helps the organisation to assess its equality impact.
- Ensure that Equality Impact Assessments (EIA's) are undertaken routinely on all new and reviewed services, policies, strategies, events held for the public and services

commissioned for the public. Where there will be an impact, Equality Impact Assessment will need to demonstrate engagement with the appropriate communities.

- Employees have a right to pursue a complaint concerning discrimination or victimisation initially through their line managers. If the matter remains unresolved it can be raised through the Grievance policy. If you think we are not meeting the service requirement for Rotherham residents, you can raise this through your Line Manager or, if unresolved, through the Whistleblowing Policy and Complaint Procedure.

## 10. **Workforce Information**

NHS Rotherham CCG (the CCG) continues to complete an annual assessment of its workforce information against the NHS Workforce Race Equality Standard (WRES), which was introduced to tackle the underrepresentation of black and minority ethnic (BME) groups at senior levels in the NHS, and to encourage cultural and organisational change. The Standard also helps to address the treatment of BME staff including adverse outcomes in recruitment and promotion, access to non-mandatory training, and overrepresentation in disciplinary procedures and bullying and harassment cases. An annual assessment of the WRES is now a requirement for the CCG whereas previously it was completed on a voluntary basis as good practice and included on the CCGs website.

The NHS Workforce Disability Equality Standard (WDES) will also be introduced in 2019. The WDES is a set of ten specific measures that will enable NHS organisations to compare the experiences of Disabled and non-disabled staff. This information will then be used where necessary to develop a local action plan and demonstrate progress against the indicators of disability equality. The WDES is not mandatory for CCGs but will be completed as good practice and included on the CCG website.

The CCG continues to run the NHS Staff Survey annually and take action in relation to our employees' health and wellbeing. In 2018 9% of our staff identified that they had a physical or mental health condition, disability or illnesses that had lasted or was expected to last for 12 months or more. Of those 75% that required adjustments confirmed that the CCG made adequate adjustments to enable them to carry out their work.

The CCG's Operational Executive continues to monitor its key workforce indicators, including equality information on a quarterly basis with an Annual Report being presented to the Governing Body for assurance.

## 11. **NHS Equality Delivery System (EDS2)**

The CCG is committed to and continues to work towards its equality agenda by implementing the national Equality Delivery System (EDS2) framework. The EDS2 is a tool for NHS organisations, in partnership with patients, the public, staff and staff-side organisations, to use to review their equality performance and to identify future priorities and actions.

EDS2 will support the CCG to respond to the Public Sector Equality Duty (PSED). It will assist to meet the general duty to eliminate discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations.

At the heart of the EDS2 is a set of 18 outcomes grouped into four goals. These outcomes focus on the issues of most concern to patients, carers, communities, NHS staff and Boards. It is against these outcomes that performance is analysed, graded and action determined. The four EDS 2 goals are:

- Better health outcomes
- Improved patient access and experience
- A representative and supported workforce
- Inclusive leadership

Local interests groups will be asked to comment on self-assessments and assessment gradings against these 18 outcomes.

<b>Excelling</b>	<b>Purple</b>	To achieve a purple rating the organisation should be able to demonstrate effective data, action and outcomes across between all protected characteristics and be demonstrating “stretch” and best practice.
<b>Achieving</b>	<b>Green</b>	To achieve a green rating, the organisation should be able to demonstrate effective data, action and outcomes across between 6 and 9 protected characteristics.
<b>Developing</b>	<b>Amber</b>	To achieve an amber rating, the organisation should be able to demonstrate effective data, action and outcomes across between 3 and 5 protected characteristics.
<b>Undeveloped</b>	<b>Red</b>	To achieve a red rating, the organisation should be able to demonstrate effective data, action and outcomes across between 0 and 2 protected characteristics.

## 12. **Rotherham Population**

Rotherham has a diverse population comprised of many different communities. The Joint Strategic Needs Assessment (JSNA) is vital to the development of commissioning and service planning for health and social care services in Rotherham because it assist to identify the current and future health and wellbeing needs of population.

## 13. **Implementation**

This policy will be disseminated to staff via the intranet/internet

## 14. **Review**

This Policy will be reviewed 3 years from the date of approval by the Governing Body or sooner if there is a requirement to meet legal, statutory or good practice standards.

## Appendix 1 - Checklist for the Review and Approval of Procedural Documents

To be completed and attached to any document which guides practice when submitted to the appropriate committee for consideration and approval.

Title of document being reviewed	YES/NO/Unsure	Comments
<b>1. Title</b>		
Is the title clear and unambiguous?	Yes	
Is it clear whether the document is a guideline, policy, procedure/protocol or plan?	Yes	
<b>2. Rationale</b>		
Are reasons for development of the document stated?	Yes	
<b>3. Development Process</b>		
Is the method described in brief?	Yes	
Are people involved in the development identified?	Yes	
Has relevant expertise has been used?	Yes	
Is there evidence of consultation with stakeholders and users?	No	
<b>4. Content</b>		
Is the objective of the document clear?	Yes	
Is the target population clear and unambiguous?	Yes	
Are the intended outcomes described?	Yes	
Are the statements clear and unambiguous?	Yes	
Are cross references accurate?	Yes	
<b>5. Evidence Base</b>		
Is the type of evidence to support the document identified explicitly?	Yes	
Are key references cited?	Yes	
Are the references cited in full?	Yes	
Are supporting documents referenced?	Yes	
<b>6. Approval</b>		
Does the document identify which committee/group will approve it?	Yes	
If appropriate have the joint Human Resources/staff side committee (or equivalent) approved the document?		