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Addysg a Gwella Iechyd
Cymru (AaGIC)
Health Education and
Improvement Wales (HEIW)

HEALTH EDUCATION & IMPROVEMENT WALES

EQUALITY AND DIVERSITY POLICY

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1. Introduction

Health Education and Improvement Wales (HEIW) is committed to supporting, developing and promoting Equality, Inclusion and Diversity in all of its practices and activities. It aims to establish an inclusive culture free from discrimination and based upon the values of:

- Respect for all in every contact we have with others
- Together as a team
- Ideas that improve.

HEIW will support and develop employees by providing all with access to facilities, employment and personal and career development opportunities based on equality. HEIW will build upon the foundation of Equality and Human Rights Legislation and strive, not only to comply with legal requirements, but also to use these to ensure that the organisation exemplifies best practice.

HEIW values diversity and recognises that the organisation is greatly enhanced by the disparate range of backgrounds, experiences, views, beliefs and cultures represented within its staff population. It aims to embrace diversity in all of its activities and proudly acknowledges that variety and difference are intrinsic to the wellbeing and future development of HEIW.

2. Purpose

The aim of this policy is to ensure equality and fairness throughout HEIW and to comply with the provisions of the Equality Act 2010, the Public Sector Equality Duty, National Terms and Conditions of Service for all NHS Employees (Agenda for Change) and good practice guidance. The policy specifically relates to workforce issues and is intrinsically linked to All Wales Dignity at Work Process, All Wales Grievance Policy and All Wales Disciplinary Policy.

3. Policy Statement

In compliance with the public sector equality duty section 149 of the Equality Act 2010, HEIW aims to:

- Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act
- Advance equality of opportunity between persons who share a relevant protective 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

And to have due regard for advancing equality by:

- Removing or minimising disadvantages experienced by people due to their protected characteristics
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people

- Encouraging people with protected characteristics to participate in public life or in other activities where their participation is disproportionately low

Protective Characteristics under the Equalities Act 2010

- | | |
|-----------------------------------|----------------------|
| • Age | • Religion or belief |
| • Disability | • Race |
| • Gender identity | • Sex |
| • Pregnancy and maternity | • Sexual orientation |
| • Marriage and civil partnerships | |

Strategies, policies, practices and procurement processes within HEIW must adhere to this policy and ensure that all employment practices are designed and delivered fairly in accordance with Equality and Human Rights Legislation.

4. Application of Policy

In the application of this policy, HEIW will:

- Seek to employ a workforce that is representative of all sections of society
- Take full account of the Welsh Language Standards and the promotion of the Welsh Language
- Strive to create a working environment free of bullying, harassment, victimisation and unlawful discrimination, which promotes dignity and respect for all. This includes in pay and benefits, terms and conditions of employment, dealing with grievances and discipline, dismissal, redundancy, leave for parents, requests for flexible working, and selection for employment, promotion, training or other developmental opportunities
- Train managers and all other employees about their rights and responsibilities under the Equality Policy. Responsibilities include staff conducting themselves to help the organisation provide equal opportunities in employment, and prevent bullying, harassment, victimisation and unlawful discrimination
- Ensure that all staff should understand they, as individuals, can be held liable for acts of bullying, harassment, victimisation and unlawful discrimination, in the course of their employment, against fellow employees, customers, suppliers and the public
- Take all complaints of bullying, harassment, victimisation and unlawful discrimination by fellow employees, trainees, suppliers, visitors, the public and any others in the course of HEIW's activities seriously and deal with such matters under relevant All Wales Disciplinary Policy and Procedures. Such acts will be dealt with as misconduct under the organisation's grievance and/or disciplinary procedures, and any appropriate action will be taken. Particularly serious complaints could amount to gross misconduct and lead to dismissal without notice. Dependant on significance of harm and intention matters may also be referred to the Police as a criminal matter ****would**

suggest including the phrasing “zero tolerance”, for future WEI reasons**

- Review employment practices and procedures when necessary to ensure fairness, and also update them and the policy to take account of changes in the law
- Ensure all new and existing policies are Equality Impact Assessed using HEIW’s Equality Impact Assessment tool. To ensure that they comply with legislation and good practice whilst enabling greater mainstreaming of equality so that it is considered at every opportunity. This will also apply to strategy developments.
- Monitor the make-up of the workforce regarding information such as age, gender **identity**, ethnic background, sexual orientation, religion or belief, and disability in encouraging equality and diversity, and in meeting the aims and commitments set out in the equality policy

5. Scope

This Equality and Diversity Policy applies to:

- All persons employed or engaged by HEIW including part time workers, temporary and agency workers and those holding honorary contracts
- Visitors and volunteers

6. Statutory References

Statutory References (Appendix 1), which frame and influence this policy include:

- Human Rights Act 1998
- Equality Act 2010
- Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011
- Welsh Language Act and Welsh Language (Wales) Measure 2011
- The Well-being of Future Generations (Wales) Act 2015
- National Terms and Conditions of Service (Agenda for Change) Equality and Diversity Statement

7. Roles and Responsibilities

It is incumbent upon everyone associated with HEIW to behave with dignity, courtesy and respect and to act in a manner that does not unlawfully discriminate at all times.

Individual Employees of HEIW

- To be aware of equality and diversity issues and complete the mandatory equality and diversity training on ESR
- To promote equality and diversity as an integral part of the services they provide

- To actively encourage non-discriminatory practices and to report any incidences of behaviour that fail to comply with this policy

People Team

- To devise and recommend People policies, procedures and action plans to ensure that all legislative requirements are met and best practice adopted;
- To ensure consistency of the Equality and Diversity Policy with other policies and initiatives, making recommendations and providing advice on their implementation;
- To advise staff and managers on legal compliance and ensure best practice in all matters relating to equality and diversity;
- To ensure that recruitment advertising, selection and appointment procedures, performance management processes and disciplinary grievance processes are fair and transparent and are consistently applied;
- To monitor employment equality data on a regular basis and publish the findings of monitoring activity, as appropriate.

Senior Management

- To provide leadership in the operation and implementation of the Equality and Diversity policy
- To investigate all matters of alleged discrimination, harassment and inappropriate behaviour promptly and thoroughly
- To ensure that recruitment advertising, selection and appointment procedures, performance management processes and disciplinary grievance processes are fair and transparent and are consistently applied
- To treat all applications for flexible practices on a fair and equitable basis and To provide reasonable and objective reasons when such requests must be refused
- To ensure that equality and diversity issues are considered as part of all departmental planning processes

Executive Team

- To hold ultimate accountability for the Equality and Diversity policy;
- To encourage, foster and promote a culture of equality and diversity in HEIW;
- To integrate equality and diversity considerations into corporate planning.

8. Training

Equality and Human Rights training is mandatory for all NHS staff. The Equality and Diversity module 'Treat Me Fairly' is one of the Core Competencies within the NHS Knowledge and Skills Framework (KSF). This training is to be updated and completed on a three yearly basis

In addition, to the above mandatory training, training will be delivered to managers via formal training programmes and on an informal basis to discuss specific equality issues e.g. Equality Impact Assessment. Managers will be expected to raise

awareness with their teams. Leadership and Management development alongside organisational development programmes will also include equality elements wherever possible.

9. Communication

Communication will make the most of a variety of methods to keep employees informed of news, initiatives and developments in relation to Equality, Inclusion and Diversity.

The aim will also be to engage staff to encourage and foster an environment of questioning and safety, where relevant issues can be discussed. Staff engagement throughout the organisation will be key with active encouragement of the development of groups based on membership of particular protected groups and/or a broader group composed of members of a range of groups.

The development of Equality and Inclusion Champions will be key in engaging staff and demonstrating commitment to the Equality, Inclusion and Diversity agenda.

Staff will be made aware of Equal Opportunity Policies throughout their employment commencing with HEIW recruitment process. Equal Opportunity Policies will be incorporated in all relevant documents such as advertisements, recruitment literature, job descriptions, person specifications and contracts of employment. It will also be available on the HEIW intranet.

10. Allegations of Discrimination, Harassment and Victimisation

Staff are actively encouraged to report discriminatory practices or behaviour, including those that could be regarded as hate crime, to their Line Manager, Senior Management Team, a member of the Executive Team, HEIW People Team or their Trade Union Representative. Definition of Discrimination, Harassment and Victimisation as per Equality Act 2010 Appendix 2.

HEIW will treat seriously all complaints of discrimination or harassment related to any of the grounds set out in this policy irrespective of whether the complaint is made by an employee, manager, volunteer, visitor or any other relevant third party.

Written records will be maintained at all stages. The primary parties involved may view or have copies of records pertaining to the grievance. Advice and guidance can be obtained from Line Managers, Trade Union Representatives, or from HEIW People Team, who have a dedicated Equality and Inclusion Officer. All contact will be treated in complete confidence

Any individual who has raised a complaint or given evidence in a complaint of discrimination will not be victimised.

11. Trade Union and other Staff Side Representatives

Trade Union and other Staff Side Representatives should:

- Work in partnership with management to tackle discrimination, prejudice and harassment at work
- Support staff in situations where concerns have been expressed
- Encourage staff to report their concerns through the appropriate channel and procedures where necessary
- Work in partnership to promote equality and diversity issues as high on HEIW agenda

12. Non-Conformance

Any breach of this policy is a disciplinary offence and will be dealt with through the All Wales Disciplinary Policy and Procedure. Any employee found to have unfairly discriminated; harassed or victimised a third party, member of staff, colleague, volunteer or contractor may be dismissed.

Any breach in this policy by a third party will result in that third party's employer being contacted and a formal complaint being made using that employer's procedures

13. Implementation, Monitoring and Review

HEIW will ensure that this policy, together with its commitment to promoting equality, fairness and protecting individuals from discrimination, is communicated to both existing and potential members of staff, partner organisations, contractors and the wider community. It will be supported by a programme of action within our Strategic Equality and Human Rights Plan (SEP), progress against which will be provided on a regular basis to HEIW Executive Team and Board and through our published Annual Equality Reports. Review of this policy will take place on a three yearly basis.

14. Equality Impact Assessment – currently an on-going process throughout development phase of this policy

Appendix 1

Statutory Legislation and Background

Human Rights Act 1998

The Human Rights Act 1998 sets out the fundamental rights and freedoms that everyone in the UK is entitled to. It incorporates the rights set out in the European Convention on Human Rights (ECHR) into domestic British law. The Human Rights Act came into force in the UK in October 2000.

The Act sets out your human rights in a series of 'Articles'. Each Article deals with a different right. These are all taken from the ECHR and are commonly known as 'the Convention Rights':

- Article 2: Right to life
- Article 3: Freedom from torture and inhuman or degrading treatment
- Article 4: Freedom from slavery and forced labour
- Article 5: Right to liberty and security
- Article 6: Right to a fair trial
- Article 7: No punishment without law
- Article 8: Respect for your private and family life, home and correspondence
- Article 9: Freedom of thought, belief and religion
- Article 10: Freedom of expression
- Article 11: Freedom of assembly and association
- Article 12: Right to marry and start a family
- Article 14: Protection from discrimination in respect of these rights and freedoms
- Protocol 1, Article 1: Right to peaceful enjoyment of your property
- Protocol 1, Article 2: Right to education
- Protocol 1, Article 3: Right to participate in free elections
- Protocol 13, Article 1: Abolition of the death penalty

Equality Act 2010

The Equality Act came into force on 1 October 2010. The Equality Act brings together over 116 separate pieces of legislation into one single Act. Combined, they make up a new Act that provides a legal framework to protect the rights of individuals and advance equality of opportunity for all.

The Act simplifies, strengthens and harmonises the current legislation to provide Britain with a new discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society.

The nine main pieces of legislation that have merged are:

- the Equal Pay Act 1970
- the Sex Discrimination Act 1975
- the Race Relations Act 1976
- the Disability Discrimination Act 1995
- the Employment Equality (Religion or Belief) Regulations 2003

- the Employment Equality (Sexual Orientation) Regulations 2003
- the Employment Equality (Age) Regulations 2006
- the Equality Act 2006, Part 2
- the Equality Act (Sexual Orientation) Regulations 2007

Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011

The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 (“the Regulations”) came into force on the 6 April 2011 but some of the requirements have different timescales for implementation. For example, each public body must publicise its equality objectives in a Strategic Equality Plan by 2 April 2012.

The Regulations are aimed at creating specific duties that help public authorities comply with the general duty. The Regulations seek to focus on outcomes public bodies should be achieving, rather than processes that they should follow. The intention is that these specific duties will help public authorities produce evidence based equality objectives which link to concise and achievable outcomes. The specific equality duties for Wales have been developed using four guiding principles:

- Use of evidence: good robust evidence to understand the communities served and shape future actions;
- Consultation and involvement: so that the needs of the citizen can help shape the design and delivery of services that are fit for purpose, meet needs and deliver a positive outcome
- Transparency: about how objectives have been set and reporting progress takes place against objectives
- Leadership: strong leadership which sets a positive culture and climate within the public sector to use resources effectively to help successfully discharge their equality duties. The Welsh Assembly Government is keen to support public authorities in their delivery of better services to the citizens of Wales.

In summary, the specific duties placed on public authorities include:

- Publish equality objectives designed to enable them to better perform the general duty by no later than 2 April 2012
- Publish a statement setting out the steps it has taken or intends to take to achieve the equality objectives and time frame for doing so
- Review the equality objectives at any time and at least within four years from the date they were first published; •
- Comply with the engagement provisions across a range of activities covered by the Regulations which means:
 - involving people who represent the interests of people who share one or more of the protected characteristics and have an interest in the way that the authority carries out its functions; •
 - involving such other people as the authority considers appropriate*;
 - consulting such other people as the authority considers appropriate*.

(*In particular, the authority must have regard to the need to involve or consult , so far as is practicable people who share one or more of the protected characteristics)

- Identify and collect relevant information about compliance with the general duty
- Take reasonable steps to ensure that information is published in way that is accessible to people who share one or more protected characteristics
- Assess and monitor the equality impact of proposed and current policies and practices under review on its ability to comply with the general duty
- Also publish reports of assessments which show there is likely to be a substantial impact on that ability
- Gather employee related data on an annual basis including number of people employed, recruitment, training, grievance and disciplinary procedures
- Have due regard to whether the award criteria/contract conditions in public procurement should include considerations relevant to the performance of the general duty

A new requirement has been included in respect of pay differences, particularly gender pay. Where an authority has identified any gender pay difference, and has not published an equality objective to address the causes of that difference, the authority must publish reasons for the decision not to publish such an objective and an action plan on pay difference

The equality objectives and arrangements considered necessary to enable the authority to comply with the general duty must be set out in a Strategic Equality Plan which must be published by no later than 2 April 2012 and kept under review.

Welsh Language Act and Welsh Language (Wales) Measure 2011

Two principles underpin the Welsh Language Measure (2011): In Wales, the Welsh language should be treated no less favourably than the English language. Persons in Wales should be able to live their lives through the medium of the Welsh language if they choose to do so. This will manifest itself in the day to day operations of public bodies acting in Wales by a series of Standards Regulations which guide the implementation of a broad range of bilingual services.

Cymraeg 2050: Welsh language strategy – towards the million. The ambition of the Welsh Government is to see the number of people able to enjoy speaking and using Welsh reach a million by 2050. A large number of initiatives are being put in place to help realize this vision.

The Wellbeing of Future Generations Act defines Sustainable Development in Wales as: “The process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the well-being goals.” One of the Seven wellbeing goals of the Act is “A Wales Of Vibrant Culture & Thriving Welsh Language; A society that promotes and protects culture, heritage and the Welsh language”

The Well-being of Future Generations (Wales) Act 2015

The Well-being of Future Generations (Wales) Act 2015 The Act requires all public bodies to change the way we work in order to improve well-being for the whole population, by acting in accordance with the sustainable development principle and meeting the 7 Well-being Goals. Sustainable development connects the environment in which we live, the economy in which we work, the society which we enjoy and the cultures that we share to the people that we serve and their quality of life. Working in this way means we can better meet the needs of our present population without compromising the ability of future generations to meet their own needs. The Act sets out the 'More Equal Wales' wellbeing goal which is defined as: *'A society that enables people to fulfil their potential no matter what their background or circumstances (including their socio economic background and circumstances).'*

National Terms and Conditions of Service (Agenda for Change) Equality and Diversity Statement

Section 30: General equality and diversity statement

30.1 All parties to this agreement commit to building a NHS workforce which is valued and whose diversity reflects the communities it serves, enabling it to deliver the best possible healthcare service to those communities. The NHS will strive to be a leader in good employment practice, able to attract and retain staff from diverse backgrounds and communities.

30.2 The parties will strive to ensure that:

- everyone working in the NHS should be able to achieve his or her full potential, in an environment characterised by dignity and mutual respect; ****Gendered language****
- the past effects of institutional discrimination are identified and remedial action taken;
- equality of opportunity is guaranteed;
- individual difference and the unique contribution that individual experience, knowledge and skills can make is viewed positively;
- job descriptions, person specifications and the terms and conditions of service fit with the needs of the service and those who work in it, regardless of age, disability, race, nationality, ethnic or national origin, **gender identity**, pregnancy or maternity, marriage or civil partnership, religion, beliefs, sexual orientation, domestic circumstances, social and employment status, HIV status, **gender reassignment** ****Would suggest changing this to gender identity as not inclusive of a percentage non-binary trans people or those not wishing/able to undergo medical intervention. It might be worthwhile having a brief description, somewhere near the start of the document, outlining what gender identity and a transition is, as per our glossary of terms.**** political affiliation or trades union membership.

Making it happen

30.3 To achieve these goals all parties to this agreement will ensure that:

- everyone who works in the NHS knows about these agreements and what they say;
- everyone knows what their responsibilities are in relation to equality and diversity and these are reflected in individual KSF outlines and development reviews;
- steps taken to promote equality and diversity are monitored; appropriate training is provided. This will include appropriate equality and diversity training for all staff and relevant skills based training for line managers and others who play a key role in implementing equality and diversity policy;
- appropriate resources where appropriate, are made available to achieve these aims;
- the boards of NHS trusts (of NHS boards in Scotland) and other NHS organisations and senior managers will demonstrate their commitment and accountability for implementing these aims by measuring and monitoring progress through their equality schemes
- the NHS will encourage other organisations, such as local authorities, education providers, contractors and recruitment agencies, to work in partnership with the service to achieve the aims of this agreement, including the application of its commissioning and procurement activities.

Monitoring and review

30.4 The NHS Staff Council will keep this agreement under review against best practice, as it develops, inside the NHS and elsewhere.

30.5 NHS employers and local staff representatives should review their local arrangements to ensure they produce outcomes that are consistent with this agreement. Annual 'equality audits' are recommended, and these should include a review of:

- workforce data by race, gender, disability, sexual orientation, religion or belief, age and contract status (i.e. part time);
- existing equality policies and procedures and any gaps requiring the development of new arrangements;
- data on pay and grading by race, gender, disability, sexual orientation, religion or belief, age and contract status i.e. part-time.

30.6 Where under-representation of particular groups is identified, employers should take advantage of the positive action provisions in the discrimination legislation, assuming that the detailed conditions in the legislation are met.

Definitions

30.7 Where the term "requires" is used in this agreement, this denotes a requirement set down in law.

30.8 Where “should” is used, this denotes that there is a national agreement to that effect.

30.9 The agreements contained in this Part of the Handbook should be taken as policy by NHS employers. Any advice on best practice should be taken as being recommended by the NHS Staff Council.

30.10 Where it is recommended that employers and local staff representatives agree arrangements, any advice on best practice is there for guidance.

Scope

30.11 Each of the key areas to be addressed are contained in this handbook at Sections 31 to 36, as follows:

Section 31: Recruitment, promotion and staff development;

Section 32: Dignity at work;

Section 33: Caring for children and adults;

Section 34: Flexible working arrangements;

30.12 This agreement has been developed based on the legal minimal and best practice and policy, thereby anticipating the need for change. There still remains significant scope to develop local procedures to inform action.

30.13 Some NHS employers will have established procedures which have been agreed with their local staff representatives. Where such procedures are consistent with the principles outlined in this agreement, these should not be disturbed. However, local agreements should be reviewed and updated in light of legal and best practice.

Appendix 2

Definition of Discrimination, Harassment and Victimisation - Equality Act 2010

****To avoid pushback from those that may think that certain characteristics are more protected than others. It may be beneficial to include a brief statement informing people that everyone falls into at least a few characteristics. We all have a sexual orientation, gender identity, race, faith (or lack of) for example.****

Direct Discrimination

The treatment of one person/group less favourably because they belong to a protected group because of their age, disability (including HIV/AIDS) ethnic origin, race, gender, marital status, nationality, pregnancy and maternity, religion or belief, sexual orientation, **gender reassignment **'Gender Identity', as per notes above. Its best practise to also include gender expression**** or social background.

Discrimination by Association

This applies where a person is directly discriminated against because they associate with someone from one of the protected groups or because they perceive that it is because they associate with someone from a protected group. This applies to age, disability, **gender reassignment**, race, religion or belief, sex or sexual orientation

Discrimination by Perception

This applies where there is direct discrimination against an individual because others think that they possess a particular protected characteristic, or are associated with someone who has a protected characteristic. This applies to age, disability, **gender reassignment**, race, religion or belief, sex or sexual orientation. It applies even if the person does not actually possess that characteristic.

Indirect Discrimination

This applies where there is a condition; rule; policy or practice within the service that applies to everyone but particularly disadvantages people who share a protected characteristic. Indirect discrimination can only be justified if it can be shown that the condition, rule or practice is reasonable and is a proportionate means of achieving a legitimate aim. Proportionate means being fair and reasonable at that consideration has been given to less discriminatory alternatives. This applies to age, disability, **gender reassignment**, race, religion or belief, sex or sexual orientation, marriage or civil partnership.

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. This applies to age, disability, **gender reassignment**, race, religion or belief, sex or sexual orientation.

Third Party Harassment

The Equality Act (2010) makes an organisation potentially liable for the harassment of their staff by people who are not their employees such as patients or external contractors. Liability is based on there being two previous occasions that have been raised and where reasonable steps have not been taken to prevent this from happening again. Where a provision or practice is applied which results in one group being placed at a particular disadvantage compared to other individuals or groups.

Institutional Discrimination

The collective failure of an organisation to provide appropriate employment opportunities or service to people because of their age, disability (including HIV/AIDS) ethnic origin, race, gender, marital status, nationality, religion or belief, sexual orientation or social background. It can be seen in processes and behaviour, which amount to discrimination through unwitting prejudice.

Victimisation

This occurs when someone is treated badly because they have made or supported a complaint or grievance in relation to age, disability, gender identity, race, religion or belief, sex or sexual orientation, marriage or civil partnership, pregnancy and maternity.