

Embracing Equality, Diversity and Human Rights in NHS Education for Scotland

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Embracing Equality, Diversity and Human Rights in NES Policy

1 Policy Statement

This policy sets out NHS Education for Scotland's (NES) commitment to the principles, as defined below, of equality, diversity and human rights in employment and sets out the approach to be followed in order to ensure that such principles are consistently met.

NES is committed to ensuring fair and equitable treatment of all its employees and to developing an organisational culture which promotes equality and values diversity. The organisation will take proactive steps to eliminate discrimination and harassment, advance equality of opportunity for all and to foster good relations in all its employment processes. NES promotes equality across all employment practices, not only in recognition of legislative requirements, but also as to ensure its workforce feel valued for their vital contribution in achieving organisational success.

While successful implementation of this policy will ensure compliance with current legislation and national policy, NES also recognises both the moral and business case for maintaining good employment practice in relation to equality, diversity and human rights.

NES recognises that it also has a unique opportunity to influence the practice of those other organisations with which it engages and to champion equality, diversity and human rights within society more generally.

As such, equality, diversity and human rights must be at the heart of NES and everything it does.

This policy has been developed in partnership with trade union/professional organisation representatives. It reflects the best practice, and meets the minimum standards, set out within the Embracing Equality, Diversity and Human Rights in NHSScotland Partnership Information Network (PIN) Policy.

This policy should be read in conjunction with the following NES Policies:

Dignity at Work : Eliminating Bullying and Harassment in the Workforce
Disability Policies and Procedures
Gender Based Violence
Inclusive Education and Learning
Flexible Working Practices – Policy and Procedures

2 Scope

This policy applies to all those who work within or apply to work within NES, regardless of employment status. It therefore includes permanent and fixed-term employees, members of staff on zero-hours contracts, those working within NES on behalf of other agencies, those on secondment to NES, and those on work experience or training placements. This list is not exclusive and includes all staff who perform any work on behalf of NES.

3 Definitions

Equality is described by the Equality and Human Rights Commission as 'ensuring that every individual has an equal opportunity to make the most of their lives and talents, and believing that no one should have poorer life choices because of where, what or whom they were born, or because of other characteristics'.

Managing diversity is defined as 'valuing everyone as an individual', recognising that a 'one-size-fits all' approach to managing people does not achieve fairness and equality of opportunity, given that people have different needs, values and beliefs.

Human rights are defined as 'the basic rights and freedoms to which all humans are entitled'. They ensure that people are treated fairly and with dignity and respect.

4 Aims of Policy/Principles and Values

This policy sets out the aims of NES to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010 and less favourable treatment of other categories of worker as set out within other relevant legislation;
- Advance equality of opportunity between people who share a protected characteristic (i.e. age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation) and those who do not;
- Foster good relations between people who share a protected characteristic and those who do not; and
- Ensure that the organisation has due regard for the European Convention of Human Rights (ECHR) in the discharge of its functions

Principles and Values

- The following principles and values are key to the achievement of these aims:
- Equality, diversity and human rights must be at the heart of NES and everything it does;

- All employees should feel valued and respected for who they are and the skills that they bring to work and should, in turn, treat their colleagues with courtesy and respect;
- Everyone has a right to experience an NHS which is free from all forms of discrimination, harassment or intimidation;
- Disadvantages suffered by people due to their protected characteristics will be removed or minimised in order to create an environment in which individual differences and the contributions of all staff are recognised and valued;
- Steps will be taken to meet the needs of people from protected groups where these are different from the needs of other people;
- Steps will be taken to reduce under representation of people with particular protected characteristics and increase the diversity of our workforce, both at an organisational level and within different job roles;
- A zero tolerance approach will be taken to intimidation, bullying or harassment, recognising that all staff are entitled to a working environment that promotes dignity and respect for all;
- NES will act as an agent for change within local communities by positioning equality, diversity and human rights at the heart of local delivery plans;
- It is everyone's responsibility to understand and meet the individual needs of people who access our services, wherever possible;
- While this will be achieved in part by being championed at a senior level, it can only be fully achieved through all those working within NES recognising and adhering to their own personal responsibilities in this regard, and NES will therefore take steps to ensure that everyone in the organisation understands their rights and responsibilities under the policy;
- NES will ensure that arrangements are in place to support staff who have equality, diversity and human rights issues;

- NES will ensure that effective systems are set up to monitor, evaluate and feedback information on equality and diversity to both managers and staff.
- NES will agree a set of equality outcomes every four years, and will produce an annual plan detailing how these outcomes will be met. Progress against delivering outcomes relating to equality and diversity in employment will be reported to the NES Executive Team and monitored by the Staff Governance Committee of the Partnership Forum.

5 Equality, Diversity and Human Rights Obligations During the Employment Relationship

NES places a high importance on its recruitment practices. These are based on the values of fairness and equality of opportunity, which are reflected in the NES Equal Opportunities Policy. The NES Recruitment and Selection procedures ensure in practice the ways in which equality is achieved and are underpinned by the values of fairness and equality of opportunity. It is transparent, effective and based on best practice and aims to reflect the cultural diversity of Scotland.

Recruitment and Selection

NES recognises the value of a diverse workforce and understands that it is to everyone's advantage to ensure that the human resources, talents and skills available throughout the community are considered when employment opportunities arise. It is the policy of NES to ensure that:

- All the provisions set out within the Safer Pre and Post Employment Checks PIN policy are complied with;
- All those involved at any stage in the recruitment and selection process have appropriate training in both recruitment and selection, and equality, diversity and human rights;
- Where protected characteristics are suggested in the application form or subsequent selection process, this is not used to determine the success or otherwise of the applicant;
- Job descriptions and person specifications are not discriminatory, accurately describing the job and containing only those necessary or desirable criteria which are objectively justifiable, and which are capable of being tested objectively;
- Vacancies are advertised widely in order to select staff from a wide and diverse a pool of potential applicants, with advertisements accessible to all those eligible to apply;

- Advertisements are not discriminatory, confirming that all applications will be considered solely on merit and that reasonable adjustments will be made for disabled people. Where a genuine occupational requirement exists which restricts applications to those with a particular protected characteristic, a statement will be included to this effect. Where there is a lack of representation from those with particular protected characteristics within the job role or the wider organisation, a statement will be included encouraging applications from such individuals;
- Any recruitment agencies operating on behalf of NES are expected to have due regard for the promotion of equal opportunities in the undertaking of their role and to demonstrate that they have equivalent policies in place;
- Reasonable adjustments are made for disabled applicants, during both the application and selection process stages. Disabled applicants who meet the minimum criteria for the job and who indicate, on their application form, that they wish to participate in the guaranteed interview scheme, will in all cases be short-listed for inclusion within the selection process;
- Short-listing of applicants is based only on information provided in the application form;
- Selection methods are well designed, properly administered and recognised as a reliable method of predicting an applicant's performance in a particular job;
- Interviews are conducted strictly on the basis of the application form, the job description, the person specification, and the results of any selection tests, avoiding inappropriate or irrelevant questions;
- Employment decisions are based solely on objective application of agreed scoring methods. Where there is more than one appointable candidate at this stage, and one possesses a protected characteristic under-represented in the job role or wider workforce, recruiting managers are encouraged to use this as a tie-breaker, making a decision as a proportionate means of achieving the aim of addressing disadvantage or under-representation in the workforce;
- Except in the case of individuals who are barred from undertaking regulated work, criminal convictions do not automatically prevent employment being offered;
- References are only obtained, and, with the subject's prior consent, circulated to members of the selection panel, after a selection decision has been reached, and that where a reference is subjective and negative, the successful applicant is given an opportunity to comment on it;
- The terms on which successful candidates are offered employment are free of discrimination;
- Having secured a preferred candidate, all unsuccessful short-listed candidates will be offered feedback; and

- Comprehensive records are kept, in line with the Data Protection Act 1998, which will allow NES to justify each decision and the process by which it was reached, to respond to any complaints of discrimination and to enable regular monitoring to identify any significant disparities between groups of people sharing different protected characteristics. If disparities are found, NES will investigate the possible causes in each case and take steps to remove any barriers, within agreed data protection retention guidelines of 6 months.

During Employment

It is the policy of NES to ensure that during employment:

- For all staff, at all stages and in all aspects, their employment relationship with the organisation is free from discrimination, victimisation and harassment. This will be supported through delivering the appropriate training for all staff in equality, diversity and human rights, both during induction and thereafter during the course of their employment;
- The local policy, developed in line with the Preventing and Dealing with Bullying and Harassment in NHSScotland PIN guideline is implemented consistently, with the commitment that inappropriate behaviour within or outwith (where still considered to be within the course of employment) the workplace, including that related to a protected characteristic, will not be tolerated;
- NES makes reasonable adjustments for disabled members of staff so as to avoid their being placed at a substantial disadvantage compared to other staff. Such staff are assured that any information disclosed about a disability will be held confidentially, only disclosed to others with the individual's consent;
- Due regard is paid to the need to address pay inequality between women and men, making every effort to identify where equal pay is an issue and, where appropriate, taking steps to address such issues;
- All staff will have the right to make a request for flexible working and that any refusal of such a request will be objectively justified (in compliance with the Flexible Working Practices – Policy and Procedure) and in accordance with the statutory provisions;
- NES policies in relation to sickness and absence from work are non-discriminatory in design (and compliant with relevant national PIN policy), and applied fairly and consistently;
- NES will consult with relevant staff to understand the requirements of their religion or belief, such as religious observances, and make appropriate provision to support them in doing so, where reasonably practicable;
- If a member of staff is undergoing gender reassignment, NES will consult with them sensitively about their needs in the workplace and whether there are any reasonable and practical steps that can be taken to help them as they undergo their gender reassignment process;

- NES will comply with the Supporting the Work-Life Balance PIN guideline in providing appropriate support to mothers who wish to breastfeed their children;
- NES will comply with the National Uniform Policy and Dress Code (as contained within CEL 42 (2010)), particularly in relation to specialist • NES will ensure that its approach to training and development opportunities for staff is inclusive and learner-centred, recognising the need to ensure that we take account of learner diversity designing and delivering training. NES will take positive action and will ensure that appropriate support and reasonable adjustments are provided as required;
- NES will ensure that personal development planning and review/appraisal processes are free from discrimination, by ensuring that such processes are in line with the Personal Development Planning and Review PIN policy, with performance measured by transparent, objective and justifiable criteria using procedures that are consistently applied;
- NES will ensure that work is assigned to staff by managers in a fair and consistent manner;
- NES will ensure that decision-making processes in relation to displacement on organisational change grounds, subsequent redeployment decisions, and, where applicable, voluntary severance, are non-discriminatory in design and application, and meet the requirements of the Redeployment PIN guideline; items which may be required to meet religious or medical needs;
- NES will ensure that locally developed policies comply with the PIN guideline on Management of Employee Conduct, Management of Employee Capability, Promoting Attendance, Dealing with Employee Grievances and Preventing and Dealing with Bullying and Harassment, ensuring that they do not discriminate against members of staff either in the way they are designed or how they are implemented in practice. When changes to policies and procedures are being considered NES will consult with recognised trade unions/professional organisations as a positive step towards understanding the diverse needs of members of staff;
- Proper records are maintained, in line with the Data Protection Act 1998, of decisions taken in relation to individual members of staff, and the reasons for these decisions; and
- On matters such as promotion, training and disciplinary procedures and requests for flexible working regular monitoring is undertaken in order to identify any significant disparities between groups of people sharing different protected characteristics. If disparities are found, NES will investigate the possible causes in each case and take steps to remove any barriers.

6 : Remedies

NES will not tolerate behaviours that may constitute discrimination, harassment or victimisation of its staff in the course of their employment. Nor will it tolerate such behaviour by its staff whether directed against colleagues or other people with whom they come into contact during the course of their employment.

All staff must adhere to this policy, and a failure to do so may lead to disciplinary action.

Grievances

Any member of staff who believes that they have been treated less favourably because of their age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation, part-time status, fixed-term contract status or membership (or non-membership) of a trade union/professional organisation is encouraged to raise the matter through NES's local grievance policy developed in line with the Dealing with Employee Grievances in NHSScotland PIN guideline.

Harassment

If the complaint is about harassment or victimisation, then the staff member should raise the matter using NES' local policy (Dignity at Work Policy: Eliminating Bullying and Harassment in the Workplace) developed in line with the Preventing and Dealing with Bullying and Harassment PIN guideline.

Dealing with Grievances/Harassment

It is the policy of NES to ensure that:

- Where a complaint is received, staff are not discriminated against in the way that the organisation responds to it; Such matters will be taken seriously and investigated promptly.
- The matter will be thoroughly investigated using the NES policy developed in line with the Management of Employee Conduct PIN guideline, and where an investigation recommends that a disciplinary process is appropriate, the alleged perpetrator will be given a fair hearing; and
- Members of staff who have raised allegations in good faith, regardless of whether or not they are upheld, and members of staff who have participated in the process, (e.g. as a witness), must not be subject to any detriment because of having done so.

7 Assessing Impact

- NES will consider relevant evidence in order to understand the likely or actual effect of policies and practices on those with protected characteristics, or those protected from discrimination/less favourable treatment under other relevant legislation, recognising that such assessing of impact is not an end in itself, but rather an important part of policy and decision-making, which will

lead to enable us to take effective action on equality; develop better policies and practices, based on evidence; and be more transparent and accountable;

- The extent to which policies should be subject to impact assessment will depend on questions of relevance and proportionality;
- NES will ensure that our locally agreed process for undertaking impact assessment is consistently applied, by requiring that those participating in such a process are appropriately trained;
- In undertaking such assessment of impact, NES will give due regard to the General Duty obligations to eliminate discrimination, advance equality of opportunity and to foster good relations; and
- In the interests of transparency and accountability, NES will make the results of such assessments publicly available.

8 Raising Awareness

To support the fair and consistent application of this policy, NES will ensure that all staff understand what this policy means for them, with regard to both rights and responsibilities. We will:

- Ensure that this policy is publicised widely using appropriate communication channels;
- Ensure that presentation on our commitment to equality, diversity and human rights is included within the corporate induction programme;
- Require all staff to undertake mandatory training on equality, diversity and human rights, under this policy, alongside training on our local policy developed in line with the Preventing and Dealing with Bullying and Harassment PIN guideline;
- Develop and deliver additional targeted training in response to any issues identified as part of the monitoring process; and
- Ensure all those staff with a managerial responsibility participate in additional management training (as soon as possible on becoming a manager and from time to time thereafter) on their vital role and responsibilities under the policy, particularly in relation to how to prevent equality and diversity issues arising and on how to manage such situations where they do arise within the workplace.

9 Equality, Diversity & Human Rights Monitoring

- NES recognises that monitoring and evaluation, and subsequent action, is essential to ensure that this policy is successfully applied, is known about and works;
- NES will commit to monitoring the following information in relation to each of the protected characteristics listed under the Equality Act 2010, the Equality

Act 2010 (Specific Duties) Scotland) Regulations 2012 as well as in relation to other categories of worker protected under legislation from less favourable treatment

THE FOLLOWING INFORMATION WILL BE MONITORED:

<p>Recruitment (including redeployment and successful & unsuccessful applicants)</p>
<ul style="list-style-type: none"> • Applicants for employment (internally & externally) • Those who are successful (or not) in the short-listing process • Those who are successful (or not) at each subsequent stage of the selection process
<p>During employment (including those on fixed-term contracts and promoted)</p>
<ul style="list-style-type: none"> • Members of staff in post by job, location and band/grade • Applicants for training • Members of staff who receive training • Time spent at a particular band/grade • Members of staff who benefit (or not) via PDPR/appraisal procedures (e.g. gateway progression with KSF or PRP with Executive & Senior Management Cohort) • Requests for flexible working • Allocation of discretionary points in the case of medical/dental staff • Pay • Occupational segregation • Members of staff involved in grievance/dignity at work procedures • Members of staff subject to formal procedures relating to conduct, capability or sickness absence • Members of staff displaced as a result of organisational change
<p>Termination of employment</p>
<ul style="list-style-type: none"> • Dismissals • Retirements • Resignation (including exit interview information) • Termination for other reasons

- We will only collect information which is required by law and can be used effectively;
- We will ensure that all those from whom we are seeking such information are made aware of how we will use this information, how they will benefit in the long term and that this data will be gathered, stored and used in line with the Data Protection Act 1998; and

- Information collected will be regularly collated and analysed, according to the timescales locally agreed in partnership.

10 Action Planning

By undertaking equality, diversity and human rights monitoring, NES can:

- Establish whether this policy is effective in practice;
- Analyse the effect of other policies and practices on staff with particular characteristics;
- Highlight possible inequalities and investigate their underlying causes;
- Set targets and timetables for reducing disparities; and
- Send a clear message to applicants and members of staff that equality, diversity and human rights issues are taken seriously within the organisation.

NES will agree, via the Partnership Forum, equality outcomes, which will be monitored and reviewed annually, with a plan detailing how these objectives will be met. Such action plans will detail initiatives/developments that will help the organisation address short-term, as well as medium- to long-term goals, with the aim of improving equality, diversity and human rights within the organisation.

We will ensure that communication on progress against and achievement of such objectives is made to both managers, staff and trade union/professional organisation representatives, and are published.

11 Review of Policy

This policy will be reviewed, in partnership, by NES every 3 years to ensure that it remains fit for purpose and to enable NES to demonstrate adherence to the Equality, Diversity and Human Rights PIN guideline.