

# NHS WEST ESSEX CLINICAL COMMISSIONING GROUP

Equality, Diversity and Human Rights Policy – Service Users, Relatives and Carers

WE CCG Policy Reference:

**WECCG30A**

<b>Brief Description (max 50 words)</b>	The aim of this policy is to ensure the local population is treated equitably through the services we commission.
<b>Target Audience</b>	All West Essex CCG staff, service users, relatives and carers

<b>Version Number</b>	1.2
<b>Accountable Officer</b>	Chief Officer
<b>Responsible Officer</b>	Governance and Risk Manager
<b>Date Approved</b>	7 <sup>th</sup> September 2017
<b>Approved By</b>	Executive Committee
<b>Date Summary presented to Board</b>	28 <sup>th</sup> September 2017
<b>Review Date</b>	September 2019
<b>Stakeholders engaged in development/review</b>	West Essex CCG Equality and Diversity Group West Essex CCG Policy Review Group West Essex Patient Reference Group
<b>Equality Impact Assessment</b>	Yes

**SUSTAINABILITY STATEMENT:** We declare that NHS West Essex Clinical Commissioning Group will demonstrate commitment to promoting environmental and social sustainability through our actions as a corporate body and as a commissioner. We aim to reduce our carbon footprint by 28% from a 2013 baseline by 2020.

## Amendment History

Version	Date	Reviewer Name(s)	Comments
1	September 2015	Grainne Stephenson	Development of the policy
1.1	July 2017	Grainne Stephenson	Review of the policy
1.2	September 2017	Dannii Owens and Grainne Stephenson	Comments from Policy Review Group added in

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## 1. POLICY STATEMENT

Equality and Diversity (E&D) is central to the work of NHS West Essex Clinical Commissioning Group (CCG) and we want to ensure the diversity of our local population is recognised and valued through equality of access and treatment for everyone to the services that we commission. This is both as a matter of fairness and as an essential part of our drive to reduce health inequalities and increase the health and wellbeing of all our population.

The CCG is committed to embedding equality and diversity values into our policies, strategies, employment practice and the commissioning processes that secure health and social care for the people of west Essex. The CCG will promote equality and integrate an anti-discriminatory approach into all areas of its work. We will ensure that barriers to accessing services and employment are identified and removed, and that no person is treated less favourably on the grounds of their race, ethnicity, religion or belief, age, gender or gender reassignment, marital status, transgender status, disability, sexual orientation, mental health status, caring responsibilities or socio-economic background.

The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. It replaced previous anti-discrimination laws with a single act, making the law easier to understand and strengthening protection in some situations; it also sets out the different ways in which it is unlawful to treat someone.

The Public Sector Equality Duty came into force across Great Britain on 5 April 2011. It means that public bodies have to consider all individuals when carrying out their day to day work – in shaping policy, delivering services and in relation to their own employees.

It also requires that public bodies:

- have due regard to the need to eliminate discrimination
- advance equality of opportunity
- foster good relations between different people when carrying out their activities

The CCG also recognises the need to fully respect the prerequisites of our service users, patients and their carers. To achieve this we are committed to listening and learning from all members of the community, as everyone has the right to be treated in a fair, reasonable and consistent way, with dignity and respect and without fear of discrimination, harassment or victimisation.

Anyone that deals with the CCG will be given equitable treatment whether they are receiving or providing a service, tendering for a contract or any other relationship.

The CCG will uphold the human rights of all service users, staff and anyone else with a relationship to the CCG. These include practices which reflect the principles of the right to a fair trial, respect for private and family life and freedom of thought, conscience and religion. Any restriction placed on the rights of service users, for example those detained under the Mental Health Act, will be considered and proportionate, that is, no greater than is needed.

The CCG is committed to monitoring, evaluating and reporting on issues of equality and diversity in services and the workforce.

The CCG recognises the benefits which will arise from implementation of the Equality, Diversity and Human Rights Policy for Service Users, Relatives and Carers:

Flexible provision of services which meet individual service users and carers needs and ensures high levels of satisfaction.

Employing staff from different cultural backgrounds allows a better understanding of the needs of all service users and creates a diverse workforce which reflects the wider community.

A diverse workforce provides different viewpoints and will help the CCG to find innovative ways to improve both working conditions and service provision.

The CCG will work to reduce health inequalities for service users. Confidentiality will be maintained at all times, in the reporting of incidents, counselling received or records held by the CCG.

## 2. SCOPE OF POLICY

This policy applies to all CCG staff, service users, their relatives and carers, throughout their relationship with the organisation.

## 3. DEFINITIONS AND TYPES OF DISCRIMINATION

**Direct Discrimination** occurs when a person or group is treated less favourably than others are, or would be, treated in the same or similar circumstances due to no other reason other than a protected characteristic, for example their gender, ethnicity, disability, age, sexual orientation, religion or belief.

### **Discrimination by association**

Applies to race, religion or belief, sexual orientation, age, disability, gender reassignment and sex. This is direct discrimination against someone because they associate with another person who possesses a protected characteristic.

**Indirect Discrimination** occurs when a provision, criterion or practice is applied, whether intentionally or not, which adversely affects one group of persons more than another and cannot be justified.

### **Third party harassment**

Applies to sex, age, disability, gender reassignment, race, religion or belief and sexual orientation. The Equality Act makes an employer potentially liable for harassment of their employees by people (third parties) who are not employees of their organisation, such as customers or clients. To be liable the harassment must have occurred on at least two previous occasions, the employer must be aware that it has taken place, but has not taken reasonable steps to prevent it from happening again.

### **Perception discrimination**

Applies to age, race, religion or belief, sexual orientation, disability, gender reassignment and sex. This is direct discrimination against an individual because others think they possess a particular protected characteristic. It applies even if the person does not actually possess that characteristic.

**Victimisation** occurs when a person or group is treated less favourably because they have brought proceedings, or provided information in support of a third party claim or made an allegation that a breach of this policy has taken place. (See also the **Whistleblowing** Policy.)

### **Harassment**

Can be generally defined as aggressive pressure or intimidation. Harassment is also “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”. Harassment applies to all protected characteristics except for pregnancy and maternity and marriage and civil partnership. Employees are able to complain of behaviour they find offensive even if it is not directed at them and the complainant need not possess the relevant characteristic themselves.

**Vicarious Liability** means that the CCG can be held responsible for the discriminatory actions of its workers, even if they are carried out without the organisation’s knowledge or approval, if due care is not provided in upholding this policy within working practices and raising staff awareness of the CCG’s position on equality and human rights.

**Burden of Proof** now falls on the respondent, once the applicant has proven facts that could be interpreted as discriminatory.

#### **4. GUIDING PRINCIPLES**

All new CCG policies, procedures and practices will be equality impact assessed to ensure that everyone affected by the strategy, policy, plan, proposal, business case or decision making (for example on commissioning a service) will receive equal treatment.

Service users, relatives and carers will be involved in the development of new policies, services and the monitoring of progress to achieve action plans.

The CCG has legal and moral responsibility for ensuring equality of opportunity and respect for diversity. Statistical monitoring and satisfaction surveys will be used to measure the effectiveness of actions to ensure equality for all staff, service users and carers.

The Chief Officer has overall responsibility for ensuring that the policy is implemented in a coordinated manner and that it is effectively monitored.

The CCG will monitor changes in both national and European legislation, respond and develop policy appropriately.

The CCG will support service users, relatives and carers to contact independent advocacy services.

#### **5. RESPONSIBILITIES OF STAFF**

All employees are responsible for familiarising themselves with this policy and for complying with it. Employees should inform their manager if they know or suspect that discrimination or harassment is occurring, whether direct or indirect.

Responsibility for ensuring that there is no unlawful discrimination rests with all staff and their attitudes are crucial to the successful operation of this policy. In particular, all members of staff should:

- comply with the policy and arrangements;
- not discriminate in their day to day activities or induce others to do so;
- not victimise, harass or intimidate service users, relatives, carers or other staff who have, or are perceived to have, one of the protected characteristics.
- ensure no individual is discriminated against or harassed because of their association with another individual who has a protected characteristic.
- inform their manager if they become aware of any discriminatory practice.
- ensure that equality and diversity becomes embedded in all their work and through contracts and partnerships with providers.

This policy and the associated arrangements shall operate in accordance with statutory requirements. In addition, full account will be taken of any guidance or codes of practice issued by the Equality and Human Rights Commission, any government departments and other statutory bodies.

#### **6. RESPONSIBILITIES OF MANAGEMENT**

The CCG's Chief Officer has ultimate responsibility for monitoring the operation and implementation of the Equality, Diversity and Human Rights Policy for Service Users, Relatives and Carers and for ensuring that monitoring records are maintained.

Executive directors, lay members and managers will adopt appropriate strategies to support and value equality and diversity within the CCG, ensuring that they and their staff operate within this policy and arrangements and that all reasonable, practical steps are taken to avoid discrimination.

Each manager will ensure that:

- all their staff are aware of the policy and arrangements and the reasons for the policy;
- grievances concerning discrimination are dealt with properly, fairly and as quickly as possible;
- proper records are maintained.

Human Resources will be responsible for monitoring the operation of the policy in respect of employees and job applicants, including periodic audits.

## **7. EQUALITY IMPACT ASSESSMENT**

**Equality impact assessments (EIAs)** will be carried out on strategies, policies, plans, proposals, business cases and decision-making (for example on commissioning a service), to ascertain the effect of these key documents and our services may have on those who experience or are impacted by them. We will carry out screening of new policies or changes to existing policies to see if any significant equality issues arise. The EIA tool is attached as Appendix 1.

## **8. THIRD PARTIES**

Third party harassment occurs where an employee is harassed and this is related to a protected characteristic by third parties such as service users or their relatives. West Essex CCG will not tolerate such actions against its staff and the employee concerned should inform their manager at once that this has occurred. West Essex CCG will fully investigate and take all reasonable steps to ensure such harassment does not happen again.

## **9. RELATED POLICIES AND ARRANGEMENTS**

All employment policies and arrangements have a bearing on equality of opportunity. The CCG policies will be reviewed regularly and any discriminatory elements removed.

## **10. EQUALITY TRAINING**

All new staff will be made aware of their roles and responsibilities in relation to this policy through induction and are required to update themselves on equality issues through completion of their mandatory training online e-modules. The Equality, Diversity and Human Rights - Promoting Understanding module is a statutory requirement and must be completed every three years.

## **11. MONITORING**

The CCG deems it appropriate to state its intention not to discriminate and assumes that this will be translated into practice consistently across the organisation as a whole. Accordingly, a monitoring system will be introduced to measure the effectiveness of the policy and arrangements.

If monitoring shows that the CCG, or areas within it, are not representative, then an action plan will be developed to address these issues.

## 12. PROCEDURE FOR DEALING WITH COMPLAINTS OF DISCRIMINATION

Any service user, relative or carer who feels that they have been discriminated against on any grounds set out in this policy should initially raise their concern with the Patient Experience Team. Contact details follow:

If you have a comment, compliment, concern or complaint and live in west Essex you can contact us in the following ways:

**Speak to our Patient Experience Team:**

**Telephone:** 01992 566122/3

**Freephone:** 0800 7833396 (office hours 9:00am-5:00pm, confidential voicemail available out of hours)

**E-mail:** [weccg.comments@nhs.net](mailto:weccg.comments@nhs.net)

**Write:** The Patient Experience Team,  
NHS West Essex Clinical Commissioning Group  
Building 4, Spencer Close  
St. Margaret's Hospital  
The Plain, Epping, Essex  
CM16 6TN

Please ensure you include your full name and address on any correspondence as we will need this when we contact you regarding your concern.

**Contact your provider directly:** the hospitals trust you visit have their own PALS and Complaints Teams who you can contact regarding their services.

### APPENDIX 1



EIA Template.xlsx