

**BARNSLEY CLINICAL COMMISSIONING
GROUP**

**EQUALITY, DIVERSITY & HUMAN RIGHTS
POLICY**

Making our differences count rather than merely counting our differences

Version:	1.2
Approved By:	Governing Body
Date Approved:	9 March 2017
Name of author:	Elaine Barnes
Name of responsible committee	Governing Body (Approval) Equality & Engagement Committee Group (Review)
Name of executive lead:	Brigid Reid
Date issued:	
Review Date:	2 years from approval
Target Audience:	Barnsley CCG staff

THIS POLICY HAS BEEN SUBJECT TO A FULL EQUALITY IMPACT ASSESSMENT

Version No	Type of Change	Date	Description of change
DRAFT 1.0		6 December 2016	Shared draft with Equality and Diversity Working Group for comments
DRAFT 1.1		22 December 2016	For consultation with CCG/Staff Side. Amendments included.
1.2		16 February 2017	Amendments as agreed by Equality & Engagement Committee
		9 March 2017	Approved by Governing Body

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1. INTRODUCTION

The aim of this policy is to define and promote NHS Barnsley Clinical Commissioning Group's approach to equality and diversity. Equality is relevant to everyone, not just certain groups of people and is identified as one of our key values. Legal protection for people is provided under the [Equality Act 2010](#) in relation to any discrimination or harassment experienced if this relates to treatment because of a [protected characteristic](#).

This policy applies to all service users, potential service users, staff and any contractors working with Barnsley 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 Act of 1998.

1.1 As a Commissioner of Health Services:-

- We will work with the people of Barnsley to continually assess and understand their changing needs;
- We will use the insight they give us to inform the planning and commissioning of health services, support and information which increase accessibility and choice for service users;
- We will ensure that patients, carers and the public have opportunities to be involved in the commissioning of health services;
- We will ensure that consultation and engagement around service changes and developments is carried out to an appropriate level to meet legal requirements;
- We will ensure that all patient experience data, whether proactively collected or reactively received, is reviewed in the light of information from providers and Healthwatch and where relevant informs future lines of enquiry via patient engagement activity;
- We will promote patient choice wherever possible;
- We will promote each patients involvement in decisions about their own care;
- We will build relationships with staff, public, patients, carers, partners and the media;
- We will provide different ways in which patients, carers, the public and partners can share their views.

1.2 As an Employer:-

- We will regularly review how diverse we are as a workforce and in sharing the findings seek ways to increase this;
- We seek to employ a workforce that is as diverse as possible of the local 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;
- We will empower our employees through open and clear communication;
- We will promote and operate work life balance policies and practices that are flexible and responsive to employees' needs as well as those of the organisation.

2. PURPOSE

The purpose of this policy is to ensure that NHS Barnsley Clinical Commissioning Group is meeting its Public Sector Duties in relation to the Equality Act 2010 and can clearly demonstrate that it is. The Clinical Commissioning Group is required to publish this information on an annual basis 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 Duty** 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.

In addition to the General Duty, the CCG is also subjected to a **Specific Duty**, which includes the need to:-

- Publish equality data in a way that makes it easy for people to access;

- Publish Equality objectives which are specific and measurable and based on published evidence.

The Equality Act 2010 also strengthened previous requirements in the following ways:-

- 2.1 **Banning Age Discrimination** in the provision of goods, facilities and services against those who are 18 years of age and above. This does not affect products or services for older people where age-based treatment is justified or beneficial (for example, priority flu vaccinations for the over 65s). The law only prohibits age discrimination where it has a negative or harmful consequence.
- 2.2 **Introducing the Requirement for Gender Pay Reporting** by banning secrecy clauses which prevent people discussing their own pay. The aim is for greater transparency to help to identify pay inequalities that may exist between men and women working for the same employer and doing the same, and/or similar work.
- 2.3 **Extending the Scope for Positive Action in the Work Place.** The CCG can choose to make its workforce more representative and diverse when selecting between two job candidates who are equally suitable in areas where there is under representation.
- 2.4 **Extending the Power of Employment Tribunals** by allowing them to make wider recommendations in discrimination cases that benefit the whole workforce and not just the individual who brought the claim;
- 2.5 **Protecting Breast Feeding Mothers.** The Equality Act makes it clear that it is unlawful to force breastfeeding mothers and their babies out of public places which include coffee shops, public galleries and restaurants

Under the [Health and Social Care Act 2012](#) places a statutory duty on the CCG to reduce health inequalities in access to health services and health outcomes for the people of Barnsley.

3. EQUALITY OBJECTIVES

Under the specific duties of the Public Sector Equality Duty, CCGs are required to publish Information to demonstrate its compliance with the Public Sector Equality Duty at least annually, starting by 31 January 2014.

This information must be in a manner that is accessible to the public, and must include information relating to people who share a protected characteristic who are:-

- Its employees – (public authorities with fewer than 150 employees are exempt). Although the CCG does not have to publish its employee's information, we will be doing so because it is good practice;
- People affected by its policies and practices.

4. DEFINITIONS

This policy outlines Barnsley Clinical Commissioning Group's approach to equality, diversity and human rights, based on the following definitions.

5. PRINCIPLES

This policy outlines Barnsley Clinical Commissioning Group's approach to equality, diversity and human rights, based on the following definitions.

5.1 **Equality** is based on a principle of providing equal access to opportunities and services. Equality legislation aims to protect individuals against discrimination or harassment due to their:

- Age;
- Disability;
- Gender;
- Gender Reassignment;
- Marriage and Civil Partnership;
- Pregnancy and Maternity;
- Race;
- Religion or Belief;
- Sexual Orientation.

These characteristics are referred to as '**protected characteristics**' in the Equality Act 2010.

5.2 **Diversity**: is based on a principle of recognising, responding to, and valuing visible and non-visible differences amongst individuals ensuring everyone can thrive and contribute.

5.3 **Human Rights**: the Human Rights Act 1998 sets universal standards to ensure that a person's basic needs as a human being are recognised and met. These include:-

- The right to life;
- The right not to be tortured or treated in an inhuman or degrading way;
- The right to liberty;
- The right to a fair trial;
- The right to respect private and family life, home and correspondence;
- The right not to be discriminated against.

5.4 **Direct discrimination**: Treating a person less favourably because of a particular protected characteristic, or a combination of protected characteristics.

5.5 **Indirect discrimination**: Applying criteria or practice equally to all people but which has the effect of disadvantaging one group of people.

- 5.6 **Harassment:** Unwanted behaviour which creates a humiliating, offensive or degrading environment.
- 5.7 **Victimisation:** Treating a person less favourably because they have asserted their rights under this policy or equality legislation (e.g. made or assisted with a complaint).

6. ASSURANCE

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

Barnsley Clinical Commissioning Group has an ongoing equality and diversity programme of work, which includes objectives which is quality assured by the Equality and Engagement Committee.

- 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 receive 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 Barnsley Clinical Commissioning Group in accordance with its duties under the Equality Act 2010;
- Ensure that engagement with Barnsley's diverse communities informs the Commissioning Intentions.

7. ROLES AND RESPONSIBILITIES

7.1 Equality & Engagement Committee

- Approve Barnsley Clinical Commissioning Group's Equality, Diversity and Human Rights Policy;
- Ensure that Barnsley Clinical Commissioning Group has equality objectives that meet the requirements of the public equality duty of the Equality Act 2010;
- Review the progress of the equality objectives action plan through summary notes of the EEC Working Group.

7.2 Chief Nurse

- Delegated by the Governing Body to take the lead for Equality & Diversity;

- Ensure that the Equality & Diversity Working Group provides assurance to the Equality & Engagement Committee that Equality & Diversity is being delivered across the CCG.

7.3 All Managers

- Implement this policy and bring it to the attention of staff in their sphere of responsibility;
- 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;
- Ensure that equality is included in staff development reviews and identify areas of skills development in personal development plans.

7.4 All Staff

- Recognise 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;
- 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.

8. WORKFORCE INFORMATION

NHS Barnsley Clinical Commissioning Group welcomed the introduction of the NHS [Workforce Race Equality Standard](#) (WRES) which has been 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 throughout recruitment and promotion, access to non-mandatory training, over-representation in disciplinary procedures, bullying and harassment. An annual assessment of the WRES is required by all NHS Organisations.

9. 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 us 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 goals are:-

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

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

Excelling	Purple	Excelling if evidence shows that the majority of people in all nine protected groups fare well.
Achieving	Green	Achieving if evidence shows that the majority of people in six to eight protected groups fare well.
Developing	Amber	Developing if evidence shows that the majority of people in three to five protected groups fare well.
Undeveloped	Red	Undeveloped if there is no evidence one way or another for any protected group of how people fare, or evidence is not available. Undeveloped if evidence shows that the majority of people in only two or less protected groups fare well.

The Equality Act Guidance on publishing Equality Objectives recommends that NHS organisations use the refreshed NHS Equality Delivery System (EDS 2) and choose around 4 or 5 Equality Objectives, at least one per EDS2 goal.

10. BARNSELY POPULATION

Barnsley 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 Barnsley.

The JSNA is a process that identifies the current and future health and wellbeing needs of a local population. Barnsley's JSNA is now part of the work programme of the Health and Wellbeing Board. The CCG used the JSNA to identify commissioning priorities and areas of health inequalities to target interventions.

11. IMPLEMENTATION AND DISSEMINATION OF POLICY

This policy will be disseminated to staff via oral and written briefings which refer to its location on the staff intranet and public facing website.

12. MONITORING

The effectiveness of this policy will be monitored and reported through the Equality and Engagement Committee on an annual basis

13. REVIEW

This policy will be reviewed two 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

Equality Impact Assessment

Title of policy or service:	Equality, Diversity & Human Rights Policy	
Name and role of officer/s completing the assessment:	Elaine Barnes, Equality & Diversity Manager	
Date of assessment:		
Type of EIA completed:	Initial EIA 'Screening' <input checked="" type="checkbox"/> or 'Full' EIA process <input type="checkbox"/>	<i>(select one option - see page 4 for guidance)</i>

1. Outline

Give a brief summary of your policy or service <ul style="list-style-type: none"> • Aims • Objectives • Links to other policies, including partners, national or regional 	<p>The aim of this policy is to define and promote NHS Barnsley Clinical Commissioning Group's approach to equality and diversity.</p> <p>This policy applies to all service users, potential service users, staff and any contractors working with Barnsley Clinical Commissioning Group staff or service users.</p>
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Identifying impact:

- **Positive Impact:** will actively promote or improve equality of opportunity;
- **Neutral Impact:** where there are no notable consequences for any group;
- **Negative Impact:** negative or adverse impact causes disadvantage or exclusion. If such an impact is identified, the EIA should ensure, that as far as possible, it is either justified, eliminated, minimised or counter balanced by other measures. This may result in a 'full' EIA process.

2. Gathering of Information

This is the core of the analysis; what information do you have that might *impact on protected groups, with consideration of the General Equality Duty*.

(Please complete each area)	What key impact have you identified?			For impact identified (either positive or negative) give details below:	
	Positive Impact	Neutral impact	Negative impact	How does this impact and what action, if any, do you need to take to address these issues?	What difference will this make?
Human rights	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Overall this positive will have a positive impact across all the protected characteristics	The policy aim is to be positive across all groups.
Age	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Carers	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Disability	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Sex	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Race	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Religion or belief	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Sexual orientation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Gender reassignment	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Pregnancy and maternity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Marriage and civil partnership (only eliminating discrimination)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
Other relevant groups	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		

HR Policies only: Part or Fixed term staff	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
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IMPORTANT NOTE: If any of the above results in 'negative' impact, a 'full' EIA which covers a more in depth analysis on areas/groups impacted must be considered and may need to be carried out.

Having detailed the actions you need to take please transfer them to onto the action plan below.

3. Action plan				
Issues/impact identified	Actions required	How will you measure impact/progress	Timescale	Officer responsible
No actions required				

4. Monitoring, Review and Publication				
When will the proposal be reviewed and by whom?	Lead / Reviewing Officer:	Elaine Barnes	Date of next Review:	2019

Once completed, this form **must** be emailed to Carol Williams, Exec PA to Brigid Reid, Chief Nurse for sign off: carol.williams28@nhs.net

Brigid Reid's signature:	
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