



Policy on Sexual Orientation Equality

Document Profile Box	
Document Reference:	QSSD 1511
Version:	0002
Ratified by:	Trust Board
Date ratified:	December 2008
Name of originator/author:	Equality and Diversity Manager
Name of responsible committee/individual:	Director of Human Resources and Organisational Development
Date issued:	May 2010
Review date:	May 2011
Target audience:	All staff, volunteers, contractors, visitors and staff from other organizations working on Trust premises.
Document owner:	Director of Human Resources and Organisational Development
Authorised signatory:	

CONTENTS

Page 3	1. Introduction
	2. Policy Statement
Page 4	3. Scope of the Policy
	4. Responsibilities
Page 5	5. Guidance for Managers
Page 5	6. Discrimination on the Grounds of Sexual Orientation:- <ul style="list-style-type: none">• Direct discrimination• Bullying and harassment• Indirect discrimination• Victimisation
Page 6	7. Other Considerations:- <ul style="list-style-type: none">• NHS North East LGB Staff Network• Equality, Diversity and Human Rights Training• Communication
Page 6	8. Procedure for resolving issues relating to this policy
Page 7	9. Equality and Diversity Statement
Page 7	10. Related documents

1 Introduction

The Trust is fully committed to equality of opportunity and promoting diversity. As such the Trust values all staff regardless of their sexual orientation. Furthermore, the Trust aims to create an environment in which all staff, whatever their sexuality, feel equally welcomed and valued, and in which homophobic behaviour is not tolerated. This document describes how the Trust aims to ensure that all individuals do not face discrimination either on the grounds of sexual orientation or with regard to other aspects of their identity.

The NHS in the North East employs 74,000 staff (as at March 2008) of whom at least 4,000 are likely to be LGB (lesbian, gay or bisexual). A report published by the Department of Health and Stonewall, the UK's leading gay rights organization, 'Being the Gay One' 2007, shows that there is still homophobia and discrimination in parts of the NHS. The National Audit Office and Stonewall estimate that around 6.5% of the national population is LGB, which will be reflected in the diverse communities which the Trust serves.

Every day at work and in their personal lives, lesbian, gay and bisexual people are forced to choose between being open and honest about their sexuality (and encountering possible harassment and discrimination), avoiding the issue, or lying to their colleagues or friends. This can cause a huge amount of stress to the individual, both at work and in their personal lives. This stress is evidenced in the health inequalities suffered by many LGB individuals.

2 Policy Statement

The Employment Equality (Sexual Orientation) Regulations came into force in December 2003, making it unlawful to discriminate at work on the grounds of sexual orientation. The regulations apply to all aspects of employment, including training, recruitment, promotion and dismissal. The Trust also recognises the extent of heterosexist assumptions within society and the existence of homophobia, and through the implementation of relevant policies seeks to ensure that:

- Recruitment, progression and promotion are based entirely on relevant criteria, which do not include sexual orientation.
- Everyone is treated with equal dignity and respect regardless of their sexual orientation.
- Homophobic abuse, harassment or bullying is a serious disciplinary offence, and will be dealt with under the Dignity at Work and Disciplinary Policies.
- Homophobic propaganda in any form, including e-mails, graffiti, songs or speeches, will not be tolerated. The Trust undertakes to remove any such

propaganda whenever it appears on Trust premises and to take action against those responsible.

- Assumptions will not be made that partners are of the opposite sex.
- Any workplace benefits will apply equally to same sex partners as they do to heterosexual partners.
- LGB (lesbian, gay and bisexual) issues will be included in all equality and diversity training, internal equality and diversity surveys and in the monitoring of complaints of bullying and harassment cases, the results of which will be published annually in the Trust's Single Equality Scheme.

3 Scope of the policy

This policy applies to all staff working within the Trust including employees, contractors, volunteers and staff from other organisations working on Trust premises. It also applies to patients and visitors.

This policy will apply to all Trust premises and all staff working in other premises, including any place where the occasion can be identified with either the requirements of the Trust, or with social events linked to the Trust.

4 Responsibilities

- **Directors/Managers** are required to ensure that the policy is observed and applied consistently and fairly within their areas of responsibility.
- **The Director of Human Resources and Organisational Development** has prime responsibility for the implementation of this policy and to ensure it is regularly monitored, reviewed and updated.
- **The Human Resources Department** will be responsible for ensuring the implementation of this policy, advising managers, staff and trade unions on the content of this policy and its interpretation, providing training and advice to managers and staff on the operation of this policy, ensuring that all complaints of discrimination or harassment are dealt with in a fair and consistent manner, and that remedial action is taken where necessary.
- **Employees** should ensure that their behaviour at work creates an environment which is free from any form of harassment, victimisation and all other forms of discrimination on the grounds of sexual orientation. Employees should be aware that if they are involved in discriminatory actions or practice they may not only face disciplinary action but also legal proceedings against themselves as individuals.

5 Guidance for Managers

The Trust recognises that it needs to attract potential staff from all sections of the community and create a workforce culture that embraces diversity and equality, to reflect the diverse communities we serve. In view of this the Trust considers the drivers below to be of the utmost importance:-

- Reputation – the need to show the right corporate image to an increasingly discerning local population, that has changing demographics.
- Recruitment and Retention – the need for the Trust to be seen as an employer of choice and to maintain a competitive advantage in an increasingly complex labour market.
- Productivity – the need to retain and motivate the staff necessary for optimal performance.
- Risk mitigation – the need to comply with a robust set of anti- discrimination laws and to avoid the escalating costs of litigation.

6 Discrimination on the Grounds of Sexual Orientation

Direct Discrimination

This takes place when a person is treated less favourably on the grounds of sexual orientation. For example it is unlawful not to employ someone, to dismiss them, refuse to promote them, deny them training or any other benefits available to others of a different sexual orientation, because they are or are thought to be lesbian, gay or bisexual.

Direct discrimination also covers discrimination on the grounds of perceived sexual orientation, whether the perception is correct or incorrect. In this case applicants will not need to establish whether they are lesbian, gay or bisexual to bring a complaint. If someone has assumed them to be lesbian, gay or bisexual and discriminated against them as a consequence, that will suffice.

Bullying and Harassment

If an employee is being bullied because of their sexual orientation (or perceived sexual orientation as described above) this constitutes harassment which is unlawful and would fall within direct discrimination. The Trust will not tolerate any form of harassment and will take disciplinary action against any perpetrators, in line with the Dignity at Work and Disciplinary Policies.

If an employee feels they are being bullied or harassed because of their sexual orientation they should refer to the Trust's Dignity at Work Policy for further guidance. Trained Dignity at Work Officers can provide confidential assistance to staff, the contact details of whom are available on the Trust's intranet site or from the Human Resources Department.

Indirect Discrimination

This occurs when an organisation has recruitment and selection criteria, policies, procedures and other practices in place, which indirectly put people of a particular sexual orientation at a disadvantage when compared with others. Indirect discrimination is unlawful whether it is intentional or not.

Victimisation

Individuals who make a complaint of being discriminated against on the grounds of their sexual orientation, and who are then subject to further detrimental treatment because of their complaint, whether by bullying and harassment, or other means such as demotion or transfer, are protected by victimization legislation. This also extends to cover any third party witnesses involved in a complaint.

7 Other Considerations

- **NHS North East LGB Staff Network** – the Trust fully supports and participates in this network for LGB staff who work within the NHS in the North East. The Equality and Diversity Department have responsibility for publicising the activities and work of the network.
- **Equality, Diversity and Human Rights Awareness Training** - the Trust provides Equality, Diversity and Human Rights Awareness, and Dignity at Work Training to all staff as part of the Statutory and Mandatory training programme. Details of this are available from the Organisational Development Department. Equality, Diversity and Human Rights Awareness Training is also included in the Induction programme which all new staff attend. The above training includes sexual orientation equality awareness. Managers will receive awareness training on this policy as part of the wider Equality, Diversity and Human Rights training course for Managers.
- **Communication** – It is good practice for all employees to understand the sexual orientation of their colleagues to avoid embarrassment or difficulties. This can be achieved through discussion with those concerned and providing training and general awareness sessions for staff.

8 Procedure for resolving issues relating to this policy

If an employee feels they are being bullied or harassed because of their sexual orientation they should refer to the Trust's Dignity at Work Policy for further guidance. Trained Dignity at Work Officers can provide confidential assistance to staff, the contact details of whom are available on the Trust's intranet site or from the Human Resources Department.

Should there be any other issues which relate to an employee's sexual orientation they should be raised and dealt with in accordance with the Trust's Grievance Procedure.

9 Equality and Diversity Statement

The Trust is committed to providing equality of opportunity, not only in its employment practices but also in the services for which it is responsible. As such, this document has been screened, and if necessary an Equality Impact Assessment has been carried out on this document, to identify any potential discriminatory impact. If relevant, recommendations from the assessment have been incorporated into the document and have been considered by the approving committee. The Trust also values and respects the diversity of its employees and the communities it serves. In applying this policy, the Trust will have due regard for the need to:

- Eliminate unlawful discrimination
- Promote equality of opportunity
- Provide for good relations between people of diverse groups

For further information on this, please contact the Equality and Diversity Department.

10 Related documents

- Dignity at Work Policy
- Disciplinary Policy
- Grievance Procedure
- Single Equality Scheme