



## **NHS Grampian Equality, Diversity and Human Rights Policy for Staff**

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**The provisions of this policy, which was developed by a partnership group on behalf of Grampian Area Partnership Forum, apply equally to all employees of NHS Grampian except where specific exclusions have been identified.**

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Equality, Diversity and Human Rights Policy for Staff

**This document is also available in large print and other formats and languages, upon request. Please call NHS Grampian Corporate Communications on Aberdeen (01224) 551116 or (01224) 552245.**

**This Policy has undergone Equality and Diversity Impact Assessment.**

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# NHS Grampian Equality, Diversity and Human Rights Policy for Staff

## 1. Introduction

NHS Grampian has been at the forefront of healthcare equality, diversity and human rights in Scotland since 2005. Many of our local initiatives have been recognised as “Models of Excellence” or “Models of Good Practice” and rolled out in other Health Board and Local Authority areas.

The challenge now is for us to maintain the excellent progress we have made to date, while extending our work. Our rapid progress since 2005, has only been made possible by the hard work and commitment of all NHS Grampian staff, the support and close involvement of our local trade union and staff associations, partner agencies and other interested parties. We are confident that with their continued support, we can meet and exceed the requirements of the recently issued Scottish Government Partnership Information Network (PIN) guidelines on “Embracing Equality, Diversity and Human Rights”.

## 2. Definition of equality

Equality is about treating people fairly, with dignity and respect and ensuring that everyone has the opportunity to realise their potential.

## 3. The legal framework

There are two main pieces of equality, diversity and human rights legislation, these are the Equality Act 2010 and the Human Rights Act 1998. In addition, there are also other pieces of legislation with which NHS Grampian must comply such as the Disability Discrimination Act 2005. The main points of the Equality Act 2010 and the Human Rights Act 1998 are shown below.

### (i) Equality Act 2010

Every employee has a right to legal protection from discrimination arising from one or more of their “protected characteristics”. The 9 protected characteristics, as defined by the Equality Act 2010 are:

- Race
- Disability
- Age

- Sex (male or female)
- Sexual orientation
- Gender reassignment
- Pregnancy and maternity
- Marriage and civil partnership
- Religion or belief

NHS Grampian has a legal duty 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 (male or female) or sexual orientation) and those who do not;
- Foster good relations between people who share a protected characteristic and those who do not.

## **(ii) Human Rights Act 1998**

NHS Grampian must ensure that it complies with the requirements of the Human Rights Act 1998 in the discharge of its functions. The Sections of the Human Rights Act 1998 most relevant to staff in the health care setting are:

Article 3: No one shall be subjected to torture or inhuman or degrading treatment.

Article 8: Everyone has the right to privacy.

Article 9: Everyone has the right to freedom of thought, conscience and religion.

Article 10: Everyone has the right to freedom of expression.

Article 14: Everyone has the right to enjoy the rights and freedoms set forth in the convention without discrimination on any grounds such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

## **4. Key Principles and values**

To meet our equality, diversity and human rights obligations, the key areas of work are:

- Ensuring equality, diversity and human rights are an integral part of the way NHS Grampian functions.
- Ensuring that no one is disadvantaged due to possession of a protected characteristic.
- Creating an atmosphere in which every employee feels valued and their contribution recognised.
- Meeting the specific needs of staff with protected characteristics, for example, providing workplace adaptation for employees with a disability.
- Taking steps to reduce underrepresentation 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 to intimidation, bullying or harassment, recognising that all staff are entitled to a working environment that promotes dignity and respect for all;
- NHS Grampian will act to promote equality, diversity and human rights within our local community.
- Ensuring arrangements are in place to support staff who have equality, diversity and human rights issues;
- Equality and diversity monitoring will be undertaken on a regular basis, with any follow up action required, being taken promptly.
- Ensuring that all prospective employees applying to NHS Grampian for employment will be treated in a fair and equitable manner. Our recruitment and appointment procedures must be transparent and free from any bias or discrimination.
- Keeping this policy under regular review, in partnership, to ensure that it remains fit for purpose.

## **5. Equality, Diversity and Human Rights Obligations during the Employment Relationship**

### **(i) Recruitment and Selection**

NHS Grampian will ensure that:

- All recruitment and selection processes comply with the **NHS Grampian Recruitment and Selection Policy**.
- All those involved at any stage in the recruitment and selection process have or have planned 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 describe the job and contain only those necessary or desirable criteria which are objectively justifiable, and which are capable of being tested objectively;
- Where appropriate, vacancies are advertised widely in order to select staff from as wide and diverse a pool of potential applicants as possible, 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 any disabilities disclosed by disabled people.
- Any recruitment agencies operating on behalf of NHS Grampian must 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 be short-listed for inclusion within the selection process. The exception would be posts for which existing staff on the redeployment register must be given prior consideration.
- The 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 the 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 from taint of discrimination;
- Having secured a preferred candidate, all unsuccessful short-listed candidates will be offered feedback.
- Comprehensive records are kept, in line with the Data Protection Act 1998, which will allow NHS Grampian 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, NHS Grampian will investigate the possible causes in each case and take steps to remove any barriers.

## **(ii) During Employment**

It is the policy of NHS Grampian to ensure that:

- For all staff, at all stages and in all aspects, their employment relationship is free from discrimination, victimisation and harassment. This will be achieved through delivering the appropriate training for all staff in equality, diversity and human rights during the course of their employment.
- The **NHS Grampian Dignity at Work Policy** developed in line with the: "Preventing and Dealing with Bullying and Harassment in NHS Scotland" PIN policy 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;
- Consideration is always given to making reasonable adjustments for disabled members of staff when such requirements are disclosed, so as to avoid them 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 **NHS Grampian Flexible Working Policies** which supports the Work-Life Balance" PIN policy, and in accordance with the statutory provisions.
- Local 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.



- NHS Grampian 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, NHS Grampian 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 the gender reassignment process.
- NHS Grampian will comply with the: “Supporting the Work-Life Balance” PIN Policy in providing appropriate support to mothers who wish to breastfeed their children;
- NHS Grampian will apply the **NHS Grampian Dress Code Policy** which meets the requirements of CEL 42 (2010).
- Training and development opportunities are made known to all relevant members of staff, with selection for training (including any criteria used for selection) being free from discrimination. Furthermore, NHS Grampian will take positive action in the provision of such opportunities to remedy disadvantage, meet different needs or increase the participation of people who share a protected characteristic;
- NHS Grampian 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;
- Work is assigned to staff by managers in a fair and consistent manner;
- 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 **NHS Grampian Redeployment Policy**.
- The **NHS Grampian Policies on Employee Conduct, Employee Capability, Attendance Management, Grievance and Dignity at Work**, will be applied in a fair and equitable way to ensure that they do not discriminate against members of staff either in the way they are designed or how they are implemented in practice. Where changes to policies and procedures are being considered, in addition to consulting with recognised trade unions/professional organisations, NHS Grampian will also consult with trade union/professional organisation equality representatives as a first 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.
- Regular monitoring of overall workplace figures on matters such as requests for flexible working, promotion, training and disciplinary procedures is undertaken in order to identify any significant disparities between groups of people sharing different protected characteristics. There will also be monitoring between departments to ensure a consistency of approach.

- If disparities are found, these will be investigated and steps taken to remove any barriers.

### **(iii) Remedies**

NHS Grampian 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.

### **(iv) 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 (male or female), 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 the NHS Grampian Grievance Policy.

### **(v) Harassment**

If a member of staff feels that they have been harassed or victimised, then they should raise the matter through the **NHS Grampian Dignity at Work Policy**.

### **(vi) Dealing with Grievance or Harassment complaints**

NHS Grampian will ensure that:

- Where a complaint is made by a member of staff which alleges bullying or harassment, the complainant will not be discriminated against in the way that the organisation responds.
- Such matters will be taken seriously and investigated promptly and not dismissed as 'over-sensitivity' on the part of the member of staff;
- The matter will be thoroughly investigated using the **NHS Grampian Dignity at Work Policy**. Where an investigation recommends that a disciplinary process is appropriate, the alleged perpetrator will be given a fair hearing,
- 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.

## 6. Equality and Diversity Impact Assessment

NHS Grampian has a legal duty under the terms of the NHS Reform (Scotland) Act 2004, to Equality and Diversity Impact Assess its policies, strategies and re-organisational proposals.

Under the terms of the Equality Act 2010 (Specific Duties) (Scotland) Act 2012, NHS Grampian has a legal duty to act on any Impact Assessments carried out. It also has a duty to publicise any Impact Assessments carried out and make available copies if requested.

NHS Grampian has over 100 staff trained as Level One Impact Assessors. All Impact assessments will be carried out by staff who have received the appropriate training.

In a spirit of joint working and co-operation, NHS Grampian has also trained Impact Assessors for a number of other public bodies in the North East of Scotland.

Impact assessor Training Seminars will be run on an annual basis to ensure that there are always a sufficient number of trained Impact Assessors within NHS Grampian.

## 7. Raising Awareness

To support the fair and consistent application of this policy, NHS Grampian will ensure that through induction processes and Continuous Professional Development 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.
- Provide Equality, Diversity and Human Rights Training Seminars appropriate to staff with different levels of responsibility within NHS Grampian.
- Ensure that information on our commitment to equality, diversity and human rights is included within the induction programme.
- Ensure that information on the **NHS Dignity at Work Policy** is included in the induction programme.
- Develop and deliver additional targeted equality and diversity training in response to any issues identified as part of the monitoring process.

## **8. Equality, Diversity & Human Rights Monitoring: Annual NHS Grampian Equality and Diversity Workforce Monitoring Report**

The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 came into force on the 27<sup>th</sup> May 2012. This requires public bodies such as NHS Grampian to produce an Annual Equality and Diversity Work Force Monitoring Report covering all 9 of the “protected characteristics”, as defined in the Equality Act 2010. The 9 “protected characteristics” are:

- Race
- Disability
- Sex (male or female)
- Religion or belief
- Sexual orientation
- Gender reassignment
- Age
- Pregnancy and maternity
- Marriage and civil partnership

The Regulations require that the Workforce Report must include details of:

- The number of staff and their relevant protected characteristics
- Information on the recruitment, development and retention of employees, in terms of their protected characteristics.
- Details of the progress the public body has made to gather and use the above information to enable it to better perform the equality duty.

NHS Grampian will continue to publish annual Workforce Monitoring Reports and will continue to develop and refine our information gathering systems. Each year, the annual NHS Grampian Equality and Diversity Workforce Monitoring Report will be submitted to the Health Board in open session for formal approval. The report will also go to the NHS Grampian Area Partnership Forum for discussion and agreement.

### **Content of the Workforce Report**

For each of the 9 “protected characteristics”, Information included in our annual equality and diversity workforce monitoring reports includes details of:

## **Recruitment**

- Applicants for posts
- Shortlisted candidates
- Staff appointed

## **Existing Staff**

- Numbers
- New starts
- Leavers
- Promotions
- Disciplinary and Grievance
- Staff performance and assessment

## **Training**

- Number of Applications
- Training approved
- Training completed

## **9. Equality and Diversity Monitoring**

Within NHS Grampian, there are six main Groups/Committees who are responsible for taking forward the equality and diversity work within NHS Grampian and who also perform a monitoring role. Partnership representation is included on each Group/Committee.

These Groups/Committee are:

### **(i) NHS Grampian Racial Equality Working Group (REWG)**

The REWG are responsible for the taking forward racial equality work within NHS Grampian as well as the production and implementation of the Annual Racial Equality Action Plans. The REWG also organise at least six multi-lingual involvement and consultation events with our local ethnic communities each year. Information from these events directly informs the Annual Racial Equality Action Plans.

The REWG membership includes local ethnic community organisations such as the Grampian Regional Equality Council (GREC) and the International Centre, as well as individual members of our local ethnic communities and NHS Grampian staff.

### **(ii) NHS Grampian Disability Discrimination Act Review Group (DDARG)**

The DDARG has a wide membership with a majority being disabled people or Chairs of local disability, carer or age related organisations. There is also NHS Grampian staff representation. The DDARG are responsible for the taking forward the disability and age equality agendas within NHS Grampian as well as the production and implementation of the

Annual Disability and Age Action Plan. They also manage the Annual Programme of Physical Improvements to assist disabled people and elderly people.

### **(iii) NHS Grampian Diversity Working Group (DWG)**

The DWG are responsible for taking forward the undernoted agendas within NHS Grampian:

- Sex (male or female)
- Sexual orientation
- Gender reassignment
- Pregnancy and maternity
- Marriage and civil partnership

As well as the NHS Grampian staff and organisations represented on the DWG, the DWG also obtain input from:

- From front line NHS Grampian staff
- involvement and consultation Seminars
- Local diversity community groups
- Individual members of our local diversity communities

### **(iv) NHS Grampian Spiritual Care Committee (SCC)**

The SCC leads on spiritual care matters within NHS Grampian. The SCC maintains a partnership between local service providers, spiritual care staff, other staff and local faith Communities. SSC was created in 2004 and is chaired by the NHS Grampian Board Chair and is a Sub Committee of the NHS Grampian Board. The SSC has a wide membership including healthcare chaplains and volunteers, other healthcare staff, representatives of faith and life stance groups and members of the public. Through this wide membership, the SSC is able to involve and consult widely.

### **(v) NHS Grampian Area Partnership Forum (GAPF)**

The GAPF has a wide membership of trade union and staff side representatives, as well as management representatives.

In addition to having representatives on each of the four Groups/Committee the GAPF also performs an important monitoring and review role. This includes reviewing the annual action plans which detail the work that will help NHS Grampian to meet its short-term, medium-terms and long term goals, with the aim of improving equality and diversity within the organisation.

The GAPF are also responsible for reviewing in partnership the NHS Grampian Equality, Diversity and Human Rights Policy for Staff every three years to ensure that it remains fit for purpose and to enable NHS Grampian to demonstrate adherence to the Equality, Diversity and Human Rights PIN Policy.

### **(v) NHS Grampian Policies Committee**

The Policies Committee comprises managers and staff side representatives who are tasked with:

- ensuring that policies are produced in a timely manner for the organisation.
- Ensuring that appropriate checks have been made on any proposed policy and that Equality and Diversity Impact Assessment has taken place.
- Reviewing in partnership the NHS Grampian Equality, Diversity and Human Rights Policy for Staff every three years to ensure that it remains fit for purpose. Any updated version of the Policy will be forwarded to the GAPF for approval. This will enable NHS Grampian to demonstrate adherence to the Equality, Diversity and Human Rights PIN Policy.