

BOARD MEETING

25 October 2018

Paper Title:	Equalities in Employment Strategy
Section:	Public
Lead Director:	Sandra Knight, Director of HR and OD
Paper Author:	Lisa Wright, Head of Equality
Agenda Item:	9
Presented For:	Information
Paper Category:	Assurance

Executive Summary:

This report provides an update on the progress made in the implementation and delivery of the Equality, Diversity and Inclusion Workforce Strategy.

The strategy was ratified in January 2018 by the Trust Board. The strategy was a refresh of the BAME Diversity in Employment Strategy that ran from 2014 – 2017. This new strategy broadened the focus of the Equality Workforce Strategy to include Disability, Gender and Sexual Orientation.

A strategic reference group has been established to ensure that ownership and delivery of the strategy happens across the Trust.

A large amount of work has taken place to develop and review policies that promote equality for equality protected groups, establish systems that identify and tackle bullying and harassment in the workplace, train managers in how to identify and address bullying and harassment, create and maintain a dialogue with staff about equality and their experiences, set metrics and measure progress, develop and promote key messages across the organisation and work collaboratively to share resources and tackle these difficult NHS wide problems with local partners.

Although there has been a lot of activity the positive reduction in the gap between BAME staff and White staffs' responses to staff survey questions about harassment and bullying, career progression and equal opportunities that has been noted over the past 4 years has changed. The 2017 Staff Survey data shows an increase in that gap. The WRES data is available as part of the Workforce Race Equality Standard Report, agenda item no. 10 on the Trust Board agenda and a summary is provided at Section 3 for information. Progress will now be monitored in the same way across all of the equality groups included in the strategy – Gender, Disability, Ethnicity and Sexual Orientation.

There are challenges linked to the amount of capacity required to effectively and thoroughly carry out the work needed to identify, address and resolve bullying and harassment concerns and culture.

Recommendations:

That the Board

- Note the link between this strategy and the Equality Act 2010 general and specific duties that NHS organisations are required to comply with.

- Note the current performance of the Trust in delivering the strategy as set out in section 3.0.
- Approve the future priorities as set out in section 5.0 including the proposal that Board members become role models and ambassadors for the Strategy.
- Note the challenges outlined in section 4.0.

Governance/Audit Trail:

Meetings where this item has previously been discussed (please mark with an X):					
Audit Committee		Quality & Safety Committee	X	Remuneration Committee	Finance, Business & Investment Committee
Executive Management Team		Directors		Chair of Committee Meetings	Mental Health Legislation Committee
Council of Governors					

This report supports the achievement of the following strategic aims of the Trust: (please mark those that apply with an X):	
Consolidation of Market Share: being great in our patch	X
Manage the impacts of the whole system of reduced health and social care funding: working in partnership to develop cost effective out of hospital services and pathways to support the delivery of sustainable services	
Secure Funding for new or expanded services	

This report supports the achievement of the following Regulatory Requirements: (please mark those that apply with an X):	
Safe: People who use our services are protected from abuse and avoidable harm	x
Caring: Staff involve people who use our services and treat them with compassion, kindness, dignity and respect	x
Responsive: Services are organised to meet the needs of people who use our services	x
Effective: Care, treatment and support achieves good outcomes, helps to maintain quality of life people who use our services and is based on the best available evidence.	x
Well Led: The leadership, management and governance of the organisation make sure it's providing high-quality care that is based around individual needs, encourages learning and innovation, and promotes an open and fair culture.	x
NHSI Single Oversight Framework	

Equality Impact Assessment:

This work focuses on collecting and analysing data, and implementing activity that furthers the three general duties of the Equality Act 2010:

- Enhancing equal opportunities,
- Fostering good community relations between groups and;
- Eliminate discrimination, harassment and victimisation.

With a specific emphasis on Race, Disability, Sexual Orientation and Gender.

Freedom of Information:**Publication Under Freedom of Information Act**

This paper has been made available under the Freedom of Information Act

Equality, Diversity and Inclusion Workforce Strategy - Update October 2018

1.0 Background and Context

Public Sector organisations with more than 150 staff are required to publish a set of Equality Objectives every four years to be compliant with the Public-Sector Duties of the Equality Act 2010. The Equality Objectives reflect the priorities the organisation has identified to focus on improving during that four-year period.

The BDCFT Equality Objectives have been developed using the NHS Equality Delivery System Framework (2) (EDS2¹). The EDS2 is the national NHS framework for assessing equality performance and priorities. The system includes a set of 18 equality outcomes that fall within the following categories:

- ***Better health outcomes for all,***
- ***Improved patient access and experience,***
- ***A representative and supported workforce,***
- ***Inclusive leadership***

The above system is designed to help NHS organisations identify the key inequalities (and strengths) in partnership with local people and then develop plans to address the inequalities. The plans are monitored externally with community partners.

The Equality, Diversity and Inclusion Workforce Strategy has been developed as the strategic driver for delivering the Trust's workforce related Equality Objectives. The objectives and the strategy encompass all of the statutory and mandatory equality requirements; Gender Pay Gap², Workforce Race Equality Standard (WRES)³, Workforce Disability Equality Standard⁴. This report provides an update on the delivery of those requirements.

These priorities are based on information such as the staff survey, Workforce Race Equality metrics, staff focus group feedback and EDS Performance Panel feedback. The strategy was ratified at Trust Board in January 2018 and is published here as evidence of the Trust compliance with the Equality Act 2010 Public Sector Duties;

<http://www.bdct.nhs.uk/wp-content/uploads/2018/04/Equality-and-Diversity-Workforce-Strategy-2018-2020-Approved.pdf> <http://www.bdct.nhs.uk/wp-content/uploads/2018/04/Equality-and-Diversity-Workforce-Strategy-2018-2020-Approved.pdf>. An action plan was approved in January and is included for information in appendix 1.

2.0 About the Strategy

The strategy includes six key objectives that aim to work together to reduce inequality and promote equal opportunities for Disabled Staff, Lesbian, Gay and Bisexual Staff, Staff from

¹ <https://www.england.nhs.uk/about/equality/equality-hub/eds/>

² <https://gender-pay-gap.service.gov.uk/public/assets/pdf/gender-pay-gap-explained.pdf>

³ <https://www.england.nhs.uk/about/equality/equality-hub/equality-standard/>

⁴ <https://www.england.nhs.uk/2016/09/wdes/>

Black, Asian and Minority Ethnic Backgrounds and Staff experiencing inequalities because of their gender. The objectives are as follows;

- To embed the Strategy across the Trust to ensure that all staff are aware of their duties within the Equality Act 2010 and what commitments have been made to improve workforce equality.
- To create a diverse and inclusive culture that ensures staff from all backgrounds can progress, feel valued, are involved and enjoy coming to work.
- To explore and understand data about inequality, diversity and inclusion to inform the work of the strategy, measure performance and progress and help change practice and behaviours where required. This data comes through ESR workforce data, the WRES and WDES metrics, the staff survey, crowdsourcing, Freedom to Speak Up Concerns, Grievances, Staff Partnership Forums and Staff Networks and Staff Focus Groups and events. It is used to shape and develop training and training resources and for discussion and objective setting in teams.
- To review and Improve Policy, Procedure and Process to ensure that there is no opportunity for policy to create indirect discrimination and that every opportunity to promote equality is used. This includes monitoring the way policy, procedure and process is implemented and delivered across the Trust to identify and address differences that create inequality.
- To identify and tackle bullying, harassment and abuse that relates to a protected characteristic. This has been a consistent disproportionate issue reported as being experienced by BAME, LGBT, Disabled and Male staff in the NHS Staff Survey. Systems have been established to pick up 'hot spots' and their underlying causes using staff focus groups, risk, grievance, Freedom to Speak Up Concerns and staff network intelligence.
- To monitor progress and emerging priorities to ensure that the strategy is live with current issues, is meeting the needs of staff and addressing those current issues.

The table in section 4.0 provides an update on delivery against each of these objectives.

3.0 Current position and performance

A detailed update on activity and impact against each objective is included for information in appendix 3. A summary is included below.

Staff Survey 2017 - The staff survey results make up several the key metrics of the WRES and WDES. The data can also be analysed by Sexual Orientation and Gender so gives a useful insight into staffs' feelings from those groups about working for the Trust, levels of satisfaction and experiences of discrimination and abuse. The results have been analysed to look for differences in responses from staff in the following protected characteristic groups; age, disability, ethnicity, sexual orientation and gender. The findings have been shared widely with directorates and service governance groups. A summary of the analysis can be found in **appendix 2**.

The findings show that there are significant negative differences in the way that staff from protected equality characteristic groups answer questions relating to their experience of bullying and harassment, discrimination, satisfaction with levels of pay, thinking that the Trust offers equal opportunities for progression and likelihood of recommending the Trust

as a place to work when compared with other staff. A series of focus groups have been held with staff from each protected group to discuss the findings, the outcomes of which have been embedded into the work programme.

A new set of data was submitted to NHS England on 1st August 2018 for the **Workforce Race Equality Standard (WRES)**⁵. A narrative report also goes to Trust Board in October 2018. It is however worth noting that:

- The percentage of BAME staff in bands 8 and 9 has dropped further below the national average (11%) from 10% in 2017 to 9% in 2018.
- The relative likelihood of White staff being appointed from shortlisting compared to that of BAME staff being appointed from shortlisting has increased from 0.99 to 1.15. (Although this has increased it is still below the national average of 1.57 so there is clearly more work to be done).
- The relative likelihood of BAME staff entering the formal disciplinary process, compared with White staff is 2.00; almost double. The national benchmark for this was 1.56 for all responding Trusts.
- The percentage of staff believing that the Trust provides equal opportunities for career progression and promotion is 66% for BAME staff respondents and 85% for White staff. The gap is 19% which is above the national 2015 benchmark of 13%.
- In the last 12 months 20% of BAME respondents and 7% of White staff have personally experienced discrimination at work from their manager, team or colleagues. The gap has increased by 5.5%.
- The percentage difference between the organisation's Board voting membership and the overall workforce is -19%. The data on ESR that is required to be submitted shows that 0% of the Trust Board is from a BAME background. However 23% of Trust Board members had their ethnicity recorded as 'ethnicity unknown'.

Actions that respond to the key issues highlighted by the data have been embedded into the Equality, Diversity and Inclusion Workforce Strategy.

In 2017 new Equality Act regulations were published. These included the requirement of organisations to publish their **Gender Pay Gap**. The Gender Pay Gap is the difference between the average hourly rate of pay paid to male and female employees; the difference between the average bonus paid to male and female employees; the proportions of male and of female employees who receive bonuses; and the relative proportions of male and female employees in each quartile pay band of the workforce.

The Gender Pay Gap is 3% and the Bonus Gender Pay Gap (GPG) is 37%. A report went to Trust Board in February⁶ detailing the data behind that gap and setting out the key actions that will be undertaken as a result. Nationally 116 Trusts of a similar workforce size to BDCFT reported their GPG. Of those, 2 reported a gap in favour of women. The 114 other Trusts GPG ranged from 1.3% to 38.9% and BDCFT was ranked 5th. Further work has been undertaken to analyse the gap by staff group, ethnicity and disability.

<https://www.england.nhs.uk/about/equality/equality-hub/equality-standard/>

⁶ <https://www.bdct.nhs.uk/wp-content/uploads/2018/02/Item-13-Gender-Pay-Gap-Feb-Board-Paper-FINAL.pdf>

The **Workforce Disability Equality Standard (WDES)** - This will be mandated via the [NHS Standard Contract](#) in England from April 2018, with a preparatory year from 2017-18. It is expected that the Trust will need to publish data in the same way as is done for the WRES by April 2019. In preparation for the Standard implementation data has been analysed and focus groups held with disabled and non-disabled staff. The outcomes of that have been embedded into the Equality, Diversity and Inclusion Workforce Strategy. The Absence Policy has been reviewed to ensure that disabled staff are well supported through sickness processes and that their wellbeing is discussed and supported by managers as a must do. A summary of this data is included in the Staff Survey Analysis in Appendix 2.

Sexual Orientation Equality - The LGBT Staff Network has been relaunched with a new Chair to lead its developments. An LGBT Staff Focus Group was held to share and discuss the staff survey results. The following actions were agreed at that session:

1. To hold regular focus groups to enable LGBT staff to talk about the Equality, Diversity and Inclusion Strategy aims, how they are experiencing the organisation and their work and to enable networking and the development of the LGBT Staff Network.
2. The Rainbow Lanyard Campaign will be linked to training – e-learning and face to face that increases staff awareness of LGBT equality. Completion would enable staff to get a rainbow ribbon / lanyard. Additional training will be targeted into hotspot areas.
3. Information detailing the places that staff can go to talk about discrimination, abuse, bullying and harassment or inequality.
4. Staff were concerned about writing about discrimination, bullying, harassment as an IRE as they were unclear about whether managers had to sign those off. An information sheet about where staff can talk about discrimination, bullying and harassment and the action that would follow will be developed to clarify this and help create an open culture.
5. Staff would be more likely to disclose their Sexual Orientation in ESR if they knew what happened to that information, who saw it and what it was used for. Information about this needs to be produced to go out with the ESR validation exercise.

4.0 Challenges

There are several challenges to this work. As the key messages about the Trust's approach and commitment to addressing bullying, harassment and abuse are discussed regularly there is an increase in the number of cases being reported. Although this increase is concerning it may also indicate that staff are more likely to report the bullying, harassment and abuse that they are experiencing because of the networks for reporting that have been established. Two new questions have been put forward for inclusion in the 2018 staff survey. These are asking staff 'how likely would you be to report an incident you have experienced of discrimination or abuse at work to your line manager?', and 'How confident are you that the incident would be dealt with well?'. These questions should give some further information on progress and performance around this issue.

As more incidents are reported the workload linked to this increases. Feedback from managers and HR staff investigating and responding to these issues is that it takes time to be done properly and sensitively. The capacity to do this is stretched already and the increase poses a challenge and the risk that issues will not be addressed in a timely and thorough manner that staff are satisfied with and prevents further occurrences or addresses cultures of bullying and harassment.

A pilot of employing additional resources to respond to these issues through the Trust's Staff Bank is being established.

5.0 Priorities for the next six months

The Strategic Reference Group for the Equality, Diversity and Inclusion Workforce Strategy met in September 2018. The group includes representatives from each of the Corporate Directorates, Business Units and Staff Networks. The group discussed and agreed these key actions to be delivered before the next meeting in November;

- To continue with the communication plan for the strategy to ensure that this is a 'drum beat' in the organisation.
- For all members of the group to become ambassadors for the work – Communications will develop case studies and publicise them across the Trust.
- To further analyse the Trust wide data (for example grievances and disciplinaries, bullying and harassment and career progression) to provide to Corporate Functions and Business Units to help shape their discussion and understand their position and priorities.
- To develop a quarter 3 Equality Newsletter that incorporates the key messages of the strategy – included in appendix 4.
- All representatives to get the strategy onto team meeting agendas with the aim of sharing the statistics and setting priorities and agreeing a local objective, informing the group of what support is required (to be reported on at the end of November).
- Consideration be given to how we can celebrate diversity through things like You're A Star Award, equality events and I-Care.
- Embedding the key messages into other events.

In addition to these actions the following are priorities for delivery against the action plan in the next two quarters:

- Bi-monthly briefings about the work shared via e-communications, staff networks, team briefings.
- Development of an equality webpage.
- Quarterly Focus Groups to be held with staff to discuss the strategy's implementation and results of the 2018 staff survey as they emerge
- Support the staff networks to steer this agenda and support the delivery of these priorities.
- Continue to deliver training for team leaders developing the Confidence and Skills to Have Challenging and Constructive Discussions with Staff from a Diverse Range of Backgrounds.
- Develop and deliver the LGBT Staff Equality Training and Associated Rainbow Campaign.
- Carry out an ESR Data Validation Exercise.
- Facilitate the 2018 Staff Survey and analyse the data.
- Continue to analyse and share the Grievance and Disciplinary data.
- Redesign Moving Forward in response to the review.
- Deliver the Recruitment Fayres.
- Prepare for an update of the Gender Pay Gap and WDES reporting requirements.
- Continue to deliver Bullying and Harassment Training and monitor its impact.
- Review the recommendations of the national WRES team around recruitment and formal employee relations case handling linked to best practice examples elsewhere in the country
- Board members become role models and ambassadors for the Strategy – Communications will interview each one to develop a case study.

6.0 Implications

6.1 Legal and Constitutional

The WRES and WDES are part of the NHS Standard Contract and are of interest to commissioners and NHS England as a result of the links between staff satisfaction and quality of care; particularly of BME staff. The Gender Pay Gap is a legal requirement of the Equality Act 2010.

The work addresses the General Duty of the Equality Act 2010 and the Equality Act Regulations 2017 to:

- Eliminate harassment, discrimination and victimisation of protected characteristic groups.
- Foster good community relations between groups and;
- Promote equality of opportunity.

6.2 Resource

The work is led by the Human Resources and Organisational Development Directorate by the Head of Equality with support from an Organisational Development Lead. The next phase of implementation requires services to take ownership in addressing inequalities identified within their teams through the Strategic Reference Group. This work will be led

via the team level Quality and Safety Governance Groups and will require leads within services and Corporate Functions to agree local priorities and objectives based on their data that will make a difference.

6.3 Quality and Compliance

The Equality, Diversity and Inclusion Workforce Strategy and action plan provide evidence of compliance with the Equality Act 2010 and commitment to the principles set out in the CQC ‘Equally Outstanding’ Good Practice Resource⁷. Information evidencing compliance needs to be published to be compliant with the Public Sector Equality Duties.

To be compliant with the WRES, WDES and Gender Pay Gap requirements the Trust needs to submit data annually to NHS England, commissioners and to publish this information online. The data has been submitted within the timescale required; this report once approved will be published and circulated to commissioners for compliance.

7. Risk Issues Identified

Risk	Likelihood High/Medium/Low	Implication	Mitigation
Not meeting the requirements for compliance outlined above.	Low	The Trust is in breach of the Equality Act 2010	Publication is planned once the WRES report has been to Trust Board and similarly for the other national reports required around disability and gender.
Employment Tribunal claim for discrimination.		The cost of a tribunal claim financially and reputational. Plus the impact on staff morale.	The organisation is publicly committed to the strategy objectives. An action plan is in place based upon the data and issues it identifies. Staff are being engaged in that work. Policies and procedures are in place for tackling discrimination.
The Trust is not an attractive employer within the communities of interest supported	Medium	The Trust cannot retain or recruit diverse staff.	The strategy and action plan sets out a series of objectives to tackle inequality for current staff from these groups and to attract in new staff from

⁷ <https://www.cqc.org.uk/publications/equally-outstanding-equality-human-rights-good-practice-resource>

by the strategy.			these communities.
------------------	--	--	--------------------

8. Communication and Involvement

The Equality, Diversity and Inclusion Workforce Strategy was ratified at Trust Board in January 2018. The strategy is built on priorities identified through the Board discussions, investment in plans to work with teams and services to address cultural barriers to change, EDS (2) process, consultation with staff via the staff networks and Diversity Day events. In future crowd sourcing will be used as a means of reaching out further to all staff for their views and ideas. Focus groups have been running with staff to talk about the staff survey findings and data. These will continue and run alongside the Strategic Reference Group for the Equality, Diversity and Workforce Strategy Group which is Chaired by Sandra Knight, Human Resources and Organisational Development Director.

9. Monitoring and review

The ongoing monitoring of the equality and diversity requirements happens through the bi-annual EDS (2) update at Quality and Safety Committee. A six monthly review of progress against this strategy will come to Trust Board in May 2019, and further report on the WRES performance in October 2019, once WRES data has been produced and analysed. The objectives and actions within the Equality, Diversity and Inclusion Workforce Strategy will continue to be reviewed at the Equality, Diversity and Inclusion Strategic Reference Group.

10. Timescales/Milestones

The 2019 WRES data is required to be submitted by 1st August 2019. The WDES data is required to be published in Autumn 2019 – dates have not yet been issues. The Gender Pay Gap requires a further report to Trust Board and refreshed data by April 2019.