

LICB Equality, Inclusion and Human Rights Policy

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Contents

	Page
1 Introduction	4
2 Purpose	4
3 Scope	4
4 Definitions	4
5 Roles and Responsibilities	5
6 Main Body of Policy	7
7 Communication, Monitoring and Review	8
8 Staff Training	9
9 Equality and Diversity Statement	9
10 Interaction with other Policies	10
Appendix A – Equality legislation	12

1. Introduction

- 1.1 This document is the policy of NHS Lincolnshire Integrated Care Board (LICB) for ensuring compliance with all of our statutory obligations around equality inclusion and human rights (in particular the Equality Act 2010) in respect of our duties as employers and as commissioners of NHS services. The policy also works in line with our responsibilities under the Human Rights Act 1998 and the Health and Social Care Act 2012 to address health inequalities.
- 1.2 This policy replaces all previous equality, inclusion and human rights policies managed by the ICB and supports the ICB's equality, inclusion and human rights Strategy 2020 – 23.

2. Purpose

- 2.1 This policy provides a framework for the ICB to ensure compliance with the Equality Act 2010 and associated guidance from the Equalities and Human Rights Commission and the Government Equalities Office.
- 2.2 This document sets out the ICB's policy on promoting equality, inclusion and human rights (EIHR) in relation to employment, service delivery, goods and supply of service including contractors and partner agencies. Its aim is to ensure that no individual or group receives less favourable treatment either directly or indirectly and that reasonable adjustments are made proactively and effectively in response to individual needs and requirements.

See section 6 Page 9 for policy statement

3. Scope

- 3.1 This policy applies to all those working for the ICB including contractors and to all service users, carers and visitors to the ICB. This policy also applies to all activities and functions undertaken by, or on behalf of, the ICB.

4. Definitions

- 4.1 This section provides a clear definition of terms used in the policy.

Term	Definition
001	Diversity – Diversity is the recognition and valuing of difference in its broadest sense. It is about creating working culture and practices that recognise, respect, value and harness difference for the benefit of the organisation, its workforce and the individual, including patients
002	Due Regard – Having due regard for advancing equality involves: <ul style="list-style-type: none">• Removing or minimising disadvantages suffered by people due to their protected characteristics.• Taking steps to meet the needs of people from protected groups where these are different from the needs of other people. Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

003	Equality – Equality is not about treating everyone the same it is about creating a fairer society where everyone can participate and has the opportunity to fulfil their potential. It is backed by legislation designed to address unfair discrimination based on particular protected characteristics.
004	Equality Impact Assessment (EIA) – An equality impact assessment (EIA) is the process of applying a designed set of questions in order to ensure that a policy, product or service does not discriminate against patients and service users with protected characteristics. It enables consideration of equalities aspects in policy/service review, design and implementation.
005	Health Inequalities – A health inequality is when a patient/s or groups experience worse health outcomes than the majority of patients. The reasons for such inequalities can be varied. ICBs have a legal duty to understand and work to reduce such inequalities.
006	Human Rights – 'Human rights' are the basic rights and freedoms that belong to every person in the world. They are the fundamental for human beings to flourish and participate fully in society. Human rights belong to everyone, regardless of their circumstances. They cannot be given away or taken away from you by anybody – although some rights can be limited or restricted in certain circumstances. For example, your right to liberty (Article 5, European Convention on Human Rights) can be restricted if you are convicted of a crime.
007	Inclusion – The policy or practice of providing equal access to opportunities and resources for people who might otherwise be excluded or marginalized, such as those who have physical or mental disabilities and members of other minority groups.
008	Protected Characteristics – This policy is intended to protect employees and service users from unfair treatment, regardless of their background. Our definition of 'protected characteristics' is based on those set out in the Equality Act 2010. The nine protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation
009	Public Sector Equality Duty – A public authority (including NHS organisations) must, in the exercise of their functions, have due regard to the need to: <ul style="list-style-type: none"> • Eliminate discrimination, harassment and victimisation or any other conduct prohibited by the Equality Act 2010 in relation to the protected characteristics • Advance equality of opportunity between all persons; and • Foster good relations between groups of people sharing a protected characteristic and those that do not. More details on the law can be found in Appendix A, page 13

5. Roles and Responsibilities

5.1 This section states the key responsibilities for specific roles and staff groups in relation to delivering the documents objectives.

Role	Responsibilities
001	The Board The Board has overall corporate responsibility for ensuring that the ICB complies with their legal and ethical obligations with regard to EIHR in their

	<p>dealings with staff, service users, patients, the public and other stakeholders. In addition, the Board will:</p> <ul style="list-style-type: none"> • ensure that the organisation has equality objectives that meet the requirements of the public sector equality duty as set out under the provisions of the Equality Act 2010; • receive and consider regular reports in order to evaluate the effectiveness of the policy.
002	<p>Directors and Heads of Service</p> <ul style="list-style-type: none"> • Directors and Heads of Service are responsible for the implementation of this policy; • Directors and Heads of Service have specific responsibility for monitoring the effectiveness of this policy and deciding on appropriate actions in response to any needs identified.
003	<p>Managers and Team leaders</p> <ul style="list-style-type: none"> • ICB managers hold responsibility for ensuring the practical application of this policy and for the incorporation of its principles into all other ICB policies and procedures; • Managers should be aware that they will be expected to positively promote high equality standards in line with the requirements of the Act; • Managers, and other employees in supervisory positions, have a particular duty to ensure that discrimination, or any other breaches of this Policy, do not occur in any directorates/departments or areas of work for which they are responsible and to give positive support to any measures which will promote equality, inclusion and human rights; • Managers will ensure that their employees have undertaken the appropriate mandatory equality and diversity training and, if involved with recruitment and selection, the necessary training to enable them to be involved in that process; • Managers will ensure that those who report to them, but are not employed by the ICB, e.g. volunteers and providers of goods and/or services, take responsibility for their behaviour and conduct in the workplace and to make them aware of the practical application of this policy; • Managers will assist with the monitoring of compliance within their area of responsibility in respect of the ICB's equality objectives; • Managers will be involved in the development of policies, commissioning cases and service redesign initiatives that are responsible for ensuring that 'Due Regard' is conducted at an early stage and at key stages as the exercise develops; • Responsibility for ensuring that any allegations of discriminatory behaviour or practices are correctly investigated and appropriate action taken. This may involve the use of the policies for Disciplinary, Dignity at Work, Managing Performance and Grievance policy.
004	<p>Responsibility of Staff</p> <p>Good employee relations and practices depend on employees' attitudes and activities at work. Individual employees: -</p> <ul style="list-style-type: none"> • Have a personal responsibility for the application of this policy on a day-to-day basis. This means they should not undertake any acts of discriminatory practice in the course of their employment; • Should positively promote high equality standards during their employment wherever possible;

	<ul style="list-style-type: none"> • Have a responsibility to bring any potentially discriminatory practice to the attention of either their Line Manager, the Human Resources Department or relevant Trade Union/Professional Associations; • Must not victimise individuals on the grounds that they have made complaints or provided information on discrimination but must be active in informing management of discrimination.
005	<p>External Contractors and Agencies (Providers of Goods and Services)</p> <ul style="list-style-type: none"> • Providers of goods and services should have access to this policy; • Contractors and their staff have an equal responsibility to ensure that this policy is adhered to and will be the subject of any contract compliance monitoring; • External contractors and agencies providing services on behalf of the ICB, on ICB premises will be expected to make their staff aware of the ICB's EIHR policy and comply with it; • Discrimination on the grounds listed above will not be tolerated by the ICB, whether committed with intent or negligence.
006	<p>Patients/Service Users/Carers/Visitors</p> <ul style="list-style-type: none"> • Patients, service users, carers and visitors are expected to be respectful to all staff and other patients; • Patients, service users, carers and visitors who are verbally or physically abusive or who make derogatory statements that are of a discriminatory nature to any staff or other patients should be aware that they will be challenged about their behaviour. Where appropriate, the ICB may consider limiting or withdrawing the provision of services to, service users/carers/visitors and may seek to prosecute individuals where it deems necessary. Before any actions are taken such as a service being removed or reduced, the organisation will consider individual circumstances relating to a persons capacity and learning disabilities.

6. Main Body of Policy

The LICB Equality Policy is developed in relation to equality legislation and works in line with different frameworks and tools for implementation, review and assessment.

Legal:

6.1 **Legal Context** – All NHS organisations have a statutory duty to comply with equality legislation including: -

- The Equality Act 2010, Section 149 (the Public Sector Equality Duty), and the (Specific Duties) Regulations 2011. See appendix 1a.
- Human Rights Act 1998
- Health and Social Care Act 2012

LICB must ensure that commissioning, service provision and workplaces provide equality of opportunity and fair treatment for all. Appendix A provides more detailed information on the above pieces of legislation and LICB responsibilities.

Policy Procedural Requirements:

6.2 EDS (Equality Delivery System)

A new EDS version has been introduced in 2022 to replace the previous EDS2. The purpose of the EDS is to drive up standards for equality performance and embed equality into mainstream NHS business. Delivery of EDS helps NHS organisations to meet: -

- requirements of the Public Sector Equality Duty
- equality aspects of the NHS Constitution
- equality aspects of the NHS Outcomes Framework
- equality aspects of CQC's Essential Standards

The EDS, which covers the 9 protected characteristics described in the Equality Act 2010, provides a focus for organisations to assess the physical impact of discrimination, stress, and inequality, providing an opportunity for organisations to support a healthier and happier workforce, which will in turn increase the quality of care provided for patients and service users.

LICBs objectives, action plans and policies will align with the outcomes of the current EDS 2022, and we will regularly review our activities and procedures to ensure that we continue to embed our EIHR work around the new EDS three domains and eleven outcomes: -

- Domain 1: Commissioned or provided Services
- Domain 2: Workforce Health and Wellbeing
- Domain 3: Inclusive Leadership

The evidence produced for the eleven outcomes across the three EDS domains, is scored and weighted, leading to an overall EDS rating for the organisation. It is these ratings that provide assurance or point to the need for improvement.

6.3 **Equality Impact Assessment (EIA)** – This process is designed to enable managers to identify the impact, both positive and negative, which a proposed policy, commissioning activity, service redesign or other function might have upon different protected characteristic. In the light of the EIA, managers can make changes which aim to maximise potential benefits and mitigate the negative impacts for the target groups. An updated EIA template is available for staff to use through the link on page 11. This template also includes a section to document Health Inequality considerations.

6.4 **Consultation and Engagement** – During the development/review stages, we will consult and engage with relevant LICB staff and forums and committees to ensure that all pertinent aspects of the policy have been included and processes for implementing into different activities/functions have been understood and encompassed.

7. Communication, Monitoring and Review

7.1 To ensure transparency, the approved policy will be communicated to all staff and be made available on the LICB website/intranet site. This policy can be available in different formats to respond to specific communication needs of individuals in response to requests for reasonable adjustments.

7.2 This policy will be reviewed on annual basis to incorporate any legal and compliance changes. Any reviews of the policy will go through the LICB Equality Forum, which acts as a supportive mechanism for the development, implementation and monitoring of EIHR

and engagement work within the LICB. All reviews and new versions of the policy will be subject to a review of the equality impact assessment conducted as part of the process.

- 7.3 Any individual who has queries regarding the content of this policy or has difficult understanding how this policy relates to their role, should contact the “Document Owner/Author”.

8. Staff Training

- 8.1 All staff receive statutory and mandatory Equality, Inclusion and Human Rights training in line with NHS requirements. In addition, suitable training will be provided to staff and decision makers as required.

9. EHR Policy Statement

- 9.1 NHS Lincolnshire ICB has developed this policy to meet the diverse needs of our workforce, service users and local population. Through its implementation the ICB will ensure that no one is placed at a disadvantage over others. It considers current UK legislative requirements, including the Equality Act 2010, Human Rights Act 1998, Health and Social Care Act 2012 and promotes equity of opportunities for all. This document has been designed to ensure that no-one receives less favourable treatment due to their personal circumstances i.e. the protected characteristics of their age, disability, sex (gender), gender reassignment, sexual orientation, marriage and civil partnership, race, religion or belief, pregnancy and maternity. Appropriate consideration has also been given to gender identity, socio-economic status, immigration status and the principles of the Human Rights Act. In carrying out its functions, NHS Lincolnshire ICB is committed to having due regard to the Public Sector Equality Duty. This applies to all the activities for which the ICB is responsible, whether internal or on behalf of customers, including policy development, implementation, review and evaluation.

LICB responsibilities:

- 9.2 **Employment** – It is important that our workforce is treated with the respect and dignity and that our recruitment practices are fair and inclusive to all. To ensure equality is embedded into the workplace and employment practices we will: -
- To proactively respond to the principles of the NHS People Plan and apply this in our work.
 - not discriminate on the basis of age, disability, gender reassignment, marital status or civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation in the allocation of employees employed in any post
 - consider all employees solely on their merits for career development and promotion and work to ensure equality of opportunity for all
 - develop employees in order that they understand the context of and the specific issues influencing equality, diversity, inclusion and human rights
 - expect all employees of LICB to treat patients, carers and colleagues with dignity and respect
 - support and adhere to family-friendly and flexible working policies
 - ensure that our recruitment and selection procedures are up to date and refer to how the ICB will implement equal and inclusive practices – please refer to LICB separate recruitment and selection policy
 - The ICB is fundamentally committed to the principle of making reasonable

adjustments for applicants and its staff

9.3 **Service delivery** – It is important that services and facilities are accessible, adequate and appropriate to the needs of all users. To ensure Equality in service delivery the ICB will: -

- Work in line with the principles of the NHS constitution
- consult with different community groups and voluntary organisations to determine the needs of different local service users
- ensure that buildings, facilities and services are accessible to people with a range of disabilities
- reflect on positive images in LICB publications of the diverse range of people living in the local community we serve
- ensure that all contractors, service providers, and other workers not directly employed by the ICB, are aware of, and comply with, the ICB's Equality Policy
- deal with complaints promptly and fairly through the ICB's complaints procedure and respond to the needs of people from different protected characteristics accordingly
- continue to monitor patient data and service use to ensure that no unlawful discrimination is taking place in terms of service delivery
- use the Equality Delivery System and Workforce Race Equality Standard, Workforce Disability Equality Standard and any other? future standards to formulate equality targets and initiatives to improve service delivery
- create services which recognise diversity and meet different needs and within the available resources e.g. interpretation and translation, providing accessible information and visual aids etc.
- ensure that all employees are committed as individuals to promote EIHR internally and externally.

9.4 **Commissioning and Contracting** – The ICB is committed to creating an environment in which all people have equal, dignified and ease of access to our services and facilities through the full range of our activities, employment and services that we commission from our providers. We will: -

- ensure that the purchase of goods, services and facilities is undertaken in line with our equality, inclusion and human rights commitments
- use providers and suppliers who share our values on equality of opportunity, inclusion and human rights
- establish procedures to ensure that businesses from diverse communities have a fair and equal chance of competing for collaborative procurement contracts to supply goods and services to the ICB.

10. Interaction with other Policies

10.1 Below is a list of other documents/policies the policy document should be read in conjunction with (if applicable).

Dignity at Work:

<https://lincolnshire.icb.nhs.uk/~documents/staff-documents/policies-and-procedures/human-resources-policies/icb-hr-012-dignity-at-work-policy/?layout=default>

Disciplinary:

<https://lincolnshire.icb.nhs.uk/~documents/staff-documents/policies-and-procedures/human->

[resources-policies/icb-hr-002-disciplinary-policy/?layout=default](#)

Flexible working policy:

[ICB HR 010 - Flexible Working Policy Final.docx \(live.com\)](#)

Grievance policy:

[ICB HR 003 - Grievance Policy Final](#)

Other relevant policies can be found:

[https://lincolnshire.icb.nhs.uk/documents/our-policies-and-procedures/](#)

Equality Impact Assessments Template and guidance:

[https://lincolnshire.icb.nhs.uk/staff-documents/equality/equality-impact-assessment-guidance/](#)

Useful EIHR contact:

AGEM – EIHR Team

agcsu.equality@nhs.net

Appendix A

Legislation

1. The Equality Act 2010 – Public sector duty

All listed public authorities (including ICBs and NHS England) have legal obligations relating to:

- Section 149 of the Equality Act 2010 (the Public Sector Equality Duty), and
- The Equality Act 2010 (Specific Duties) Regulations 2011.

In summary this means that as ICBs we have legal obligations to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

These are often referred to as the three aims of the Public Sector Equality Duty (PSED) and apply to the following protected characteristics:

- Age
- Disability
- Gender
- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sexual orientation
- Marriage and civil partnership (but only in regards to the first aim - eliminating discrimination and harassment)

The PSED applies to the exercise of all ICB functions. This includes, for instance, any decision made, any policy developed, any programme implemented and any practices driving activity. It also applies to functions and services provided by others on behalf of the organisation such as contractors and partners. Both new policies and decisions and existing policies and decisions, when reviewed, come within the PSED.

Paying due regard

Every day, decisions are made within the ICB that affect the lives and relationships of all our patients, service users, carers and staff.

The Equality Act 2010 requires us to pay '*Due Regard*', when considering the effects on different groups protected from discrimination (protected characteristics). Due regard can be demonstrated by carrying out an equality impact analysis (EIA), which assesses the potential positive and/or negative impact an activity may have on different individuals/groups. Failure to pay due regard opens the organisation to external challenge.

Specific duties

Under the specific duties of the PSED, ICBs are required to publish information showing how we are complying with the PSED when taking decisions and making policies, including the impact of policies on both employees and the public, in a manner that is accessible to the public: Specific duties require the ICB to publish:-

- a) Information to demonstrate its compliance with the PSED at least annually. This information must include, in particular, information relating to people who share a protected characteristic who are:
 - its employees
 - people affected by its policies and procedures (in other words, the population of LICB for whom the ICB commissions services).
- b) Equality objectives at least every four years. All such objectives should be specific and measurable.

2. Human rights Act 1998

Human Rights are the basic rights all individuals have, regardless of who they are, where they live or what they do. Human rights represent all the things that are important to human beings, such as the ability to choose how to live their lives and being treated with dignity and respect.

The UK Human Rights Act contains 15 basic rights:

- The right to life.
- The right not to be tortured or treated in an inhuman or degrading way.
- The right to be free from slavery or forced labour.
- The right to liberty and security.
- The right to a fair trial.
- The right to no punishment without law.
- The right to respect for private and family life, home and correspondence.
- The right to freedom of thought, conscience and religion.
- The right to freedom of expression.
- The right to freedom of assembly and association.

- The right to marry and have a family.
- The right not to be discriminated against in relation to the enjoyment of any of the rights contained in the European Convention.
- The right to peaceful enjoyment of possessions.
- The right to education.
- The right to free elections.

The ICB will consider these human rights principles in relation to our staff, patients and communities at all times, aiming to demonstrate our commitment to quality outcomes which will improve the patient experience in the services we commission, and provide satisfaction to staff that they are undertaking a job that is valued.

3. Health and Social Care Act 2012

There is clear evidence that reducing health inequalities improves life expectancy and reduces disability across the social gradient. Tackling health inequalities is therefore core to improving access to services, health outcomes, improving the quality of services and the experiences of people. It is also core to the NHS Constitution and the values and purpose of the NHS.

The NHS Constitution 2 states that the NHS has a duty to “...pay particular attention to groups or sections of society where improvements in health and life expectancy are not keeping pace with the rest of the population”. This is reflected in the National Health Service Act 2006 (as amended by the Health and Social Care Act 2012), which introduced for the first time legal duties to reduce health inequalities, with specific duties on ICBs and NHS England. These duties took effect from 1 April 2013.

ICBs have duties to:

- Have regard to the need to reduce inequalities between patients in access to health services and the outcomes achieved (s.14T);
- Exercise their functions with a view to securing that health services are provided in an integrated way, and are integrated with health-related and social care services, where they consider that this would improve quality, reduce inequalities in access to those services or reduce inequalities in the outcomes achieved (s.14Z1);
- Include in an annual commissioning plan an explanation of how they propose to discharge their duty to have regard to the need to reduce inequalities (s. 14Z11);
- Include in an annual report an assessment of how effectively they discharged their duty to have regard to the need to reduce inequalities (s. 14Z15).