TRUST POLICY FOR EQUALITY, DIVERSITY AND HUMAN RIGHTS

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1. Introduction

The Trust is committed to promoting equality, valuing diversity and protecting human rights and is committed to eliminating discrimination against any individual on the grounds of gender, gender reassignment, disability, age, race, ethnicity, sexual orientation, martial status and pregnancy, socio-economic status, language, religion or beliefs, appearance, nationality or culture.

In line with the NHS values set out in the NHS Constitution the Trust endorses that:

'We value each person as an individual, respect their aspirations and commitments in life, and seek to understand their priorities, needs, abilities and limits. We take what others have to say seriously. We are honest about our point of view and what we can and cannot do.' NHS Constitution

It is recognised that everyone has different needs in relation to public services, and that in both the workplace and as service users, certain individuals / groups of individuals can experience unfair and unequal outcomes.

The Trust aims to promote a policy of equality of opportunity and to discourage unlawful discrimination either directly or indirectly against all employees, patients, carers, guests and visitors.

The Trust also believes in building a workforce which is valued and whose diversity reflects the communities it serves, enabling it to deliver the best possible healthcare service to those communities.

The Trust aims to ensure that the principles of diversity and inclusion underpin all our employment and service policies and procedures. The Trust is also committed to dealing effectively with any cases of discrimination in the Trust and aim to ensure that managers and staff are aware of their responsibilities in this area.

The Trust will comply with all staff and patients rights, legal duties and aspirations laid out in the NHS Constitution and in the Equality Act 2010.

See Appendix 1 for Statement of Equality, Diversity and Human Rights at Derby Hospitals NHS Foundation Trust

2. Purpose and Outcomes

The aim of this policy is to establish the principles to equality of opportunity and human rights within the Trust and create a framework whereby a culture of awareness, respect and versatility may be incorporated into the Trust’s employment opportunities and service provision.

This policy underpins Trust’s action plan for implementing equality and human rights.

It is the aim of this policy to ensure the equality towards:

- Gender, including gender reassignment;
• Marital or civil partnership status;
• Pregnancy and maternity
• Having or not having dependents;
• Religious belief or political opinion;
• Race (including colour, nationality, ethnic or national origins);
• Disability (including learning disability or mental illness);
• Sexual orientation;
• Age;
• Spent criminal convictions;
• Blood born virus;
• Socio-economic status.
• Trade Union membership

3. POLICY IN PRACTICE

It is the Trust’s aim to ensure that principles of equality and human rights are embedded throughout every part of the organisation. By doing so the Trust will enhance the experiences of employees, patients, carers, visitors and any other individuals who are associated with the Trust.

The NHS Equality Delivery System outlines the action plan for implementing equality and human rights within the Trust. To achieve our aim of putting our principle into practice, the Trust is committed to:

• Promoting equality of opportunity for all persons.
• Promoting an inclusive environment in which all persons are treated with respect.
• Preventing occurrences of unlawful direct discrimination, indirect discrimination, harassment and victimisation
• Fulfilling all our legal obligations under the equality legislation, associated codes of practice and public authority duties
• Complying with our own diversity and inclusion policy and associated policies.
• Taking lawful affirmative or positive action, where appropriate
• Regarding all breaches of equal opportunities as misconduct which could lead to disciplinary proceedings.

3.1 Equality Delivery System

The Equality Delivery System provides a toolkit and framework for assessing how the Trust is performing with regard to equality, diversity and human rights and includes expected outcomes under 4 goals, encouraging the Trust to embrace key local health inequalities.
1. Better health outcomes for all
2. Improved patient access and experience
3. Empowered, engaged and well-supported staff
4. Inclusive leadership at all levels

The Equality Delivery System and Action Plan contains detailed commitments to Equality & Diversity both to service users and staff. This scheme supports the practical implementation of this policy and the actions required by the Trust to meet its equality duty obligations under UK law. (See Appendix 2).

3.2 Equality Impact Risk Assessments

To ensure that positive steps are taken to ensure prevention of indirect discrimination in the development and application of Trust policies, procedures and service developments the Trust will use our Equality Impact Risk Assessment (EIRA) process. Equality Impact Risk Assessment provides the means for the Trust to consider how processes / policies might create adverse or negative affects for any of our service users and / or staff. A copy is attached in Appendix 8.

EIRAs will be undertaken for all internally produced policies, procedures and guidance documents developed by or introduced into the Trust. This will therefore include both Trust-wide policies applicable to all staff and service users, as well as local level or departmental policies covering smaller groups of staff and/or service users.

See Trust intranet for guidance on completing equality impact risk assessments.

3.3 Creating and Supporting a Diverse Workforce

The Trust’s endorses the NHS Constitution that the NHS is “committed to building an NHS workforce which is valued and whose diversity reflects the communities it serves, enabling it to deliver the best possible healthcare service to those communities.” As such the Trust is proactively looking at ways to build and maintain a diverse workforce, creating opportunities for its employees to develop their full potential.

The Trust encourages staff to join the NHS Personal, Fair and Diverse (PFD) campaign and become PFD champions committed to taking action to develop fairness and diversity every day and delivering services that are personal, fair and diverse.

3.3.1 Recruitment and Selection

The Trust will ensure that its recruitment and employment decisions will be made on the basis of fair and objective criteria and in accordance with the organisation’s Recruitment and Selection Policy.

In accordance with the Trusts Equality Delivery System the Trust will ensure effective monitoring of recruitment and selection.

All vacancy adverts will contain a short statement on equality of opportunity.

3.3.2 Promotion and Development
The Trust is committed to ensuring all its employees have the opportunities to train, develop and progress in the organisation. Where a particular group is under represented within the workforce or at a senior level the Trust may consider positive action to redress the balance. Such action may include improving access to training and/or giving encouragement to apply for vacancies, though all appointments will continue to be on merit.

3.3.3 Training and development

Training has a key role in promoting equal opportunities. The Trust will provide training to increase awareness of equal opportunities so that staff at all levels can perform their jobs effectively and develop their full potential – this includes ensuring that management courses cover the implementation of equal opportunities policies.

3.3.4 Adapting Working Environment and Practices

The Trust is committed to recognising cross cultural differences and will respect an individual’s needs regarding the observance of their faith such as specific prayer times. Time off for religious festivals will be respected and accommodated as far as practically possible. It would be expected that time off for religious festivals would be accommodated within normal leave allocations.

Flexible working patterns which promote equality of opportunity and which enhance the quality of working life will be considered where possible, including where individuals are associated with individuals with protected characteristics.

The requirements of job applicants and existing members of staff who have or have had a disability will be reviewed to ensure that, wherever possible, reasonable adjustments are made to enable them to enter into or remain in employment with the Trust.

3.4. Providing a fair and equitable service

The Trust is committed to ensuring that no one should have negative experiences when in receipt of a Trust service relating to their protected status. The Trust will regularly review patient experience via the Patient Experience Team (PET) using local or national surveys, patient diaries, interviews, complaint monitoring and other methodology to understand the patient experience. The Trust will ensure any issues identified are dealt with quickly and appropriately. Detailed plans of assessment and improvements will be outlined in the Trust Equality Delivery System and specific Equality Impact Risk Assessments.

In line with the pledges on patient rights outlined in the NHS Constitution the Trust commits to:

- provide convenient, easy access to services within the waiting times set out in the Handbook to the NHS Constitution;
- make decisions in a clear and transparent way, so that patients and the public can understand how services are planned and delivered; and
- make the transition as smooth as possible when you are referred between services, and to include you in relevant discussions.
3.4.1 Access

The Trust acknowledges that some groups in society have greater issues and potential barriers to accessing public services. Therefore the Trust will regularly review its services to ascertain possible barriers to access. The Trust will gain this knowledge through issues raised via the PET and/or through analysis of access statistics.

3.4.2 Treatment and Experience

The Trust is committed to ensuring that no one should have negative experiences when in receipt of a Trust service relating to their protected status. The Trust will regularly review patient experience via the PET and any local or national surveys to ensure any issues identified are dealt with quickly and seriously. Detailed plans of assessment and improvements will be outlined in the Trust Equality Delivery System and specific Equality Impact Risk Assessments.

3.5. Complaints – Discrimination, Harassment and Bullying on grounds of protected status

Employees who believe that they have suffered any form of discrimination, harassment or victimisation are entitled to raise the matter through the Trust Dignity at Work Policy (Dealing with Discrimination, Bullying and Harassment). All complaints of discrimination will be dealt with seriously, promptly and confidentially.

Patients, carers or visitors who have suffered any form of discrimination, harassment or victimisation are encouraged to raise complaints via the Patient Advice and Liaison Service (PALS) or Complaints department.

4. Monitoring Compliance and Effectiveness

Trust Policy for Equality, Diversity and Human Rights will be monitored in a composite report presented through our Monitoring Report Template:

<table>
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<tr>
<th>Monitoring Requirement</th>
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<tbody>
<tr>
<td></td>
<td>• Process for raising concerns about discrimination and/or harassment</td>
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<td></td>
<td>• Monitoring trends / incidents of discrimination &amp; harassment complaints by both patients and employees</td>
</tr>
<tr>
<td></td>
<td>• Patient access and experience of services by protected strands</td>
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<td></td>
<td>• Employment opportunities by protected strands</td>
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<tr>
<td>Monitoring Method:</td>
<td>• Retrospective review of incidents &amp; cases to determine compliance with the process with raising &amp; dealing with the concerns</td>
</tr>
<tr>
<td></td>
<td>• Analysis of number of complaints raised by race, gender, sexual orientation, disability, age and religious belief of the complainant, the level of the employees affected and the outcome.</td>
</tr>
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<td></td>
<td>• Capture and analysis of data on access and</td>
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</table>

Equality, Diversity and Human Rights Policy
Workforce Management October 2014
experience of services

- Analysis of workforce data broken down by legislative requirements for reporting against protected strands
- Recommendations and action plans will be developed from the analysis and will be part of the reporting mechanism.

Report Prepared by: Workforce Governance & Assurance Lead

Monitoring Report presented to: Equality and Inclusion Steering Group

Frequency of Report: Six Monthly

5. References

The following Acts of Parliament may be connected to Equality, Diversity & Human Rights:

- Equality Act 2010
- Human Rights Act 1998
- Health & Social Care Act 2012
- Civil Partnership Act 2004
- Health and Safety at Work Act 1974
- Health Bill 2009

Derby Hospitals is committed to upholding the NHS Constitution 2009 which outlines a number of commitments and pledges to uphold patient dignity and human rights.
Appendix 1 - Procedural Responsibilities

1. **Patients, carers and visitors**

The Trust requires any person who comes into contact with the organisation, whether as a patient, carer or visitor, to abide by this policy. The Trust will not tolerate any discrimination towards its staff or other patients, carers or visitors and will follow appropriate actions.

2. **Employees**

Every employee has a part to play in ensuring that the Trust provides an environment in which everyone is treated fairly and with respect. Employees are expected to abide by the Trust’s Standards for CARE.

See Trust intranet for more information on ‘Trust Standards for CARE Guidance for employees’.

The NHS Constitution gives clear guidance on employees’ legal duties:

“Not to discriminate against patients or staff and to adhere to equal opportunities and equality and human rights legislation.” (The Handbook to the NHS Constitution, p.102)

In addition employees must:

- Support the Trust in promoting equality of opportunity and adhere to this policy
- Not to harass, abuse or intimidate any employee, patient or visitor to the Trust on any grounds but with particular reference to protected characteristics.
- Not make remarks or commit acts that are likely to cause offence
- Not to induce or tempt others to discriminate against any colleague, patient or visitor to the Trust
- Challenge or draw to the attention of Management any concerns regarding incidents or suspected incidents of discrimination at all times
- Support colleagues, service users or carers who make a complaint of discrimination
- Not victimise or attempt to victimise people on the grounds that they have made a complaint or provided information about a concern in relation to discrimination
- Attend training on equality and diversity as appropriate.

3. **Managers**

Every manager has the responsibility for ensuring that they understand the Policy and implements it within their areas of responsibility. This will require:
• Understanding the legislation involved and the implications of not carrying out this policy;

• Demonstrating commitment to diversity and inclusion by positively promoting the Trust's Equal Opportunities policy and leading by example at all times;

• Ensuring that all their employees are clear about their responsibilities under this policy;

• Applying all organisational policies and procedures in a fair and consistent manner;

• Committing to the elimination of discrimination and bias in recruitment, promotion, training opportunities or any other employment matter;

• Attending relevant training events to ensure that individuals possess the necessary skills and knowledge to implement good equal opportunities practice;

• Ensuring that employees are aware of their rights and obligations laid out in the NHS constitution

4. **Trade Union Representatives**

Trade Union Representatives have responsibility to:

• Explain and positively promote the Trust's Equal Opportunities policy for their members;

• Discourage their members from any involvement in discriminatory practice;

• Take action when discrimination is identified

5. **Equality and Human Rights Steering Group**

The Equality and Human Rights Steering Group is responsible for:

• Ensuring that the Equal Opportunities policy is being disseminated and implemented within the Trust

• Providing a management forum for the co-ordination of activity around equality and diversity

• Defining statutory equality scheme(s) and monitor progress against associated action plans and the collection and reporting of relevant data

• Providing a route for monitoring compliance with statutory and other compliance requirements

• Providing assurance to the Trust Board on progress and issues to be addressed

• Acting as a forum for discussion of best practice and emerging themes and initiatives

See Trust intranet for further detail on Equality and Human Rights Steering Group Terms of Reference
6. **Director of Workforce Management**

The Director of Workforce Management is the Executive Director with responsibility for the systems and processes relating to Equality, Diversity and Human Rights at the Trust.

7. **Trust Board of Directors**

The Trust Board of Directors have responsibility to:

- Set strategic direction in line with statutory responsibilities
- Gain assurance that this policy along with the Equality Delivery System and action plan is being implemented and applied throughout the organization
- Hold leads accountable for the delivery of agreed equality action plans
- Provide leadership and role modeling of equality and diversity


The recognised formal committees and forums are responsible for the review, approval and monitoring of this policy are as follows:

- Workforce Policy Review Group
- Partnership Forum
- Workforce Performance Forum
- Trust Joint Council
- Joint Local Negotiating Committee
Appendix 2 - Policy Definitions

1. Equal Opportunities

The term used to describe 'policies and practices that tackle inequalities, aiming to ensure that all staff are treated fairly, and that service users do not experience discrimination.'

2. Diversity

Defined as 'the differences in the values, attitudes, cultural perspectives, beliefs, ethnic backgrounds, sexuality, skills, knowledge and life experiences of each individual in any group of people.' This term refers to differences between people and is used to highlight individual need. It is inappropriate to use 'diversity' as an alternative to 'equal opportunities'.

3. Protected characteristics under discrimination law

The relevant protected characteristics are:

(a) age;
(b) disability;
(c) gender reassignment;
(d) race
(e) religion or belief;
(f) gender;
(g) sexual orientation.
(h) marriage and civil partnership
(i) pregnancy and maternity

4. Discrimination

Also refer to the Trust Equality, Diversity and Human Rights Policy for further detail. Definitions are as defined by Equality Act 2010.

4.1 Direct discrimination

A person discriminates against another if they treat a person because of a protected characteristic, less favourably than they would treat others.

4.2 Indirect discrimination

A person discriminates against another if they apply a provision, criterion or practice which is discriminatory in relation to a relevant protected characteristic. For example if something is applied universally, but its practical effect disproportionately disadvantages one specific group.

4.3 Perceptive discrimination

This is direct discrimination against an individual because others think they possess a particular protected characteristic. It applies even if the person does not actually possess that characteristic. For instance assuming that someone cannot carry out a certain role or position because they look too young.
4.4 Associative discrimination

This is direct discrimination against someone because they associate with another person who possesses a protected characteristic. For instance deciding someone is unable to do a job because of their carer duties for someone who is disabled.

5. Positive Action

This is described as a range of lawful action seeking to redress imbalances in employment opportunities among target groups who may be under represented in the workplace. An example of positive action would be taking measures that encourage or enable members of a previously disadvantaged group to apply for a post.
Appendix 3 - Statement of Equality, Diversity and Human Rights at Derby Hospitals NHS Foundation Trust

- Derby Hospitals is committed to the fair and equitable treatment of all people. The Trust is firmly opposed to any discrimination, bullying or harassment of its employees, patients, carers or visitors based on aspects of their diversity.

- Derby Hospitals will ensure that no user of the service, present or future employee or job applicant, receives less favourable treatment on grounds of their diversity.

- Derby Hospitals will take account that different communities have different needs in access and treatment, and commits itself to take action necessary to remove barriers and discrimination in all its service provision.

- Derby Hospitals places a positive value on diversity and believes that differences in the workforce can add value to the organisation and make it stronger, more flexible and ultimately more capable of delivering health care services that meet the needs of the local population.

- Derby Hospitals is committed to taking positive action to promote diversity in the workforce and will continue to actively work towards employing a workforce that reflects the composition of the community it serves.

- Derby Hospitals will investigate fully all reported incidents of alleged discrimination. An employee who is believed to have discriminated against others, intentionally or otherwise, will face disciplinary action in accordance with the Trust’s disciplinary procedure.

- Derby Hospitals encourages staff to become PFD champions committed to taking action to develop fairness and diversity every day and delivering services that are personal, fair and diverse.
Appendix 4 - Legislative framework

This policy is supported by key elements of the legislative framework that governs equality in the United Kingdom. These are as follows:

**Equality Act 2010**

The Equality Act 2010 aims to create: “A society built on fairness and respect where people are confident in all aspects of their diversity.”

This Act harmonises discrimination law, and strengthens the law to support progress on equality. The Act replaces all existing equality legislation, including the Equal Pay Act. The main provisions of this Act came into affect on 1st October 2010, with an integrated public duty due in April 2011 and a full ban on age discrimination due in 2012.

The Bill strengthens the law in a number of key areas by:

- creating a general public duty. Derby Hospitals will have to consider how it’s policies, strategies and service delivery will affect people with the protected characteristics;
- extending the range of lawful positive action to overcome or minimise a disadvantage arising from a protected characteristic;
- extending the circumstances in which a person is protected against discrimination, harassment or victimisation because of a protected characteristic;
- allowing employment tribunals to make recommendations in discrimination cases which apply to the whole workforce.

**The Civil Partnership Act 2004**

The Act creates a new legal relationship of civil partnership, whereby two people of the same-sex can form by signing a registration document. It also provides same-sex couples who form a civil partnership with parity of treatment in a wide range of legal matters with those opposite-sex couples who enter into a civil marriage.

**The Human Rights Act 1998**


- Makes it unlawful for a public authority to breach Convention rights, unless an Act of Parliament meant it could not have acted differently;
- Means that cases can be dealt with in a UK court or tribunal; and
- Says that all UK legislation must be given a meaning that fits with the Convention rights, if that is possible.

The key articles relevant to the delivery of health services within the Convention include:
Article 2 - Everyone has the right to life, except in very limited circumstances, e.g. defending oneself or someone else from unlawful violence.

Article 3 - No one shall be subjected to degrading or dehumanising treatment

Article 5 - Everyone has the right to liberty and security of person

Article 8 - Everyone has the right to respect for their private and family life, home and correspondence

Article 9 - Everyone has the right to freedom of thought, conscience and religion … subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, public order, health, morals, or the freedoms of others

Article 10 - Everyone has the right to freedom of expression (subject to the same requirements as Article 9), but the exercise of those freedoms carries duties and responsibilities to the rights of others

Article 11 - A person has the right to assemble with other people in a peaceful way. They also have the right to associate with other people, including the right to form a trade union. These rights may be restricted only in specified circumstances

Article 14 - Prohibition on Discrimination. The enjoyment of the rights and freedoms set forth in the convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin

The Universal Declaration of Human Rights forms a basis that underpins all of our work in the NHS - see NHS Constitution for more information about rights for staff and service users.
Appendix 5 - General Principles – The Public Authority Duties

The Equality Act 2010 created a new harmonized ‘General Duty’ that all public authorities must enforce which is to:

a) eliminate discrimination, harassment, victimisation.

b) advance equality of opportunity between persons who share a protected characteristic and persons who do not share it.

c) foster good relations between persons who share a protected characteristic and persons who do not share it.

Public Authorities currently have specific requirements to meet under the existing Race, Disability and Gender Duties. These duties will be replaced in April 2011 by the Single Equality Duty.

Although there are some important differences between equality strands, the specific duties relevant to public authorities include the following:

- prepare and publish an equality scheme, showing how it will meet its general and specific duties through agreeing equality objectives
- gather and use information on how the public authority’s policies and practices affect equality in the delivery of services and within the workforce
- consult stakeholders (i.e. service users and employees) and take account of relevant information in order to determine its equality objectives
- assess the impact of its current and proposed policies and practices on equality
- implement the actions set out in its scheme within three years, unless it is unreasonable and impracticable to do so
- report against the scheme every year and review the scheme at least every three years
Appendix 6 - Policy Review and Approval Process

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<th>Status</th>
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<td>Job Title: Deputy Director of Human Resources (HR)</td>
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### Version / Amendment History

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<td>Update existing Policy</td>
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<td>2</td>
<td>May 2010</td>
<td>Sue Hawkins</td>
<td>Update existing policy and new legislation</td>
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<tr>
<td>3</td>
<td>August 2014</td>
<td>Estelle Carmichael</td>
<td>Update existing Policy</td>
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**Intended Recipients:** All staff, patients and visitors to the Trust

**Training and Dissemination:** Launched through Intranet, recognised circulation list. Articles in Signpost. Briefing sessions for managers through the Divisional HR Teams.


**To be used in conjunction with:**

**In consultation with and Date:** Equality and Inclusion Steering Group (August 2014), Partnership Forum (September 2014), Trust Joint Council (September 2014), Joint Local Negotiating Committee (September 2014), Workforce Performance Forum (October 2014)

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**Procedural Documentation Review Group Assurance and Date**

| Yes |

**Approving Body and Date Approved**

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<td><strong>Executive Lead Signature</strong></td>
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<td><strong>Approving Executive Signature</strong></td>
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### Appendix 7 - HR Policy & Guidance Implementation Plan

**NB:** The Snr HR Lead is responsible for completing the implementation plan and co-ordinating the launch of the new policy/guidelines into the organisation.

<table>
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<th>Policy/Guidelines Title:</th>
<th>TRUST POLICY FOR EQUALITY, DIVERSITY AND HUMAN RIGHTS</th>
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<tr>
<td>HR Snr Lead (responsible for the policy)</td>
<td>Estelle Carmichael</td>
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<td>Policy/Guidelines effective date:</td>
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#### Version Control
(please outline any previous versions of policies/guidelines that this replaces)

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<th>Date to be archived/removed</th>
<th>Who is responsible for removing it</th>
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<td>TRUST POLICY FOR EQUALITY, DIVERSITY AND HUMAN RIGHTS Version 3</td>
<td>Intranet, HR shared drive</td>
<td>Proposed: November 2014</td>
<td>Angela Hughes</td>
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#### How will it be disseminated?
*Please describe below how the policy will be launched within the organisation and who is responsible for the different elements*

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<tr>
<th>Method</th>
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