

EMBRACING EQUALITY, DIVERSITY AND HUMAN RIGHTS IN NHSSCOTLAND PIN POLICY

DECEMBER 2013

1st Edition 2001, 2nd Edition 2013

© Crown copyright 2013

You may re-use this information (excluding logos and images) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or e-mail: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This document is also available from our website at www.scotland.gov.uk.

ISBN: 978-1-78412-110-5

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

Produced for the Scottish Government by APS Group Scotland
DPPAS19186 (12/13)

Published by the Scottish Government, December 2013

Ministerial Foreword



NHSScotland aims to deliver the highest quality healthcare services and, through this, to ensure that we are recognised by the people of Scotland as amongst the best in the world. The Quality Strategy sets the overall direction for achieving this, both now and in the future, focussing on three Quality Ambitions: ‘person-centred’, ‘safe’, and ‘effective’. The 2020 Vision for Healthcare recognises that, over the coming years, the demands for healthcare and the ways in which it is delivered will be radically different.

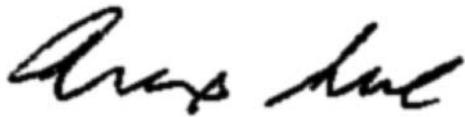
‘Workforce’ is therefore one of the 12 strategic priorities in the Route Map to the 2020 Vision. The accompanying 2020 Workforce Vision, ‘Everyone Matters’, which I launched in June 2013, sets out our vision for the workforce, with values that are shared across NHSScotland, and asks everyone who works for NHSScotland to play their part in supporting the changes and living these values. The accompanying Implementation Framework and Plan sets out our five Priorities for Action in a 7-year plan to 2020 and will allow us to measure progress in these important areas.

I am proud of the progress made by NHSScotland Boards in striving towards exemplar employer status. Staff Governance (ensuring the fair and effective management of staff), has been enshrined in legislation, and is an integral part of the NHSScotland Governance Framework. Similarly, the evolution of partnership working between employers and trade unions/professional organisations at both local and national level has helped to ensure that we have employment relations which have been described by an independent report as ‘groundbreaking’ and ‘arguably the most ambitious labour-management partnership so far attempted in the UK public sector’.

The development of NHSScotland Partnership Information Network (PIN) Policies provides a means of further ensuring sound staff governance practice. They set a minimum standard of practice in the area of employment policy, helping to ensure a fair and consistent means of managing staff which meets both current legislative requirements and best employment practice. These PIN Policies have been published following significant work in partnership between the Scottish Government, NHSScotland employers and recognised trade union/professional organisation partners, and following widespread consultation across the service.

These PIN Policies also form part of the terms and conditions of employment of all NHSScotland employees. While Boards may develop policies to meet particular local needs, I expect all Boards to adhere to the PIN Policies and ensure that practice never falls short of any of the provisions set out within these policies. By doing so, we can ensure that employees are treated fairly and consistently irrespective of the part of the service in which they work.

I am asking all NHSScotland managers and leaders to ensure that they adopt and embrace the PIN Policies within their Boards and within their individual roles. I am also tasking Employee Directors and Board Partnership Forums to champion these policies and to raise non-compliance in a positive and constructive manner.

A handwritten signature in black ink, appearing to read 'Alex Neil', written in a cursive style.

Alex Neil MSP
Cabinet Secretary for Health and Wellbeing

Preface

Staff Governance

Staff Governance is defined as “a system of corporate accountability for the fair and effective management of all staff”. The [Staff Governance Standard](#)¹, which is applicable to all staff employed in NHSScotland, sets out what each NHSScotland employer must achieve in order to improve continuously in relation to the fair and effective management of staff. The Standard requires that all NHS Boards must demonstrate that staff are:

- Well informed;
- Appropriately trained;
- Involved in decisions which affect them;
- Treated fairly and consistently; and
- Provided with an improved and safe working environment.

It is recognised that staff are central to achieving the principal aims of NHSScotland, namely to improve health and wellbeing, and to deliver high quality care to those with ill health. Achievement against the Staff Governance Standard is therefore key to the effective and efficient delivery of services by providing an environment that is inclusive and conducive to employees giving of their best.

NHSScotland’s commitment to staff governance has been reinforced by its legislative underpinning within the [National Health Service Reform \(Scotland\) Act 2004](#)², which ensures parity with the other two governance pillars of clinical and financial governance.

PIN Policies

Partnership Information Network (PIN) policies define a minimum standard of best employment practice and are designed to achieve a consistent approach to the way NHSScotland deals with its employees. They have been developed in partnership between NHSScotland management, trade unions/professional organisations and Scottish Government. While local adaptations may be agreed in partnership to suit Boards’ own local needs, any such adaptations must still meet or exceed the minimum standards set out within the PIN policies.

¹ <http://www.staffgovernance.scot.nhs.uk>

² <http://www.legislation.gov.uk/asp/2004/7/contents>

Compliance with the Staff Governance Standard includes implementation of PIN policies. Boards will be expected to evidence adherence to the PIN policies as part of the annual SAAT and accountability review processes. Part 1: Principles and Partnership of the *Agenda for Change Terms and Conditions Handbook*³ incorporates PIN policies within the terms and conditions of employment of all NHSScotland staff and serves to further reinforce the fact that adherence to the minimum standards set out within them is mandatory for all NHSScotland Boards.

Board Partnership Forums therefore have a key role in ensuring that locally developed policies meet or exceed the minimum standards set out in the PIN policies; and in raising non-compliance in a positive and constructive manner.

³ <http://www.msg.scot.nhs.uk/wp-content/uploads/Agenda-for-Change-Handbook-Master-Scottish-Copy-Amendment-24.pdf>

CONTENTS

	Page
1 Introduction	1
2 Main Report	2
2.1 Scope	2
2.2 Strategic/Organisational Context	2
2.3 Legal Framework	3
2.4 Principles	6
2.5 Roles and Responsibilities	7
2.6 Assessing Impact	10
2.7 Raising Awareness	13
2.8 Monitoring	15
2.9 Action Planning	17
2.10 Success Criteria	18
Appendix 1	20
Model Equality, Diversity and Human Rights Policy	
Appendix 2	33
Employee Information & the Public Sector Equality Duty - a Guide for Public Authorities (Scotland)	
Appendix 3	35
PIN policy Review Group	

1 Introduction

- 1.1** The Equality and Human Rights Commission defines 'equality' as 'ensuring that every individual has an equal opportunity to make the most of their lives and talents, and believing that no one should have poorer life chances because of where, what or whom they were born, or because of other characteristics'.
- 1.2** The Chartered Institute of Personnel and Development defines 'managing diversity' as 'valuing everyone as an individual', recognising that a 'one-size-fits all' approach to managing people does not achieve fairness and the right to equality of opportunity for everyone, given that people have different personal needs, values and beliefs.
- 1.3** The Equality and Human Rights Commission defines 'human rights' as 'the basic rights and freedoms to which all humans are entitled. They ensure people can live freely and that they are able to flourish, reach their potential and participate in society. They ensure that people are treated fairly and with dignity and respect. You have human rights simply because you are human and they cannot be taken away.'
- 1.4** *The NHS Healthcare Quality Strategy*⁴ commits to ensuring health services are responsive to everyone who needs them. It is framed around three Quality Ambitions: safe, effective and person-centred care. The core values that underpin human rights are embedded in this strategy, demonstrating how providing high quality care is dependent upon respect for human rights.
- 1.5** This PIN policy aims to further the development of a culture which promotes equality, values diversity and recognises the human rights of those working within NHSScotland. It includes a model policy on equality, diversity and human rights for use by Boards. Whilst Boards may wish to develop their own local policy, they must ensure that any such local policy is developed and agreed in partnership and that it either meets or exceeds the provisions within this PIN policy.

⁶ The NHS Healthcare Quality Strategy can be found here: <http://www.scotland.gov.uk/publications/2010/05/10102307/0>

2 Main Report

2.1 Scope

2.1.1 This PIN policy applies to all those who work within or apply to work within NHSScotland, regardless of employment status. It therefore includes permanent and fixed-term employees, staff on zero-hours contracts, those working within the Board on behalf of other agencies, those on secondment to the Board, volunteers, and those on work experience or training placements.

2.2 Strategic/Organisational Context

2.2.1 Commitment to equality, diversity and human rights is fundamental to the principles of the NHSScotland Staff Governance Standard and the Scottish Government's *Fair for All*⁵ agenda which seeks to understand the needs of different communities, eliminate discrimination in the NHS, reduce inequality, protect human rights and build good relations by breaking down barriers that may be preventing people from accessing the care and services that they need. It aims to address inequalities by recognising and valuing diversity, promoting a patient-focused approach and involving people in the design and delivery of health care.

2.2.2 Furthermore, NHSScotland Boards have a duty to comply with the existing equality and human rights legal framework, taking action to eliminate unlawful discrimination, advance equality of opportunity, and foster good relations.

2.2.3 However, beyond compliance with national policy and legislative obligations, there are clear organisational benefits to implementing and maintaining good employment practice in relation to equality, diversity and human rights, for example:

- Staff feel valued, motivated, treated fairly and able to work within a culture where they feel they can genuinely fulfil their potential, resulting in increased staff engagement;
- This may impact positively on the level of dignity at work complaints/grievances which arise, and on levels of sickness absence;

⁵ <http://www.sehd.scot.nhs.uk/publications/ffar/ffar1.pdf>

- As a result, Boards will be able to further their aim of achieving and maintaining exemplar employer status, which will further enhance recruitment and retention of staff;
- With a more diverse workforce, comes greater levels of flexibility; and
- As a result of all of the above, this can help to achieve improvements in service provision to patients/service users.

2.2.4 Any staff member 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, 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 their local policy.

2.3 Legal Framework

The purpose of this section is to provide the legal context against which this PIN policy has been developed and to provide a source of reference to Boards where questions arise on areas not covered within the PIN policy. It should be noted, however, that the PIN policy exceeds minimum legal requirements in a number of respects.

It should also be noted that there is no qualifying period of employment for individuals bringing claims against organisations in discrimination cases. Furthermore, an individual need not necessarily be an employee in order to raise a claim, for example in the case of a job applicant.

2.3.1 Equality Act 2010

The Act provides a legislative framework to protect the rights of individuals and advance equality of opportunity for all; to update, simplify and strengthen earlier equality legislation; and to deliver a simple, modern and accessible framework of discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society.

The Act covers discrimination because of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. These are known as the 'protected characteristics'.

The Act additionally sets out an equality duty for public sector organisations. This comprises of a general equality duty, as well as specific duties imposed by the Equality Act 2010 (Specific Duties) Scotland Regulations 2012.

Further details of employers' obligations under the Act, including the public sector equality duty, are set out in Appendix 2. Further information on compliance is also set out in the statutory codes of practice on equal pay and employment which accompany the Act.

2.3.2 Equality Act 2010 (Specific Duties) Scotland Regulations 2012

Under the Equality Act 2010 (Specific Duties) Scotland Regulations 2012, public bodies – including NHSScotland Boards – are required to comply with the following duties:

- Report progress on mainstreaming the public sector equality duty;
- Publish equality outcomes and report progress;
- Assess and review policies and practices [impact assessment];
- Gather and use employee information;
- Publish a statement on equal pay;
- Consider award criteria and conditions in relation to public procurement; and
- Publish in a manner that is accessible.

The purpose is to gather and publish specific categories of data, within set deadlines, and to use the data to improve performance of the general equality duty. Further information on what the Specific Duties require in terms of employee information can be found at Annex 2 and here:

<http://www.equalityhumanrights.com/>

2.3.3 The Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000

The regulations provide that a part-time worker has the right not to be treated less favourably than an employer treats a comparable full-time worker, unless such treatment can be 'objectively justified'.

2.3.4 The Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002

The regulations provide protection for fixed-term employees, including the right not to be treated less favourably than comparable permanent employees because they are on a fixed-term contract, unless there are 'objectively justifiable' circumstances for doing so.

2.3.5 Trade Union and Labour Relations (Consolidation) Act 1992

The Act contains rights in relation to trade union membership and activities, including:

- The right not to be refused employment because an individual is, or is not, a member of a trade union;
- The right not to be subjected to any detriment by any act or failure to act by their employer for the sole or main purpose of preventing or deterring them from taking part in trade union activities, or penalising them for doing so; and
- The right not to be dismissed for taking part, or proposing to take part, in trade union activities.

2.3.6 Rehabilitation of Offenders Act 1974

The Act sets out to improve the rehabilitation prospects of people who have been convicted of a criminal offence and served their sentence.

Under the Act, unless a post is excluded, individuals are only required to declare any convictions which are unspent. A conviction becomes spent after a certain period of time has passed (the 'rehabilitation period'). The length of time it takes for a conviction to become spent will depend on the sentence and it should be noted that some convictions never become spent.

2.3.7 Human Rights Act 1998

The Act aims to give further effect in UK law to the rights contained in the European Convention of Human Rights. In particular, public authorities have a duty under the Act not to act incompatibly with rights under the European Convention of Human Rights (ECHR).

The Act adds protections for staff members' rights and freedoms, and these can extend to work-related matters. Specifically, it is unlawful for public sector employers to violate the human rights of their staff under the Convention.

Under international law, the UK has a positive obligation to realise relevant international human rights treaties beyond ECHR. These include the International Covenant on Economic, Social and Cultural Rights, which contains the right to a basic standard of living, to work, to rest/leisure and the highest attainable standard of physical and mental health. Although the Covenant is not justiciable in the courts, the UK is periodically examined on compliance by the UN Human Rights Council, and this can influence the decisions of the courts in relation to ECHR compliance.

2.4 Principles

2.4.1

The provisions within this PIN policy aim to support Boards 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 or sexual orientation) and those who do not;
- Foster good relations between people who share a protected characteristic and those who do not; and

- Ensure that Boards are mindful of their obligations under the Human Rights Act 1998 and take steps to have regard to ECHR rights in the discharge of their functions.

2.4.2

This will be achieved by:

- Removing or minimising disadvantages suffered by people due to their protected characteristics and creating an environment in which individual differences and the contributions of all staff are recognised and valued;
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people;
- 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; and
- Taking 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.

2.5 Roles and Responsibilities

2.5.1

Boards will:

- Ensure that equality, diversity and human rights are at the heart of the organisation and everything it does;
- Identify a Director/Executive Manager, who is a member of local partnership arrangements, to champion and assume responsibility for equality, diversity and human rights;
- Act as agents for change within local communities by positioning equality, diversity and human rights at the heart of local delivery plans;
- Implement a local policy on equality, diversity and human rights. Where Boards choose not to adopt the model policy attached, local policies must be developed and agreed in partnership with local trade union/professional organisation representatives and either meet or exceed the minimum standards set out within this PIN policy;

- Ensure that everyone in the organisation understands what the Board's policy means for them. Practical training and positive support must be provided to all staff to ensure that they are aware of the Board's policy and of their rights and responsibilities within it;
- Have arrangements in place to support staff requiring assistance who have concerns with regard to equality, diversity and human rights.
- Assess the impact of policies and practices upon those with protected characteristics, and act accordingly upon the results. This should not be an end in itself, but instead an important part of policy and decision-making, which should lead to improvements in policies and practices;
- Ensure that equality and diversity monitoring is undertaken and that resulting improvement actions are identified and achieved; and
- Ensure that application of the Board's policy is monitored on an ongoing basis, to ensure that it is being fairly and consistently applied and that the stated principles and values are being met. The policy should be subject to regular review, in partnership, in order to ensure that it remains fit for purpose.

2.5.2

Managers will:

- Ensure that they are fully aware of and comply with their responsibilities under the local policy;
- Ensure that all staff for whom they are responsible are made aware of their responsibilities under, and have access to, the local policy;
- Ensure that they participate in training provided on the local policy, and that they ensure that all staff for whom they are responsible similarly participate in training on the policy;
- Ensure that they lead by example, demonstrating behaviours conducive to a culture which promotes equality, diversity and human rights, and dignity and respect;

- Ensure that all staff for whom they are responsible adhere to their responsibilities, identifying and dealing with concerns which arise in this regard in a fair, consistent, and timely manner; and
- Ensure that they seek advice from Human Resources/ Equality Leads, where necessary and appropriate, when dealing with any such issues.

2.5.3

Staff will:

- Ensure that they are aware of their responsibilities under the local policy, and that they seek further guidance if unclear;
- Take responsibility for ensuring that they participate in training provided on the local policy;
- Comply with such responsibilities, including demonstrating behaviours conducive to a culture which promotes equality, diversity and human rights, and dignity and respect; and
- Challenge or raise concerns with the appropriate manager, where they perceive others not to be demonstrating such behaviours or otherwise not complying with their responsibilities under the local policy.

2.5.4

Trade Union/Professional Organisation representatives will:

- In partnership with the Board, agree a local policy on equality, diversity and human rights which reflects the parameters provided by this PIN policy;
- Work in partnership with the Board to develop joint training as part of the implementation of the local policy and participate in such joint training;
- Work in partnership with the Board to champion the policy, and challenge appropriately where concerns arise that the principles and values contained within the policy are not being met;
- Support their members, where issues in relation to equality, diversity and human rights arise, ensuring that their members are aware of their rights and responsibilities under this and other relevant policies; and

- Participate in partnership monitoring, evaluation and review of the local policy.

2.5.5 Human Resources/Equality Leads will:

- Develop and deliver, in partnership, training on the Board's local policy for managers, trade union/professional organisation representatives and staff;
- Support the process of equality and diversity monitoring, identifying and achieving resulting improvement actions, and ongoing monitoring of the application of the policy;
- Advise managers on the correct implementation of the local policy; and
- Support staff by providing advice on the local policy.

2.6 Assessing Impact

2.6.1 Assessing impact involves considering relevant evidence in order to understand the likely or actual effect of policies and practices on those with protected characteristics, or those protected from discrimination/less favourable treatment under other relevant legislation. This includes:

- Ensuring that such policies or practices do not discriminate;
- Identifying any adverse impacts for particular groups;
- Considering how such policies or practices might better advance equality of opportunity;
- Considering whether such policies or practices will affect relations between different groups; and
- Considering whether such policies or practices interfere with ECHR rights. Where interference is identified, that the interference is legal, necessary and proportionate in relation to the aim of the policy/practice, or falls within a specific exception on the Article in question.

- 2.6.2** Impact assessment enables Boards to:
- Take effective action on equality, diversity and human rights;
 - Develop better policies and practices, based on evidence; and
 - Be more transparent and accountable.
- 2.6.3** Assessing impact is not an end in itself, but is an important part of policy and decision-making, which should lead to improvements in policies and practices. In this way, assessing impact should not be a retrospective action undertaken near the end of the process; but should instead be integral to the development, monitoring and review of policies from the outset.
- 2.6.4** In addition to the benefits outlined above, undertaking such an assessment and acting upon the results of the same may be used as evidence that Boards have paid due regard to the Public Sector General Equality Duty. In keeping with the specific duties Boards must assess and review policies and practices and publish, within a reasonable period of time, the results of any assessment where the policy or the practice applies.
- 2.6.5** Furthermore, Boards are required as part of this PIN policy, in the interests of transparency and accountability, to make the results of such assessments publicly available.
- 2.6.6** Boards should ensure that they have a clear local process for undertaking impact assessment and ensure that this is consistently applied, by requiring that those participating in such a process are appropriately trained.
- 2.6.7** The General Duty applies across everything an NHSScotland Board does. ‘Policy’ in this context should therefore be broadly understood to embrace a range of different activities, such as setting budgets, developing high-level strategies, and organisational practices such as internal restructuring. However, this does not mean that everything a Board does should necessarily be subject to impact assessment. Rather, the extent to which policies should be subject to impact assessment will depend on questions of relevance and proportionality.

2.6.8

The following questions can help to identify relevance (although this list is not exhaustive):

- Does the policy affect service users, staff or the wider community, and therefore potentially have a significant effect in terms of equality, diversity and human rights?
- Is it a major policy, significantly affecting how functions are delivered in terms of equality, diversity and human rights?
- Will it have a significant effect on how other organisations operate in terms of equality, diversity and human rights?
- Does it relate to policy areas or issues that previous consultation or involvement activities have identified as being important to particular protected groups?
- Does it relate to an area where the Board has identified a need to improve equality outcomes?
- Does it relate to an area where there are known inequalities?
- Does it relate to a policy where there is significant potential for reducing inequalities or improving outcomes?

2.6.9

In preparing to undertake an impact assessment, the following should be considered:

- What are the aims of the policy, and how do these relate to equality, diversity and human rights?
- Which aspects of the policy are particularly relevant to different elements of the general duty?
- To which of the protected groups is the policy relevant?
- What evidence is already available about the needs of relevant groups, and where are the gaps in evidence?
- Which communities and groups might it be helpful to consult or involve in the development of the policy?

2.6.10 Having collected relevant evidence, this then should be brought together and applied to the policy as it is developed or reviewed. Boards should make a judgement at each stage of the process as to what the likely effect will be and consider whether changes should be made to the policy.

In relation to 'eliminating discrimination', is there evidence to indicate that the policy:

- May result in less favourable treatment for particular groups;
- May give rise to indirect discrimination; and
- Is more likely to assist or impede the Board in making reasonable adjustments.

In relation to 'advancing equality of opportunity', how will the policy help:

- Remove or minimise disadvantage;
- Meet the needs of different groups; and
- Encourage increased participation of particular groups.

In relation to 'fostering good relations', how will the policy help to:

- Tackle prejudice; and
- Promote understanding.

2.7 Raising Awareness

2.7.1 Boards must ensure that all staff (including managers) understand what the Board's policy on equality, diversity and human rights means for them, with regards to both rights and responsibilities. Communication of and training on the policy also helps to demonstrate that the Board is genuinely committed to preventing discrimination, promoting equality of opportunity, valuing diversity and recognising human rights.

2.7.2 Communication

Boards should ensure that the policy is publicised widely using appropriate communication channels (e.g. team briefing, local partnership arrangements, intranets, notice boards and directly to staff via pay slip distribution).

2.7.3 Induction

As part of corporate induction programmes, Boards are required to include the following, which should ideally be delivered on a face-to-face basis by a director/senior manager, alongside a partnership representative:

- A clear statement on the Board's commitment to equality, diversity and human rights;
- Rights and responsibilities of staff under the Board's policy (including the potential consequences of inappropriate behaviour);
- How to respond if they receive or witness inappropriate behaviour; and
- This should subsequently be followed up by participation in training as outlined below.

2.7.4 Training

- Mandatory training on the Board's policy should be undertaken by all staff, particularly where the policy has been revised;
- Such training may be delivered alongside training on the Board's policy developed in line with the *Preventing and Dealing with Bullying and Harassment PIN policy*; and
- Training should cover the following:
 - Relevant legislation (including personal liability)
 - Appropriate/inappropriate behaviours
 - The importance of not ignoring or seeming to approve of inappropriate behaviour by others
 - The potential impact of inappropriate behaviour on both staff and the organisation
 - Monitoring
 - The Board's policy (including why it exists and how it operates in practice)

- Additional targeted training should be developed and delivered in response to any issues identified as part of the monitoring process.

2.8 Monitoring

- 2.8.1** Monitoring and evaluation, and subsequent action, is essential as it will help to ensure that the equality, diversity and human rights policy is successfully applied, is known about and works. Further information is contained at Appendix 2.
- 2.8.2** Only information which can be used effectively should be collected. Boards should monitor the following information, where available, in relation to each of the protected characteristics listed under the Equality Act 2010 plus the Equality Act 2010 (Specific Duties) Scotland Regulations 2012.
- 2.8.3** In addition, Boards should note their responsibilities towards other categories of worker (e.g. those with part-time or fixed-term contracts, as detailed in the other PIN policies). This list, contained in the following table, is not exhaustive and Boards may therefore wish to consider monitoring additional areas:

Recruitment (including redeployment and successful and unsuccessful applicants)	Applicants for employment (internally and externally)
	Those who are successful (or not) in the short-listing process
	Those who are successful (or not) at each subsequent stage of the selection process
During employment (including those on fixed-term contracts and promoted)	Members of staff in post by job, location and band/grade
	Applicants for training
	Members of staff who receive training
	Time spent at a particular band/grade
	Members of staff who benefit (or not) via PDPR/Appraisal procedures (e.g. gateway progression with KSF or PRP with Executive & Senior Management Cohort)
	Requests for flexible working
	Allocation of discretionary points in the case of medical/dental staff
	Pay
	Occupational segregation
	Members of staff involved in grievance/dignity at work procedures
	Members of staff subject to formal procedures relating to conduct, capability or sickness absence
	Members of staff displaced as a result of organisational change
Termination of employment	Dismissals
	Retirement
	Resignation (including exit interview information)
	Termination for other reasons

2.8.4 Boards should provide details of the process in place for gathering, storing and using this information in order to provide reassurance that they will not use this information to discriminate against, harass or victimise.

2.8.5 Boards must not treat applicants or existing members of staff less favourably if they prefer not to supply any information in this regard.

2.8.6 It is important to decide who can see the data collected. Individual data needs to be shared on a 'need to know' basis only, and should be protected and securely stored in line with the Data Protection Act 1998.

2.8.7 Boards should agree in partnership, via their Area Partnership Forum, the method, and frequency of which, monitoring information will be collated and analysed. Analysis might include:

- Comparisons with regional representational data to see how far the workforce reflects the local community;
- Comparisons with industry standard data to see how the organisation compares to others in the sector;
- Comparisons with previous organisational data, looking for patterns or trends; and
- Comparison of the position and treatment of members of staff with certain protected characteristics within the workforce compared with those without those characteristics.

2.9 Action Planning

2.9.1 Monitoring should be used to:

- Establish whether the Board's policy is effective in practice;
- Analyse the effect of other policies and practices on staff with particular characteristics;
- Highlight possible inequalities and investigate their underlying causes;
- Set targets and timetables for reducing disparities; and

- Send a clear message to applicants and members of staff that equality, diversity and human rights issues are taken seriously within the Board.

2.9.2 Local partnership arrangements should agree equality outcomes, which should be monitored and reviewed regularly and in accordance with relevant legislation, with a plan detailing how these objectives will be met.

2.9.3 Action plans should detail initiatives/developments that will help the Board to address short-term, as well as medium- to long-term goals, with the aim of improving equality, diversity and human rights within the organisation.

2.9.4 The roles and responsibilities of the Board's constituent parts for achieving the action plans should be clearly set out and action plans should be populated with SMART (Specific, Measurable, Achievable, Realistic and Timed) actions.

2.9.5 Boards should ensure that communication on progress against and achievement of such objectives is made to both managers, staff and trade union/professional organisation representatives, and should be published in the annual report.

2.10 Success Criteria

2.10.1 Every Board must ensure that:

- It has a current equality, diversity and human rights policy, which meets the minimum requirements of this PIN policy;
- It can demonstrate appropriate monitoring activity and analysis;
- It has an action plan which sets out how its agreed equality objectives, as identified from analysis of monitoring information, will be achieved;
- It can demonstrate that its employment policies reflect the principles of equality, diversity and human rights, in both design and application;
- It can demonstrate that staff are aware of the Board's policy, their rights and responsibilities under the policy, and how they can raise concerns in relation to equality, diversity and human rights (including who they can contact for advice in this regard);

- It meets the criteria to use the employment service, 'Two Ticks', disability symbol;
- It can demonstrate it requires all staff to participate in training on equality, diversity and human rights; and
- It can demonstrate that it has a regular partnership review process, to ensure that the policy remains fit for purpose and evidences adherence to the PIN policy.

Appendix 1

Model Equality, Diversity and Human Rights Policy

1 Policy Statement

This policy sets out *[name of organisation]*'s commitment to the principles, as defined below, of equality, diversity and human rights in employment and sets out the approach to be followed in order to ensure that such principles are consistently met.

While successful implementation of this policy will ensure compliance with current legislation and national policy, *[name of organisation]* also recognises both the moral and business case for maintaining good employment practice in relation to equality, diversity and human rights.

[Name of organisation] recognises that it also has a unique opportunity to influence the practice of those other organisations with which it engages and to champion equality, diversity and human rights within society more generally.

As such, equality, diversity and human rights must be at the heart of *[name of organisation]* and everything it does.

This policy has been developed in partnership with local trade union/professional organisation representatives. It reflects the best practice, and meets the minimum standards, set out within the *Embracing Equality, Diversity and Human Rights in NHSScotland Partnership Information Network (PIN) Policy*.

2 Scope

This policy applies to all those who work within or apply to work within *[name of organisation]*, regardless of employment status. It therefore includes permanent and fixed-term employees, members of staff on zero-hours contracts, those working within *[name of organisation]* on behalf of other agencies, those on secondment to *[name of organisation]*, volunteers, and those on work experience or training placements.

3 Definitions

Equality is described by the Equality and Human Rights Commission as ‘ensuring that every individual has an equal opportunity to make the most of their lives and talents, and believing that no one should have poorer life choices because of where, what or whom they were born, or because of other characteristics’.

Managing diversity is defined as ‘valuing everyone as an individual’, recognising that a ‘one-size-fits all’ approach to managing people does not achieve fairness and equality of opportunity, given that people have different needs, values and beliefs.

Human rights are defined as ‘the basic rights and freedoms to which all humans are entitled’. They ensure that people are treated fairly and with dignity and respect.

4 Aims of Policy/Principles and Values

This policy sets out the aims of *[name of organisation]* 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 or sexual orientation) and those who do not;

- Foster good relations between people who share a protected characteristic and those who do not; and
- Ensure that the organisation has due regard for the European Convention of Human Rights (ECHR) in the discharge of its function.

Principles and Values

The following principles and values are key to the achievement of these aims:

- Equality, diversity and human rights must be at the heart of *[name of organisation]* and everything it does;
- Disadvantages suffered by people due to their protected characteristics will be removed or minimised in order to create an environment in which individual differences and the contributions of all staff are recognised and valued;
- Steps will be taken to meet the needs of people from protected groups where these are different from the needs of other people;
- Steps will be taken 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 will be taken to intimidation, bullying or harassment, recognising that all staff are entitled to a working environment that promotes dignity and respect for all;
- *[Name of organisation]* will act as an agent for change within local communities by positioning equality, diversity and human rights at the heart of local delivery plans;
- While this will be achieved in part by being championed at a senior level, it can only be fully achieved through all those working within *[name of organisation]* recognising and adhering to their own personal responsibilities in this regard, and *[name of organisation]* will therefore take steps to ensure that everyone in the organisation understands their rights and responsibilities under the policy;
- *[Name of organisation]* will ensure that 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 resulting improvement actions being identified and achieved; and
- This policy will be subject to ongoing monitoring to ensure that it is being fairly and consistently applied and that the stated principles and values are being met. The policy will be subject to regular review, in partnership, to ensure that it remains fit for purpose.

5 **Equality, Diversity and Human Rights Obligations During the Employment Relationship**

Recruitment and Selection

It is the policy of *[name of organisation]* to ensure that:

- All the provisions set out within the *Safer Pre and Post Employment Checks PIN policy* are complied with;
- 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 describing the job and containing 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 disabled people. Where a genuine occupational requirement exists which restricts applications to those with a particular protected characteristic, a statement will be included to this effect. Where there is a lack of representation from those with particular protected characteristics within the job role or the wider organisation, a statement will be included encouraging applications from such individuals;
- Any recruitment agencies operating on behalf of *[name of organisation]* are expected to 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 in all cases be short-listed for inclusion within the selection process;
- 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 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; and
- Comprehensive records are kept, in line with the Data Protection Act 1998, which will allow *[name of organisation]* 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, *[name of organisation]* will investigate the possible causes in each case and take steps to remove any barriers.

During Employment

It is the policy of *[name of organisation]* to ensure that:

- For all staff, at all stages and in all aspects, their employment relationship with the organisation 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, both during induction and thereafter during the course of their employment;
- The local policy, developed in line with the *Preventing and Dealing with Bullying and Harassment in NHSScotland 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 so as to avoid their 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 *Supporting 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;
- *[Name of organisation]* 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, *[name of organisation]* 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 their gender reassignment process;
- *[Name of organisation]* will comply with the *Supporting the Work-Life Balance PIN policy* in providing appropriate support to mothers who wish to breastfeed their children;
- *[Name of organisation]* will comply with the National Uniform Policy and Dress Code (as contained within CEL 42 (2010)), particularly in relation to specialist items which may be required to meet religious or medical needs;

- 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, *[name of organisation]* 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;
- *[Name of organisation]* 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;
- *[Name of organisation]* will ensure that work is assigned to staff by managers in a fair and consistent manner;
- *[Name of organisation]* will ensure that 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 *Redeployment PIN policy*;
- *[Name of organisation]* will ensure that locally developed policies comply with the PIN Policies on *Management of Employee Conduct, Management of Employee Capability, Promoting Attendance, Dealing with Employee Grievances and Preventing and Dealing with Bullying and Harassment*, ensuring 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, *[name of organisation]* 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; and

- 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. If disparities are found, *[name of organisation]* will investigate the possible causes in each case and take steps to remove any barriers.

6 Remedies

[Name of organisation] 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.

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, 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 *[name of organisation]*'s local grievance policy developed in line with the *Dealing with Employee Grievances in NHSScotland PIN policy*.

Harassment

If the complaint is about harassment or victimisation, then the staff member should raise the matter using *[name of organisation]* local policy developed in line with the *Preventing and Dealing with Bullying and Harassment PIN policy*.

Dealing with Grievances/Harassment

It is the policy of *[name of organisation]* to ensure that:

- Where a complaint is received, staff are not discriminated against in the way that the organisation responds to it;

- 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 *[name of organisation]*’s local policy developed in line with the *Management of Employee Conduct PIN Policy*, and where an investigation recommends that a disciplinary process is appropriate, the alleged perpetrator will be given a fair hearing; and
- 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.

7 Assessing Impact

- *[Name of organisation]* will consider relevant evidence in order to understand the likely or actual effect of policies and practices on those with protected characteristics, or those protected from discrimination/less favourable treatment under other relevant legislation, recognising that such assessing of impact is not an end in itself, but rather an important part of policy and decision-making, which will lead to enable us to take effective action on equality; develop better policies and practices, based on evidence; and be more transparent and accountable;
- The extent to which policies should be subject to impact assessment will depend on questions of relevance and proportionality;
- *[Name of organisation]* will ensure that our locally agreed process for undertaking impact assessment is consistently applied, by requiring that those participating in such a process are appropriately trained;
- In undertaking such assessment of impact, *[name of organisation]* will give due regard to the General Duty obligations to eliminate discrimination, advance equality of opportunity and to foster good relations; and
- In the interests of transparency and accountability, *[name of organisation]* will make the results of such assessments publicly available.

8 Raising Awareness

To support the fair and consistent application of this policy, *[name of organisation]* will ensure that 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;
- Ensure that presentation on our commitment to equality, diversity and human rights is included within the corporate induction programme;
- Require all staff to undertake mandatory training on equality, diversity and human rights, under this policy, alongside training on our local policy developed in line with the *Preventing and Dealing with Bullying and Harassment PIN policy*;
- Develop and deliver additional targeted training in response to any issues identified as part of the monitoring process; and
- Ensure all those staff with a managerial responsibility participate in additional management training (as soon as possible on becoming a manager and from time to time thereafter) on their vital role and responsibilities under the policy, particularly in relation to how to prevent equality and diversity issues arising and on how to manage such situations where they do arise within the workplace.

9 Equality, Diversity & Human Rights Monitoring

- *[Name of organisation]* recognises that monitoring and evaluation, and subsequent action, is essential to ensure that this policy is successfully applied, is known about and works;
- *[Name of organisation]* will commit to monitoring the following information in relation to each of the protected characteristics listed under the Equality Act 2010, the Equality Act 2010 (Specific Duties) Scotland) Regulations 2012 as well as in relation to other categories of worker protected under legislation from less favourable treatment:

Recruitment (including redeployment and successful and unsuccessful applicants)	Applicants for employment (internally and externally)
	Those who are successful (or not) in the short-listing process
	Those who are successful (or not) at each subsequent stage of the selection process
During employment (including those on fixed-term contracts and promoted)	Members of staff in post by job, location and band/grade
	Applicants for training
	Members of staff who receive training
	Time spent at a particular band/grade
	Members of staff who benefit (or not) via PDPR/appraisal procedures (e.g. gateway progression with KSF or PRP with Executive & Senior Management Cohort)
	Requests for flexible working
	Allocation of discretionary points in the case of medical/dental staff
	Pay
	Occupational segregation
	Members of staff involved in grievance/dignity at work procedures
	Members of staff subject to formal procedures relating to conduct, capability or sickness absence
	Members of staff displaced as a result of organisational change
Termination of employment	Dismissals
	Retirement
	Resignation (including exit interview information)
	Termination for other reasons

- We will only collect information which is required by law and can be used effectively;
- We will ensure that all those from whom we are seeking such information are made aware of how we will use this information, how they will benefit in the long term and that this data will be gathered, stored and used in line with the Data Protection Act 1998; and

- Information collected will be regularly collated and analysed, according to the timescales locally agreed in partnership.

10 Action Planning

By undertaking equality, diversity and human rights monitoring, *[name of organisation]* can:

- Establish whether this policy is effective in practice;
- Analyse the effect of other policies and practices on staff with particular characteristics;
- Highlight possible inequalities and investigate their underlying causes;
- Set targets and timetables for reducing disparities; and
- Send a clear message to applicants and members of staff that equality, diversity and human rights issues are taken seriously within the organisation.

[Name of organisation] will agree, via our Area Partnership Forum, equality outcomes, which will be monitored and reviewed annually, with a plan detailing how these objectives will be met. Such action plans will detail initiatives/developments that will help the organisation address short-term, as well as medium- to long-term goals, with the aim of improving equality, diversity and human rights within the organisation.

We will ensure that communication on progress against and achievement of such objectives is made to both managers, staff and trade union/professional organisation representatives, and are published in the annual report.

11 Review of Policy

This policy will be reviewed, in partnership, by *[name of organisation]* on *[state]* basis to ensure that it remains fit for purpose and to enable *[name of organisation]* to demonstrate adherence to the *Equality, Diversity and Human Rights PIN policy*.

APPENDIX 2

Extract from European Convention of Human Rights – Employee Information & the Public Sector Equality Duty – a Guide for Public Authorities (Scotland)

What the Specific Duties require in terms of employee information

Duty to gather and use employee information

The specific duties require each listed authority to take steps to gather information on the composition of the authority's employees (if any) and information on the recruitment, development and retention of people as employees of the authority with respect to, in each year, the number and relevant protected characteristics of such people.

The authority must use this information to better perform the general equality duty.

Each listed authority must also publish a mainstreaming report, on the progress it has made to make the general equality duty integral to the exercise of its functions, so as to better perform that duty.

This report must include an annual breakdown of information gathered by the authority which has not been published previously in such a report on the composition of the authority's employees, as well as the recruitment, development and retention of people as employees of the authority with respect to, in each year, the number and relevant protected characteristics of such people, and details of the progress that the authority has made in gathering and using that information to enable it to better perform the general equality duty.

The first report on mainstreaming the general equality duty must be published not later than 30 April 2013 and subsequently at intervals of not more than two years.

Duty to publish gender pay gap information

A listed authority must publish information on the percentage difference among its employees between men's average hourly pay (excluding overtime) and women's average hourly pay (excluding overtime), no later than 30 April 2013, and each second year after that.

The information published must be based on the most recent data available for a date when the authority had at least 150 employees. No publication is necessary if, since these regulations came into force or since publication was last due, the authority did not have 150 employees at any point.

Duty to publish statements on equal pay, etc.

A listed authority must publish a statement on equal pay, no later than 30 April 2013, and each fourth year after that.

The first time a listed authority publishes a statement on equal pay it is required to specify its policy on equal pay among its employees between women and men, and information on occupational segregation, being the concentration in particular grades and in particular occupations of women and men.

Subsequently a listed authority is required to publish its statement on equal pay, which must specify its policy on equal pay among its employees between women and men, and people who are disabled and people who are not, and people who fall into a minority racial group and people who do not.

It is also required to publish information on occupational segregation, being the concentration in particular grades and in particular occupations of women and men, persons who are disabled and people who are not, and people who fall into a minority racial group and persons who do not.

The information published must be based on the most recent data available for a date when the authority had at least 150 employees. No publication is necessary if, since these regulations came into force or since publication was last due, the authority did not have 150 employees at any point.

Appendix 3

PIN policy Review Group

Members:	Shazia Ashraf	Staff Governance Associate, Scottish Government
	Kevin Bye	RCN
	Peter Connor	Head of Ambulance Services, Scottish Ambulance Service
	Joyce Davison	BMA
	Sarah Duncan	UNISON
	James Glover	Head of Equality & Diversity, NHS Lothian
	Val Marshall	Human Resources Manager, NHS Forth Valley
	Nicky McKinstrey	Support Services Manager, NHS Fife
	Darren Paterson	Staff Governance Associate, Scottish Government
	Sheila Rosher	Head of Resourcing, NHS Ayrshire and Arran
	Ann Tobin	Equalities Manager, Scottish Ambulance Service
	Liesje Turner	Equality Lead, NHS Dumfries & Galloway
	Fiona Mackenzie	Head of Employee Experience, Scottish Government