

HUMAN RIGHTS POLICY

1. INTRODUCTION

The purpose of this document is to set out the George Eliot Hospital NHS Trust's policy on promoting equality and human rights in relation to employment, service delivery, goods and service suppliers, contractors and partner agencies. Its aim is to ensure that all individuals and groups receive equal and fair treatment at all times.

2. THE HUMAN RIGHTS ACT 1998

The Human Rights Act, which is contained within the European Convention of Human Rights, came into force on 2 October 2000. (See appendix 2 for details).

3. POLICY STATEMENT

3.1 Our Vision is:

That George Eliot Hospital NHS Trust will become a **vibrant**, financially and clinically **viable** and **valued** Foundation Trust serving the local communities in Warwickshire and Leicestershire.

This Trust has a long term future. It will be a **vibrant** healthcare provider that develops innovative ways of delivering services and is the provider of choice for those services.

The plan shows that the Trust will be financially and clinically **viable**. It will provide safe, high quality services and have the financial strength to develop and invest in existing and new services.

We will ensure that we respond to the needs of our stakeholders and our plans for membership and governance as well as our success in providing services will show that we are **valued** by all our stakeholders.

3.2 The Trust's mission is:

To improve the health and well being of our local communities by providing excellent services to meet their healthcare needs, as close to home as possible, through innovation and collaboration with professional health and social care partners.

4.0 Discrimination

The Trust opposes all forms of unjustified discrimination and recognises that some groups and individuals in society experience unfair discrimination in employment and in their contact with public services. Discrimination can take the form of treating people less favourably because of their age, colour culture, disability, ethnic origin, gender (including gender re-assignment) language, marital status, nationality, responsibility for dependants, sexuality, social class, religion, or political beliefs. It can also arise from failing to take account of differences between people and groups which can result in barriers to accessing services and opportunities.

4.1 The Trust is fully aware of the importance of complying with UK and EU employment legislation and recognises that within the framework of British and European law, discrimination is defined in terms of indirect and direct discrimination, harassment, victimisation and stereotyping.

4.2 The Trust recognises its duty to avoid unnecessary costs associated with defending its actions and to build a reputation for demonstrating outstanding practice in the field of employment relations and service delivery.

5. HEALTHCARE GOVERNANCE

Healthcare Governance requires a commitment to good employment practice and professional development. In order for the Trust to function effectively, it is imperative that staff are fully valued for the skills they bring to their work and encouraged to develop their full potential. Unfair discrimination will result in skills, knowledge and experience, vital to delivering better services and meeting the needs of the whole population, being diminished or lost to the Trust.

6. THE TRUST'S COMMITMENT TO HUMAN RIGHTS

- 6.1 Public Authorities (of which the Trust is one) have an obligation to treat people in accordance with their Convention rights. If the Trust contravenes those rights, its actions are potentially liable in law for breaches of the Human Rights Act.
- 6.2 The Trust is committed to respecting the Human Rights of its staff, stakeholders, patients and clients, to whom it provides a service, promoting values such as dignity, respect, fairness, and equality. It will continue to develop policies and practices in accordance with Human Rights Act.
- 6.3 To demonstrate its commitment, the Trust will take actions as outlined in the policy.

7. EFFECTS OF THE HUMAN RIGHTS ACT ON STAFF AND SERVICE USERS/CARERS.

- 7.1 The Human Rights Act means that the Trust must pay proper attention to individuals' rights when the Trust makes decisions that affect those individuals.
- 7.2 Staff, service users/carers, their relatives and/or visitors will be able to rely on many of these rights in dealing with the Trust, such as, the rights to dignity, respect and freedom from discrimination.
- 7.2.1 For example, Article 2 (the right to life) underpins many of the Trust's policies and procedures, such as good clinical assessments, etc.
- 7.2.2 Another example under Article 8 (the right to privacy and family life) means the Trust's use of CCTV in service users areas will be justified (e.g. as a security measure to prevent break-ins and protect/maintain the wellbeing of service users), and that CCTV is no more intrusive than necessary with signs placed to ensure that service users are aware that they are entering a zone covered by surveillance equipment.
- 7.2.3 Careful consideration must be given before taking the step of monitoring / logging e-mails, and phone calls, so that such measures are not taken without justification. The same guidelines might apply also to staff dress codes and uniforms etc.
- 7.3 The Trust requires its staff to become familiar with the provisions of the Act because of its direct and indirect effects. In order to do this it is recommended that staff access this policy document via the Human Resources intranet site.

A table at Appendix 3 attempts to illustrate some of the key implications of the conventions of the Act for the Trust, and how the conventions relate to healthcare.

To assist staff further there is also a flow chart (See appendix 4) which is designed to assist in implementing human rights within the workplace.

8. SCOPE

This policy applies to everyone employed by the Trust or any person whilst they are on the Trust Site.

9. RESPONSIBILITY

9.1 The Trust is required to act in compliance with the Human Rights Act 1998.

9.2 All staff who undertake a public function (whether employed by the Trust, sourced from outside, or via an Agency) are expected to treat others with dignity, respect and without discrimination.

10. POLICIES AND PROCEDURES

10.1 The Human Rights Act is integrated into the Trust's day to day operations and implemented through many policies and procedures such as:

- The Disability Equality Scheme
- The Race Equality Scheme
- Gender Equality Scheme
- Whistle-blowing Policy
- Data Protection Policy
- The Anti-harassment & Bullying Policy
- The Disciplinary / Conduct Policy
- The Capability Policy
- Behaviour and Attitude Policy

10.2 All Human Resources (HR) policies that are subject to development or review are under Human Rights guidance. Both positive changes and contravening practices can be monitored in this way by HR staff.

10.3 Where the position is unclear e.g.

- where the rights of different patents groups seem to conflict, or
- where there is uncertainty as to the implications of the Act, or
- it is acknowledged that rights may be breached but there would appear to be justification for such a breach.
- advice may be sought from senior staff, line managers, Directors and the HR department. It may also be necessary to seek expert advice, including legal advice if necessary. If senior staff, line mangers or directors feel unable to give advice, staff are advised to contact the HR department.

10.4 Existing policies will be kept under review by HR to ensure that legal developments, particularly new court judgements that have a bearing upon the interpretation of Human Rights, are reflected in changes and innovations in practice within the Trust.

11. MONITORING

The Human Resources Department will be responsible for vigilant monitoring of the application of HR policies on staff Human Rights. This will be done by constantly consulting staff and dealing with any problems before they escalate. This observation will reflect any concerns raised and the Trust Board will be informed via the Annual Equal Opportunities Report.

Service users/carers, their relatives and/ or visitors will be able to rely on many of these rights in their dealings with the Trust. Any concerns regarding individual rights will be recorded and monitored via the Patient Advice and Liaison Services (PALS) and data collected by PALS.

12. BREACHES OF POLICY

Any breaches of this policy will be investigated and, if proven will be subject to disciplinary action.

13. CONSULTATION

- 13.1 This policy has been agreed with Staff-Side Representatives of the Trust's Joint Policy Committee, the Human Resource Sub Committee and adopted at the Trust Board meeting held on 10th April 2008

14. POLICY REVIEW DATE

This policies will be reviewed at the date specified (or earlier if circumstances dictate). Executive Directors are responsible for ensuring that review of policies within their sphere of control takes place. Clinical Directors and General Managers are responsible for overseeing reviews of local policies.

This policy will be reviewed within 24 months of adoption.

15. RESPONSIBILITY FOR DISSEMINATION OF POLICIES AND STAFF AWARENESS.

Each member of staff is responsible for maintaining up-to-date awareness of this policy, and for adherence to it in the course of their daily work. All new staff joining the Trust will be made aware, through their line management of all current Trust wide documents and directorate documents relevant to them. The policy will be available to the public on request and displayed in the Patient Advice and Liaison Service Office. Information on the availability of the policy will be provided through the Trust's internet site, HR intranet site, by posters and information boards.

16. RETENTION OF OLD POLICES, PROCEDURES AND GUIDLINES.

This agreed policy cancels all other agreements on this subject relating to employees, written or implied between the Trust and staff representatives/Trade Unions.

All old policies, procedures and guidelines should be taken out of circulation as a matter of urgency and archived appropriately.

1. THE HUMAN RIGHTS Act 1998

The Human Rights Act, which is contained within the European Convention of Human Rights, came into force on 2 October 2000. The Act:

- makes it unlawful for a public authority to breach Convention rights, unless sanctioned by an Act of Parliament.
- means that cases can be dealt with in a UK court or tribunal, if any person feels their rights have been breached by a public body. (Previously, people had to take their cases to the European Court of Human Rights in Strasbourg). And
- says that all UK legislation must be in keeping with Convention rights, if that is possible.

2. HUMAN RIGHTS

There are 16 basic rights in the Human Rights Act, all taken from the European Convention on Human Rights. They do not only affect matters of life and death such as freedom from torture and killing; they also affect people's rights in everyday life; what they can say or do, their beliefs, their right to a fair trial and many other similar basic entitlements (See Appendix 2 for more detailed explanation of the types of rights).

3. DEFINITIONS

3.1 Human Rights are described as being "inherent, inalienable and universal". They are:-

- *inherent* because they are acquired by individuals simply by reason of their birth.
- *Inalienable* because the rights cannot be taken away
- *Universal* because they apply to all persons regardless of age, disability, race, nationality, ethnic or national origin, gender, religion, beliefs, sexual orientation, domestic circumstances, social and employment status, HIV status, gender reassignment or political affiliation or trade union membership.

3.2 Some rights provided for by the Act are "absolute" whilst others are "qualified"

- an absolute right exists without any limitations or exceptions unless those exceptions are expressly provided for in the Act/Convention itself.
- *qualified* right is one that exists in certain "qualified circumstances" which in simple terms means that the limitations and restrictions imposed are justified as being "necessary" in a democratic society . The Act specifies a number of circumstances when such restrictions would be justified: "*in the interest of national security, territorial integrity, public safety or the economic well being of the country, for the prevention of disorder or crime, to protect health or morals or for the protection of rights and freedom of others*".

APPENDIX 2

Rights provided for by the Act include:-

Article No.	Article	Description
2	Right to Life	Everyone's right to life shall be protected by law. No one shall be deprived of their life intentionally save in the execution of a sentence of a court following conviction of a crime. Hospitals are under a duty to take positive steps to safeguard a patient's right to life and therefore needs to consider the implications of Article 2 before refusing life-saving treatment to a patient
3	Prohibition of torture	No one shall be subjected to torture or to inhuman or degrading treatment or punishment
4	Prohibition of slavery and forced labour	No one shall be held in slavery or servitude or be required to perform forced or compulsory labour
5	Right to Liberty and security	<ul style="list-style-type: none"> • Everyone has the right to liberty and security of person • Everyone who is arrested shall be informed promptly, in a language they understand, of the reasons for his arrest and of any charge against him. • Everyone arrested or detained shall be brought promptly before a judge or other authorised officer to exercise judicial power and shall be entitled to a trial • Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings • Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation
6	Right to a fair trial	<ul style="list-style-type: none"> • In the determination of civil rights and obligation or of any criminal charge against a person, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal • Everyone charged with a criminal offence shall be presumed innocent until proven guilty according to law • Everyone charged with a criminal offence has the following minimum rights: <ul style="list-style-type: none"> - to be informed and be able to understand the nature and cause of accusation - to have adequate time & facilities for preparation of defence - to defend themselves in person or through legal assistance

		<ul style="list-style-type: none"> - to examine or have examined witness against them - to have free assistance of an interpreter
7	No punishment without law	No one shall be held guilty of any criminal offence on account of any act which does not constitute a criminal offence under national or international law
8	Right to respect for private and family life	Everyone has the right to respect for their private life, their home and their correspondence. There shall be no interference by a public authority except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country for the prevention of crime, health and rights and freedoms of others
9	Freedom of thought, conscience and religion	<p>Everyone has the right to freedom of thought, conscience and religion and this includes the right to change religion or belief either alone, in community with others, in public or in private life. Freedom to manifest one's religion / belief shall be subject to limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety.</p> <p>This means employers such as the NHS must accommodate Article 9 rights regarding their employees, which may include issues relating to time off for religious holidays, uniforms etc.</p>
10	Freedom of Expression	Everyone has the right to freedom of expression. This right includes freedoms to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. The exercise of these freedoms may be subject to formalities and conditions as restricted by the law and are necessary in a democratic society, for example, for preventing the disclosure of information received in confidence which is applicable to NHS organisations.
11	Freedom of assembly and association	Everyone has the right to freedom and peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of their interests. The exercise of these freedoms may be subject to formalities and conditions as restricted by the law and are necessary in a democratic society
12	Right to marry	Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.
14	Prohibition of discrimination	The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion or other opinion, national or social origin, association with a national minority, property, birth or other status
17	Prohibition of abuse of rights	Nothing in this Convention may be interpreted as implying for any state, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein.
18	Limitation on use of restrictions on rights	The restrictions permitted under this Convention to the said rights and freedoms shall not be applied for any other purpose other than those for which they have been prescribed

Definitions of Articles 5, 10, 11, and 14.

<p>Article 5</p>	<p>Right to Liberty and Security:- Everyone has the right not be deprived of their liberty except in limited cases e.g. where they are suspected or convicted for committing a crime and providing there is a proper legal basis in UK law for the arrest or detention.</p>
<p>Article 10</p>	<p>Freedom of Expression Everyone has the right to hold opinions and express their views on their own or in a group. This applies even if these views are unpopular or disturbing. This right can be restricted only in specified circumstances.</p>
<p>Article 11</p>	<p>Freedom of Assembly and Association Everyone has the right to assemble with other people in a peaceful way. They also have the right to associate with other people, which include the right to form a trade union.</p>
<p>Article 14</p>	<p>Prohibition of Discrimination In the application of the other Convention rights, people have the right not be treated differently because of their race, religion, sex, political views or any other personal status, unless there is an “objective justification” for the difference in treatment. Everyone must have equal access to the Convention rights, whatever their status.</p> <p>Justifiable Discrimination Is allowed when based on differences that have nothing to do with personal status i.e. not one of the prohibited grounds. Grounds that might be cited are; skills, seniority, criminality.</p> <p>Prohibited Groups include the following:- Article 14 gives the following as examples of the grounds of discrimination that the Article does not allow:</p> <ul style="list-style-type: none"> • Sex • Race • Colour • Language • Religion • Political or other opinion • National or social origin • Association with a national minority • Property • Birth <p>Article 14 protects people from discrimination on the grounds of “other status” too such as:-</p> <ul style="list-style-type: none"> • Sexual orientation • Whether you were born inside or outside a marriage • Disability • Marital Status • Age.

APPENDIX 3

Convention Rights	Relevance to GEH NHS Trust	Obligations/Actions Required
Right to life	<p>policy decisions that may affect some ones right to life e.g. access to treatment</p> <p>care for other people or protecting them from danger</p> <p>investigation of deaths</p>	the Trust must take appropriate steps to ensure that the person in their care/employment is safe
Prohibition of torture (i.e. deliberate infliction of severe pain or suffering, inhuman treatment, degrading treatment)	<p>caring for other people</p> <p>working in a place where someone may be inadvertently placed in a humiliating position</p>	<p>not to expose a person to torture or inhuman or degrading treatment</p> <p>to investigate any allegations of torture, inhuman or degrading treatment.</p>
Prohibition slavery and forced labour	<p>where someone is being forced to work without suitable recompense</p> <p>where organisations have powers to make people work in an emergency</p>	ensure all staff are properly recompensed for the work they do
Right to respect for private and family life	<p>accessing, handling or disclosing personal information</p> <p>provision of medical treatment or social care</p> <p>Requires public authorities to balance individual private rights against those of the community and raises issues such as:-</p> <p>rights of homosexuals Employment Equality (sexual orientation) Regulations 2003</p> <p>rights of transgender people – Gender Recognition Act 2004</p> <p>employees right to privacy including the monitoring of emails and telephone calls</p> <p>the imposition of unreasonable mandatory dress codes or drug testing at work</p> <p>use of CCTV and exchange of data obtained from it</p> <p>the right to refuse medical treatment</p>	<p>be alert to policies or procedures which might interfere with a persons right to respect for their private and family life, their home and their correspondence</p> <p>if it is necessary to interfere with someone’s right - to ensure that any policy or action by the Trust is necessary and pursue a recognised legitimate aim.</p> <p>Obligations/Actions Required</p>

<p>Freedom of thought conscience and religion</p>	<p>taking decisions that may conflict with someone's religious beliefs e.g. timetabling an appointment on a religious holiday</p> <p>when accommodating a person you must ensure that any interfere with their freedom to manifest religious beliefs is proportionate</p> <p>situations where religious organisations provide a service to others</p>	<p>be alert to policies or actions that may interfere with a persons right to manifest their religion or belief</p> <p>if it is necessary to interfere with someone's right – the Trust must ensure that any policy or action is necessary and pursues a recognised legitimate aim</p> <p>includes issues relating to time off for religious holidays, uniforms and so on</p>
<p>Freedom of expression</p>	<p>relevant to broadcasting/media/presswork</p> <p>regulation of the internet/communications</p> <p>speaking in public</p> <p>political demonstrations/industrial action</p> <p>whistle blowing</p>	<p>ensure Trust policies or actions do not interfere with this right</p> <p>have clear policies and procedures in place for dealing with disputes with Trade Unions and whistle blowing</p>
<p>Freedom of assembly and association</p>	<p>includes protection of health or morals</p> <p>industrial relations</p> <p>policy making</p>	<p>be alert to policies or actions that may interfere with a persons right.</p>
<p>Prohibition of discrimination</p>	<p>Protects people from different treatment on the grounds of discrimination – covers:-</p> <ul style="list-style-type: none"> - sex - race - colour - language - religion - political or other opinion - national or social origin -association with a national minority - property - birth - sexual orientation - whether you were born inside or outside of marriage - marital status - age 	<p>ensure that policies or procedures do not involve any form of discrimination on any ground</p> <p>if it is necessary to treat some people more favourably than others there must be an objective and reasonable justification for the discrimination</p> <p>a public authority may be asked to produce reasons for its decisions</p>

**The George Eliot Hospital NHS Trust
Human Rights Flow Chart**

