

**Appendix 2: Our legal obligations in relation to Equality, Diversity and Human Rights**

**Equality Act 2010 and Public Sector Equality Duty**

The Equality Act 2010 brought together previous and separate pieces of anti-discrimination legislation into one Act of Parliament. The Act covers the following “protected characteristics":

age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation.

It consists of a general duty and specific duties for public sector organisations. The Public Sector Equality Duty came into force in April 2011. It requires NHS Gloucestershire Integrated Care Board, in the exercise of its functions, to have due regard to the need to:

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

As a public body GICB must publish information to demonstrate how we fulfil these requirements.

Further information is available at: <https://www.gov.uk/government/publications/public-sector-equality-duty>

**Equality Act 2010 and Our Staff**

The Equality and Human Rights Commission sets out guidance for employers on all areas of human resource management practice.

Further information is available at:

<http://www.equalityhumanrights.com/private-and-public-sector-guidance/employing-people/guidance-employers>

**Safer Staff Recruitment**

The ICB’s Recruitment and Selection Policy and Temporary Promotion Policy are available at: <https://intranet.nhsglos.nhs.uk/hr-and-training/a-z/policies/>

Information relating to the NHS Employment Check Standards can be found at:

<http://www.nhsemployers.org/your-workforce/recruit/employment-checks/nhs-employment-check-standards>

**Disability Confident**

NHS Gloucestershire ICB is a recognised Disability Confident Employer and are committed to improving the opportunities and experiences of disabled people. The ICB is currently working to:

* ensure our recruitment processes are inclusive and accessible
* communicate and promoting vacancies to potential applicants who are disabled
* offer interviews to people with disabilities
* provide reasonable adjustments as required for new and existing staff (see [Reasonable Adjustments Policy](https://intranet.nhsglos.nhs.uk/wp-content/uploads/2023/10/121_Reasonable-Adjustments-Policy_Oct-23_-v1.docx))
* support existing employees who acquire a disability or long-term health condition, enabling them to stay in work

**Mindful Employer**

GICB has signed-up to the Charter for Employers who are Positive About Mental Health. This is a voluntary agreement seeking to support employers in working within the spirit of its positive approach. The Charter is one element of the MINDFUL EMPLOYER® initiative which is aimed at increasing awareness of mental health in the workplace and supporting businesses in recruiting and retaining staff.

Further information is available at: <https://intranet.nhsglos.nhs.uk/hr-and-training/corporate/icb-accreditations/>

**Armed Forces Employer Recognition Scheme**

NHS Gloucestershire ICB has been awarded the Bronze award, which means that the organisation has committed to and signed the [Armed Forces Covenant](https://intranet.nhsglos.nhs.uk/wp-content/uploads/2023/12/NHS_Gloucestershire_ICB_Armed_Forces_Covenant_20230926.pdf)  and promotes being a forces-friendly employer. For more information see our dedicated section on supporting armed forces personnel [here](https://intranet.nhsglos.nhs.uk/directorates/people-culture-and-engagement/#link-Armed%20Forces%20Covenant%20&%20Employer%20Recognition%20Scheme).

**Reducing health inequalities – The Health and Social Care Act 2012**

The Health and Social Care Act 2012 enshrines in legislation for the first time, explicit duties on the Secretary of State for Health, NHS England and CCGs to have regards to the need to reduce health inequalities in the benefits which can be obtained from health services. The duty on the Secretary of State extends to functions in relation to both the NHS and public health. The duties on NHS England and ICBs incorporate both access to, and benefits from, healthcare services.

Clinically-led commissioning - the Act puts clinicians in charge of shaping services. A number of ICBs’ key responsibilities are directly designed to help reduce health inequalities these include:

* **Promoting integration -** NHS England and ICBs are responsible for promoting better integration of health services with health, social care and other health-related services, where this would improve service quality or reduce inequalities.
* **Quality reward -** NHS England is able to reward ICBs for providing high quality services, for improving outcomes and reducing inequalities
* **No decision about me, without me -** NHS England and ICBs are required to involve the public in the planning of commissioning arrangements and proposals to change those arrangements and decisions affecting them.
* **New innovative services** – the act enables providers, including the independent 3rd sector, to develop innovative services to tackle complex problems such as health inequalities.

Further information is available in a series of fact sheets at: <https://www.gov.uk/government/publications/health-and-social-care-act-2012-fact-sheets>

**Human Rights Act**

Public sector organisations also need to have due regard to the Human Right Act 1998 [HRA]. There are five principles of human rights which are: fairness, respect, equality, dignity and autonomy, called the FREDA principles which also form part of the NHS Constitution.

In commissioning and delivering services which are compatible with the HRA, the ICB commits to undertaking human rights based approach in line with PANEL principles: Participation, Accountability, Non-discrimination, Empowerment and Legality.

Further information is available at: <https://www.equalityhumanrights.com/human-rights/human-rights-act>

**The United Nations Convention on the Rights of the Child**

The [United Nations Convention on the Rights of the Child](http://www.unicef.org/crc) (commonly abbreviated as the CRC, CROC, or UNCRC) is a human rights treaty setting out the civil, political, economic, social, health and cultural rights of children. The Convention defines a child as any human being under the age of eighteen, unless the age of majority is reached earlier under a state’s own domestic legislation.

Article 12 of the convention states that ‘parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child’.

Further information is available at: <http://www.unicef.org/crc/>

**The NHS Constitution**

The NHS constitution revised in March 2012 contains seven principles that guide the NHS as well as a number of pledges for patients and the public. A number of these demonstrate the commitment of the NHS to the requirements of the Equality Act and the Human Rights Act.

The first of the seven principles requires that the NHS “provides a comprehensive service, available to all irrespective of gender, race, disability, age, sexual orientation, religion or belief, gender reassignment, pregnancy and maternity or marital or civil partnership status”. There are also a number of rights contained in the constitution which underpin the NHS’s commitment to equality and human rights and which include:

* the right not to be unlawfully discriminated against in the provision of NHS services including on grounds of gender, race, disability, age, sexual orientation, religion or belief, gender reassignment, pregnancy and maternity or marital or civil partnership status.
* the right to be treated with dignity and respect, in accordance with your human rights.
* the right to be involved in discussions and decisions about your healthcare, and to be given information to enable you to do this
* the right to accept or refuse treatment that is offered to you, and not to be given any physical examination or treatment unless you have given valid consent
* the right to be involved, directly or through representatives, in the planning of healthcare services, the development and consideration of proposals for changes in the way those services are provided, and in decisions to be made affecting the operation of those services.

Further information is available at: <https://www.gov.uk/government/publications/the-nhs-constitution-for-england>

**The NHS Constitution and Our Staff**

NHS staff have extensive legal rights, embodied in general employment and discrimination law. These are summarised in the Handbook to the NHS Constitution available at: <https://www.gov.uk/government/publications/supplements-to-the-nhs-constitution-for-england/the-handbook-to-the-nhs-constitution-for-england#nhs-staff>

In addition to these legal rights, there are a number of pledges within the NHS constitution, which the NHS is committed to achieve. The pledges can be found at:

<https://www.gov.uk/government/publications/the-nhs-constitution-for-england/the-nhs-constitution-for-england#staff-your-rights-and-nhs-pledges-to-you>

**The NHS Equality Delivery System**

The Equality Delivery System (EDS) helps NHS organisations improve the services they provide for their local communities and provide better working environments, free of discrimination, for those who work in the NHS, while meeting the requirements of the Equality Act 2010.

The EDS comprises eleven outcomes spread across three Domains:

* Commissioned or provided services
* Workforce health and well-being
* Inclusive leadership.

Through discussion with local partners, staff and patient representatives our performance against these outcomes are evaluated, scored, and rated using available evidence and insight.  Our latest evaluation is available at: <https://www.nhsglos.nhs.uk/about-us/how-we-meet-our-duties/equality-and-diversity/>

Further information is available at: <https://www.england.nhs.uk/about/equality/equality-hub/patient-equalities-programme/equality-frameworks-and-information-standards/eds/>

**Workforce Race Equality Standard**

Implementing the Workforce Race Equality Standard (WRES) is a requirement for NHS commissioners and NHS healthcare providers including independent organisations, through the NHS standard contract.

Recent research has demonstrated that the treatment and experience of BME staff within the NHS is very significantly worse, on average, than that of NHS white staff. The publication of “*The Snowy White Peaks of the NHS*” (2014) demonstrated that BME staff were absent from the leadership of many organisations even where the workforce had substantial numbers of BME staff and where the organisation provided services to communities with large number of BME patients.

The report also summarised research over recent years showing that BME staff were treated less favourably by every measure, including promotion, grading, discipline, bullying, and access to non-mandatory training. It demonstrated that such evidence as exists showed little or no progress in recent years despite the growing number of BME staff employed as doctors, nurses and other staff.

During 2014, the Equality and Diversity Council (EDC) carefully considered the combined impact of available research and concluded that it was in the best interests of patients (as well as staff) that early and decisive steps be taken to remedy this inequity.

The challenge to ensure black and minority ethnic (BME) staff are treated fairly and their talents valued and developed is one that all NHS organisations need to meet because:

* Research shows that unfair treatment of BME staff adversely affects the care and treatment of all patients;
* Talent is being wasted through unfairness in the appointment, treatment and development of a large section of the NHS workforce;
* Precious resources are wasted through the impact of such treatment on the morale, discretionary effort, and other consequences of such treatment;
* Research shows that diverse teams and leaderships are more likely to show the innovation, and increase the organisational effectiveness, the NHS needs;
* Organisations whose leadership composition bears little relationship to that of the communities served will be less likely to deliver the patient focussed care that is needed.

Further information is available at: <https://www.england.nhs.uk/about/equality/equality-hub/workforce-equality-data-standards/equality-standard/>

**Workforce Disability Standard**

The Workforce Disability Equality Standard (WDES) is a set of ten specific measures (metrics) which enables NHS organisations to compare the workplace and career experiences of disabled and non-disabled staff. NHS organisations use the metrics data to develop and publish an action plan, building on high impact actions shared in the first ever EDI improvement plan. Year on year comparison enables NHS organisations to demonstrate progress against the indicators of disability equality to create the cultures of belonging and trust that will improve retention, recruit from the widest possible talent pool and provide sustainable careers.

Further information is available at: <https://www.england.nhs.uk/about/equality/equality-hub/workforce-equality-data-standards/wdes/>

**Accessible Information Standard**

From 1 August 2016 onwards, all organisations that provide NHS care and/or publicly-funded adult social care are legally required to follow the Accessible Information Standard. The Standard sets out a specific, consistent approach to identifying, recording, flagging, sharing and meeting the information and communication support needs of patients, service users, carers and parents with a disability, impairment or sensory loss.

The Accessible Information Standard, formally known as DCB1605 Accessible Information, is made up of a specification and implementation guidance.

Further information is available at: <https://www.england.nhs.uk/about/equality/equality-hub/patient-equalities-programme/equality-frameworks-and-information-standards/accessibleinfo/>

*NB. The Accessible Information Standard is currently being reviewed with further guidance expected in early 2025.*