# **Equal Opportunities and Diversity Policy**

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| **Approved by: Quality and Safety Committee**  **Date of approval: 5th April 2017**  **Originator: Tom Shea**  **Reviewed by:**  **Date of Review: February 2017**  **Next review date: February 2023** |

### Policy Statement

St Kentigern Hospice recognises that discrimination is unacceptable and is committed to building a workforce which is valued and whose diversity reflects the community it serves, enabling it to deliver the best possible services to those communities.

The hospice is committed to enabling all employees to achieve their full potential in an environment characterised by dignity and mutual respect.

St Kentigern Hospice seeks to guarantee equality of opportunity for all. Equality of opportunity means that an individual’s diversity is viewed positively and, in recognising that everyone is different, valuing equally the unique contribution that individual experience, knowledge and skills can make.

All who work for St Kentigern Hospice, or applies to work for the hospice, should be treated fairly and valued equally. All conditions of service and job requirements should fit with the needs of the service and those who work in it, irrespective of:

* Age
* Disability
* Gender Reassignment
* Marriage and Civil Partnership
* Pregnancy and Maternity
* Race (including nationality (inclusive of citizenship), colour, ethnic or national origin)
* Religion or Belief (includes philosophical beliefs and lack of belief (such as Atheism)
* Sex
* Sexual Orientation

(the above nine characteristics are protected by the Equality Act 2010) or any other criteria that cannot be shown to be properly justifiable e.g. political affiliation or trade union membership.

St Kentigern hospice will ensure that the policy is circulated to any agencies responsible for our recruitment and a copy of the policy will be made available for all employees and made known to all applicants for employment.

The policy will be communicated to all private contractors reminding them of their responsibilities towards the equality of opportunity.

The policy will be implemented in accordance with the appropriate statutory requirements and full account will be taken of all available guidance and in particular any relevant Codes of Practice.

St Kentigern will maintain a neutral working environment in which no employee or worker feels under threat or intimidation.

### Related Hospice policies/procedures:

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| * Employment of Ex- offenders’ policy * Employment, recruitment, selection policy and procedure * Grievance Policy and Procedure * Harassment bullying prevention Policy * Dealing with Harassment and Bullying Procedure * Disciplinary Policy * Education and Training Policy and Procedure * Privacy and Dignity Policy * Security Handling and Safekeeping of Disclosure Information Policy * Whistle blowing Policy- Raising concerns about poor practice policy and Procedure. * St Kentigern Employee handbook: Equal Opportunities Policy page 40-41 |

### Compliance with Statutory Requirements:

* National Minimum Standards for Independent Health Care Services in Wales 2011. Standard 2 Equality, Diversity and Human Rights Regulation 17, 18
* Mental Capacity Act 2005
* The Mental Health Act 1983 (as amended by the Mental Health Act 2007)
* The public order Act 1986
* The Equal Pay Act 2010

### Responsibility/Accountability:

### Ultimate Responsibility and Accountability:

* Board of Trustees who are the Registered Provider for St Kentigern Hospice
* **Ultimate responsibility:** Chief Executive as responsible individual to Health Inspectorate for Wales (HIW)
* Hospice Manager as the Registered Manager to Health Inspectorate for Wales (HIW)

For implementing the policy and ensuring that it is complied with in all facets

of the organisations activities.

**First Line Responsibility:**

Senior managers, line managers, Clinical Lead and supervisors have day to day responsibility for ensuring that the policy is implemented and adhered to and that any instances of harassment/victimisation are dealt with appropriately through advice support and early intervention.

**Additional responsibility:**

All staff, employees and volunteers must abide by the policy.

**Definitions of types of Discrimination**

**Direct Discrimination**

Direct discrimination occurs when someone is treated less favourably than another person because of a protected characteristic (see above) they have or are thought to have (see perception discrimination below), or because they associate with someone who has a protected characteristic see discrimination by association below). For example, an applicant is not employed due to their race.

**Discrimination by Association**

This is direct discrimination against someone because they associate with another person who possesses a protected characteristic. For example, a non-disabled employee who is discriminated against because of action they need to take to care for a disabled dependent.

**Perception Discrimination**

This is direct discrimination against someone because others think they possess a particular protected characteristic. It applies even if the person does not actually possess that characteristic.

**Indirect Discrimination**

Indirect discrimination can occur when an employer has a policy, practice or procedure that applies to everyone but might disadvantage a particular group, and which cannot be justified in relation to the job.

**Victimisation**

Victimisation occurs when you treat someone less favourably or discriminate against them because they have made or supported a complaint or raised a grievance under the Equality Act or because they are suspected of doing so. For example, an individual being overlooked for promotion because they gave evidence in a discrimination claim for another employee.

**Harassment**

Harassment is ‘unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual’. Employees can complain of harassment even if they don’t possess the protected characteristic or the harassment is not directed at them. For example, if jokes are made about another person or group relating to age, race, sexual orientation etc.

**Dual Discrimination**

Occurs when someone is treated less favourably because of a combination of two relevant protected characteristics. This means that it will be possible for an applicant to claim that they have been treated less favourably not just because of their race but also because of their gender.

**Detriment arising from a disability**

Arises when you treat a disabled person unfavourably because of something connected with their disability. This type of discrimination is unlawful where the employer or other person acting for the employer knows, or could reasonably expected to know, that the person had a disability. This type of discrimination is only lawful if the action can be justified and the employer can show that is a proportionate means of achieving a legitimate aim.

### Aim and Scope of the Equal Opportunities and Diversity Policy:

The aim of the policy is to ensure no job applicant, employee or worker is discriminated against either directly or indirectly on the grounds of race, colour, ethnic or national origin, religious belief, sex, marital status, sexual orientation, gender reassignment, age or disability. The scope of the policy covers all aspects of discrimination and applies to all staff members employed by St Kentigern hospice as well as trustees, volunteers, patients and job applicants.

### Method:

Staff expectations are:

* To co-operate and comply with any measures introduced to ensure equality of opportunity, dignity at work and the avoidance of any form of harassment or discrimination.
* Not to induce other employees individually or collectively to practice unlawful discrimination or enter into any behaviour or practice that might negatively impact on any other colleague’s dignity or be construed as harassment.

* To draw to the attention of an appropriate manager, any known or suspected acts of discrimination or harassment.
* All staff must behave in a way that supports this policy and treat each other with respect, courtesy and dignity.

Recruitment and selection

* The recruitment and selection process is crucially important to any equal opportunities policy. St Kentigern Hospice will endeavour through appropriate training to ensure that employees making selection and recruitment decisions will not discriminate, whether consciously or unconsciously, in making these decisions.
* Promotion and advancement will be made on merit and all decisions relating to this will be made within the overall framework and principles of this policy.
* Job descriptions, where used, will be revised to ensure that they are in line with the equal opportunities policy. Job requirements will be reflected accurately in any personal specifications.
* St Kentigern Hospice will adopt a consistent, non-discriminatory approach to advertising of vacancies.
* The hospice will not confine its recruitment to areas or media sources which provide only or mainly, applicants of a particular group.
* All applicants who apply for jobs with the hospice will receive fair treatment and will be considered solely on their ability to do the job.
* All employees involved in the recruitment process will periodically review their selection criteria to ensure that they are related to the job requirements and do not unlawfully discriminate.
* Shortlisting and interviewing will be carried out by more than one person where possible.
* Interview questions will be related to the requirements of the job and will not be of a discriminatory nature.
* St Kentigern Hospice will not disqualify any applicant because he/she is unable to complete an application form unassisted unless personal completion of the form is a valid test of the standard of Welsh or English required for the safe and effective performance of the job.
* Selection decisions will not be influenced by any perceived prejudices of other staff.

St Kentigern Hospice reserves the right to amend this policy if necessary to take into account operational and legislative requirements.

**Training and Promotion.**

Senior staff will receive training in the application of this policy to ensure that they are aware of its contents and provisions.

All promotion will be in line with this policy.

**Policy Monitoring and Review:**

* This policy will be reviewed every three years or whenever a change in legislation requires or procedure occurs, whichever is sooner.
* Where appropriate St Kentigern Hospice will maintain and review the employment records of all employees in order to monitor the progress of this policy.
* Monitoring may involve the following:
  + The collection and classification of information regarding the race in terms of ethnic/national origin and sex of all applicants and current employees.
  + The examination by ethnic/national origin and sex of the distribution of employees and the success rate of the applicants; and
  + Recording recruitment, training and promotion records of all employees, the decisions reached and the reason for those decisions.

The results of any monitoring procedure will be reviewed at regular intervals to assess the effectiveness of the implementation of this policy. Consideration will be given, if necessary, to adjusting this policy to afford greater equality of opportunities to all applicants and staff.

References and Acknowledgements

Nightingale House Hospice Chester Road, WrexhamLL11 2SJ

St David’s Hospice, Abbey Road, Llandudno, LL30 2EN

St Kentigern Employee hand book: Upper Denbigh Road, St Asaph, LL17 ORS Denbighshire

Primrose Hospice: 189 Evesham Road Redditch B97 5EN

<https://www.equalityhumanrights.com/en/equality-act/protected-characteristics>

<https://www.gov.uk/discrimination-your-rights/types-of-discrimination>

**Appendix 1**

**Protected Characteristics: Definition/explanation**

There are nine protected characteristics as defined within the Equality Act 2010. They are as follows: -

**Age**

St Kentigern Hospice celebrates and values the diversity of staff of all ages and aims to ensure that all members of staff are treated fairly and with dignity and respect.

Age is defined by being of a particular age (for example being 35 years old) or by being within a range of ages (for example being in one's 30s).

Direct age discrimination may be permissible if the different treatment can be justified as a proportionate response to meet a legitimate aim; however, this is a difficult test to meet and requires consideration of objective evidence.

**Disability**

The Equality Act 2010 states that a person has a disability 'if they have a physical or mental impairment, and the impairment has a substantial and long-term adverse effect on his or her ability to carry out normal day-to-day activities'.

The Hospice, in its commitment to employing people with disabilities will guarantee an interview to all disabled applicants if they satisfy the essential requirements of the post. People with disabilities will be assessed in accordance with their abilities.

'Substantial' is defined by the Act as 'more than minor or trivial'.

An impairment is considered to have a long-term effect if:

it has lasted for at least 12 months

it is likely to last for at least 12 months, or

it is likely to last for the rest of the life of the person

Whether a person is disabled is generally determined by the effect the physical or mental impairment has on their ability to carry out normal day-to-day activities (the exception to this is people with severe disfigurement). Normal day-to-day activities are not defined in the Act, but in general they are things people do on a regular or daily basis, for example eating, washing, walking, reading, writing or having a conversation.

People who have had a disability in the past are also protected against discrimination, harassment and victimisation. This may be particularly relevant for people with fluctuating and/or reoccurring impairments.

Reasonable adjustments

These adjustments apply where a disabled person is placed at a substantial disadvantage in comparison to non-disabled people. It is important to note that an institution can treat a disabled person favourably compared to a non-disabled person, and this would not amount to direct discrimination of a non-disabled person.

**Gender Reassignment**

This is the process of changing or transitioning from one gender to another. St. Kentigern Hospice aims to ensure that all transgender members of staff are treated fairly and with dignity and respect.

The Equality Act protects trans people who propose to undergo, are undergoing, or have undergone a process (or part of a process) of having their sex reassigned. A person does not have to be under medical supervision to have the protected characteristic of gender reassignment.

Trans is an inclusive term for people who may identify themselves as transgender, transsexual, transvestite, but also includes identities such as agendered, polygendered, non-gendered or gender queer (nonbinary).

Transitioning is the term used to describe the process someone goes through to change from one gender to another, with or without medical intervention. Not every trans person will feel it is appropriate to use the binary genders of male or female during or after transition.

Every trans person is different: some people will transition to their preferred gender full-time and others will choose to live in their preferred gender part-time; some choose to undergo surgery or have other medical intervention and others choose not to. The length of time it takes for a person to transition can differ vastly depending on these factors, the length of time it takes to see a psychiatrist and a gender identity specialist and whether they transition under the NHS or privately.

Whatever the individual circumstances, St. Kentigern Hospice will be flexible, supportive, and make clear that discrimination and harassment against trans people will not be tolerated. St, Kentigern Hospice will work with the person who is transitioning or has transitioned to agree an action plan, appropriate support and which records should be changed.

**Marriage and Civil Partnership**

Marriage is no longer restricted to a union between a man and a woman but now includes a marriage between same-sex couples.

The Marriage (Same Sex Couples) Act 2013 was passed on 17th July, 2013 and made the marriage of same sex couples lawful in England and Wales. This Act is separate and different from The Marriage Act 1949 which is the legislation governing opposite-sex marriages.

From the 29th March, 2014 same sex marriage became legal in England and Wales. Same-sex couples can also have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters.

Same sex marriage is legal in the Netherlands, Belgium, Spain, Canada, South Africa, Norway, Sweden, Portugal, Iceland, Mexico and Argentina. Same sex marriage is also legal in some US States. Same sex couples residing in the UK may therefore have legally married in a different jurisdiction and should be referred to as married.

Marriage and Civil Partnership protection afforded in the Equality Act 2010 protects people who are married or in a civil partnership against discrimination. It does not protect people who are single, divorced, widowed or have dissolved their civil partnerships.

Protection is only afforded in employment and not in education or the provision of goods and services.

**Pregnancy and Maternity**

Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context.

A woman is protected from pregnancy discrimination as soon as she knows, believes or suspects that she is pregnant. However, if she chooses not to tell her employer that she is pregnant and that they aren't aware that she is pregnant, she will not be protected from pregnancy discrimination if she is treated unfavourably, for example by being dismissed or is absence managed if she takes time off for pregnancy related illness. She will also not be entitled to other rights, like paid time off for antenatal appointments, unless she has notified her employer that she is pregnant.

A woman is protected for the duration of the protected period. According to the Equality Act "The protected period, in relation to a woman's pregnancy, begins when the pregnancy begins and ends: -

a) If she has the right to ordinary and additional maternity leave, at the end of the additional maternity leave period or (if earlier) when she returns to work after the pregnancy.

b) If she does not have that right, at the end of the period of 2 weeks beginning with the end of the pregnancy."

It is unlawful pregnancy discrimination to treat an employee unfavourably because she is pregnant; for a reason relating to her pregnancy or because of a pregnancy related illness.

In addition, after the baby is born, it is unlawful maternity discrimination to treat a pregnant employee unfavourably because she is about to go on maternity leave; is on maternity leave, or has been on maternity leave.

Pregnancy and maternity discrimination is when an employer treats a woman unfairly because they're pregnant or because a woman has recently had a baby and that they suffer a disadvantage as a result e.g. if they're dismissed or refused a promotion.

In the non-work context, protection against maternity discrimination is for 26 weeks following the day after giving birth, and this includes treating a woman unfavourably because she is breastfeeding. If you're being treated unfavourably because you're breastfeeding your baby who's over 26 weeks, the Equality Act says it's direct sex discrimination.

Pregnancy and maternity-related discrimination can occur outside of the workplace (for example in education) if a woman is treated unfavourably because:

of her pregnancy

she has given birth (within the past 26 weeks) and, in particular, because

she is breastfeeding

**Race**

Refers to the protected characteristic of race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

The definition of race includes:

colour

nationality

ethnic origins

national origins

Protection on the grounds of nationality is subject to compliance with immigration rules.

The Public Order Act 1986 contains specific criminal offences related to the intention of stirring up racial hatred or if someone is likely to stir up racial hatred. This includes threatening, abusive or insulting words or behaviour, materials and public performances.

**Religion and Belief**

Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

The definitions of religion and belief are:

religion: any religion or reference to religion, including a reference to a lack of religion

belief: any religious or philosophical belief or reference to belief, including a reference to a lack of belief

Religion or belief should be taken to mean the full diversity of religious and belief affiliations within the UK, including non-religious and philosophical beliefs such as atheism, agnosticism and humanism.

Religious hatred legislation

The Racial and Religious Hatred Act 2006 amended the Public Order Act 1986 made it an offence to stir up hatred and protects people from harm for their religion or belief or lack of religion or belief.

**Sex**

A man or a woman.

Sex is a protected characteristic under the Equality Act 2010. It protects men (being a man) and women (being a woman) from discrimination.

Equal Pay Legislation

The Equality Act 2010 gives women and men a right to equal pay for equal work.

**Sexual Orientation**

Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.

Sexual orientation means a person's sexual orientation towards people of the same sex, opposite sex or both. Lesbian, gay and bisexual are protected under the Equality Act.

**Appendix 2**

**Information**

Circulation list for comment

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| **Name** | **Title** |
| Dinah Hickish | Senior Advanced Nurse Practitioner |
| Elinor Evans | Advanced Nurse Practitioner |
| Dr Andrew Shuler | Consultant in Palliative Medicine |
| DR Marlise Poolman |  |
| Joyce Bellingham | Registered Hospice Manager |
| John Lloyd | Staff Nurse Infection control link nurse |
| Karen Fitzsimmons | Staff Nurse Audit Lead |
| Risk Management Committee |  |
| Quality and Safety Committee |  |

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| **Ratified by Quality and Safety Committee** | **Date** |

**Chair Quality and Safety Committee**

**Signature\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**