

NHS Stockport

HUMAN RESOURCES POLICIES, PROCEDURES AND GUIDELINES

Title: Equal Opportunities Policy		Policy No: 044 Version No: 4
Staff groups covered: All staff employed by NHS Stockport, employees who work under a contract of service and all associated persons such as contractors, agency staff, volunteers, trainees, students and others employed under a contract for service.		
Key objectives: To set out the values of NHS Stockport in relation to Equal Opportunities and to outline staff responsibilities in implementing the policy.		
Reference(s): Equality Act (2010) Public Sector Equality Duties (2011)		Cross References to other policies: NHS Stockport Single Equality Scheme Recruitment & Selection Policy Respect at Work Policy Education, Training and Development Policy Managing Organisational Change Policy Corporate Complaints Procedure Vexatious Behaviour Policy Hate Incident Reporting System Grievance Procedure Disciplinary Procedure Managing Attendance Policy Policy on Policies Capability Policy Retirement Policy Claims Procedure Code of Conduct
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To be reviewed: February 2016		

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EQUAL OPPORTUNITIES POLICY

1.0 POLICY STATEMENT

- 1.1 NHS Stockport is an equal opportunities employer. We welcome diversity and we strongly believe that a commitment to Equality & Diversity for staff will lead to improved services for patients.
- 1.2 We are committed to tackling discrimination in all areas of the work we do and the services we provide, from recruitment and pay to discipline and grievance procedures, access to facilities and employment benefits.
- 1.3 Our aim is to create a tolerant organisation that values diversity and promotes equality of opportunity, regardless of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, regional origin, religion or belief, sex, sexual orientation, or trade union membership.
- 1.4 We aim to create a working environment in which:
- there is no bullying, harassment or discrimination
 - all people have the opportunity to realise their full potential
 - all decisions are based on merit.
- 1.5 And we aim to provide services in a safe environment where:
- all people are able to access high quality services
 - there is no bullying, harassment or discrimination
 - all care decisions are based on clinical need.
- 1.6 Discrimination, bullying and harassment of any kind will not be tolerated by NHS Stockport, and we will strive to provide appropriate support and guidance to staff and service users.

2.0 PURPOSE

- 2.1 This policy sets out our values as an organisation:
- how we intend to work
 - the standard with which we aim to treat employees, partners and service users
 - how we expect our employees to work and behave
 - and how the organisation will respond to any breaches of this policy.
- 2.2 As a Public Sector organisation, NHS Stockport is bound to comply with the provisions of the Equality Act (2010) and the Public Sector Equality Duties.
- 2.3 NHS Stockport is also committed to including any amendments of the above legislation and future legislation within this policy.

3.0 SCOPE

- 3.1 This policy statement underpins all of NHS Stockport's policies and procedures and supports their application in promoting the principles and practice of equality within NHS Stockport.
- 3.2 The Policy applies to all NHS Stockport employees in the course of their employment. The Policy also applies to Volunteers, Contractors, Trainees, Students and Suppliers undertaking activities within NHS Stockport and the provision of goods and services to NHS

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Stockport.

- 3.3 The policy applies at all times during the course of an employee's employment or during the provision of goods and services to NHS Stockport. The Code may apply at other times if the behaviour of the above brings NHS Stockport into disrepute.

4.0 ROLES AND RESPONSIBILITIES

4.1 Responsibility of NHS Stockport

- 4.1.1 NHS Stockport has a legal and moral responsibility to prevent unfair discrimination, to promote equality of opportunity in all aspects of its work, and to ensure that all those who work for, or on behalf of, the organisation help to deliver those responsibilities.
- 4.1.2 NHS Stockport relies on and supports its staff to cultivate and promote a working environment that is free from discriminatory practice and prejudice and where all individuals are treated with dignity and respect.
- 4.1.3 The Chief Executive, Executive and Board acting in conjunction with all the corporate and service leads will be responsible for implementing and monitoring the operational effectiveness of this Policy. It is however, the duty of each individual employee to actively promote and add value to diversity, equality of opportunity and fair treatment within their own areas of work.
- 4.1.4 NHS Stockport:
- Will endeavour to ensure that in all areas of operation the principles of equality are applied
 - Will provide specific training for all employees engaged in any managerial, supervisory, recruitment or training activity
 - Will provide equality awareness training for all members of staff including at corporate induction
 - Will ensure policies and procedures are updated, monitored and evaluated regularly.

4.2 Responsibility of the Equality & Diversity Steering Group

- 4.2.1
- To ensure that the principles of equality are applied in all areas
 - To set specific objectives and targets for improving equality of opportunity at NHS Stockport
 - To monitor complaints under this policy and report annually to Board.

4.3 Responsibility of the Equality Lead

- 4.3.1
- To ensure that policies, strategies and decisions are compliant with equality law and in keeping with the principles of this policy
 - To offer advice to Managers and any member of staff on the application of this policy
 - To bring to the attention of the Equality & Diversity Steering Group any trends, areas of commonality, or unexpected frequency of events that raise cause for concern under this policy.

4.4 Responsibility of Human Resources

- 4.4.1
- To ensure that all staffing policies comply with the NHS Stockport's values around equality of opportunity and legal guidance

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- To ensure that training is kept up to date in line with Equality legislation
- To deal with any complaints from staff in line with the correct HR procedures and in a manner that is fair and equitable.

4.5 Responsibility of Line Managers

4.5.1 Line managers, service managers and commissioners have a particular responsibility in the delivery of this policy in terms of ensuring that our services fully reflect these values, that staff reporting to them are aware of their own responsibility and feel both able to deliver these and are free from discrimination or harassment themselves within the workplace.

4.5.2 Managers and supervisors:

- Will keep abreast of any changes in the law, NHS Stockport policy and their managerial responsibilities
- Will ensure all their staff are aware of their responsibilities, comply with the law and the NHS Stockport's Equal Opportunities Policy
- Will ensure all complaints are treated seriously, sensitively and confidentially and are dealt with quickly and fairly
- Will ensure that appropriate records are maintained in relation to all HR policies and procedures, whether formal or informal
- Will ensure equal access of direct reports to training and development
- Will follow NHS Stockport policy to ensure equality of opportunity in the recruitment, selection and promotion of employees.

4.6 Responsibility of the PALS & Complaints Team:

- 4.6.1
- To handle enquiries, Incidents, Claims and Complaints from members of the public in an equitable manner under the terms of the Complaints Policy, Vexatious Behaviour Policy & Claims Procedure.
 - To measure PALS enquiries, Incidents, Claims and Complaints against the protected characteristics outlined above and bring them to the attention of Board in quarterly reports

4.7 Responsibility of Employees/Contractors/Suppliers/Volunteers

- 4.7.1
- Not to discriminate against any other individual in the performance of their duties on behalf of NHS Stockport
 - Not to victimise other individuals on the grounds that they have made complaints or provided information on discrimination or other issues
 - Not to harass, abuse or intimidate or treat less favourably other individuals in an attempt to discourage them from a particular course of action
 - To inform management if discrimination is suspected
 - To comply with measures introduced by NHS Stockport to ensure equal opportunities and non-discrimination

4.8 Trade Union/Professional Representatives

- 4.8.1 In addition to their responsibilities as individual employees staff representatives will also:
- Fulfil their representative role in the application of the Equal Opportunities Policy
 - Promote and support Equal Opportunities principles to all their members.

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5.0 DEFINITIONS

5.1 In line with the Equality Act (2010), NHS Stockport applies the following definitions in application of this policy:

5.2 Discrimination:

- 5.2.1 **Direct discrimination** occurs when someone is treated less favourably than another person because of a protected characteristic they have or are thought to have (see 'perceptive discrimination'), or because they associate with someone who has a protected characteristic (see 'associative discrimination').
- 5.2.2 **Associative Discrimination** occurs when someone is treated less favourably than another person because they are linked to someone with a protected characteristic. For example, you cannot refuse to recruit somebody because they are married to a foreign national or refuse to promote a person because they care for a relative with a disability.
- 5.2.3 **Perceptive Discrimination** occurs when someone is treated less favourably than another person because others think that they possess a particular protected characteristic, even if the person does not actually possess that characteristic. For example, you cannot refuse to recruit somebody because you think they are Muslim (whether they are or not) or refuse to allocate a job to a person purely because you think they don't look old enough.
- 5.2.4 **Indirect discrimination** can occur when you have a condition, rule, policy or practice that applies to everyone but which particularly disadvantages people who share a protected characteristic. Indirect discrimination can be justified if you can show that your actions were a proportionate means of achieving a legitimate aim and, as such, are objectively justified.
- 5.2.5 An **Objective Justification** is when an otherwise discriminatory action can be objectively justified as a proportionate means of achieving a legitimate aim – that is, the way of achieving the aim is appropriate and necessary.

5.3 Harassment:

- 5.3.1 **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, humiliating or offensive environment for that individual. Employees are also protected from harassment because of perception and association.
- 5.3.2 **Third party harassment** means that employers are potentially liable for harassment of their employees by people (third parties) who are not employees of their organisation, such as patients. NHS Stockport will only be liable when:
- harassment has occurred on at least two previous occasions
 - NHS Stockport is aware that it has taken place, and has not taken reasonable steps to prevent it from happening again.
- 5.3.3 **Bullying** includes persistent criticism, intimidation, personal abuse and/or ridicule which humiliates or demeans the individual involved, eroding their self-confidence.

5.4 Victimisation:

- 5.4.1 **Victimisation** occurs when an employee is treated badly because they have made or supported a complaint, raised a grievance, or because they are suspected of doing so. An employee is not protected from victimisation if they have maliciously made or knowingly

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supported an untrue complaint.

5.5 **Positive Action:**

- 5.5.1 Some people with protected characteristics are disadvantaged or under-represented in some areas of life, or have particular needs linked to their characteristic. They may need extra help or encouragement if they are to have the same opportunities as everyone else.
- 5.5.2 **Positive Action** refers to a range of lawful actions that seek to overcome or minimise disadvantages that people who share a protected characteristic have experienced, or to meet their different needs. For example, under our Recruitment & Selection Policy we will automatically offer an interview to all candidates with a disability who meet the required criteria for the role.
- 5.5.3 **Affirmative Action** is another term for Positive Action. It occurs when positive steps are taken to increase the participation of under-represented groups in the workplace or in uptake of services.
- 5.5.4 **Positive Discrimination**, the act of treating someone with a protected characteristic more favourably to counteract the effects of past discrimination, is illegal in the UK. For example, it is illegal to choose a black candidate over a white candidate for a job solely on the basis of their colour. However, in trying to address a low representation of ethnic minorities in the work place positive action – such as advertising jobs through local BME groups, is acceptable.

5.6 **Reasonable Adjustment:**

- 5.6.1 Where a disabled person is at a substantial disadvantage in comparison with people who are not disabled, there is a duty to take all reasonable steps to remove that disadvantage by (i) changing provisions, criteria or practices, (ii) altering, removing or providing a reasonable alternative means of avoiding physical features and (iii) providing auxiliary aids. The affect of a reasonable adjustment should be to provide a service as close as reasonably possible to the standard offered to non-disabled people.
- 5.6.2 This is an **Anticipatory Duty** for service providers, i.e. all reasonable adjustments known to the service provider should be made in advance to assist potential disabled service users and not just to those who are known to the service provider.
- 5.6.3 What is considered **Reasonable** will depend on all the circumstances of the case including the size of an organisation and its resources, what is practicable, the effectiveness of what is being proposed and the likely disruption that would be caused by taking the measure in question as well as the availability of financial assistance.
- 5.6.4 For example, it would be a reasonable adjustment for a small GP Practice to fit a ramp allowing patients in wheelchairs to access the surgery as easily as non-wheelchair users. For a large hospital, it would be reasonable to install lifts allowing patients with limited mobility to use all floors and wards.
- 5.6.5 If an adjustment is reasonable, the person or organisation providing the service must pay for it.
- 5.6.6 **Proportionate** refers to measures or actions that are appropriate and necessary. Whether something is proportionate in the circumstances will be a question of fact and involve weighing up the discriminatory impact of the action against the reasons for it, and asking if

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there is any other way of achieving the aim. Where a decision is taken that a requested adjustment is not reasonable or proportionate, the organisation would need to have evidence to back up this position.

5.6.7 Some examples of reasonable adjustments include:

- Providing information in **Alternative Formats** which are accessible to disabled people with specific impairments, for example Braille, audio description, subtitles and Easy Read.
- Fitting **Hearing Loops** that allow people with hearing aids to filter out distracting background noise in public places
- Fitting **Wheelchair Ramps** to allow access to different levels
- Providing **Disabled Facilities** that are wide enough for service users in wheelchairs
- Changing **opening times** to allow working people to attend a clinic
- Employing a **Palantypist** to allow an employee with a hearing impairment to take part in large meetings
- Installing **Videophone or Textphone** facilities for blind service users
- Providing **screen readers** for blind or partially sighted employees
- Providing **Sign Language Interpreters** at healthcare appointments

5.7 Protected Characteristics:

5.7.1 This policy is intended to protect employees and service users from unfair treatment, regardless of their background. Our definition of 'protected characteristics' is based on those set out in the Equality Act 2010:

5.7.2 **Age** refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds). The Equality Act protects people over 18 from discrimination in employment.

5.7.3 Under this policy, no employee or service user should be treated differently on the basis of their age unless it can be demonstrated that it is a proportionate means of meeting a legitimate goal, such as providing cancer screening for certain age groups based on medical research.

5.7.4 A person has a **Disability** if he or she has a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.

5.7.5 To qualify for protection from discrimination, a disabled person does not have to show that their impairment affects a particular 'capacity', such as mobility, speech, hearing or eyesight. And candidates for employment should not be asked about their health before offering them work.

5.7.6 The protected characteristic of **Gender Reassignment** applies to a person who is proposing to undergo, is undergoing or has undergone a process to change their sex. To qualify for protection from discrimination a transsexual person does not have to show that they are under medical supervision.

5.7.7 **Marriage** is defined as a legal 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as **Civil Partnerships**. Civil partners must be treated the same as married couples and neither group can be discriminated against for being married or part of a civil partnership.

5.7.8 **Pregnancy** is the condition of expecting a baby. **Maternity** refers to the period after the birth,

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and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.

- 5.7.9 Women are protected from discrimination on the grounds of pregnancy and maternity during the period of pregnancy and any statutory maternity leave to which they are entitled. Employers must not take into account an employee's period of absence due to pregnancy-related illness when making a decision about employment, and should ensure that there are appropriate mechanisms for separately recording such illnesses.
- 5.7.10 **Race** refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins. A racial group can be made up of two or more different racial groups (for example, Black Britons).
- 5.7.11 **Religion and Belief** refers to religious and philosophical beliefs that affect your life choices or the way you live. A religion must have a clear structure and belief system. A belief means any religious or philosophical belief or lack of belief that guides your life choices. Humanism is a protected philosophical belief but political beliefs would not be protected.
- 5.7.12 **Sex** refers to a person's gender - a man or a woman.
- 5.7.13 **Sexual Orientation** categorises a person's sexual attraction towards their own sex, the opposite sex, or both sexes.
- 5.7.14 Under this policy, no employee or service user should be treated unfairly on the basis of their sexual orientation. The Equality Act protects lesbian, gay, bisexual and heterosexual employees from discrimination, harassment and victimisation.

6.0 EQUALITY OF OPPORTUNITY IN PRACTICE

- 6.1 NHS Stockport has a commitment to support all staff to carry out the duties of their post effectively and to the best of their ability. The promotion of equality of opportunity does not just mean treating all staff the same, but requires active steps to be taken where possible to reduce the effect of any disadvantage to an individual.

6.2 Recruitment and Employment

- 6.2.1 No job applicant or employee will receive less favourable treatment on the grounds of age, caring responsibilities, disability, gender reassignment, marital / civil partnership status, pregnancy / maternity, race, religion or belief, sex, or sexual orientation. These principles apply to all staff, including volunteers and those on secondment or work experience.
- 6.2.2 NHS Stockport and its employees will develop and practice positively the concept of equal opportunities for all. Our aim is that its workforce is truly reflective of all sections of society and that each member of staff feels respected and able to give their best.
- 6.2.3 NHS Stockport will apply equal opportunity requirements throughout all of its employment practices, including:
- Ensuring that job vacancy advertisements and information are accessible to all community groups and encourage under represented groups to apply for employment within NHS Stockport
 - Stating our commitment to Equal Opportunities in all recruitment literature
 - Ensuring that Job titles; job descriptions and person specifications use non-discriminatory language

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- Ensuring that all reasonable adjustments are made for candidates & employees
- Ensuring that all staff involved within recruitment and selection complete the appropriate recruitment and selection training offered by NHS Stockport
- Ensuring that all staff development and training events are consistent with NHS Stockport commitment to equality and diversity within a framework of current and future legislation
- Monitoring all staff appointments and subsequent staff development by protected characteristic to ensure equity and all levels.

6.2.4 All Human Resources Policies will be assessed for their impact on protected characteristics and reviewed on a regular basis to ensure that equality of opportunity is assured.

6.2.5 Any recruitment and employment decisions will be made on the basis of fair and objective criteria in accordance with these policies.

6.3 Staff Training & Development

6.3.1 NHS Stockport will reflect its commitment to equal opportunities through equality of access to training and career development opportunities in accordance with the Education, Training and Development Policy.

6.3.2 All staff are required to undertake Equality & Diversity Training within three months of joining the organisation as part of their Corporate Induction. This course covers the basis level 1 for the equality & diversity core standard (6) or the NHS Knowledge & Skills Framework.

6.3.3 Training on HR policies and Complaints are also covered at corporate and local Inductions.

6.3.4 NHS Stockport also requires all staff responsible for designing services or developing policies/strategies to undergo Equality Impact Assessment training, so that they are fully aware of the process and skilled in undertaking them.

6.3.5 Internally:

- Training programmes will be designed to support the aims of this Policy
- Care will be taken to ensure that all training materials do not stereotype, prejudice or discriminate in any way. Every effort will be made to select external courses which also meet these requirements
- Training opportunities will be based upon a member of staff's availability, business needs, and the availability of appropriate work related courses
- Wherever practical, training will be arranged so that all categories of staff may attend, for example part-time or evening workers
- All new staff will receive Induction training
- All staff will be appraised annually and this will involve a discussion to identify available and appropriate opportunities.

6.3.6 Managers should ensure that all employees have equal access to training and development opportunities. This will be monitored annually through the Electronic Staff Records.

6.4 Dismissal, Redundancy & Retirement

6.4.1 Any decision to dismiss or make an employee redundant should be taken fairly, based on business needs and the individual's skills / performance, not protected characteristics. This should be done in line with the relevant NHS Stockport policy, e.g. Managing Organisational Change Policy, Capability Policy, Managing Attendance Policy, and Disciplinary Policy.

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6.4.2 Decisions around staff retirement should follow the Retirement Policy.

6.5 Governance

6.5.1 NHS Stockport values the importance of having a diverse workforce and is committed to being an employer of choice, in which staff feel safe, are treated fairly, and are free from discrimination or harassment.

6.5.2 In line with NHS Stockport's Policy on Policies, all changes to policies, protocols, procedures, services or commissioning decisions should be subject to our Equality impact Assessment Framework to ensure that no discrimination takes place.

6.5.3 We feel very strongly that the promotion of equality of opportunity does not always mean treating all people the same, and that sometimes we have to take active steps to reduce any disadvantage that some groups might face, such as positive action initiatives. Some examples of these and NHS Stockport's approach are outlined in our Single Equality Scheme.

6.6 Commissioning & Procurement

6.6.1 We understand the importance of ensuring that our values around equality are embedded into the way we spend money so we can use this opportunity and influence to promote equality of opportunity. We are therefore committed to ensuring that our commissioning and procurement practices address issues in relation to equality, which include ensuring that our contractors share our values both as an employer and service deliver, and that where relevant, our contracts include specific expectations around equality.

6.7 Service Delivery

6.7.1 NHS Stockport is committed to ensuring that all its services are designed and delivered in a way that meets all our communities' needs. To enable NHS Stockport to fully address issues of Equality & Diversity, we have adopted a comprehensive Equality Impact Assessment toolkit which is built into all our mechanisms for policy and service development and approval.

6.7.2 All reasonable adjustments will be made to ensure that our services are accessible to all groups in our community, except where there is clinical evidence to objectively justify alternative arrangements, such as limited services for certain age groups.

6.7.3 Training will be made available for front line staff to ensure that they understand and meet the different needs of service users.

6.7.4 Discrimination, harassment and victimization will not be tolerated in any of NHS Stockport's services – whether this directed towards staff or service users. NHS Stockport will take all appropriate steps to protect its staff and service users from illegal discrimination, victimisation or harassment.

7.0 MANAGING BREACHES OF THE POLICY

7.1 All employees have the right to work in an environment which is free from discrimination, harassment or victimization. And all service users have the same right when accessing healthcare services.

7.2 Where any incident of discrimination, harassment, victimisation or unfair treatment is raised with NHS Stockport, we will ensure that it is treated quickly, fairly, sensitively, and in complete

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confidence.

7.3 We will also ensure that any employee who uses the procedure or supports another employee in using this policy, will not suffer victimisation or harassment as a result.

7.4 Complaints made regarding discrimination, victimisation or harassment which cannot be resolved on an informal basis should be dealt with sensitively and confidentially through the appropriate NHS Stockport procedure, as outlined below.

7.5 Complaints from Members of the Public

7.5.1 Any service user who feels that they have been treated less favourably than others in the same circumstances has the right to seek redress.

7.5.2 The PALS & Complaints Team will handle any complaints from service users or members of the public relating to equal opportunities quickly, fairly, and in a timely manner. This will be done in accordance with NHS Stockport's Complaints Policy.

7.6 Complaints from Members of Staff

7.6.1 Any employee that feels they have grounds for complaint in relation to bullying, harassment, discrimination or victimisation at work, can use NHS Stockport's Respect at Work Policy.

7.6.2 Any employee who has experienced violence or abuse from a patient or member of the public whilst undertaking their duties should refer to NHS Stockport's Vexatious Behaviour Policy.

7.6.3 Complaints can be raised in the first instance with an employee's line manager.

7.6.4 Any individual who finds this approach difficult because of the nature of the complaint, may contact the Head of Equality or the HR Department in complete confidence.

7.6.5 Alternatively, employees can use NHS Stockport's equality staff networks as a confidential sounding board for discussing equal opportunity issues.

7.6.6 All complaints with regards to equality of opportunity should be taken seriously by managers and taken through the appropriate procedural channels: Grievance Procedure, or Disciplinary Procedure, depending on the nature of the complaint.

7.6.7 Any complaint regarding this policy should be flagged up with the Head of Equality for monitoring purposes.

7.7 Hate Incidents

7.7.1 If a member of staff on duty, or a member of the public on NHS Stockport grounds is subject to or witnesses an incident that is seen to be motivated by a hatred for someone's age, disability, gender identity, race, religion or belief, sex or sexual orientation - for instance violence or verbal abuse - it should also be logged and reported through NHS Stockport's Hate Incident Reporting System.

8.0 MONITORING AND REVIEW

8.1 NHS Stockport acknowledges the importance of monitoring the effectiveness of the Equal Opportunities Policy.

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- 8.2 NHS Stockport will maintain confidential records of complaints covered by the scope of this Policy and any investigation undertaken.
- 8.3 The monitoring processes will involve analysing available information on recruitment processes, promotions, dismissals, complaints and grievances. This will involve the annual analysis of the workforce by protected equality characteristics. Of particular importance will be the statistics showing the number of:
- Staff in post
 - Applicants for employment, training and promotion (and success rate)
 - Staff who receive training
 - Staff involved in grievance procedures
 - Staff subject to disciplinary procedures
 - Staff who cease employment; and
 - Changes in the distribution of staff employed in NHS Stockport over a period of time.
- 8.4 This policy will be monitored in the light of its application and as a minimum on an annual basis. The policy will be subject to a full review on a regular basis.

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