Equality Analysis for the

TUPE Transfer of

NHS Bristol Public Health Staff

to Bristol City Council

Author: Roy Ebanks – Diversity Consultant

Status: v2

Date: 28 January 2013

Contents

1 Purpose of this Equality Analysis

1.1 NHS Bristol (the primary care trust) is responsible for strategic planning, coordination and procurement of health services for the population of Bristol. These include primary, community and secondary services. The PCT's Public Health directorate performs this strategic role in relation to Public Health and preventative services. The directorate is also a direct provider of Public Health services through health promotion specialists, health trainers, stop smoking advisers, community development workers, etc.

1.2 Under the *Health and Social Care Act 2012*, most of NHS Bristol's current Public Health functions are being transferred to Bristol City Council (the local authority), along with the employees carrying out these functions. This will involve a reconfiguration of these functions in a way which integrates them with Bristol City Council's organisational structures and governance arrangements.

1.3 It should be noted that some Public Health functions, currently carried out by NHS Bristol, will not be transferred to the local authority, such as Research & Development and Emergency Planning.

1.4 This equality analysis has been conducted to ensure that, as a result of the transfer, none of NHS Bristol's Public Health staff will be adversely or unduly affected due to a protected characteristic; and, if any potentially negative impact is found, to highlight what steps have been identified or actioned to minimise such impact.

1.5 The equality analysis will also aim to provide:

- Recommendations to support future workforce data capture;
- Supporting evidence of compliance with the ***Equality Act 2010 – Public Sector Equality Duty***;
- Support to NHS Bristol and Bristol City Council in their due diligence in meeting the requirements of the ***Health and Social Care Act 2012***;
- An example of good practice with regard to any future TUPE transfers by NHS Bristol or its legacy organisations;
- Support for NHS Bristol's Board/senior management in highlighting good practice and meeting their equality and inclusion commitments.

2 Executive Summary

2.1 Scope of Equality Analysis

Is this a new or existing policy or practice?	**New: Y/N**	**Existing: Y/N**
Comment: The TUPE process is a formal UK employment law requirement. NHS Bristol is also obliged - as a 'public body' under the *Equality Act 2010* - to conduct an equality analysis into any significant organisational, service delivery or structural changes affecting staff or service users, with regards to protected characteristics.	Y	N

Context for this Equality Analysis	This Equality Analysis relates to NHS Bristol's local implementation of a national policy: i.e. the transfer of Public Health functions to local authorities under the Health and *Social Care Act 2012*.

Against which protected characteristics has this Equality Analysis been conducted?	**Yes**	**No**
Gender	*x*	
Race	*x*	
Age	*x*	
Disability	*x*	
Sexual Orientation	*x*	
Religion and Belief	*x*	
Marriage and Civil Partnership		*x*
Gender Reassignment		*x*
Health Impact		*x*
Pregnancy and Maternity		*x*

2.2 Executive Commentary

NHS Bristol has generally ensured that none of its current Public Health staff - in relation to their protected characteristics - will be adversely (or unduly positively) be affected by the forthcoming transfer of their remit and employment to Bristol City Council.

The transfer of Public Health functions is likely to bring some distinctive benefits to Bristol's communities in terms of reducing health inequalities. But it may also exacerbate identified 'gaps' in addressing some new and existing long term health campaigns and inequalities campaigns that are currently being addressed by NHS Bristol.

Some of these have been highlighted in this report.

3 Background – Marmot Review 2010

3.1 The Marmot Review into health inequalities in England published in February 2010, proposed an evidence based strategy in order to address the social determinants of health, the conditions in which people are born, grow, live, work and age and which can lead to health inequalities. It also drew further attention to the evidence that most people in England aren't living as long as the best off in society and spend longer in ill-health.

The report, titled 'Fair Society1, Healthy Lives', proposed a new way to reduce health inequalities in England post-2010. It argued that, traditionally, government policies have focused resources only on some segments of society. To improve health for all of us and to reduce unfair and unjust inequalities in health, action is needed across the social gradient.

3.2 Summary of findings and recommendations

3.2.1 The report contained many important findings, some of which are summarised below:

- People living in the poorest neighbourhoods in England will on average die seven years earlier than people living in the richest neighbourhoods
- People living in poorer areas not only die sooner, but spend more of their lives with disability - an average total difference of 17 years
- The Review highlights the social gradient of health inequalities - put simply, the lower one's social and economic status, the poorer one's health is likely to be
- Health inequalities arise from a complex interaction of many factors - housing, income, education, social isolation, disability - all of which are strongly affected by one's economic and social status
- Health inequalities are largely preventable. Not only is there a strong social justice case for addressing health inequalities, there is also a pressing economic case. It is estimated that the annual cost of health inequalities is between £36 billion to £40 billion through lost taxes, welfare payments and costs to the NHS
- Action on health inequalities requires action across all the social determinants of health, including education, occupation, income, home and community.

3.3 Recognising the need for new approaches

3.3.1 Key to Marmot's approach to addressing health inequalities was to create the conditions for people to take control of their own lives. This required action across the social determinants of health and beyond the often limited reach of the NHS. This placed a renewed emphasis on the role of local government who along with national government departments, the voluntary and private sector have a key role to play.

[1] http://www.instituteofhealthequity.org/projects/fair-society-healthy-lives-the-marmot-review

3.3.2 Crucially, Marmot also considered the issues beyond economic costs and benefits towards a goal of environmental sustainability. The Review inferred that by creating a sustainable future it was also entirely compatible with any action to reduce health inequalities though promoting sustainable local communities, active transport, sustainable food production, and zero carbon houses, all of which have health benefits.

3.4 A framework for action

3.4.1 As an outcome of the Review a framework for action under two policy goals were set:

1. To create an enabling society that maximizes individual and community potential; and
2. To ensure social justice, health and sustainability are at the heart of all policies.

3.4.2 Central to the Review is the recognition that disadvantage starts before birth and accumulates throughout life. This is reflected in the 6 policy objectives, with the highest priority being given to the first objective:

1. *Giving every child the best start in life*
2. *Enabling all children, young people and adults to maximise their capabilities and have control over their lives*
3. *Creating fair employment and good work for all*
4. *Ensuring a healthy standard of living for all*
5. *Creating and developing sustainable places and communities*
6. *Strengthening the role and impact of ill-health prevention*

3.5 Marmot Review - Legacy and Impact

3.5.1 The Marmot Review provided a timely reminder of the continuing social and economic cost of health inequalities. It presented a robust and well-evidenced business case for national and local action to address health inequalities through concerted action. The substantive report thus identified local government as *a pivotal partner in addressing the social determinants of health inequalities*.

3.5.2 To this end, by integrating NHS Bristol Public Health functions and roles into local authority directorates/departments and teams, it is hoped that the transition will improve action to address these social determinants.

4 Background to the transfer of NHS Bristol Public Health staff to Bristol City Council

4.1 *The Health and Social Care Act 2012* provides the statutory basis for the transfer of a number of Public Health functions currently carried out by the NHS to local government. From 1st April 2013, each upper tier and unitary local authority in England will take on a new duty to take such steps as it considers appropriate, for improving the health of the people in its area.

4.2 Within Bristol and surrounding areas, this will mean that NHS Public Health staff and functions will transfer to Bristol City Council. This is part of a larger reorganisation of local health services, including the abolition of primary care trusts and the transfer of their commissioning functions to clinical commissioning groups and commissioning support units.

4.3 As a result, NHS Bristol approached Bristol City Council with regards to existing Public Health staff transferring over to their organisation. The reasons for this are that:

- *Delivery of Public Health functions will become the responsibility of Bristol City Council from 1st April 2013;*
- *The current employer of Public Health Staff (NHS Bristol) will legally cease to exist from 1st April 2013;*
- *It is in line with national guidance produced by the Department of Health.*

4.4 It has been agreed between Bristol City Council and NHS Bristol that the transfer of staff should be completed as a TUPE transfer in line with the **Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE).**

4.5 Thus, the rationale for transferring under TUPE arrangements is that the primary function and purpose of the Public Health teams will remain the same post-transfer. Therefore, as a result, the work required that will be conducted by Bristol City Council is expected to be significantly similar to that which is currently being undertaken by existing Public Health staff in NHS Bristol. To this end and under the principles of TUPE, this process will be treated as "assigned" to the work transferring.

4.6 **In short, all aspects of Public Health employment terms, conditions and responsibilities, will transfer to Bristol City Council on the proposed transfer date.**

5 Details of changes being made as a result of the Transfer

5.1. The total number of NHS Bristol Public Health employees that will be transferred to existing and/or re-aligned Bristol City Council directorates is **97.4** [2]**WTE** (120 staff) as at July 2012.

5.2 Current NHS Bristol Public Health structure:

NHS Bristol PH Directorate	**No. WTE's**
Inner City & East	TBC
North Bristol	TBC
South Bristol	TBC
Totals	**97.4 WTE's**

5.3 Proposed Bristol City Council Public Health realignment:

Bristol City Council Departments	**No. of WTE's/staff**
Children, Young People & Skills	16.5 wte / 20 staff
Neighbourhoods and City Development	49.5 wte / 61 staff
Health and Social Care	4.4 wte / 6 staff
Public Health*	28.7 wte / 31 staff
Totals	**97.4 wte's / 120 staff**

**Bristol City Council currently has a small Public Health policy team which will be expanded with the transfer of NHS Bristol staff and which will continue to focus on health policy, strategy and scrutiny*

5.4 A detailed outline of Bristol City Council's management structure, post-transition, can be found at **Appendix 1**.

[2] WTE = Whole Time Equivalents

6 Key NHS Bristol Public Health Staff - Transfer of Undertakings

6.1 Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) protects employees' terms and conditions of employment when a business, organisation or function is transferred from one owner or employer to another. Employees of the previous owner/employer (when the business changes hands) automatically become employees of the new employer on the same terms and conditions.

6.2 To this end, NHS Bristol's Human Resources Team is ensuring that the following aspects of Public Health employment terms and conditions are seamlessly transferred:

Undertakings and Entitlements	Area	Comments
Pension		TBA
Continuous service		TBA
Terms, Conditions & Human Resource Policies	Working hours	TBA
	Salary/pay bandings	TBA
	Equality Policy	Existing NHS Bristol Equality Policy is up to date with its E&D commitments and strategic approach via our Single Equality Scheme 2009-2012 and via EDS implementation during 2012-13 and covers focus, thrust and prevailing protected characteristics considerations. NHS Bristol has an established, full time Senior Equality Advisor to lead, advise and coordinate diversity/inclusion-related considerations; this post will transfer to the Best West commissioning support unit as part of local NHS re-structuring.
	Equality Analysis and Guidance	Updated Equality Analysis Guidance provided and advice available from Senior Equality Advisor. Completed EIAs are published on the NHS Bristol website, along with other statutory publications.
	Mileage allowance and expenses	TBA
	On-Call	TBA
Union recognition		TBA
Working base		TBA
Other non-contractual arrangements	Pay date	TBA
	Reporting arrangements and team	TBA
	Job descriptions	TBA
	Childcare Voucher Scheme and Cycle Scheme	TBA
	Other salary sacrifice schemes	TBA
Politically restricted roles		TBA

7 Workforce Equality Data

7.1 In terms of the protected characteristics or diversity profile of NHS Bristol Public Health Team (e.g. gender, age, ethnicity etc.) the following data are captured (or submitted by employees). These data are held on the Electronic Staff Record (ESR) and administered by NHS Bristol's Human Resources Directorate:

Protected Characteristic	Data Captured
Gender	✓
Age	✓
Ethnic origin	✓
Disability	✓
Religion	✓
Sexual Orientation	✓
Marriage & Civil Partnership	Not Captured
Pregnancy and maternity	Not Captured
Gender Re-assignment	Not Captured

7.2 Whilst these data are being collected, there is currently no distinguishable or published analysis of protected characteristics for Public Health (PH) staff. However, NHS Bristol publishes an annual Workforce Report, as a requirement of the Public Sector Equality Duty, that reports in detail on the profile of all staff, regardless of directorate.

7.3 Whilst the Workforce Report does not disaggregate Public Health from the rest of the organisation, it is, however, confidently assumed that the overarching protected characteristic profile for NHS Bristol staff as a whole will, as a minimum, closely reflect the protected characteristic profile of its Public Health staff .

7.4 Whilst there is no actual clear or demonstrable evidence of this, it is assumed that any potential issues are likely to fall under the recently added protected characteristic of *Maternity and Paternity* (Equality Act 2010) which would typically apply to work patterns/childcare issues and thus predominantly affect female staff (given that women in the UK have a disproportionate responsibility for childcare, relative to men). But, as highlighted above, without specific data being currently captured (across both NHS Bristol and Bristol City Council), this is a speculative assertion.

7.5 NHS Bristol Staff - Selected Highlights 2012[3]

Protected Characteristics	NHS Bristol Staff Profile %	
Gender	25.7% (Male)	74.3% (Female)
Age	56% (30-49 yrs.)	
Ethnic Group	88.2% (White)	10.3% (BME)
Disability or limiting long term illness	7% (Yes)	90% (No)
Religion or Belief (of any description)	66% (Yes)	13% (Atheist)
Sexual Orientation	85% (Heterosexual)	3% (LGB)

7.5.1 **Key**:
White: includes White British, White Irish or Other White ethnic groups
BME: Black and Minority Ethnic
LGB: Lesbian, Gay or Bi-Sexual

7.5.2 A copy of the Workforce Report for 2010-11 and the full breakdown and analysis therein can be found at **Appendix 2.**

7.5.3 In addition, in terms of ethnic group and BME representation at Band 8A and above (i.e. £40k plus salaries), anecdotal evidence would suggest that there is a slightly higher representation of BME staff at this grade in the Public Health Directorate when compared to NHS Bristol overall. However, this assumption - and its potentially positive impact (for Bristol City Council) - will need to be clarified or monitored via the future Bristol City Council Human Resources Team and its subsequent workforce reporting commitments, post the transfer.

7.6 Bristol City Council – Selected Highlights 2012

7.6.1 As part of this Equality Analysis, the *Bristol City Council Equality Data Report (March 2012)* was considered (see Appendix 3). This indicated that a similar level of protected characteristics information has been captured by the Council, which breaks down as follows:

Protected Characteristics	Bristol City Council Staff Profile %	
Gender	38% (Male)	62% (Female)
Age	55.4% (25-49 yrs)	
Ethnic Group	82.5% (White)	8.8% (BME)
Disability or limiting long term illness	5.8% (Yes)	84.5 % (No)
Religion or Belief	[4]27.1% (Yes)	17% (No)
Sexual Orientation	[5]42% (Heterosexual)	1.7 %(LGB)

7.6.2 **Key**:
White: includes White British, White Irish or Other White ethnic groups
BME: Black and Minority Ethnic
LGB: Lesbian, Gay or Bi-Sexual

[3] Source: NHS Bristol Workforce Report (March 2012) 2011-12
[4] Unknown – 55.5%
[5] Unknown – 56.2%

7.7 Comparison of workforce profiles

7.7.1 It is clear from the *Bristol City Council Equality Data Report 2012* that there are marked differences in terms of the representation or declarations made by Bristol City Council staff in relation to some protected characteristics, when compared with NHS Bristol. For example, for religion/belief and sexual orientation in particular, Bristol City Council's published data reflects responses from less than 50% of the workforce, given that a very high number of all Bristol City Council employees (i.e. 50% +) did not declare or respond to these specific questions. It is unknown whether the questions have been asked of all employees. Thus, whilst a realistic comparison with NHS Bristol's workforce is not possible, it does suggest however, that there is considerable work to be done by Bristol City Council (BCC) in convincing staff to support the capture of this important and long established information.

7.7.2 The Council's gender balance is much closer to that of the population of Bristol. It is likely that NHS Bristol's significantly higher female representation is reflective of the well-established and greater preponderance of "traditionally female" occupations being found within the NHS. But overall and across other protected characteristics, it would indicate that NHS Bristol has a more diverse workforce.

7.7.3 In terms of ethnic group and BME employees, NHS Bristol is slightly more reflective (10.3% v 8.8% for BCC) of Bristol's BME population (12%, according to the 2011 Census). There is no significant difference between the two organisations in the representation of disabled employees.

7.7.4 This data variance suggests that there are some data gaps and that, going forward, a focus on improving responses will be required by Bristol City Council post the transfer of NHS Bristol Public Health staff.

7.7.5 When considering career progression/ access to senior level posts in both organisations, the following patterns can be identified. On average, 29% of NHS Bristol staff are employed at Band 8 and above. For Bristol City Council, 5.1% of staff earn £40,000 or more. This breaks down for key protected groups as follows:

Protected group	Percentage of NHS Bristol staff at Band 8 and above	Percentage of BCC staff earning £40K or above
BME	23	2.3
Female	26	4.5
Disabled	14	5.1
Average for all staff	**29**	**5.1**

8 NHS Bristol Public Health Staff Consultation

8.1 As highlighted previously, this transfer of NHS Bristol Public Health staff is in compliance with arrangements specified within the Health and Social Care Act 2012. As part of this process, the NHS Bristol Director of Public Health conducted a range of staff consultation exercises across NHS Bristol Public Health and Bristol City Council staff during April- December 2012.

8.2 The initial consultation was conducted between 9 April and 12 May 2012. However, the feedback arrangements did not break down respondents by their protected characteristics and thus no equality based analysis can be determined. A more recent follow up survey was conducted during November – December 2012.

8.3 The issues raised by respondents from the initial consultation are mainly related to operational, organisational and Public Health matters. Some of these will be covered in the Risk Analysis (Section 11). Having said that, it is clear that the limited protected characteristic information means that any meaningful equality analysis is limited in terms of identifying any possible issues or trends that may need to be highlighted, considered or addressed, preferably before the formal transfer of NHS Bristol Public Health Staff to Bristol City Council.

8.4 <u>Consultation arrangements and feedback</u>

8.4.1 Having said that, some concerns were raised by NHS Bristol Public Health staff in relation to being on Bristol City Council terms and conditions of employment and the impact on:

- *Recruitment* – particularly the equalities impact on women (e.g. Nurses transferring with long NHS service)
- *Reasonable Adjustments for disability in respect of:-*
    - Public Health staff – issues/considerations were raised by individuals requiring equipment, adjustments and car parking as a result of impairments, long term or permanent conditions
    - Public Health patients'/clients' needs – some staff questioned disability access arrangements/facilities for visitors/clients to Bristol City Council sites or offices where the transferred Public Health teams will be based

8.4.2 NHS Bristol and the Council also published a series of Frequently Asked Questions (FAQs) raised by staff, along with their formal responses. An example is reproduced below:

Question: *What will happen to my individual equipment eg adjusted chair/desk?*

Answer: *Any equipment needed for DSE (Display Screen Equipment) reasons for individual staff will be transferred to their new base. A list of these have been compiled on the Team Discovery Sheets which are currently being compiled.*

8.4.3 From individual TUPE meetings which were held between staff and their line managers, all staff had an opportunity to raise questions or issues from a personal employee perspective for resolution. A summary report of the TUPE feedback can be found at **Appendix 4.**

8.5 Community and Service Consultation

8.5.1 The key aspects of community engagement were conducted by the ***Public Health Workforce Transitions Group***. However, there is no consultation/feedback reporting into the proposed TUPE Public Health transfer or information that is publicly available on either the NHS Bristol or the Bristol City Council website. Under normal TUPE terms, publicising the rationale for any employment transfer is not necessarily a legal requirement. However, given the potential impact of NHS Bristol Public Health Team's transfer on Bristol's communities, it is assumed that some form of consultation will have taken place, although this cannot be defined easily nor can the protected characteristics of those consulted be defined or reported on.

9 Equality and Diversity Governance

9.1 Analysis of both NHS Bristol (www.Bristol.nhs.uk) and Bristol City Council (www.Bristol.gov.uk) public websites confirms that both organisations are generally compliant with their Public Sector Equality Duties as required under the Equality Act 2010 as follows:

General Duty	NHS Bristol	Bristol City Council
Equality and Diversity Policy	✓	✓
Monitoring of protected characteristics of workforce:	✓	✓
1 - Workforce profile (protected characteristics)	✓	✓
2 - Recruitment	✓	✓
3 – Leavers (+ exit surveys)	✓	✓
4 - Experience (e.g. grievance, disciplinaries etc.)	✓	✓
Published Equality Objectives	✓	✓
Conducts Equality Analysis	✓	✓
Published information on impact on Service Users	✓	✓

9.2 In addition, both organisations are key contributors to the **Bristol Joint Strategic Needs Assessment** (JSNA[6]) which recognises well defined community, patient, user and targeted groups for health-related, environmental and educational action/support. These target groups are also clearly defined by their respective protected characteristics, to ensure that any health inequalities or needs are addressed or considered.

6

10 Risk Analysis of Transfer

10.1 As part of the transition, a number of themes, clients or target groups that fall under the existing priorities of NHS Bristol Public Health will be aligned with those of Bristol City Council post the transfer. Having said that, some of these issues will already form part of the key short to medium term objectives of NHS Bristol Public Health staff and, undoubtedly, will be subject to debate and/or some form of re-prioritisation as a result of the transfer. For example:

Current NHS Bristol Public Health Team	**Proposed Bristol City Council Directorate/Team**
Stop Smoking Service	*Communities and Neighbourhoods*
Strategic functions around *Domestic Abuse, Alcohol* and *Substance Misuse*	*Crime and Substance Misuse Team* (Safer Bristol Partnership)

10.2 Service provision

10.2.1 An issue was raised about working across the life span. The background to this is that there is a perception amongst several health professionals, that, where policies and practices are not age-specific, the needs of children and young people are often overlooked in favour of adults. In mitigation of this, firstly, for sexual health services, they have been aligned with BCC's Children and Young People's Service. Secondly, the consultation report has committed to addressing this concern during phase two of transition.

10.2.2 It will be important to open up this thinking to the full range of protected characteristics, to ensure that current good practice is built upon and that existing gaps remain in focus. For example, Public Health and BCC can demonstrate a good history of individual and joint work to address health inequalities amongst certain protected groups, such as BME women (physical activity), young people (sexual health), older people (Linkage/ social isolation), the Somali community (language support), migrants (health needs assessment), Gypsies, Travellers and Roma. However, despite some good efforts at stakeholder and community engagement and local and national evidence around the impact of mental ill health and substance misuse on LGB or T people, a concern has been raised that the JSNA has paid insufficient attention to these issues.

10.3 Employment and employee experiences

Race and sex

10.3.1 Given that BME employees will be moving into a slightly less diverse environment and that female employees will be moving into a slightly more male-dominated environment (see s8 above), a number of questions are likely to be thrown up. For example, the potential for adverse impacts in relation to:

- Job satisfaction
- Working relationships
- Career progression/ access to senior level posts

10.3.2 To minimise this potential, phase 2 of the transition should consider how to develop resilience to such possible adverse impacts; and specifically whether the individual approach outlined at 11.4.3 below is enough, or whether a more collective approach is also required.

10.3.3 Bristol City Council's staff equality networks could have a significant role to play here. The Council has networks for LGBT staff (rainbow group), a BME Employees Group and a Disabled Employees Group. Neither BCC nor NHS Bristol has a group for women, so one proposal for promoting gender equality in the workplace would be for the existing networks to collaborate to organise a discussion of what the transfer might mean for different groups of women.

Disability

10.3.4 For disabled employees, some are being supported through reasonable adjustments, either via supportive working practices or via specialist equipment. These arrangements will need to be continued/ transferred across, so the relevant questions are:

- *Who has oversight of this for employees with known support needs?*
- *How have all other employees been given an opportunity to raise any support needs which have newly/ recently arisen for them?*

Sexual orientation and gender identity

10.3.5 For LGB employees, NHS Bristol's representation (3%) appears to be significantly lower than Stonewall's estimate for the UK population (6%). BCC employees' declaration of LGB status appears even lower (1.7%), with 56% unknown. This could be because older employee records did not request or record this information. Or it could be that there is a higher proportion of LGB employees disguised within the 56% "unknown" figure. Less likely, it could be that LGB employees do

not feel they are working in an environment which allows them to be open about their sexual orientation. Whatever the case, this might highlight the need for a Bristol City Council data validation exercise, which includes a specific appeal for declarations around both sexual orientation and religion/belief.

Age

10.3.6 In terms of age, both NHS Bristol and Bristol City Council have a significant percentage of staff who are 40+ in age and a significant number who are 55+.This age profile generally reflects the public sector employment data found nationally when compared to other non-public sector or leisure/service industries.

10.4 Work/life balance

10.4.1 Work/life balance arrangements for the two organisations are broadly similar. For example, both NHS Bristol and Bristol City Council provide:

- Flexible working
- Special leave arrangements
- Maternity and paternity arrangements
- Occupational health services

10.4.2 This is particularly significant for disabled employees and pregnant women; as well as for parents and carers, who are more likely to be women than men.

10.4.3 In addition, the following employee benefits exist for NHS Bristol Staff to manage stress and provide support and assistance throughout the period of transition:

- Employee Assistance Program - a free confidential service which offers employees expert advice, information, specialist counselling and support - any time, day or night, either over the telephone or online. *Click here for more information.*
- Mindfulness and stress management videos - provide information on stress management tools and mindfulness techniques to enable individuals to recognise signs of stress and manage their response to stress. *View the mindfulness and stress management videos on YouTube*
- Counselling services – available free of charge, to all employees at NHS Bristol, bookable via the NHS Bristol staff intranet.

10.5 Local Health Impact

10.5.1 No local data is publicly available on the health impacts of previous PCT reorganisations in Bristol. However, this TUPE transfer of Public Health staff is taking place within a wider context of a reconfiguration of NHS commissioning (eg Clinical Commissioning Groups), alongside the re-design of health service provision (eg community health services). Therefore, careful monitoring will be required to ensure that there is no significant, negative impact on protected groups or on other disadvantaged sections of the population.

10.5.2 Having said that, it is hoped that the benefits of new forms of collaborative working with the Council existing functions will outweigh any negative impact on Bristol's users/beneficiaries of Public Health services (see also section 3.5 above).

11 Monitoring and Key Recommendations

11.1 As the transfer of NHS Bristol Public Health staff will result in their becoming permanent Bristol City Council employees, it will be the responsibility of the new employer to ensure that their treatment and conditions of employment are consistent, fair and transparent. Discharging this responsibility most effectively will require workforce reporting systems to take account of the experiences of Public Health staff.

11.2 It is acknowledged that with the large number of occupational groups currently found within Bristol City Council employment, producing such distinguishable data may be difficult. But it is likely that in the long run, providing more reliable and detailed evidence of how the transferred Public Health staff have been treated or have fared post the transfer - particularly with regard to development and retention – will provide more robust and supportive evidence on the transfer and on Bristol City Council's employment-related equality and inclusion commitments.

11.3 It is also recommended that Bristol City Council conducts a short, bespoke staff survey for those staff who transferred over from NHS Bristol, 12 and 24 months after 13 March 2013. This action will help to identify if any significant equality based (or protected characteristic related) issues are being addressed effectively and fairly.

11.4 As a cautionary measure, it is also suggested that staff who are currently provided with reasonable adjustments by NHS Bristol – to help overcome the effects of impairment/disability – are monitored to ensure that such adjustments are not inadvertently revoked or not complied with, post transfer.

12 Equality Analysis Conclusion

12.1 This equality analysis has been conducted to cover the planned transfer of NHS Bristol Public Health staff into Bristol City Council and, as such, was focused mainly on the evidence that was available for analysis. Given that the TUPE process is a consistent, legally binding framework, the likelihood of any Public Health staff being unfairly treated within this context is remote.

12.2 Thus, in conclusion, it is confirmed that the proposed transfer is unlikely to have any demonstrable negative impact on existing public heath staff, apart from the potential issues related to maternity and paternity. Having said that, in terms of gender and BME representation, there may be future monitoring requirements to be conducted by Bristol City Council, post the transfer.

12.3 Therefore, the proposed TUPE transfer is confirmed as having no obvious or verifiable undue treatment or bias to NHS Bristol Public Health staff, based on their protected characteristics.

13 Contributors to Equality Analysis Report

Name of person carrying out this Equality Analysis	Roy Ebanks ebanks_roy@yahoo.co.uk (Tel: 07752 158 195) **Roy Ebanks Consulting Limited**
Date Completed	24th January 2013
Senior manager responsible for this policy or practice	Christina Gray, Associate Director of Public Health, NHS Bristol and Helen Adams, Project Manager, Public Health Transition, Bristol City Council
Names and roles of other people involved in carrying out this Equality Analysis	Gwyneth Oakman - Senior Human Resources Advisor , NHS Bristol: gwyneth.oakman@bristol.nhs.uk (Tel 0117 976 6600) David Harris – Senior Equality Advisor, NHS Bristol: David.Harris@bristol.nhs.uk (Tel 0117 984 1587) Helen Adams - Project Manager, Public Health Transition, Bristol City Council: Helen.adams@bristol.gov.uk (Tel 0117 922 2000)

14 List of Appendices

Appendix 1 – Bristol City Council Transition Plan

Appendix 2 – NHS Bristol Workforce Report – March 2012

Appendix 3 – Bristol City Council – Equality Data Report 2012

Appendix 4 – TUPE Consultation Report (NHS Bristol and Bristol City Council

Appendix 5 – Proposed Equality Analysis Action Plan

Appendix 6 - Highlights of Equality Act 2010

Appendix 5: Proposed Equality Analysis Action Plan

Recommendation	Key activity	Time frame	Owner(s)	Progress made
NHS Bristol (NHSB) Human Resources to identify/monitor the protected characteristics of transferred Public Health Team staff for onward monitoring by Bristol City Council as part of Equality Duty commitments.	Interrogation of NHS Electronic Staff Records to determine protected characteristics (declared) for anonymous reporting purposes taking account of any confidentiality obligations. Bristol City Council (BCC) Human Resources to continue protected characteristic monitoring to ensure that any undue variance in treatment of employees can be identified and acted upon.	<3/2013 >3/2013	NHSB-HR BCC -HR	
Post the TUPE that the former NHS Bristol Public Health BME and Female staff profiles be monitored in relation to their future representation within Bristol City Council's staff profile at £40k salary bandings and above.	BCC–HR to incorporate into existing equality reporting.	TBC	BCC -HR	
Post the TUPE that former NHS Bristol Public Health staff are specifically surveyed on their experiences and satisfaction in terms of retention and development/progression across their protected characteristics.	An anonymous, and post TUPE (i.e. at 12 and 24 month intervals), bespoke short survey be issued for all transferred/former NHS Bristol Public Health staff to accurately determine satisfaction levels.	3/2014 & 3/2015 (TBC)	BCC -HR	
That Bristol City Council Human Resources monitors any existing reasonable adjustment arrangements for transferred NHS Bristol staff	BCC HR monitors any existing arrangements re: reasonable adjustments and that they are reviewed annually or as mutually agreed with individuals, to ensure their continued fit for purpose or relevance	>4/2013 (TBC)		

This action plan should be reviewed after 6 months and at appropriate intervals thereafter.

Appendix 6: Highlights of the Equality Act 2010

The Equality Act 2010 outlaws direct and indirect discrimination, including less favourable treatment, harassment and victimisation of people based upon their protected characteristics. The Act applies to all individuals, providers of services and employers.

Direct discrimination means less favourable treatment of a person compared with another person because of a protected characteristic.

Indirect discrimination means the use of an apparently neutral practice, provision or criterion which puts people with a particular protected characteristic at a disadvantage compared with others who do not share that characteristic, and applying the practice, provision or criterion cannot be objectively justified.

The public sector equality duty, arising from **Section 149(1)** of the Act, applies to public authorities, such as NHS Bristol. A public authority must, in the exercise of its functions, have due regard to the need to—

a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

S149 (3) of the Act states that having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.