

Next Generation Senior Leadership Development Programme -Positive Action Briefing & FAQs

Q1. Why is the Next Generation of Senior Leaders programme only available to colleagues from a Black, Asian, and Ethnic Minority Background?

As an employer in Great Britain (England, Scotland, and Wales), The Black Country Integrated Care System can choose to use the positive action measures in the **Equality Act 2010** to help people overcome certain barriers and improve representation in our workforce.

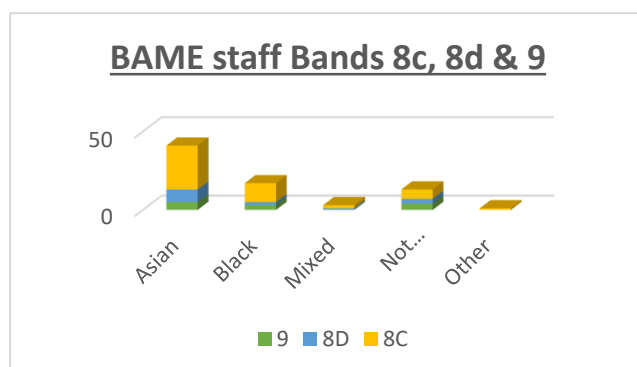
The Next Generation of Senior Leaders Development Programme is designed to provide development and experiential learning for leaders from Black, Asian, and Ethnic Minority backgrounds. This pilot programme is aimed at getting people from Black, Asian, and Ethnic Minority backgrounds ready for Executive and Non - Executive roles in the near future and creating a diverse talent pipeline for the Black Country ICS. We want to ensure the workforce is representative of our local community.

This programme supports the requirements of the NHS England Equality, Diversity, and Inclusion Improvement Plan which is to improve the representation of colleagues from a Black, Asian, and Ethnic Minority background at senior levels in the NHS. The plan can be found here [NHS England » NHS equality, diversity and inclusion \(EDI\) improvement plan](#)

Q2. What evidence is there to demonstrate that there are barriers to progression for people from a Black, Asian, and Ethnic Minority background in the Black Country Integrated Care System? Is it not a case of the best person for the job or development programme irrespective of your ethnic background?

An analysis of the number of colleagues from a Black, Asian, and Ethnic Minority background in the Black Country working at a senior level e.g., 8c and above has been undertaken. The data illustrates there are low numbers of colleagues working at this level. In order to increase the diversity of colleagues working at an Executive Level **positive action** is required to help redress the imbalance and create a diverse talent pipeline of senior leaders that can apply for executive-level roles in the future.

See Figure 1.0 below which shows the number of colleagues from Black Asian and Ethnic Minority backgrounds at senior levels working across the Black Country Integrated Care System as of August 22.



	BAME	White
9	12	52
8D	14	62
8C	49	200
Total	75	314
Percentage	19.28%	80.72%

Figure 1.0

Healthier Futures

Black Country Integrated Care System

Q3. The programme is targeted at colleagues working at Band 8 and above - Isn't it highly unlikely for colleagues who are at Band 8a and 8b to secure an Executive role due to the large gap between an 8a and Very Senior Manager roles (VSM)?

We know the diversity of the talent pipeline across the Black Country ICS is weak and there is a requirement to take action, to raise ambition and build interest in roles at the VSM level so that people can progress their careers in a fully informed way. Demystifying board roles is key to that and especially to groups who have protected characteristics and would benefit from a customised approach to succession planning.

The Next Generation of Senior Leaders Programme isn't a programme which aims to deploy people into board roles immediately after completion it's about starting a journey of preparation for the board (a career pathway) in a way that is customised to the needs of groups of individuals who have protected characteristics.

The ultimate goal and outcome is therefore how confident and empowered delegates feel to continue to progress a career at the board level with a structured career action plan in place.

Q4. What is Positive Action under the Equality Act 2010?

There are 9 'protected characteristics' in the Act (see the section on [protected characteristics](#)). Every person has some of these characteristics.

Some groups of people who share a particular characteristic may suffer disadvantages connected to that characteristic, have different needs compared to others without that characteristic, or are underrepresented in certain activities.

The positive action provisions in the Act allow employers to take action that may involve treating one group that shares a protected characteristic more favourably than others, where this is a proportionate way to enable or encourage members of that group to:

- overcome or minimise a disadvantage
- have their different needs met
- participate in a particular activity

This is called taking 'positive action'.

Positive action allows additional help to be provided for groups of people who share a 'protected characteristic' (for example, race, sex, or sexual orientation) in order to level the playing field. The law says that we can take proportionate action that aims to reduce disadvantage, meet different needs and increase participation.

There are 2 types of positive action that are set out in the Equality Act 2010:

General (section 158)

This involves proportionate actions which are designed to meet the aims of the general duties within the Equality Act 2010. This could include, for example, providing a leadership scheme to help an underrepresented group achieve more senior positions in an organisation or providing tailored training for a group because they have specific requirements.

Recruitment or promotion (section 159)

This involves actions that reduce disadvantage and/or increase representation specifically when it comes to deciding between equally qualified candidates. For example, hiring one candidate over another equally qualified one because the former has a certain protected characteristic that is underrepresented in the workforce. Other activities which are related to recruitment (for example, jobs fairs targeted at ethnic minority groups), but do not involve choosing between candidates, fall under the 'general' (section 158) provisions.

Further information can be found in the [Equality and Human Rights Commission's \(EHRC\) Statutory Code of Practice on Employment](#) ('the Statutory Code'), which has a dedicated section on positive action.

Q5. If I am not eligible to apply for this programme because I am from a Non-Black, Asian, or Ethnic Minority background isn't this positive discrimination?

Positive action is not **positive discrimination**. Positive discrimination is **unlawful** in Great Britain. If an action treating a particular group more favourably does not meet the statutory requirements in the Act for taking positive action, then it is likely to be unlawful direct discrimination under the Act, irrespective of the motives behind taking it. Some people may refer to this type of unlawful preferential treatment as 'positive discrimination'. However, it is not unlawful for an employer to treat a disabled person more favourably in comparison to a non-disabled person.

Some examples of initiatives that would probably constitute unlawful discrimination are:

- recruiting or promoting a person solely because they have a relevant protected characteristic (without regard to the legal criteria)
- setting quotas (as opposed to targets) to recruit or promote a particular number or proportion of people with protected characteristics irrespective of merit
- creating schemes to benefit those with a particular protected characteristic, without any evidence that the group in question is at a disadvantage or has different needs

Positive discrimination may also occur where a disadvantaged or underrepresented group that shares a protected characteristic is treated preferentially (but not in accordance with the legal criteria or existing exemptions) to address inequality.

An example of **positive discrimination** is the case of Furlong v Chief Constable of Cheshire Police. Cheshire Police operated a policy of treating all candidates who passed the recruitment tests (regardless of score) as being equally qualified for the job. Ethnic minority candidates were then prioritised for selection. The Employment Tribunal found that Cheshire Police Service directly discriminated on grounds of sex, race and sexual orientation against Mr Furlong, who was a white, heterosexual male.

Q6. What is the definition of someone from a Black, Asian, and Ethnic Minority background in terms of eligibility to apply for the programme?

The Black Country ICS follows the government guidance for the categorisation of people from a Black, Asian, and Ethnic Minority background as per the 2011 census categories. These are as follows;

A. Mixed:

- White and Black Caribbean
- White and Black African
- White and Asian
- Any other mixed background

B. Asian or Asian British:

- Indian
- Pakistani
- Bangladeshi
- Chinese
- Any other Asian background

C. Black or Black British:

- Caribbean
- African
- Any other Black background

D. Other ethnic group:

- Arab

Q5. Is the programme only available to colleagues working in the NHS?

No, the programme is open to both Health and Social Care staff working in the Black Country Integrated Care System.

Q6 Where can I find out further information?

Please email bcicb.workforce@nhs.net for any further queries or questions about the programme's aims and objectives.