

Equality Impact Assessment Guidance.

Background.

There is a wealth of equality legislation, which is listed at the end of this guidance.

1.1 **The Race Relations (Amendment) Act 2000** requires the Trust to:

- 1.1.1 Eliminate unlawful racial discrimination;
- 1.1.2 Promote equality of opportunity and
- 1.1.3 Promote good relations between people of different racial groups.

The specific duties under the act came into effect on 31st December 2001. The Trust is required to:

- 1.1.4 Publish an equality scheme
- 1.1.5 Assess and consult on the likely impact of the policies
- 1.1.6 Monitor policies for any adverse impact
- 1.1.7 Publish the results of the assessments, consultation and monitoring
- 1.1.8 Ensure the public have access to information and services
- 1.1.9 Train staff in respect to the duties

1.2 **The Disability Discrimination Act 2005.** requires the Trust to:

- 1.2.1 Promote equality of opportunity between disabled persons and other persons
- 1.2.2 Eliminate unlawful discrimination
- 1.2.3 Eliminate unlawful harassment of disabled persons that is related to their disabilities
- 1.2.4 Promote positive attitudes towards disabled persons
- 1.2.5 Encourage participation by disabled persons in public life
- 1.2.6 Take account of disabled person's disabilities, even where that involves treating disabled persons more favourably than other persons.

Both acts require public authorities to take a positive pro-active approach to eliminate discrimination.

1.3 **The Human Rights Act 1998.** The Department of Health is now promoting dignity and human rights. NHS Trusts have a legal duty to protect human rights. The human rights based approach can "improve people's health outcomes by directly supporting the delivery of more effective, better quality, person centred health care¹". People have a right to be treated with dignity and respect. If people feel marginalised they may well feel disempowered and require advocacy. Staff need to be aware if vulnerable patients need help to ask and express their needs. Inequalities due to deprivation may also be considered; this is not part of equality legislation, but a government requirement to reduce inequalities. A policy may need a clause to highlight individual needs.

¹Human Rights and Healthcare – A Framework for Local Action. Page 6 Dept of Health 2007

2 Why conduct an Equality Impact Assessment?

- 2.1 This is a legal requirement to help public authorities eliminate institutional racism and discrimination against disabled persons. It is a way of examining whether different groups are adversely affected by policies, services or functions. As equality legislation is increasing the Trust is adopting wider equality impact assessment of all its policies.
- 2.2 This process will assist policy authors and groups create a framework that includes analysis and wider involvement when writing or reviewing policies.
- 2.3 This will become part of standard practice, in conjunction with current policy writing guidance. Evidence that the Trust is carrying out this process is required.
- 2.3 The legislation and the need to carry out an assessment, is to reduce direct discrimination- when an individual is treated less favourably than other persons. The legislation also aims to reduce indirect discrimination, which can occur when policy and practices put groups at risk of being discriminated against or puts groups at a disadvantage.

3. What is an Equality Impact Assessment?

- 3.1 An equality impact assessment is *a way of systematically and thoroughly assessing, and consulting on, the effects that a proposed policy is likely to have on people,* depending on their racial group, or disability, (or age, gender, religion or sexuality.)
- 3.2 The main purpose is to pre-empt the possibility that a proposed policy may affect one group unfavourably. (Have an adverse impact). The process will help identify ways to change a policy, to help reduce any adverse impact or potential discrimination. There is also a need to set objectives and plan to improve the policy, service or function.

4. The process

- 4.1. **Decide if the policy is relevant. Stage 1.** All new policies and policies for review have to be screened or go through an initial assessment.
 - 4.1.1. The Trust needs to give the highest priority to those functions and policies that have the greatest potential, to affect different racial groups in different ways, or affect disabled people in different ways etc.
 - 4.1.2 The weight given and time spent assessing a particular policy should be proportionate to its relevance.
 - 4.1.3 This means that a human resource policy or people oriented policy, should be given more time than say a lottery or equipment policy.
- 4.2 **Use the grid (or similar) to record evidence that this stage has been accomplished. This is a legal requirement.**
- 4.3 **Is there an adverse impact or potential for an adverse impact?**
 - 4.3.1 A policy assessment need only move from step 1 to 2 if you think there is a potential to have an adverse impact and therefore needs more in depth analysis and enquiry.
 - 4.3.2 Adverse impact occurs when one particular group – or groups, has been affected less favourably or negatively, compared to another group.

4.3.3 Some policies may affect different racial groups/ disabled people more than others.

Example²: A policy on maternity services may not consider the needs of women based on their religious or cultural beliefs. This could adversely impact the quality of their care.

Example: A discharge policy may not identify the specific needs of disabled people or their carer. This could adversely impact the care that is provided to these patients whilst preparing to go home or on discharge.

4.3.4. People can be affected directly when one person is treated adversely, simply because of their ethnicity, religious belief, disability, age, gender or sexual orientation.

4.3.5 People can also be affected indirectly when a policy impacts a particular group / groups adversely. The impact may be unintentional, but unlawful and will need careful consideration.

4.4 Stage 2

There six key steps:

1. Identify the aims of the policy
2. Consider the evidence
3. Assess the likely impact of the policy
4. Consider alternatives.
5. Involve stakeholders and ensure views of the public inform the policy development. Section 242 Health Service Act, requires the Trust to involve the public in on-going service development.
6. Decide whether to adopt the policy.
7. Attach the assessment to the policy and publish the assessment on the ORH website.

4.4.1. If the adverse impact on one group is to promote equality of opportunity for another group, then the adverse impact may be justified. There may be clinical reasons to treat groups or individuals affected by a policy differently.

4.4.2. Consider the risks to patients –such as injury or misdiagnosis and risks to the Trust –such as complaints and litigation.

5. This stage may appear lengthy, but is very important if institutional discrimination is going to be reduced – there are six key questions. The remaining prompts are to inform your answers – and may be considered routinely in policy development –there is now a need to formalise this process with documentary evidence. People with experience in the different equality areas and stakeholders need to be involved.

²Examples: Acknowledgement and thanks to Cambridge University Hospitals NHS Foundation Trust.

6. Equality Legislation:

Race Relations Act 1976

Race Relations (Amendment) Act 2000

Disability Discrimination Act 1995

Disability Discrimination Act 2005

Gender Recognition Act 2004

Civil Partnerships Act 2004

Employment Equality (Religion or Belief) Regulations 2003

Employment Equality (Sexual Orientation) Regulations 2003

Equal Pay Act 1970

Equality Act 2006

6.1 The Human Rights Act 1998 is to help protect people's human rights, (different to equality legislation.)

Department of Health guidance is available on the ORH Equality intranet site.

Written by Jan Cottle July 06 updated February & July 2008

Equality impact assessment.

- 1. Initially screen existing policy, service or functions.**
- 2. Decide if a full impact assessment is required**
- 3. Collect information and data – identify the gaps**
- 4. Analyse the data and action plan to ensure appropriate information is available in the future.**
- 5. Assess impact – consider how the policy, service or function affects different groups of people**
- 6. Make decisions about changes, set objectives and targets**
- 7. Write a summary sheet – complete grid using guidance notes.**
- 8. Publish findings and proposals**
- 9. Monitor changed service or function and review.**

EQUALITY IMPACT ASSESSMENT STAGE 1

To ensure that discrimination is eliminated, equality of opportunity is promoted and good race relations are promoted.

Please consider whether the policy or function/service/proposal, is likely to have an adverse impact on grounds of: **race, disability, age, religion, gender, sexual orientation, deprivation or human rights.**

Please include this in the preparation to write a policy and refer to the "Policy on Writing Policies."

Policy or function name:

Date written:

Date policy is due for review:

Lead person responsible for policy & assessment:

1. Identify the main aim and objectives of the policy.
What is the intended outcome of the policy?
Please see guidance and prompts at the end.

2. Have you current reliable information about the different groups the proposed policy is likely to affect?
Please see guidance notes at the end.

If you do not have enough information, create an action plan to identify ways of collecting information for the next policy renewal date.

3. Is there a potential for the policy or strategy to discriminate?

Does the policy promote good relations and eliminate discrimination on grounds of race, disability, age, religion, sexual orientation and gender?

Please see guidance notes at the end.

IF THE POLICY IS RELEVANT – YOU WILL NEED TO COMPLETE STAGE 2

These prompts are intended to help you answer the questions more fully.

Question 1

- 1.1 What is the main purpose of the policy or function?
- 1.2 What are you trying to achieve through the policy?
- 1.3 Have you involved stakeholders, patients or the public in the policy development?
- 1.4 The wider involvement would help you identify and evidence whether the policy is required and may give you some information about how the policy may be implemented to avoid any discrimination.

Question 2

- 2.1 Speak to people who will be affected by the policy.
- 2.2 Is more information required to ensure there is not any adverse impact on a particular group?
- 2.3 If there is insufficient information you may need to make a judgement this time and ensure that information is collected for the next review.
- 2.4 Please see the Equality, diversity and human rights intranet site for sources of information.
- 2.5 In order to be fully informed before you write the policy or proposal, please consider possible sources of information such as:
PALS, Complaints analysis, risk management, demographic data, recent research findings and surveys, studies of deprivation, equality monitoring data, qualitative information from those you have involved, recommendations from inspection reports and audits.

Question 3

- 3.1 Could the consequences of the policy / proposal differ according to a racial group, or disability, gender, religion, age, or sexual orientation? (Could people be affected differently?)
- 3.2 Are privacy and dignity promoted and human rights respected?
- 3.3 Could the policy discriminate directly or indirectly against one particular group?
- 3.4 Is there any evidence that some people may have different expectations or needs from the policy? Does the policy consider this?
- 3.5 Is there any evidence that the policy may damage relations between any particular group?

EQUALITY IMPACT ASSESSMENT STAGE 2

To ensure that discrimination is eliminated, equality of opportunity is promoted and good race relations are promoted.

Please consider whether the policy or function/service/proposal, is likely to have an adverse impact on grounds of: **race, disability, age, religion, gender, sexual orientation, deprivation or human rights.**

Please include this in the preparation to write a policy and refer to the "Policy on writing policies."

Policy or function name:

Date written:

Date policy is due for review:

Lead person responsible for policy & assessment:

By saying the policy/ proposal is compliant with equality legislation, this means there is no potential to discriminate. In order to say this you must have consulted with key stakeholders – those who may be at risk of being discriminated against.

1. Identify all the aims.

Is there a potential to discriminate?

2. Consider the evidence.

Look at research, experiences from elsewhere, local information and local views and determine how different people may be affected by this policy or proposal. What is the impact on different groups? (race, religion, age, gender, sexuality and disability).

There may be a lack of reliable evidence, in which case, the policy and this equality impact assessment should have an **action plan** attached, stating how more reliable evidence can be collected, prior to the policy renewal in three years time.

3. Assess the likely impact.

Does your analysis of the evidence about how different groups may be affected by the policy, indicate possible adverse impact on one particular group eg. on grounds of race, disability, religion, age, gender or sexuality – and human rights?

Are there disparities in the ethnicity data?

Is there research evidence demonstrating that disabled people experience inequalities?

Any differential impact may be positive or negative. If there is a difference, state why.

4. Consider alternatives.

If your assessment shows the policy or proposal is likely to have an adverse impact on a particular group and a potential to discriminate, please decide whether to:

- Make changes that will reduce concerns.
- Consider different ways of putting the proposed policy into practice, to reduce its potential to affect some groups adversely.
- Find alternative means of achieving the policy.
- Justify the policy, even though it could affect some groups adversely.

You may need legal advice.

These prompts are intended to help you answer the questions more fully.

Question 1

- 1.1 You need to be clear about the purpose of the policy, the context within which it will operate, who it is intended to benefit and the expected results.
- 1.2 What are the Trust's specific responsibilities in relation to the proposed policy?
- 1.3 Who will be responsible for implementing the policy?
- 1.4 What are the specific outcomes you hope to see from the proposed policy?
- 1.5 What criteria will you use to measure progress towards the stated outcomes?
- 1.6 Are there any risks associated with the proposed policy, for meeting the race equality duty and disability equality duty?
- 1.7 Is the overall purpose compatible with the Trust's equality schemes?
- 1.8 Which organisations and individuals are likely to have an interest in, or be affected by, the proposed policy?
- 1.9 Involvement: whom do you need to ask for views and gain support from?
- 1.10 Can you look at practice elsewhere and gain from their experiences?

Question 2

- 2.1 **What information are you likely to need to develop an effective policy?**
- 2.2 Is there any evidence that particular groups have particular needs in relation to the proposed policy?
- 2.3 Could other Trusts with similar policies, advise as to what information they found useful?
- 2.4 Is the available and up to date information sufficiently detailed to permit analysis of disparities between different groups?
- 2.5 Is more information required? (Remember asylum seekers, refugees and gypsies and travellers).
- 2.6 Do you have a plan to gather the required information so it is available for next time?

Question 3

- 3.1 If you have identified an adverse impact, are there any factors to explain this?
- 3.2 Could the policy lead to discrimination?
- 3.3 Is the policy compliant with all relevant legislation?
- 3.4 Is the policy intended to increase equality of opportunity?
- 3.5 If you have made any changes to the policy, you will need to re-assess.
- 3.6 Have you discussed the results of the assessment with stakeholders?

Question 4

- 4.1 If the assessment shows any potential adverse impact, re-consider the purpose and aims can the approach be re-considered?
- 4.2 Are there aspects that could be changed? Could additional measures be taken to reduce or remove adverse impact without affecting the policy's overall aims?
- 4.3 If you decide the policy needs to go through without alteration, despite adverse impact, are you sure you can legally justify this action?