

# Equality Analysis

*Liberating the NHS: Developing the Healthcare workforce*



# Introduction

The general equality duty that is set out in the Equality Act 2010 requires public authorities, in the exercise of their functions, to have due regard to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic and those who do not.

The general equality duty does not specify how public authorities should analyse the effect of their existing and new policies and practices on equality, but doing so is an important part of complying with the general equality duty. It is up to each organisation to choose the most effective approach for them. This standard template is designed to help Department of Health staff members to comply with the general duty.

# Equality analysis

**Title: Liberating the NHS: Developing the Healthcare Workforce**

**Relevant line in [DH Business Plan 2011-2015](#):**

## What are the intended outcomes of this work?

### *Background*

The Government is creating a more autonomous and accountable NHS – with greater clarity about the roles and responsibilities. The role of the Department of Health is fundamentally changing. The Health and Social Care Act 2012 formalises the transparency and increase stability while maintaining appropriate accountability.

The driving principle for reforming the education and training system is to improve care and outcomes for patients. The new workforce. The new system aims to be responsive to patient and public needs and changing service models, such that it reflects the needs of patients, carers and local communities.

To meet the challenge of sustaining high quality services and improving health outcomes in the face of demographic change, the NHS is creating a more autonomous and accountable NHS – with greater clarity about the roles and responsibilities of different organisations and the workforce which the NHS workforce is educated and trained.

There are currently 1.4m people employed in the NHS and there is significant public investment in educating and training the workforce. The central investment in education and training (the Multi-Professional Education and Training budget – MPET) was £1.2bn in 2010-11. This investment is at risk in the event of any workforce undersupply or if the quality of education and training does not meet the needs of the NHS.

Currently, Secretary of State has powers to make provision for the education and training of healthcare workers, which will be abolished under the Health and Social Care Act 2012. The Secretary of State's education and training functions will be transferred to a new body in the absence of SHAs.

These functions include assuring the quality of workforce development plans and strategies, commissioning education and training, managing the delivery of education and training, and quality assuring the management and delivery of postgraduate medical education and training. The new body will include postgraduate deaneries, who are responsible for the management and delivery of postgraduate medical education and training.

### *Objectives and aims*

Developing the Healthcare Workforce: From Design to Delivery sets out the Government's policy for a new system for the education and training of the healthcare workforce.

At the centre of this new system will be a new body with responsibility for providing national leadership for education and training in the NHS in England (HEE). HEE will be established as a Special Health Authority (SpHA) on 28 June 2012 and will take on the education and training functions of SHAs. HEE is not only being established to meet the Secretary of State's duty but it is central to the new education and training system to ensure that the NHS can evolve to sustain high quality health services and improve care and outcomes for patients in the face of demographic change.

HEE will ensure that the workforce has the right skills, behaviours and training, and is available in the right numbers, locations and at the right times. This will be achieved through workforce improvement.

HEE will also enable local healthcare providers and professionals to take responsibility for planning and commissioning education and training through the establishment of Local Education and Training Boards (LETBs), which will be committees of HEE.

Each LETB will bring together local providers and professionals to identify and agree local priorities for education and training in their health community. HEE will allocate a proportion of the education and training budget to each LETB for commissioning education and training.

national education outcomes goals and priorities.

Each LETB will be part of HEE, taking the legally recognised form of a committee of HEE. The chair and the executive schemes of delegation from the national HEE body. The executive board of each LETB will represent the interests of LETB. This reflects the policy intention of giving local healthcare providers and their healthcare professional's autonomy ensuring robust governance.

Each LETB will have a number of operational staff who will plan, commission and assure the quality of education and employed by HEE, but will be accountable to the LETB executive board.

In due course, we plan to consolidate HEE by establishing it in primary legislation as a Non Departmental Public Body on a basis at arms-length from the Department of Health, whilst remaining accountable to the Secretary of State. We intend to bring this to a Parliamentary session. We then intend to legislate to establish the NDPB as soon as Parliamentary time allows.

In future, MPET funding will be predominantly provided to support the next generation of clinical and professional education and training for the existing workforce. We will develop proposals on the level of flexibility LETBs will have to employers to develop their own staff.

HEE will be responsible for developing a more transparent allocations policy for distributing funding to LETBs. A number of principles will underpin the allocations policy.

Future allocation methodology should;

- Recognise existing patterns of training;
- Not be unnecessarily disruptive;
- Be transparent and clearly based on rules;
- Be equitable in allowing access to a trained workforce in the NHS across England;
- Ensure economies of scale in commissioning where this is appropriate, for example for small specialist groups;
- Support high quality education and training;
- Support the education and research interface.

Implementing the new system will require changes to the workforce information landscape to support new organisational commissioning.

Currently, workforce information is collected to serve a number of purposes at national, regional and local levels. It is essential to support national policy development and informs discussions about securing resources, affordability, and the needs of users of workforce information:

- Department will require information to support public accountability;
- HEE will use workforce information to plan and allocate investment in education and training;
- LETBs will need information from local organisations providing NHS and public health services and from high level workforce plans

The Centre for Workforce Intelligence (CfWI) will play a key role in using workforce information to provide expert advice. It will include providing support to HEE in providing national oversight and leadership on workforce planning and commissioning in the delivery of their workforce plans and provide information to the Department and HEE to inform resource allocation.

The Secretary of State will publish an Education Outcomes Framework for the education and training system. This will apply to the LETBs. It will reinforce the drive to ensure healthcare staff develop the right values and behaviours, and have

also seek to address variations in standards in education and training.

## **Who will be affected?**

### *Patients and service users*

The driving principle for reforming the education and training system is to improve care and outcomes for patients. Existing workforce, working together with compassion and respect for people. The new system aims to be responsive to patients. Investment in the capacity and skills of current and future staff reflects the needs of patients, carers and local communities. Staff will have greater responsibility for planning and developing the workforce they employ. The needs of patients and service users will be at the heart of the system so that we can improve the experience of everyone using the NHS and public health system.

### *Staff*

Staff will benefit from the new system, which aims to improve the quality of education. The development of the EOF will ensure that investment in training will support the delivery of excellent healthcare and health improvement. It is essential that this investment, in overall context of the whole workforce and the new system, lead by HEE, will develop the whole health workforce, support effective team working. Our ambition is for everyone in the NHS to reach their full potential so that they can care for patients and patients.

There will be some staff transfers into HEE and LETBs and as part of the preparatory work for the establishment of HEE under the NHS Act 2006, to consult representatives of those staff who may be transferred to either the proposed special health authority or the proposed Local Education and Training Boards (LETBs). In 2011 Richard Douglas wrote to John Beanland (Departmental Trade Union Side Chair), Karen Didovich (Senior Employment Officer), and McAnea (Unison National Secretary for Health) to seek views on the proposed establishment of two Special Health Authorities.

On 14<sup>th</sup> January, a further letter was sent to the same representatives following the publication of *Developing the Health Workforce*. In addition to its national functions, HEE will act as the legal entity host for Local Education and Training Boards (LETBs). The deadline for consultation responses had been extended until 21<sup>st</sup> February.

HEE received four responses to the consultation: one on behalf of the Social Partnership Forum staff side, one from the British Medical Association, one from the British Dental Association and one from the British Veterinary Association. Comments included:

- The current skills and expertise of staff that are employed within the Department of Health, Strategic Health Authorities and deaneries throughout the transition being maintained.
- There was also a desire to ensure the new organisation is established as a NHS body so staff continue to access NHS services.
- There were comments and concerns about the wider reform agenda that, although noted by the Department, were not fully responded to these letters seeking to provide reassurance about our approach to the transfer of services to the new organisation and communication and consultation with affected staff.

The equality issues impacting from these staff transfers are covered under a separate EQIA for the HEE People Transfer to Local Education and Training Boards (LETBs) as 'receiver' organisations and as HEE hosted bodies.

### *Education and Research sectors*

Health and education are closely linked and the continuing success of the healthcare and public health system is dependent on high quality education the health service could not operate. Conversely, the health sector funds many education projects for the service or public health system. Added to this many educators, working often in close partnership with the health sector, are contributing to continuing improvements in health in the UK and across the world.

Taken together, the mutual dependence between health and education means a strong working relationship at all

research work well together and interact in ways that drive the quality of the workforce and ultimately, better health with scientific and academic communities as outlined in ***Innovation, Health and Wealth***.

### *Medical Education England*

Medical Education England (MEE) is an Advisory NDPB that currently provides advice to Ministers on the education and training of the NHS workforce. The Department of Health has similar advisory boards that provide advice on the education and training of nurses, midwives and other professional advisory boards, will cease to operate from the end of September 2012. HEE will assume the end functions of these advisory boards.

### **Wider Impacts**

In 2010, the Equality and Human Rights Commission (EHRC) undertook an assessment of the performance of a sample of NHS organisations in meeting their duties under the Equality Act 2010. The assessment looked specifically at how SHAs used the duties to ensure the necessary processes in place.<sup>1</sup> Key findings and recommended actions emerging from this review were collated in the Equality Duty.

The EHRC suggested that in order to meet the new equalities duties, future NHS organisations needed to improve their policy development, commissioning and service delivery; make information more accessible, about both what they are doing and their needs assessments that cover all protected characteristics and move away from process-based objectives to ones that focus on outcomes.

It has been noted that in developing HEE and LETBs, applying the EHRC recommendations mean the system must:

- **Have equality at its heart:** Equality needs to be more effectively integrated into new arrangements.
- **Demonstrate performance through evidence and outcomes:** This should include HEE having a clear focus on performance on equality.
- **High-level leadership:** Is vital for sustainable progress to be made in performance of the duties.
- **Planning and management on equality needs:** Need to be more clearly a key consideration during the development of equality outcomes and ensure continuing performance of the duties.

### **Potential Equality Impacts and Issues**

#### *Impact of HEE and LETB functions*

The key equalities impacts and issues of the new system are in the establishment and running of HEE, who as a Special Health Authority system.

As discussed above, HEE will be an entirely new organisation with committees, Local Education and Training Boards and will be autonomous. As such, a number of HEE's functions are still in the process of being finalised, which has presented challenges.

HEE in undertaking its functions has the potential to influence the way the future workforce is planned and developed and the education of the NHS and public health workforce, working together with compassion and respect for people. In building a new framework for people to be at the heart of decision making.

In terms of stakeholders who are affected by the work of HEE, this includes the following groups:

- patients and the public
- NHS and public health staff
- students and trainees who are studying or training for a career in the NHS or public health system.
- organisations employ staff who will provide NHS and public health services.

<sup>1</sup> Equality and Human Rights Commission (2011) The performance of the health sector in meeting the Public Sector Equality Duties: moving towards effective equality outcomes.  
[http://www.equalityhumanrights.com/uploaded\\_files/research/psed\\_health.pdf](http://www.equalityhumanrights.com/uploaded_files/research/psed_health.pdf)

- organisations that have a role in the provision and quality assurance of education and training. e.g. professional

We wish to support widening participation by supporting diversity and equitable access to services and education, so that talent flourishes free from discrimination with everyone having fair opportunities to progress.

An Equality Analysis of the Health and Social Care Bill<sup>2</sup> outlines that a SpHA is required to produce specific guidance. Employees will be migrated from different sender organisations. As previously discussed, we are currently developing a framework underpinned by the same principles as the HR Framework and HR Transition Framework, which sets out key principles. These principles apply to the HR and employment processes supporting the potential transfer of functions, roles and responsibilities. The HEE PTP was developed in collaboration and agreed with the HR Transition Partnership Forum comprising employers

### *Equality and Diversity of HEE*

HEE will be an organisation that values and promotes equality and diversity in the way it conducts its business and the way it recognises and values difference so that employment practices are personal to staff, where staff feel valued for who they are. Staff with equal opportunity, are drawn from all sections of our society and a wide variety of professional backgrounds creating a diverse workforce.

Established as NHS organisation, the NHS is founded on a common set of principles and values. HEE has an important role in ensuring these values in their behaviours and in the way HEE do business. The NHS Constitution establishes the principles and values that staff are entitled, and pledges which the NHS is committed to achieve, together with responsibilities which the public and staff are required to fulfil fairly and effectively. All NHS bodies and private and third sector providers supplying NHS services are required by law to ensure, in common with all other Public Sector employers and in line with the Equality Act 2010 Public Sector Equality Duty

- Eliminate discrimination, harassment and victimisation
- Advance equality of opportunity
- Foster good relations

HEE will ensure that it has the appropriate skills and competencies within the workforce to deliver these equality duties. This will be achieved with an induction and will embed equality into the Performance Review system for all staff.

One of the seven principles in the Constitution is that the NHS provides a comprehensive service, available to all irrespective of their background. It has a duty to each and every individual that it serves and must respect their human rights. At the same time, it has a duty to pay particular attention to groups or sections of society where improvements in health and life expectancy are not keeping pace with the rest of the population (e.g. mental illness) or age. Staff have a right to be treated fairly, equally and free from discrimination, and a duty not to discriminate. HEE will ensure equality and human rights legislation.

HEE intends to be an inclusive leader where 'everyone counts', ensuring participation from staff at all levels of the organisation. HEE will provide leadership for talented people from all backgrounds. HEE recognises that engaged and valued staff, supported by a culture of inclusion, are the communities.

This HEE responsibilities for equality and inclusion role will be reflected in the Framework Agreement between HEE and the unions throughout HEE's functions and ensuring HEE centre, the LETBs and organisations carrying out function on behalf of HEE meet the requirement of the NHS Constitution.

HEE will have a Trade Union recognition agreement with the main unions representing the staff working for HEE. HEE will be agreeing the appropriate scope and membership of the recognition agreement with the unions. The recognition agreement

<sup>2</sup> Department of Health (2011) Health and Social Care Bill 2011 Equality Analyses – <http://www.parliament.uk/documents/impact-assessment/IA11-039.pdf>

underpin our commitment to effective staff engagement and consultation.

One of the principles, equality, recognises the importance of a diverse workforce and will help to ensure that no employee is disadvantaged on the basis of age, gender re-assignment, marriage and

## Evidence.

What evidence have you considered?

The Equality Act 2010 (Specific Duties) Regulations 2011

NHS Interim Management and Support – <http://www.nhsimas.nhs.uk/>

Equality and Human Rights Commission (2011) The performance of the health sector in meeting the Public Equality Outcomes.

[http://www.equalityhumanrights.com/uploaded\\_files/research/psed\\_health.pdf](http://www.equalityhumanrights.com/uploaded_files/research/psed_health.pdf)

Equality and Human Rights Commission (2011) The Public Sector Equality Duty: A way forward for the health sector.

[http://www.equalityhumanrights.com/uploaded\\_files/EqualityAct/PSED/health\\_policy\\_web.pdf](http://www.equalityhumanrights.com/uploaded_files/EqualityAct/PSED/health_policy_web.pdf)

Department of Health (2011) Health and Social Care Bill 2011 Equality Analyses – <http://www.parliament.uk>

Berry R (2011) Older people and the internet: Towards a 'system map' of digital exclusion. London: The Internet Society.

[http://www.ilcuk.org.uk/files/pdf\\_pdf\\_181.pdf](http://www.ilcuk.org.uk/files/pdf_pdf_181.pdf)

NHS West Midlands – Strategic Health Authority Equality Assurance Report – January 2012 -

[http://www.westmidlands.nhs.uk/Portals/0/Content/Equality%20and%20Diversity/WM%20SHA%20Equality](http://www.westmidlands.nhs.uk/Portals/0/Content/Equality%20and%20Diversity/WM%20SHA%20Equality%20Assurance%20Report%20January%202012.pdf)

NHS Midlands & East Strategic Health Authority Equality Assurance Report. January 2012.

NHS East of England – East of England Strategic Health Authority Region Equality Assurance Report

NHS Staff Management and Health Service Quality – Results from the NHS Staff Survey and Related Data. University Management School and The Work Foundation. Aston Business School.

Equality Analysis – Design and development of a nationally consistent approach to Local Education and Training

Unlocking Beds – Planning for a Health and Social Care Workforce in Bedfordshire and Luton and the South East

Medical Education England. Shape of training Workshop –Theme 2 – Responsiveness to Patients and the Public

Healthcare Workforce Skills and Competencies for an Aging Society. Age UK. Sept 2010.

Yeandle S, Bennett C, Buckner L, Fry G and Price C (2007) Diversity in Caring: towards equality for carers. Carers UK

Yeandle S and Buckner L (2007) Valuing carers – calculating the value of unpaid care. London: Carers UK

**Considered below are the possible impacts of the establishment and running of HEE by protected characteristics and the opportunities to advance equality.**

## **Disability**

1. HEE'S headquarters is in Leeds, with an office in London. This may involve travelling longer distance from some staff, which could be a barrier for staff who care for disabled relatives.

### Actions to Mitigate / Opportunities to Promote

- HEE will use the National Leadership Council's Leadership for Equality workstream to provide guidance on best practice
- Staff will be able to use communications technology, e.g. teleconferencing, videoconferencing for meetings with colleagues
- HEE will use NHS Mail, which allows staff to access emails online from any computer, enabling remote working when needed
- HEE will actively encourage flexible working arrangements, e.g. working from home on certain days, condensed hours etc.
- Telephone equipment will be installed to enable staff to divert their calls to anywhere in the two main offices, to their mobile phones to facilitate flexible working.

2. Flexible Working Policy which will follow good practice and be agreed in partnership with trade unions

### Actions to Mitigate / Opportunities to Promote

- Employers Forum on Disability

3. The new headquarters need to be fully accessible to people with both physical and sensory disabilities and learning difficulties

### Actions to Mitigate / Opportunities to Promote

- Adjustments will be made to the existing DH premises or identified premises to improve accessibility, for example installing ramps
- There will be processes in place for staff with an impairment to request specialist office equipment to enable them to work effectively
- There will be lifts to all floors and accessible WCs in both buildings.

4. The needs of those with specialist equipment connected with a disability may be overlooked when considering hot-desking or other flexible working arrangements

### Actions to Mitigate / Opportunities to Promote

- Processes will be in place for staff with a disability or impairment to request specialist office equipment to enable them to work effectively

5. Communications with patients and the wider public should be available in a range of formats for people with sensory and learning difficulties

### Actions to Mitigate / Opportunities to Promote

- The communications function and strategy of HEE are still in development. However, this allows the organisation to embed accessibility from the beginning.

## **Sex**

1. Women are often under represented at senior levels within the NHS and DH. This trend may continue with the establishment of HEE

### Actions to Mitigate / Opportunities to Promote

- HEE will use the National Leadership Council's Leadership for Equality workstream to provide guidance on best practice
- Guidance will be issued to panels recruiting senior managers and board members on building equality, diversity and inclusion
- Corporate responsibility for equality and diversity has also been written into the job descriptions and personal specifications

2. Flexible Working Policy which will follow good practice and be agreed in partnership with trade unions

#### Actions to Mitigate / Opportunities to Promote

- Guidance will be issued to panels recruiting senior managers and board members on building equality, diversity and inclusion
- Corporate responsibility for equality and diversity has also been written into the job descriptions and personal specifications

3. HEE headquarters will be in Leeds, with an office in London, which may involve travelling longer distances for some staff. This is likely to have caring responsibilities

#### Actions to Mitigate / Opportunities to Promote

- HEE will have a central London office that can be used by staff who are closet to the capital.
- HEE will ensure staff will be able to use communications technology, e.g. teleconferencing, videoconferencing for meetings
- HEE will use NHS Mail, which allows staff to access emails online from any computer, enabling remote working when needed
- HEE will actively encourage flexible working arrangements, e.g. working from home on certain days, condensed hours etc
- Telephone equipment will be installed to enable staff to divert their calls to anywhere in the two main offices, to their mobile phones to facilitate flexible working.

## **Race**

1. Black and minority ethnic groups continue to be under represented at higher grades and at Board level within the NHS and DH

#### Actions to Mitigate / Opportunities to Promote

- HEE will use the National Leadership Council's Leadership for Equality workstream to provide guidance on best practice
- Guidance will be issued to panels recruiting senior managers and board members on building equality, diversity and inclusion
- Corporate responsibility for equality and diversity has also been written into the job descriptions and personal specifications
- Agenda for Change for Band 8c and above.

2. The HEE headquarters will be in Leeds, with an office in London, which may involve travelling longer distances for some staff. This is likely to have caring responsibilities, as evidence suggests that a greater proportion of BME carers are of working age

#### Actions to Mitigate / Opportunities to Promote

- HEE will ensure staff will be able to use communications technology, e.g. teleconferencing, videoconferencing for meetings
- HEE will use NHS Mail, which allows staff to access emails online from any computer, enabling remote working when needed
- HEE will actively encourage flexible working arrangements, e.g. working from home on certain days, condensed hours etc
- Telephone equipment will be installed to enable staff to divert their calls to anywhere in the two main offices, to their mobile phones to facilitate flexible working.

3. Communications with patients and the wider public should be available in community languages if required

#### Actions to Mitigate / Opportunities to Promote

- The communications function and strategy of HEE are still in development. However, this allows the organisation to embed equality from the beginning.
- HEE will explore the use of tools for communications – eg. Google translate

## **Age**

1. HEE's headquarters will be in Leeds, with a small office in London. This may involve travelling longer distances for some staff, particularly those with young children, elderly relatives or children.

Actions to Mitigate / Opportunities to Promote

- HEE will use the National Leadership Council's Leadership for Equality workstream to provide guidance on best practice
- HEE will ensure staff will be able to use communications technology, e.g. teleconferencing, videoconferencing for meetings
- HEE will use NHS Mail, which allows staff to access emails online from any computer, enabling remote working when necessary
- HEE will actively encourage flexible working arrangements, e.g. working from home on certain days, condensed hours etc. Each case considered individually.
- Telephone equipment will be installed to enable staff to divert their calls to anywhere in the two main offices, to their mobile phones to facilitate flexible working.

2. Using electronic media (websites, email) to communicate with the wider public may exclude older people who are less likely to use such services.

Actions to Mitigate / Opportunities to Promote

- The communications function and strategy of HEE are still in development. However, this allows the organisation to embed equality considerations from the beginning.

## **Gender reassignment (including transgender)**

No specific equality issues identified

Actions to Mitigate / Opportunities to Promote

- HEE will use the National Leadership Council's Leadership for Equality workstream to provide guidance on best practice
- Guidance will be issued to panels recruiting senior managers and board members on building equality, diversity and inclusion
- Corporate responsibility for equality and diversity has also been written into the job descriptions and personal specifications

## **Sexual orientation**

No specific equality issues identified

Actions to Mitigate / Opportunities to Promote

- HEE will use the National Leadership Council's Leadership for Equality workstream to provide guidance on best practice
- Guidance will be issued to panels recruiting senior managers and board members on building equality, diversity and inclusion
- Corporate responsibility for equality and diversity has also been written into the job descriptions and personal specifications

## **Religion or belief**

Staff with particular religious beliefs may need a quiet place for prayer during the working day.

Actions to Mitigate / Opportunities to Promote

- HEE will use the National Leadership Council's Leadership for Equality workstream to provide guidance on best practice
- HEE will work to ensure there are multi-faith prayer rooms in both office locations.

## **Pregnancy and maternity**

HEE headquarters in Leeds, with an office in London, which may involve travelling longer distances for some staff. This could have an impact on those with young children, elderly relatives or children.

work after maternity leave, who may require flexible working arrangements.

#### Actions to Mitigate / Opportunities to Promote

- HEE will use the National Leadership Council's Leadership for Equality workstream to provide guidance on best practice
- HEE will ensure staff will be able to use communications technology, e.g. teleconferencing, videoconferencing for meetings
- HEE will use NHS Mail, which allows staff to access emails online from any computer, enabling remote working when needed
- HEE will actively encourage flexible working arrangements, e.g. working from home on certain days, condensed and reduced hours
- There is a nursery attached to Quarry House, which can be used by staff working for the SpHA. Should the location be suitable for other staff?
- Flexible Working Policy which will follow good practice and be agreed in partnership with trade unions.

## **Cross-cutting issues**

**1. Human Resources:** The public sector equality duty requires public bodies with over 150 staff to publish specific information on equality impacts.

#### Actions to Mitigate / Opportunities to Promote

- The equality analysis of the Health and Social Care Act stressed the importance of monitoring workforce statistics through equality impacts. Although not yet legally required to publish this information HEE will ensure that appropriate systems are in place to collect and publish this information.
- Workforce Directorate Programme Board needs to ensure SHAs and deaneries publish their data in January 2013. HEE will support this through the LETBs.
- Between October 2011 and February 2012, as part of the preparatory work for the establishment of the Special Health Authority, HEE will undertake a survey of staff in accordance with Section 28(7) of the NHS Act 2006, to consult representatives of those staff who may be transferred to new bodies through transfers.

**2. Human Resources:** HEE needs to ensure that there is fairness across protected groups in the way appointments are made, particularly in relation to transfers.

#### Actions to Mitigate / Opportunities to Promote

- The Transition Re-sourcing Team (TRT) hosted by the Appointments Commission, has been established as an independent body to oversee the establishment of HEE and the LETBs and other new bodies and will ensure the process meets the public sector duties in relation to appointments using a dedicated e-recruitment system, and apply best equal opportunities practice in recruitment, selection and promotion.
- HEE will publish a People Transition Policy.

**3. Corporate Governance and Accountability:** HEE Board is ultimately accountable for the organisation's compliance with the Equality Act 2010, and will be evidencing that it has given due regards to the possible equality impacts of the corporate decisions.

#### Actions to Mitigate / Opportunities to Promote

- Board has ultimate responsibility; however, Chief Executive needs to put in place a mechanism to ensure compliance across the organisation.
- See Action Plan

**4. Shared services:** HEE needs to ensure that in carrying out its shared services functions, meets the general equality duty.

#### Actions to Mitigate / Opportunities to Promote

- Business Services Authority (BSA) will provide interim services for HEE from establishment until April 2013 when the assessor will be in place and the Shared Services Programme solution for other services. It will be assured that solutions from April 2013 will meet the general equality duty.

**Legal and DH Interface:** HEE must also assure the overarching Transition Programme that it has robust arrangements in place to ensure compliance with the Equality Act 2010.

#### Actions to Mitigate / Opportunities to Promote

- The Director of People and Corporate Development will be the Equality Lead for HEE.

- HEE will have a strategy to ensure each of the Equality duties is delivered. HEE will collect and monitor appropriate data
- HEE needs to set an equality objective on staffing by 6<sup>th</sup> April 2013.

## Engagement and involvement

Was this work subject to the requirements of the cross-government [Code of Practice on Consultation](#)? (Y)

### Public Consultation

On 20 December 2010, the Department of Health published its consultation, *Liberating the NHS: Developing the healthcare workforce*<sup>3</sup> setting out proposals for a new framework for planning and developing the healthcare workforce and commissioning multi-professional education and training.

Specific Equality and Diversity questions were posed in this consultation: these were based around enabling the development of a more diverse workforce and if any protected groups or individuals would be at an advantaged or disadvantaged by the proposals or have greater difficulties than others in taking part in them. There was overar support for the objectives and design principles that form the foundation for the new framework with a particular emphasis on achieving value for money and ensuring security of supply. Many respondents saw the new framework as an opportunity to develop a more flexible approach, with stronger links to the quality of care and the values and behaviours of staff.

The consultation process ran from 20 December 2010 to 31 March 2011 and throughout a full and in depth engagement took place with a wide range of stakeholders including a number of national and regional engagement events. The aim of these events was to facilitate an opportunity for a range of views and opinions to be aired which fed into the consultation and development process, and help build relationships and encourage collaborative work between the individuals in the new system. Key messages included a consensus that it is important to build on the current partnership working and stakeholder involvement throughout the sector and ensure multi-professional engagement in the whole system. Each SHA ran events in their area that included representation from healthcare providers, primary care representatives, medical and nursing directors, Primary Care Trusts (PCTs), education institutions, deaneries, social care and local authorities and patient representatives.

In addition, a large number of events and discussions took place between the Department of Health and key stakeholders across the health and education sectors, including, Medical Education England (MEE) and their lay representatives, the Professional Advisory Boards, the UK Health Education Advisory Council, the Foundation Trust Network, Universities UK and health professional regulatory bodies. Meetings were also held with Patient and Public Groups.

In total 544 responses were received for this consultation, online via the consultation platform, by email and by letter. Responses were received from a wide variety of individuals and organisation. These organisations included acute and foundation trusts, trade unions, Royal Colleges, professional and regulatory bodies, PCTs, SHA and Universities.

How have you engaged stakeholders in testing the policy or programme proposals?

### Listening Exercise

In April 2011, the Government announced the 'Listening Exercise', led by the NHS Future Forum, set up as an independent group, to pause, listen and reflect on the content of the Health and Social Care Bill and wider reform.

The NHS Future Forum was set up to oversee the listening exercise and drive the process of engagement. It consisted of a group of clinicians, patient representatives, voluntary sector representatives and other members of

<sup>3</sup> The consultation paper can be found at [http://www.dh.gov.uk/en/Consultations/Closedconsultations/DH\\_122590](http://www.dh.gov.uk/en/Consultations/Closedconsultations/DH_122590)

<sup>4</sup> [http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_129428](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_129428)

health sector. Julie Moore, Chief Executive of University Hospitals Birmingham Foundation Trust, was responsible for Education and Training. A report entitled 'NHS Future Forum Report on Education and Training'<sup>5</sup> was published that reflects the concerns that were heard and identified actions that need to be taken in the short term to ensure essential services are maintained.

During the NHS Listening Exercise<sup>6</sup>, a specific event was held on equality. Jointly chaired by the Chief Executive of National Voices (a member of the Future Forum) and the DH Director of Health Inequalities and Partnerships, the event brought together a range of stakeholders to explore equality issues arising from the proposed health reform. Stakeholders raised a number of concerns regarding the possible exacerbation of existing inequalities experienced by some groups and communities, such as people with learning disabilities and mental illness, homeless people, older people, black and minority ethnic communities and children.

The official government response<sup>7</sup> to the NHS Future Forum report recognised the strong support for the aim for education and training to be driven by the needs of patients and communities. It particularly noted the benefits of a system that is more responsive to the needs of patient services and employers, whilst being professionally informed and underpinned by strong academic links. Key to this was the need for a move to values based recruitment. This reinforced messages heard at the May and September 2011 National Stakeholder Forum.

### **Accelerated Learning Event May 2011**

An Accelerated Learning Event was held in May with 80 plus key stakeholders. The aim of the event was to examine the structure and governance of the proposed new framework for planning and developing the healthcare workforce and the critical factors for success. The outcomes of the day were fed into the Listening Exercise and shaped the Department's response to the consultation "Liberating the NHS: Developing the Healthcare Workforce". The event was attended by the SofS.

The key objectives of the day were:

- To share the emerging outputs and key messages from the consultation process
- To build and test different operating models and accountabilities for successful implementation of the proposed new framework drawing on the emerging key messages from the consultation process.
- To engage in joint problem solving to ensure successful implementation of the proposed new framework, in line with the White Paper modernisations – short, medium and long term
- To identify what needs to be put in place, the contribution of different stakeholders and the next steps planning to ensure a safe and stable transition

A summary of the outputs of the day were e-mailed to attendees and other key stakeholders.

### **Developing the Healthcare Workforce - September Stakeholder Event**

To follow on from the success of the 10<sup>th</sup> May Accelerated Solutions Event, a further event took place in September 2011. The event was attended by 90 plus stakeholders and provided an opportunity to discuss critical policy issues as we moved towards the implementation stage of the new framework.

The key objectives of the day were:

<sup>5</sup> NHS Future Forum Report on Education and Training can be found at [http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_127443](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_127443)

<sup>6</sup> On 6 April, the Secretary of State announced the start of a Listening Exercise, to pause, listen, reflect on and improve the Government's proposals for modernising the NHS. The NHS Future Forum, an independent and diverse advisory group chaired by Professor Steve Field, led the listening exercise.

<sup>7</sup> The official government response is available at [http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_127444](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_127444)

- To develop detailed policy and implementation plans.
- To ensure shared understanding of the proposed policy direction, and the phased approach to transition.
- To identify what needs to be done to ensure the successful achievement of the policies identified, and the contribution of different players to success.

### **Outputs**

- Progress on thinking through critical questions in relation to:
  - the respective roles of different players in the system
  - the accountability framework for HEE and provider-led networks
  - ensuring quality in the system
  - moving to a more multi-professional approach
  - funding to achieve a fairer and transparent system
  - ensuring a safe transition to the new system.
- Clarity on what is needed in relation to Autumn publications
- A clear process for capturing and taking forward the thinking from the day
- Commitment from stakeholders to remain involved and take away relevant actions for their own settings.

A summary of the outputs of the day were e-mailed to attendees and other key stakeholders.

### **Delphi Survey**

To support the stakeholder events Delphi exercises were carried out to capture stakeholders ideas for improving system wide working. The Delphi survey methodology is a formal and systematic method of consultation that is used to tap expert knowledge and judgement in thinking about the future, developing new strategies and action planning. The Delphi survey helped 'scan the horizon' to pick up trends, evidence, examples and insights affecting workforce development relevant to the problem solving and action planning which took place at the two events.

The Delphi approach is especially helpful where empirical or other evidence on the specific questions is not yet available but where there is a pool of experienced and informed people whose views and thinking about new directions will be significant.

The surveys consisted of three rounds:

- **Round 1**– this will be a short set of open-ended questions which will gather your views on the most critical factors in developing solutions to workforce development and also your initial ideas on how you would like to see the system working and the actions that will be necessary to bring this about. The results from this round were then be fed into the design of Round 2.
- **Round 2** – involved a set of closed and/or quantitative questions which gauged the consensus or divergence across all the main ideas and suggested approaches that emerged in Round 1.
- **Round 3**– comprised the same set of questions as for Round 2. In this round, the responses to Round 2 were given with a summary of the results from the whole group of respondents. Respondents then has an opportunity to adjust your answers in the light of this wider feedback.

The survey results were included in the summary of the May and September stakeholder events.

### **Local Education and Training Boards (LETBs)**

LETBs are to be service-provider led and wider provider input was sought as part of the design phase. On 9 September 2011, around stakeholders, a large proportion from NHS service providers, participated in an intensive design workshop.

Participants contributed to the following areas

- Authorisation
- Securing a Provider (service delivery) focus
- LETB Functions
- Scenario on handling planning for a medical and non-medical conflict between national and local planning expectations

Participants believed that there could be greater prominence to linking education and training with patient care and managing population health and care need through workforce planning and education and training.

Equality and diversity were included within discussions and the completed templates, particularly the need for equality and diversity in the functions of LETBs. This also fed through to authorisation of LETBs and the need to ensure that LETBs were organised in a way that ensured they would take account of the needs of a diverse population as a core requirement. This also informed the contribution to *Developing the Healthcare Workforce: From Design to Delivery*, the *Ten LETB Operating Principles* and *Guidance on the LETB Operating Principles*.

The authorisation elements directly fed into a 5 April 2012 authorisation workshop, attended by a mixture of service provider, SHA and education sector contributors.

Culture and education and training

On 12 September 2011, the National Stakeholder Forum considered progress being made on education and training. The culture of education and training was a theme of part of extended discussions of a mixture of professional representatives and a number of long-term condition and disease specific patient organisations.

The key areas highlighted as needing addressing in both design and implementation were the need to:

- Consider how people are being selected – ensure time is taken to select and train the right workforce with the right values
- Ensure training of trainers took account of the right values
- Ensure professions work in an integrated way
- Include the NHS Constitution and Values in training
- Ensure all parts of the system have the right values for training ingrained from the outset
- Focus on the updating of knowledge and skills
- Improve patient and public involvement and engagement of patients
- Balance communication flows

### **Patient, Service User and Public Stakeholders**

The reform of education and training will introduce more patient and service delivery focus to workforce planning, health care education and training. The stakeholders were mixed from large and small patient and service user groups, patient and lay representatives. The workshops enabled the work activities to be tested from a more diverse perspective and future engagement built into the work going forward.

The participants were keen to ensure a good quality level of patient and service user engagement by LETBs and HEIs. The participants were asked to provide input on:

- What does good education and training look like for patients and service users; and
- What works in patient and public engagement

Participants were keen for engagement, not just during the policy development and implementation, but on a more sustainable way. They highlighted the benefits of engaging patient and service user representatives in education and training.

The key areas they highlighted were:

- Early engagement and more systemised engagement rather than ad hoc, reactive activity
- Within LETBs engagement of patient and service users to be the responsibility of the Director of Education and Quality to ensure the patient and service user voice was sufficiently influential.
- Patient and public representatives could be involved in training activities to ensure there is sufficient focus on quality of the patient experience.
- HEE and LETBs could learn from the arrangements Medical Education England and the Allied Health Professions Programme Board have in place for Lay Representatives
- HEE and LETBs need to develop arrangements for engaging patient and public representatives; these should provide input that reflects the diverse make up of their populations.

A work project has been established between the existing lay representatives and the National Director Patient and Public Affairs.

### Education Outcomes Framework

A series of conferences were held during March 2012. The purpose of these events was to work with both national and local stakeholders to evaluate potential sources of data that might be used to track progress across the five domains identified in the Education Outcomes Framework, which include “widening participation”. The widening participation domain states “Talent and leadership flourishes free from discrimination with fair opportunities to progress and everyone can participate to fulfil their potential, recognising individual as well as group differences, treating people as individuals and placing positive value on diversity in the workforce and there are opportunities to progress across the five leadership framework domains”. The wide involvement of more than 400 people in these events provided a very valuable opportunity both to raise awareness of the EOF, but also to begin the process of more detailed design. The patient and public perspective on the EOF presented at these events and supported the development of a consistent, patient focused and accountable tool being built into the new system with the capacity to join up confusing reform and multiple new structures in something relevant to them.

There was a strong sense amongst participants that the development of the EOF is both challenging and worthwhile. To develop a framework, which meets everyone’s needs in a highly creditable way will take time, but the outputs from the workshops offer the Design group a very valuable series of pointers.

For each engagement activity, please state who was involved, how and when they were engaged, and the key outputs.

- Healthcare employers
- Professional leaders
- Healthcare Professionals
- Social Care Professionals
- Royal Colleges
- Regulators
- Unions
- Higher Education and research sector
- Service Commissioners
- Strategic Health Authorities
- Patients/Service Users
- Independent Sector
- NHS Future Forum
- Other Government Departments

The consultation document *Liberating the NHS: Developing the Healthcare Workforce* can be found on the Department of Health’s website at:

[http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_129](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_129)

The NHS Future Forum's report on Education and Training can be found on the Department of Health's website at:

[http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/documents/digitalasset/dh\\_127543.pdf](http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_127543.pdf)

The Government's Response to the NHS Future Forum Report can be found on the Department of Health's website at:

[http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/documents/digitalasset/dh\\_127719.pdf](http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_127719.pdf)

A link to *Liberating the NHS: Developing the Healthcare Workforce – From Design to Delivery* can be found on the Department of Health's website at:

[http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_13](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_13)

## Summary of Analysis

From this analysis, the introduction of a new system for planning and developing the healthcare workforce and the establishment of HEE appears unlikely to have a negative impact on any groups sharing a protected characteristic, but work continues to consider the available evidence and work with a range of interests in developing HEE functions. This takes into account the fact that some of the day-to-day functions of HEE are still being developed. In addition, action is being taken to address any potential for negative impact on staff through the PTP and HR strategy.

There are excellent opportunities, through designing the functions of HEE, for it to have a direct and positive impact on equality and reducing health inequalities in how healthcare services are commissioned in the future. Once HEE is established as SpHA it will need to meet the Health Inequalities Duty in addition to the public sector Equality Duty and will need to ensure that it provides regular reports on progress in such areas as widening participation through values based recruitment.

The new system will produce a flexible workforce and will need to address future challenges that ensures the shape and skills of the healthcare workforce evolves constantly if we are to sustain high quality, health services and continue to improve health in the face of demographic and technological change. There are also big challenges: to tackle obesity; improve maternity care; release savings; empower people with long-term conditions to manage their own care and provide people in later life with better support through more integrated, community based services. A more inclusive workforce is key to supporting and delivering on these challenges.

The Education Outcomes Framework will set expectations across the whole education and training system so that investment in developing the health and public health workforce supports the delivery of excellent healthcare and health improvement. The NHS Future Forum welcomed the development of an Education Outcomes Framework to provide a comprehensive system of quality governance and explicit educational outcomes, which support the delivery of improved patient care and public health outcomes. Working with employers, clinicians and education providers, the Department, LETBs and HEE will develop a suite of metrics so that the system can demonstrate at all levels education quality outcomes as they impact on patient experience, care and safety. This includes testing new questions of education as part of assessing the priority employers give to education and training and education outcomes achieved at all levels in the system. This will enable

tracking the progress in improvement in the quality of education, training and workforce development, so that investment in developing the health and public health workforce supports the delivery of excellent healthcare and health improvement.

All key HEE products will have regard to equality during development.

### **Eliminate discrimination, harassment and victimisation**

The NHS Constitution sets out the requirement that staff have an 'environment free from harassment, bullying or violence' and 'are treated fairly, equally and free from discrimination'. These principles are integrated into the HEE people transition policy and will be integrated into associated documents, policies procedures and working practices. Plans are in place to review these documents once transition is underway.

### **Advance equality of opportunity**

The Department has not identified evidence the policy will impact positively or negatively on the protected characteristics. The Department considers that public sector Equality Duty on HEE and the reporting that Duty requires will give the assurance required.

### **Promote good relations between groups**

No evidence has been found that the policy will impact positively or negatively on relationships between protected groups.

### **What is the overall impact?**

Overall, the Department has found no evidence that the implementation of the new system for planning and developing the healthcare workforce and the establishment of HEE will impact on equalities.

### **Addressing the impact on equalities**

The Department has not identified any equalities arising as a result of this policy.

## **Action planning for improvement**

### *Governance and Review*

The Board of HEE is responsible for ensuring that as an organisation, it is compliant with the Equality Act 2010 and meets the Public Sector Equality Duty. HEE will monitor the implementation of the PTP in partnership with the Trade Unions via the HR Transition Partnership Forum (HRTPF) and will be reviewed formally. The PTP equality analysis commits HEE to look at all of the equality data available on staff affected by the change. It then commits to conducting a full workforce analysis once the organisation is fully staffed. This will be completed for all of the protected characteristics to ensure full coverage.

The Department is developing an Education Outcomes Framework. This will set out the high-level objectives and outcomes for achieving a world class healthcare education system. The framework

aims to ensure that healthcare staff are able to develop the right values and behaviours, and have the right education and training to provide person centred care. This Education Outcomes Framework will help address variations in standards to support innovation through high quality education and training by holding HEE and LETBs to account against clear standards. The EOF includes indicators that will ensure advancing equality and reducing health inequalities is reflected throughout the reformed system.

Regards for advancing equality and reducing health inequalities is being built into the Authorisation and Accountability criteria for LETBs.

The overarching Department of Health (DH) Transition Programme, managed through its Integrated Programme Office, is responsible for equality assuring the individual transition programmes, of which Education and Training (including establishment of HEE) is one. The Transition Equality Assurance programme reports to the Department's Equalities and Human Rights Assurance Group (EHRAG), which assures the Department's compliance with its duties on behalf of the DH Management Board.

This equality analysis will be reviewed at key points during the evolution of HEE:

- This analysis will be reviewed in October 2012 once HEE is established.
- Prior to 1 April 2013, when HEE takes on its full responsibilities and accountabilities.
- If the SpHA is abolished and HEE is set up as an Executive Non-Departmental Public Body, taking on new powers and functions. Primary legislation will be required to establish HEE as a non-departmental public body and consolidate the education and training reforms. It is intended to legislate for this as soon as Parliamentary time allows. As a first step, the Government intends to publish draft clauses on education and training for pre-legislative scrutiny in the second session of this Parliament.

## For the record

**Name of person who carried out this assessment:**

Victoria Smith

**Date assessment completed:**

Ongoing

**Name of responsible Director/Director General:**

Jamie Rentoul

**Date assessment was signed:**

# Action plan template

This part of the template is to help you develop your action plan. You might want to change the categories in the first column to reflect the actions needed for your policy.

Category	Actions	Target date	Person responsible and their Directorate
EA1	Identify relevant actions from the equality analysis of the Health and Social Care Bill and the EHRC report, 'The Public Sector Equality Duty: A way forward for the health sector'		
EA2	Programme Board to write to SHAs to ensure equality information is published in January 2013		
EA3	SHA handover of the equality objectives set under the PSED in April 2012		
EA4	Finalise and begin implementation of HEE development and implementation programme approach to embedding equality (i.e. lenses and quality standards)		
EA5	Publish information to demonstrate SpHA compliance with the public sector equality duty in January 2013		
EA6	Work with DH and the Equality Deliver System (EDS) Support Team to consider how HEE can utilise the SHA equality and EDS information from 2012 to develop its equality objectives.		
EA7	If location of SpHA is not Quarry House, need to consider the alternatives on Equality and integrate into action plan/objectives.		
EA8	Agree and Publish equality objectives that need to be achieved in order for the SpHA to carry out its public sector duty		

