

Assessment of the Impact on Equalities (Screening)

Title of policy:

NHS Operating Framework for 2011/12

Short description of policy:

The NHS Operating Framework is a key document for the NHS, to put into operation key policy priorities, business rules to support their delivery and the accountability process for financial year 2011/12. The content of the NHS Operating Framework contains nothing new as it only operationalises existing policies and commitments.

The Coalition Government published the White Paper *Equity and excellence: Liberating the NHS*, to deliver a service with systemic changes during 2011/12. Its emphasis is on continuing to deliver excellent patient care, to drive improvements in health outcomes, and to improve patient choice and experience within available resources.

The NHS Operating Framework for 2011/12 starts to operationalise this reform. As such, it sets out a framework for a transitional year, to prepare the NHS for the new world of the NHS Commissioning Board and GP consortia, whilst ensuring service quality and financial performance is maintained and improved through the QIPP challenge, to improve the health and well being of the population.

The NHS Operating Framework for 2011/12 sets out the key policy priority areas for the service to operationalise with a wide range of enablers. These priority areas include continuation of recent improvements, delivery of transition arrangements and 'new' commitments identified as part of the Comprehensive Spending Review 2010.

The following policy priorities and commitments in the 2010/11 NHS Operating Framework remain a priority in 2011/12 and have been updated to reflect the current position; for instance:

1. Cleaner healthcare facilities
2. Eliminating Mixed Sex Accommodation
3. End of life care

4. Military and Veteran's Health
5. Referral to treatment times - For 2011/12, patients' rights under the NHS Constitution will continue and commissioners should ensure that performance improves during 2011/12.
6. Accident and Emergency services
7. Ambulance services
8. Mental health services
9. Maternity and Children's services.

A separate assessment of the impact on equality have been undertaken to support each of these commitments.

The Government set out commitments for the NHS to deliver in the Comprehensive Spending Review 2010. The NHS Operating Framework 2011-12 sets out how these commitments will start to be operationalised, for instance:

1. Health Visitors.
2. Family Nurse Partnerships.
3. Autism.

A separate assessment of the impact on equality will have been or will be undertaken for each of these areas. This is a requirement that helps ensure this Operating Framework supports the DH responsibilities under the Equality Act 2010.

In June 2010, a Revision to the NHS Operating Framework of 2010/11 ended performance management of 18 weeks waiting times (patients' rights under the NHS Constitution will continue) and changes to the 4-hour A&E standard. However, both of these areas will still be important during 2011/12.

A list of key indicators have been developed against which PCTs will be held to account during 2011/12, which will provide sufficient accountability and assurance as the system moves to a more outcomes focussed approach for the future.

Financial year 2010/11 has been a year of progress for the NHS, public health and adult social care. The Operating Framework for 2011/12 will continue to maintain and improve performance.

Equality Act 2010

The Equality Act 2010 is relevant to all functions and activity within or on behalf of DH. This includes policy, programme and practice development and employment. More specifically, the public sector Equality Duty created by section 149 of the Equality Act 2010 applies to how DH develops and delivers functions, policy, programmes and practices.

The Equality Duty requires those exercising a function to have due regard to the need to a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not; and c) foster good relations between persons who share a relevant protected characteristic and persons who do not.

The relevant protected characteristics for the purpose of the duty are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. In addition to these statutory duties, the Department of Health has agreed assess the socio-economic impact, wherever practicable, as a way of including broader health inequalities.

Negative impact

How could the policy have a **significant** negative impact on equality in relation to each area?

Age

The NHS Operating Framework for 2011/12 is unlikely to have a significant negative impact on equality in relation to age, in terms of barriers to a community group, exclusion or negative impact in terms of community relations.

The reasons for this are that the Operating Framework pulls together existing policies that have already undergone equality impact assessment or in the case of forthcoming policy areas that will be assessed. It may be that some of these policies are more relevant in terms of age equality and where this is the case the issues will be identified and addressed so that the policies do not disproportionately impact on people in terms of their age. It contains nothing additional to this.

The NHS Operating Framework for 2011/12 highlights the report by Sir Ian Kennedy and *Achieving Equity and Excellence for Children*, which sets out how the NHS White Paper relates to children and young people. Both highlight the need for the NHS to pay greater attention to the needs of children, young people and families in commissioning and delivering services, particularly in relation to groups with specific needs including disabled children, palliative care and CAMHS.

Disability

The NHS Operating Framework for 2011/12 is unlikely to have a significant negative impact on equality in relation to disability, in terms of barriers to a community group, exclusion or negative impact in terms of community relations.

The reasons for this are that the NHS Operating Framework pulls together existing policies that have already undergone equality impact assessment or in the case of forthcoming policy areas that will be assessed. It may be that some of these policies are more relevant in terms of disability equality and where this is the case the issues will be identified and addressed so that the policies do not disproportionately impact on disabled people. It contains nothing additional to this.

Ethnicity

The NHS Operating Framework for 2011/12 is unlikely to have a significant negative impact on equality in relation to ethnicity, in terms of barriers to a community group, exclusion or negative impact in terms of community relations.

The reasons for this are that the NHS Operating Framework pulls together existing policies that have already undergone equality impact assessment or in the case of forthcoming policy areas that will be assessed. It may be that some of these policies are more relevant in terms of ethnicity and where this is the case the issues will be identified and addressed so that the policies do not disproportionately impact on people in terms of their ethnicity. It contains nothing additional to this.

Gender (including gender reassignment)

The NHS Operating Framework for 2011/12 is unlikely to have a significant negative impact on equality in relation to gender (including transgendered people), in terms of barriers to a community group, exclusion or negative impact in terms of community relations.

Pregnancy and maternity

The NHS Operating Framework for 2011/12 is unlikely to have a significant negative impact on equality in relation to pregnancy and maternity, in terms of barriers to a community group, exclusion or negative impact in terms of community relations. There are a number of policies specifically targeted at pregnancy and maternity services, which are included within the Operating Framework for 11/12. These have been assessed for any negative impact on equalities and action taken to address any found.

The NHS Operating Framework pulls together existing policies that have already undergone equality impact assessment or in the case of forthcoming policy areas that will be assessed. It may be that some of these policies are more relevant in terms of gender equality eg Violence against Women and Girls Commissioning Guidance, and, where this is the case, the issues will be identified and addressed so that the policies do not disproportionately impact on people in terms of their gender. It contains nothing additional to this.

Religion or belief

The NHS Operating Framework for 2011/12 is unlikely to have a significant negative impact on equality in relation to religion or belief, in terms of barriers to a community group, exclusion or negative impact in terms of community relations.

The reasons for this are that the NHS Operating Framework pulls together existing policies that have already undergone equality impact assessment or in the case of forthcoming policy areas that will be assessed. It may be that some of these policies are more relevant in terms of religion or belief and where this is the case the issues will be identified and addressed so that the policies do not disproportionately impact on people because of their religion or belief. It contains nothing additional to this.

Sexual orientation

The NHS Operating Framework for 2011/12 is unlikely to have a significant negative impact on equality in relation to sexual orientation, in terms of barriers to a community group, exclusion or negative impact in terms of community relations.

The reasons for this are that the NHS Operating Framework pulls together existing policies that have already undergone equality impact assessment or in the case of forthcoming policy areas that will be assessed. It may be that some of these policies are more relevant in terms of sexual orientation and where this is the case the issues will be identified and addressed so that the policies do not disproportionately impact on people due to their sexual orientation. It contains nothing additional to this.

Socio-economic groups

In addition to the Equality Act 2010 protected characteristics, the Department of Health has agreed assess the socio-economic impact, wherever practicable, as a way of including broader health inequalities.

The NHS Operating Framework for 2011/12 is unlikely to have a significant negative impact on equality in relation to different socio-economic groups, in terms of barriers to a community group, exclusion or negative impact in terms of community relations. This builds on the 10/11 Framework which included tackling health inequalities as one of the priorities.

The NHS Operating Framework pulls together existing policies that have already undergone equality impact assessment or in the case of forthcoming policy areas that will be assessed. It is likely some of these policies are more relevant in terms of socio-economic status and where this is the case the issues will be identified and addressed so that the policies do not disproportionately impact on people because of their socio-economic

circumstances and opportunities are taken to advance equality of opportunity.

Human rights

The Operating Framework for 2011/12 is unlikely to have a significant negative impact on equality in relation to different socio-economic groups, in terms of barriers to a community group, exclusion or negative impact in terms of community relations.

The reasons for this are that the NHS Operating Framework pulls together existing policies that have already undergone equality impact assessment or in the case of forthcoming policy areas that will be assessed. Where human rights issues are identified these will be addressed so that the policies do not disproportionately impact on people in terms of human rights. It contains nothing additional to this.

- Will the policy create any **problems** of **barriers** to any community of group? **No**
- Will any group be **excluded** because of the policy? **No**
- Will the policy have a negative impact on **community relations**? **No**

Positive impact

The NHS Operating Framework for 2011/12 emphasises the need for NHS organisations to comply with the public sector duties of the Equality Act 2010, due to come into force in April 2011, alongside the other policies priorities identified.

The public sector Equality Duty requires DH and those NHS bodies exercising a function to have due regard to the need to a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act; b) advance equality of opportunity between persons who shared a relevant protected characteristic and persons who do not; and c) foster good relations between persons who share a relevant protected characteristic and persons who do not.

The relevant protected characteristics for the purpose of the duty are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Could the Framework have a **significant** positive impact on equality by reducing inequalities that already exist?

1. Promote equal opportunities

In the NHS Operating Framework for 2011/12, the policy areas and themes referenced that are likely to have a positive impact on equality include the Equality Act 2010, the NHS Constitution and the Health Bill.

The NHS Operating Framework for 2011/12 emphasises the clear expectation that the NHS is expected to operate within the principles of the NHS Constitution both in terms of patient and staff rights and in providing a comprehensive service, available to all. The existing policies and the forthcoming policy areas within the NHS Operating Framework for 2011/12 will therefore contribute towards our duty to promote and advance equality of opportunity. All of the policy areas within it have already been Equality Impact Assessed or Screened, or are forthcoming and will be screened. The NHS Operating Framework for 2011/12 contains nothing additional to this.

2. Get rid of discrimination

The NHS is expected to operate within the principles of the NHS Constitution both in terms of patient and staff rights and in providing a comprehensive service, available to all. The existing policies and the forthcoming policy areas within the NHS Operating Framework for 2011/12 will therefore contribute towards our duty to get rid of discrimination. All of the policy areas within it have already been Equality Impact Assessed or Screened, or are forthcoming and will be screened. The NHS Operating Framework for 2011/12 contains nothing additional to this.

3. Get rid of harassment

The NHS Constitution makes clear that the NHS aspires to the highest standards of excellence and professionalism and is accountable to the public, communities and patients that it serves. The existing policies and the forthcoming policy areas within the NHS Operating Framework for 2011/12 will therefore contribute towards our duty to get rid of harassment. All of the policy areas within it have already been Equality Impact Assessed or Screened, or are forthcoming and will be screened. The NHS Operating Framework for 2011/12 contains nothing additional to this.

4. Promote good community relations

The NHS Constitution makes clear the wider social duty of the NHS to promote equality through the services it provides and 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. It also stipulates that the NHS works across organisational boundaries and in partnership with other organisations in the interest of patients, local communities and the wider population. The NHS Operating Framework for 2011/12 also sets out the clear need for good local partnerships and public engagement. In particular, that PCTs are expected to ensure that strategic plans secure engagement of people and communities and NHS organisations should use public involvement and feedback from stakeholders to inform service redesign and innovation.

The existing policies and the forthcoming policy areas within the NHS Operating Framework for 2011/12 will therefore contribute towards our duty to promote good community relations. All of the policy areas within it have already been Equality Impact Assessed or Screened, or are forthcoming and will be screened. The NHS Operating Framework for 2011/12 contains nothing additional to this.

5. Promote **positive attitudes towards disabled people**

The NHS is expected to operate within the principles of the NHS Constitution both in terms of patient and staff rights and in providing a comprehensive service, available to all, reflecting the needs and preferences of patients, their families and their carers. The NHS Operating Framework for 2011/12 sets out that the NHS should ensure momentum is maintained in improving care and outcomes for people with learning disabilities, in the light of "*Six Lives*" *Progress Report*¹ (14 October 2010).

The existing policies highlighted within the NHS Operating Framework for 2011/12 will therefore contribute towards our duty to promote positive attitudes towards disabled people. All of the policy areas within it have already been Equality Impact Assessed or Screened, or are forthcoming and will be screened. The NHS Operating Framework for 2011/12 contains nothing additional to this.

6. Encourage **participation by disabled people**

The NHS is expected to operate within the principles of the NHS Constitution both in terms of providing a comprehensive service, available to all. In doing so the NHS is expected to work across organisational boundaries and in partnership with other organisations in the interest of patients, local communities and the wider population. The existing policies and the forthcoming policy areas within the NHS Operating Framework for 2011/12 will therefore contribute towards our duty to encourage participation by disabled people.

All of the policy areas within it have already been Equality Impact Assessed or Screened, or are forthcoming and will be screened. The NHS Operating Framework for 2011/12 contains nothing additional to this.

7. Consider **more favourable treatment of disabled people**

The NHS is expected to operate within the principles of the NHS Constitution both in terms of providing a comprehensive service, available to all. The existing policies and the forthcoming policy areas within the NHS Operating Framework for 2011/12 contribute towards our duty to consider more favourable treatment of disabled people. All of the policy areas within it have already been Equality Impact Assessed or Screened, or are forthcoming and will be screened. The NHS Operating Framework for 2011/12 contains nothing additional to this.

8. Promote and protect **human rights**

The NHS Constitution makes clear the expectation of the NHS to provide a

¹ Available at http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_120251

comprehensive service, available to all irrespective of gender, race, disability, age, sexual orientation, religion or belief. It signalled a move away from a system of targets and central direction to one of rights and responsibilities, where empowered patients drive continuing improvements in services. It also has a duty to each and every individual that it serves and must respect their human rights. The existing policies and the forthcoming policy areas within the NHS Operating Framework for 2011/12 contribute towards our duty to promote and protect human rights. All of the policy areas within it have already been Equality Impact Assessed or Screened, or are forthcoming and will be screened. The NHS Operating Framework for 2011/12 contains nothing additional to this.

Cross cutting Evidence

NHS Operating Framework 2010/11 http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_110107
<u>NHS Constitution</u>
<u>Equality Act 2010</u> http://www.legislation.gov.uk/ukpga/2010/15/contents
<u>Equality Act 2010, public sector Equality Duty consultation</u> http://www.equalities.gov.uk/news/specific_duties_consultation.aspx
<u>UN Convention on the Rights of Persons with Disabilities</u> http://www.un.org/disabilities/convention/conventionfull.shtml http://www.un.org/disabilities/
<u>Report from UN Convention on the Rights of Persons with Disabilities DH involvement events – July 2010 and September 2010</u> http://www.radar.org.uk
<u>DH Guidance on Assessing for the Impact on Equalities (equality impact assessment)</u> http://www.dh.gov.uk/en/Aboutus/HowDHworks/SingleEqualityScheme/EqualityImpactAssessment/index.htm
<u>Managing the Transition, Sir David Nicholson letter</u> http://www.dh.gov.uk/en/Healthcare/LiberatingtheNHS/index.htm
<u>HM Treasury 2010 Spending Review Summary Assessment on the Impact on Equalities</u> (http://www.hm-treasury.gov.uk/spend_sr2010_equalities.htm) (http://www.hm-treasury.gov.uk/spend_sr2010_impact_households.htm) .
“The White Paper” – <i>Equity & Excellence: Liberating the NHS</i> http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_117353
‘An information revolution: A consultation on proposals’, 2010, http://www.dh.gov.uk/en/Consultations/Liveconsultations/DH_120080
Real Involvement: Working with people to improve services (2008) Department of Health http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_089787

What is the evidence for your answers to the above questions?

The NHS Operating Framework for 2011/12 is a key document for the NHS, to put into operation key policies and priorities for the NHS to deliver in 2011/12. The content reflects nothing new as it only operationalises existing policies and commitments.

The NHS Operating Framework for 2011/12 is aimed largely at PCTs and

commissioners highlighting what they need to do during 2011/12 in order to prepare for the transition and the environment within which they will be functioning.

In the NHS Operating Framework for 2011/12, the policy areas and themes referenced that are likely to have a positive impact on equality include the Equality Act 2010, the NHS Constitution and the Health Bill.

The NHS Operating Framework for 2011/12 emphasises that NHS organisations will need to comply with the public sector duties of the Equality Act 2010, due to come into force in April 2011.

The NHS Operating Framework for 2011/12 also emphasises that the Government is committed to upholding the NHS Constitution, which codifies NHS principles and values and the rights and responsibilities of patients and staff. It highlights that the Government's ambition for shared decision-making by patients, their clinicians and carers builds on, and gives better effect to the principle of involving people in decisions and their care. The Health Bill sets out the intention to extend the duty to have regard to the NHS Constitution, the NHS Commissioning Board, GP consortia and local authorities from April 2012.

The NHS is expected to operate within the principles of the NHS Constitution both in terms of patient and staff rights. The NHS Constitution brings together in one place what the NHS does, what it stands for and the commitments it should live up to. It describes the values and enduring principles of the NHS and gives individual, legally binding entitlements to staff, patients and the public, so that they know exactly what they have the right to expect of the NHS. The principles are:

1. The NHS provides a comprehensive service, available to all irrespective of gender, race, disability, age, sexual orientation, religion or belief. 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 wider social duty to promote equality through the services it provides and 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.
2. Access to NHS services is based on clinical need, not an individual's ability to pay.
3. The NHS aspires to the highest standards of excellence and professionalism
4. NHS services must reflect the needs and preferences of patients, their families and their carers.
5. The NHS works across organisational boundaries and in partnership with other organisations in the interest of patients, local communities and the wider population.
6. The NHS is committed to providing best value for taxpayers' money and the most effective, fair and sustainable use of finite resources.
7. The NHS is accountable to the public, communities and patients that it

serves.

What does available research say?

All of the policy areas within the Operating Framework have been or will be looked at individually in terms of equality impact assessment. Available research has been, or will be considered and published as part of this process.

What further research or data do you need to fill any gaps in your understanding of the potential or known effects of the policy?

Any gaps in research or data identified in individual equality impact assessment will be addressed by each policy area.

Addressing the impact on equality groups

- The Health Bill sets out the intention to extend the duty to have regard to the NHS Constitution, the NHS Commissioning Board, GP consortia and local authorities from April 2012.
- All of the policy areas within the NHS Operating Framework for 2011/12 have already been assessed for the impact on equalities or screened for potential impact, or are forthcoming and will be screened.
- The NHS Operating Framework for 2011/12 also sets out that PCTs are expected to ensure that strategic plans secure engagement of people and communities and use public involvement and feedback from stakeholders to inform service redesign and innovation.
- In terms of addressing negative impact and discrimination, the NHS Operating Framework for 2011/12 includes a reference to new commissioning guidance and recommendations of the Violence Against Women and Girls (women and children who are victims of violence or abuse) findings and suggests that these could help deliver obligations on gender equality. The NHS Operating Framework for 2011/12 also highlights the report by Sir Ian Kennedy and *Achieving Equity and Excellence for Children*, which both highlight the need for the NHS to pay greater attention to the needs of children, young people and families in commissioning and delivering services, particularly in relation to groups with specific needs including disabled children, palliative care and CAMHS.
- Other policy areas referenced in the NHS Operating Framework for 2011/12 also help to reduce inequalities. For example:
 - cancer reform strategy
 - mental health strategy
 - stroke

- safeguarding children
- healthcare for people with learning disabilities
- maternity
- dentistry
- diabetes
- support for carers

Next steps

NHS organisations are challenged to ensure that locally services meet the needs of the whole population, including those most at risk or in need and that they meet their equality and human rights duties mainly set out in the Equality Act 2010.

This is firmly embedded in the NHS Constitution. Right 5 states for patients that; **You have the right** not to be unlawfully discriminated against in the provision of NHS services including on grounds of gender, race, religion or belief, sexual orientation, disability (including learning disability or mental illness) or age.

How will you **monitor** the situation as the policy develops and takes effect?

The underpinning technical guidance to the NHS Operating Framework for 2011/12 will set out the indicators and milestones to be used to assess how SHAs and PCTs are delivering during the year of transition. The indicators and milestones will be grouped under three domains:

- **resources**, covering finance, workforce, capacity and activity;
- **quality**, covering safety, effectiveness and experience; and
- **reform**, covering commissioning, provision and the patient revolution.

Progress against these plans will be monitored by DH, through SHAs, on a small set of headline measures, alongside a relatively small set of supporting measures. The expectation is that, to support the principles of transparency and the move to an outcomes approach, local publication and benchmarking should take place where possible for all available quality performance measures.

The NHS Operating Framework for 2011/12 emphasises that priorities need to be planned for in the context of the system levers, including the NHS Constitution. It also emphasises that PCTs need to ensure their operational plans support wider local arrangements particularly in terms of shared agreements with local authorities and voluntary organisations. PCTs will need to ensure that all elements of plans are consistent with each other, are in line with agreements within their local strategic partnerships and support the delivery of efficiency savings.

What **further research** do you need?

Screening assessment completed by Joanne Cooke

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Screening assessment signed off by Alan Hall