

DEPARTMENT OF HEALTH AND EQUALITY AND HUMAN RIGHTS COMMISSION FRAMEWORK AGREEMENT: FOURTH QUARTERLY REPORT

Introduction

1. The Department of Health (DH) and the Equality and Human Rights Commission (EHRC) have adopted a voluntary agreement and framework for action. It was established for the purpose of demonstrating how DH would meet the former public sector equality duties up to 5 April 2011 and for the new equality duty. It is anticipated that this voluntary agreement will last for 18 months and draw on evidence that the health and social care system have initiatives in place that can be expected to lead to improved equality outcomes within their local populations.
2. The Department has agreed to make public the voluntary framework for action, the action plan, and executive summaries of the quarterly reports. A summary of the first three quarterly reports will be published on the DH website in November 2011, together with a full copy of this fourth quarterly report, minus annexes.

This Report

3. This report is the fourth of the quarterly written reports submitted to the EHRC. Following EHRC concerns regarding the need for DH to demonstrate clear progress against the Action Plan, supported by evidence of delivery against the overall Framework Agreement, the DH agreed at a meeting with EHRC on 8 September 2011 to submit the fourth quarterly report in the form of an Excel spreadsheet, with supporting evidence included as annexes. The full list of annexes is set out at paragraph 8 below.

Transition

4. In addition to the actions reported on against the Action Plan. A priority for DH is to embed equality with DH, NHS, public health and social care Transition. The Transition Programme equality assurance workstream has been established to supports NHS Chief Executive Sir David Nicholson's stated commitments to maintain and to strengthen equality gains in health and social care as a result of Transition. The aim is to ensure that all Transition work streams are:
 - Working to assess and manage potential equality impacts of system reform on patients and other service users;
 - Equality-assuring the internal impacts of structural change to mitigate against disproportionate adverse impact on our staff;

- Developing a robust equalities strategy and monitoring system to manage the movement of staff between the existing and new organisations; and
 - Ensuring that the cumulative effects of policy and organisational change support our overarching equality objectives.
5. In our third quarterly report in July we summarised work undertaken to scope and initiate the equality assurance workstream. Since then, Transition workstreams have been working independently on their equality assurance. Workstreams are completing their first-cut analyses and securing feedback from the DH Equality and Inclusion Team and will then produce a near-final draft of their equality analyses by end December 2011, which will be reported on in detail in our fifth quarterly report.

EHRC Policy Paper

6. In our third quarterly report we welcomed the publication of EHRC policy paper *The Public Sector Equality Duty: a way forward for the health sector*. In his capacity as Departmental Board Champion for Equality and Chair of the DH Equality and Human Rights Assurance Group, David Behan wrote to DH Directors leading on NHS Transition to bring this report to their attention. David Nicholson has also brought the findings to the attention of all NHS Chief Executives.
7. The DH Director of Health Inequalities and Partnership subsequently wrote to all Directors leading on transition to the NHS Commissioning Board and is now having one to one meetings with each Director to discuss progress and offer support.
8. The attached Excel spreadsheet provides a report on progress against each of the reporting requirements in the Action Plan. It is supported by the following Annexes:
- Gateway report
 - DH Equality Standards

Annex B

Number of equality cases in quarters 1 and 2 (2011-12)			
Senior official (SCS2)	Total	Q1	Q2
Gerard Hetherington - Clinical Programmes	21	10	11
Elizabeth Woodeson - Health & Well-Being	12	3	9
Giles Denham - Medicines & Pharmacy & Industry	8	2	6
Helen Shirley-Quirk - Health Protection	8	3	5
Bob Ricketts - Provider Policy	7	3	4
Gavin Lerner - Professional standards	6	1	5
Mark Bale - Science & Bioethics	6	4	2
Rob Smith - Estates & Facilities	6	1	5
Heather Gwynn - Children, Families & Maternity	5	4	1
Ian Dodge - Policy Unit	5	0	5
Jamie Rentoul - Workforce Development	5	3	2
John Holden - system Regulation	5	2	3
Shaun Gallagher - Social Care Policy	5	3	2
Ben Dyson - Commissioning & Primary Care	4	2	2
Giles Wilmore - Quality / QIPP	4	1	3
Kathryn Tyson - International	4	2	2
Peter Coates - Procurement & Commercial	4	0	4
Tim Rideout - NHSCB	4	1	3
Bruce Calderwood - Social Care, Mental Health & Disability	3	3	0
Miles Ayling - Innovation & Service Improvement	3	2	1
Bob Alexander - NHS Finance, Performance & Operations	2	0	2
Christine Beasley - CNO	2	0	2
Karen Middleton - Allied Health Professionals	2	0	2
Nic Greenfield - NHS Education, Training & Pay	2	0	2
Richard Murray - Financial Planning & Allocations	2	2	0
Colin Douglas - NHS Communications	1	0	1
David Salisbury - Immunisation	1	1	0
Ian Dalton - Provider Development	1	1	0
Jan Sobieraj - NHS Leadership	1	0	1
Jim Easton - NHS Improvement & Efficiency	1	0	1
Jonathan Mogford - MHRA	1	0	1
Nick Scholte - NHS Protect	1	0	1
Russell Hamilton - R&D	1	1	0
Yvonne Doyle - Regional Public Health	1	1	0
Total	144	56	88

Annex C

RAG RATINGS AND POLICY ASSURANCE

Since 2009/10 the Department has used the inclusion of a number of equality measures within the performance scorecard as a lever for improving the timeliness and quality of equality analysis and through that, improved policy development. A review of the use of this information, to inform the training and support provided to teams alongside dialogue with the Equality and Human Rights Commission has demonstrated that timeliness as a measure to improve quality has limitations.

We have developed a simple set of standards to help policy teams and Directors understand how far their Equality Analysis complies with equality legislation and good practice as well as helping policy assurance colleagues identify where targeted support should be directed.

The performance ratings

A mixture of Red, Red/Amber, Amber, Amber Green, Green will be used. The fixed, published standards for the main ratings are below. Red/amber and amber/green are deemed to be a mixture of the two.

The categories pick up the Equality Duty requirements on analysing the impact on equality.

The four categories used are:

- **Use of evidence**
- **Partnership and involvement**
- **Specific impact test – positive, negative and adverse for equality and human rights**
- **Planning and monitoring**

RED	AMBER	GREEN
Use of evidence		
No evidence is included - evidence is not used to support the options	Evidence is included - key evidence supports the options	Qualitative and quantitative evidence is used to support option appraisal
Evidence is not used in assessing the impact	Evidence is used to assess the impact	A range of evidence is used that supports the stated impact
There is no evidence that potential for adverse impact has been considered	There is consideration given to what the evidence suggests and any impact on those affected is explained.	There is an explanation of the methods for identifying evidence
Limited evidence is included but it doesn't	There is evidence of the	The evidence is used to determine

RED	AMBER	GREEN
stand up to scrutiny	<p>Equality Analysis informing the policy direction, implementation or evaluation arrangements</p> <p>There is evidence to support any suggestion of no, neutral, positive or equitable impact across the strands.</p>	<p>proportionality</p> <p>Evidence from stakeholders/third parties is included in the analysis or there is third party testing of the evidence presented</p> <p>There has been analytical review of the evidence</p> <p>There is a documented action to determine relevance and to identify a remedy to any gaps in evidence</p>
Partnership and Involvement		
<p>There is no evidence of team collaboration – an individual produced the analysis</p> <p>The development of the Equality Analysis is owned independently of the development of the policy</p> <p>There is no evidence of external engagement, consultation or involvement outside the policy team</p>	<p>There is evidence of a team based approach to the analysis.</p> <p>There is evidence of appropriate stakeholders being identified and actively consulted and engaged.</p> <p>There is documented evidence that due consideration has been given to stakeholder representations in developing the policy</p> <p>All information on the policy and Equality Analysis is made available in formats that are accessible to all stakeholders</p>	<p>There is evidence of active identification, engagement and involvement of a wide range of stakeholders including those outside the sector</p> <p>Information is provided and publicised in a variety of accessible formats making involvement easy</p> <p>There is evidence of stakeholder involvement at the option appraisal and/or impact determination stage</p> <p>There is evidence of the use of and where appropriate a proportionate response to stakeholder /third party contributions</p> <p>Stakeholders were involved in the review of evidence</p>

RED	AMBER	GREEN
		<p>Stakeholder evidence is included</p> <p>There are plans for ongoing engagement with stakeholders</p>
Specific impact tests		
<p>The impacts across all relevant protected characteristics have not been considered</p> <p>Evidence used isn't relevant to the policy/programme</p> <p>The Equality Analysis seeks to justify or defend a policy position</p> <p>Inappropriate language is used and there are assumptions made about certain protected characteristics that are not evidence based</p>	<p>The impact was determined using the evidence</p> <p>There is sufficient information to demonstrate what is being done to meet the Equality Duty.</p> <p>The analysis can demonstrate that consideration was given to the potential for positive, negative and adverse effect of the options or policy decision</p> <p>Obvious and significant gaps in the evidence are acknowledged and the need for action identified</p> <p>A range of impacts on relevant strands have been examined</p> <p>Neutral impact, where no differential is suggested, is supported by evidence.</p> <p>Human rights are considered within the analysis</p>	<p>Adverse impacts are identified and the affect on those of protected characteristics are explained.</p> <p>Where adverse impact is identified, action is put in place to mitigate that impact (either at national or local level)</p> <p>The outcomes of the Equality Analysis are clearly embedded with plans, policies and other strategic publications</p> <p>The evidence includes that which enables ways to promote equality of opportunity</p> <p>The evidence includes that which enables ways to promote community cohesion</p> <p>How human rights has informed the policy or programme is clearly described</p>
Action Plan		
<p>There is no action plan forming part of the Equality Analysis.</p> <p>A date was not set for</p>	<p>Responsibility for actions is documented</p> <p>The action plan states the arrangements for</p>	<p>The plan details arrangements for monitoring and evaluation of the policy /programme with</p>

RED	AMBER	GREEN
<p>publication of Equality Analysis.</p> <p>The action plan is not signed off by the Director</p>	<p>monitoring and evaluation of policy actions or targets</p> <p>The action plan states how the results of any evaluation will be acted upon</p> <p>The action plan is signed off by the policy lead, Director and Minister</p>	<p>partners</p> <p>The Equality Analysis informs the delivery of outcomes and performance indicators to signpost progress</p> <p>There are arrangements for third party involvement in monitoring and review</p>