



Department  
of Health

# Equality Analysis

Implementation of the measures proposed in the consultation response on the implementation of the recommendations, principles and actions set out in the report of the Freedom to Speak Up Review.

<p><b>Title:</b> Implementation of the measures proposed in the consultation response on the implementation of the recommendations, principles and actions set out in the report of the Freedom to Speak Up Review.</p>
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# Introduction

1. 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; and
  - foster good relations between people who share a protected characteristic and those who do not.
2. 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:** Implementation of the measures proposed in the consultation response on the implementation of the recommendations, principles and actions set out in the report of the Freedom to Speak Up Review.

**What are the intended outcomes of this work?** *Include outline of objectives and function aims*

The Government wants to ensure that the NHS is the safest and most transparent healthcare system in the world. To achieve this, individuals must feel safe to speak out and raise concerns about, for example issues concerning patient safety or financial impropriety. In addition, action must be taken when concerns are raised.

The failings at Mid Staffordshire NHS Foundation Trust highlighted the need for a change in culture to encourage staff to raise concerns. In other parts of the NHS, it was clear that in some wards and in some weaker institutions there were also worrying cultures allowing a failure to face up to problems and deal with them, compromising patients and staff alike.

In response to concerns about the reporting culture in the NHS, the Secretary of State for Health commissioned Sir Robert Francis QC to carry out an independent review, "Freedom to Speak Up" (FTSU).

The review was asked to identify measures to help to foster a culture in the NHS in England where staff can feel safe to speak out about patient safety, as well as learning lessons from the existing culture in the NHS by listening to those who have experiences to share, both positive and negative.

The report of the review was published on 11 February 2015, with two high-level recommendations:

1. All organisations which provide NHS healthcare and regulators should implement the principles and actions set out in the report in line with the good practice described in the report.
2. The Secretary of State for Health should review at least annually the progress made in the implementation of these Principles and Actions and the performance of the NHS in handling concerns and the treatment of those who raise them, and report to Parliament.

The report also sets out twenty key principles and associated actions which can be grouped into five themes:

- Culture change;
- Improved handling of cases;
- Measures to support good practice;
- Particular measures for vulnerable groups; and
- Extending the legal protections.

The Secretary of State accepted the two high-level recommendations in principle, and committed to consult on a package of measures to implement them. A copy of the report can be viewed at [www.freedomtospeakup.org.uk](http://www.freedomtospeakup.org.uk)

1. The consultation paper raised 7 proposals and a detailed analysis of the impacts of our conclusions in relation to the proposed implementation of those proposals has been undertaken and is attached at annex A. However, it should be noted that the Department will not be responsible for the execution of some of these proposals given the FTSU report's drive toward local accountability and responsibility. Where that is the case, the Department has not sought to assess the equality impact of these, only to highlight the proposals and make reference to the fact that the responsible authority will need to carry out its own equality assessments during the course of its own implementation, taking into consideration trends and equality data available. The 7 proposals, the related consultation questions and our conclusions in relation to the proposed implementation of those proposals, are detailed below:  
Local implementation – The vast majority of the principles and actions contained within the FTSU report strengthen local accountability for changing culture, backed by the national role of the system regulators. The Department therefore sought views on how these principles and associated actions could best be implemented within local NHS healthcare providers.

**Q1. Do you have any comments on how best the twenty principles and associated actions set out in the Freedom to Speak Up report should be implemented in an effective, proportionate and affordable way, within local NHS healthcare providers?**

**In considering this question, we would ask you to look at all the principles and actions and to take account of local circumstances and the progress that has already been made in areas highlighted by “Freedom to Speak Up”.**

Given the wide scope of the views received on how to implement the principles and actions, and the drive towards local implementation and ownership of the principles in the report within a framework of national guidance, we will ask the Independent National Officer, once in post, to consider what national guidance might be appropriate on implementation, taking into account the consultation responses.

We also propose that:

- the CQC should consult in summer 2015 on how the INO role will be implemented. We expect the role to be in place by December 2015.
  - the INO role, once in place, should produce guidance on how the FTSU Guardian role should develop taking into account the good practice already taking place.
  - HEE will produce guidance on what training will be needed for the FTSU Guardian role.
  - We will share the responses received to our consultation with the relevant organisations to help inform the guidance they will develop.
  - NHS England will produce guidance by September 2015 on how to implement the principles and actions in the Freedom To Speak Up report in primary care.
2. Role of national bodies – Many of the principles and actions outlined in the FTSU report highlighted a role for the national regulators and bodies that oversee the NHS and healthcare provision in England. For each of the principles and actions where these national bodies have a role, we expect that they will separately consult on their plans and publish any relevant guidance – see above.
3. Freedom to Speak Up Guardian Role – As set out in the Freedom to Speak Up report, we propose that the Freedom to Speak Up Guardian should be appointed by the individual organisation to act in a genuinely independent capacity.

**Q2: Do you have any opinions on the appropriate approach to the new local Freedom to Speak Up Guardian role?**

**Q3: How should NHS organisations establish the local Freedom to Speak Up Guardian role in an effective, proportionate and affordable manner?**

**Q4: If you are responding on behalf of an NHS organisation, how will you implement the role of the Freedom to Speak Up Guardian in an affordable, effective and proportionate manner?**

**Q5: What are your views on how training of the local Freedom to Speak Up Guardian role should be taken forward to ensure consistency across NHS organisations?**

**Q6: Should the local Freedom to Speak Up Guardian report directly to the Independent National Officer or the Chief Executive of the NHS organisation that they work for?**

While we want each organisation to have the flexibility to appoint the most suitable person to the role, it is clear that given the wide ranging views on the skills the Guardians will need and the role's structure, some guidance on the recruitment process would be helpful. We propose that the Independent National Officer, once established, should produce guidance on factors that need to be taken into account when recruiting to the role. As some Trusts have already appointed their Freedom to Speak Up Guardians, we would expect that the Independent National Officer will take into account the existing good practice that is already taking place around this role when publishing its guidance. In addition, if Trusts feel confident to appoint their Guardian without this guidance, they should not wait for the guidance to be published. Any appointments should be made within the principles set out in the Freedom to Speak Up review. How FTSU Guardians are appointed in primary care will be one of the issues covered in guidance being produced by NHS England.

We have considered whether the Freedom to Speak Up Guardian should report to the Board of the organisation that appointed them, or directly to the Independent National Officer. We are of the view that we would expect the Freedom to Speak Up Guardian, as recommended in the Freedom to Speak Up report, to be appointed by the Chief Executive of the organisation to act in a genuinely independent capacity. The Freedom to Speak Up Guardian would raise concerns with the Trust's Chief Executive or the Board. However, we recommend the Freedom to Speak Up Guardian should be able to raise concerns with the Independent National Officer if they have lost confidence, or consider good practice has not been followed, in how the organisation was handling concerns.

There was also support for standardised training for the role. It is important that there is guidance on what skills will be needed and the type of training that individuals undertaking the Freedom to Speak Up Guardian role might require. HEE will develop and publish guidance on training for this role working with the CQC and the Independent National Officer. We would expect HEE to take into account the work the INO will undertake around recruitment for this role.

4. The title of the local Guardian Role – We proposed several different titles for a standardised name for this role across NHS organisations.

**Q7: What is your view on what the local Freedom to Speak Up Guardian should be called?**

The majority of respondents supported the title of 'Freedom to Speak Up Guardian' as they felt it best described the role. There was some support for Independent Staff Concerns Advocate but there were a high number of responses that did not include an answer to this question.

The proposal for a standard name is to ensure that, as healthcare staff move around the system, there are consistent messages and titles for the role, which allow the individual to identify immediately who in their organisation they should approach if they need support to raise a concern.

Taking into account the comments received, we have concluded that the role should be called the Freedom to Speak Up Guardian. We have arrived at this view due to the largest number of respondents favouring this title for the role, the concerns raised that having

“patient” in the title could be misleading to staff, and given the lack of clear support for a different title.

5. Independent National Officer (INO) – The FTSU report calls for the establishment of an INO. We propose this role should sit within the Care Quality Commission.

**Q8: Do you agree that the Care Quality Commission is the right national body to host the new role of Independent National Officer, whose functions are set out in principle 15 of the Freedom to Speak up report?**

Given CQC’s existing contact with staff raising concerns and its role in assessing providers’ handling of staff concerns, we have concluded that the CQC is the most suitable national body to host the INO role. We are of the view that the work of the INO needs establishing as soon as possible. We would expect the CQC to consult on how it will implement this role by summer 2015, following discussions with the other relevant systems regulators and NHS England, and the role to be appointed by December 2015.

6. Standards for professionals – We also sought views on whether there should be standardised practice set out in professional codes on how to raise concerns.

**Q9: Do you agree that there should be standardised practice set out in professional codes on how to raise concerns?**

The majority of the concerns with this proposal were about how it duplicated the existing codes of practice for professionals and that standardised practice would have varying degrees of applicability to different sectors. Many respondents also felt that best practice in raising concerns was something that should be determined at a local level, taking into consideration the configuration of local services.

Professional codes are guidance on behaviour and how to deal with particular situations such as communication with patients, delegation, seeking consent, treating people with dignity and what to do if a professional has witnessed something about which they have concerns. Professor Sir Bruce Keogh is currently undertaking a review on the professional codes, including how they cover the issue of raising concerns. The Department expects to receive the recommendations from his review shortly and will consider the recommendations along with the good practice guidance that has already been produced by the professional bodies, such as the GMC and the NMC.

7. Strengthening legislation – The FTSU report also recommended the strengthening of the legal protections for those who blow the whistle: to cover discrimination in recruitment by NHS employers to protect those who have raised a concern when seeking new employment; the list of people and organisations prescribed to receive protected disclosures to include all relevant national oversight, commissioning, scrutiny and training bodies; and, the Government should widen the scope of the protection under the Employment Rights Act 1996 to include all students working towards a career in healthcare. Separate action is being undertaken to implement this proposed new legislation; therefore separate further equality analyses will be undertaken on these measures, as appropriate.

**Who will be affected?** *e.g. staff, patients, service users etc*

- Healthcare professionals
- Patients
- General public
- Staff working or who have worked in an NHS organisation
- NHS Trusts and NHS Foundation Trusts
- Systems regulators
- Professional regulators
- NHS England

## **Evidence**

*The Government's commitment to transparency requires public bodies to be open about the information on which they base their decisions and the results. You must understand your responsibilities under the transparency agenda before completing this section of the assessment. For more information, see the current [DH Transparency Plan](#).*

**What evidence have you considered?** *List the main sources of data, research and other sources of evidence (including full references) reviewed to determine impact on each equality group (protected characteristic). This can include national research, surveys, reports, research interviews, focus groups, pilot activity evaluations etc. If there are gaps in evidence, state what you will do to close them in the Action Plan on the last page of this template.*

We have considered the following evidence:

- Responses to the 2015 consultation on: *Consultation on the implementation of the recommendations, principles and actions set out in the report of the Freedom to Speak Up Review.*
- *The Freedom to Speak Up Review, 2015, An independent review into creating an open and honest reporting culture in the NHS.*

- Data in respect of the protected groups in relation to staff working in the NHS.

**Disability** Consider and detail (including the source of any evidence) on attitudinal, physical and social barriers.

Within the evidence and research available, the Department has been unable to identify any specific impacts on this group at annex A. However, there are proposals identified in annex A that will have a positive equality impact for all protected characteristics through the promotion of an open and honest reporting culture in the NHS and, therefore, these will also impact on this group. It is our view that as the impact of the new measures emerging from the response to the consultation on the implementation of the recommendations, principles and actions set out in the report of the Freedom to Speak Up review will apply equally to all NHS staff, there is no evidence of discrimination on these grounds.

In addition, as part of the implementation of these proposals, each of the relevant national authorities will carry out its own consultation. As part of this, we expect that these organisations will need to undertake a separate equality analysis taking into consideration trends and equality data available.

**Sex** Consider and detail (including the source of any evidence) on men and women (potential to link to carers below).

The evidence suggests that more women than men work for the NHS. Whilst all workers will be affected by the proposal, we have been unable to identify whether more women or men raise concerns. Although, given that a higher proportion of the NHS population is female, we have made the assumption that this part of the workforce is likely to be more affected by the proposals.

Within the evidence and research available, the Department has been unable to identify any specific impacts on this group of the implementation of these proposals. However, the implementation of these proposals will have a positive equality impact (in seeking to achieve the aim of promoting a more open and honest reporting culture within the NHS and seeking to mitigate negative impacts on those that do speak up) for all protected characteristics and therefore these will also impact on this group.

As set out above, there may be a greater impact on women, as more women than men are employed by the NHS. The Department has been unable to identify whether more men or women raise concerns but to the extent that, indirectly, there is a greater impact on women than men, the Department considers that the positive aim of promoting an open an honest reporting culture in the NHS will help to reduce any unidentified inequalities based on sex. Further, it is our view that the impact of the new measures will apply equally to all NHS staff, regardless of sex and are likely to have a positive impact. Accordingly there is no evidence of discrimination on these grounds.

In addition, as part of implementation of these proposals, each of the relevant national authorities will carry out its own consultation. As part of this, we expect that these organisations will need to undertake a separate equality analysis, taking into consideration trends and equality data available.

**Race** Consider and detail (including the source of any evidence) on difference ethnic groups, nationalities, Roma gypsies, Irish travellers, language barriers.

The Freedom to Speak Up report did not include a specific recommendation relating to equality issues. It concluded that black and minority ethnic (BME) staff face broadly similar issues to non-BME colleagues such as poor handling of concerns, lack of support and an overall negative experience, although it did highlight that the review had heard concerns about the culture of the NHS and its informal networks which could leave some BME staff feeling excluded. The review also heard anecdotal accounts that BME staff are likely to feel more discriminated against after speaking up; more likely to be referred to professional regulators if they raised a concern; more likely to receive harsher sanctions; and likely to experience disproportionate detriment if they have been trained overseas; than clinicians from a white background in response to speaking up.

In the section on staff from black and minority ethnic backgrounds, the report concluded that, to the extent BME staff groups feel generally vulnerable or discriminated against because of their ethnic background, they are:

*“...also likely to feel more vulnerable to victimisation as a result of raising concerns than their white colleagues. Whilst it is outside [review] remit to address any general issue of racial discrimination or disadvantage, it clearly has implications for raising concerns. Any such detriment acts as a deterrent to speaking up and, where people are brave enough to do so, it appears to make them more vulnerable to unacceptable detriment.”*

Despite not making a specific recommendation in respect of BME staff, the report did state that the principles in the report and their associated actions will be experienced equally by them. It highlighted the role relevant organisations would need to play in ensuring appropriate support and protection is available to BME staff, who may feel particularly vulnerable when raising concerns. The report stated:

*“I do not think it necessary to set out specific additional actions related to the raising of concerns by BME staff. However, organisations should consider the support and protection that may be required by BME staff, having regard in particular to the possibility that they may feel particularly vulnerable when raising concerns.”*

The Department will highlight the race equality issues identified in the FTSU report to Arm's Length Bodies and local organisations during the implementation phase but considers that those organisations affected by the proposals will need to comply with the equality duty and will need to make reasonable adjustments for BME staff and other minority groups where appropriate. In addition, as part of implementation of these proposals, each of the relevant national authorities will carry out its own consultation. As part of this, we expect that these organisations will need to undertake a separate equality analysis taking into consideration trends and equality data available.

The intention of the new measures is to create a more open and honest reporting culture in the NHS. Overall, subject to local implementation, this will have a direct, positive impact on

BME staff and other minority groups who raise a concern.

**Age** Consider and detail (including the source of any evidence) across age ranges on old and younger people. This can include safeguarding, consent and child welfare.

Within the evidence and research available, the Department has been unable to identify any specific impacts on this group at annex A. However, there are proposals identified in annex A that will have a positive equality impact for all protected characteristics through the promotion of an open and honest reporting culture in the NHS and, therefore, these will also impact on this group. It is our view that the impact of the new measures emerging from the response to the consultation on the implementation of the recommendations, principles and actions set out in the report of the Freedom to Speak Up review will apply equally to all NHS staff. There is no evidence that there will be discrimination on these grounds.

In addition, as part of the implementation of these proposals, each of the relevant national authorities will carry out its own consultation. As part of this, we expect that these organisations will need to undertake a separate equality analysis taking into consideration trends and equality data available.

**Gender reassignment (including transgender)** Consider and detail (including the source of any evidence) on transgender and transsexual people. This can include issues such as privacy of data and harassment.

Within the evidence and research available the Department has been unable to identify any specific impacts on this group at annex A. However, there are proposals identified in annex A that will have a positive equality impact for all protected characteristics through the promotion of an open and honest reporting culture in the NHS and, therefore, these will also impact on this group. It is our view that the impact of the new measures emerging from the response to the consultation on the implementation of the recommendations, principles and actions set out in the report of the Freedom to Speak Up review will apply equally to all NHS staff. There is no evidence that there will be discrimination on these grounds.

In addition, as part of the implementation of these proposals, each of the relevant national authorities will carry out its own consultation. As part of this, we expect that these organisations will need to undertake a separate equality analysis taking into consideration trends and equality data available.

**Sexual orientation** Consider and detail (including the source of any evidence) on heterosexual people as well as lesbian, gay and bi-sexual people.

Within the evidence and research available the Department has been unable to identify any specific impacts on this group at annex A. However, there are proposals identified in annex A that will have a positive equality impact for all protected characteristics through the promotion of an open and honest reporting culture in the NHS and, therefore, these will also impact on this group. It is our view that the impact of the new measures emerging from the response to the consultation on the implementation of the recommendations, principles and actions set out in the report of the Freedom to Speak Up review will apply equally to all NHS staff. There is no evidence that there will be discrimination on these grounds.

In addition, as part of the implementation of these proposals, each of the relevant national authorities will carry out its own consultation. As part of this, we expect these organisations will need to undertake a separate equality analysis taking into consideration trends and equality data available.

**Religion or belief** *Consider and detail (including the source of any evidence) on people with different religions, beliefs or no belief.*

Within the evidence and research available the Department has been unable to identify any specific impacts on this group at annex A. However, there are proposals identified in annex A that will have a positive equality impact for all protected characteristics through the promotion of an open and honest reporting culture in the NHS and, therefore, these will also impact on this group. It is our view that the impact of the new measures emerging from the response to the consultation on the implementation of the recommendations, principles and actions set out in the report of the Freedom to Speak Up review will apply equally to all NHS staff. There is no evidence that there will be discrimination on these grounds.

In addition, as part of the implementation of these proposals, each of the relevant national authorities will carry out its own consultation. As part of this, we expect that these organisations will need to undertake a separate equality analysis taking into consideration trends and equality data available.

**Pregnancy and maternity** *Consider and detail (including the source of any evidence) on working arrangements, part-time working, infant caring responsibilities.*

Within the evidence and research available the Department has been unable to identify any specific impacts on this group at annex A. However, there are proposals identified in annex A that will have a positive equality impact for all protected characteristics through the promotion of an open and honest reporting culture in the NHS and, therefore, these will also impact on this group. It is our view that the impact of the new measures emerging from the response to the consultation on the implementation of the recommendations, principles and actions set out in the report of the Freedom to Speak Up review will apply equally to all NHS staff. There is no evidence that there will be discrimination on these grounds.

In addition, as part of the implementation of these proposals, each of the relevant national

authorities will carry out its own consultation. As part of this, we expect that these organisations will need to undertake a separate equality analysis, taking into consideration trends and equality data available.

**Carers** *Consider and detail (including the source of any evidence) on part-time working, shift-patterns, general caring responsibilities.*

Within the evidence and research available the Department has been unable to identify any specific impacts on this group at annex A. However, there are proposals identified in annex A that will have a positive equality impact for all protected characteristics through the promotion of an open and honest reporting culture in the NHS and, therefore, these will also impact on this group. It is our view that the impact of the new measures emerging from the response to the consultation on the implementation of the recommendations, principles and actions set out in the report of the Freedom to Speak Up review will apply equally to all NHS staff. There is no evidence that there will be discrimination on these grounds.

In addition, as part of the implementation of these proposals, each of the relevant national authorities will carry out its own consultation. As part of this, we expect that these organisations will need to undertake a separate equality analysis, taking into consideration trends and equality data available.

**Other identified groups** *Consider and detail and include the source of any evidence on different socio-economic groups, area inequality, income, resident status (migrants) and other groups experiencing disadvantage and barriers to access.*

No other groups have been identified, through public consultation or within the research available.

### **Engagement and involvement**

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

**How have you engaged stakeholders in gathering evidence or testing the evidence available?**

We developed an extensive stakeholder engagement plan to highlight the consultation and the measures set out within it. The aims of the stakeholder plan were to:

- gain input to the consultation from stakeholders, in particular those stakeholders with a wide representation of NHS staff;
- ensure the consultation is signposted to a wide network of stakeholders;
- engage directly with key stakeholders, attending events/seminars where possible;
- engage and involve stakeholders in the development and implementation of the FTSU recommendations;
- prepare stakeholders for the introduction of particular recommendations, which may not specifically be those they wished to see; and
- communicate the benefits of recommendations to stakeholders, NHS workers and to patients and the public of the policies implemented.

Also through public consultation:

The Department consulted for a twelve week period on a package of measures to implement the recommendations, key themes and actions contained in the Freedom to Speak Up report. The consultation invited respondents to provide information and views in order to test them.

The Department also engaged with a number of stakeholders in order to discuss and highlight the consultation to a wide a range of NHS workers, and gather views and opinions from a diverse range of respondents. This engagement included:

- liaison with the Social Partnership Forum in which presentations were made and discussions held about FTSU, the consultation and its proposals;
- including information about the consultation in the NHS Confederation newsletter which is distributed to over 1700 of its members;
- including information about the consultation on the MENCAP Whistleblowing helpline website; and
- discussing the consultation with NHS Employers, who will include FTSU implementation in its work as part of its annual work programme

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

The *Consultation on the implementation of the recommendations, principles and actions set out in the report of the Freedom to Speak Up Review* consultation ran for 12 weeks from 12 March – 4 June 2015.

Link to the consultation below:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/412171/Free](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/412171/Free)

[dom to Speak up consultation.pdf](#)

The Freedom to Speak Up review team undertook a significant and extensive amount of stakeholder engagement testing the recommendations within that report, which the DH is now considering.

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

The Department's 12 week consultation received 106 replies who identified themselves as:

<b>Category</b>	<b>Number of respondents</b>	<b>Percentages</b>
Individual not identified	24	23
An individual working in a Trust	3	3
Official response from a Trust	7	7
Individual working in a Trust (not known if official response)*	12	11
Official response from another organisation	48	45
Individual response from another organisation (not known if official response)*	7	7
Individual describing themselves as a whistleblower	5	5
<b>Total</b>	106	100**

**\*Not clear if the response is on behalf of the individual or an official response on behalf of the organisation**

**\*\*percentages rounded**

To ensure we received the views of key stakeholders on the policy proposed, as part of the consultation launch stakeholders were identified and proactively notified directly by email, and asked to take part in the consultation. These included regulatory bodies, Royal Colleges, and patient representation groups.

The consultation response will be published on the GOV.UK website and key stakeholders

notified.

<https://www.gov.uk/government/consultations/measures-to-help-staff-speak-out-about-patient-safety>

### **Summary of Analysis**

*Considering the evidence and engagement activity you listed above, please summarise the impact of your work. Consider whether the evidence shows potential for differential impact, if so state whether adverse or positive and for which groups. How you will mitigate any negative impacts. How you will include certain protected groups in services or expand their participation in public life.*

We have considered the impact of the proposals on each of the protected characteristics. They are likely to have neutral or positive impacts on the aims mentioned in the public sector equality duty for the reasons set out in Annex A.

*Now consider and detail below how the proposals impact on elimination of discrimination, harassment and victimisation, advance the equality of opportunity and promote good relations between groups.*

**Eliminate discrimination, harassment and victimisation** *Where there is evidence, address each protected characteristic (age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief, sexual orientation).*

Our view is that the proposals are likely to have a neutral benefit in relation to the elimination of unlawful discrimination, harassment and victimisation, or they are likely to have a positive benefit particularly in relation to the protected characteristic of race. Further detail of this can be found at Annex A.

**Advance equality of opportunity** *Where there is evidence, address each protected characteristic (age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief, sexual orientation).*

Our view is that our proposals will not be detrimental to equality of opportunity and they are likely to advance it to some extent, particularly in relation to the protected characteristic of race. Further details can be found at Annex A.

**Promote good relations between groups** *Where there is evidence, address each protected characteristic (age, disability, gender, gender reassignment, pregnancy and maternity, race, religion or belief, sexual orientation).*

Our view is that our proposals are either neutral or they are likely to help to promote good relations, particularly in relation to the protected characteristic of race. Further details can

be found at annex A.

**What is the overall impact?** *Consider whether there are different levels of access experienced, needs or experiences, whether there are barriers to engagement, are there regional variations and what is the combined impact?*

These proposals will strengthen the role of whistleblowing in the NHS, with the aim of further embedding the reporting of concerns as part of a functioning organisation with the aim of continued public protection, which will be likely to have either a neutral impact on the aims set out in the public sector equality duty or a positive impact particularly in relation to the protected characteristic of race.

**Addressing the impact on equalities** *Please give an outline of what broad action you or any other bodies are taking to address any inequalities identified through the evidence.*

The evidence considered did not suggest the proposals will produce inequalities; this analysis suggests the measures will produce positive results once these measures are implemented.

### **Action planning for improvement**

*Please give an outline of the key actions based on any gaps, challenges and opportunities you have identified. Actions to improve the policy/programmes need to be summarised (An action plan template is appended for specific action planning). Include here any general action to address specific equality issues and data gaps that need to be addressed through consultation or further research.*

The Department has undertaken the above equality analysis and it has been identified that the implementation of the proposals will either produce a neutral or positive impact in respect of the protected characteristics. However, in addition, each of the relevant national authorities will carry out its own consultation and, as part of this, these organisations will need to undertake a separate equality analysis taking into consideration trends and equality data available.

As summarised above, the proposals give rise to an opportunity in relation to all three limbs of the PSED and the protected characteristic of race: ie there is scope for a positive impact on the elimination of unlawful discrimination, harassment and victimisation; for an

advance in equality of opportunity, and for the potential to promote good relations between racial groups.

The Department will highlight the race equality issues raised in the FTSU report to Arm's Length Bodies and local organisations during the implementation phase but considers that those organisations affected by the proposals will need to comply with the equality duty and will need to make reasonable adjustments for BME staff and other minority groups where appropriate.

Please give an outline of your next steps based on the challenges and opportunities you have identified. *Include here any or all of the following, based on your assessment*

- *Plans already under way or in development to address the **challenges and priorities** identified.*
- *Arrangements for continued engagement of stakeholders.*
- *Arrangements for continued monitoring and evaluating the policy for its impact on different groups as the policy is implemented (or pilot activity progresses)*
- *Arrangements for embedding findings of the assessment within the wider system, OGDs, other agencies, local service providers and regulatory bodies*
- *Arrangements for publishing the assessment and ensuring relevant colleagues are informed of the results*
- *Arrangements for making information accessible to staff, patients, service users and the public*
- *Arrangements to make sure the assessment contributes to reviews of DH strategic equality objectives.*

Throughout the process stakeholders have been involved in design of the proposals – those undertaking the FTSU review heard from:

- over 600 individuals and 43 organisations contributions;
- over 19,500 responses to staff surveys; and
- 300 people through meetings, workshops and seminars.

These figures include individuals who had raised concerns, student nurses, trainee doctors, and representatives from professional and regulatory bodies, employers, trades unions, lawyers, Black and Minority Ethnic (BME) groups and organisations that represent whistleblowers.

The Department has taken in to consideration those views expressed during the review and has also carried out its own consultation exercise ensuring the views of stakeholders are adequately represented. This involved writing to relevant stakeholders alerting them to

the publication of the document and offering the opportunity to respond.

The Department has undertaken the above equality analysis, which will be published on gov.uk and those who responded to the consultation will be informed of its publication. It has been identified through the assessment that the implementation of the proposals will either produce a neutral or positive impact in respect of the protected characteristics. However, in addition each of the relevant national authorities will carry out its own consultation in relation to their own policy proposals and guidance and, as part of this, these organisations will need to undertake a separate equality analysis taking into consideration trends and equality data available.

The responses to the Department's consultation provided much material that can help to inform local implementation. Many of the consultation responses covered issues that go beyond the scope of the consultation. However it is clear that many of those responses will be relevant to future consultations, such as on the guidance related to the Independent National Officer. We therefore propose to share the responses received with the relevant national organisations to inform their development of policy and guidance. In this way stakeholders' views will continue to be taken into account.

**For the record**

**Name of person(s) who carried out this assessment:**

Kelly Craig  
Professional Standards

**Date assessment completed:**

July 2015

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

William Vineall  
Director - Quality

**Date assessment was signed:**

2015

	<b>Proposal</b>	<b>Potential equality impacts for all protected characteristics</b>	<b>Potential positive impacts for specific protected characteristics (or other specified groups)</b>	<b>Potential negative impacts for specific protected characteristics (or other specified groups)</b>	<b>Reason for concluding no negative impact and/or justification</b>	<b>Achieve the aims of 1) eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010? 2) advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it? 3) fostering good relations between persons who share a relevant protected characteristic and persons who do not share it?</b>
<i>(a)</i>	<i>(b)</i>	<i>(c)</i>	<i>(d)</i>	<i>(e)</i>	<i>(f)</i>	<i>(g)</i>
1	Local implementation	<p>The vast majority of the principles and actions outlined in the FTSU report will be implemented at a local level, overseen by national authorities and therefore we expect separate equality assessments will be undertaken by these organisations.</p> <p>However, by considering the evidence contained in the FTSU report it is anticipated that by taking forward these proposals at a local level, it will allow for a greater degree of innovation and agility and a speedy response when concerns are raised enabling a positive impact on staff groups and patient safety leading to all round improved</p>	<p>As set out in the preceding column positive impacts will be derived from the introduction of this policy, and it is anticipated these will on the whole be generalised benefits. However, given the conclusions reached above in relation to the group sharing the protected characteristic of race (in light of the FTSU report's conclusions eg that Black and Minority Ethnic (BME) staff may feel particularly vulnerable when raising concerns), it is possible that a greater positive impact may be derived by BME staff, particularly given the Department will bring the equality issues identified by</p>	<p>It is our view that the impact of this new measure emerging will be applied equally to all NHS staff regardless of age, disability, sex, religion or belief, gender reassignment, pregnancy and maternity, sexual orientation and carers, and that there will be no negative impact on any of the groups sharing protected characteristics through the implementation of this policy. However, as highlighted at column (b) and (g) of the table, the group sharing the protected characteristic of race may benefit even more positively than other groups following the implementation</p>	<p>This will not impact negatively on any of the protected groups.</p>	<p>If the proposals are implemented in the spirit of the FTSU report, this will see local NHS organisations taking ownership of the principles and should lead to a more collegiate approach to whistleblowing. This in turn could lead to reduced discrimination, harassment, victimisation whilst fostering good relations between persons who share a relevant protected characteristic and persons who do not share it.</p> <p>In addition because BME staff (race protected characteristic) may feel particularly vulnerable when raising concerns, the implementation of the FTSU principles and actions could advance equality of opportunity for these staff groups and could foster good relations between different</p>

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<i>(a)</i>	<i>(b)</i>	<i>(c)</i>	<i>(d)</i>	<i>(e)</i>	<i>(f)</i>	<i>(g)</i>
		care.	the FTSU report to the attention of the national organisations.	of these proposals.		racial groups.
2	Role of national bodies	This proposal will be implemented through the national regulators and bodies that oversee the NHS and healthcare provision in England. Therefore, we expect those bodies will undertake their own analysis and a separate assessment of the proposals has not been undertaken within this document.				
3	Freedom to Speak Up Guardian Role	Whilst this role will be developed and delivered at a local level through NHS organisations, if properly implemented in the spirit of the FTSU report we believe this role will help to	It has been identified within the FTSU report that BME (race protected group) health professionals may feel more vulnerable to negative treatment as a result of raising	It is our view that the impact of this new measure emerging will be applied equally to all NHS staff regardless of age, disability, sex, religion or belief, race,	This proposal is designed to produce consistency of practice across the NHS and will	Introducing a consistent role to whom individuals can turn will help towards embedding whistleblowing as part of a functioning open and transparent culture. This may therefore help eliminate discrimination, harassment

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(a)	(b)	(c)	(d)	(e)	(f)	(g)
		improve the treatment whistleblowers can expect and will bring in to focus all elements of local practice around the reporting of concerns. Thereby enabling a more open and honest culture, improving conditions for all staff groups, produce best practice adherence to whistleblowing guidelines and improved patient safety.	concerns. Therefore by embedding best practice across the NHS and introducing a consistent role across the system who staff members can raise concerns with should help to reduce any negative impacts currently felt by BME staff groups when whistleblowing. In addition more females than males (sex protected group) work in the NHS and whilst the Department does not have access to data about the number of concerns raised, and by whom, we suggest it is safe to assume that more females than males will raise concerns. Therefore the implementation of this	gender reassignment, pregnancy and maternity, sexual orientation and carers, and that there will be no negative impact through the implementation of this policy.	therefore not impact negatively on any of the protected groups.	and victimisation between those individuals within the protected groups who blow the whistle and those who do not. This would similarly apply to fostering good relations between persons who share a relevant protected characteristic and persons who do not share it.  In addition because BME (race protected characteristic) may feel particularly vulnerable when raising concerns, the implementation of the FTSU principles and actions could advance equality of opportunity for these staff groups and could foster good relations between different racial groups.

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			proposal will also produce a positive impact on the characteristic of sex.			
4	Title of the local Freedom to Speak up Guardian Role	This proposal is designed to ensure that as healthcare professionals move around the system there are consistent messages and titles around this role. Thus allowing an individual to immediately identify who in the organisation is the guardian of speaking up.	As set out in the preceding column positive impacts will be derived from the introduction of this policy, however, these will not be specific to any of the protected groups they will be generalised benefits.	It is our view that the impact of this new measure emerging will be applied equally to all NHS staff regardless of age, disability, sex, religion or belief, race, gender reassignment, pregnancy and maternity, sexual orientation and carers, and that there will be no negative impact through the implementation of this policy.	This proposal is designed to produce consistency of messaging between organisations and will therefore not impact negatively on any of the protected groups.	This proposal should produce consistency of role titles, to ensure the functions carried out by this individual are fully understood by NHS professionals. There is therefore no evidence to suggest this measure will impact positively or negatively on these aims.

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5	Independent National Officer	<p>Whilst many of the FTSU recommendations were aimed at the local NHS organisations, this would be a national role. It is proposed that (subject to further consultation) the role will:</p> <ul style="list-style-type: none"> <li>- review the handling of concerns raised by NHS workers and or the treatment of a person or people who spoke up where there is cause for believing that this has not been in accordance with good practice.</li> <li>- advise NHS organisations to take appropriate action where they have failed to follow good practice, or advise the relevant systems regulator to make a direction</li> </ul>	As set out in the preceding column, positive impacts will be derived from the introduction of this policy, however, these will not be specific to any of the protected groups they will be generalised benefits.	It is our view that the impact of this new measure emerging will be applied equally to all NHS staff regardless of age, disability, sex, religion or belief, race, gender reassignment, pregnancy and maternity, sexual orientation and carers, and that there will be no negative impact through the implementation of this policy.	This proposal is designed to produce best practice across the NHS and will therefore not impact negatively on any of the protected groups.	<p>By introducing a consistent role to whom individuals can turn will help towards embedding whistleblowing as part of a functioning open and transparent culture. This may therefore help eliminate discrimination, harassment and victimisation between those individuals within the protected groups who whistleblow and those who do not. This would similarly apply to fostering good relations between persons who share a relevant protected characteristic and persons who do not share it.</p> <p>In addition because BME (race protected characteristic) may feel particularly vulnerable when raising concerns, the implementation of the FTSU principles and actions could</p>

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		<p>to that effect</p> <ul style="list-style-type: none"> <li>- act as a support for FTSU Guardians</li> <li>- provide national leadership on issues relating to raising concerns by NHS workers</li> <li>- offer guidance on good practice about handling concerns</li> <li>- publish reports on the activities of this office.</li> </ul> <p>It will help and support all NHS staff who raise concerns.</p>				advance equality of opportunity for these staff groups and could foster good relations between different racial groups.
6	Standards for Professionals	By providing consistent standards of practice for professionals in this area, it continues to send clear signals to professionals and individuals dealing with concerns in the NHS, that whistleblowing plays an acceptable and important	As set out in the preceding column positive impacts will be derived from the introduction of this policy. However, these will not be specific to any of the protected groups; they will be generalised benefits.	It is our view that the impact of this new measure emerging will be applied equally to all NHS staff regardless of age, disability, sex, religion or belief, race, gender reassignment, pregnancy and maternity,	This proposal applies equally across all healthcare professionals working within the NHS. It also firmly sets out	By introducing consistent standards of practice health professionals should follow when raising concerns will help towards embedding whistleblowing as part of a functioning open and transparent culture. This may therefore help eliminate discrimination, harassment

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(a)	(b)	(c)	(d)	(e)	(f)	(g)
		part of driving up standards of patient care. This would have a positive impact in that it will make raising concerns part of best practice and wherever a professional is employed there would be a consistent policy in place and that individual would always know the route by which to raise a concern.		sexual orientation and carers, and that there will be no negative impact through the implementation of this policy.	the process that should be followed by all individuals wishing to raise a concern. In addition the process set out in this proposal should already be followed and the suggested stands work to make this clear.	and victimisation between those individuals within the protected groups who blow the whistle and those who do not. This would similarly apply to fostering good relations between persons who share a relevant protected characteristic and persons who do not share it.  In addition because BME (race protected characteristic) may feel particularly vulnerable when raising concerns, the implementation of the FTSU principles and actions could advance equality of opportunity for these staff groups and could foster good relations between different racial groups.

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<i>(a)</i>	<i>(b)</i>	<i>(c)</i>	<i>(d)</i>	<i>(e)</i>	<i>(f)</i>	<i>(g)</i>
7	Strengthening legislation	Whilst details of the FTSU review's proposals were included within the consultation document, this was by way of an update. A separate work stream is underway to implement these proposals and therefore a separate assessment will be completed as part of that work, as appropriate.				

