

Trust Board meeting: Thursday 1 March 2012  
 TB2012.16

<b>Title</b>	Equality and Diversity: The Equality Delivery System (EDS), proposed grading and the next steps.
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<b>Status</b>	A paper for information, discussion and decision
<b>History</b>	The Equality Act 2010 replaces previous legislation. The Equality Delivery System is a new framework to assist NHS Trusts deliver the general and specific duties on the act. Organisations are required to publish priorities for equality and diversity activity by 6 <sup>th</sup> April 2012.

<b>Board Lead(s)</b>	Mrs Elaine Strachan-Hall, Chief Nurse			
<b>Key purpose</b>	<b>Strategy</b>	Assurance	Policy	Performance

**Summary**

1	This document provides a short briefing of the NHS Equality Delivery System (EDS) in the context of the Equality Act 2010 and the public sector Equality Duty, which details the Trust's legal obligations regarding equality and diversity.
2	Equality and diversity objectives for 2012 - 2015 are proposed for agreement. Once these are agreed they must be published in line with the legislative requirement by no later than 6 April 2012.
3	Organisations are required to undertake a baseline self-assessment against the requirements of the Equality Act. The EDS provides a framework and nationally agreed methodology for undertaking this exercise with external stakeholder involvement. This will take place in early March 2012.

## Introduction

1. The Equality Act 2010 became statute in October 2010. All public sector organisations must:
  - 1.1. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;
  - 1.2. Advance equality of opportunity between people who share a protected characteristic and those who do not;
  - 1.3. Foster good relations between people who share a protected characteristic and those who do not.
2. The protected characteristics of The Equality Act 2010 relate to disability, age, gender, gender re-assignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Marriage and civil partnerships are also included in the Act.
3. The specific duties were published in July 2011 requiring Trusts to:
  - 3.1. Publish information to demonstrate its compliance with the duty imposed by section 149 (1) of the Equality Act 2011, not later than 31<sup>st</sup> January 2012 and at least annually after that. The Trust published reports on progress for last year, the required demographic data for workforce and patients and patient survey and complaints information.
  - 3.2. Prepare and publish one or more objectives not later than 6<sup>th</sup> April 2012 and subsequently every four years. Objectives must be specific and measurable.

## Link with Trust values

4. The Trust aims to provide excellent care with compassion and respect, by putting patients at the heart of what we do and recognising different needs. By valuing difference and promoting the delivery of personalised, fair and diverse services and workforce support, (as required by the Equality Act), the activity described in this paper will be directly contributing to the implementation, communication and embedding of the Trust values; excellence, compassion, respect, delivering high standards of healthcare, and learning and improvement.

## The Equality Delivery System

5. To assist NHS organisations to comply with equality legislation, the Department of Health has created a framework known as The Equality Delivery System (EDS)<sup>1</sup>. The EDS does not replace legislative requirements for equality; rather it is designed as a performance and quality assurance mechanism for the NHS and a means by which NHS organisations are helped to meet the evidence requirements of the statutory public sector Equality Duty, contained within the Equality Act (2010), and the statutory duty to consult and involve patients, communities and other local interests. (NHS Act 2006).
6. The Trust must provide evidence that equality issues have been taken into account within all core activity; business plans, proposals, policies and projects as well as on-

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<sup>1</sup> The DH Equality Council devised the Equality Delivery System to promote fair, personal and diverse services and continuous improvement.

going day to day activity. A new equality analysis form has been developed for use when developing a new policy, business case or proposal.

### EDS Goals

7. The EDS comprises 18 Outcomes grouped under four Equality Goals. It is against these goals that each NHS organisation's performance is graded by an external panel of relevant interest groups. The four Equality Goals are:-
- Better health outcomes for all
  - Improved patient access and experience
  - Empowered, engaged and well-supported staff
  - Inclusive leadership at all levels

### Involvement and setting objectives:

8. In order to propose priorities for action from the 18 outcomes, the following mechanisms have informed the development of equality objectives thus far:
- 14.1 A review of the available evidence compiled for the grading panels.
  - 14.2 A listening event, was held on behalf of all Oxfordshire NHS Trusts with 40 patient and public participants
  - 14.3 Consideration of patient feedback themes
  - 14.4 Eliciting the views of the Equality Steering Group
  - 14.5 Staff feedback through the Employee Survey
  - 14.6 Discussion at the Strategic Partnership Board with the University of Oxford
  - 14.7 Discussion of proposed objectives at Trust Management Executive Committee
9. Having reviewed the evidence and taken feedback from these mechanisms, the Trust needs to improve the recording of protected characteristics<sup>2</sup> and proposes the following objectives for the next four years which will be revised following the grading exercise and annually:

#### **EDS Goal: Improved patient access and experience.**

- 9.1. To improve access to specific information and communication requirements; to ensure patients are kept fully informed and asked about their communication needs, so that reasonable needs can be met.
- 9.2. To improve access to Trust services, through public involvement; the Trust will listen to people who are marginalised.

#### **EDS Goal: Better outcomes for all.**

- 9.3. To improve the capture of workforce and patient information by protected characteristic. The recording of age, sex and ethnicity to be at least 95% by April 2013.

#### **EDS Goal: Empowered, engaged and well supported staff.**

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<sup>2</sup> The protected characteristics of The Equality Act 2010 relate to disability, age, gender, gender re-assignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. Marriage and civil partnerships are also included in the Act.

- 9.4. To support staff through at least two different networks<sup>3</sup> or identified means of support.
- 9.5. To ensure at least 80% staff have equality and diversity and bullying and harassment awareness training (on line or taught) every three years by 2015.
- 9.6. To work in conjunction with the University of Oxford as it pursues the silver award as part of the Athena Swan Charter for Women in Science (see Annex B).

### **EDS Outcomes and Grading**

10. The EDS recommends a grading process and provides detailed grading guidance to enable Trusts with external stakeholders to undertake a baseline assessment. Almost all Trusts in South Central SHA are using this process and it is expected that many of the outcomes will reflect the relative lack of evidence currently available for each of the protected characteristics.
11. The grades are as follows:
  - 11.1. Red: underdeveloped, when little or no evidence is available for any of the nine protected characteristics (0 – 2 protected characteristics).
  - 11.2. Amber: developing, when evidence is available for some (3 -5) protected characteristics.
  - 11.3. Green: achieving, when evidence is available for most (6-8) protected characteristics.
  - 11.4. Purple: excelling, when evidence is available for all the nine protected characteristics.
12. The grading summary for Oxford University Hospitals NHS Trust for 2012 is being considered by a patient and public grading panel and staff panel in early March, with narrative regarding the justification for each outcome's proposed grade. The Trust can then publish the grading in line with the recommendations of the EDS.

### **Conclusion**

13. Analysing the Trust's performance on equality and diversity for patients and employees, in the various areas identified using the EDS, provides the basis for the grading exercise which will take place in early March. At this stage in the development of Trust's approach delivering compliance, it is likely that improved evidence will be required across a number of the outcomes and protected characteristics. This will be the focus of work over the next year. The proposed equality and diversity objectives identify the initial priorities.

### **Recommendations**

14. The Board is asked;
  - 14.1. to endorse the continued use of the Equality Delivery System as a framework to progress compliance with the Equality Act 2010.
  - 14.2. To approve the proposed equality and diversity objectives

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<sup>3</sup> NHS BME Network: (black and minority ethnic) and LGBT support / Network: (lesbian, gay, bi sexual and trans-sexual)

- 14.3. To agree that progress against the objectives be monitored by the Clinical Governance and Workforce Committees of TME and reported to the Board.

**Elaine Strachan Hall, Chief Nurse**

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**Equality Delivery System - Goals and Outcomes**

<b>Goal</b>	<b>Narrative</b>	<b>Outcome</b>
1. Better health outcomes for all	The NHS should achieve improvements in patient health, public health and patient safety for all, based on comprehensive evidence of needs and results	1.1 Services are commissioned, designed and procured to meet the health needs of local communities, promote well-being, and reduce health inequalities
		1.2 Individual patients' health needs are assessed, and resulting services provided, in appropriate and effective ways
		1.3 Changes across services for individual patients are discussed with them, and transitions are made smoothly
		1.4 The safety of patients is prioritised and assured. In particular, patients are free from abuse, harassment, bullying, violence from other patients and staff, with redress being open and fair to all
		1.5 Public health, vaccination and screening programmes reach and benefit all local communities and groups
2. Improved patient access and experience	The NHS should improve accessibility and information, and deliver the right services that are targeted, useful, useable and used in order to improve patient experience	2.1 Patients, carers and communities can readily access services, and should not be denied access on unreasonable grounds
		2.2 Patients are informed and supported to be as involved as they wish to be in their diagnoses and decisions about their care, and to exercise choice about treatments and places of treatment
		2.3 Patients and carers report positive experiences of their treatment and care outcomes and of being listened to and respected and of how their privacy and dignity is prioritised
		2.4 Patients' and carers' complaints about services, and subsequent claims for redress, should be handled respectfully and efficiently
3. Empowered, engaged and well-supported staff	The NHS should increase the diversity and quality of the working lives of the paid and non-paid workforce, supporting all staff to better respond to patients' and communities' needs	3.1 Recruitment and selection processes are fair, inclusive and transparent so that the workforce becomes as diverse as it can be within all occupations and grades
		3.2 Levels of pay and related terms and conditions are fairly determined for all posts, with staff doing equal work and work rated as of equal value being entitled to equal pay
		3.3 Through support, training, personal development and performance appraisal, staff are confident and competent to do their work, so that services are commissioned or provided appropriately
		3.4 Staff are free from abuse, harassment, bullying, violence from both patients and their relatives and colleagues, with redress being open and fair to all
		3.5 Flexible working options are made available to all staff, consistent with the needs of the service, and the way that people lead their lives. (Flexible working may be a reasonable adjustment for disabled members of staff or carers.)
		3.6 The workforce is supported to remain healthy, with a focus on addressing major health and lifestyle issues that affect individual staff and the wider population
4. Inclusive leadership at all levels	NHS organisations should ensure that equality is everyone's business, and everyone is expected to take an active part, supported by the work of specialist equality leaders and champions	4.1 Boards and senior leaders conduct and plan their business so that equality is advanced, and good relations fostered, within their organisations and beyond
		4.2 Middle managers and other line managers support and motivate their staff to work in culturally competent ways within a work environment free from discrimination
		4.3 The organisation uses the "Competency Framework for Equality and Diversity Leadership" to recruit, develop and support strategic leaders to advance equality outcomes

## **Annex B: Athena Swan Charter for Women in Science**

### **Background**

1. Professor Dame Sally Davies, Chief Medical Officer & Chief Scientific Adviser for the Department of Health has written to advise that when the Department of Health next runs the competition for NIHR BRCs and BRus they do not expect to short-list any NHS/University partnership where the academic partner has not achieved the Silver Award of the Athena Swan Charter for Women in Science.
2. The University of Oxford currently holds the Bronze Award (a prerequisite for individual departments to apply for Bronze, Silver or Gold award).
3. The Athena Swan Charter is a scheme which recognises and celebrates good employment practice for women working in science, engineering and technology (SET) in higher education and research.
4. Assessment for the award is undertaken via panel review of evidence submitted by the department which demonstrates the impact of activities in support of Charter principles.

### **Six Athena Swan Charter Principles**

5. The six principles which charter members are asked to accept and to incorporate into their action plans are:
  - a. To address gender inequalities requires commitment and action from everyone, at all levels of the organisation.
  - b. To tackle the unequal representation of women in science requires changing cultures and attitudes across the organisation.
  - c. The absence of diversity at management and policy-making levels has broad implications which the organisation will examine.
  - d. The high loss rate of women in science is an urgent concern which the organisation will address.
  - e. The system of short-term contracts has particularly negative consequences for the retention and progression of women in science, which the organisation recognises.
  - f. There are both personal and structural obstacles to women making the transition from PhD into a sustainable academic career in science, which require the active consideration of the organisation.

### **Charter membership**

6. The Athena Swan Charter grants Bronze, Silver or Gold awards. Award is valid for three years.
7. Universities who become charter members pledge themselves to action at organisational and departmental levels; to monitor their progress towards an organisational culture where all can thrive; are equally valued and experience equality



of opportunity for career progression; to identify the obstacles and constraints to successful action; and to provide an annual account of their work and their future plans for improvement.

#### **Retaining Charter membership**

8. Charter members are expected to demonstrate their commitment to the charter principles by developing a programme of action. Members' commitment to the charter and its principles should be demonstrated and communicated internally to senior management and to women in SET at all levels for example by:
  - a. making the information on its action plan available on the website.
  - b. circulating the action plan to women in SET.
  - c. supplying women in SET with information on the development opportunities available.
  - d. using newsletters and intranet sites to publicise the plan to all staff (men and women).
9. The present NIHR BRCs and BRUs funding period is five years. The expectation is that the university department ought to demonstrate Silver level of commitment to women in science over the next four years.

**Annex D; alignment to CQC Outcomes: 1-14, 16, 17, 21 & 22.****Alignment of EDS Outcomes with CQC Essential Standards**

Note: except where stated, all references to regulations in this Annex refer to regulations made under the Health & Social Care Act 2008

<b>EDS Outcome</b>	<b>CQC Essential Standard : outcome as experienced by service user</b>
1.1 Services are commissioned, designed and procured to meet the health needs of local communities, promote well-being, and reduce health inequalities	<p>1.1a People who use services experience effective, safe and appropriate care, treatment and support that meets their needs and protects their rights (<i>Regulation 9, Outcome 4</i>)</p> <p>1.1b People who use services are supported to have adequate nutrition and hydration (<i>Regulation 14, Outcome 5</i>)</p> <p>1.1c People who use services and people who work in or visit the premises benefit from equipment that is comfortable and meets their needs (<i>Regulation 16, Outcome 11</i>)</p> <p>1.1d People who use services can be confident that their personal records are accurate, fit for purpose, held securely and remain confidential (<i>Regulation 20, Outcome 21</i>)</p>
1.2 Individual patients' health needs are assessed, and resulting services provided, in appropriate and effective ways	1.2 People who use services understand the care, treatment and support choices available to them; can express their views, so far as they are able to do so, and are involved in making decisions about their care, treatment and support; and have their views and experiences taken into account in the way the service is provided and delivered ( <i>Regulation 17, Outcome 1</i> )
1.3 Changes across services for individual patients are discussed with them, and transitions are made smoothly	1.3 People who use services receive safe and coordinated care, treatment and support where more than one provider is involved, or they are moved between services ( <i>Regulation 24, Outcome 6</i> )
1.4 The safety of patients is prioritised and assured	<p>1.4a Service users are protected against identifiable risks of acquiring such an infection (<i>Regulation 12, Outcome 8</i>)</p> <p>1.4b People who use services are protected from abuse, or the risk of abuse, and their human rights are respected and upheld (<i>Regulation 11, Outcome 7</i>)</p> <p>1.4c People who use services will have their medicines at the time they need them, and in a safe way (<i>Regulation 13, Outcome 9</i>)</p> <p>1.4d People who use services and people who work in or visit the premises are in safe, accessible surroundings that promote their wellbeing (<i>Regulation 15, Outcome 10</i>)</p> <p>1.4e People who use services and people who work in or visit the premises are not at risk of harm from unsafe or unstable equipment (medical and non-medical equipment, furnishings or fittings) (<i>Regulation 16, Outcome 11</i>)</p> <p>1.4f People who use services can be confident that records required to be kept to protect their safety and wellbeing are maintained and held securely where required (<i>Regulation 20, Outcome 21</i>)</p>
1.5 Public health, vaccination and screening programmes reach and benefit all local communities and groups	No equivalent CQC Essential Standard.
2.1 Patients, carers and communities can readily access services, and should not be denied access on unreasonable grounds	No equivalent CQC Essential Standard.

EDS Outcome	CQC Essential Standard : outcome as experienced by service user
2.2 Patients are informed and supported so that they can understand their diagnoses, consent to their treatments, and choose their places of treatment	<p>2.2a People who use services understand the care, treatment and support choices available to them (<i>Regulation 17, Outcome 1</i>)</p> <p>2.2b People who use services where they are able give valid consent to the examination, care, treatment and support they receive; and understand and know how to change any decisions about examination, care, treatment and support that has been previously agreed (<i>Regulation 18, Outcome 2</i>)</p> <p>2.2c People who use services, or others acting on their behalf, who pay the provider for the services they receive: know how much they are expected to pay, when and how; know what the service will provide for the fee paid; and understand their obligations and responsibilities (<i>Regulation 19, Outcome 3</i>) (<i>This regulation was made under the Care Quality Commission (Registration) Regulations, 2009</i>)</p> <p>2.2d People who use services wherever possible will have information about the medicine being prescribed made available to them or others acting on their behalf (<i>Regulation 13, Outcome 9</i>)</p>
2.3 Patients and carers report positive experiences of the NHS, where they are listened to and respected and their privacy and dignity is prioritised	<p>2.3a People who use services can express their views, so far as they are able to do so, and are involved in making decisions about their care, treatment and support; have their privacy, dignity and independence respected; have their views and experiences taken into account in the way the service is provided and delivered (<i>Regulation 17, Outcome 1</i>)</p> <p>2.3b People who use services can be confident that their human rights are respected and taken into account (<i>Regulation 18, Outcome 2</i>)</p> <p>2.3c People who use services or others acting on their behalf: are sure that their comments and complaints are listened to and acted on effectively; know that they will not be discriminated against for making a complaint (<i>Regulation 19, Outcome 17</i>)</p>
2.4 Patients' and carers' complaints about services, and subsequent claims for redress, should be handled respectfully and efficiently	2.4 People who use services or others acting on their behalf are sure that their comments and complaints are listened to and acted on effectively; and know that they will not be discriminated against for making a complaint ( <i>Regulation 19, Outcome 17</i> )
3.1 Recruitment and selection processes are fair, inclusive and transparent so that the workforce becomes as diverse as it can be within all occupations and grades	No equivalent CQC Essential Standard.
3.2 Levels of pay and related terms and conditions are fairly determined for all posts, with staff doing equal work and work rated as of equal value being entitled to equal pay	No equivalent CQC Essential Standard.
3.3 Through support, training, personal development and performance appraisal, staff are confident and competent to do their work, so that services are commissioned or provided appropriately	<p>3.3a People who use services are safe and their health and welfare needs are met by staff who are fit, appropriately qualified and are physically and mentally able to do their job (<i>Regulation 21, Outcome 12</i>)</p> <p>3.3b People who use services are safe and their health and welfare needs are met by sufficient numbers of appropriate staff (<i>Regulation 22, Outcome 13</i>)</p> <p>3.3c People who use services are safe and their health and welfare needs are met by competent staff (<i>Regulation 23, Outcome 14</i>)</p> <p>3.3d People who use services have their needs met by the service because it is provided by an appropriate person (<i>Regulation 4, Outcome 22</i>)</p>

EDS Outcome	CQC Essential Standard : outcome as experienced by service user
3.4 Staff are free from abuse, harassment, bullying, violence from both patients and their relatives and colleagues, with redress being open and fair to all	No equivalent CQC Essential Standard.
3.5 Flexible working options are made available to all staff, consistent with the needs of patients, and the way that people lead their lives	No equivalent CQC Essential Standard.
3.6 The workforce is supported to remain healthy, with a focus on addressing major health and lifestyle issues that affect individual staff and the wider population	No equivalent CQC Essential Standard.
4.1 Boards and senior leaders conduct and plan their business so that equality is advanced, and good relations fostered, within their organisations and beyond	4.1a The registered person recognises the diversity, values and human rights of people who use services ( <i>Regulation 17, Outcome 1</i> )  4.1b People who use services benefit from safe quality care, treatment and support, due to effective decision making and the management of risks to their health, welfare and safety ( <i>Regulation 10, Outcome 16</i> )
4.2 Middle managers and other line managers support and motivate their staff to work in culturally competent ways within a work environment free from discrimination	No equivalent CQC Essential Standard.
4.3 The organisation uses the “Competency Framework for Equality and Diversity Leadership” to recruit, develop and support strategic leaders to advance equality outcomes	No equivalent CQC Essential Standard.

## Notes:

- Overall, registered persons must take care to ensure that care and treatment is provided to service users with due regard to their age, sex, religious persuasion, sexual orientation, racial origin, cultural and linguistic background and any disability they may have (Regulation 17, Health & Social Care Act 2008 (Regulated Activities) Regulations 2010).