

NHS England and NHS Improvement Board meetings held in common

Paper Title: Public Sector Equality Duty review report and future equality objectives and targets for NHS England and NHS Improvement

Agenda item: 9 (Public session)

Report by: Ruth May, Chief Nursing Officer for England,
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Paper type: For approval

Organisation Objective:

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|-----------------------------|--------------------------|----------------|-------------------------------------|
| NHS Mandate from Government | <input type="checkbox"/> | Statutory item | <input checked="" type="checkbox"/> |
| NHS Long Term Plan | <input type="checkbox"/> | Governance | <input checked="" type="checkbox"/> |
| NHS People Plan | <input type="checkbox"/> | | |

Executive summary:

To meet our statutory requirements under the Equality Act 2010's Public Sector Equality Duty (PSED) and the associated Specific Equality Duties, NHS England and NHS Improvement are required to publish equality information annually. We are also required to publish one or more equality objective(s) at intervals of not more than four years since the previous equality objectives were published.

In line with these legislative requirements, the Boards of NHS England and NHS Improvement are being asked to consider two reports. The first report includes equality information together with a review of performance against our 7 existing equality objectives over 2020/21 and 2021/22. The second report sets out our proposed equality objectives for 2022/23 and 2023/24 and targets for 2022/23.

Action required:

The Boards are being asked to consider the proposed approach to compliance in line with their statutory obligations.

Background

1. In order to meet the statutory requirements set out in the Public Sector Equality Duty (PSED) (under the Equality Act 2010, s149) and the publication requirements in the associated Specific Equality Duties (SEDs), NHS England and NHS Improvement are required to review and publish equality objectives at intervals of not more than four years since the previous objectives were published. The joint Boards approved the extension of our 7 existing objectives until the end of March 2022. The joint Boards are therefore asked to formally extend these further until the new equality objectives are in place.
2. In line with these legislative requirements, the Boards are asked to consider the two attached reports and approve the publication of the reports.

3. The first report includes equality information for 2021/22 together with a review of performance against the 7 existing equality objectives, for NHS England and NHS Improvement, during 2020/21 and 2021/22. The second report sets out our proposed equality objectives for 2022/23 and 2023/24 and targets for 2022/23.
4. Subject to the statutory implementation timetable, for the Health and Care Act 2022, by or during 2023/24, the new NHS England will incorporate Health Education England (HEE) and NHS Digital. The new NHS England will exercise functions currently exercised in part or in full by NHS Digital and HEE. It therefore be important for NHS England's equality objectives to properly address all of these functions; this is addressed by equality objective 8.
5. The rationale for the two-year timeframe is that it takes account of the system and organisational changes which will result from the implementation of the Health and Care Act 2022. We plan broad engagement and consultation during this financial year, which will shape the objectives/targets beyond 2023/24. This approach is designed to meet the statutory requirements set out in the PSED and the publication requirements in the SEDs.
6. A rapid review has informed the development of the proposed equality objectives and targets and our approach to our internal and external consultation post June 2022. We have also been able to take account of the new NHS Mandate. T
7. Approval of these reports is recommended by the Nursing Directorate, the People Directorate and the Quality and Innovation Committees (QIC).

Recommendations

8. It is recommended that the Boards approve:
 - a. the Review Report as a whole and in particular parts 3 and 4 and Annex A of the PSED review report
 - b. the 8 proposed equality objectives for NHS England and NHS Improvement for 2022/23, commencing 1 June 2022, and 2023/24 and the proposed targets for 2022/23 (Annex D of the Future Objectives report)
 - c. the rationale for adopting equality objectives for two years, rather than four as in previous years is that this will allow us: i) to assess how best to address the requirements of the PSED/SEDs and the reporting requirements of the health inequalities duties being introduced by the Health and Care Act 2022; and ii) to consult with stakeholders about our proposed approach.
 - d. the recommendation, welcomed by QIC, that the QIC should receive a paper on planned consultation, engagement, evaluation and measurement, in relation to the proposed equality objectives and targets, at their next meeting
 - e. the extension of the 7 existing equality objectives until the end of May 2022 (or until that date when the new equality objectives are implemented) (Annex C and D of the Future Objectives report)

- f. the new equality objectives and targets from 1/6/22 until the end of March 2024 subject to any revisions approved by the joint Boards at subsequent Board meetings (Annex D of the Future Objectives report)
- g. consultation and engagement during 2022/23 with internal and external stakeholders on the 8 equality objectives and develop equality targets for 2023/24 onwards (Future Objectives report: Part 3)
- h. the development of a sustainable and proportionate review framework moving forward including the identification of options for shared reporting in relation to the PSED and the new health inequalities duties introduced by the Health and Care Act 2022 (Future Objectives report: Part 3)

Considerations

- 9. The proposed equality objectives are intended to drive systematic and demonstrable improvements in equality for people by reference to protected characteristics, as is the purpose of the PSED and the SEDs.
- 10. The rapid review process considered key strategic and business plans including the NHS Long Term Plan, the People Plan and the NHS Mandate. The rapid review informed the development of the proposed equality objectives for 2022/23 and 2023/24 (and associated targets for 2022/23).
- 11. The proposed equality objectives and targets are aligned with NHS England and NHS improvement programmes and the targets have been agreed with relevant policy and delivery teams.
- 12. The significant legislative and policy implications associated with future options for joint PSED/SED and health inequalities duties are to be considered once the Health and Care Bill has been enacted.
- 13. Setting specific and measurable equality objectives and targets is a legal requirement. Publishing appropriate equality objectives and targets, together with our rationale, mitigates the risks of legal challenge and wider reputational challenge from stakeholders.
- 14. The internal engagement process has identified an appetite for bringing together PSED/SED reporting, equality objective setting and target setting with the separate legislative provisions and reporting framework on health inequalities. This appetite has been increased by the association between equalities and health inequalities highlighted during the COVID-19 pandemic. However, as the new legislative framework for health inequalities has only recently completed the final stages of the parliamentary approval process, it will be important to carefully assess the opportunities for such alignment alongside legal and other risks.

Next steps

- 18. The Boards are asked to approve and endorse the recommendations set out in both reports.