

<b>Title of paper:</b>	<b>Equality Duty</b>
<b>Meeting:</b>	Governing Body, 29 <sup>th</sup> November 2013
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<b>Purpose</b>	To Agree	
	To Advise	
	To Note	

**Development**

The Equality Action Plan has been developed in conjunction with the Executive Committee to ensure that the CCG can meet its requirements under the 2010 Equality Act. This Action Plan coincides with the launch of EDS2, the updated NHS' Equality Delivery System. I attended the launch of EDS2 at the University of London on the 4<sup>th</sup> November. It was stressed that all NHS bodies need to incorporate Equality into the commissioning, delivery, governance and performance management of its activities. EDS2 is a mechanism for doing this.

**Executive Summary and Key Issues**

The 2010 act requires that public bodies must have due regard to the need to:

- eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
- advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
- foster good relations between people who share a protected characteristic and people who do not share it.

Due regard has a legal meaning and in this context it requires us as a CCG to take our equality duty into account when making decisions:

- As an employer;
- When developing, evaluating and reviewing policy;
- When designing, delivering and evaluating services;
- When commissioning and procuring.

In effect, everything the CCG does must take its equality duties into account. Specific examples include:

- Board members must consider the equality duty when setting strategic direction, reviewing performance and maintaining the governance framework.
- Senior managers must be aware and consider it in their day to day work
- Human resources should build it into employment policies and procedures.
- Policy makers should build equality considerations into all stages of the policy making process including review and evaluation.
- Communications staff should ensure equality information is available and accessible.
- Information analysts should support the organisation to understand the effect of any information on disadvantaged groups.
- All staff should be aware of equality considerations in the delivery of public services
- Procurement and commissioning staff should build equality considerations in the organisation's relationships with suppliers.

**Recommendation(s):**

The Governing Body is asked to:

- Agree the Action Plan
- Identify a Governing Body lead for Equality (this was Dr Aalia Khan who has not been replaced in this role)
- Agree to the use of a locally adapted version of EDS2 to assist the embedding of Equality Duty in Surrey Downs CCG

**Attachments / references:** The Surrey Downs CCG Draft Equality Action Plan is attached. EDS2 can be accessed at

<http://www.england.nhs.uk/ourwork/gov/edc/eds/>

Further resources including an equality quick start guide can be accessed via the Equality and Human Rights Commission website

<http://www.equalityhumanrights.com/>

### **Implications for wider governance**

**Quality and patient safety:** Equality Duty is central to quality and patient safety,, including specifically privacy and dignity and access to healthcare. These equality duties relate to duties in the NHS constitution.

**Patient and Public Engagement:** The CCG will, directly and through its lay members, be engaging with patients and the public on this issue.

**Equality Duty:** Equality Duty is the subject of this report.

**Finance and resources:** There are no specific significant financial implications arising out of this policy. The CCG has committed a small amount of resource to training for staff. There may be a need for additional resources in 2014.

**Communications Plan:** This paper will be on the CCG website. Additional material on how the CCG is meeting its Equality duties will also be published.

**Legal or compliance issues:** The CCG is required by law to meet duties set out in the 2010 Equality Act.

**Risk and Assurance:** Failure to actively promote equality across all the groups with protected characteristics could mean that the CCG finds itself in breach of the 2010 Equality Act. This could lead to a loss of and public confidence. Specific risks include gaps in equality impact assessments, failure to provide accessible information, contracts that do not adequately protect groups with protected characteristics and the poor quality of equality information.

## **Surrey Downs CCG Equality Action Plan**

### **Introduction: The Equality Act 2010**

The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. It replaced previous anti-discrimination laws with a single Act, making the law easier to understand and strengthening protection in some situations. It sets out the different ways in which it's unlawful to treat someone.

The law governs peoples' legal rights to complain and seek redress (if the incident occurred prior to 2010 then earlier legislation applies).

The law came into effect in April 2011 (with some specific requirements following in September of that year, and with two main requirements:

- positive action - recruitment and promotion
- public sector Equality Duty (see section below) – Section 149 of the act

### **Implications of the Act for Surrey Downs CCG**

The act requires that public bodies must have due regard to the need to:

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Due regard has a legal meaning and in this context it requires us as a CCG to take our equality duty into account when making decisions:

- As an employer;
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In effect, everything the CCG does must take its equality duties into account. Specifically:

- Board members must consider the equality duty when setting strategic direction, reviewing performance and maintaining the governance framework.
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- Communications staff should ensure equality information is available and accessible.
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The Equality and Human Rights Commissions makes it clear that the aim of the legislation is to embed good practice in organisations, not to turn compliance into an industry. It specifically states that compliance with the duties

“will reduce burdens and bureaucracy on public bodies, moving away from a process-driven approach to a focus on transparency. This will free them up to do what is appropriate in their circumstances, to take responsibility for their own performance, and to be held to account by the public, shifting the approach to focus on performance, not process.”

Surrey Downs CCG can already demonstrate that it is committed to reducing inequalities and has plans in place that are consistent with the expectations of the legislation (for instance in its policies and procedures, its organisational culture and commitment to staff, and through the actions it has set out in its delivery plans). The CCG constitution contains a number of references to how it will discharge its equality duty as follows:

NHS available to all	The CCG notes that “the NHS is free at the point of delivery where the organisation takes a leadership role across the system to ensure all its services enshrine equality and diversity” (P13)
Equity of delivery	The CCG will “ensure equity of care across the CCG’s population, with patients and practices across the Group benefiting equally from service improvements and developments” (P14)
Access	The CCG will “ensure that all services are built on the principles of equality and diversity to standardise access for all” (P14)
Public Sector Equality Duty	The CCG will meet the public sector equality duty <sup>17</sup> by:  “delegating responsibility to the Chief Officer to oversee how the Group discharges this; requiring progress of delivery of the duty to be monitored through the Audit, Corporate Governance and Risk Committee” (P16)
Reducing inequalities	The CCG will have regard to the need to reduce inequalities by:  <ul style="list-style-type: none"> <li>i) Ensuring, via the Executive Committee, the Audit Corporate Governance and Risk Committee, the Clinical Quality Committee and the Remuneration &amp; Nominations Committee that the Commissioning Plan and Annual Operating Plan include clear objectives, actions and targets for reducing inequalities;</li> <li>ii) Ensuring that the Group uses the Joint Strategic Needs Assessment to underpin its plans, including input from the Health and Wellbeing Board and patient forums concerning inequalities;</li> <li>iii) Delegating responsibility to the Executive Committee to ensure that service planning and associated business cases for new and enhanced services take due account of the agreed priorities and focus areas for reducing inequalities;</li> <li>iv) Ensuring all plans and associated business cases are subject to proportionate Equality Impact Assessment;</li> </ul> (P18)

Duties as an employer	“The Group will seek to set an example of best practice as an employer and is committed to offering all staff equality of opportunity. It will ensure that its employment practices are designed to promote diversity and to treat all individuals equally.” (P34)
Monitoring	The CCG will ensure that it has “monitoring arrangements in place with the Group relating to equality and diversity issues and ensuring compliance with statutory obligations as well as producing an equality plan to meet the public sector equality duty for the approval of the Governing Body on an annual basis” (P128)

The CCG now needs to put in place a systematic plan for how it will meet its public sector equality duties. This will be done through a variety of mechanisms as set out in this action plan and using the version 2 Equality Delivery System (EDS2) described below.

### **The NHS Position in relation to Equality Duty**

#### *The NHS and the NHS Constitution*

NHS Bodies are listed in Section 19 as public bodies that must comply with the legislation. The NHS constitution (principle 1) makes the equality duty of the NHS clear as follows:

“The NHS provides a comprehensive service, available to all irrespective of gender, race, disability, age, sexual orientation, religion, belief, gender reassignment, pregnancy and maternity or marital or civil partnership status. The service is designed to diagnose, treat and improve both physical and mental health. It has a duty to each and every individual that it serves and must respect their human rights. At the same time, it has a wider social duty to promote equality through the services it provides and to pay particular attention to groups or sections of society where improvements in health and life expectancy are not keeping pace.”

#### *Equality Delivery System*

To assist NHS bodies in meeting their equality duty, the Department of Health devised an Equality Delivery System (EDS) shortly after the legislation was enacted in 2011. This was re-issued as EDS2 which was launched on the 4<sup>th</sup> November.

## Surrey Downs CCG proposed High Level Equality Action Plan

The following tasks are proposed to enable the CCG to meet its duties under the 2010 Equality Act.

<b>Task</b>	<b>Lead</b>	<b>Rationale</b>	<b>Priority</b>	<b>Deadline</b>
Provide interim report to the Governing Body on how the CCG will be meeting its Equality Duty	Governing Body Secretary	Need to start the ED process within the system of governance	High	29 <sup>th</sup> November Governing Body
All localities to review the equality duty at local level to inform locality actions and feed in to overall organisational equality objectives.	Locality Chairs / Locality Managers	To ensure local sensitivity to Equality Duty requirements	High	By end of December
Establish a staff forum that will include discussion of the CCG's equality duty including Equality and Diversity Policies	Governing Body Secretary	To provide assurance of systematic staff engagement	High	By end of November
Provide training to the Governing Body on its responsibilities under the act and keep a record of this.	Governing Body Secretary	Essential given that this is a statutory duty	Urgent	17 <sup>th</sup> December Governing Body Seminar
Review EDS 2 on issue and put in place a detailed action plan against this.	Governing Body Secretary	Once issued EDS2 will be the standard against which expectations will be managed.	High	By end December 2013
Set 4 year Equality Objectives (2013-17)	Governing Body Secretary	Statutory requirement	High	Approve at January 2014 Governing Body
Publish information on our web site about how we intend to further compliance with our Equality Duty	Head of Communications and Public Engagement	Statutory requirement	Urgent	By end November 2013
Undertake engagement with patients and public on how they would like to see us meet our equality duty	Head of Communications and Public Engagement	Could be undertaken through localities	Medium	By March 2013 for inclusion in final document to March Governing Body

Commission training for selected staff in undertaking Equality Analysis	Governing Body Secretary	The Equality Duty does not impose a legal requirement to conduct an Equality Analysis. However this is often the quickest, most consistent of way of ensuring that the CCG has met its equality duty. It will provide a safeguard around decision making.	High	By December 2013
Commission training for staff in general understanding of their responsibilities in relation to equality.	Governing Body Secretary	Essential to be able to demonstrate organisation wide commitment.	Medium	By March 2014
Publish a report in January each year on how the organisation is meeting its equality duty.	Governing Body Secretary	Statutory requirement	High	31 <sup>st</sup> January Governing Body
Ensure that major strategic programmes (Out Of Hospital, Out Of Hours, Community Hospitals etc) are reviewed for their equality impact	Head of Service redesign	Essential to do as soon as possible in order to ensure that these programmes pass the ED test	Urgent	By December 2013, and ongoing

## Summary

Surrey Downs is genuinely committed to meeting the principles of equality and diversity, however it needs to be able to demonstrate that it is doing this in a systematic way and consulting, auditing, monitoring, and reporting in line with both the Equality and Human Rights Commission's expectations and the expectations of the NHS. The above actions will provide a platform for the CCG being able to demonstrate that it is meeting its equality duty.

**Justin Dix, Governing Body Secretary, November 2013**

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