

Equality and Human Rights Scheme

Consultation document

December 2009

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Foreword

As the new regulator for health and social care, we have seized a unique opportunity to consider how equality and human rights can be embedded in everything we do – our aim is to weave equality and human rights into the day-to-day fabric of our work. We believe that our approach to developing our Equality and Human Rights Scheme is truly innovative and we intend to lead by example. We have a real opportunity, through the new registration system, to do things differently, to focus on outcomes for people and to take their experiences into account.

Most people who use health and social care services are not vulnerable people, but they may sometimes find themselves in circumstances that will make them vulnerable. Some experience discrimination and social exclusion; we have a special responsibility to ensure that they are safe, have their rights protected, and are able to exercise choice and control. Our aim is to make sure that everyone gets better care. We recognise the size of the challenge, with major changes to the population and changing expectations. Our Scheme must be about creating a culture of care that genuinely puts individuals and their needs at the heart of health and social care services.

Carers, without payment, provide help and support to a partner, child, relative, friend or neighbour, who could not manage without their help. This could be due to age, physical or mental illness, addiction or disability. At the heart of everything we do will be the people who use services, families and carers – we will be informed by what they tell us and stand up for their rights and dignity.

We are committed to engaging and involving our staff. We will ensure that they are informed, and that they have the necessary skills and knowledge to be confident and competent in their work. We must have the same expectations for ourselves as we do of others.

We are committed to making sure that our Equalities and Human Rights Scheme is developed with the active involvement of our staff, people who use services, families, carers and anyone with an interest in improving services in the health and social care sector. We will listen and be open. Our commitment is to produce a Scheme that has been informed and influenced by the people for whom it has the most meaning. Our priorities and actions are determined by the positive involvement and engagement of people from diverse communities and in a range of circumstances.

We want your views on this draft Equality and Human Rights Scheme, which is a live document that will change and develop as we move forward. We are consulting publicly on it from December 2009 to February 2010. We will consider the feedback from our ongoing involvement activities and formal consultation, and our final Scheme will be published at the end of March 2010. However, this will not be the end of the process – we see this as the start of our work together to help ensure equality of outcomes and that people's rights are championed, leading to safer, high quality care for all people who need it.

Barbara Young
Chairman

Cynthia Bower
Chief Executive

1. The Care Quality Commission

The Care Quality Commission became the independent regulator of health and adult social care services in England in April 2009, merging the functions of the Healthcare Commission, the Commission for Social Care Inspection and the Mental Health Act Commission. We also protect the interests of people whose rights are restricted under the Mental Health Act.

Whether care services are provided by the NHS, local authorities or by private or voluntary organisations, we make sure that people get better care. We do this by:

- Driving improvement across health and adult social care.
- Putting people first and championing their rights.
- Acting swiftly to remedy bad practice.
- Gathering and using knowledge and expertise, and working with others.

1.1 Our priorities

We have identified five priorities for 2010-2015 where we believe our unique role as regulator will enable us to significantly enhance the quality of outcomes for people who use services:

- Ensuring care is centred on people's needs and protects their rights.
- Championing joined-up care.
- Acting swiftly to help eliminate poor quality care.
- Promoting high quality care.
- Regulating effectively in partnership.

Further details on these priorities are available on our website at:

<http://www.cqc.org.uk/getinvolved/consultations.cfm>. Our work to achieve improvement in these areas will always be underpinned by the principles of equalities and human rights. This will include a strong focus on differences in access to services, the safety and effectiveness of care, and people's rights to be treated with dignity and respect. We will pay particular attention to the needs of people who are made more vulnerable by their circumstances, including those with mental ill-health, learning difficulties, physical disabilities or long-term conditions, older people, and children and young people.

1.2 Our powers and duties as a regulator

We have been given a range of legal powers and duties to make sure that people get better care. Our duties include:

- The registration of health and social care providers to ensure that they are meeting essential common quality standards.
- The monitoring and inspection of all health and adult social care services – looking at information and visiting providers of care when we think it is important to do so.
- Using our enforcement powers, such as fines and public warnings, if a provider's services do not meet our essential quality standards. If we think that people's basic rights or safety are at risk, we will take action swiftly, including closing a service down if necessary. We can investigate providers of health and social care, using powers given to us under the Health and Social Care Act 2008.
- Visiting patients detained under mental health legislation to ensure that their rights are protected.
- Carrying out special reviews and studies that provide information on particular types of services and pathways of care, or areas where there are concerns about quality.
- Carrying out assessments of the performance of health and social care organisations. These are important in providing independent public accountability in their own right, and they will also contribute to Comprehensive Area Assessment – a joint inspectorate assessment of how well people are being served by their local public services and how well those services are working together.
- Reporting the outcomes of our work so that people have accessible information about the quality of their local health and adult social care services.

2. Introduction to our Equality and Human Rights Scheme

2.1 Changing attitudes and behaviours, organisational cultures and practices

This Equality and Human Rights Scheme, which has been developed in our first year, reflects the way in which we have integrated equality and rights across all our functions. There have been significant challenges creating a new organisational culture and developing new ways of doing things to meet the new legislative requirements. Our Scheme is not simply a continuation of the schemes of the legacy bodies, but a new scheme tailored to a different way of working and new responsibilities. As we move forward, changes to methodologies and ways of working, will reflect our commitment to equality and rights.

We will work with people who use services, and other stakeholders, to understand what matters to people and to understand what good quality outcomes look like for individual people. We will also identify and work with those who do not use health and social care services, to understand the barriers they face. We specifically acknowledge the importance of carers within the wider personalisation agenda, and we recognise that carers can play a central role on better integration between health and adult social care and that carers themselves have their own needs and human rights.

A quality service provides care that meets the needs of the individual, supports independence and choice, listens to the people who use the service and ensures fair access to those services. This means understanding the impact for people who are made more vulnerable by their circumstances, and knowing that particular groups may experience inequalities in outcomes. Discrimination and inequality is often linked with poor quality care. Challenging poor quality care is key to challenging discriminatory behaviour and therefore addressing inequalities of outcome.

We have a legal responsibility to promote equality and eliminate discrimination. We take these responsibilities seriously, not just because we are required to, but because we believe they are the right thing to do. Our values, and those of the health and social care system, place fairness and equality firmly at the centre of all we do.

Our Equality and Human Rights Scheme sets out how we will meet our responsibilities. We will promote a rights-based approach in everything we do, with a focus on outcomes for people – not on the processes used. This is more than just ensuring compliance – it is about changing attitudes and behaviours, organisational cultures and practices. This is not something we can do on our own. We will work with other regulators, government departments and people with an interest in health and social care to promote equality and rights.

2.2 Legal duties

As a public body, we have specific and general equality duties, including a requirement to publish equality schemes, as set out in:

- The Race Relations (Amendment) Act 2000
- The Disability Discrimination Act 2005
- The Equality Act 2006.

These three statutory duties have a common aim – to ensure that the public sector promotes equality and eliminates discrimination in all its activities. We are also covered by wider equality legislation as well as the Human Rights Act (1998). For more information about the individual requirements of each public sector duty, the Human Rights Act and wider equality legislation, please see the Appendix on our website <http://www.cqc.org.uk/getinvolved/consultations.cfm>.

The Equality Bill (published in April 2009 and expected to go through Parliament during 2009) aims to harmonise and consolidate the ‘strands’ of discrimination into one single Act, therefore simplifying and strengthening the law to support progress on equality. The existing separate equality duties on public authorities covering race, disability and gender will be replaced by a single equality duty, which will also extend to gender reassignment, age, sexual orientation, religion or belief, the effect on carers and in consideration of socio-economic factors.

We have decided to adopt an Equality and Human Rights Scheme that covers all equality strands as well as human rights. The reasons for this include:

- A recognition that inequalities are rarely experienced in isolation.
- A desire to consider the whole person and all their needs.
- An emphasis on people’s rights and entitlements rather than needs and requirements.
- A commitment to maximising the impact of resources and investment.
- An opportunity to publicly commit to challenging discrimination and promoting equality.

2.3 Our definitions of equality and human rights

Equality is about removing barriers faced by people from different groups, so that they can achieve equal outcomes. These barriers may be caused by negative attitudes or lack of access and/or support. We have adopted the ‘social model’ throughout our rights-based approach so that it includes people within our policy-making. It is important to promote and maintain a holistic view of people as unique individuals.

By concentrating on ways to overcome these barriers, people are more likely to have increased independence, choice and control over their lives, and are more likely to be treated with dignity.

For example, the traditional view of disability is called the 'medical model' of disability, because it sees people as medical problems. As a result, disabled people are expected to see their impairment as their problem, something they will have to make the best of and accept that there are many things they cannot do.

The 'social model' of disability takes the approach that the things that stop or hinder a disabled person from doing something are the barriers that society has put in place or chosen to ignore. It is society that disables a person, not their impairment. Barriers may relate to access, attitude or assistance. The barriers that disabled people experience lead to unequal outcomes, for example, lack of social inclusion or poorer health outcomes. The social model of disability empowers disabled people to challenge society to remove those barriers.

A social model approach, based on the barriers that groups of people face, can also be applied to other groups of people who may face discrimination or disadvantage. For example, transgender people (referred to in this document as trans people) are not simply the recipients of medical, surgical and mental health services connected with the assessment or reassignment of gender. Nor are women merely the recipients of gynaecology or paediatric services.

A human rights approach also emphasises the specific rights that everyone has. We have adopted a rights-based approach to increase our understanding of barriers and their impact, and to ensure that equalities and human rights considerations are explicit in our operating plans and our regulatory activities.

Every person is of equal value. We all have human rights that must be upheld. Human rights are about ensuring fairness, respect, equality, dignity and autonomy for everyone. Everyone has the right to enjoy their basic human rights such as the right to life and the right not to be treated in an inhuman or degrading manner, as protected by the Human Rights Act 1998.

2.4 Our Equality and Human Rights Scheme

We are developing an Equality and Human Rights Scheme that sets out how we will meet our public sector duty requirements and also how we will address other areas of equality, religion or belief and non-belief, age, sexual orientation, effect on carers and the consideration of socio-economic factors. We are developing this scheme with the full engagement, consultation with and involvement of stakeholders, including people who use services and our own staff.

The scheme covers the period April 2010 to March 2013, and is embedded in our strategic objectives, our corporate plan and the business plans of each directorate within the Care Quality Commission. This scheme seeks to put equality at the heart of all that we do and describes how we will fulfil our social, moral, regulatory and legal obligations, giving due regard to equality and human rights in all our activities.

People do not fall neatly into equality 'boxes', so we have adopted a rights-based approach to ensure that individuals' rights are considered in relation to the full range of discriminatory factors and not in isolation. We are committed to producing a scheme that has a focus on people and their experiences and not on processes. This is a living document, which we will constantly monitor and review as we carry out equality impact assessments, and as we receive evidence from people who use services and stakeholders about equality of opportunity, outcomes and experiences. We will report on this scheme annually and involve people who use services, those that face barriers in accessing services, and our stakeholders, in the monitoring and reporting of the scheme.

3. How we are developing the Scheme

3.1 Priorities to act on

Our resources are limited, so we need to make some careful decisions about prioritising our work. We are putting the involvement of people who use services, carers and our staff at the heart of our Scheme. We have listened to their views in order to focus our efforts so that they will make a difference. We have prioritised our key actions in the action plans, which are subject to wider consultation (see Section 7).

Our Rights and Equality Action Plans are not being developed in isolation. Stakeholder and community engagement is at the heart of how we develop all our objectives, activities and plans. This Scheme sets out some of the key equality and rights priorities that have been identified by:

- Engagement and involvement of people who use services and carers.
- Staff networks and involvement events.
- Public consultations.
- Data collection, its secondary use and analyses.
- Registration, Mental Health Act monitoring, surveillance and periodic and special reviews.

As well as seeking the views of people who use services, carers and other stakeholders, we have also drawn on the work of the legacy commissions and other sources in identifying priorities. The consultation document for our Strategic Plan for 2010-2015 highlighted a range of challenges, including fairness, person-centred care, health information, protecting people's rights and properly trained and supported staff (see <http://www.cqc.org.uk/getinvolved/consultations.cfm>).

3.2 Involving people who use services and carers

In building on the challenges set out in the Strategic Plan, and in formulating the rights-based approach to tackling inequalities in health and social care, we invited people who use services and carers to work with us on our Equality and Human Rights Scheme Project Group. The participants in this Project Group brought a range of valuable life experiences from health and social care and reflected the diversity of people who use services. Their feedback included the following themes:

Theme	Areas of concern
Age discrimination	There is discrimination against older people in services. People “are just washed, dressed and fed”. Actions are needed to ensure that they are not isolated. Older people are entitled to dignity, respect, mental stimulation and a social life.
Personalised care	Being in control of your life. Assessment processes should include the whole picture, particularly social activities and support to continue with the same lifestyle as before, for example, hobbies.
Independent living	Promoting independent living so that people can make their own choices and decisions. Supporting people to live in their own home and be independent. It is more than just adapting homes and providing care services - it is also about supporting people to socialise and continue living a full life.
Carers	Promoting carers’ choices and rights. Carers have right to a family life. Carers need information on what is available. Even if the person cared for does not give consent, there is a lot of information that the carer still needs to know and is entitled to know. Carers are not always complaining on behalf of the person they care for: “we have a right to complain on our own behalf”.
The right to family life	CQC should look at the impact of a person’s disability on the whole family, with particular attention to young carers and mental illness. They should also consider the impact of cultural differences within a family.
Seldom heard communities	<p>People who do not have access to computers. CQC should support these people in being heard in the first place, and then ensure that they get the services they need.</p> <p>Groups to consider are: gypsies and travellers, ex-servicemen, carers with disabilities themselves. People with individual budgets are a seldom heard voice. They need support and information. There should be protection for people made vulnerable by their circumstances.</p>
Services for people from black and minority ethnic groups	These are not available when the number of people from BME groups is small. Authorities need to be familiar with their communities but, even when they are, they still continue to cater for the White British group, when one in four children are of mixed heritage. Isolation is increased by lack of appropriate services.
Design, planning and delivery of services	People who use services and carers should be involved in the design, planning and delivery of services, as well as in how they are managed. They should also be involved in the design of training for staff and professionals and, if possible, in its delivery.

Theme	Areas of concern
Consent and advocacy	This shouldn't necessarily just involve the person using services if they are vulnerable. People in continuing care do not have the same access to advocacy as others using NHS services.
Discharge procedures	There is a lack of compliance with guidance i.e. no preparation or follow-up to ensure that people are properly supported on discharge.
Assessment of services	CQC staff involved in assessments should be equipped to ask the right questions in relation to equality and human rights.
CQC's Equality and Human Rights Scheme	"The focus on human rights is good, but people need to understand their rights before they can ask for them". Actions in the action plans need to be owned and monitored. CQC should promote a 'health and social care charter'.

3.3 Involving people who use services and our stakeholders

We are committed to ongoing involvement and engagement with people who use services and stakeholders as we develop our regulatory strategies, methods and practices. This commitment is set out in *Voices into Action*, our statement of how we will involve people in our work and encourage health and social care organisations to involve people in the services they provide, published in June 2009 (see <http://www.cqc.org.uk/getinvolved/howweinvolypeople.cfm>).

To ensure that people who use services and carers are at the heart of our work, we are:

- Establishing the Voices for Equality Forum: a group of people who use services and carers who are 'Experts by Experience', to ensure that their views are used as the evidence in determining our priorities.
- Making use of 'Experts by Experience': they will work as part of our inspection teams, take part in visits to mental health wards where patients are detained under the Mental Health Act, and contribute to reviews of services. Experts by Experience will include carers, as well as people who use services.
- Using panels regularly: we will set up panels to help shape some of our work by using their views and feedback. These panels will include a wide range of people from across the services that we regulate.
- Involving people who use services when training and developing staff.
- Developing our approach for our work involving: learning difficulties, mental health, carers, older people, children and public health and wellbeing. This involves consulting with internal and external stakeholders about key priorities for improvement, including people who use services and their families.
- Consulting and working with other external stakeholders, public authorities, regulators and voluntary sector organisations.
- Consulting on the development of this Scheme between December 2009 and February 2010.
- Consulting on our Five-year Strategy between October to December 2009.

3.4 Involving our workforce

We are ensuring that our staff can contribute fully to the development of this scheme by:

- Involving staff through the existing Black Workers Group, Ethnic Diversity Network, Lesbian, Gay, Bisexual and Transgender (LGBT) Workers Group and Disability at Work Group. These groups were established by the legacy commissions. We are establishing three new staff diversity networks covering race, disability and sexual orientation. These networks will support and contribute to the development of good practice in relation to equality and rights.
- Setting up a Human Rights Steering Group with representatives from across our directorates, to ensure an effective interface with the organisation and integrate a human rights-based approach. As well as tracking progress on the actions within the Equality and Human Rights Scheme, this group will report into the Executive Team three times a year.
- Attending regional meetings and holding 'drop-in' sessions to ask staff what they think the equalities and human rights priorities for the organisation should be.
- Posting an online questionnaire inviting staff to identify key priorities.

- Introducing a staff forum, which will be the major means of consulting with staff on the key matters that affect them. The staff forum will provide the opportunity to identify issues that are affecting the morale and motivation of staff. It will include representatives from across our functions and will meet every six weeks.

Engagement with staff and their trade unions is ongoing, but their feedback to date includes the following themes:

Theme	Area of concern
Involvement	Need to establish regular staff forums to discuss equality and diversity issues.
Governance	Equality and diversity should be built into personal development plans.
Leading by example	Increasing diversity in senior positions would demonstrate a commitment to cultural change. “Practising what we preach would be a start”.
Lesbian, gay, bisexual and transgender (LGBT) people	Need to develop a better understanding of the needs of lesbian, gay, bisexual and trans people. Trans people should be seen in relation to men or women and not as a “third” sex or in relation to sexual orientation.
Training and development	Make sure that managers are aware of the implications of their behaviour under the Equality and Rights Scheme. Training for human resources staff to ensure that equality and diversity is taken seriously. Training in equality impact assessments is needed for those staff who will be expected to carry them out.
Black and minority ethnic staff	Better representation of black and minority ethnic population in workforce. Using the results of equality impact assessments to identify how current recruitment and staff development procedures may be adversely affecting black and minority ethnic staff – this should also be embedded in the development of all policies, procedures and business plans. Continued and ongoing monitoring of workforce representation is needed.

3.5 Evidence used for prioritising actions

Like all other public bodies, we have a legal duty to promote equality and eliminate discrimination, to foster positive relationships between different groups of people, to eliminate harassment, and involve people who use services in our work.

The evidence we gather through involvement, engagement and data collection is used to assess our performance and where we need to make improvements. Equality and human rights impact assessments are an important tool to identify whether our policies or programmes of work may have a positive or adverse impact on people or particular communities.

We have developed an equality and human rights impact assessment toolkit that evaluates the impact of our policies and processes on all the strands of equality and human rights, along with training and guidance for staff. We will apply equality and human rights impact assessments to all aspects of our work.

3.6 Availability of data

Limitations on resources mean that, where possible, our work should be informed and supported by accurate analysis of information. This requires careful consideration and use of data collected by service providers and other stakeholders such as the Office for National Statistics. We are also actively working to support the creation of new and expanded data collections so that health and social care services can be better monitored across the breadth of providers. We do not underestimate the value of using quality disaggregated data alongside the qualitative feedback we get from people who use services and carers to identify trends in equalities. However, collection and use of data across the health and social care sectors is patchy.

Ethnicity data is routinely collected in the NHS and is available for analysis in a variety of datasets. The quality of this data can be variable, but it is generally improving following the long standing inclusion of ethnicity in indicators used to monitor the quality of data. Data has also been mandated for collection in primary health and social care sectors, but these are not generally available for analyses other than at an aggregated level. Disability data is not routinely collected in most datasets, mainly due to the lack of availability of a workable coding framework. Although data on gender is routinely collected, it is rarely analysed to identify and tackle the unequal outcomes for men and women. Data on age is routinely collected and available for analysis, but age discrimination can be pervasive for example, upper age limits on vital health services or social care resource allocation. Data on religion or belief is also often routinely collected and has the potential to refine the understanding of the individual's experience. However, data on sexual orientation and trans people has proven difficult to collect, and further work is needed to build trust and confidence in the way it is collected and used.

We have undertaken a detailed analysis of the data available to us to support how we prioritise our work. We have included a number of key actions in our action plans (see Section 7) to contribute to the development of the collection and use of data in planning and delivering services.

4. How we are promoting equality and human rights, and tackling discrimination

We have a range of powers that enable us to evaluate how the sector is meeting standards of care. The following sets out how we will use those powers to promote equality and human rights, and how we will eliminate discrimination.

Our new registration system will be the main tool to promote the health, safety and welfare of people who use health and adult social care services. Our main focus will be on the outcomes and quality of care for people using services. However, we will also focus on issues affecting the workforce that may have an impact on the quality of care being delivered and the experiences of people using services. If we identify concerns or issues relating to an organisations' legal duties as an employer, we will inform the relevant regulatory or performance body, for example, the Equalities and Human Rights Commission, the strategic health authority or Monitor (for foundation trusts).

4.1 Registration and ongoing monitoring

By 1 April 2010, all NHS trusts, including primary care trusts that provide services, will be required to register with us in order to be able to operate. To do so, they must show that they are meeting a wide range of essential standards of quality and safety set out under the Health and Social Care Act 2008 (Regulated Activities) Regulations 2009. By 1 October 2010, all providers of adult social care services, and independent providers of healthcare services currently registered under the Care Standards Act 2000 (including some private doctor services, private prison health services, immigration centre health services, diagnostic clinics and laboratory providers) will be required to register with us. From 1 April 2011, other providers, including dental services and general practice, will have to register, subject to changes in the law.

Registration makes sure that regulated health and social care providers are meeting essential standards of safety and quality and that they are building a firm foundation on which to deliver care. We expect providers to meet these standards and to make improvements where they are needed. Getting registration right (including the guidance about compliance, the judgment framework and ongoing monitoring of compliance) will be central to promoting equality and human rights.

The guidance about compliance with Section 20 regulations of the Health and Social Care Act 2008 is focused on the outcomes, experiences and human rights of people. Equalities and rights underpin the guidance.

Our approach to registration will ensure that the views and experiences of people using services, carers and families inform our decisions:

- By defining quality in terms of outcomes wherever possible.
- By frequently and regularly using information on the views and experiences of those using services, their families and carers.
- By expecting providers to involve, consult and engage with people who use services in order to comply with requirements.
- By being focused on rights and equality in the collection and analysis of intelligence.
- By creating guidance and other publications from a person-centred perspective.

Providers must consider equality, diversity and human rights in every aspect of their work, considering the needs of each person against the six key strands of diversity.

Our guidance about compliance was developed in a way that focused on the outcomes for people using services, and makes clear to providers what we expect them to do to meet each of these outcomes. The outcomes are grouped into six themed sections, with the first two dealing with respecting and involving people who use services and providing personalised care. The emphasis in the guidance is on ensuring that people are treated as individuals. In each of the outcomes, providers are required to demonstrate how they promote rights and choices. We are developing methods to monitor ongoing compliance and will continue to place the emphasis on the need for providers to meet these outcomes. Our Judgment Framework will be used as a tool by staff making decisions about registration, to check that providers are compliant with the registration requirements.

We make use of information and data so that we can monitor what is happening both inside health and social care systems, and across health and social care, and to alert us to where a pattern of incidents indicates that there could be a problem. Information that is not based on numbers, such as comments from people who have used a service (known as qualitative information), is treated with the same rigour as data based on numbers (known as quantitative information) to make sure that we make more consistent use of all our information to enable us to spot patterns of incidents that could indicate a problem.

Our approach is not 'one size fits all'. We will adapt it to different services and situations. We will be most active in areas where we think the risks of harm are greater, where people are less able to assert their rights, where information on the quality of care is poor, or where providers of services are failing to improve.

4.2 Enforcement

Our primary concern is to protect the safety of people who use services. Any enforcement action we take will be proportionate to the risks posed to service users and the seriousness of any breach of the law. We will act in the best interests of people who use services, their families and carers, and will balance the consequences for these people of taking enforcement action against the risks of taking no action. We may also take other forms of action such as:

- Increasing the frequency of our scrutiny of a particular provider.
- Working in partnership with other bodies (for example, commissioners of care or other regulators) that may be in a better position to take action.

Our enforcement work will put particular emphasis on equality, diversity and human rights, particularly where services are provided to those who are less able to speak for themselves, and it will be led by appropriately trained and skilled staff.

4.3 Regular reviews of performance

Alongside the registration system, we will seek to drive up improvements through regular assessments of providers and commissioners of care.

We have developed our planned regulatory methods with input from a diverse range of people. People who use services and their carers are supported as 'Experts by Experience' to play a role in assessments and inspections. We ask people to tell us about their experiences of care services and to give us their views. We make sure that they are at the heart of our reports and reviews. Wherever possible, we will also involve patients and their carers directly in working alongside our inspectors to give an expert user view of services. During inspections, we address equality and human rights issues through questions and prompts.

We will be consulting on our approach to assessing the quality of care in 2010-2011 later this year. Our approach will focus on equality and human rights. In particular, it aims to ensure that assessments of quality cover equity of access, that they are responsive to the most vulnerable groups in the community, and that dignity and respect are at the heart of commissioning and delivery of care, along with safety and safeguarding. We will ensure that there is a particular focus on the care of groups such as older people, people with learning difficulties, people with mental health needs and children across all equality strands, and ensure that the organisations we regulate are promoting access to care and that they focus on outcomes for these group of people.

4.4 Special reviews and studies

Our special reviews and studies of care will provide information on particular types of services and pathways of care or on areas where there are concerns. As well as completing the programme of reviews and studies from the legacy commissions, we have established a new programme of special reviews which are detailed in our action

plans in Section 7. Before finalising our plans, we consulted with a range of stakeholders including NHS trusts, councils, local involvement networks, and independent providers of health and social care, to inform the structure and content of our reviews in 2009-2010.

The criteria that we use to select an area for review ensure that the programme has a strong focus on people who have been made more vulnerable by their circumstances. These principles include putting the people who use services first and championing the interests of those less able to speak for themselves. We have built on the best work of the legacy commissions, while introducing a distinctive new approach for the future – that of common quality standards across health and adult social care and a strong focus on equality and human rights.

4.5 Monitoring the Mental Health Act

As part of our work in mental health care, our Mental Health Act Commissioners will continue to monitor the care of people whose rights are restricted under the Act, monitor the use of legal powers of compulsory care and treatment, and ensure that people's interests are protected. Our approach to improving mental health services covers both providers and commissioners of care across health and social care services.

We expect to have approximately 6,000 contacts with patients each year, the majority of which will be unannounced visits. We make use of the information and intelligence from these visits as part of our 'quality and risk profiles' of providers of care.

We are focusing on equalities and human rights within our regulation of mental health services, paying particular attention to the issues for people from black and minority ethnic communities, and safeguarding women, children, younger and older people with mental ill health. We will expect commissioners and providers of specialist mental health services to use the experiences of people who use services and the public (including local black and minority ethnic people) to learn about how they would like to see services designed to meet their diverse needs. When assessing the performance of mental health services, we will expect to see that they can show how they have used this information to improve the outcomes and experiences of people who use services.

4.6 Communications and publishing information

All our reports and publications are available in a range of formats and are disseminated in ways that reach the people most likely to benefit from them.

Our judgments will be published in both standard and accessible formats, to ensure that they meet the needs of everyone who uses health and social care services.

In addition, we will produce child-friendly and easy read versions of why we inspect and what it means through the joint children's safeguarding inspections with Ofsted.

4.7 As an employer

We recognise that the way we manage the Equality and Human Rights Scheme and the experiences of staff play a key role. We are clear that we must ensure consistency of standards and that our staff feel supported and are managed fairly. As a new Commission, we have inherited different cultures and policies from legacy commissions. Our priority in the first year has been moving forward from the transition stage to begin developing and embedding a human resources framework.

We are committed to ensuring that we operate without any form of discrimination on the grounds of race, disability, gender, gender identity, religion or belief, age, sexual orientation, or any other personal characteristics. We will therefore monitor the application of our people management and recruitment policies to ensure that there is no adverse impact on any group. Where we identify any adverse impact, we will take action to remove or to mitigate this.

We value the contribution of our staff, and will engage and involve them through the staff forum and the staff diversity networks. We will promote an open and transparent culture, where staff feel safe, and their rights are protected. We will train our staff to ensure that they understand their responsibilities. We are committed to ensuring that our staff are confident and competent in their understanding and awareness of equalities and human rights.

Our staff profile at senior levels does not yet reflect the diversity in the population. A key priority will be to make changes to our workforce at middle and senior management level to improve the diversity profile. We will do this through our recruitment policies and through a range of learning and development activities, such as coaching and mentoring, designed to support the internal development of staff.

The key elements of the human resources strategy that apply to equality, diversity and human rights are:

- Governance processes and engagement with staff through a staff forum.
- Supporting and engaging with staff diversity networks.
- Improving the quality of our data in terms of equality.
- Analysing management information to evaluate progress and identify areas of concern.
- Learning from, and comparing our work with, diversity specialists, e.g. Stonewall.
- Improving our staff profile in terms of diversity, particularly at middle and senior management levels.
- Providing fair access to learning and development opportunities.
- Rolling out our new people management policies.
- Training on equality, diversity and human rights, to ensure that our staff are confident and competent.
- Ensuring our new reward strategy is compliant with Equal Pay principles.

4.8 Procurement

Our procurement team will work with budget holders during the procurement of goods and services, to consider the implications of equalities and human rights in all stages of procurement, from the specification of the need, the selection of supplier, and into delivery through ongoing contract management.

We will use an equality and human rights questionnaire in the pre-qualifying stages of competition and as a health check tool for existing contractors and suppliers.

We adopt and apply the General Terms and Conditions of Contract of the Office of Government Commerce, (Buying Solutions) to all procurements.

We make clear reference to our expectations in relation to equalities and human rights in advertisements, and we will work with budget holders to take into account equalities and diversity issues during the assessment process for procurement.

5. Governance

5.1 Structure of governance

We will develop robust governance measures to ensure that equality and human rights considerations are explicit in our work objectives, actions, and performance measures. All projects will consider equality and human rights issues at the earliest stage of their life. All business cases require these details to be captured alongside other financial and business information, so that equality impact assessments are embedded in the decision-making process. Consideration of equality and human rights issues will form part of the approval at all levels of decision-making.

How we will hold ourselves to account:

- We will ensure that there is ownership of equality and human rights actions in business strategies and plans at corporate and directorate level.
- We will conduct equality and human rights impact assessments on all policies, procedures, strategic objectives and operational plans.
- Our Equalities, Diversity and Human Rights Team will quality-assure equality and human rights impact assessments, and provide specialist advice and support to our staff.
- We will develop a monitoring tool that will enable regular reporting of progress against equalities and human rights actions.
- The Operating Committee will be accountable for ensuring that the recommendations to the Executive Team reflect appropriate consideration of equality, diversity and human rights.
- The Operating Committee is accountable to the Executive Team and through the Executive Team to the Commission.
- The role of the Commissioners is to work with the Executive Team to govern the activities of CQC, to share the corporate responsibility for Board decisions and the overall performance of the organisation.

5.2 Review and evaluation process

We will review the Scheme and Action Plans on an ongoing basis. Actions will include:

- Publishing the three-year Equality and Human Rights Scheme and Action Plans.
- Publishing equality and human rights impact assessments.
- Monitoring and reporting on progress annually, through the annual report.
- Placing responsibility on directors for monitoring and reporting on business strategies and their directorate's action plans.
- The Voices for Equality Forum providing scrutiny of activity and progress in relation to the actions plans and annual report.

The Executive Team receives regular reports and the Board receives an annual report on the scheme. The Operating Committee and Executive Team also receive reports in November on our mid-year performance on our Operating Plan, which will highlight activities undertaken to deliver on our commitments to equality and human rights issues.

6. Our key priorities

We have developed our action plans by consulting with people who use services, carers and our staff, and involving them on an ongoing basis. The action plans (see section 8) will be aligned to our core functions, and the detail of specific actions is being constantly refined and developed as we receive feedback.

We believe the following are our key priorities, and the current action plans support these priorities:

- Ensure that we have a culture whereby staff are valued, involved, supported and feel safe from discrimination.
- Take action to improve the diverse profile of the workforce, particularly at middle and senior management levels, through a range of recruitment and development activities, supported by the robust analysis of data.
- Identify and tackle any potential pay inequalities.
- Ensure that all staff are competent and confident in applying equality and human rights in their work, through implementation of an equality and human rights learning and development strategy (including mandatory training for all staff).
- Ensure that a diverse range of people using services, carers and families are involved in our work.
- Improve the information and intelligence we have on the quality of care to support the evaluation and scrutiny of performance across the health and adult social care sector in relation to equalities and rights.
- Ensure that our approach to registration and ongoing compliance, including the guidance about compliance, is effective in promoting better outcomes for all.

7. Give us your views

This Scheme outlines how we propose to integrate equalities and human rights in everything we do. From the early involvement and engagement of people who use services and our staff, we have incorporated what we think are the key equalities and human rights priorities.

We would like you to help us develop and shape our Action Plans. Once finalised, we will ensure that relevant measures, timescales and responsible leads for actions are aligned before we publish the final scheme. We will consult more widely, particularly to engage people who are seldom heard, and we will continue our engagement activity throughout the consultation process and on an ongoing basis to ensure that the Scheme is 'live' and developed in response to what people tell us.

There are three ways to give us your feedback:

Online: Use our website: <http://www.cqc.org.uk/getinvolved/consultations.cfm>

Email: Please email your completed questionnaire to: diversity@cqc.org.uk. In the subject box of your email, please type **EH&R Scheme**.

Post: If you do not have access to email, please post your completed form to:

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Thank you for your help with this consultation. We value your participation and will consider all comments at the end of the consultation period. We will consolidate the comments to draw out themes and identify points that need to be addressed and/or added to our final Equality and Human Rights Scheme, and provide feedback on how the consultation informed the development of the final Scheme and its action plans.

The consultation period runs for 12 weeks from **3 December 2009 to 25 February 2010**. Please ensure that your reply is returned by the closing date.

8. Action Plans

8.1 Core function: Registration and ongoing monitoring of services

Actions	Measure of success
<p>Ensure that inspection and assessment staff are competent and confident in equality and human rights.</p> <p>Develop questions and prompts in relation to equality and human rights for all outcomes.</p> <p>Develop approach to look at quality of joint needs assessment by commissioners, including how they are involving local communities and delivering person-centred care.</p> <p>Involve Experts by Experience in inspection teams: people who use services and carers.</p> <p>Develop regulatory framework clearly focused on delivering better outcomes.</p> <p>Establish panels to help shape some of our work by giving us views and feedback – panels will include a wide range of people from across the services we regulate.</p> <p>Involve people who use services and staff diversity networks when training and developing staff.</p> <p>Establish Voices for Equality forum made up of people who use services and carers to provide scrutiny of equality and human rights.</p>	<p>All inspectors trained.</p> <p>Specific equality and human rights questions and prompts.</p> <p>Evidence of ongoing involvement.</p> <p>Framework includes focus on better outcomes that promote dignity, respect and life chances maximised.</p>

8.1 Core function: Registration and ongoing monitoring of services (continued)

Actions	Measure of success
<p>Expand the Speak Out Network to target seldom heard groups (eg homeless, gypsies and travellers).</p> <p>Develop a leadership programme aimed at non-executives to champion people with learning disabilities.</p> <p>Emphasise the need for accurate, timely and complete data to underpin all aspects of high quality care.</p> <p>Work with the NHS information centre to drive up the quality of national data sets to ensure that essential patient data is collected across the social and health care system.</p> <p>Ensure that all existing data sets are suitable for, and require submission of, data from private, voluntary and social care sector in all instances where non- statutory sector providers may be supplying services.</p>	<p>Evidence of increased involvement of seldom heard groups.</p> <p>Leadership programme in place.</p> <p>Essential data is collected across the health and social care system.</p> <p>“</p> <p>“</p>

8.2 Core function: Enforcement

Actions	Measure of success
<p>Share information with EHRC to enable both to undertake regulatory and enforcement roles.</p> <p>Develop an equalities and human rights checklist for investigations and operations.</p> <p>Work with EHRC to:</p> <ul style="list-style-type: none">• Develop equality and human rights indicators for inspection framework.• Joint guidance for inspectors on how to inspect equalities and human rights in health and adult social care.	

8.3 Core function: Regular reviews of performance

Actions	Measure of success
Develop equality and human rights indicators for rated assessments to measure how well PCTs and councils are commissioning services.	Indicators developed.
Develop equality and human rights indicators to measure how well providers are meeting the needs of local communities.	Indicators developed.
Involve Experts by Experience (people who use services and carers) in periodic reviews and assessments.	List of Experts compiled.
Increase use of people's experience as part of assessments.	Full involvement.
Development of audit tool for care bought through individualised budgets for people with learning difficulties.	

8.4 Core function: Special reviews and studies

Actions	Measure of success
Special review of the physical health needs of people with a mental health problem and people with learning difficulties to promote respect, choice, involvement, autonomy and detect adverse outcomes.	National report completed October 2010 (Lead: M Lau-Walker).
Special review about meeting the healthcare needs of people living in care homes, to promote respect, choice, involvement and autonomy and detect adverse outcomes.	National report completed November 2010 (Lead: L Wilkinson).
Equality characteristics built into sampling and analysis.	
Special review of support for families with disabled children.	National report completed (Lead: K Naya).
Ensure all existing and future datasets are updated.	Updated with newly-introduced data items in timely and appropriate way.
The pathway of care for people who have had a stroke and their carers.	National report completed September 2010.
Ensure equality characteristics are included in the assessment through monitoring and the questions framework.	
Social services' response to people's first contact with them.	National report completed.
Commissioning: health promotion and health inequalities.	National report completed.
The impact of the financial downturn on the quality of care.	National report completed.
Build in focus on carers in special reviews and studies.	
Establish a national minimum data set for learning difficulties.	

8.4 Core function: Special reviews and studies (continued)

Actions	Measure of success
<p>Pilot collecting evidence from stakeholders about the quality of care of people with learning difficulties.</p> <p>Collect current learning difficulty data sources around performance and mortality rates in social care.</p> <p>Assess patients' experiences through surveys and engagement work.</p> <p>Continue work on datasets nearing implementation, including maternity dataset, child and adolescent dataset, child health dataset and support introduction and uptake.</p>	

8.5 Core function: Mental Health Act visits

Actions	Measure of success
<p>Use the findings from the Count me in Census, in conjunction with our wider assessment of providers and commissioners to keep a strong focus on the need to improve outcomes for people from black and minority ethnic communities.</p> <p>Continue to develop the utilisation of the Mental Health Minimum Data Set to supplement the Count Me In Census analysis with full-year information.</p> <p>Develop methods to ensure that findings from our monitoring of the Mental Health Act are more directly incorporated into our assessments and judgments about organisations.</p> <p>Monitor the deprivation of liberty safeguards under the Mental Capacity Act.</p> <p>Publish new information sheets to inform patients of their rights.</p> <p>Establish a Mental Health Improvement Board to advise the CQC on mental health priorities and how regulatory impact can be maximised to improve outcomes for people who use services and their carers.</p> <p>Involvement of Experts by Experience in Mental Health Act visits and reviews of services – will include people who use services and carers.</p>	<p>Activities supported post 2010 (after which Count Me In is scheduled to be discontinued).</p>

8.6 Core function: Communications and publishing information

Actions	Measure of success
<p>Ensure that all publications are accessible.</p> <p>Monitor and maintain the website and intranet to ensure content reflects diversity of user voices.</p> <p>Develop practical steps to address accessibility of all internal and external publications.</p>	

8.7 Core function: As an employer

Actions	Measure of success
Development of bullying and harassment policy.	Improved staff survey results.
Develop learning and development strategy to include mandatory training, public sector duties and human rights for all staff.	Decrease in grievances related to discrimination, bullying and harassment.
Data validation exercise: Improve gaps in relation to sexual orientation, religion or belief.	Any under-representation identified and actions developed to redress.
Collect, analyse and make better use of data to identify any workforce diversity issues.	Staff diversity profile published.
Involve staff diversity networks and people who use services and carers in staff training.	List of potential trainers compiled.
Support a range of flexible working arrangements.	
Personal support plans for disabled staff.	Plans and reasonable adjustments in place.
Work towards and seek Mindful Employer status.	Acknowledged as Mindful Employer
Monitor sexual orientation in recruitment, retention and development and training opportunities.	Staff feel valued, supported and free from discrimination.
Guidance and explanation of reason for collection.	
Ensuring confidentiality.	
Seek Stonewall Champion status.	
Identify and tackle potential pay inequalities.	
Implementation of job evaluation scheme.	

8.8 Core function: Procurement

Actions	Measure of success
<p>Develop a questionnaire to identify companies' and organisations' progress in meeting our equality and human rights expectations.</p> <p>Equality and human rights questionnaire to be used in pre-qualifying stages of competition and as a tool for checking existing contractors and suppliers.</p> <p>Procurement and contracts manager to liaise with chairs of the staff diversity network groups and consult over development of policies and procedures to enhance equality and human rights strategy in procurement.</p> <p>Review the Procurement Desk Guide to ensure that staff are aware that they should include equality and human rights in procurement exercises.</p> <p>Clear references to equalities and human rights expectations included in advertisements.</p> <p>Raise awareness of promoting equalities and human rights through procurement at meetings with directors, managers and budget holders, and attending events such as the regular Business Programme managers.</p> <p>Work with Engagement team to ensure practices enable small, community-based organisations, particularly those representing diverse and seldom heard people, to become contractors to CQC.</p> <p>Adopt and apply the General Terms and Conditions of Contract of the Office of Government Commerce (Buying Solutions) to all procurements.</p>	<p>Questionnaire completed and in use.</p> <p>Quarterly meetings held.</p> <p>Included in all advertisements.</p> <p>All directors, team leaders and budget holders aware of CQC's equality and human rights procurement strategy.</p> <p>Increase in number of small, community-based organisations in receipt of contracts.</p>

Glossary of terms

Carer: A carer is someone who, without payment, provides help and support to a partner, child, relative, friend or neighbour, who could not manage without their help. This could be due to age, physical or mental illness, addiction or disability. For the purposes of this Scheme, the term carer should not be confused with a care worker, or care assistant, who receives payment for looking after someone.

Learning difficulties: We use the term ‘learning difficulties’ rather than ‘learning disabilities’ in this Scheme. We engaged and consulted people with learning difficulties in the development of this Scheme and it is clear to us that this was the term they preferred. Its use, therefore reflects the inclusive nature of the process we followed.

Trans: This Scheme uses the more encompassing term ‘trans’, which is replacing ‘transgender’ in common usage. ‘Trans’ or ‘transgender’ are terms of choice often adopted by people to describe themselves, whereas ‘transsexual’ remains a medically defined term, appearing in diagnostic guides, and ascribed to people by doctors. However, it has been necessary to refer to ‘transsexual’ people specifically where the law uses narrower definitions to ensure that there is clarity in relation to legal duties.

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Published December 2009

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ISBN: 978-1-84562-255-8

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