

Draft equality and human rights impact analysis

CQC's strategy 2016 to 2021

Shaping the future: consultation document

1. Introduction

We are currently developing the Care Quality Commission (CQC) strategy for the next five years which will start in Spring 2016. As part of this we must consider the impact that any changes may have on the equality or human rights of people who use services and on providers of services.

We broadly laid out our thinking for the next phase of regulation in *Building on strong foundations* which published in October 2015. Our consultation, *Shaping the future: consultation document*, published in January 2016 and this impact analysis accompanies the document, takes our thinking further, and builds on earlier conversations with a final set of proposals.

We have a vision for what quality regulation should achieve – a health and care system where:

- People trust and use expert, independent judgements about the quality of care.
- People have confidence that good and poor care will be identified and action taken where necessary so they are protected.
- Organisations that deliver care are encouraged to improve quality.
- Organisations are encouraged to use resources as efficiently as possible to deliver high quality care.

In order to achieve this vision, our top priority will be to continue delivering our purpose through our current model of regulation. However, we also need to find new ways of working as the health and social care sector changes. Over the five years, we will develop our model with a focus on six themes:

Theme 1: Improving our use of data and information

Theme 2: Implementing a single shared view of quality

Theme 3: Targeting and tailoring our inspection activity

Theme 4: Developing a more flexible approach to registration

Theme 5: Assessing how well hospitals use resources

Theme 6: Developing methods to assess quality for populations and across local areas

2. Impact of our strategy on equality and human rights

As part of the changes to the CQC operating model over the past three years, we developed a [human rights approach to regulation](#). This approach ensures that equality and human rights are embedded in the way we regulate services and can also be applied to any proposed changes to our regulatory model.

To inform this impact analysis, we asked external stakeholders and CQC staff to consider the possible impact of the proposed changes to the way we regulate on equality and human rights. Of the people who responded to this question in *Building*

on strong foundations, some of you thought the impact would be generally positive and a few thought it would be generally negative. Many of the comments we received were about how we should put the proposals into practice to ensure that we consider equality and human rights adequately.

Please note that as explained in theme 5, we have already committed to assessing use of resources (for example staff, equipment and facilities) in NHS trusts and will consult on our detailed proposals in 2016.

The tables below summarise, for each of the main proposed changes, the opportunities for improving equality and human rights, and the risks to equality and human rights. They also include the ways that we propose to maximise these opportunities and mitigate risks, taking into account comments made in response to *Building on strong foundations*.

This impact analysis does not cover the equality impacts of any internal changes that may be needed to deliver the strategy, for example relating to CQC staffing. A further impact analysis would be carried out if there was a change to staffing or other internal functions in future years.

1a. Improving our use of data and information: opportunities	
Opportunities for improving equality and human rights	Ways of maximising the opportunities
An increased focus on the views of staff and people who use services can lead to a more rounded picture of risk that incorporates equality and human rights issues. This is currently difficult to capture with just quantitative data.	Improve our ability to identify equality and human rights risks and issues from information received from staff and people who use services, using new technology and consistent groupings of data, as well as developing new indicators and warning flags.
This is an opportunity to improve risk monitoring of equality and human rights issues, both for people who use services and for staff working in health and social care.	Continue to develop and evaluate indicators relating to equality and human rights in order to improve our ability to identify risks to quality of care for people who use services, to staff equality and to ensure a culture which supports staff rights.
This is an opportunity to establish whether equality and human rights information is currently being collected effectively by providers.	Work with providers to help ensure that information is collected against the protected characteristics using standard definitions and in line with best practice around human rights risks for particular types of organisations (for example, organisations where restraint is more likely to be used).

<p>This is an opportunity to encourage providers to strengthen their data collection around the ‘protected characteristics’ (under the Equality Act 2010) to ensure care quality can be understood from the perspective of all groups.</p>	<p>Ensure our guidance prompts providers to consider how they would collect information against the protected characteristics, and explains why it is important from the perspective of achieving good quality care (including the relationship between a fair and equal staff culture and care quality).</p>
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1b. Improving our use of data and information: risks	
Risks to equality and human rights	Mitigating actions
<p>Our existing or future indicators do not effectively predict risks to quality of care relating to equality or human rights.</p>	<p>Continue to evaluate existing indicators and identify opportunities for improvement, linking closely with wider CQC work to address data gaps.</p>
<p>People in some equality groups may be less able or less likely to give us their views on services that they use, and these groups may also be those most likely to have their human rights breached (for example older people and people with a learning disability).</p>	<p>Put in place specific methods for ensuring that we capture the views and experiences of regulated services from those equality groups who might be more at risk of breaches of human rights.</p>
<p>Some risks to equality and human rights are challenging to measure from data as compared with observation or talking to people.</p>	<p>Assess the risk of using data to monitor risk for particular equality groups, or for particular human rights issues. When revisiting the information requested from providers, we can explore the specific equality and human rights challenges and identify actions that would mitigate specific risks.</p>

2a. Implementing a single shared view of quality: opportunities	
Opportunities for improving equality and human rights	Ways of maximising the opportunities
<p>If equality and human rights are embedded into our shared view of quality – as they are in our current regulatory framework – then equality and human rights will be at the heart of care quality monitoring across the health and social</p>	<p>Ensure that the equality and human rights elements of our existing framework transfers into the agreed new shared view of quality and look at improving this where required. For example, whether we need to be more explicit about staff</p>

care system. For example, the monitoring of providers and partners.	equality.
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2a. Implementing a single shared view of quality: risks

Risks to equality and human rights	Mitigating actions
The single shared view of quality does not adequately cover equality and human rights issues	Ensure that the equality and human rights elements of our existing frameworks are maintained in a shared view of quality.
Providers' own view of their quality, without appropriate assurance, could lead to equality and human rights statements that are not recognised as accurate by people using services or by representative community groups.	Judgements on quality will not solely be based on information received from providers. We can consider how we validate information received from providers relating to equality and human rights.

3a. Targeting and tailoring our inspection activity: opportunities

Opportunities for improving equality and human rights	Ways of maximising the opportunities
If more targeted and tailored inspections enable more efficient regulation without a risk to equality and human rights in some service types, this could free up more CQC resources to focus on services where there may be a greater risk to human rights.	Ensure that analysis is carried out to identify the service types where there is less risk to equality and human rights, and use this to make decisions about how to differentiate our approach to ensure more targeted and tailored inspections.

3b. Targeting and tailoring our inspection activity: risks

Risks to equality and human rights	Mitigating actions
Risks to human rights can increase rapidly in some service types, or for some groups of people, if there is a negative change to the service.	Consider the effect on human rights of any changes to the frequency and intensity of inspections, with particular emphasis on those areas where risks to human rights can increase rapidly.

	Maintain an approach that allows CQC to respond quickly to newly identified issues such as an increase in risks to human rights or poor quality of care for a particular group of people using a service.
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4a. Developing a more flexible approach to registration: opportunities	
Opportunities for improving equality and human rights	Ways of maximising the opportunities
Changes to the registration process that lead to greater accountability at all levels of leadership may help to embed a more consistent approach to equality and human rights in organisations.	Ensure that when changes are made to the registration process, ways to help providers embed a more consistent approach to equality and human rights are considered.

4b. Developing a more flexible approach to registration: risks	
Risks to equality and human rights	Mitigating actions
Services that are seen to be generally low risk may still have equality or human rights issues, for example accessibility for disabled people.	Ensure that when changes are made to registration processes, any potential risks to equality and human rights in low risk services are addressed.

5a. Assessing how well hospitals use resources: opportunities	
Opportunities for improving equality and human rights	Ways of maximising the opportunities
If the use of resources assessment highlights where inefficiencies have particular impacts on access, experience or outcomes for particular groups, or on human rights, this will improve equality and human rights.	Ensure that attention is given to how the use of resources could improve equality and human rights by identifying where inefficiencies have particular impacts on access, experience or outcomes for particular groups.
This is an opportunity, over time, to show how good use of resources can contribute to improved access, experience and outcomes for all.	Over time, demonstrate how a good use of resources can contribute to improved outcomes for all.

5b. Assessing how well hospitals use resources: risks

Risks to equality and human rights	Mitigating actions
<p>If the measures for use of resources are too blunt (for example focused on numbers of people treated and the cost), incentives could be created for some providers to act in ways that might be at the expense of equality and human rights. For example they might give a lower priority to a personal approach to care, reasonable adjustments, and staffing levels that are more likely to protect human rights such as dignity.</p>	<p>Ensure CQC's assessment of the use of resources is designed in a way that makes sure economy and efficiency improvements are identified and implemented to enhance or maintain care quality in relation to all people who use services.</p>

6a. Developing methods to assess quality for populations and across local areas: opportunities

Opportunities for improving equality and human rights	Ways of maximising the opportunities
<p>Approaches to inspection that look at particular populations, at how care pathways are working, or at particular places can highlight levels of care quality for some equality groups. For example, CQC's end of life care review, or CQC's thematic work on integrated care for older people.</p>	<p>Consider how best to use different inspection approaches that look at populations, pathways or place in order to identify care quality issues for specific equality groups.</p>
<p>Inspection approaches that look at populations, pathways or place can reach equality and human rights issues that are beyond the remit of one provider, for example those associated with how well people move between care services.</p>	<p>As above.</p>

6b. Developing methods to assess quality for populations and across local areas: risks

Risks to equality and human rights	Mitigating actions
<p>Not all equality groups are population groups so care quality for these groups may not be immediately clear. We need to be aware of this if we expand our population groups approach into a provider-based model.</p>	<p>Maintain awareness of which equality groups are omitted from a populations approach. Where possible, look at quality of care for equality groups within population groups. For example if we look at older people, we should consider quality of care for Black and minority ethnic or lesbian, gay and bisexual older people as a key line of enquiry.</p>
<p>Populations, pathways and place approaches could be driven more by quantitative data (for example a higher reliance on risk analysis for deciding where to regulate outside of our main inspection programme). Some equality and human rights issues are difficult to identify through quantitative data alone.</p>	<p>Identify equality and human rights issues through the provider-based model and face-to-face inspections. Ensure that the provider model runs alongside any population, pathway or place model.</p>