

Draft Equality and Human Rights impact assessment

CQC's new strategy for 2021 and beyond

January 2021

Introduction

We're currently consulting on proposals in our [new strategy](#) for 2021 and beyond. Following the consultation, we'll consider all responses and feedback. We'll then publish the final strategy and start to implement it in May 2021. As part of this, we must consider the impact that any changes may have on the equality or human rights of people who use health and care services and on providers of services. We do this to fulfil our general public sector equality duty under the Equality Act 2010 and our duties as a public authority under the Human Rights Act 1998.

Reducing inequalities is a key ambition that runs throughout the ambitions in our new strategy. Alongside the final strategy, we'll also publish an equality and human rights impact assessment. We're sharing this draft impact assessment now to get feedback on any potential negative impacts as a result of the strategy so that we can fully consider how we can remove or mitigate them. We also want feedback on how we can maximise the benefits of any potential positive impacts on people's equality and human rights.

Our new strategy

To help us develop the proposals in our [new strategy](#), we've engaged with groups that represent people who use health and care services and groups representing service providers, colleagues in CQC, and a range of other groups with an interest in our regulation.

Our purpose has not changed – we'll always be committed to ensuring safe, effective, compassionate, high-quality care, and encouraging improvement. But we need to make changes to the way we regulate so that it's more relevant and has positive outcomes for everyone. We need to be more flexible to manage risk and uncertainty. This is because:

- Health and social care services are evolving rapidly, with new ways of working in partnership across different sectors. It's now more important for health and care services to work together as a system to deliver care – to meet the needs of the local population and of each individual person. People are living longer, often with multiple, long-term conditions, which means delivering care is increasingly complex. We must adapt and work in new ways to look at the quality of people's care on their journey through the health and care system – in individual services and across different providers and organisations.
- There's still inequality in how people can access health and care services across different areas of the country and among different groups of people, and the pandemic has renewed the focus on inequalities. Reducing inequalities in people's outcomes from health and care services is a fundamental part of our new strategy. We want everybody to have access to safer and better-quality care and we will champion this in everything we do. We want to understand why there's such variation so that we can help drive change.

Our strategy is built on four central themes that determine the changes we want to make to our regulation.

- People and communities
- Smarter regulation
- Safety through learning
- Accelerating improvement

Running throughout each theme is our ambition to improve people's care by looking at **health and care systems** and how they're working to **reduce inequalities**.

Impact of our strategy on equality and human rights

To develop this draft equality impact assessment for our new strategy, we considered the possible impact of the proposed changes on equality and human rights for people.

For each of the main proposals within each theme or area of work, we summarise:

- the opportunities for improving and promoting equality and human rights and how we propose to maximise these
- the risks to equality and human rights and how we propose to mitigate them.

We'll revise these further when we analyse the feedback in response to the consultation. You can see our proposals on our website: www.cqc.org.uk/strategy2021.

Themes in the strategy

PEOPLE AND COMMUNITIES

We want our regulation to be driven by people's needs and their experiences of health and care services, rather than how providers want to deliver them. This means focusing on what matters to the public, and to local communities, when they access, use and move between services. We want to encourage and enable people to share their experiences of care with us in a way that works for them. This includes those who are seldom heard, those who experience inequalities and people who are vulnerable. Working in partnership, we have an opportunity to help build care around the person: we want to regulate to make that happen.

Opportunities to improve equality and human rights	Ways to maximise the opportunities
<p>COVID-19 emphasised the need for health and care services to work together as a system in a local area. We're reviewing how well local systems provide care to older people, people using urgent and emergency care and cancer services, people with a learning disability, and people using mental health services. We expect to have more opportunities to review care in local areas through our new strategy.</p>	<ul style="list-style-type: none"> • Adapt our Health Inequalities tool, which forms part of the Provider Collaboration Review programme. This would enable us to record how well health and social care service work together to ensure equality and reduce inequalities. We can then respond appropriately. Understanding this can be critical for the health and wellbeing of people in different groups, such as older people. • We can also consider a focus on health inequalities within the wider provider collaboration reviews topics. For example, we currently have a focus on reducing health inequalities for Black and minority ethnic people.
<p>We have made a commitment to doing what we can to reduce inequalities in health and social care. To fulfil this, we will base our future approach on what people tell us about the things that matter to them when they use services. It will be important for us to embed this into our day-to-day work, including the guidance we publish and the data we collect.</p>	<ul style="list-style-type: none"> • Improve how we involve and understand the needs and preferences of different groups of people, in terms of both protected characteristics and socio-economic status. • Give people more opportunities to tell us about their experiences, proactively reaching out to seldom heard groups and ensuring we involve people in developing, implementing and reviewing how we regulate. • Continue to develop more and easier ways to give feedback on care so we hear from a wider range of people. This will include increasing digital access through web-based methods and developing links with existing apps and portals to enhance the ways in which people can get in touch with us. More people will also be able to tell us about their care by speaking in person with our inspectors, Experts by Experience or voluntary groups.

Opportunities to improve equality and human rights	Ways to maximise the opportunities
<p>To deliver our commitment to increasing equality, CQC colleagues need to be aware of issues relating to equality, diversity and human rights. They must also know how to respond when they encounter issues. We already have mandatory learning programmes about equality, diversity and human rights. We need to update this to ensure it's still effective and supports us to take the right action.</p>	<ul style="list-style-type: none"> • Continually monitor, review, and develop our mandatory learning and guidance. • Ask CQC colleagues and other stakeholders for feedback on our learning programmes and guidance. We can also extend these to include socio-economic status and wider determinants of inequality in health and social care outcomes. • Embed developments and actions in guidance for all aspects of our work, not only for inspection.

Risks to equality and human rights	Mitigating actions
<p>We act to safeguard people when we hear accounts of abuse or risks to people's human rights. But we need to make better use of the evidence we have and of people's individual experiences to develop how we work and to determine the regulatory action we take.</p>	<ul style="list-style-type: none"> • Implement the lessons learned from reviews such as Whorlton Hall and the recommendations of the Joint Committee on Human Rights, and continue to review these. • Explain clearly what the changes in our approach mean for providers and people using health and social care services. • Develop our processes to ensure that what people tell us about their own care (or the care of family members and friends) receives correct weighting in our regulatory decision-making. We can also involve stakeholders and ask them for feedback on what we do and how we can continue to improve. • Carry out equality-based quality assurance on any changes we make to how we regulate, making sure equality and human rights are at the heart of what we do.
<p>The lack of a single shared view of quality across health and social care could continue to mean different groups of people receive different standards of care in different settings.</p>	<ul style="list-style-type: none"> • Communicate a clear view of what good quality care should look like. We should develop and agree this with people who use health and care services and those who provide them, and share it across all health and care services and systems.

Risks to equality and human rights	Mitigating actions
<p>Using more digital ways to communicate with us can have significant benefits for many providers and people using health and care services. It could also help improve how we regulate. However, unless developed carefully, it could also exclude people in some groups and add to the exclusion of others.</p>	<ul style="list-style-type: none"> • Keep involving a broad range of providers, people who use health and care services, Experts by Experience and other stakeholders when we develop new ways to contact us. We also need to use their feedback when we review and test planned changes before we introduce them.

SMARTER REGULATION

We will be smarter in how we regulate. We'll keep pace with changes in health and care, providing up-to-date, high-quality information and ratings for the public, providers and all our partners. We'll regulate in a more dynamic and flexible way so that we can adapt to the future changes that we can anticipate – as well as those we can't. Smarter use of data means we'll target our resources where we can have the greatest impact, focusing on risk and where care is poor, to ensure we're an effective, proportionate and efficient regulator.

Opportunities to improve equality and human rights	Ways to maximise the opportunities
<p>Being smarter in how we regulate means we can help to improve equality in how health and social care services are provided, and reduce health inequalities. This means we need to develop a stronger focus on equality and human rights issues as part of our assessments of quality in services.</p>	<ul style="list-style-type: none"> • Make the right intervention at the right time – by moving away from set scheduled inspections and towards a more flexible approach, and being more responsive to equality or human rights issues as they arise. • Use the data we receive proactively to enable us to focus more on risks to safe care and to equality and human rights.
<p>Adapting our regulatory model will enable us to respond to future models of care and new types of service. But we'll need to keep assessing, reviewing and developing how we regulate to make sure we consider equality and human rights at all stages to keep them at the heart of how we regulate.</p>	<ul style="list-style-type: none"> • Consider equality and human rights issues early when designing how we will regulate new models and care and types of services. And ensure we consider the issues as part of any assessment, review, and re-design of our methods. • Involve service providers, Experts by experience and a diverse group of people who use health and care services when we review and redesign our regulatory model.

Opportunities to improve equality and human rights	Ways to maximise the opportunities
	<ul style="list-style-type: none"> • Develop our focus on how providers are working together to ensure fair access to health and social care services for everyone.
<p>As we develop our new inspection and ratings methods (and review them once implemented), it will be important to make sure we take account of people's experience of care to play our part in increasing equality and reducing health inequalities.</p>	<ul style="list-style-type: none"> • Strengthen how we capture people's experiences of care in how we assess and rate services. This should include where people's experiences vary, for example where some groups of people (in terms of protected characteristics, geography or socio-economic status) receive good care when others don't.
<p>A more dynamic approach to collecting and using information will enable us to more regularly capture the views of people using services, including those who are seldom heard, those with protected characteristics and those at particular risk of experiencing poor care. We will also be able to use more ways to gather information that don't depend on inspection visits. This will mean that we can reach a broader cross-section of people using services and enable better collection and use of information relating to equality and human rights.</p>	<ul style="list-style-type: none"> • Only use inspection site visits when we identify risk, to get specific information, or to observe care. • Use other methods more routinely (including engagement and involvement, self-assessment, accreditation, national and local datasets) to gather information on equality and human rights. • Link the information that we gather with information that people give us, and take action if our analysis indicates that it is appropriate.
<p>Developing our approach to make better use of artificial intelligence and data analytics where this is appropriate will enable us to do more focused analyses of the impact of our regulation on specific groups of people, both in terms of protected characteristics and socio-demographic status.</p>	<ul style="list-style-type: none"> • Embrace the potential to direct resources to deliver a risk-based approach to data analysis and decision making about what action is needed. For example, enabling us to be more proactive and less reliant on information from inspections for people most likely to receive poor care or people with protected characteristics.

Risks to equality and human rights	Mitigating actions
<p>As we move away from relying on a set schedule of large inspections, there's a risk that we don't have sufficiently accessible alternative ways to gather people's views. It's important</p>	<ul style="list-style-type: none"> • Capture information about people's experience and views on equality and human rights in a range of ways that are accessible and easy to use.

Risks to equality and human rights	Mitigating actions
<p>that we do not exclude or add to the exclusion of people in how we enable them to communicate with us. This includes people who cannot or do not wish to use digital methods and those, for example, for whom face-to-face is the most effective way to communicate.</p>	<ul style="list-style-type: none"> • When we develop alternative ways to gather people’s views, consider the best ways to obtain evidence from those people who prefer other ways to communicate or find them more effective.
<p>An ambition in our new strategy is to collect information once and use it more often. We will need to work closely with service providers and stakeholders to gather more comprehensive and robust information that helps us understand how well the health and social care system is working and how we might need to respond.</p>	<ul style="list-style-type: none"> • Work with providers and other stakeholders in the health and social care system to enable, encourage and ensure more of them collect and provide robust data on how services are provided to people with protected equality characteristics and socio-economic status. • Work with service providers and stakeholders to maximise our use of the data on equality and human rights that they already hold. • Maximise opportunities to collect and share information across health and care systems. We also need to link this with information from people who use health and care services.

SAFETY THROUGH LEARNING

We want all services to have stronger safety and learning cultures. Health and care staff work hard every day to make sure people’s care is safe. Despite this, safety is still a key concern for us as it’s consistently the poorest area of performance in our assessments. It’s time to prioritise safety: creating stronger safety cultures, focusing on learning, improving expertise, listening and acting on people’s experiences, and taking clear and proactive action when safety doesn’t improve.

Opportunities for improving equality and human rights	Ways to maximise the opportunities
<p>To prioritise safety we need to adapt our approach for a better oversight in all sectors that we regulate. We’ll need to think carefully about how we make sure equality and human rights are maintained as well as ensuring safe</p>	<ul style="list-style-type: none"> • Understand where there are gaps in oversight of safety in the health and care system and whether CQC or another body should – and could – fill that gap to offer greater support to sectors outside of NHSE/I remit.

Opportunities for improving equality and human rights	Ways to maximise the opportunities
<p>care. This will need a particular focus in services where ‘closed cultures’ are more prevalent (such as services for people with a learning disability or autistic people) and where people interact with a diverse range of services (such as primary medical services) as part of their care.</p>	<ul style="list-style-type: none"> • Consider the issues of safety and of equality and human rights as part of a combined approach to both providing services and regulating them, rather than being separate issues.
<p>Our aim of promoting and improving safety cultures in organisations provides an opportunity to develop and implement a clear definition, language and culture around safety, which incorporates equality and human rights. It can also help us work with providers to promote psychological safety for health and care staff in their day-to-day work, and empower and enable staff to speak up and have their concerns about safety listened to – regardless of their background or grade.</p>	<ul style="list-style-type: none"> • Collaborate with other bodies to understand what a safety culture means in practice – particularly in relation to equality and human rights – and how we can measure and regulate culture in a service and any improvements it makes. • Work with providers in health and social care to ensure that what we develop will have power and impact. This includes enabling all staff to contribute to improving safety. • Use all the information we hold to change what we do. This includes what people tell us about health or care services, and information from people who report concerns to us, as well as from insights we receive from alerts, reporting and analysis.
<p>Our focus on safety provides an opportunity to work across the health and care system to minimise avoidable harm for all, and those who are potentially at greater risk because of barriers that prevent or inhibit them from speaking up about poor care.</p>	<ul style="list-style-type: none"> • Improve our understanding of the learning culture in health and care organisations. This includes developing an understanding of how staff learn from what goes wrong as well as what goes right, thinking about the human and system factors rather than doing root cause analysis that simply looks to one cause rather than considering the complexity of the working environment. Part of this complexity relates to equality or human rights factors that need to be addressed to minimise avoidable harm. • Share what we find with providers and work with them to improve their safety culture and how we regulate for safety, including equality and human rights.

Opportunities for improving equality and human rights	Ways to maximise the opportunities
<p>An equality and human rights approach to regulating safety provides an opportunity to ensure services involve people in making decisions about how they want to live their lives and manage risks associated with their decisions about health and care. This will promote equality and human rights, especially if services take account of diversity in their approach and the materials they use. We can work with them as part of our new approach.</p>	<ul style="list-style-type: none"> • Make clear what we expect of health and care services in order to meaningfully involve people in decisions about their care, so they can live their lives and manage their own safety risks, in particular people in marginalised groups and with rare and complex conditions.

Risks to equality and human rights	Mitigating actions
<p>We are aware that our ambition to improve safety cultures across health and social care may inadvertently create more complex regulation without actually improving the situation. This could have a negative impact on particular groups of people with protected equality characteristics or in particular socio-economic groups and on staff in some settings.</p>	<ul style="list-style-type: none"> • Our process to measure and regulate safety cultures should be intelligent enough to ensure that the culture is changing for all. This includes capturing those at greater risk of being left behind or who experience institutional barriers to high-quality care or discrimination. We also need to ensure that any change we make, or role we assume, will actually improve safety for people.
<p>Encouraging providers to involve people in decisions about their safety more, including managing risks, could be perceived as a burden for providers. It is possible that some providers may report a lack of guidance or time to meaningfully involve people, which could result in inaction or poorly designed or implemented actions. This would risk the appearance of making progress, but in reality some people would not benefit as much as others.</p>	<ul style="list-style-type: none"> • Have clearer expectations of providers of health and social care in meaningfully involving people in decisions about their own care, in particular on decisions about safety and risk. Also be clearer and about the benefits this brings. • Share good practice about involving people in decisions about their own safety risks, with a focus on where it has had a positive impact on equality or human rights. • Find initiatives that support our vision and build on the work of system partners to ensure a consistent approach.

ACCELERATING IMPROVEMENT

We will do more with what we know to drive improvements across individual services and systems of care. We'll use our unique position to identify and spotlight the priority areas that need to improve and enable access to support where it's needed most. We want to empower services to help themselves, while retaining our strong regulatory role. The key to this is by collaborating and strengthening our relationships with services, the people who use them, and our partners across health and care.

Opportunities for improving equality and human rights	Ways to maximise the opportunities
<p>We want to drive improvement across all health and social care services and improve the experiences of everybody who uses them. To do this, we need to identify and speak up about priority areas of care that need to improve and ensure that equality and human rights are an integral aspect of how we do this.</p>	<ul style="list-style-type: none"> • Emphasise to providers that when they plan, review and deliver improvements they need to take into account the diverse voices of people who use their services. This is to make sure that everybody experiences improvements and that people in some groups are not excluded (whether as a result of their protected characteristic, geography or socio-economic status). • Communicate consistently about the equality and human rights aspects of improvement across individual services and systems of care. • Focus on marginalised groups and those who may be experiencing the greatest inequalities.
<p>To be effective, we need to ensure that the improvement coalitions include organisations that represent groups of people with protected characteristics and others who may be marginalised or experience inequalities and discrimination.</p>	<ul style="list-style-type: none"> • Support health and social care providers to have a specific emphasis on equality and human rights as part of any improvement plans. This includes sharing good practice that emerges in this area with other providers and improvement coalitions.
<p>We recognise that innovation in health and social care can help to reduce inequalities. For example, technology that removes communication barriers for disabled people or people who speak different languages, or that changes the way services are provided. We need to ensure that our regulation encourages innovation that benefits people and improves access to services.</p>	<ul style="list-style-type: none"> • When supporting health and care services to improve, make sure they consider equality and human rights as an integral part of any changes they plan and introduce. This includes sharing good practice that emerges with other providers across health and social care.

Risks to equality and human rights	Mitigating actions
<p>When we use and share data for benchmarking in local areas, there is a risk that we will not sufficiently identify and account for the levels of inequalities between people using services or living in different areas.</p>	<ul style="list-style-type: none"> • Focus on inequalities in local areas when developing datasets and our approach to benchmarking. Also incorporate a review process to determine how we can improve this assessment over time.
<p>In encouraging innovation, we may inadvertently promote Artificial Intelligence that has inherent biases built in, or we may use technology that excludes marginalised groups.</p>	<ul style="list-style-type: none"> • Work with providers and other stakeholders to identify and promote innovation. As part of this (including the use of AI), explicitly consider the potential equality and human rights impacts, particularly on marginalised and seldom heard groups.
<p>In developing collaborative relationships with providers to support improvement, we may find that some inspectors may not have the confidence, knowledge or skills to raise issues about inequality for people with protected characteristics.</p>	<ul style="list-style-type: none"> • Give inspectors the tools, resources and skills to talk confidently to providers about inequalities for people with protected characteristics, and take appropriate action. We'll also need to embed any developments and actions into guidance for all aspects of our work – not just for inspection.

This draft impact assessment reflects our early thoughts on the potential opportunities and risks from the ambitions in our new strategy. We'd like to know what you think about them.

You can read our strategy at www.cqc.org.uk/strategy2021 and let us know your thoughts using the [online response form](#).

Thank you.