West Hertfordshire Hospitals NHS
NHS Trust

Agenda Item 45/11

Equality Delivery System – Board Paper

1 Purpose

1.1 The aim of this paper is to introduce the Equality Delivery System (EDS), as a framework to:

i. improve the equality performance of this organisation, making it part of mainstream business for the Board and all staff; and

ii. help NHS organisations to meet the evidential requirements of the Equality Act (2010), [especially the public sector equality duty] and the statutory duty to consult and involve patients, communities and other local interests (NHS Act 2006 and Equality Act).

2 Background

2.1 The NHS Equality and Diversity Council (EDC) was formed in 2009 with representatives from the NHS, Department of Health and other interests. Chaired by Sir David Nicholson, the EDC reports to the NHS Management Board and supports the NHS to deliver services that are fair, personal and diverse to promote continuous improvement. Major EDC products in 2011 are the EDS and guidance on the Equality Act 2010.

2.2 It is planned that the EDS will become part of the system architecture of the NHS and NHS commissioners and providers will be issued with a set of Equality Objectives and Outcomes, against which each NHS organisation will analyse and grade its performance in the form of Red, Amber, Green and Gold Star rating, in collaboration with local interests.

2.3 There are 18 Outcomes in total, grouped under four Objectives:

1. **Better health outcomes for all**
2. **Improved patient access and experience**
3. **Empowered, engaged and inclusive staff**
4. **Inclusive leadership**

2.4 As a result of this analysis, NHS organisations, again in discussion with local interests, will confirm their Equality Objectives for the coming business planning period (as required by the Equality Act) and agree a limited number of priority actions. Performance against the selected priorities should be annually reviewed. These processes should be integrated within mainstream NHS business planning.

2.5 It is intended that the priorities and grades of all NHS commissioners shall be confirmed to the NHS Commissioning Board, and that the grades for both NHS commissioners and providers shall be published nationally. The Care

Quality Commission (CQC) will take account of concerns highlighted by the EDS through the Quality Risk Profiles it maintains on all registered NHS providers

3 Drivers

3.1 There are a number of important EDS drivers to note:

i. The White paper, '*Equity and Excellence: Liberating the NHS'* stated clearly the coalition Government's commitment to promoting equality and that the NHS Commissioning Board will have an explicit duty to address inequalities in outcomes from healthcare services;

ii. The EDS is referenced within the NHS Operating Framework for 2011/12 with the strong emphasis that NHS Boards will need to comply with the Equality Act 2010 [and its specific public sector duties, due to come into force in April 2011] by implementing the EDS developed by the NHS EDC to maintain progress and demonstrate compliance with the Act;

iii. The PCT Cluster Implementation Guidance makes clear that SHAs should ensure that clusters are able to take on the requirements for promoting the EDS as developed by the National Equality and Diversity Council. It adds that SHAs and clusters should also ensure that all statutory equality duties are handled clearly, explicitly and effectively through the new arrangements. This includes paying due regard to the provisions of the Equality Act 2010, which aims to ensure that all public bodies within the health service comply with principles of equality;

iv. The EDS will support NHS Organisations to comply with their legal duties arising from the Equality Act 2010. Support for the EDS has been received from both the Equality & Human Rights Commission (EHRC) and the Government Equalities Office (GEO). The EHRC commented: "We welcome the EDS as a combined local and national quality assurance tool which should help to provide scrutiny of equality performance of NHS organisations." The GEO stated: "The EDC is to be congratulated for its development of the EDS. It will greatly help the NHS to respond positively to the requirements of the Equality Act, [including the public sector equality duty]."

4 Benefits of the EDS

4.1 Once effectively implemented the EDS will:

- help the NHS deliver on the Government's commitment to fairness and personalisation, including the equality pledges of the NHS Constitution and maintain a focus on equality during the NHS transition
- help organisations to respond more readily to the Equality Act duty – something they will need to do in any event
- deliver improved and more consistent performance on equality
- support commissioners to develop commissioning plans that address needs of their communities, especially local needs and local health inequalities
- help providers to respond better to CQC registration requirements
- improve efficiency and bring economies of scale by providing a national equalities framework for local adaptation
- provide excellent evidence of engagement and consultation with patients and staff

4.2 As the foundations of the NHS are being recast, it is an ideal opportunity to hardwire fairness into the architecture of the new NHS. The introduction of the EDS as a vehicle that will help NHS organisations to meet their public sector equality duty obligations from 1 April 2011 is timely.

5 Which functions does the EDS apply to?

5.1 The EDS applies to both NHS commissioners and NHS providers – both in the current NHS and the new NHS as set out in the White Paper and Health & Social Care Bill. This means that the EDS applies to Primary Care Trusts/PCT Clusters (PCTs), until they are abolished, and to GP Consortia that emerge to take over the commissioning work of PCTs, from 1 April 2013.

5.2 The EDS applies to NHS providers including Foundation Trusts, all of whom are registered to provide services by the CQC.

5.3 It may also be applied, through contracts, to all those healthcare organisations that are not a part of the NHS, but which may work to contracts issued by NHS commissioners.

6 How have service users and local people been involved?

6.1 The EDS is designed for the NHS by the NHS. It is based upon the views of 700 people covering patient, staff and other interests at 35 engagement events in 2010 and early 2011. When the EDS regional consultation events are concluded in 2011, it is estimated that over 2,000 people will have contributed to the EDS design. [Drafting note: At the end of this paragraph there is an opportunity for Local Leads to insert text which explains to Local Boards how its own managers and staff have engaged in the EDS and may have participated in regional SHA-led EDS engagement events, if at all, on behalf of the trust]

7 How does this fit with the organisations Operational Planning Process?

7.1 The EDS should form part of the organisation's strategic and annual business cycle and help guide future planning and resource allocation.

8 Financial implications

8.1 There are no direct financial implications arising from this new framework. However, there will be ongoing resource implications in terms of:

- developing and implementing an ongoing community engagement exercise around developing equality objectives and prioritised actions and assessing organisational performance against these
- participating in a regional grouping cluster of NHS Trusts to share good practice and peer support
- reducing barriers to accessing primary care services should improve early diagnosis and intervention, potentially moving NHS expenditure more "upstream".

8.2 However, it should be noted that as organisations meet the Equality Act 2010 duty, the above cost implications would be incurred regardless. The NHS organisation and/or legacy organisations would be at risk of legal challenge if it failed to meet its duties under equality legislation, or if it knowingly or unknowingly allowed discrimination to occur.

9 Legal issues

9.1 The EDS does not replace legislative requirements for equality; rather it is designed as performance and quality assurance mechanism for local NHS Boards and a means by which NHS organisations are helped to meet the requirements of the Equality Act (2010) and the NHS Act (2006).

10 Next steps

10.1 Subject to the Board's approval, the organisation should identify a lead with responsibility for EDS implementation who should work closely with the SHA and, where appropriate the PCT Cluster, on the regional EDS implementation plan and milestones and also with the EDS Programme Office to achieve successful implementation during 2011-12.

10.2 The following timeline has been highlighted by the NHS EDS Programme Office:

Date	Activity
By 4 March 2011	EDS guidance, including the revised outcomes and supported by the Equality Impact Assessment, are made available for regional engagement events by the Programme
March and early April 2011	Regional engagement events are held to review and refine the EDS guidance
By June 2011	The EDS will be approved by the EDC and others, and issued to the NHS
By 31 July 2011	The Board will need to publish a range of data on workforce and services and any consultations carried out in line with the requirements of the public sector equality duty
September and October 2011	NHS organisations identify their local interests with whom organisational performance will be graded in partnership
November and December 2011	NHS organisations in collaboration with local interests, should analyse and grade organisational equality performance and identify 4-5 equality priority actions for the following financial year (2012/13)
January and February 2012	The Board, via LINks (or HealthWatch) should send their ratings of performance and priority actions to Local Authority Overview and Scrutiny Committees and (in due course) to Health and WellBeing Boards
By 1 March 2012	Grades are reported to the EDS Programme Office and the NHSCB
1 April 2012	Using the EDS, all NHS bodies will have published their Equality Objectives, and related priority actions as required by the Equality Act.

11 EDS programme office

11.1 The EDS Programme Office is based at NHS Newham and is happy to help and advise NHS organisations understand what they need to implement the EDS successfully and to attend regional consultation events. Swarnjit Singh

is the EDS National programme manager and can be contacted on swarnjit.singh@newhampct.nhs.uk or 07534 904113.

12 Recommendation

The Board is invited to note the proposal to adopt the NHS EDS and to approve the development and implementation of the EDS in 2011.

Annex 1: EDS outcomes and objectives framework

The analysis of the outcomes must cover each protected group, and be based on comprehensive engagement, using reliable evidence

Objective	Narrative	Outcome
1. Better health outcomes for all	The NHS should achieve improvements in patient health, public health and patient safety for all, based on comprehensive evidence of needs and results	1.1 Services are commissioned, designed and procured to meet the health needs of local communities, promote well-being, and reduce health inequalities
		1.2 Patients' health needs are assessed, and resulting services provided, in appropriate and effective ways
		1.3 Changes across services are discussed with patients, and transitions are made smoothly
		1.4 The safety of patients is prioritised and assured
		1.5 Public health, vaccination and screening programmes reach and benefit all local communities and groups
2. Improved patient access and experience	The NHS should improve accessibility and information, and deliver the right services that are targeted, useful, useable and used in order to improve patient experience	2.1 Patients, carers and communities can readily access services, and should not be denied access on unreasonable grounds
		2.2 Patients are informed and supported so that they can understand their diagnoses, consent to their treatments, and choose their places of treatment
		2.3 Patients and carers report positive experiences of the NHS, where they are listened to and respected and their privacy and dignity is prioritised
		2.4 Patients' and carers' complaints about services, and subsequent claims for redress, should be handled respectfully and efficiently
3. Empowered, engaged and well-supported staff	The NHS should Increase the diversity and quality of the working lives of the paid and non-paid workforce, supporting all staff to better respond to patients' and communities' needs	3.1 Recruitment and selection processes are fair, inclusive and transparent so that the workforce becomes as diverse as it can be within all occupations and grades
		3.2 Levels of pay and related terms and conditions are fairly determined for all posts, with staff doing the same work in the same job being remunerated equally
		3.3 Through support, training, personal development and performance appraisal, staff are confident and competent to do their work, so that services are commissioned or provided appropriately
		3.4 Staff are free from abuse, harassment, bullying, violence from both patients and their relatives and colleagues, with redress being open and fair to all
		3.5 Flexible working options are made available to all staff, consistent with the needs of patients, and the way that people lead their lives
		3.6 The workforce is supported to remain healthy, with a focus on addressing major health and lifestyle issues that affect individual staff and the wider population
4. Inclusive leadership at all levels	NHS organisations should ensure that equality is everyone's business, and everyone is expected to take an active part, supported by the work of specialist equality leaders and champions	4.1 Boards and senior leaders conduct and plan their business so that equality is advanced, and good relations fostered, within their organisations and beyond
		4.2 Middle managers and other line managers support and motivate their staff to work in culturally competent ways within a work environment free from discrimination
		4.3 The organisation uses the NHS Equality & Diversity Competency Framework to recruit, develop and support strategic leaders to advance equality outcomes