NHS England

Supplementary Technical Guidance

Clinical Commissioning Groups and the Workforce Race Equality Standard

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Description	This Supplementary Technical Guidance for Clinical Commissioning Groups and NHS Commissioners, is an additional tool which are intended to support all NHS organisations in making measurable progress on implementing the Workforce Race Equality Standard. Other publications you may find useful include: • Updated WRES FAQs on the Standard, drawing on key questions asked during the regional WRES workshops from March - June 2015 • The Standard and related materials on the NHS England web site • A WRES Case Study Template to capture good practice on the WRES Metrics. Over the coming months NHS England's WRES Implementation Team, alongside partner organisations that are members of the NHS Equality and Diversity Council, will be providing a range of practical support on this important issue.
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Clinical Commissioning Groups and the Workforce Race Equality Standard

Supplementary Technical Guidance

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The National Health Service Commissioning Board was established on 1 October 2012 as an executive non-departmental public body. Since 1 April 2013, the National Health Service Commissioning Board has used the name NHS England for operational purposes.

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1 Introduction

Clinical Commissioning Groups have two roles in relation to the Workforce Race Equality Standard – as commissioners and as employers. In both roles their work is shaped by requirements arising from:

- The NHS Constitution;
- Their Public Sector Equality Duty and that of the providers they commission work from;
- The NHS Standard Contract and associated documents;
- The Technical Guidance to the Workforce Race Equality Standard.

The Technical Guidance of the Workforce Race Equality Standard states:

> "Further developmental work on the applicability of the Standard to CCGs is currently underway."

This supplementary technical guidance sets out in more detail what the applicability of the Standard to CCGs entails.

2 Applying the Workforce Race Equality Duty to the CCG's own workforce

2.1 NHS Constitution

Clinical Commissioning Groups and NHS England are required both as employers and as commissioners to take account of the NHS Constitution in their decisions and actions.

> "The Secretary of State for Health, all NHS bodies, private and voluntary sector providers supplying NHS services, and local authorities in the exercise of their public health functions are required by law to take account of this Constitution in their decisions and actions.
>
> "4.a. The Constitution applies to all staff, doing clinical or non-clinical NHS work – including public health – and their employers. It covers staff wherever they are working, whether in public, private or voluntary sector organisations. The rights are there to help ensure that staff: are treated fairly, equally and free from discrimination;

"The NHS commits: to provide all staff with personal development, access to appropriate education and training for their jobs, and line management support to enable them to fulfil their potential (pledge);

"4.b (Staff) have a duty not to discriminate against patients or staff and to adhere to equal opportunities and equality and human rights legislation. http://www.nhs.uk/choiceintheNHS/Rightsandpledges/NHSConstitution/Documents/2013/the-nhs-constitution-for-england-2013.pdf

2.2 The CCG's own workforce and the WRES

The Public Sector Equality Duty (PSED) came into force on 5 April 2011. The Equality Duty applies across Great Britain to the public bodies listed in Schedule 19 (as amended) and to any other organisation when it is carrying out a public function.

It requires public bodies to:

- have due regard to the need to eliminate discrimination;
- advance equality of opportunity;
- foster good relations between different people when carrying out their activities.

The Equality Act 2010 (Specific Duties) Regulations 2011 came into force on 10 September 2011. The specific duties require public bodies to publish relevant, proportionate information showing compliance with the Equality Duty, and to set equality objectives.

NHS organisations should refer to the Equality Act 2010 and related guidance for a full understanding of the Public Sector Equality Duty. This can be found at http://www.equalityhumanrights.com/private-and-public-sector-guidance/public-sector-providers/public-sector-equality-duty

In accordance with the Public Sector Equality Duty, the NHS England Technical Guidance on the Workforce Race Equality Standard http://www.england.nhs.uk/wp-

content/uploads/2015/04/wres-technical-guidance-2015.pdf requires Clinical Commissioning Groups to have "due regard" to the Workforce Race Equality Standard as a means of meeting that duty.

Whilst the provisions of the NHS Standard Contract require CCGs to seek assurance from, and receive an annual report from providers, they are not required by the Standard Contract to apply the Workforce Race Equality Standard to themselves.

Requiring CCGs to implement the WRES in its entirety is felt to be problematic, given that a substantial number of CCGs have extremely small workforces (often below 100 staff) and the full data provisions of the WRES would not be easily directly applicable. Nevertheless it is felt important that all commissioning bodies including CCGs do have **due regard** to the WRES, whilst the largest commissioner, NHS England, intends applying it fully to its own workforce would be expected to.

Whilst it is acknowledged that in very small organisations it could be difficult to apply the WRES precisely to themselves, all CCGs are expected to have "due regard" to the WRES, **All** CCGs, in exercising due regard, would be expected to apply the WRES to themselves using the key case law principles known as the "Brown Principles."

2.2.1 What does showing 'due regard' to the WRES actually mean for CCGs own workforce?

The WRES Technical Guidance (Para 7.2) states

> "All Commissioners of NHS services will be expected to have **due regard** to NHS Standard Contract and to use the Standard (and the Equality Delivery System) themselves.
>
> "Some CCGs already participate in the NHS National Staff Survey. Further developmental work on the applicability of the Standard to CCGs is currently underway. In 2015-16 each CCG will need to demonstrate the following:
>
> "That they are giving due regard to using the indicators contained in the *Workforce Race Equality Standard* to help improve workplace experiences, and representation at all levels within their workforce, for Black and Minority

Ethnic staff; and assurance, through the provision of evidence, that their Providers are implementing the NHS Workforce Race Equality Standard;"

'Due regard' is a legal term that requires **proportionality** and **relevance.**

The weight given to the general duty will depend on how that area of work affects discrimination, equality of opportunity and good relations. Principles from case law and regulatory work on the previous specific race, disability and gender equality duties help organisations understand what must be done to show **'due regard'** and to be compliant with the general duty. The key case law principles are commonly referred to as the **Brown Principles** and are often used in court to determine whether a public body has actually shown 'due regard' to the Equality Duty. The following principles, drawn from case law, explain what is essential in order for the Equality Duty to be fulfilled. They should be used to underpin the approach that Clinical Commissioning Groups take towards the application of the Workforce Race Equality Standard to their own workforces.

2.2.2 The Brown Principles

Brown Principle	Requirement in respect of the equality duty	Implications of "due regard" for the WRES for CCGs
Knowledge	The decision makers must be aware of their duty to have 'due regard' to the three aims of the duty.	CCGs must be aware of the WRES, its aims and metrics.
Sufficient information	The decision maker must consider what information he or she has and what further information may be needed in order to give proper consideration to the Duty.	CCGs must consider what data they currently have about their own workforce, analysed by ethnicity, and what further information may be needed in order to give proper consideration to the WRES.
Timeliness	The Duty must be complied with before and at the time that a particular policy is under consideration or decision is taken – that is, in the development of policy options, and in making a final decision. A public body cannot satisfy the Duty by justifying a decision after it has been taken.	CCGs are expected to collect and analyse their workforce data using the WRES metrics and to use that data to consider the extent to which gaps exist between the experience and treatment of White and BME staff using both workforce and staff survey data. Where CCGs do not currently participate in the National Staff Survey they should consider what means they might use that are appropriate to

		determine staff views.
Real consideration **(Decision making)**	Consideration of the three aims of the Equality Duty must form an integral part of the decision-making process. The Equality Duty is not a matter of box-ticking; it must be exercised in substance, with rigour and with an open mind in such a way that it influences the final decision.	Consideration of the WRES must form an integral part of the decision-making process. The WRES is not a matter of box-ticking; it must be exercised in substance, with rigour and with an open mind in such a way that it influences decisions on workforce treatment and experience.
Accountability **(No delegation)**	Public bodies are responsible for ensuring that any third parties which exercise functions on their behalf are capable of complying with the Equality Duty, are required to comply with it, and that they do so in practice. It is a duty that cannot be delegate.	Having due regard to the WRES is not to be delegated to another body.
Monitoring and review	Public bodies must have regard to the aims of the Equality Duty not only when a policy is developed and decided upon, but also when it is implemented and reviewed. The Equality Duty is a continuing duty.	CCGs must have regard to the aims of the WRES not only when a workforce policy is developed and decided upon, but also when it is implemented and reviewed.

CCGs are expected to give “due regard to using the indicators contained in the *Workforce Race Equality Standard* to help improve workplace experience, and representation at all levels within their workforce, for Black and Minority Ethnic staff” .

In practice for CCGs this means:

- **CCGs must collect data** on their workforce by protected characteristic and in particular by ethnicity. That data should be both workforce data and staff survey data. Some CCGs already take part in the National Staff Survey. Others may conduct their own surveys. They must analyse that data against each of the WRES metrics;
- **Data analysis must be approached with some caution** because in substantial numbers of CCGs the numbers of staff employed are small, with

the result that very small changes in numbers on workforce and survey metrics may result in substantial changes in percentage terms. Such changes should be treated with caution but such changes should not be ignored since, especially where they signify a trend or indicate a concern, they may be extremely useful.

- **Notwithstanding data concerns, similar patterns of less favourable treatment may well exist.** For example it is very likely that BME staffs are under-represented in the most senior employed posts within CCGs even where governing bodies themselves are more representative.
- **CCGs should produce an annual report showing the results of their staff survey and workforce data for internal analysis but, caution should be used regarding wider publication due to Data Protection Act (DPA) considerations.** The report should indicate what steps CCGs are taking to improve the relevant metrics. An example of such a report is appended at Appendix 1 below. In doing so however, they will need to give consideration to how (and indeed whether) such data is published and what conclusions are drawn, since small numbers may identify individuals. Where numbers or percentages are used (as they will be) consideration should be given the risk of identification of individuals in accordance with the provisions of the Data Protection Act. Where publication might reasonably lead to the identification of individuals due to small numbers, as will be the case in many CCGs, it should be assumed that, whilst such a report should be prepared for internal use to enable improvement to the treatment and experience of BME staff to be made, its wider publication may well not be appropriate. Should Freedom of Information (FOI) requests be subsequently made, publication of data that enables the identification of individuals would also not normally be appropriate other than where there is a clear public interest in such disclosure (potentially, for example, in respect of the ethnicity of Board members). There is a legal framework, the Freedom of Information Act and subsequent judgements, about responding to such requests and CCGs are reminded to manage applications with due regard to that legal framework.

CCGs are expected to compile their own report on their workforce to the same timescale as most providers of NHS services. This means that a report produced in

accordance with the Brown Principles above, enables each CCG to understand its own workforce by ethnicity and what steps it needs to consider.

For 2016 CCGs will be expected to produce a report by May 1st 2016, to the same timetable as providers of NHS Services. The considerations on publication and data analysis set out in 2.2.2 above must be borne in mind.

3 CCGs and the Implementation of the Workforce Race Equality Standard by Providers of NHS services.

3.1 NHS Standard Contract 2015/16 Service Conditions

The NHS Standard Contract 2015-16 Service Conditions state) that:

> SC13.5 The Provider must:
>
> SC13.5.1 implement EDS2; and
>
> SC13.5.2 implement the National Workforce Race Equality Standard and submit an annual report to the Co-ordinating Commissioner on its progress in implementing that standard.

SC13.5.1 applies to Trusts and to Foundation Trusts, and SC13.5.2 does not apply to Small Providers. 'Small providers' are defined in the NHS Standard Contract as a provider:

'whose aggregate annual income for the relevant Contract Year in respect of services provided to any NHS commissioners commissioned under any contract based on the NHS Standard Contract is not expected to exceed £200,000'.

The Standard Contract Service Conditions also state that:

> SC1.3 The Parties must abide by and promote awareness of the NHS Constitution, including the rights and pledges set out in it. The Provider must ensure that all Sub-Contractors and all Staff abide by the NHS Constitution.

Providers must:

> SC12.3.2 'carry out Staff Surveys which must, where required by Staff Survey Guidance, include the appropriate NHS staff surveys'.

SC12.3.2 does not apply to small providers.
SC12.4 states, in respect of such surveys:

> SC12.4 The Provider must review and provide a written report to its **Co-ordinating Commissioner** on the results of each Survey. The report must identify any actions reasonably required to be taken by the Provider in response to the Survey. The Provider must implement those actions as soon as practicable. The Provider must publish the outcomes of and actions taken in relation to all Surveys.

CCGs should also note that all providers of NHS-funded services operating under the NHS Standard Contract are also required to comply with the **Contract 2015/16 General Conditions,** including on race equality, which state:

> GC5.1 The Provider must apply the Principles of Good Employment Practice (where applicable) and the staff pledges and responsibilities outlined in the NHS Constitution.

GC5.3.5 The Provider must ensure that all Staff … are aware of and respect equality and human rights of colleagues, Service Users, Carers and the public.

3.2 The Workforce Race Equality Standard Metrics

There are nine indicators. Four of the indicators are specifically on workforce data, four are based on data from the national staff survey indicators, and one considers Board composition. The Standard will highlight any differences between the experience and treatment of White staff and BME staff in the NHS with a view to closing those metrics. Indicator 9 requires organisations to ensure their Boards are broadly representative of the communities they serve. These indicators were developed in partnership with the NHS. The final version of the Indicators is available here http://www.england.nhs.uk/wp-content/uploads/2015/02/wres-metrics-feb-2015.pdf

Consideration is being given as to how best the data arising from the annual reports on the Standard can be benchmarked nationally. Such benchmarking is needed to

enable realistic and robust comparisons to be made and to enable organisations to compare themselves with similar organisations.

The Standard is not intended to provide a blueprint on how “good” can be achieved; however, it does provide the necessary platform and direction that encourages and enables NHS organisations to understand and prompt further inquiry into the causes of differences between the treatment and experience of White and BME staff such as:

- To reduce the differences between the treatment and experience of White and BME staff on each of indicators 1-8.
- To compare not only their progress in reducing the gaps in treatment and experience but to make comparisons with similar organisations about the overall level of such progress over time.
- To take necessary remedial action following further analyses on the causes of ethnic disparities in the indicator outcomes.

The CQC intends to use progress in implementing the Standard as one of their inspection indicators for the ‘well led’ domain when they rate NHS Providers, so as a commissioner it is important that commissioners actively engage with providers on this issue. CCGs may wish to use the WRES Reporting Template available to providers to enable a consistent way of reporting their own data. NHS organisations have been advised that whilst the use of the Template is not mandatory, they should use the WRES Reporting Template 2015 as a helpful way to respond to the WRES metrics. The WRES Reporting Template is designed to give an overview of the organization’s most WRES implementation. Once completed by the NHS organization, this Report Template should be published on the organization’s website using a unique URL and that of the relevant CCGs. The WRES Report Template Instructions 2015 will help organisations when completing the Report.

3.3 The WRES Technical Guidance and Providers

The WRES Technical Guidance states (Para 7.2):

> "All Commissioners of NHS services will be expected to have due regard to NHS Standard Contract and to use the Standard (and the Equality Delivery System) themselves.
> "Some CCGs already participate in the NHS National Staff Survey. Further developmental work on the applicability of the Standard to CCGs is currently underway.
>
> "In 2015-16 each CCG will need to demonstrate the following:
> "That they are giving due regard to using the indicators contained in the *Workforce Race Equality Standard* to help improve workplace experiences, and representation at all levels within their workforce, for Black and Minority Ethnic staff; and assurance, through the provision of evidence, that their Providers are implementing the NHS Workforce Race Equality Standard;
>
> "That they are implementing *EDS2* to help meet the *Public Sector Equality Duty* and improve their performance for people with characteristics protected by the Equality Act 2010; and assurance, through the provision of evidence, that their Providers are doing the same."

The Technical Guidance (Para 7.1) clarifies which providers are exempt from the WRES requirements:

All organisations which provide NHS funded healthcare services (other than primary care) are subject to the requirements of the NHS Standard Contract in respect of the Standard except for "small providers". The Standard therefore applies to all NHS providers and any non NHS providers (including voluntary and private sector) subject to the NHS Standard Contract except for "Small providers" who are defined:-

> "as a provider whose aggregate annual income for the relevant Contract Year in respect of services provided to any NHS commissioners commissioned

under any contract based on the NHS Standard Contract is not expected to exceed £200,000"

All providers of NHS-funded healthcare services (other than primary care) except "small providers" will be expected to collect, analyse and publish relevant workforce data in respect of their staff providing NHS services.

Paragraph 7.2, states:

"All Commissioners of NHS services will be expected to have due regard to NHS Standard Contract and to use the Standard (and the Equality Delivery System) themselves.

3.4 Assurance and reporting systems

The Technical Guidance summarises the milestones as follows:

Milestone	Activity
April 1st 2015	Baseline date for comparison with April 2016
July 1st 2015	Publication of 1st April 2015 data including identification of any shortcomings and plans to address them
April 2015 – March 2016	Work to start to address any data shortcomings and to understand and address shortfalls identified by the WRES indicators
April 2016	Baseline date for comparison with April 2015
1st May 2016	Baseline data to March 31st 2016 should be published to Commissioner (for providers), on Trust web site and shared with Board and staff It should include steps underway to address key shortcomings in data, or significant gaps between the treatment and experience of white and BME staff.

The Technical Guidance issued to NHS providers required NHS Providers to provide to commissioners an initial baseline report on their initial data for the nine WRES indicators for April 2015 no later than July 1st 2015.

The Technical Guidance Para 10.4 states:

In the first **Annual Report to Commissioners in April 2016**, organisations will want to set out their own assessment of the challenge and risks they face

in closing the gaps between the metrics for White and BME staff, alongside their plans to close whatever gap between the treatment and experience the data reveals. http://www.england.nhs.uk/wp-content/uploads/2015/04/wres-technical-guidance-2015.pdf

Providers are expected to publish each annual report and the baseline data, as a stand- alone report on their website and CCGs are expected to publish that report on their own web site. CCGs and providers will note that the NHS Standard Contract states:

'SC28.5 The Provider and each Commissioner must ensure that any information provided to any other Party in relation to this Contract is accurate and complete'.

In doing so, both provider and commissioner will want to ensure that all data provided meets the Nolan Principles https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2 ; some of which is helpfully summarised in the **NHS Commissioning Board: Standards of Business Conduct:**

The Code of Conduct and Code of Accountability in the NHS (second revision July 2004) sets out the following three public service values which are central to the work of the NHS CB:

- **Accountability -** everything done by those who work in the NHS must be able to stand the test of parliamentary scrutiny, public judgements on propriety and professional codes of conduct.
- **Probity** - there should be an absolute standard of honesty in dealing with the assets of the NHS: integrity should be the hallmark of all personal conduct in decisions affecting patients, officers and members and suppliers, and in the use of information acquired in the course of NHS duties.
- **Openness** - there should be sufficient transparency about NHS activities to promote confidence between the NHS CB and its staff, patients and the public.

1.4. In addition, all individuals within the NHS Commissioning Board must abide by the Seven Principles of Public Life as set out by the Committee on

Standards in Public Life and set out at Appendix A of this policy. http://www.england.nhs.uk/wp-content/uploads/2012/11/stand-bus-cond.pdf

4 The WRES and EDS2

The Equality Act 2010 ascribes protection to nine protected characteristics. The nine protected characteristics are: age; disability; gender re-assignment; marriage and civil partnership; pregnancy and maternity; race (including nationality and ethnic origin); religion or belief; gender sexual orientation. The Equality Delivery System (EDS2) is designed to help local NHS organisations, in discussion with local stakeholders, to review and improve their performance for patients, communities and staff in respect to all characteristics protected by the Equality Act 2010.

The Workforce Race Equality Standard seeks to tackle one particular aspect of equality – the consistently less favourable treatment and experience of the Black and Minority Ethnic (BME) members of the workforce. It draws on new research about both the scale and persistence of such disadvantage and the evidence of the close links between discrimination against staff and patient care. Details of some of this research can be found at http://www.england.nhs.uk/ourwork/gov/equality-hub/equality-standard/the-challenge

The Standard and EDS2 are complementary but distinct. The indicators used in the Standard, and the progress made in closing them, will assist organisations implementing the EDS2. Though the progress reports on the Standard and EDS2 will be made separately, local NHS organisations will want to check how the data published for the Standard can assist and align with EDS2, and in particular with the outcomes under EDS2 Goals 3 and 4. http://www.england.nhs.uk/wp-content/uploads/2013/11/eds-nov131.pdf

Both the Standard and EDS will assist organisations in meeting their Public Sector Equality Duty requirements. It will be for local organisations to decide if the reporting dates for EDS2 and the Standard are the same, but if they are, the reports should be made separately. Further information on the Equality Delivery System is available here: http://www.england.nhs.uk/ourwork/gov/equality-hub/eds/

5 Other protected characteristics and the WRES

The Equality and Diversity Council (EDC), which provides visible and robust leadership on equality and diversity across the NHS, regards **all** aspects of workforce equality as important. NHS England is promoting a number of initiatives to address other protected characteristic including, in the first instance, supporting additional research and work on sexual orientation, disability and gender. EDS2 itself seeks to focus on all protected characteristics. If successful, the approach used for the Workforce Race Equality Standard may be adapted for other equality strands, so that over time, workforce equality can be progressed across all characteristics given protection under the Equality Act 2010.

Some CCGs already collect, analyse and publish data on other protected characteristics and all CCGs may find it helpful to do the same in preparation for any future extension of the standard to other protected characteristics.

6 So what should each CCG do in respect of the providers (other than "small providers") that they act as commissioners for prior to April 1st 2016?

All commissioners should:

- Be familiar with the Technical Guidance on the Workforce Race Equality Standard to be found at http://www.england.nhs.uk/wp-content/uploads/2015/04/wres-technical-guidance-2015.pdf ;
- If you have any queries, please write to england.wres@nhs.net
- Before July 1st 2015 write to all your providers asking for confirmation that, in accordance with the WRES Technical Guidance, they will be publishing their base line data for April 2015 by July 1st and sending you a copy and the web link. Remember this includes all providers, including NHS, voluntary sector and private, other than "small providers" and primary care;

The baseline report should include a narrative setting out the provider's plans to tackle specific metrics and identify what steps the provider is taking to improve the

likelihood of their success, such as steps to improve levels of self-reporting of ethnicity. A recommended WRES Reporting Template 2015 is available.

Please note:

- This template is a voluntary one though you may wish to encourage providers to use it;
- During 2015-16 you should ask for at least one interim report from each provider on the steps being taken to address specific metrics and otherwise improve their approach to race equality;
- Ahead of May 1st 2016 you should write to each provider reminding them that they are required to publish an online annual report on progress in implementing the WRES no later than May 1st 2016.

During 2015-16 the Technical Guidance summarises the CQC's approach as: "From April 2016 onwards, progress on the Standard will always be considered as part of the "Well led "domain in CQC inspections. The CQC is actively working to both apply the Standard to its own employment practices and to be prepared ahead of April 2016 to include inspection of progress against the Standard in its inspection schedule. NHS trusts are not inspected every year. In 2015-16 the CQC will be piloting its approach to using the WRES Standard in inspections. Trusts inspected in 2015-2016 will also be asked how they are developing plans to address any issues arising from the WRES Standard data. In line with CQC current practice, including published key lines of inquiry and ratings characteristics for the well-led domain, race equality for staff may be considered during inspections in 2015-16 where there are particular reasons to do so."

- If during 2015-16 any provider receives an inspection from the CQC and issues in respect of the provider's readiness to implement the WRES, or any other concerns relating to workforce race equality are raised by the CQC, the CCG may well ask the provider to set out its plans to respond to any such shortcoming and/or provide a copy of such information sent to the CQC
- In some areas, CCGs and Provider Trusts are working well together to address the Workforce Race equality Standard. Further details of how such

work is being developed will be provided in the near future through the WRES Good Practice/ Case Studies Template being developed for the NHS England Equality & Health Inequalities Knowledge Hub.

6.1 The role of Commissioning Support Units (CSUs) in supporting the Clinical Commissioning Groups (CCG) s to implement the WRES.

Commissioning Support Units provide a range of support services to CCGs and can play an important role in ensuring that CCGs successfully carry out their obligations in respect of the Workforce Race Equality Standard. Below are three examples of various approaches being developed by CSUs in implementing the WRES.

Example 1

At least one CSU has asked to pilot an approach in their region which involves aggregating the data for the CCGs, for which they have responsibility. The intention is that by aggregating individual CCG workforce data, as part of their support for and assurance role with CCGs, would enable them to assist CCGs by identifying regional workforce trends within CCGs own workforces, that might not be apparent (or possibly to identify) by scrutiny of individual small CCGs.

Example 2

Another Commissioning Support Unit has developed a useful pro forma for use with their CCGs.

Employment-related actions to improve patient access, experience and health and wellbeing outcomes
Have you prepared (subject to DPA considerations) and shared with the Commissioning Support Unit: 1. Equality analysis of the workforce profile and organisational leadership, compared with a relevant population (including relevant metrics from the WRES) 2. Equality analysis of recruitment and other employment matters (including relevant metrics from the WRES) 3. Workforce diversity targets e.g. in terms of senior leadership and board membership 4. Staff survey: results for key equality-related questions, such as the level of compliance with E&D training requirements 5. Staff survey: equality analysis of key staff experience questions, such as experience of violence, harassment, bullying and discrimination (including

Employment-related actions to improve patient access, experience and health and wellbeing outcomes
relevant metrics from the WRES) 6. Details of policies and programmes in place to address equality concerns in the workforce

Example 3

In another CSU, consideration is being given to the fact that for large numbers of CCGs the number of BME staff is too small to register on the NHS staff survey (for Data Protection Act reasons). They are considering whether it would be useful to look at how to gather the essential views of BME staff within those CCGs to inform policy – for example through a confidential BME staff survey aggregated across the CCGs as a whole.

7 Further resources

A range of resources on the Workforce Race Equality Standard (WRES) are available at **http://www.england.nhs.uk/ourwork/gov/equality-hub/equality-standard**

For further information or enquiries please contact us on: england.wres@nhs.net

8 Appendix 1: Example monitoring report for a Clinical Commissioning Group

(Not using the WRES Reporting Template since developed)

CCGs are required to have "due regard" to the WRES in respect of their own workforce. It is recognised that the small size of many CCGs means that a literal application and interpretation of the indicators should be approached with caution but following the principles set out on page 10 section 2.2.2 (The Brown Principles). CCGs should pay due regard to the WRES both as an indication they are complying with their Public Sector Equality Duty and in order to demonstrate that as commissioners they also take the intent of the WRES seriously. The following extracts from this report from North Somerset CCG is an example of how even a small organisation can take its own workforce equality seriously.

Abstract from North Somerset CCG report

Workforce Equality Monitoring Report: 1st April 2013 to 31st March 2014

North Somerset CCG *employed 56 people on 31st March 2014. This total includes Governing Body members who do not have a standard contract of employment but are remunerated as contractors. For convenience, such individuals are treated as employees in this report. The report is organised into the following sections:*

1. *Workforce profile as at 31st March 2014*
2. *Recruitment monitoring: 1st April 2013 to 31st March 2014*
3. *Leavers: 1st April 2013 to 31st March 2014*
4. *Conclusions and recommendations*

Generally speaking, the information on which this report is based has been given voluntarily by individuals when applying for a post with the organisation. This information is recorded on the NHS Jobs recruitment database. Once an applicant is appointed, the information is transferred onto another database, the Electronic Staff Record.

Due to the small numbers involved, it is important to treat the percentages given with some caution: a small change in number could lead to a large change in the percentage.

During 2013-2014, there were 161 job applicants to the CCG, 22 of whom were shortlisted for interview. There were 20 new starters during the year, which has been used as a proxy measure for the number of shortlisted applicants who were appointed.

Recruitment success of job applicants by ethnic origin

There is insufficient information to analyse the comparative success of different ethnic groups in being appointed following shortlisting and interview. This is because 60% of new starters chose not to disclose their ethnic origin (see the chart below). This varied by occupational group: for clinical leads, the rate of non-disclosure was 100%; dropping to about 30% for Governing Body members and all other employees.

Source: NHS Jobs

Looking at the shortlisting success rates, White British applicants were disproportionately likely to be shortlisted for interview during the year (making up 70% of applicants and 86% of shortlisted candidates). White Irish and Other White applicants were the next most successful group (10% of applicants and 9% of shortlisted candidates). At 10%, the proportion of applicants is much higher than the 3.8% representation of this group in the 2011 National Census.

Although Black and Minority Ethnic (BME) communities make up just 2.9% of North Somerset's working age population (2011 National Census), BME applicants to the CCG made up 14.1% of the total. Their success rate was comparatively poor, however, only 4.5% being shortlisted for interview.

Conclusions and recommendations

The high proportion of new starters and current employees for whom equality information is not recorded suggests that the system of recording should be looked at, in particular with regard to clinicians and Governing Body members. Is it the case that this information is not being requested, are people preferring not to say or is the information being given but not recorded?

***Recommendation:** Take steps to improve the gathering and recording of equality profile information, with a focus on:*

- *The ethnic origin, disability status, sexual orientation and religion or belief of current employees registered on the Electronic Staff Record*
- *The ethnic origin, disability status, sexual orientation and religion or belief of new starters*
- *The ethnic origin and disability status of leavers*

It is a concern that no CCG employees or new starters identified themselves as Black or Minority Ethnic, in an area where the local Black and Minority Ethnic working age population is estimated at 2.9% of the total. It is also a concern that, whilst 14.1% of applicants to the CCG came from BME communities, only 4.5% of shortlisted applicants came from these communities.

Some work is required to uncover the causes of these discrepancies. As with the rest of the NHS, part of the reason will be that applicants with no right to work in the UK, many of whom will identify as BME, are automatically excluded from being shortlisted.

The CCG takes measures to prevent personal characteristics, such as race, being considered in the shortlisting and interview processes; e.g. shortlisters do not see the part of the online application form which asks for this information. However, this does

not prevent applicants from revealing such information in the "additional information" section of the form; neither does it prevent shortlisters from making assumptions based on applicants' qualifications, place of study, previous employers, etc.

Recommendation: *The CCG should review the value being placed on ethnic diversity throughout the recruitment process, including: the way person specifications are written; the way equality and diversity related competencies are weighted and assessed at interview; the way interview feedback is targeted towards particularly unsuccessful groups; and whether targeted support is available to North Somerset residents interested in applying for public sector posts.*

With 13% of the working age population having a limiting long term illness, it is disappointing that the application rate for disabled applicants is only 6.2%, with a shortlisting rate of only 4.5%.

Recommendation: *Further work is warranted to compare these recruitment figures with similar organisations in the NHS and the wider public sector.*

Recommendation: *The CCG should apply for the disability "Two Ticks" standard, as a means of ensuring that any recruitment barriers for disabled people are identified and addressed.*

The proportion of applications from the following groups also appears to be lower than expected: lesbian, gay, bisexual, younger and older people.

Recommendation: *The CCG should consider the possible implications of not recruiting proportionately from these groups and decide on any remedial action required.*