NHS England

Frequently Asked Questions on the Workforce Race Equality Standard (WRES) Updates

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Description	The WRES FAQs update document aims to provide support and guidance to the WRES Technical Guidance on the implementation of the WRES and the Supplementary Technical Guidance for Clinical Commissioning Groups . The Updated WRES FAQs July 2015, provides an answers to the key questions asked at the regional WRES Workshops which took place from March 2015 until June 2015. Over the coming months NHS England 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.
Cross Reference	WRES Technical Guidance (March 2015); WRES FAQs (March 2015); WRES Updates (January - May 2015); Supplementary Technical Guidance for Clinical Commissioning Groups (CCGs) on Workforce Race Equality Standard
Superseded Docs (if applicable)	N/A
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Document Status

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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.

Version	Date Published	Changes Made
WRES FAQ 1	October 2014	On NHS Leadership Academy website
WRES FAQ 2	March 2015 Updates	NHS England website with changes and updates
WRES FAQ 3	July 2015 Updates	NHS England website with updates

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Frequency Asked Questions (FAQs) Workforce Race Equality Standard Updates: July 2015

Q1: Why should we believe the approach of the Workforce race equality Standard is going to be more successful than the previous attempt to improve race equality in the NHS – the Race Equality Action Plan 2004?

A:We know that there are six evidenced based steps to implementing change within the race equality agenda, Leadership, Measurable Outcomes, Communications, Role models, Resources and Celebrations of success. The Workforce Race Equality Standard is supported at the highest levels of the NHS and for the first time, paying attention to workforce race equality is mandatory for NHS providers, who must pay attention to the race equality metrics and put systems and processes into place in order to equalise the experiences of black and white staff in the service.

Q2: Will the Implementation of the Standard be evaluated?

A: The Workforce Race Equality Standard (WRES) was agreed by the Equality and Diversity Council (EDC) and the Council has agreed to Strategic Advisory Group taking responsibility for the implementation of the WRES. At the first meeting of the group it was decided that evaluation of the work done around WRES would be undertaken and we hope that will commence in the near future.

Q3: Can you distinguish between positive action and positive discrimination?

A: Positive discrimination. Positive discrimination means treating one person more favorably than another on the ground of that individual's sex, race, age, marital status or sexual orientation. While, in this situation, the individual's characteristic is being taken into account to benefit that individual, typically because that individual belongs to a group that is often treated unfairly or under-represented in the workforce, this is nevertheless unlawful discrimination. An exception to this principle is in the context of disability discrimination where it is permissible and, in some circumstances even necessary, to treat disabled employees more favorably than non-disabled staff. Another exception is where positive discrimination can be justified as a "genuine occupational requirement" or "qualification".

Positive action. In contrast to positive discrimination, limited forms of "positive action" are permitted under all strands of the Equality Act. Employers are allowed to offer disadvantaged groups access to facilities for training and can encourage job applications from under-represented groups. However, they are not permitted to discriminate in the selection of candidates for employment or promotion or the terms and conditions on which they are employed. Employers must also ensure that before committing to positive action they have evidence to show that the targeted group is under-represented within the workforce or is likely to have a particular disadvantage in taking up or doing that type of work. The evidence for the use of positive action initiative for BME employees is overwhelming.
http://www.timeshighereducation.co.uk/404799.article

Q 4: Is there going to be a model template for reporting that we can use?

A: A model template for reporting has been developed and is available on the following link: http://www.england.nhs.uk/ourwork/gov/equality-hub/equality-standard/ Providers can use the template or develop their own.

Q 5: When is further guidance for Clinical Commissioning Groups (CCGs) being issued?

A: The additional guidance for CCGs is in draft form and should be available by the end of July 2015.

Q6: Our Trust seems to be putting most of its effort into unconscious bias training. Is this a good approach?

A: Unconscious bias is a term used to describe the associations that we all hold which, despite being outside our conscious awareness, can have a significant influence on our attitudes and behaviour. Regardless of how fair minded we believe ourselves to be, most people have some degree of unconscious bias. This means that we automatically respond to others (e.g. people from different racial or ethnic groups) in positive or negative ways. These associations are difficult to override, regardless of whether we recognise them to be wrong, because they are deeply ingrained into our thinking and emotions.

Acknowledging and taking responsibility for unconscious bias is not just a moral imperative, it is also financially and reputationally important. Healthcare organisations should pay attention to the impact of unconscious bias on members of the workforce.

Unconscious bias refers to a bias that we are unaware of, and which happens outside of our control. It is a bias that happens automatically and is triggered by our brain making quick judgments and assessments of people and situations, influenced by our background, cultural environment and personal experiences.

In short this can be a helpful approach but should certainly not be the only approach to ensuring disciplinary, recruitment, promotion and other employment practices are fair and do not discriminate.

Q7: What support can an individual trust expect to get?

A: All organisations can access support from the NHS England WRES website for technical guidance, FAQs and newsletters.
http://www.england.nhs.uk/ourwork/gov/equality-hub/equality-standard/

There have also been workshops across the country outlining and highlighting the importance of the WRES and what organisations should be considering in order to implement it.

Organisations might seek to find help from other organisations that have been identified as developing best practice in this area and of course their own BME workforce is a rich source of support and help on this agenda.

Q8: Why do we think the WRES is likely to work?
A: All providers of NHS services operating under an NHS Standard Contract, other than those organisations classified as a 'small provider' for the purposes of the contract, must implement the WRES. For the purposes of the contract, a 'small provider' is 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'.

Under the WRES Technical Guidance (March 2015) providers must publish their baseline data on their websites and through a report to their commissioners by July 1st 2015. The CQC will also be expecting organisations to implement the WRES and will question compliance as part of the 'well led' domain. The CQC is already asking organisation they inspect ahead of April 2016 about their readiness for April 2016. Work is underway to establish the best way to benchmark the progress provider organisations are making and publish it. We are confident the combination of the requirements in the NHS Standard Contract, CQC inspection against the "well-led domain" and transparency through publication makes this work something Boards will make sure they pay attention to. It is in clear contrast to previous initiatives which have been voluntary with no requirement to publish measurable progress.

Q9: Are there early signs of progress?

A: There are some organisations that have been focusing on race equality for some time and have made progress with regards to race equality. A recent NHS Employers publication entitled *Leading by example: the race equality opportunity for NHS provider boards* http://www.nhsproviders.org/resource-library/the-race-equality-opportunity-for-nhs-provider-boards/ has some examples of best practice in this area in it. We are also keen to develop a repository of best practice nationally. The important thing is that race equality is now back on the agenda and being talked about.

Q10: How do we engage with disillusioned BME staff?

A: It is important that staffs from BME backgrounds are included in any developments with regards to this work. In order for staff to engage with the organisation they need to feel included and valued. The evidence is that BME staff are keen to support organisations with this work and talking to them and including them in plans for improvement would be a good place to start.

http://www.leadershipacademy.nhs.uk/resources/inclusion-equality-and-diversity/ this document jointly produced by the RCN and NHS Leadership Academy gives a step by step guide to organisations with regards to how to go about working with Staff on this agenda.

Q11: What materials are available to support the work of implementation?

A: These are just a few documents that will help support the work you are doing. There will be more posted on the NHS website as they become available:

http://www.nhsproviders.org/resource-library/the-race-equality-opportunity-for-nhs-provider-boards/
http://www.england.nhs.uk/ourwork/gov/equality-hub/equality-standard/
http://www.leadershipacademy.nhs.uk/resources/inclusion-equality-and-diversity/

The repository of good practice will be developed over coming months.

Q12: What is the position of agency and self-employed Staff?

A: Employees of provider organisations, whether they are private sector, voluntary sector or directly employed NHS staff are included in the contractual, inspection and reporting aspects of the Workforce Race Equality Standard. However agency staff will not be included in the employee numbers for such organisations so are not counted in their workforce analysis.

Q13: What about contracted out staff?

A: If the provider's contracted out staff are working for an organisation providing services under the terms of the NHS Standard Contract, then they are included in the contractual, inspection and reporting aspects of the Workforce Race Equality Standard as employees of that organisation. Incidentally, all organisations providing services under the terms of the NHS standard contract (except 'small providers') are required to carry out staff surveys.

Q14: Can Trusts use staff survey data other than the NHS national staff survey data?

A: No. Provider organisations should only base their Workforce Race Equality Standard reports on the NHS staff survey questions. Organisations are able to carry out their own surveys but not instead of using the NHS staff survey questions and responses. There are two reasons for this. Firstly, the Indicators specifically refer to staff survey questions. Secondly, and this is especially, those cases where there are a small numbers of staff, internal surveys are much more likely to be regarded with caution by staff who may believe they can be identified on an internal survey but not on an external national survey.

If organisations wish to add a narrative based upon more detailed analysis of workforce or survey questions that is absolutely fine and doing additional surveys may be helpful. But they cannot influence your report on whether the Workforce Race Equality Standard Indicators show the gap between white and BME treatment and experience is improving.

Q15: Can you clarify the position on the Data Protection Act where disclosure of very small numbers might lead to disclosure of individuals?

A: In some organisations, the numbers of BME staff employed are relatively small. That does not mean organisations should not analyse the data and report on its implications and what steps should be taken to address gaps between the treatment and experience of white and BME staff. 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, 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, wider publication of very small numbers in any of the Indicators may well not be appropriate as it may enable the identification of individuals.

It would not be expected that this consideration would apply to the disclosure of the ethnicity (white or BME) of Board members, since in most Trusts their names and pictures are published and the Board may well regard it as being in the public interest to publish such data.

Q16: What are the expectations of providers by May 2016?

A: By May 1st 2016, providers are expected to publish the following:
A report showing progress between the April 2015 baseline and the April 2016 reporting date against each indicator.
A strategy setting out the steps to address progress that required to comply with the Workforce Race Equality Standard.
Publish the report on their web site and provide it to their Co-ordinating Commissioner, having secured Board sign off.

The WRES Reporting template which is now available on the NHS England web site is a voluntary one but organisations may find it helpful to adopt it.

Q17: Can compliance with the WRES be placed on our organisational risk register?

A: It would make sense to do so. Implementing WRES is a contractual requirement under the NHS Standard Contract (other than for 'small providers') and will be inspected against - an issue that should trigger Board discussion.

Q18: What about healthcare organisations that have no NHS contracts?

A: Providers of NHS services operating under an NHS Standard Contract, other than those organisations classified as a 'small provider' for the purposes of the contract, must implement the WRES (please see Q8 above). Organisations whose total NHS contracts do not total £200,000 in any one contracting year are not obliged to implement WRES, but may do so if they wish, in the interests of best practice.