Equality Impact Assessment/Analysis

Supporting Notes

Last Reviewed September 2015

Contents

ACRONYMS

BME	Black & Minority Ethnic
CIA	Carers Impact Analysis – now incorporated into EIA
E&DO	Equality & Diversity Objectives
EIA	Equality Impact Analysis
EO	Equality Objective
F&Q	Finance & QIPP Committee
HCCG E&D	Hillingdon Clinical Commissioning Group Equality and Diversity (Objectives)
HCCG	Hillingdon Clinical Commissioning Group
PPIE	Public Patient Involvement and Equality (Committee)
PSED	Public Sector Equality Duty or 'the Equality Duty'
QSCR	Quality, Safety and Clinical Review (Committee)
'Scheme'	Service, policy, pathway, specification etc. being considered that warrants an EIA.

(N1) What is this document and how to use it?
These Guidance Notes accompany Hillingdon Clinical Commissioning Group's (HCCG) Equality Impact Assessment (EIA) form as part of the Equality Impact process. (Carers Impact Analysis is now incorporated in EIA.) A Quality and Safety Impact and Systems Impact are also included in the EIA form. HCCG's Equality and Diversity Objectives (revised 2015) (N2 'Snap Shot') have also been included for reference.

Any change of service (commission, re-commission/redesign, de-commission), policy, strategy or other substantial set of decisions made by HCCG or one of our partners using CCG funding that may affect the population of Hillingdon must be examined for any impact on equality, and if there is a risk of negative impact on any 'protected' group HCCG must consider whether and how to take mitigating actions.

This document aims to give helpful background and reference materials for the substance of EIA. '(N*)' is used in the EIA form to show there is material in these notes that might help. (Process hints are only included in the form.)

These notes are intended to be a useful resource for HCCG staff; if you have something to add that colleagues might find useful please send it to the CCG's Patient and Public Engagement lead to include or attach.

There are 2 variations of EIA format with the same intention:

- Brief EIA (Incorporated into Summary Business Case)
- Full EIA (A Stand Alone Document)

Both start from the same principles with the 'full' EIAs having greater depth. See N8 below.

(N2) Hillingdon Clinical Commissioning Group (HCCG) Equality and Diversity Objectives
The following is a snapshot of the Equality & Diversity Objectives for HCCG.

HCCG Equality and Diversity Objectives (Revised and renumbered 2015)	PSED	+ve Action
Stakeholder-based		
1. **Hillingdon People:** Enable and ensure all people, patients and carers in Hillingdon (across all nine protected characteristics and intersections) have equal access to engagement processes and are effectively involved the design and quality of HCCG commissioned services.	1,2,3	3
2. **HCCG Staff:** To reduce health inequalities in Hillingdon and address possible and actual risks of health inequality, support staff to identify, design, commission and procure equitable services for all, including mitigating actions where there is a risk that commissioning or decommissioning services may have a negative impact on any equality population in Hillingdon.	1,2,3	
3. **HCCG's Governing Body** will ensure HCCG's work is making progress towards eliminating discrimination, ensuring equal opportunity for all and fostering good relations by ensuring equality analysis and review processes are in place, drawing on sound evidence, and used effectively in HCCG decision-making eg. good quality Equality Impact Analysis (EIA) is used effectively throughout the organisation.	1,2	
Characteristic / Equality Population–based Positive Action		

4. **Identify populations at risk in Hillingdon:** HCCG staff and Governing body together will draw on sound evidence from available sources to identify populations at risk of or facing health inequality in Hillingdon and prioritise positive actions to reduce inequality and mitigate risks of further inequalities that have been identified through EIAs.	1,2,	1,2,3,
5. **Population – BME children U5:** Ensure that Black and Minority Ethnic (BME) children under the age of 5 have improved benefits from taking up appropriate healthcare services and/or self-care management for the treatment of minor conditions and ailments, by empowering and educating their parents and carers to identify and utilise the full range of available services in Hillingdon. (Age/Race)	1,2	1,3,
6. **Population – BME Young people and adults and mental health:** Reduce crisis admissions of young people and adults from Black Minority and Ethnic (BME) populations in Hillingdon to acute Mental Health beds under the Mental Health Act. (Age/Race/Disability)	1,2	1,2,3
7. **Population – all Carers:** To increase support available for carers of all ages and with all protected characteristics. (Disability-Carers/All)	1,2	1,2,3

Key

Public Sector Equality Duty (PSED)	Positive Action (+ve Act)
1 Eliminate Discrimination,	1 Address disadvantage,
2 Ensure Equal Opportunity,	2 Serve Different needs,
3 Foster Good Relations	3 Enable Participation

More in-depth information about selected Equality Objectives for the CCG are provided in N14.

(N3) Why do an EIA?

An EIA is done to help HCCG tackle health inequalities in Hillingdon. It is a prompt and checklist-based process by which staff and those with governance responsibilities review data and identify issues that might need closer attention. It helps to:

- Collate and present expertise and knowledge from multiple sources, in a format that also presents evidence;
- Identify and forewarn HCCG staff, providers and Governing Board of risks that certain priorities, design or realisation might disadvantage some groups of people in Hillingdon even though others benefit;
- Clarify responsibilities, as the responsibility for ensuring effective EIA and ongoing review sits with the Governing body, and EIAs are approved through HCCG governance structures and procedures;
- Provide a public record and create an opportunity for wider awareness and engagement in HCCG's activities to tackle health inequalities in Hillingdon.

This EIA process gives staff and HCCG as a whole the opportunity to lay out evidence that makes the case for HCCG decisions about actions relating to equality, including actions to mitigate the risk of negative impacts and positive actions to tackle inequality proactively.

An EIA which **shows risk of a negative impact** is the first step to justifying positive action.

If no risks are identified but at a later stage it emerges that some groups were disadvantaged, there is a possibility that **HCCG might be seen to have discriminated** against them.

By identifying and then tackling an issue - such as late presentation or low compliance rates - where there is evidence that one or more groups of people protected by the Equality Act 2010 are disproportionately represented, there are not only health improvements but potentially longer term financial benefits too.

Finally, good equality analysis used to assist the design and delivery of responsive, grounded, accessible services and communications is likely to benefit the whole population of Hillingdon.

The EIA is part of HCCG's statutory obligations under the Equality Act 2010 (See HCCG E&D Objectives).

(N4) Public Sector Equality Duty (PSED) also 'the 'Equality Duty' (Equality Act 2010)
The Equality Act 2010 requires all Public Authorities, including Clinical Commissioning Groups (CCGs) and any **provider** to a CCG to pay 'Due Regard' to 3 key aims:

1. Eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited by the Act.
2. Advance equality of opportunity between people who share a protected characteristic and those that do not.
3. Foster good relations between people that have protected characteristics and those that do not share them.

HCCG must consider equality implications in its commissioning cycles, from strategic planning to procurement as well as during monitoring and evaluation.

The Equality Duty **cannot be delegated**. Therefore although a provider is bound by the Equality Duty, if the provider does not fulfil that Duty then HCCG is still held accountable.

(N5) EIA Governance and Responsibilities in HCCG
The overall scheme authority within the CCG is deemed to comprise the SRO (Senior Responsible Officer) who is normally a CCG Manager and the CRO (Clinically Responsible Officer) who is normally a Governing Body GP. The EIA should be produced and agreed by both the SRO and CRO before being submitted.

Overall responsibility for the approval and review of an EIA for a scheme lies with the CCG's QSCR and PPIE Committees.

Overall responsibility for the design and approval of the EIA form lies with the CCG's Governing Body. The design should link to the CCG's E&D Objectives and annual PSED Evidence Report.

(N6) Protected Characteristics/Criteria/Categories
Certain characteristics are identified in the Equality Act 2010 that many people have and that they cannot change, and which have been used deliberately to discriminate against those groups of people. The Equality Act 2010 protects individuals and groups of people ('populations', 'equality populations' or 'protected population') from **direct discrimination**. Direct discrimination – sexism, racism, homophobia etc. – still exists throughout the UK today. Sometimes it stems from hostility, sometimes from assumptions and lack of awareness in face to face interaction. Wherever people interact directly there is a risk of direct discrimination.

Existing social, economic and political structures are often harder for people with these **'protected' characteristics** to make good use of. The long term impact of unequal structures can be entrenched disadvantages such as poverty, insecurity, low confidence, poor health and less effective access to health services than people would have or would have had if they did not have those 'protected characteristics'.

Even where not deliberate, schemes and structures that have not been thought through carefully with protected populations in mind can easily result in accidental or **indirect discrimination** that perpetuates inequalities and disadvantages. Plans for, design of and realisation/delivery of service priorities, awareness raising and public education, eligibility criteria and design of access structures, ongoing interaction and engagement, representative structures and communication channels that HCCG might be considering need to be examined for any risk that they might accidentally or indirect discriminate against people with any combination of protected characteristics.

Health professionals are also concerned about some populations which are not explicitly named in the list of nine characteristics eg. carers and refugees. However they may be included under one or more of the characteristics (eg. carers are 'associated' with disability and therefore protected).

Other concerns include poverty, low educational attainment, post code, but as poverty and these others are often the end result of longer term disadvantages and exclusion/discrimination connected with protected characteristics, good quality equality analysis (using an EIA) will go some way to addressing this.

The Act protects people with any combination of the nine protected characteristics and those associated with them:

Characteristic		Examples
1	**Age**	Under 5, young people, older people, age used as a criteria for eligibility.
2	**Disability**	Learning Disability, Mental ill health, Long term and chronic conditions, HIV, Sensory eg. Blind/visually impaired, Deaf, Mobility. Also protects *Carers* as they are associated with disabled persons.
3	**Gender Reassignment**	Pre- and post-operation, Trans-sexual, 'Trans', transgender.
4	**Marriage & Civil Partnership**	Protecting people in civil partnerships from being treated less well than people who are married.
5	**Pregnancy & Maternity**	
6	**Race**	Colour, nationality (including citizenship), ethnic origins and national origins. Protects foreigners, migrants, refugees.
7	**Religion & Beliefs**	Sincerely held belief where person is observant, includes atheism and philosophical or political beliefs.
8	**Sex**	Female, Male
9	**Sexual Orientation**	Lesbian, gay, bisexual, heterosexual.

When looking at a characteristic you can look at specific sub-groups with that characteristics, and also combinations eg. older Sri Lankan women with long term mobility impairments (See following page). The HCCG EIA and equality monitoring forms include some breakdown eg. Sexual orientation: lesbian, gay, bisexual, heterosexual. The sub-groups pre-listed in the HCCG EIA are based on the size of populations in Hillingdon (2011 Census), but you should use the best breakdown for your scheme which might be different. For your scheme it might also be especially important to look at intersections, eg. regarding HCCG's E&D Objective 7 "To increase support available for carers of all ages and with all protected characteristics" EIA relating to carers would need to look at the diversity of 'Carers' by analysing 'Carers' as a population with reference to each of the 9 characteristics, eg. male carers, female carers, black African carers, gay older carers.

(N7) Matrix of Equality Characteristics and Intersections

Age		Disability					Gender Reassign-ment	Marriage & Civil partner-ship	Pregnancy & Maternity	Race			Religion & Belief	Sex		Sexual Orient-ation	
Younger	Older	LD	Mobil ity	Deaf	Blind	Mental health				White Engl Scot Irish Welsh	British BME	New Migrnt		F	M		
	Age Y																Age
	Age O																
						Disability LD											Disability
						Disability Mobility											
						Disability Deaf											
						Disability Blind											
						Disability Mental H											
							Gender Reassig										Gender Reassig
								Marriage & Civil P									Marriage & Civil P
									Pregnancy & Maternit								Pregnan & Matern
												Race ESIW					Race
												Race Brit BME					
												Race NM					
													Relig & Belief				Relig & belief
															Sex F		Sex
															Sex M		

(N8) Criteria for "Brief" or "Full" EIA
There are 2 compatible variations of EIA form with both based on the same principles:

Brief EIA: Embedded within the Summary Business Case and can be a step towards a Full EIA. A Brief EIA might be sufficient in some situations but a Full EIA should be seen as the norm.

Full EIA: Should always be completed when the scheme is or involves:

- ☐ Positive Action
- ☐ Large Business Case (>£100k total investment)
- ☐ Decommissioning a Service
  or
- ☐ Where there is Insufficient detail in Brief EIA

If the scheme doesn't tick one of these boxes you or the PPIE/QSCR Committees might still require a Full EIA if any of the following is a concern:

- If the service is closely associated with population known to be dominated by specific equality characteristics, eg. sex, sexual orientation, age.
- The need to show Due Regard to Equality.
- Previous concerns about EIA/Equality relating to this service.
- Brief EIA shows risk of or actual impact that requires further consideration of mitigating actions or might justify considering positive action

(N9) Positive Action
As long as all decisions and actions can be **justified with valid evidence**, CCGs and any Public Authority can take 'proportionate' or reasonable **positive action** to help eliminate discrimination, ensure equal opportunity and foster good relations. If HCCG, based on sound evidence, considers that some people in Hillingdon who share a protected characteristic:

(a) Suffer a disadvantage connected to the characteristic,
(b) Have needs that are different from the needs of persons who do not share it,
or that
(c) Participation in an activity (eg. take up of a health service) by that group is exceptionally low.

HCCG can target actions that treat that group of people more favourably than others in order to reduce inequality and the impact of inequality and discrimination.

Thus, based on evidence HCCG can take positive action to help people:

<u>Overcome Disadvantage</u> Actions that help put right disadvantages that are the result of longer term inequality and discrimination.

<u>Meet their different needs</u> Actions and services that are valuable to that group because of their characteristic even though they are not useful to other Hillingdon populations.

Enable Participation Actions tailored to improve access routes and take up of services for that specific population.

An Equality Impact Analysis which shows risk of a negative impact is the first step to justifying positive action. If no risks are identified but at a later stage it emerges that some groups were disadvantaged there is a possibility that HCCG might be seen to have discriminated against them.

Whether by looking at equality data on a specific condition or in any other way, if you/your team has identified a population that has distinctly worse levels of health or worse experience of a particular health condition, lower take up, poorer compliance, less good outcomes etc. when compared to the wider (global) Hillingdon population, you may be able to make a case for positive action. This includes positive action for Hillingdon populations with combinations or **intersections** of the nine characteristics. For example, if there was evidence of inequality, HCCG could take positive action to enable participation of older Somali women in breast screening.

(N10) Risks and Negative Impact on Equality
Despite aiming for equal services there are many points in any scheme where there are risks of a negative impact on one or more protected populations. Almost all schemes will involve several risks. In the EIA you score the risk of negative impact from 1- 5 where 1 is highly unlikely there is a negative impact and 5 is where there is a definite negative impact, so there is space to acknowledge possibilities and uncertainties, not just serious concerns.

Negative impact is not just when something gets worse for people in a protected population. Even if things don't get worse for a protected group, if the situation gets better for most people but this group's situation and health stays the same, the gap increases and inequality grows. This is a **negative impact on equality** with long term implications for people's health and lives, even if it might not be a negative impact on the individuals at that point. If there is a risk that some groups could get left behind as the overall situation improves for others/the majority that should be flagged up as a risk.

Why you should identify as many risks as possible?
By increasing the number of risks flagged up in the EIA, HCCG staff can:

- Share knowledge and gain wider input to the assessment of risk,
- Through the governance process, share responsibility for deciding whether or not to take additional mitigating actions,
- Alert people in governance structures to areas where HCCG might need to take action or risk facing criticism at a later date,
- Design schemes that work better for people who have been disadvantaged by inequality, improving equality of outcomes and longer term health and equality across Hillingdon,
- Lay ground work and identify issues that might benefit from positive action in the future.

Sometimes a negative impact cannot be avoided. For example if a change of premises becomes necessary people with mobility disabilities living near the original site will be disadvantaged by the change (Score=5). In the EIA it is important to flag this up, and consider if anything can be done to mitigate the impact and if this is not done HCCG may be **seen to have discriminated** against the protected group. However, having identified a negative impact does not mean that the change cannot go ahead.

EIA authors sometimes have doubts about flagging up risks as they are concerned that identifying a risk:

- Undermines the image and value of the scheme being proposed and might make it less likely to be approved.
- Makes them or the organisation look bad, incompetent, uncaring.
- Means the organisation is obliged to act, taking up time and resources for a small group of people, and reducing what is available for the fuller scheme or larger population.
- Adds greatly to workloads because it means having to do more research, new actions, plans etc.

However, not only does accurate equality evidence reporting and careful assessment show competence, understanding of local realities and good quality design; governance bodies need it in order to meet the Equality Duty and avoid future problems that may arise.

As a rough rule, if you have identified fewer than 5 groups at risk take a moment to review your analysis.

(N11) Where risks cannot be eliminated
There are several arenas where it is not possible or at least extremely difficult to eliminate the risk of negative impact. For example:

- Where the scheme brings members of the public into direct contact with each other or at any point where there is scope for individual discretion in decisions about treatment of individuals (eg. eligibility) there is always potential for direct discrimination.

- The long term impact of inequality, creating and entrenching disadvantages for some populations in health, education, confidence, access, knowledge, relationships, poverty, insecurity and more cannot be undone overnight. Such disadvantages undermine individual agency, take-up/access, compliance etc. making it extremely difficult to provide fully equitable services etc. Access structures involve many stages, parties and processes and often demand knowledge (eg. rights, language, locations), confidence, resources (eg. time, transport, energy) and skill from the person who needs to access a service. There is always a risk that very disadvantaged people will not make such good use of opportunities as those with fewer disadvantages.

- Positive action favoring certain populations may lead to overall increase in services, but there is always a risk that it will have a negative impact on other populations that needs to be carefully considered. This is also true for decommissioning which is why a scheme that decommissions a service points toward producing a "Full" EIA.

- Any point where more than one body is involved in a scheme, the lead body – here HCCG - cannot eliminate the risk that other parties might make mistakes that have a negative impact on protected groups. The more bodies involved (eg. providers, agencies, consultants, separate teams) the less control the lead body has over day to day activities and the greater the risk. The Equality Duty **cannot be delegated** and even though each body involved in delivering health services in Hillingdon is bound by the Equality Act 2010, if one or more fail on a scheme commissioned by HCCG, HCCG is still accountable for any negative impact. It is very important that EIA's by HCCG flag up risks in this context and consider mitigating actions.

(N12) Scale of Impact
Consider the scale of the negative impact on individuals and populations to help prioritise risks. Consider how dependent that population is on a particular service, how widespread and deep the need is, whether they have any alternatives available. Also consider the individuals' 'vulnerability' ie. 'ability to withstand shocks'. In other words, if the scheme has a negative impact on their situation can they

cope and how long will it be before they recover to their 'pre-shock' position, if at all. There may be clinical issues to consider.

(N13) Whether to take mitigating actions

Where groups are identified as being 'at risk', HCCG must consider actions to mitigate the risk. If several groups are flagged up, use the score that considers 'likelihood x scale of impact' (both likelihood and scale having a score of between 1 and 5 where 1 is no/low and 5 is high) which will give each a score between 1 and 25 and support prioritisation. Many mitigating actions – eg. monitor equality impact, ensure staff awareness – are about general good practice and will benefit all protected populations and perhaps all the public. But your mitigating actions can include positive actions (see above), ie actions that favour one protected group even though others will gain less or nothing from it.

Considering mitigating actions does **not** necessarily mean HCCG will take those actions, as long as the decision not to act is reasonable. HCCG might also decide mitigating actions cannot be taken at that time but that they will be worked into future plans.

(N14) Appendix A: Extract from HCCG Equality and Diversity Objectives: Action Plan 2015

The following are the relevant extracts from the CCG's E&D Objectives: Action Plan 2015.

EO1 – Hillingdon People

1.1d. If an EIA identifies any equality population as facing inequality, at risk of or negatively impacted in a service, PPIE will consider whether there should be additional monitoring for that population's take up and experience/ satisfaction relating to that service. (See also EO2, EO3)

1.1e. PPIE reviews the Equalities Monitoring data / equality breakdown of patient/ carer experiences (including any specific monitoring resulting from the EIA) six months after a re-commissioned or new service starts and then quarterly as part of the review of the relevant EAI (See EO2).

1.2 c. All EIAs (CIAs) are published, primarily via Hillingdon CCG website

EO2 – HCCG Staff

2.2 Equality Impact Analysis (EIA) and Resulting Actions:

a. All new / re-designed services, business cases/pathways are informed by an EIA.
b. Review and update EIA process and formats by July 2015
c. EIA uses sound data to identify
- the equality profile of people most at need of the service and/or at risk of developing conditions related to the service,
- the equality profile of those using the service, carers, users of different access routes, quality of delivery, patient experiences, unequal health outcomes,
- equality populations at risk of or facing negative impacts from changed services, design, access routes and risks in delivery

d. Where EIA shows inequality or risk of/actual negative impact on people with equality characteristics, mitigating actions or positive actions are always considered, staff consider whether or not to develop an action plan to reduce / eliminate the inequality identified (See

EO4) and whether it is
- desirable to take action, or
- necessary to do so to show 'due regard' under the Equality Duty

and whether there is also a business or QIPP case for action.
e. PPIE reviews staff recommendations regarding whether or not to implement positive and/or mitigating actions.
f. Six months after a re-commissioned or new service starts PPI&E reviews the EIA using equalities monitoring data and other relevant data from the first six months to identify the service' s equality impact (increasing or decreasing inequalities) and whether to revise the EIA and any associated action plans (then quarterly) (See EO1).

2.3 Data and evidence
a. Access and use of Data and Evidence in EIA

- Ensure all Commissioners and relevant staff can easily access and make good use of the wide range of data that is available to HCCG (See App 4), including clarifying range and sources of data, access routes and briefing/training if appropriate eg. use of JSNA.
- All Commissioners and relevant staff use wide range of available Hillingdon, London and national data to ensure sound evidence is used in EIA, Business Case, reviews of quality of delivery ie sound data is used to identify and assess actual inequalities, risk of inequality or negative impact on equality populations in Hillingdon.

2.4b. Ensure new and interim staff receive timely and effective briefing/training on current HCCG Equality Objectives, processes (eg. EIA) and Hillingdon context, and orientation to the opportunities for accessing appropriate data available to HCCG.
2.4c. All staff to have access to Updated EIA (+CIA) training by November 2015

EO3 – HCCG's Governing Body
3.1b. Governing Board to ensure all business is informed by sound use of EIA and equality analysis eg. in performance reviews.

3.1c. All Governing Body to have access to training on revised EIA tool and other elements in HCCG Equality Processes

3.2 Clarify Governance Roles
a. HCCG Governance roles and responsibilities for equality processes to be set out eg. as flow chart, for easy reference by members, staff, GB (and public See EO1) including eg. responsibility for proposing, approving and reviewing EIAs and positive and/or mitigating actions, performance against equality requirements.

3.3 Role of Sub-Committees PPIE / QSCR (See Also EO1 EO2)
a. PPIE committee to escalate to Governing Body where it has concerns
…about quality, soundness or follow through of EIA process including eg. failure to implement agreed mitigating actions.

3.3c. PPIE and QSCR to consider recommendations from Commissioners when deciding whether a basic or full EIA is appropriate on a case by case basis.

(N15) Appendix B: HCCG Engagement Log

ENGAGEMENT LOG
(SCHEME / SERVICE NAME)

Activity	Description	Date	No. Engaged	Equality Breakdown	Comments