

# **NATIONAL INSTITUTE FOR HEALTH AND CARE EXCELLENCE**

## **NICE'S EQUALITY OBJECTIVES AND EQUALITY PROGRAMME 2016-2020**

### **Introduction and summary**

1. The National Institute for Health and Care Excellence (NICE) is the independent organisation responsible for providing national guidance and quality standards on the promotion of good health, the prevention and treatment of ill health, and social care; advice on medicines and prescribing; and a range of evidence based indicators to support national and local measurement of quality improvement. This document will use the term guidance to cover all these evidence-based products. NICE also provides resources to support the implementation of its guidance, and NICE Evidence Services give access to clinical and non-clinical evidence-based information of the highest quality.
2. NICE is committed to eliminating discrimination, advancing equality of opportunity, and fostering good relations, as required by the Equality Act 2010, and to complying with the Human Rights Act 1998. NICE's public health guidance in particular is concerned with tackling health inequalities associated with underlying socioeconomic factors and with inequities in access for certain disadvantaged groups to healthcare and opportunities to improve their health.
3. This document summarises NICE's legal and other obligations and describes NICE's approach to meeting them, particularly its process of equality analysis, and how it will report its impact on equality.
4. The document also outlines NICE's equality objectives for the period from April 2016 as required by regulations under the Equality Act's public sector equality duty.

### **NICE's equality, human rights and other obligations**

#### **Equality Act 2010**

5. The 2010 Equality Act applies to NICE. The Act prohibits discrimination, harassment, and victimisation in relation to people who share the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. It therefore affects

NICE as an employer and to the extent that it provides services to the public.

6. In addition, the Act's public sector equality duty (section 149) requires NICE, in carrying out its functions as a public authority, to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations in relation to people who share the protected characteristics, apart from that of marriage and civil partnership. This is the general equality duty.
7. Regulations on specific duties within the public sector equality duty require NICE to publish annually information demonstrating compliance with the duty, and at least every four years set one or more objectives that will achieve any of the aspects of the general equality duty<sup>1</sup>.

### **The Human Rights Act 1998**

8. When public authorities such as NICE carry out 'functions of a public nature', they have a duty under the Human Rights Act 1998 not to act incompatibly with rights under the European Convention for the Protection of Fundamental Rights and Freedoms. The Equality Act's public sector equality duty uses the same definition of functions of a public nature as the Human Rights Act 1998<sup>2</sup>. The Human Rights Act places responsibility for ownership of human rights matters on every public body and employee and requires active consideration of whether decisions have any implications for human rights.

### **Other relevant obligations**

9. NICE's performance of the public sector equality duty relates to that of the users of its guidance in the NHS, local authorities and other public authorities and in organisations providing health, social care, and public health services on their behalf. NICE guidance should also, when evidence enables it to do so, support NHS organisations in upholding the principle on equitable access to the NHS in the NHS Constitution<sup>3</sup> and in meeting duties in the Health and Social Care Act 2012 on reducing inequalities in access to and outcomes of healthcare<sup>4</sup>.

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<sup>1</sup> See [www.legislation.gov.uk/uksi/2011/2260/contents/made](http://www.legislation.gov.uk/uksi/2011/2260/contents/made)

<sup>2</sup> See EHRC (2013) Technical guidance on the public sector equality duty: England at <http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>

<sup>3</sup> See principle 1 at [www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_132961](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_132961)

<sup>4</sup> See sections 4, 23, and 26 at [www.legislation.gov.uk/ukpga/2012/7](http://www.legislation.gov.uk/ukpga/2012/7)

## **NICE functions relevant to the public sector equality duty**

10. NICE must have due regard to the public sector equality duty in exercising its functions. NICE's overarching function is to provide national guidance (comprising also quality standards, advice on medicines and prescribing, and indicators), as well as other evidence-based or -focused resources and services to help the NHS, social care, public health and other organisations improve the quality and productivity of their services.
11. NICE currently produces:
  - Clinical, public health and social care guidelines
  - Technology appraisal guidance
  - Highly specialised technologies guidance
  - Interventional procedures guidance
  - Diagnostic technologies guidance
  - Medical technologies guidance
  - Medicines and prescribing advice
  - Quality standards for health care, social care, and public health
  - Indicators to support national and local measurement of quality.
12. NICE Evidence Services are an online evidence resource to help people from across the NHS and working in the wider public health and social care sector to make better decisions by providing them with access to clinical and non-clinical evidence-based information of the highest quality.
13. Other functions support the production of guidance and other quality improvement resources and services and contribute to their external impact:
  - Communications: disseminating NICE's guidance and other resources
  - Support for implementation: providing advisory material and support tools to help the NHS, local authorities, the third sector and others to implement NICE's recommendations
  - The public involvement programme: helping ensure the involvement of patients, service users, carers, members of the public, and organisations representing patients, social care users, carers, and the public interest
  - Human resources: aiming for a diverse NICE workforce with skills that include knowledge and understanding of equality issues

- Procurement: ensuring that NICE's procurement procedures and standard contracts meet all legal standards and best practice.

## **NICE's approach to meeting the public sector equality duty**

14. NICE's overarching function and the functions supporting that overarching function form an integrated system for purposes of considering and acting on issues of equality. NICE's approach is a proportionate one: each function is important but most attention is given to ensuring rigorous equality analysis within the processes for developing the product central to NICE's role – NICE guidance.
15. NICE's other resources and services do not have the same formal status as NICE guidance. Equality analysis processes therefore differ from that applied to guidance but still ensure appropriate consideration of impact on equality in their development.
16. There is a separate equality analysis process for human resources policies as part of ensuring that NICE is compliant with Equality Act provisions prohibiting discrimination, harassment and victimisation in employment policies and practices.
17. Important elements in NICE's approach to equality analysis in guidance development are as follows:
  - NICE treats each item of guidance as an individual policy
  - Consideration of equality impact progressively shapes the guidance: equality analysis occurs as early as possible and at significant points in the process of developing guidance
  - Evidence from patients and users of health and social care services and their carers, other organisations, and the public is essential in identifying areas of potential discrimination or opportunities for advancing equality
  - NICE aims for diversity in the composition of the independent advisory bodies responsible for developing guidance in order to draw on as wide a range of experience as possible
  - NICE records consideration of equality issues during the process of guidance development, publishes individual equality analyses on its website, and collates information about all equality analyses in its annual equality report.
18. NICE uses its model of equality analysis to consider not just equality in relation to groups sharing the Equality Act's protected characteristics but also health inequalities arising from socioeconomic factors and

from the circumstances of certain population groups, such as looked after children and homeless people, who share other characteristics.

19. Accountability mechanisms for NICE's equality programme consist of:
  - Board oversight – through consideration of the annual equality report and other relevant reports
  - senior management team (SMT) supervision
  - management processes in the NICE centres/directorates responsible for producing guidance and other resources and services and for human resources
  - coordination of progress with the equality objectives through a cross Institute equality and diversity group.
20. The Equality Forum, a periodic meeting of people from equality organisations, provides NICE's Board with strategic advice on the development and implementation of NICE's equality programme.

## **NICE's compliance with the specific duties regulations**

### **Annual reporting on the compliance with the general equality duty**

21. NICE is required to publish annually information to demonstrate its compliance with the general equality duty. To enable comparison with previous years, this information follows a standard format and includes information on:
  - the effects on equality of NICE's employment and human resources policies and of its policy on recruiting members to the advisory bodies responsible for developing NICE guidance
  - the effects of equality analysis on NICE's guidance recommendations.
22. The information is presented to the Board each year and published on the NICE website alongside previous years' reports.

### **NICE's equality objectives**

23. NICE is required to publish one or more equality objectives that if achieved will further the aims of the general equality duty. These must be published at least every four years.
24. In April 2016 the NICE Board agreed the following equality objectives for the period 2016 to 2020 to replace the objectives previously agreed in 2013. Progress with these objectives will be included in the annual equality report, at which point the Board may consider whether to

amend or update the objectives in light of progress, and other relevant matters such as the changes in legislation.

### **Equality objective 1**

25. NICE aims for diversity in the composition of the independent advisory bodies responsible for developing guidance, quality standards and indicators. This is because we want our advisory bodies to provide a wide range of viewpoints and experiences to inform and improve the quality of guidance. Having members from a range of backgrounds also helps us have 'due regard' to equality duties in deciding on our recommendations.
26. The 2015 equality report indicated that broadly similar proportions of people sharing protected characteristics were appointed to the advisory bodies as applied. However, the report indicated that compared to the overall population, there is underrepresentation of people who describe themselves as from black and Asian ethnic groups.
27. Our first equality objective is therefore to:

**Increase the proportion of advisory body position applications that are from individuals who describe themselves as from black, Asian and minority ethnic groups.**

28. The action plan to deliver this objective will look at the way posts are advertised, the scope for developing links with voluntary and professional organisations, and reviewing the information provided to applicants about the committee opportunities at NICE.
29. The target is to achieve a year on year increase in the proportion of advisory body position applications that are from individuals who describe themselves as from black, Asian and minority ethnic groups. Progress will be reported through the information in the annual equality report on the characteristics of applicants to the advisory bodies.

### **Equality objective 2**

30. Our staff are central to the successful delivery of NICE's functions. A diverse workforce supports the delivery of the general equality duty and enables us to draw upon the widest pool of talent.
31. We are using the NHS Equality Delivery System (EDS) and the Workforce Race Equality Standard (WRES) to help us identify areas of

current good practice at NICE as well as areas where we need to improve.

32. From a self-assessment using the EDS and WRES tools we have identified that we need to increase the representation of staff from black and minority ethnic groups in senior management roles. Our second objective focuses on increasing the number of staff from black and minority ethnic groups in management roles through targeted development programmes and resourcing strategies:
  - **Increase the proportion of staff from black and minority ethnic groups in senior management roles (agenda for change Band 7 and above) across the organisation**
33. The action plan for the objective will include engaging with management development programmes specifically designed for staff from black and minority ethnic groups such as the Reach programme run by NHS Blood and Transplant. We will also consider what actions we can take to widen the reach of our recruitment in management positions as they become available and we will work with the Department of Health to adopt similar approaches to the recruitment to non-executive roles.
34. The target is to achieve a year on year increase in the proportion of staff from black and minority ethnic groups in senior management roles. Progress will be tracked as part of the workforce strategy and the information provided in the annual equality report.

## **NICE's compliance with the Human Rights Act**

35. NICE achieves compliance with human rights requirements primarily through:
  - a robust procedural framework for developing guidance
  - an equality analysis process that also looks at the situation of groups in addition to those who share the characteristics protected under the Equality Act
  - asking advisory bodies to satisfy themselves that their decision-making procedure is fair and transparent, that decisions do not discriminate against a group that is not a legally protected group, and, if they do, whether that discrimination is legitimate
  - obtaining legal advice when an issue arises that could potentially lead to challenge.
36. NICE's procedural framework comprises the following features:

- the independence of advisory bodies
- consistent application of published methods and processes
- scientific rigour
- transparency about proceedings and the evidence behind and reasons for recommendations
- professional, public and stakeholder involvement
- the opportunity formally to challenge recommendations
- periodic review of recommendations
- timeliness<sup>5</sup>.

National Institute for Health and Care Excellence (NICE)

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<sup>5</sup> See NICE (2008). Social value judgements: principles for the development of NICE guidance. <http://www.nice.org.uk/aboutnice/howwework/socialvaluejudgements/socialvaluejudgements.jsp>