Shropshire County Clinical Commissioning Group — NHS
NHS Telford and Wrekin
Shropshire Community Health NHS Trust
The Shrewsbury and Telford Hospital NHS Trust

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Equality Delivery System

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1. Introduction

This paper informs the Shadow Health and Wellbeing Board about the Equality Delivery System (EDS) for the NHS and provides a plan for its implementation within Shropshire. Much of the explanatory text below is taken from the EDS documentation which can be accessed from the NHS Midlands and East website at: http://www.eastmidlands.nhs.uk/about-us/inclusion/eds/

These documents are:

- EDS Main Text
- EDS Grades Manual
- EDS Equality Analysis
- EDS Statement on Costs and Benefits
- EDS Easy Read: Stages of implementation
- EDS Presentation

The implementation of this framework would require local NHS organisations migrating from the Single Equality Scheme Action Plan to implementing the EDS.

2. The Rationale for Informing the Shadow Health and Wellbeing Board

It is important that the Shadow Health and Wellbeing Board is informed of and involved in this work (as appropriate) to ensure that NHS organisations are making the fundamental connections between the local implementation of the EDS and the Joint Strategic Needs Assessment (JSNA). This will also support the future development of Joint Health and Wellbeing Strategies.

In addition, the Shadow Health and Wellbeing Board going forward will have a role in the annual assessment of Clinical Commissioning Groups (including a non-statutory role in their initial authorisation). Embedding the EDS within Clinical Commissioning Groups is a key requirement of the authorisation process.

Furthermore the EDS guidance requires that NHS organisations both commissioners and providers engage with their Shadow Health and Wellbeing Board to invite them to comment on their EDS implementation plan and their ongoing role.

3. What is the Equality Delivery System?

The EDS was 'soft-launched' to the NHS at the end of July 2011 and formally launched on 11 November 2011. It is designed to support NHS commissioners and providers to deliver better outcomes for patients and communities and better working environments for staff, which are personal, fair and diverse. The EDS is all about making positive differences to healthy living and working lives.

The EDS is made available to the NHS as an optional tool to help NHS organisations review and improve their equality performance in engagement with local interests, and to help them meet the requirements of the public sector Equality Duty. If adopted and used effectively, the EDS should help organisations to start the analysis that is required by section 149 of the Equality Act 2010 ("the public sector Equality Duty") in a way that promotes localism and also helps them deliver on the NHS Outcomes Framework, the NHS Constitution and the Human Resources Transition Framework. It will help providers to continue to meet the Care Quality Commission's (CQC) "Essential Standards of Quality and Safety". However it should be stressed, as with all other registered providers, that serious concerns arising from the use of the EDS may only be referred to the CQC, where they directly relate to the achievement of CQC's Essential Standards.

The EDS does not replace legislative requirements for equality; rather it is designed as a performance and quality assurance mechanism for the NHS and a means by which NHS organisations are helped to meet the requirements of the Equality Act (2010) and the NHS Act (2006). If organisations decide not to adopt the EDS, they will still need to respond effectively to the public sector Equality Duty and continue to assure themselves that their patients and staff are treated fairly.

The EDS is a tool for both current and emerging NHS organisations – in partnership with patients, the public, staff and staff-side organisations - to use to review their equality performance and to identify future priorities and actions. It offers local and national reporting and accountability mechanisms.

While the EDS can help inform the decision-making process, it is important to ensure that it is used as a tool to assist with evidence gathering and evaluation as part of the decision-making process. Nor of itself does it satisfy the public sector Equality Duty. In every case, organisations need to ensure that the decisions they make are in accordance with the requirements of public law. It should be implemented within a culture that already recognises the equality challenges it faces, is ready to engage with patients, communities and staff, and has the resolve to move forward positively.

The EDS covers all those people with characteristics protected by the Equality Act 2010. There are nine characteristics in total:

1. Age
2. Disability
3. Gender re-assignment
4. Marriage and civil partnership.
5. Pregnancy and maternity
6. Race including nationality and ethnicity
7. Religion or belief
8. Sex
9. Sexual orientation

As shorthand, the term ***"protected groups"*** is used in this document to refer to people with these characteristics.

At the heart of the EDS are a set of 18 outcomes grouped into four goals **(Appendix I)**. These outcomes focus on the issues of most concern to patients, carers, communities, NHS staff and Boards. It is against these outcomes that performance is analysed, graded and action determined.

Trusts are required to gather and publish evidence with regard to their performance in relation to each of the outcomes for each of the protected groups.

The four EDS goals are:

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

4. RAG Rating

The grades are as follows :

- Excelling – **Purple**
- Achieving - **Green**
- Developing – **Amber**
- Undeveloped – **Red**

The EDS Grading Manual sets out the process and considerations to be taken account of in the identification of evidence and the grading process. Grading must be undertaken with interested parties which are likely to include statutory and voluntary sector partners and organisations, service users, staff, unions, representatives of particular protected groups.

Consideration has to be made early on as to the composition of this group and it seems likely that the NHS organisations may need to form two groups, one to rate them on the outcomes linked to goals 1 and 2 which are more focused on service delivery and service user experience, and goals 2 and 3 which focus specifically on workforce and leadership.

Where there is a disagreement between an organisation and its local interests over the overall grade for an outcome, which cannot be resolved despite the best intentions of all parties, then the views of the local interests, should carry most weight. Where disagreements are significant and cannot be solved locally, NHS commissioners and their local interests could refer matters to their PCT Cluster. Providers and their local interests could agree to refer such disputes to their local commissioner or a neighbouring provider.

5. What will the EDS deliver?

If organisations choose to implement the EDS, it provides a tool that can be used to:

- Help deliver on the Government's commitment to localism and local decision making (DH, White Paper, "Equity and excellence : liberating the NHS", 2010)
- Help deliver on the Government's commitment to fairness and personalisation, including the equality-focused rights and pledges of the NHS Constitution (DH, 2010)
- Help deliver improved and more consistent performance on equality for patients, carers, communities and staff. In particular, deliver better outcomes for patients, carers and communities with regard to the NHS Outcomes Framework (DH, 2010)
- Help deliver on the principles, objectives, requirements of the Human Resources Transition Framework (DH, 2011)
- Help comply with the public sector Equality Duty
- Respond better to CQC Essential Standards, if they are registered providers
- Ensure that their staff can deliver services that are personal, fair and diverse, and are supported to do so

6. Steps for implementation

The steps to implement and use the EDS effectively were published on 29 July 2011 and the details are outlined in Appendix II.

It is envisaged that participating organisations will have agreed their equality objectives and associated actions with local interests, and be ready to work on them, by 6 April 2012.

7. Local Implementation

7.1 Context

An early workshop was held in June 2011 to raise awareness of the emerging EDS agenda and engage with key stakeholders such as members from Community Involvement in Health and Care (CInCH, the Shropshire LINk), Equalities Forum, other local health / social care organisations (including The Shrewsbury and Telford Hospital NHS Trust, The Robert Jones and Agnes Hunt Orthopaedic Hospital Foundation Trust, Shropshire Community Health NHS Trust, NHS Telford and Wrekin and Shropshire Council).

At this inaugural workshop it was agreed that it was important that the local organisations work together going forward to ensure that engagement with key stakeholders (referred in the EDS document as 'community interest groups') did not create engagement fatigue by individual organisations undertaking their own engagement activities with the same community interest groups. Telford and Wrekin LINk were not able to attend this workshop and a meeting was held with them at a later date. This meeting also included other stakeholder organisations including 'Listen not Label' and 'Rights and Fairness Telford'. Shropshire LINk (previously Community Involvement in Care and Health) has also been integral to the ongoing discussions.

Once the EDS was formally launched in November 2011, an initial meeting was held in December 2011 to discuss EDS implementation. The meeting was facilitated by Shropshire County Clinical Commissioning Group Lead and the following organisations attended:

- The Shrewsbury and Telford Hospital NHS Trust
- Shropshire Community Health NHS Trust
- NHS Telford and Wrekin
- Shropshire Council

The Shropshire County Clinical Commissioning Group Lead is also the lead for this agenda in NHS Telford and Wrekin.

This group has now evolved into the EDS Task and Finish Group. Further representatives from Telford Council, Shropshire LINk, Telford and Wrekin LINk, Public Health, Trade Unions and Engagement Leads have been sought.

7.2 Actions and Timeline for Implementation

The Shrewsbury and Telford Hospital NHS Trust, Shropshire Community Health NHS Trust, Shropshire County PCT and NHS Telford and Wrekin are committed to working to the EDS implementation timetable produced below on behalf of the health economy. There are actions that individual organisations will undertake internally and it has been agreed that steps 5, 6 and 7 will be undertaken by all organisations through a jointly coordinated and facilitated event.

8. Risks and constraints

Risk	Actions needed to reduce the risk
Variable commitment of organisation to the project	- Ensure commitment from all organisations involved - Build in enough flexibility to adapt the project if

	required.
Resource capacity of staff	- Involve the appropriate members of staff in the project from the start (individual organisation to allocate appropriate members of staff to the Task and Finish Group to progress the work) - Build in capacity where possible and be realistic with timescales
Potential movement of staff to different teams or out of the organisation as transition takes place	- Ensure that the project is not reliant on too few people
Availability and resource	- Negotiate support from organisations for financial resources to run a joint event and the associated costs related to such an activity

9. Financial Implication

Potential financial implications for individual organisations will be associated with:

- The availability of appropriate capacity to implement the EDS within the organisation
- The on-going cost of engagement and involvement (with patients, communities, staff networks, staff-side organisations, local authority partners and other NHS partners) which is imperative to the implementation of EDS
- The failure to meet the public sector equality duty, which would be damaging and expensive if formal action is taken by the Equality and Human Rights Commission (EHRC) as this would be a breach of the legislation

Potential financial implications for this project will be associated with:

- The availability of financial resources to run a joint event and the associated costs related to such an activity

10. Recommendation to the Health and Wellbeing Board

- To note the content of the report
- Approve the proposed arrangements for the local health economy to implement the EDS
- Consider the role of the Board in relation to on-going monitoring of EDS implementation in organisations

Actions and Timeline for Implementation	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12	Apr-12
Actions — **Date**						
Step1. Governance and partnership working Each organisation to confirm their internal governance arrangements and partnership working for compliance with the Equality Act.						
Step 2. Identify local interests Individual organisations to identify their local interest groups who will play a fundamental role in reviewing the equality performance presented by each organisation, identifying and monitoring the final equality objectives.						
Step 3. Assemble evidence Individual organisations to assemble evidence for analysing their equality performance and setting priorities by undertaking a baseline assessment against the EDS goals, reviewing other data that informs the needs of the protected characteristics locally.						
Step 4. Agree roles with the local authority Engage with the local LINks / HealthWatch, Health and Wellbeing Boards and Public Health.						
Step 5 / 6 Analyse performance / Agree grades With local interests, organisations to analyse performance on each EDS outcome, taking account of each relevant protected group. Organisations share the evidence they have assembled (at 3) with their local interests in accessible formats, so that local interests can play their part in the analysis of performance and setting of equality objectives. As a result of these analyses, organisations and local interests should seek to agree an overall grade for each outcome.						
Step 7. Prepare equality objectives Using the grades across all 18 outcomes as a starting point, organisations with local interests select no more than four or five equality objectives for the coming business planning period. It is advised that at least one equality objective per EDS goal is chosen.						
Step 8. Integrate equality objectives into mainstream business planning Actions arising from these equality objectives are integrated within organisations mainstream business planning process for 2012/2013 initially and annually thereafter.						
Step 9. Publish grades and equality objectives Publish grades and equality objectives in an accessible way.						

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Equality Delivery System - Goals and Outcomes — Appendix I

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

The Equality Delivery System for the NHS - Steps for implementation **Appendix II**

The Equality Delivery System for the NHS - Steps for implementation	
Step 1	**Governance and partnership working -** NHS organisations should set up or confirm their governance arrangements and partnership working for compliance with the Equality Act including ensuring compliance with the public sector Equality Duty. Once this is done, they set up or confirm their governance arrangements and partnership working for implementing and using the EDS. The best governance arrangements and partnership working will be characterised by the inclusion of patients, governors and members where relevant, communities, staff networks, staff-side organisations and local authority partners in open, on-going and transparent engagement.
Step 2	**Identify local interests -** NHS organisations identify those local interests that will need to be involved in EDS implementation. For the EDS to be effective, these local interests include patients, communities, staff, staff-side organisations, and voluntary organisations, and encompass all protected groups. For NHS foundation trusts, the local interests include their governors, members and staff.
Step 3	**Assemble evidence -** NHS organisations assemble evidence for analysing their equality performance and setting priorities. Assembling this evidence should include active consideration of any gaps in evidence and how such gaps can be filled. The evidence should draw on JSNAs, public health intelligence, CQC registration evidence, NHS Outcomes Framework data, surveys of patient and staff experience, workforce reports, and complaints and PALS data. As long as it is reliable and valid, the evidence can be quantitative or qualitative.
Step 4	**Agree roles with the local authority -** NHS organisations agree the part that LINks / HealthWatch, health & wellbeing boards and Public Health and other parts of the local authority will play in EDS implementation.
Step 5	**Analyse performance -** With local interests, organisations analyse their performance on each EDS outcome, taking account of each relevant protected group. Organisations share the evidence they have assembled (at Step 3) with their local interests in accessible formats, so that local interests can play their part in the analysis of performance and setting of equality objectives.
Step 6	**Agree grades -** As a result of these analyses, organisations and local interests should seek to agree an overall grade for each outcome, taking into account any variations between protected groups and any variations in performance across their departments and sites. For each outcome, one of four grades is possible: excelling, achieving, developing and undeveloped. If there is a disagreement about the most appropriate grade for a particular outcome, that cannot be resolved, the views of the local interests should generally be given weight. However, decision makers will need to consider each case on its facts; for example, there may be competing interests that need to be considered. The results of these analyses can form a significant part of the information that organisations will be required to publish, **by 31 January 2012 in the first instance,** to comply with the public sector Equality Duty (Specific Duties) of the Equality Act.
Step 7	**Prepare equality objectives - By 6 April 2012 in the first instance**, using the grades across all 18 outcomes as a starting point, organisations with local interests select no more than four or five equality objectives for the coming business planning period. It is advised that at least one equality objective per EDS goal is chosen. But this is not a hard and fast rule. No doubt these equality objectives will focus on the most urgent challenges. In reaching its decisions, each public authority will need to ensure that, if challenged, it can justify its decision, and demonstrate that its decision making complies with public law requirements in general and the Equality Act in particular.
Step 8	**Integrate equality objectives into mainstream business planning -** Actions arising from these equality objectives are integrated within organisations' mainstream business planning processes for 2012/13 in the first instance and annually thereafter. It would be helpful to cover how health inequalities are to be addressed, such as inequalities in access to, or the outcomes from, healthcare, or better integration of services to support those with multiple needs. In particular, organisations can report and work on these actions within their NHS Integrated Plans, saying how they will respond to the QIPP challenge.
Step 9	**Publish grades and equality objectives -** Grades and equality objectives, and associated actions, can be published locally in Annual Reports, and in other ways accessible to local interests. The grades and equality objectives should be shared with health & wellbeing boards for comment and possible action. Where there is agreement from all parties, grades and priority may also be shared by NHS Commissioners and their local interests with PCT Clusters, for comment and possible action. Where particular concerns about providers relate to the Essential Standards, CQC should be notified for possible inclusion on organisations' Quality & Risk Profiles, and potential action. (Once they are established, the NHS Commissioning Board and NHS Trust Development Authority will determine and announce how they are to be assured of the performance of commissioners and providers that have yet to achieve NHS foundation trust status.)