

Guidance and Toolkit for completion of Equality and Human Rights Analysis (EHRA)



Equality and Human Rights Analysis (EHRA) guidance notes

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The Equality and Human Rights Team would like to acknowledge the value of the information shared with us from Aintree University Hospital.

Introduction

Mersey Care NHS trust is committed to promoting Equality, Diversity and Human Rights and dealing fairly with issues of equality of opportunity and anti discriminatory practice both in the provision of services and in our role as a major employee. The trust intends to do this by eliminating unfair and unlawful discriminatory practices in line with the current equality and Human Rights legislation.

This guide has been produced to enable managers to evidence their Equality and Human Rights Analysis data. The change in terminology from Equality Impact Assessment to Equality and Human Rights Analysis (EHRA) is intended to expand the analysis to involve a Human Rights Based perspective and to focus on the quality of the analysis and how it is used in decision-making and less on the production of a document.

By completing this analysis the managers will be able to explore the function, policy, procedure or practice to identify if it may have an unfair or negative impact on particular groups or protected characteristics.

To support this guide trust equality data can be obtained using the following link:

http://www.merseycare.nhs.uk/Library/Who_we_are/Equality_and_Diversity/Equality_Data_and_Action_Plans/Equality%20Information_report%20final.doc

The Equality Information identifies the current equality data we hold for service users and staff. It will also give an indication of the usage of languages other than English. This may be of assistance when undertaking an EHRA.

Effective completion of EHRA will evidence that the trust has embedded equality in all that it does and is meeting its commitment to the promotion of Equality, Diversity and Human Rights.

Equality and Human Rights Background

The Equality Act 2010 placed a general duty on all public authorities

The general equality duty came into force on the 5th April 2011

The trust must, in the exercise of its functions, have due regard to the need to:

- (a) Eliminate discrimination, harassment, victimisation and other conduct that is prohibited by or under the Equality Act 2010.
- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Protected Characteristics

The term Equality Strands (of which there were six groups) has now been replaced with the term protected characteristics (of which there are now nine groups).

1. Age
2. Disability (includes People with a Learning Disability and Mental Health)
3. Gender
4. Race (includes Gypsies & Travellers)
5. Religion or Belief
6. Sexual Orientation
7. Transgender
8. Pregnancy/maternity
9. Marriage / civil partnership

The **Human Rights** element of the assessment requires the identification and consideration of any interaction with the relevant articles from the Act. The Trust will need to detail how this interaction is:-

- Lawful
- Legitimate
- Necessary
- Proportionate

There has also been a change from the terminology of Equality Impact Assessment which is now described as an Equality and Human Rights Analysis. Mersey Care NHS Trust has developed an Equality Analysis which incorporates Human Rights and therefore the term used in completion of this is an Equality and Human Rights Analysis.

What is an Equality and Human Rights Analysis?

Equality and Human Rights analysis is a way of identifying the potential or actual effects of the Trust functions, strategies, policies or procedures on those groups protected by the Equality Act 2010 (Protected Characteristics) and Human Rights Act 1998.

It involves:

Using equality information and engaging with protected groups, service users, staff networks and others to understand the actual or potential effect(s) of our functions, policies or decisions.

It enables the trust to ensure it meets the duties to:

- Eliminate discrimination, harassment, victimisation and any conduct that is prohibited under the Equality Act 2010.
- Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not.

- Foster good relations between persons who share a relevant protected characteristic and persons who don't share it.
- Opportunities for promoting and protecting human rights of individuals.

Why complete the Equality and Human Rights Analysis?

The purpose of an Equality and Human Rights Analysis (EHRA) is to ensure that the function, policies, procedures and practices of a public body do not discriminate directly or indirectly. The Human Rights Act 1998 states 'It is unlawful for a public authority to act in a way which is incompatible with a Convention right'.

The equality duty now makes it clear that public authorities are expected to consider the need to remove or minimise disadvantage or to meet particular needs, such as providing services for particular groups.

The completion of Equality and Human Rights Analysis is a tool to achieve this.

Equality and Human Rights Equality Analysis (EHRA) is intended to ensure that individuals, teams, departments, services and the Trust consider carefully about the likely impact of their work, attitudes and behaviour on individuals and take action to eliminate any discriminatory practice, advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic and persons who don't share it.

The benefits of Equality and Human Rights Analysis include:

- Improvement in the way we treat our service users and employees.
- Increase our understanding about the needs of various groups and persons from the identified protected characteristics.
- Identification of unmet need which can result in rectifying these.
- Minimise the organisations risks of litigation.
- Enable us to think differently about the way we work, the decisions we make and the possible outcomes of those decision.
- Help us to address health inequalities.

- Ensure that we are aware of and comply with equality legislation.

What should we be doing an EHRA on?

Function	Any activity of Mersey Care NHS Trust
Strategy	Refers to both the statutory and non-statutory strategies of the organisation
Policy	Is the ‘what’ that defines the different ways in which an organisation carries out its role or functions and meets its duties. It includes the formal and informal decisions made as a policy is implemented, including resource allocation decisions.
Procedure	Is the ‘how’ a policy will be implemented sometimes with local variation. The process seeks to ensure the Trust does not act, as employer or a service provider, in a way that adversely impacts on individuals who have ‘protected characteristics’ (Equality Act 2010)
Reviews	Of any of the above.

What is meant by ‘impact?’

The organisation should examine the possible impacts in its Equality Human Rights Analysis in relation to the protected characteristics identified in the Equality Act 2010 and Human Rights articles in the Human Rights Act 1998.

Discriminatory (A negative or adverse impact)

Is where the impact could disadvantage a section of the community. This disadvantage may be differential, where the negative impact on one particular group of individuals is likely to be greater than on another. The Equality and Human Rights Analysis provides an opportunity to assess this.

Example

A policy that states the organisation will only accept complaints in writing would have a negative or adverse impact on some people. This may include people with learning disabilities/difficulties, visual impairments, people who do not use English as their first language and people for whom written communication is not a strong cultural norm such as British Sign Language users.

Advance equality of opportunity (Positive impact)

Where the impact could be positive on a section(s) of the community and/or improve equal opportunities and or relationships between different sections of the community. This positive impact may be differential, where the positive impact on one section of the community may be greater than on another.

Example

A targeted training programme for young women and men would have a positive differential impact on young women and men, compared with its impact on older women and men. It would not, however, necessarily have an adverse impact on older women and men.

When is the Equality and Human Rights Analysis required?

As a general rule anything which describes what the Trust does and how it does it requires an Equality and Human Rights Analysis to be completed. Depending upon the potential impact the EHRA will be done at different levels. The basic stage will be required within all assessments, however for function changes or other major changes a second stage assessment must be undertaken.

This will be completed within all levels of the Trust.

- Corporate (strategies, functions and policy)

- Clinical Business unit (strategies, functions, policies and procedures)
- Teams (functions, procedures and practices)

It also may become apparent that unwritten processes require EHRA if it has been identified that practices adversely impact on individuals from the groups protected from the anti-discrimination legislation or human rights Legislation.

Who should undertake the EHRA?

CBU Service Directors are responsible for ensuring that EHRA is completed. Professionals who have expertise in the area should complete the EHRA. In addition others who do not have the necessary expertise should be included to allow some challenge of the decisions for example service user/carers who have been trained to complete EHRA.

Standards for completion of an (EHRA)

Mersey Care NHS Trust has quality standards to ensure that the process is completed effectively:-

- Completion by a minimum of **three** people where possible the author is not part of the required number. The author may of course attend to explain issues around the topic.
- Participants are trained in the Equality Analysis (EHRA) process.
- Participants have completed mandatory equality and human rights training at secondary level.
- Service users /carers have been trained and are available to assist in the EHRA process

Publication

The EHRA Report and Action Plan on the completion of the Analysis are required to be attached to the policy and stored. For corporate functions, policies and procedures these will be published on Mersey Care NHS Trust web site. Each CBU will need to have a system in place to store their completed EHRA reports and action plans electronically and ensure that the date for the next review is logged and scheduled to take place. It is important that, when required, it is clear to see what the EHRA team highlighted as an issue and what action(s) have been taken to address this.

No document which details what the Trust does and/or how it will be done such as service functions, strategies, policies or procedures can be ratified without the EHRA being both completed and presented alongside the document to be ratified.

Getting started.

- The author of the document is responsible for the setting up of the EHRA
- Each area will have a number of staff who is trained to complete the process. Your CBU/Specialist Management Service department Equality Co-ordinator will have a list of people person of all trained assessors.
- There are a number of service users/carers who are trained as EHRA assessors, to arrange contact :
0151 473 2954/6 or 0151 473 2749
- The length of time required will be dependant on the size of the documents being assessed and the experience of the assessors

Tips to assist are

- Have a lap top and projector or computer to enable the completion of documentation electronically.
- It can be helpful to have an electronic version of the document for all to see. (Consider individual preferences and reasonable adjustments for disability).
- Assign one assessor to complete the EHRA paperwork
- One assessor to complete the information required for the action plan.
- Have information ready regarding articles of the Human Rights Act 1998.

The EHRA team will go through the document, strategy, development plan, and cost improvement plan etc, analysing the possible impact and detailing relevant areas of concern on the Equality and Human Rights Action Plan (EHRAP)

The author of the document (whether a member of the EHRA team or not) will receive an electronic copy of the document and the EHRA along with the action plan which will detail all actions required to make the document compliant.

The Author is then required to take any immediate actions required and/or to ensure that actions which require a more detailed approach are included within the appropriate Clinical Business Unit /Specialist service EHRAP.

Questions to assist the Equality and Human Rights Analysis (EHRA) process:

Tips

Question	Evidence may be found
Is there advancement of equal opportunity of all protected characteristics?	
Does it foster good relations to all?	
Are there exclusion barriers for any protected characteristics?	
Are there barriers in communication?	
Are there barriers around how services are accessed?	
Are there barriers around cultural needs?	
Does it meet equality legislation?	

APPENDIX 1

Equality and Human Rights Analysis

Title:
Area covered:

What are the intended outcomes of this work? <i>Include outline of objectives and function aims</i>
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Who will be affected? <i>e.g. staff, patients, service users etc</i>

Evidence

What evidence have you considered? <i>List the main sources of data, research and other sources of evidence (including full references) reviewed to determine impact on each protected characteristic. This can include national research, surveys, reports, research interviews, focus groups, pilot activity evaluations etc. Also include the Trusts own Equality Information as published on the website. If there are gaps in evidence state what you will do to close them in the Action Plan on the last page of this template.</i>
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Disability including learning disability <i>Consider and detail (including the source of any evidence) of attitudinal, physical, and social barriers. Consider physical, Mental Health and Learning Disabilities. Not all disabilities are visible. You must consider:</i> <ul style="list-style-type: none">• Accessibility – venue – location – signage• Disability Awareness Training for staff delivering service or project.• Hearing Loops• Referral System – partnership working• Language including BSL users• Plain English – Easy Read• Visual Impairment

Sex <i>Consider and detail (including the source of any evidence) any impact on men and women. For example</i> <ul style="list-style-type: none">• Same sex accommodation• Same sex group activity• Timing of services – projects – shift workers• Location – men do not access health services as much as women, could location of service or project improve access e.g. workplace

Race

Consider and detail (including the source of any evidence) any impact on different ethnic groups, nationalities, Roma gypsies, Irish travellers, language barriers. You will need to consider and understand the demographic data that affects your service/project. Size of BME communities your service affects.

- What languages do these communities speak?
- What support for accessing service or project can you offer?
- Cultural issues –mixed gender activities, hygiene, clothing, physical activities
- How will you make your service or project accessible for the diverse local population?
- Staff training on issues relating to the BME Community – literacy issues that will give staff extra support.

Age

Consider and detail (including the source of any evidence) across age ranges any impact on old and younger people. This can include safeguarding, consent and child welfare.

Gender reassignment (including transgender) Consider and detail (including the source of any evidence) any impact on transgender and transsexual people. This can include issues such as privacy of data and harassment. Transgender people should be offered a non judgemental and user friendly environment. If your service or project is targeted at this population you will need to consider:

- staff training,
- confidentiality,
- communication skills.

Sexual orientation

Consider and detail (including the source of any evidence) any impact on heterosexual people as well as lesbian, gay and bi-sexual people. . Using language that respects LGB and acknowledges same=sex relationships is needed for person-centred care.

- Communication – LGB people should be able to disclose their sexual orientation to their health provider without fear of prejudice.
- Respected rights
- Awareness training for staff
- Do not assume that someone is heterosexual.

Religion or belief

Consider and detail (including the source of any evidence) any impact on people with different religions, beliefs or no belief. You should ensure that the service or project is accessible to all individuals or communities with a religion or belief. Do you know what these are in communities that service or project is targeting? Have you thought about prayer times, meal times, food, and religious holidays?

- Flexibility
- Staff training
- Respecting differences
- Religious beliefs e.g. blood transfusions,

Pregnancy and maternity

<i>Consider and detail (including the source of any evidence) any impact on working arrangements, part-time working, infant caring responsibilities.</i>
Carers <i>Consider and detail (including the source of any evidence) any impact on part-time working, shift-patterns, general caring responsibilities.</i>
Cross Cutting <i>This is where the impact affects more than one protected characteristic</i>
Other identified groups <i>Consider and detail and include the source of any evidence on different socio-economic groups, area inequality, income, resident status (migrants) and other groups experiencing disadvantage and barriers to access.</i>

Human Rights	Is there an impact? How this right could be protected?
This section must not be left blank. If the Article is not engaged then this must be stated.	
Right to life (Article 2)	
Right of freedom from inhuman and degrading treatment (Article 3)	
Right to liberty (Article 5)	
Right to a fair trial (Article 6)	
Right to private and family life (Article 8)	
Right of freedom of religion or belief (Article 9)	
Right to freedom of expression Note: this does not include insulting language such as	

racism (Article 10)	
Right freedom from discrimination (Article 14)	

Engagement and involvement

Summary of Analysis
Eliminate discrimination, harassment and victimisation
Advance equality of opportunity
Promote good relations between groups

What is the overall impact?

Addressing the impact on equalities
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Action planning for improvement
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Please give an outline of your next steps based on the challenges and opportunities you have identified. *Include here any or all of the following, based on your assessment*

- *Plans already under way or in development to address the **challenges** and **priorities** identified.*
- *Arrangements for continued engagement of stakeholders.*
- *Arrangements for continued monitoring and evaluating the policy for its impact on different groups as the policy is implemented (or pilot activity progresses)*
- *Arrangements for embedding findings of the assessment within the wider system, other agencies, local service providers and regulatory bodies*
- *Arrangements for publishing the assessment and ensuring relevant colleagues are informed of the results*
- *Arrangements for making information accessible to staff, patients, service users and the public*
- *Arrangements to make sure the assessment contributes to reviews of Department of Health equality objectives.*

For the record

Name of persons who carried out this assessment:

Date assessment completed:

Name of responsible Director/Lead Trust Officer

Date assessment was signed:

Action plan template

This part of the template is to help you develop your action plan. You might want to change the categories in the first column to reflect the actions needed for your policy.

Category	Actions	Target date	Person responsible and their Division
Involvement and consultation			
Data collection and evidencing			
Analysis of evidence and assessment			
Monitoring, evaluating and reviewing			
Transparency (including publication)			

