

**Care Quality Commission: Equality and human rights duties impact analysis  
(decision making and policies)**

Equality Act 2010  
Human Rights Act 1998

For advice on completion from the EDHR team, please use the EDHR mailbox:  
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**1.**

<p><b>Identifying Name</b> (name of project, policy, work, or decision)</p>	<p>Children and young people’s mental health thematic review</p>
<p><b>Intended outcomes</b> (include outline of objectives or aims)</p>	<p>In January 2017, The Prime Minister, Theresa May, asked Care Quality Commission (CQC) to look at children and young people’s mental health services when she announced <u>a series of measures to "transform mental health support"</u>.</p> <p>The aim of the review was to identify the strengths and weaknesses of the current system. We have used what we learned to make recommendations to encourage improvement in the quality and accessibility of the mental health system for children and young people.</p> <p>Our review asked: “How can we ensure that all partners make their contribution and work together so that children and young people, and their families/carers, have timely access to high-quality mental health care?”</p> <p>To carry out this work, we have, in phases:</p> <ul style="list-style-type: none"> <li>• Looked at evidence we have gathered from our inspection reports and external research into mental health provision for children and young people</li> <li>• Carried out site visits to 10 health and wellbeing board areas across the country</li> <li>• Listened to young people, their families or carers and inviting comments from members of the public</li> <li>• Worked with an expert advisory group made up of a range of people and organisations, including charities, campaigners and government bodies</li> <li>• Worked with partners, including the Department of Health, NHS England, Ofsted, Department for Education and the National Audit Office</li> </ul>
<p><b>Who will be affected?</b> (People who use services, CQC staff, the wider</p>	<ul style="list-style-type: none"> <li>• Children and young people who use mental health services</li> <li>• Health and social care professionals</li> </ul>

community)	<ul style="list-style-type: none"> <li>• Education professionals</li> <li>• CQC staff</li> <li>• Potentially, people working in government , arms-length bodies and system leaders</li> <li>• Potentially, regulatory bodies like Ofsted</li> <li>• Families; friends and carers of those who use services.</li> <li>• Commissioners of health, social care and voluntary sector services</li> <li>• Local authorities</li> </ul>
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## 2.

<b>For the record</b>	
Who carried out the analysis	Sabina Hafesji
Current Version number	Version 1
Date analysis completed:	December 2017
Name of responsible Director/Head	Nigel Thompson
Date analysis was signed off by Director/Head:	18 <sup>th</sup> January 2018
EDHR sign-off name	Lucy Wilkinson
Date of EDHR sign-off	31 <sup>st</sup> January 2018

## 3.

• Does the work affect people who use services, employees or the wider community? (This is not only refers to the number of those affected but also by the significance of the impact on them)	Yes
• Is it a major piece of work, significantly affecting how functions are delivered?	Yes
• Will it have a significant effect on how other organisations deliver their functions in terms of equality or human rights?	Yes
• Does it relate to functions that previous engagement has identified as being important to particular protected groups or human rights?	Yes
• Does or could it affect different protected groups differently?	Yes
• Does it relate to an area with known inequalities or breaches of human rights?	Yes
• Does it relate to an area where equality objectives have been set by CQC?	Yes, in particular: <ol style="list-style-type: none"> <li>1. Person-centred care and equality</li> <li>2. Equal access to pathways of care</li> </ol> And potentially: <ol style="list-style-type: none"> <li>1. Accessible information and communication</li> <li>2. Equality and the well-led</li> </ol>

	provider
<ul style="list-style-type: none"> <li>• Does or could it impact upon personal privacy? For example by: <ul style="list-style-type: none"> <li>• Using personal data (information about identifiable individuals) in new or significantly changed ways, or for new purposes.</li> <li>• Collecting new identifiers (i.e. information which identifies people, such as name, D.O.B., NHS number, postcode etc.).</li> <li>• Combining anonymised data sources in such a way as to risk identifying individuals?</li> <li>• Disclosure or publication of personal data or identifiers.</li> <li>• New or additional information technologies with substantial potential for privacy intrusion (e.g. surveillance, image or video recording of individuals, tracking or monitoring of individual).</li> <li>• Observing or monitoring with potential for privacy intrusion (e.g. observing intimate personal care).</li> </ul> </li> </ul>	<p>No, however any recommendations about data may have an impact on personal privacy, for example using the NHS number.</p>

If the work does or could impact upon personal privacy, explain how (for example: what additional information is being collected, used or shared?)  
If there is no anticipated impact upon personal privacy, skip this box and continue below.

N/A

4.

Do the answers above indicate that this work is relevant to equality or human rights?  
 If yes skip this box and continue below.  
 If no, document the reasons below and forward this EHRDIA to the EDHR team for sign-off  
 (Include details of evidence analysed to support this decision)

5.

**Engagement and involvement**

- Have you involved people who use services, staff and other stakeholders?
- What are the key findings of your engagement relating to equality and human rights? Include known representation across the characteristics protected in the Equality Act: age, disability, gender, gender reassignment, marriage/civil partnership, pregnancy/maternity, race, religion and belief, and sexual orientation.

<b>Target Group</b>	<b>Summary of Involvement</b>
People who use services	<p>Throughout the project, we have to be as open and transparent as possible. This includes engagement with people who use services and their families and carers.</p> <p>Experts by experience formed part of the team who carried out the fieldwork for phase two. There are also experts by experience on the external advisory group (EAG).</p> <p>We worked with three of our external advisory group members to run focus groups. These were:</p> <ul style="list-style-type: none"> <li>• <b>Healthwatch Hillingdon</b> who spoke to a group of children and young people aged 12-25. All were current or previous users of children and adolescent mental health services (CAMHS). The group included young carers, looked after children, asylum seekers, and those referred into the local authority provided tier 2 wellbeing services. They also spoke to a group of parents and carers of young people with special educational needs and disabilities (SEND).</li> <li>• <b>Young Minds</b> who spoke to young people aged from 17-21. These young people had accessed a range of services including school counsellors, therapists, accident and emergency, tier 4 inpatient services and private care. Two of the young people had autism spectrum disorder (ASD).</li> <li>• <b>Children’s Society</b> who organised an in-depth semi structured interview with two young people who had experience of using the Pause service in Birmingham, one of whom was a young asylum seeker.</li> </ul>

	<p>Young people have been involved in designing a young people friendly report for phase two. The engagement team have run focus groups for this work.</p> <p>In addition, during our fieldwork we spoke to more than 200 children and young people plus more than 100 parents and carers.</p>
STAFF	<p>Our external advisory group members include staff who work in children and young people’s mental health services and the organisations that represent their interests.</p> <p>Through our fieldwork, we have engaged with staff working at different levels of the differing organisations from across health, education and social care in each of the health and wellbeing board areas we visited. This includes more than 700 health and social care professional, more than 70 voluntary sector professionals, and more than 70 education professionals.</p>
Other stakeholders	<p>We have been holding regular external advisory group meetings to bring together experts from across different sectors to test our methodology for the review and to test early findings and recommendations from the review.</p> <p>Specialist members of the external advisory group in relation to equalities include the Race Equality Foundation, Young Minds, the Association for Young People’s Health, The Challenging Behaviour Foundation, the Council for Disabled Children, the National Autistic Society and the Children’s Society amongst others. The full list of the external advisory group members can be found in the appendix (page 31) of the <a href="#">phase one report</a>.</p> <p>We are actively engaging with the government, via the Department of Health and Social Care, and relevant Arm’s Length Bodies and partner organisations like Ofsted the National Audit Office, to gauge what work they are doing in this area and to hear about their experiences of working with service users, families and carers who may be affected by the issues raised in the review. By engaging early with these bodies we are aiming to ensure that the review has buy-in from external partners in ensure recommendations will be acted upon. These organisations include specialist charities that work with children and people with mental health conditions, and their families.</p>

6.

<b>Evidence</b> List the main sources of data, research and other sources of evidence reviewed to determine impact on each protected characteristic, human rights or privacy. If there are gaps in evidence, state what you will do to close them in the Log of Equality & Human Rights Actions	
<p>Age: (include younger as well as older people, safeguarding, consent and child welfare)</p>	<p>We have engaged with children and young people, and their parents and carers, for phase one and have continued this for phase two of the review.</p> <p>We have an expert advisory group set up for the thematic review, which includes organisations that represent the interests of children and young people with mental health needs. Our review has involved speaking to children and young people ranging from primary school age to 18+.</p> <p>Key line of enquiry 3 covers people’s experience of and involvement in care.</p>
<p>Carers: (impact of part-time working, shift-patterns, general caring responsibilities)</p>	<p>Our research for phase one of this thematic review included looking at parents and carers of children who have mental health conditions.</p> <p>As part of our engagement and site visits, we spoke to families and young carers of children and young people using mental health services. One of the focus groups run by Hillingdon HealthWatch involved speaking to parents and carers.</p> <p>For phase two, we spoke to families and carers who have used mental health services or tried to use them.</p> <p>Key line of enquiry 3 covers people’s experience of and involvement in care. This includes the views of the families and carers of children and young people with mental health problems.</p>
<p>Disability: (include attitudinal, physical and social barriers)</p>	<p>The report for phase one noted that children and young people with physical or learning disabilities are more vulnerable to mental health problems due to their circumstances. It also found that children and young people with a learning disability can find it particularly hard to access care. In particular, a review by the Council for Disabled Children found that there were no inpatient mental health beds suitable for children and young people with a learning disability in London, the southeast and south west of England.</p> <p>The evidence found that YP with a learning disability may remain under the care of children’s services until the age of 25 and that good practice in transition involves providing care that is appropriate to each individual child’s social and emotional development, rather than focusing solely on the age at which transition occurs.</p> <p>Workforce issues may also pose an issue, as learning disability nurses are also among the professions that providers find hardest to recruit.</p> <p>For phase two, the case tracking looked at children and young people</p>

	<p>in different circumstances, including those with learning disabilities and autism spectrum disorder (ASD).</p>
<p>Gender: (men and women)</p>	<p>The phase one review found that boys and young men are more likely to die by suicide than girls and young women.</p> <p>The review also reported on a study by Young Minds (a charity for children and young people with MH problems) which found that, when looking at online support and advice, young men and boys in particular have said that they would prefer online support, advice and counselling but that this support is not always available.</p> <p>For the phase two element of the review, inspectors were encouraged to probe the different experiences of children in different circumstances, which included the differences between boys and girls.</p>
<p>Gender Reassignment: (transgender and transsexual people, issues such as privacy of data and harassment):</p>	<p>There may be significant gaps in our understanding of mental health needs of children and young people in certain circumstances, as routinely collected data does not identify children and young people who are trans.</p> <p>The phase one review found that some children and young people are more vulnerable to mental health problems due to their circumstances and this can include trans children and young people. Trans children and young people are at significantly higher risk of depression, self-harm and suicide.</p> <p>The case tracking for phase two looked at some LGBT children. Early findings from phase two suggest that many areas have a good awareness that trans young people may be at increased risk of mental health problems, and may have specific needs from mental health services, but that local areas lack good data about the number and needs of trans young people in their area.</p> <p>Site visits also explored access for this group.</p>
<p>Pregnancy and maternity: (impact of working arrangements, part-time working, infant caring responsibilities and breastfeeding)</p>	<p>This information is not being captured in this review; however some information about young parents, teenage pregnancy or perinatal mental health may have been collected following the site visits from phase two.</p>
<p>Race: (include differences between ethnic groups, nationalities, gypsies and travellers, language barriers)</p>	<p>The phase one review found some groups of children and young people are at significantly higher risk of depression, self-harm and suicide. This risk increases further in groups of Black and minority ethnic lesbian, gay, bisexual and trans young people.</p> <p>The evidence also found that issues around stigma was particularly prevalent in black and minority ethnic communities and their families, and this could pose as a significant barrier from seeking help and in accessing services.</p>

	<p>For the second phase of the review, there are particular key lines of enquiries that relate to issues around race and ethnicity. Emerging findings from phase two seem to confirm that there are concerns around stigma and stereotyping that can disproportionately affect BME children and young people.</p> <p>Key lines of enquiry 1.a.iv asks about effective policies or guidelines in supporting partners to identify CYP in different circumstances with mental health needs and how they facilitate access to mental health support. This includes BME CYP.</p> <p>Key lines of enquiry 1.b.i. asks how effectively partners work together to identify the mental health needs of the population of CYP in their local area, including children in different circumstances like BME CYP.</p> <p>Key lines of enquiry 1.b.iii. asks how effectively partners work together to identify individual CYP with MH needs and facilitate their access to MH support, including children in different circumstances like BME CYP.</p> <p>Key lines of enquiry 2.b.ii. asks how partners monitor and assess the quality and accessibility of services experienced by CYP in different circumstances including BME CYP.</p> <p>Key line on enquiry 2.c.vi. asked how well do partners work together to meet the needs of children in different circumstances including BME CYP.</p> <p>Key line of enquiry 3.c.ii. asks how CYP, parents and carers are actively engaged and involved in decision making to shape and improve services. This includes BME CYP.</p>
<p><b>Religion or belief:</b> (include different religions, beliefs and no belief)</p>	<p>This area was not specifically covered by either phase one or two of the review, however some evidence may be found when exploring the KLOEs for race and ethnicity.</p>
<p><b>Sexual Orientation:</b> (include impact on heterosexual people as well as lesbian, gay and bisexual people)</p>	<p>For the phase one report, the review found that lesbian, gay, bisexual and trans children and young people were more vulnerable to mental health problems due to their circumstances. Lesbian, gay, bisexual and trans children and young people are also at higher risk of depression, self-harm and suicide</p> <p>Sexual orientation data is not routinely collected for those under the age of 16. However, a new information standard is being implemented to record the sexual orientation of all patients or service users aged 16 or over across all health services and local authorities with responsibilities for ASC in England.</p> <p>For phase two of the review, the case tracking will have covered some children and young people who identify as LGBT There are particular key lines of enquiries that cover this group of children and young</p>



	<p>people.</p> <p>Key lines of enquiry 1.a.iv asks about effective policies or guidelines in supporting partners to identify CYP in different circumstances with mental health needs and how they facilitate access to mental health support. This includes LGBT CYP.</p> <p>Key lines of enquiry 1.b.i. asks how effectively partners work together to identify the mental health needs of the population of CYP in their local area, including children in different circumstances like LGBT CYP.</p> <p>Key lines of enquiry 1.b.iii. asks how effectively partners work together to identify individual CYP with MH needs and facilitate their access to MH support, including children in different circumstances like LGBT CYP.</p> <p>Key lines of enquiry 2.b.ii. asks how partners monitor and assess the quality and accessibility of services experienced by CYP in different circumstances including LGBT CYP.</p> <p>Key line on enquiry 2.c.vi. asked how well do partners work together to meet the needs of children in different circumstances including LGBT CYP.</p> <p>Key line of enquiry 3.c.ii. asks how CYP, parents and carers are actively engaged and involved in decision making to shape and improve services. This includes LGBT CYP.</p>
<p><b>Human Rights</b> (refer to Guidance for examples, includes privacy)</p>	<p>The phase one report found that some CYP are more vulnerable to mental health problems due to their circumstances. This can include looked after children, care leavers, young people in the criminal justice system, lesbian, gay, bisexual and trans children and young people, and those with physical disabilities or learning disabilities.</p> <p>Less than 0.1% of children in England are in care, but 4% of children referred to specialist CAMHS services are in care.</p> <p>A third of people in the youth justice system are estimated to have a mental health problem.</p> <p>Children who have experienced stressful life events such as parental mental illness, neglect, abuse, sexual exploitation, bereavement or conflict are also thought to be more vulnerable to mental health problems.</p> <p>All of the sections are applicable here.</p>

7.

<p><b>Analysis</b></p> <p>Considering the evidence and engagement activity, set out below the actual or likely effect of the policy, project or work under each of the general duties of the Equality Act. CQC must have due regard to the general duties in the exercise of all of its functions</p>	
<p><b>Effect on eliminating discrimination, harassment and victimisation</b> (includes unlawful discrimination because of marriage or civil partnership status, as well as other protected characteristics)</p>	<p>The recommendations will make the case for parity of esteem for children and young people with mental health issues.</p> <p>The focus on young people with particular equality characteristics through key lines of enquiry and case tracking may highlight where particular young people face discrimination in CYP mental health services.</p> <p>Informal feedback from the ten areas where we carried out our fieldwork suggests that the fieldwork itself often helped local leaders to understand some of the issues and opportunities around equality for children and young people in their area.</p>
<p><b>Effect on advancing equality of opportunity</b> (includes removing or minimising disadvantages, taking steps to meet the needs, and encouraging participation in public life of people from protected groups)</p>	<p>See notes above</p>
<p><b>Effect on promoting good relations between protected groups</b></p>	<p>We have chosen to focus specifically on CYP with mental health conditions as opposed to the other protected characteristics as these were the areas of focus for the thematic review.</p> <p>However, the review has also been careful to collect evidence from CYP with mental health conditions with other protected characteristics as well– for example children and young people from BME backgrounds and LGBT CYP.</p>
<p><b>Effect on compliance with Human Rights Act 1998</b></p>	<p>Ensuring children and young people receive timely and appropriate care and support when there is a known suicide risk may assist in ensuring children and young people’s rights to life under Article 3 of Human Rights Act.</p>
<p><b>Privacy impact</b> (Includes assessment of risks to personal privacy. Privacy issues will be reviewed by the Information Governance Group who may require further privacy impact assessment work)</p>	<p>Not known yet at this stage.</p>

## 8. Log of Equality and Human Rights actions

Give an outline of the key actions based on any information gaps, risks, challenges and opportunities identified during engagement and evidence analysis. Include any action required to address specific equality, human rights or privacy issues where the work may need adjusting to remove barriers or better advance equality as well as actions to mitigate any potential negative effects of the policy on particular groups. Include how the actual impact on equality and human rights will be reviewed after implementation of the policy or project. Add more rows if required. Refer to Guidance for more information

<b>Action</b> (If using a project plan this should be a new deliverable or new task within an existing deliverable)	<b>Start date</b>	<b>End date</b>	<b>Action Owner</b>	<b>Outcome</b> (relate back to analysis section – which equality or human rights issues will be addressed through this action)	<b>Success measure</b>	<b>Actual Completion Date</b>
KLOE's to include specific reference to some of the protected characteristics	January 2017	July 2017	Policy and Strategy			July 2017
Analyse evidence from relevant KLOEs (described in section 6) and case tracking that focused on protected characteristics.	October 2017	December 2017	Intelligence			December 2017
Continued involvement of organisations on the EAG who have specific expertise in equality issues for particular groups of children and young people – e.g. Race Equality Foundation?						
Production of an easy read versions of the phase	January 2018	March 2018	Engagement	This will be coproduced in development with children		

2 report: <ul style="list-style-type: none"> <li>• For young people</li> <li>• For people with communication difficulties</li> </ul>				and young people		
Review of the EIA in light of the evidence from phase 2	TBC	TBC	TBC			
Engagement with children and young people, their families and carers and members of the EAG in drafting of the recommendations for the phase 2 report.	January 2018	January 2018	Engagement			January 2018

**Guidance:****How to complete Equality and human rights duties impact analysis (decision making and policies) - EHRDIA**

The purpose of an EHRDIA is to ensure that the Care Quality Commission integrates consideration of equality and human rights into its day to day business. The Equality Act 2010 requires organisations to consider how they could positively contribute to the advancement of equality and good relations in everything they do. The Human Rights Act 1998 also requires us to be compliant with the Act in the way we carry out our work.

EHRDIAs are not just about identifying discrimination but also about identifying opportunities for promoting equality, and promoting good relations for people with protected characteristics. Details of positive impacts help to demonstrate how the piece of work contributes to equality and inclusion, especially for groups protected by equality legislation.

It is not sufficient to say that the policy is intended to benefit everyone and will advance equality across all the groups. An effective equality analysis will help ensure that particular needs are taken into account, whether there are varying degrees of benefit, and any wider effects of the policy.

This is not a tick-box exercise. This EHRDIA should be used to document how equality, diversity and human rights have been considered in every part of the process. Even the decision as to whether an EHRDIA is required, requires the exercise of judgement. This in turn highlights the necessity for involvement and engagement of those people who will or may be affected.

**Engagement and involvement**

CQC is committed to involving people who use services in our work. We are also required by legislation to engage with people who have an interest in our equality performance. Involvement should start from the very beginning and before important decisions have been made.

**Evidence**

The Equality Act 2010 requires CQC to consider not only information it already holds, both qualitative and quantitative, but also to identify any information gaps, and take steps to fill those gaps. Local, regional and national research can be used. Evidence includes information learnt during engagement and involvement.

Case law has established that CQC should keep an accurate, dated, written record of the steps taken to analyse the impact on equality.

**Human Rights**

Most human rights can be captured under the headings of FREDAs: fairness, respect, equality, dignity and autonomy, except for Article 2: the right to life. However the equality element of human rights is best analysed separately, looking at the impact on each protected characteristic under the Equality Act.

The Human Rights Act includes the right to privacy. CQC must only interfere with this right where it is proportionate and in the public interest to do so for the purpose of protecting health or public safety, or for the prevention of crime, or for the protection of the rights and freedoms of others. It is therefore necessary to assess the potential impact of any proposed change upon the privacy of individuals.

### **Log of Equality and Human Rights Actions**

In addition to any other items that might be appropriate, the log should be used to record and monitor:

- any steps needed to reduce information gaps
  - any changes to the policy or project required that relate to equality and human rights as a result of engagement and involvement, or analysis of evidence. This includes changes to :
    - remove barriers to equality
    - advance equality or human rights
    - mitigate any potential negative effects on a particular group.
    - It is lawful under the Equality Act to treat people differently in some circumstances, for example taking positive action or putting in place single-sex provision where there is a need for it.
    - It is both lawful and a requirement of the general equality duty to consider if there is a need to treat disabled people differently, including more favourable treatment where necessary.
    - The policy must be stopped or removed if the EHRDIA indicates that it will result in unlawful discrimination. Removal should also be considered if it will result in adverse effects on equality that cannot be justified or mitigated.
  - How you will review the actual impact of the policy or project on equality and human rights after implementation
  - This log should be monitored as part of the overall project plan monitoring.
  - Where a formal project plan is being used, it is recommended that actions in the log are added to the deliverables or tasks in the overall project plan – so that they are integrated into the project work

### **Privacy impact assessments**

Privacy impact assessments (PIAs) are recommended best practice for compliance with the Data Protection Act 1998. The Information Commissioner has indicated that he is more likely to take enforcement action in cases of data protection breaches where a PIA has not been completed. Completion of PIAs is also a government requirement for gateway reviews of major projects and programmes, or for accreditation of new information systems. We have incorporated this into our Equality and Human Rights Act Impact assessment. Privacy is a human right and having a combined form will be the most streamlined and effective method for checking that we meet specific privacy requirements without duplicating work for staff completing these assessments

Where a proposal has a potential impact upon personal privacy, the analysis will be reviewed by the CQC Information Rights Manager, and must be signed off by the Senior Information Risk Owner (SIRO).

Where the SIRO consider that the potential privacy impact may not be fully understood, or where privacy risks may be particularly significant, they may require you to undertake a further privacy impact assessment (PIA) in accordance with the Privacy Impact Assessment Process. This will usually be required for very significant change programmes with privacy implications, but may be required for proposals of any type or size.

The process allows for scalability of the PIA, commensurate with the size of the programme or project.

For most proposals, a further PIA will not be required, providing that this issue has been given reasonable consideration as part of the EHRDIA. You should read the [PIA process/guidance](#) before completing relevant sections of the form.

### **Publication**

Each EHRDIA should be published on the internet, intranet and/or together with the main publication document whatever is most appropriate. You may wish to remove your name and contact details prior to publication.

### **Governance**

All EHRDIAs must be authorised by a Director of Business or Head of Function. Each completed EHRDIA must be signed-off by a member of the EDHR team prior to publication.

To contact the Involvement and EDHR team, please use the EDHR team mailbox.

### **After implementation**

We are required to demonstrate the impact of our policies and methodology on employees, people who use services and others from protected groups. Consider the timescale of the implementation and delivery when deciding on monitoring and review dates. The monitoring activities should form part of the Action Plan and relate to the success measures and outcomes.

### **Further information about statutory duties**

- [Equality and human rights](#) on our intranet
- [Guidance on the public sector equality duty](#) from the Equality and Human rights commission