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Dear Harshbir

Proposed Specific Duties supporting the Equality Act 2010

On behalf of NHS Eastern and Coastal Kent, I would like to take this opportunity to respond to the policy review paper titled Equality Act 2010: The public sector Equality Duty: reducing bureaucracy (17 March 2011).

Nature of the Consultation

Firstly, we are surprised that this is not a formal consultation bearing in mind the potential impact of the proposed changes. The document defines itself as a 'process of seeking views on the new draft regulations', and only gives interested parties five weeks to consider the proposals, form a response, and submit comments. These proposals involve a substantial change in direction from previous indications given by the Government Equalities Office (GEO) and they also deal with complex, technical issues. For this reason it would have been beneficial to allow more time to determine exactly how the proposed legislative changes might impact on employees and service users.

Transparency and Accountability

A stated theme of these changes is an improvement in transparency and an increase in accountability to the public. These are principles which we fully support.

However, the GEO appears to be removing any requirement to provide evidence of engaging with the public, how engagement has influenced decisions, or publish information demonstrating how policies and procedures have affected employees and service users.

The GEO has also departed from its statements that one equality objective is not adequate, and that organisations must publish enough information to show that they are compliant across all of their relevant functions. We are therefore concerned that in overall terms, these changes will lead to organisations being less transparent, less engaged with their local population, and therefore less accountable to them.

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Nature of Specific Duties

The specific duties exist “for the purpose of enabling the better performance” of the public sector duties laid out in the Equality Act. However, there are several aspects of the proposals which seem to undermine the public sector equality duty, rather than fulfilling their purpose as outlined in the Act.

Even though the general duties are still in force and still place significant requirements on public sector organisations, the absence of meaningful specific duties to support them will lead to, at the very least, a period of stagnation and confusion, as even the most committed organisations go back to the drawing board and try to decide upon the best way forward.

Commitment to Equality and Diversity

As an organisation we are fully committed to equality and diversity and this commitment is reflected in a critical strategic priority to break the cycle of inequalities. As part of this we recognise that the NHS is one of many organisations that can work towards achieving better health outcomes for all, and so we firmly believe that all public sector organisations must use their influence to bring about positive changes.

Unfortunately, at a time when we are all facing substantial financial challenges it is only natural for equality and diversity to become a lower priority, while at the same time the inequalities present within society are becoming more pronounced. In this current climate it is therefore imperative that organisations actively advance equality of opportunity more than ever, and the only way to ensure this will happen consistently and meaningfully is through solid legislation and explicit guidance. The specific duties need to send a clear and strong message that equality and diversity is still a high priority.

I hope you have found this response helpful and look forward to hearing about the outcome of this engagement exercise.

Kind regards.

Yours sincerely,



Ann Sutton
Chief Executive