



# Equality and Human Rights The Legal landscape

Dr. Parveen Sharma  
SCW Equality and Diversity Lead  
ESBT Alliance Inclusion Week  
29 September 2017

# NHS and the equalities legal landscape

---

NHS as a whole, CCGs and their partners have a key roles in addressing equality and health inequalities as:

- Commissioners
- Employers and
- Local system leaders, in creating high quality care for all

The CCG's are required to hold providers to account to show that they are compliant with their equalities obligations

# Two key equalities duties

---

These duties arise from:

- The Equality Act 2010 and
- The National Health Service Act 2006 as amended by the Health and Social Care Act 2012

In practice these duties are underpinned by the **Human Rights Act 1998** through application of **PANEL** principles.

# Human Rights Act 1998

---

- The **Human Rights Act** is a UK law passed in **1998**. It lets you defend your **rights** in UK courts and compels public organisations (including the Government, police, the NHS and local councils) to comply
- **PANEL principles** are one way of breaking down what a **human rights** based approach means in practice.

# PANEL principles

---

- **Participation** - People should be involved in decisions that affect their rights
- **Accountability** - There should be monitoring of how people's rights are being affected, as well as remedies when things go wrong
- **Non-Discrimination/ Equality** -All forms of discrimination must be prohibited, prevented and eliminated. People who face the biggest barriers to realising their rights should be prioritised
- **Empowerment** - Everyone should understand their rights, and be fully supported to take part in developing policy and practices which affect their lives
- **Legality** - Approaches should be grounded in the legal rights that are set out in domestic and international laws

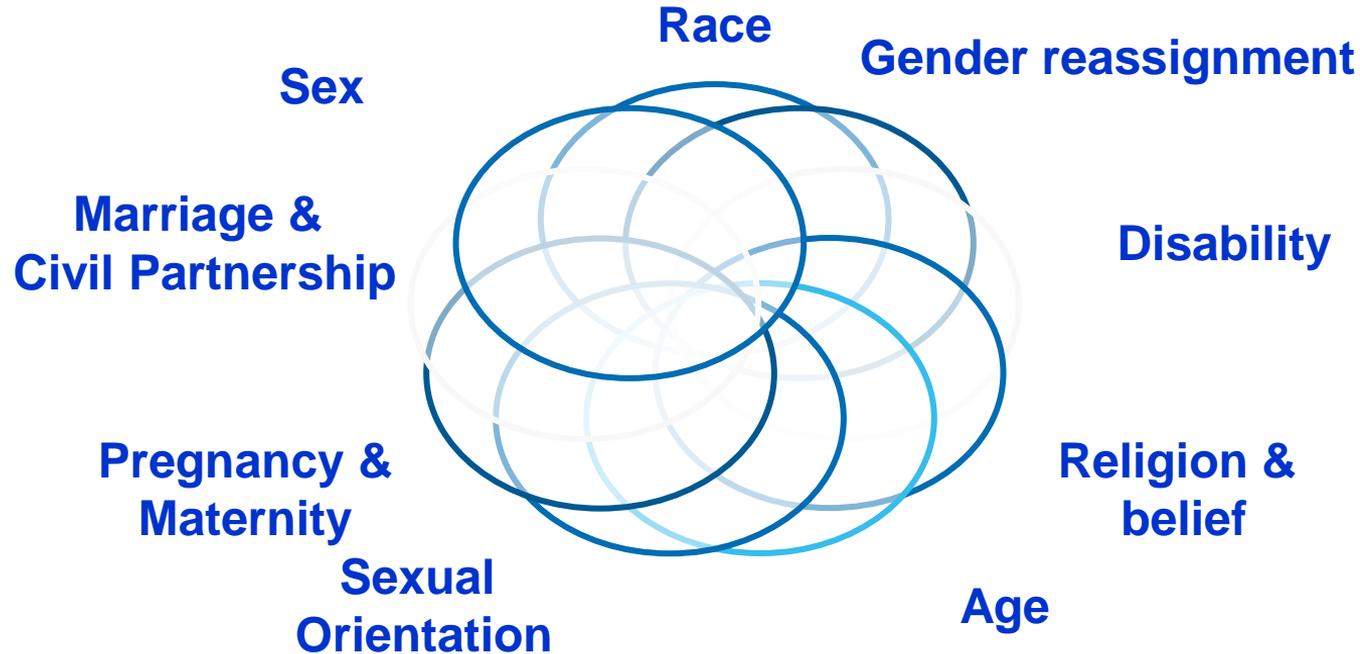
# Equality Act 2010

---

- Applies to commissioners, service providers and employers, the Act **prohibits discrimination**, harassment and victimisation
- ...on the basis of **9 protected characteristics**
- For public bodies, the Act also imposes the **public sector equality duty**:
  - there is a **general duty** and some **specific duties**
  - one of the specific duties is a duty to **analyse the impact** of your activities

# Protected characteristics

---



# NHS “inclusion Groups”

---

People who are:

- Homeless
- Live in poverty
- Long term unemployed
- Are in a stigmatised profession (e.g. sex workers)
- Misuse drugs
- Are geographically isolated

Bearing in mind needs of these groups helps to deliver on duty to reduce health inequalities

# The general duty

---

The duty applies to NHS bodies, commissioners, service providers/ contractors.

When exercising your functions, you must have due regard to the need to:

- **Eliminate** unlawful discrimination, harassment, victimisation, etc.
- **Advance** equality of opportunity
- **Foster** good relations between different groups



# How to advance equality of opportunity

---

Consider the need to:

- Remove or minimise disadvantage
- Take steps to meet people's different needs
- Encourage participation in public life by people from underrepresented groups



# Specific duties

---

A public authority must publish the following information:

- **Evidence of analysis** that they have undertaken to establish whether their policies and practices would further the aims of the general equality duty
- Details of the **information** that they considered in carrying out this analysis
- Details of **engagement** that they undertook with people whom they considered to have an interest in furthering the aims of the general equality duty



# NHS Equality Delivery Systems (1)

---

Equality Delivery System – EDS2 framework may help CCGs and their partners to:

- Improve the services they provide for their local communities
- Improve the experiences of people using the services
- Consider reducing health inequalities in their locality and
- Provide better working environments, free of discrimination, for those who work in the NHS

# Existing Standards

---

NHS organisations must comply with and monitor service providers to comply with:

- Accessible Information Standard

“All organisations that provide NHS or adult social care must follow the accessible information standard by law. ... The accessible information standard tells organisations how they should make sure that patients and service users, and their carers and parents, can access and understand the information they are given”

- Workforce Race Equality Standard designed to increase
  - BME representation in the workforce especially at more senior and Board levels
  - Improve experience of BME staff of working in the NHS

# Standards under discussion

---

Under consideration:

- Workforce Disability Equality Standard – expected to be introduced from April 2018
- Sexual Orientation Information Standard -TBA

# CCGs & Health inequality duty (1)

---

- Have regard to the need to reduce inequalities between patients:
  - In access to health services and
  - the outcomes achieved
- Exercise its functions so as to provide services in an integrated way i.e. where possible integrate health and social care services:
  - to improve quality
  - reduce inequalities in access to those services or
  - reduce inequalities in the outcomes achieved

# CCGs & Health inequality duty (2)

---

- Include in an annual business plan an explanation of how the CCG proposes to discharge its duty to have regard to the need to reduce inequalities
- Include in an annual report an assessment of how effectively it discharged its duty to have regard to the need to reduce inequalities
- Be subject to an annual assessment by NHSE, including an assessment of how well the CCG has discharged its duty to have regard to the need to reduce inequalities, and publish a summary of the result

# CCG Improvement and Assurance Framework

---

This CCG framework assesses CCG's annual performance against 57 indicators many of these focus on promoting equality and reducing health inequalities

Example include:

- Reducing inequalities in avoidable admissions
- Reliance on specialist inpatient care for people with a learning disability and/or autism
- Proportion of people with a learning disability on the GP register receiving an annual health check

# Other obligations related to equality

---

- the Public Services (Social Value) Act 2012
- the Autism Act 2009; and
- the Children's Act 2004

---

# Thank you and questions



[www.scwcsu.nhs.uk](http://www.scwcsu.nhs.uk)