

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

Equality Act 2010
Human Rights Act 1998

1.

Identifying Name (name of project, policy, work, or decision)	2016/17 Provider fees consultation
Intended outcomes (include outline of objectives or aims)	Enables CQC to recover fees to meet the costs of its regulatory activity and functions that are not covered through grant in aid from the Department of Health. A revised scheme of fees will take legal effect from 1 April 2016.
Who will be affected? (People who use services, CQC staff, the wider community)	All registered providers.

2.

<ul style="list-style-type: none"> 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) 	Possibly, but unquantifiably
<ul style="list-style-type: none"> Is it a major piece of work, significantly affecting how functions are delivered? 	No
<ul style="list-style-type: none"> Will it have a significant effect on how other organisations deliver their functions in terms of equality or human rights? 	No
<ul style="list-style-type: none"> Does it relate to functions that previous engagement has identified as being important to particular protected groups or human rights? 	No
<ul style="list-style-type: none"> Does or could it affect different protected groups differently? 	No
<ul style="list-style-type: none"> Does it relate to an area with known inequalities or breaches of human rights? 	No
<ul style="list-style-type: none"> Does it relate to an area where equality objectives have been set by CQC? 	No
<ul style="list-style-type: none"> Does or could it impact upon personal privacy? For example by: <ul style="list-style-type: none"> Using personal data (information about identifiable individuals) in new or significantly changed ways, or for new purposes. Collecting new identifiers (i.e. information which identifies people, such as name, D.O.B., NHS number, postcode etc). Combining anonymised data sources in such a way as to risk identifying individuals? Disclosure or publication of personal data or identifiers. 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). Observing or monitoring with potential for privacy intrusion (e.g. observing intimate personal care). 	No

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.

3.

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

Government policy requires fee-setting bodies to recover the costs of their chargeable regulatory activity from fees from providers rather than from grant-in-aid from the Department of Health. CQC's fees scheme for 2016/17 is designed to further CQC's progress in achieving that requirement. The changes to the scheme affect all sectors except for dental providers who are already at cost recovery and whose fees will remain at 2015/16 levels in 2016/17.

A response to the consultation questioned our draft equality and human rights duties impact analysis, published alongside our consultation in November 2015. Our assessment set out that the fees consultation and its proposals had no direct impact on equality or human rights. A representative organisation suggested in its consultation response that the equality impact assessment should have analysed the providers most adversely affected by the proposals and the demographic make-up of the populations they serve to determine whether the proposals might discriminate against any of the people who use those services. The comment above was made in the context of an increase in fees having the potential to force services to close. The complexity of provider cost structures, and the relatively small impact of CQC fees (typically no more than 1% of turnover), means this is unquantifiable as a direct causative factor.

Having reviewed the EHRDIA, we consider that the fees scheme does not directly affect any of the characteristics protected in the Equality Act (age, disability, gender, gender reassignment, marriage/civil partnership, pregnancy/maternity, race, religion and belief, and sexual orientation), or privacy.

This policy has the potential to interfere with the right to possession of property under article 1 of protocol 1 because it makes changes to the fees that providers are obligated to pay. In changing the fee providers are required to pay, there is the potential for the loss of property to result. However, CQC has concluded that the changes to the fees are necessary, proportionate and justified under the ECHR and HRA. In particular, a key government policy is for government arms-length bodies to recover the costs of their chargeable regulatory activities from fees from providers rather than from grant in aid. CQC is therefore justified in taking steps to make changes to the fees it charges providers to offset its reliance on grant in aid.

4.

Analysis Considering the evidence and engagement activity, set out below the actual or likely effect of the policy, project or work under the Human Rights Act or 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	
Effect on compliance with Human Rights Act 1998	<p>This policy has the potential to interfere with the right to possession of property under article 1 of protocol 1 because it makes changes to the fees that providers are obligated to pay.</p> <p>In changing the fee providers are required to pay, there is the potential for the loss of property to result. However, CQC has concluded that the changes to the fees are necessary, proportionate and justified under the ECHR and HRA. In particular, a key government policy is for government arms length bodies to recover the costs of their chargeable regulatory activities from fees from providers rather than from grant in aid. CQC is therefore justified in taking steps to make changes to the fees it charges providers to offset its reliance on grant in aid.</p>

Signed off by:

Executive Director of Strategy and Intelligence, 23 March 2016

Equality, Diversity and Human Rights Manager, 23 March 2016