Board of Directors Meeting

Date: 25th November 2009

Agenda item: 7.2, Part I

Title: Equality & Diversity Report
November 2008 – October 2009

Prepared by: Ann McCluskey, Deputy Director of HR
Mary Stidston, Head of Workforce & Organisational Development

Presented by: Lynn Lane, Director of Human Resources

Action required: For noting

Monitoring Information

<table>
<thead>
<tr>
<th>Healthcare Standards – CORE</th>
<th>Standard numbers</th>
<th>C7e, C17</th>
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<td>Healthcare Standards – DEVELOPMENTAL</td>
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1. PURPOSE
The Trust has a legislative duty to present an annual report to the Board which sets out progress against Equality & Diversity action plans for both patient services and employment practices.

2. BACKGROUND
The report outlines key achievements and progress during 2008/09 and identifies key areas of development for 2009/10, including three longer term drivers of change :-

- The proposed Equality Act (expected by Spring / Summer 2010)
- New public sector duties, associated with the above legislation
- New Care Quality Commission standards

The Trust now has a Single Equality Scheme, which exceeds current legal requirements and provides a sound foundation for meeting future duties.

3. KEY ISSUES
The Board is requested to note the key areas for development for the forthcoming year, namely :-

- Improving consultation and communication with staff.
- Improving staff support, particularly for those with a disability or who are of an ethnic minority.
- Enhancing the use made of data to understand patient equality issues.
- Continuing to embed impact assessment across the Trust.
- Developing training to raise awareness of disability, among both patients and staff.

4. PROPOSALS
That the key issues be addressed through the continued review of the Single Equality Scheme Action Plan, submitted for approval to the Trust’s Workforce & Diversity Steering Group.

5. FINANCIAL IMPLICATIONS
There are no immediate financial implications
6. RECOMMENDATIONS

The Board is asked to receive and note this report.
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1. **INTRODUCTION**

1.1 The Trust is required to report annually on Equality & Diversity, as stipulated by the Race Relations (Amendment) Act 2000, the Disability Discrimination Act 2005, and the Equality Act 2006. This information must cover both the service that we deliver and our employment practices. Progress against the Single Equality Scheme Action Plan is also required to be reported to the Board.

1.2 The report outlines achievements from November 2008 to October 2009 and identifies key areas for development in 2009/10. It also highlights three longer term drivers of change in equality and diversity, namely:

- The proposed Equality Act (expected by Spring / Summer 2010)
- New public sector duties, associated with the above legislation
- New Care Quality Commission standards

2. **KEY ACHIEVEMENTS**

2.1 Progress against the key areas for action identified in last year’s report are as follows:

- Further work needed on the collation of patient ethnicity and disability data:
  
  *Work has been progressed in reducing unknowns for these patient groups using the Patient Administration System and paper notes, respectively.*

- Internal process review required to encourage disclosure of staff ethnicity and disability status:
  
  *We continue to encourage disclosure through the recruitment process and our data cleansing of the Electronic Staff Record (ESR).*

- A process review is required to establish the low conversion rate from shortlist to appointment of candidates with a disability:
  
  *A review of our processes affecting staff with a disability was undertaken for Positive About Disabled People reaccreditation.*

2.2 In addition, the annual work plan to date has delivered the following achievements:

- ‘Lead’ Equality and Diversity Manager appointed in January 2009
- Workforce and Diversity Steering Group established
- Single Equality Scheme published in May.
- Re-accredited as a Mindful Employer and Positive About Disabled People.
- Training strategy developed, to enable staff to achieve or update their equality competence, in line with KSF requirements.
- Over 1600 staff received Equality & Diversity training between January and the end of September.
• Strengthened patient and service-user involvement in developing services to meet equality and diversity needs.
• Comprehensive data analysis undertaken on staff and patient statistics.
• Internal and external networking and communication improved within the Trust and with local and national organisations.
• Equality Impact Assessment on policies reviewed.

A fuller description of work undertaken during the past year and the areas for future development are set out in Appendix 1

3. AREAS FOR DEVELOPMENT

3.1 Over the coming year, the objectives are as follows:
• Improving consultation and communication with staff to ensure equality and diversity is embedded across the Trust.
• Improving staff support, particularly for those with a disability or who are of an ethnic minority.
• Enhancing the use made of data to understand patient equality issues.
• Continuing to embed impact assessment across the Trust.
• Developing training to raise awareness of disability, among both patients and staff.

The Single Equality Scheme Action Plan is currently being updated and includes planned action for the coming year.

4. FORTHCOMING ISSUES

4.1 The New Equality Act

The anticipated Equality Act is due to come into force in 2010 and is still subject to debate. It aims to harmonise the current law and strengthen it. Key changes include:
• Protected characteristics
  This replaces the concept of "equality strands".
  The current six strands are all given full and broadly equal legal protection in the proposed law, but three areas currently covered under the "gender" strand are now made protected characteristics in their own right.¹
• Positive discrimination
  Employers will be allowed to choose the job applicant from a minority group, as a tie-break where candidates are equally qualified for the job.
• Harassment
  Employers will be legally obliged to protect staff from third party harassment, on grounds of any of the protected characteristics, where

¹ These are gender reassignment, pregnancy / maternity and marriage / civil partnership.
they know the employee has been harassed on two previous occasions.
This previously only applied to sexual harassment.

Comment on key changes:

- Protected characteristics
  The NHS Constitution already contains a declaration that the Service will be available to all, without discrimination, so it already includes all of the new protected characteristics. The Trust’s current approach to equality also embraces all of these characteristics.
  The significance of the changes lies in the fact that legal protection is now accorded. For example, age discrimination against people over 18 years old in goods and services will be illegal. The NHS will therefore be subject to formal legal challenge if it is held to be age discriminatory in treating patients.

- Harassment
  The Trust already takes its responsibility to protect staff from harassment seriously, but the likelihood of legal challenge will increase.

4.2 New public sector duties

Alongside the Act, there will be new and modified duties on the public sector. These are still subject to consultation and are expected to come into force in 2011.

The new duties include:

- Addressing socio-economic disadvantage.
- Equality strategy to be addressed by high-level objectives, rather than a Single Equality Scheme
- Slimming down the data public organisations are expected to gather, so it covers the gender pay gap, ethnic minority employment rate and disability employment rate
- Organisations expected to demonstrate what difference impact assessment is making to key aspects of the service, rather than simple production of impact assessments
- Removal of requirement to provide training
- Consultation requirements more broadly applied, across all equality work.

4.3 New Care Quality Commission Registration Standards

The Commission has released new standards, which all care providers will need to comply with, in order to be registered.

Equality and diversity is thoroughly covered in these standards. The approach is similar to Standards for Better Health as regards patient diversity, with
equality and diversity continuing to be embedded in the key functions relating to patient care.

The focus is on adjusting care to fit patients' diverse needs, provision of information which takes their diversity into account, and having a complaints process which respects diversity. This is fully established within the Trust. For example, the new standard on ensuring patient nutrition ensures that the provision of meals to patients will "meet the requirements of their diverse needs".

Outside of direct care issues, Standards for Better Health was very detailed as regards process, for example about impact assessment and the data which has to be gathered, often repeating the specific requirements of the law.

In contrast, the new draft registration standards are higher level, have less of a focus on process and do not repeat detailed legal requirements. The emphasis is on:

- Ensuring that staff understand equality and diversity and its implications for their work.
- Having a recruitment process which complies with equality and diversity law.
- Bullying, violence and harassment of staff (whether by colleagues or service users) is effectively dealt with.

5. SUMMARY

5.1 The Trust has a Single Equality Scheme, which exceeds current legal requirements and provides a sound foundation for meeting future duties. This report outlines key achievements and progress made in mainstreaming equality & diversity across the Trust and sets out areas for development over the coming year.
1. **Single Equality Scheme**

This was published in May, building on a review of our existing separate schemes. It is now driving our equality and diversity action, for both staff and service users.

A detailed review of the Single Equality Scheme and the Action Plan has been undertaken in October, covering all ongoing actions and those due to have been completed at the time of the review. Actions planned up to March 2012 will be reviewed and updated twice a year.

2. **Reaccredited as Mindful Employer and Positive about Disabled People**

These are schemes of recognition, given by WorkWAYS and Jobcentreplus respectively, to employers who have agreed to take action to support the recruitment and retention of staff with mental health issues or disabilities. The processes for reaccreditation provided a valuable opportunity for us to self assess our practice, involving a wide range of internal stakeholders.

For Mindful Employer, we have taken the opportunity to:

- Embed supportive information at every stage of the recruitment process.
- Minimise the risk of discrimination in recruitment and selection.
- Use training as a tool to promote equality for those with mental health issues.
- Strengthen the sickness policy to address the psychological aspects of sickness management (early managed return to work).
- Raise the profile of mental health issues.

Self-assessment for Positive about Disabled People confirmed existing good practice and the plans for improvement we had already made.

3. **Training strategy developed, to enable staff to achieve or update their equality competence**

Central records show we have trained 1,644 staff between January and September 2009.

Existing materials and delivery methods have been reviewed and enhanced, with a Trust-wide performance indicator developed for the Workforce Dashboard. Materials include the following:

- Short presentation, covering legal obligations and minimum requirements for the Knowledge & Skills Framework (KSF).
- In depth presentation, built on the above, but allowing greater opportunity for exploration of prejudice and discussion.
• Tailored presentations, to support mentors, preceptorship, medical study supervisors and doctors.
• Diversity Booklet (revised), to provide written reinforcement of the above.
• Equality and diversity thoroughly embedded in recruitment and selection training.

Delivery mechanisms are as follows:
• Equality and Diversity Manager, delivering improved induction input and team sessions, on request. Diversity Leads numbers have increased from 15 to 23. See Appendix 2. Learning and Development Tutors, also offer both the presentations above and embed equality and diversity in their existing provision, as appropriate.

Feedback:
• The training sessions are being extremely well received. The key learning points have been around how easy it is to discriminate or harass unintentionally.

The performance indicator for equality and diversity training has now been integrated into the Directorate Dashboards. This measures the proportion of staff who have had at least the equivalent of the 30 minute presentation, above, in the last three years.

The following table reflects centrally recorded activity as at the end of September 2009:

% of Staff with Equality & Diversity Competence in Date

<table>
<thead>
<tr>
<th>Department</th>
<th>Percentage</th>
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<tr>
<td>Trustwide</td>
<td>44%</td>
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<tr>
<td>Human Resources</td>
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<tr>
<td>Medicine</td>
<td>53%</td>
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<td>Women &amp; Child Health</td>
<td>58%</td>
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<td>Diagnostics</td>
<td>62%</td>
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<td>Facility</td>
<td>61%</td>
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<td>Critical Care</td>
<td>64%</td>
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<tr>
<td>Finance Information and Estates</td>
<td>66%</td>
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<tr>
<td>Operations</td>
<td>68%</td>
</tr>
<tr>
<td>Orthopaedics</td>
<td>40%</td>
</tr>
<tr>
<td>Specialist Surgery</td>
<td>26%</td>
</tr>
<tr>
<td>Surgery 1</td>
<td>20%</td>
</tr>
<tr>
<td>Cancer Services</td>
<td>13%</td>
</tr>
<tr>
<td>Professional Services</td>
<td>11%</td>
</tr>
</tbody>
</table>
4. Other equality-related training provision

- Organised training sessions by Deafblind UK, working jointly with the Devon Partnership Trust, raising awareness of patients with sight and hearing loss for c. 80 RD&E staff.

- Designed equality content of the Trust’s Recruitment and Selection training.

- Designed and delivered equality component in Assistant Practitioners’ Higher Professional Diploma course.

- Reviewed training to raise awareness of patients with learning disability, working with Learning and Development Service, Learning Disabilities Nurse and Vulnerable Adults Lead.

- Worked with Diversity Leads and PCT Community Development Worker to address staff training issues in Devon Gypsies and Travellers Health Needs Assessment.

5. Service User Equality

- Implemented an access card for patients with disabilities, which they can display to staff, showing at a glance that they will require further assistance. The card can also be used outside the hospital.

- Mapped the internal patient groups and the Third Sector partners who can help us better understand patient equality issues. Internal user groups identified have been contacted to collate the outcomes of their activity.

- A comprehensive programme of visits to community-based events is underway, for us to consult service users on disability issues. These events are being facilitated by LINks and Living Options who approached the Trust asking for our involvement.

- We are developing high level performance indicators for equality using centrally collected data and have set up systems to analyse equality data from our local patient surveys and the comments card.

6. Comprehensive data analysis undertaken

This covers or exceeds all of the legal requirements and now includes a full equality analysis of the staff survey results.

This used a simple and transparent way of identifying and reporting on equality issues which has also been embedded in the process for analysing patient information and survey results. The analysis has led us to identify the following issues and actions for the Trust.
• We have a high number of ‘unknowns’ in some categories.

We will:

Write an article for RD&E News to show how we are using the data and encouraging staff to self declare on ethnicity, religion etc.

• We have a low proportion of staff with a disability (those registered as having a disability on ESR) when compared to the Exeter working age population with a disability and in work. The staff survey suggests we need to improve the working experience of staff with a disability.

We will:

Strengthen our systems for recruiting and supporting people with a disability.

• BME (black and minority ethnic) staff are under-represented at some bands. Staff survey responses on experiencing discrimination on the basis of ethnic background are higher than expected compared with national averages given the proportion of BME staff in our workforce. However, this is not reflected in our employment case data, as no BME staff are registering grievance cases.

We will:

Consider whether to establish a bme staff network.
Consult local BME leaders, to understand the underpinning issues.
Consider how to promote ourselves better to bme people locally.
Review our use of the Breaking Through programme.\(^2\)
Embed ethnicity in our overall approach to talent management.
Consider how we might identify when bme staff are over-qualified for jobs with us and encourage them to apply for more appropriate opportunities.

• We have noticeably lower take-up of part time working at Band 7 and above.

We will:

Address this through our follow-up of the staff survey, where we have a strategic action to review flexible working practices across the Trust.

\(^2\) This is a national programme to support the career development of bme people in the NHS.
From the staff survey data, staff under the age of 30, staff who are female, staff who report that they have a long-standing illness, health problem or disability and BME staff report higher levels of violence and harassment from patients and relatives.

It is possible that one explanation is that these staff groups are also represented in greater numbers in frontline clinical and support roles which have most patient contact. We will consider how to target initiatives, such as conflict resolution, which can support the relevant groups, in particular younger staff, BME and those with a disability.

There are fewer BME candidates than expected progressing through our staff selection process, from application to appointment.

We will strongly encourage all recruiting managers to take part in recruitment and selection training, with a clear equality and diversity emphasis, and consider how to improve our monitoring of recruitment and selection.

Although the Trust gender pay gap is smaller than the national average, there are large gaps for two individual staff groups - Administrative & Clerical and Medical & Dental.

We will consider how we might encourage more women to attain more senior positions in these areas. The majority of A&C staff are in junior grades such as medical secretaries and predominantly female. However, there is a majority of males in senior positions, for example Finance. Recently, there has been a higher proportion of females than males recruited to medical schools. As careers develop for this group, this will impact on the gender balance in more senior and higher paid roles reducing the pay gap.

Service User:

We are refocusing our use of patient data since the last Board Report to concentrate on indicators which may shed light on the patient experience of equality.
We are also gathering qualitative data on patient equality, using the Nursing Quality Audit Tool (NQAT) and the patient comment card.
One indicator covering complaints is shown below:


Complaints are a clear measure of patient dissatisfaction.

This indicator looks at inpatient complaints, to balance the previous one, which focused on outpatients.

It looks at the proportion of all inpatient complaints coming from each category of patient and compares this with the proportion of all inpatients from that category.

We would expect the two proportions to be roughly the same, within each category.
<table>
<thead>
<tr>
<th></th>
<th>% of all inpatient complaints from this group</th>
<th>% of all inpatients from this group</th>
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</thead>
<tbody>
<tr>
<td>Adults</td>
<td>60%</td>
<td>48%</td>
</tr>
<tr>
<td>65+</td>
<td>32%</td>
<td>41%</td>
</tr>
<tr>
<td>Male</td>
<td>33%</td>
<td>48%</td>
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The categories above are those where the source data allowed for meaningful analysis.

8. Internal networking and communication

- Diversity Leads Forum further developed by:
  Personal meetings with all Leads to ensure they are focused to explore possibilities for joint working.
  Recruiting nine new members, including two who are present to represent a particular equality strand rather than a directorate.
  Stimulating their wider interest in equality by use of guest speakers.
  Using group experience to contribute to equality development work (for example, training component in response to Gypsy and Travellers Health Needs Assessment).

- Adapted and updated all equality intranet pages and resources, so that the presentation is more user-friendly and engaging.

- Agreed an approach with Divisional Manager for Corporate Affairs and Communications to take forward equality and diversity communication in the Trust.

- Equality & Diversity Manager attends Joint Staff Forum and has established informal equality meetings with Unison Equality Representative.

- Identified with Head of Procurement how we might evidence and embed delivery of equality and diversity in Trust procurement.

- Enabled Complaints Manager to embed Human Rights in the new complaints handling mechanisms.

9. External networking and consultation

- Established relationships with organisations (mainly Third Sector) with special interests in equality and each individual equality strand.
• Hosted an Equality and Diversity lunch with 10 external partners, including representatives from key organisations such as Devon County Council and Living Options and minority groups to build relationships in the local community.

• Become an active member of Devon Equality Partnership (comprising equality specialists from 36 public sector organisations) and the SHA’s Regional Equality Network.

• Ongoing relationships with staff with an interest in equality in the Devon PCT, the Partnership Trust and Plymouth PCT.

• Out of region networking with NHS Employers Equality Conference, SE Coastal BME Network, King’s College Hospital NHS FT and Bradford Teaching Hospitals NHS FT.

• Established links with Devon and Cornwall Police identifying key contacts for local ethnic minority groups with a view to exploring recruitment opportunities.

• This networking has identified best practice in a range of fields which can now be implemented at RD&E, including:
  
  Appropriate support arrangements for staff in each equality strand.
  Impact assessment.
  Data gathering
  Consultation and communication
  Embedding equality in procurement
  Ensuring equality in HR processes such as employment cases and recruitment.
  Meeting public sector duties.

• Adapted and updated all internet equality pages and resources, to make greater effort to engage the readers in our work.

10. **Review of impact assessment and development of new processes**

• The Equality & Diversity Manager has reviewed the quality and effectiveness of current arrangements for producing impact assessment of policies and developed and piloted new processes.

• The potential of IaN (the new intranet) to manage the impact assessment of policies is being developed. Impact assessments of all HR policies completed and advice provided to staff in other areas covering at least 25 policies Trust wide.
11. Support routine HR management processes

- The Equality & Diversity Manager attends Joint Staff Consultative and Negotiating Committee, to advise on equality implications of all policy development and provides regular legal updates to HR Managers on equality law and tribunal cases, alongside specialist advice in their case management.

- Review of the recruitment process has included an equality perspective on future changes.
### Membership

There are 23 members above. Of the 9 who have joined this year, 3 have been replacements for people who left, giving a net increase of 6.

### Attendance at meetings

Whilst attendance at meetings is not the only measure of commitment, attendance has been encouraging.

9 came to the March meeting, with 15 attending in June and 23 in September.

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<th>Notes</th>
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<td>Finance</td>
<td>New this year</td>
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<tr>
<td>Ann Hoskins</td>
<td>Child and Womens Health</td>
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<tr>
<td>Carina Hume</td>
<td>Diagnostics</td>
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<tr>
<td>Dave Searle</td>
<td>Transport</td>
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<tr>
<td>Jane Montgomery</td>
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<td>Lara Millmow</td>
<td>Graphics</td>
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<td>Natalie Stone</td>
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<td>Nicky Lavender</td>
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<td>Nigel Lawrence</td>
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<td>Pam Matten</td>
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<td>Prof Services</td>
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<td>Sarah Dodds</td>
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<td>Sharon Collingwood</td>
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<td>Sheila Guinchard</td>
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<td>Sue Greenall</td>
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<td>Tina Grose</td>
<td>Cancer Services</td>
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<tr>
<td>Tony Williams</td>
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