

Equality Impact Assessment – Accepted outcomes guidance project

1. Activity

Title of activity	Accepted outcomes guidance project	Date of ELT	2 September 2024
Service area	Standards and Policy	EIA lead officer	Polly Rossetti
Approved by	Executive Leadership Team	Date of approval	2.9.24
Description of activity This is a project to develop guidance for regulators to use when developing their own accepted outcomes guidance and processes, following the roll out of the reforms to the legislation governing professional regulation.			

2. Relevance Test

Relevance statements	Yes	No
1. The outcomes of the activity directly and significantly impact on people e.g. staff, board, regulators.	X	
2. The activity could/does affect one or more groups of people who share protected characteristics.	X	
3. The activity could/does affect groups who share protected characteristics differently.	X	
4. People who share one or multiple protected characteristics could be disadvantaged, adversely affected or are at risk of discrimination as a result of the activity.		X

5. The activity relates to an area where there are known inequalities.	X	
6. The activity sets out proposals for significant changes to policies.	X	
7. The activity relates to one or more of the three parts of PSA's equality duty.	X	
8. The activity relates to PSA's strategic plan objectives, is a significant activity and/or presents a high risk to PSA's public reputation.	X	
9. The activity relates to the Welsh Language Standard (standards 21 and 42-50)		X
A. An equality impact assessment of this activity is required.	X	
B. An equality impact assessment is not required. This activity has no relevance to the Professional Standards Authority's duty to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations.		
Explanation why an equality impact assessment is not needed.		

3. Scope of EIA

Who is impacted?	
Who is/will be impacted by the activity's aims, application and outcomes?	The guidance will impact the professional regulators that we oversee and seeks to positively influence the approach they take to using accepted outcomes following the roll out of the reforms to professional regulation.
Which groups of people with protected characteristics are likely to/will be affected?	<p>The main audience for this guidance is the regulators that we oversee, therefore it will not have a direct effect on groups of people with shared protected characteristics. It is however possible that the guidance may indirectly impact on groups of registrants or members of the public with shared protected characteristics through influencing the approach regulators take to using accepted outcomes.</p> <p>The categories of characteristic where there may be an impact are:</p>

	<p>Race</p> <p>Evidence shows that black and ethnic minority health and care workers’ rate of referral into the fitness to practise process is disproportionately high (see for example Social Work England, 2023, <i>Social Work England’s fitness to practise process: an initial analysis of diversity data</i>: <u>Social Work England’s fitness to practise process: an initial analysis of diversity data</u>, General Dental Council, 2023, <i>Fitness to Practise Statistical Report 2022: Fitness to Practise Statistical Report 2022 (gdc-uk.org)</i>, GMC, 2019, <i>Fair to refer: reducing disproportionality in fitness to practise concerns reported to the GMC: fair-to-refer-report_pdf-79011677.pdf (gmc-uk.org)</i>, West, E et al for the NMC, 2017, <i>The Progress and Outcomes of Black and Minority Ethnic (BME) Nurses and Midwives through the Nursing and Midwifery Council’s Fitness to Practise Process</i>: <u>bme-nurses--midwives-ftp-research-report.pdf (nmc.org.uk)</u>)</p> <p>Neurodiversity</p> <p>It is possible that people who are neurodiverse may be impacted differently to people who are neurotypical by the accepted outcomes process due to the need to submit their evidence in writing rather than express themselves verbally at a hearing. The effect may be either positive or adverse, depending on the individual and the nature of their neurodiversity.</p> <p>Low income</p> <p>There is evidence to suggest that different income groups interact differently with the fitness to practise process, with those in typically higher earning professions more likely to have legal representation (see Bryce, M et al, February 2022, <i>The concept of seriousness in fitness to practise cases</i>: <u>The concept of seriousness in fitness to practise cases (gdc-uk.org)</u>, and Pulse, 16 May 2022, <i>Overseas GPs lack representation at fitness-to-practise hearings and face ‘harsher sanctions’</i>: <u>Overseas GPs lack representation at fitness-to-practise hearings and face ‘harsher sanctions’ - Pulse Today</u>). Legal representation is positively correlated with more lenient sanctions in fitness to practise and therefore those lacking it may be disadvantaged.</p>
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	We hope that the guidance will reinforce the need for regulators to carefully consider the impact of their processes on protected groups alongside other considerations and seek to address or mitigate any negative impacts as far as possible.
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General Equality Duty	
Which part(s) of the general equality duty are the aims and outcomes of the activity relevant to?	
Eliminate discrimination, harassment and victimisation	Yes
Advance equality of opportunity	Yes
Foster good relations	No

Welsh Language Scheme	
How are the Welsh Language Standards relevant?	<p>We ran a full public consultation on our draft accepted outcomes guidance in both Welsh and English. The consultation document, draft guidance, and online survey were all available in Welsh, and responses in Welsh were welcomed. This provided all individuals in Wales with the opportunity to respond to our proposals in Welsh. This accords with our requirements under The Welsh Language Standards (No. 8) Regulations 2022 and the corresponding Compliance Notice issued to us by the Welsh Language Commissioner under Section 44 of the Welsh Language (Wales) Measure 2011. The relevant Standard engaged in respect of the consultation was Standard 21: <i>‘If you produce a document (but not a form) for one or more individuals, you must produce it in Welsh— (a) if the subject matter of the document suggests that it should be produced in Welsh, or (b) if the anticipated audience in Wales, and their expectations, suggests that the document should be produced in Welsh.’</i></p> <p>In addition, in line with the requirements under Standards 42-47 of our compliance notice, we have considered the effects of our guidance on (a) opportunities for persons to use the Welsh language, and (b) treating the Welsh language no less favourably than the English language. This has included considering how the guidance could be formulated to have</p>

	<p>positive effects on the above and avoid adverse effects. We have not identified any effects, either positive or adverse, of our guidance in terms of the Welsh language and neither have we identified any changes required in order to meet the Standards.</p> <p>The regulators at which this guidance is aimed will need to consider their own requirements under the Welsh Language standards.</p>
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Human Rights Act	
Which Article(s) of the Human Rights Act are relevant?	<p>Article 14 – protection from discrimination.</p> <p>Article 6 – right to a fair trial</p>

4. Evidence, data, information and consultation

What evidence have you used to assess the impact on equality?	<p>We have reviewed literature relating to the use of accepted outcomes in fitness to practise, as well as the fitness to practise process more generally and research on decision making. Sources that make reference to the impact on equality include:</p> <p>Bryce, M et al, February 2022, <i>The concept of seriousness in fitness to practise cases</i>: <u>The concept of seriousness in fitness to practise cases (gdc-uk.org)</u></p> <p>Finn, G et al, November 2022, Experiences of GDC fitness to practise participants 2015 – 2021: A realist study: Experiences of GDC fitness to practise participants 2015 – 2021: A realist study November 2022: <u>Experiences of GDC fitness to practise participants 2015 – 2021: A realist study November 2022 (gdc-uk.org)</u></p> <p>Social Work England, 2023, <i>Social Work England’s fitness to practise process: an initial analysis of diversity data</i>: <u>Social Work England’s fitness to practise process: an initial analysis of diversity data</u></p>
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	<p>General Dental Council, 2023, <i>Fitness to Practise Statistical Report 2022: <u>Fitness to Practise Statistical Report 2022 (gdc-uk.org)</u></i></p> <p>GMC, 2019, <i>Fair to refer: reducing disproportionality in fitness to practise concerns reported to the GMC: <u>fair-to-refer-report pdf-79011677.pdf (gmc-uk.org)</u></i></p> <p>West, E et al for the NMC, 2017, <i>The Progress and Outcomes of Black and Minority Ethnic (BME) Nurses and Midwives through the Nursing and Midwifery Council's Fitness to Practise Process: <u>bme-nurses--midwives-ftp-research-report.pdf (nmc.org.uk)</u></i></p> <p>Pulse, 16 May 2022, <i>Overseas GPs lack representation at fitness-to-practise hearings and face 'harsher sanctions': <u>Overseas GPs lack representation at fitness-to-practise hearings and face 'harsher sanctions' - Pulse Today</u></i></p> <p>Cutherbert, L, 2021 for the Professional Standards Authority, <i>Advice on biases in fitness to practise decision-making in accepted outcome versus panel models for the Professional Standards Authority: <u>advice-on-biases-in-fitness-to-practise-decision-making.pdf (professionalstandards.org.uk)</u></i></p> <p>Professional Standards Authority, 2019, <i>How is public confidence maintained when fitness to practise decisions are made? Advice to the Secretary of State: <u>https://www.professionalstandards.org.uk/publications/how-public-confidence-maintained-when-fitness-practise-decisions-are-made</u></i></p> <p>Sanderson, P, 2019 <i>From public hearing to consensual disposal: insights from the decision-making literature: <u>From public hearings to consensual disposal - insights from the decision-making literature PSA</u></i></p> <p>We have also carefully reviewed the evidence submitted to us by the regulators we oversee with respect to the impacts they expect accepted outcomes to have on people with certain protected characteristics.</p>
What consultation or stakeholder engagement have you carried out to identify the impact on equality?	<p>A questionnaire was issued to all the regulators we oversee seeking their views on the use of accepted outcomes in fitness to practise. The following question was included:</p> <p><i>'Are you aware of any particular impacts the new powers to use accepted outcomes will have on people with protected characteristics (age, disability, gender reassignment,</i></p>

	<p><i>marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation)?'</i></p> <p>The draft accepted outcomes guidance was subject to a full 12 week public consultation. The consultation sought views on how the guidance might impact on people with different characteristics, and how any adverse impacts could be mitigated.</p>
What does this evidence tell you about groups of people who share protected characteristics and other disadvantaged groups?	The evidence tells us that accepted outcomes processes may impact differently on different groups (see section 3 above)
What further evidence do you need to fill any gaps in your understanding of the potential or known effects of the activity?	No further information required at this stage.

5. Impact by characteristic

Characteristic	Equality impact			Explanation of potential/actual impact	What actions to mitigate adverse impact can/have been taken?
	Positive	Adverse	None		
Cross-cutting	Yes			As regulatory processes may have a disproportionately negative impact on those who share protected characteristics and/or be more difficult for those in particular groups to engage with consultations and engagement on policy and rule changes we envisage that the guidance (which will encourage regulators to robustly assess the impact of rule changes, consult and mitigate effects as appropriate) should have a positive impact on incorporation of EDI impacts into the rule development process.	

Age	Yes			There is evidence to suggest that older people are disproportionately represented in some regulators' fitness to practise processes and impacted by revalidation requirements, therefore the guidance should encourage this to be considered and addressed as part of the rulemaking process.	
Disability	Yes				
Gender reassignment	Yes				
Pregnancy and maternity	Yes				
Race	Yes			There is evidence to suggest that certain ethnic groups are disproportionately represented in some regulators fitness to practise processes and affected by differential attainment within education and training leading to registration, therefore the guidance should encourage this to be considered and addressed as part of the rulemaking process.	
Religion or belief	Yes				
Sex	Yes			There is evidence to suggest that men are disproportionately represented in some regulators' fitness to practise processes, therefore the guidance should encourage this to be considered and addressed as part of the rulemaking process.	

Sexual orientation	Yes				
Marriage / civil partnership NI: Marital status	Yes				
Neurodiversity	Yes				
Intersectionality	Yes				
Other: Low income, carers NI: person with dependants	Yes				
NI: Political opinion	Yes				

6. Commissioned services

What measures will be included in contracts to help meet the three parts of the general equality duty?	N/A
What steps will be taken throughout the commissioning cycle to meet the different needs of people who share protected characteristics?	N/A

7. Actions

What will be done?	What will be the (measurable) outcome?	By when?	By who?
We will continue to assess the regulators' performance against our Standards of Good Regulation. Standard 3 requires that the regulator understands the diversity of its stakeholders and ensures that its processes do not discriminate unfairly.	Publication of performance reports assessing compliance against all Standards of Good Regulation, including the equality, diversity and inclusion standard.	Ongoing	PSA Performance Review function

8. EIA Findings

Concluding decision		Summary and findings
		In preparing this report, due consideration has been given to the Professional Standards Authority's statutory equality duty to eliminate unlawful discrimination, advance equality of opportunity and foster good relations (Section 149(1) of the Equality Act 2010); to promote equality of opportunity and promote good relations (Section 75 of the Northern Ireland Act 1998); and the Welsh Language Standards Regulations 2022.
No change required to the activity	X	Whilst the accepted outcomes process may have differential impacts on groups with shared protected characteristics (potentially positive and negative) the effect of this activity (production of guidance for

		regulators) should be positive on all groups, as it encourages regulators to identify any impacts and take steps to mitigate any that adverse.
Adjustments required to the activity		
Justification to continue the activity		
Stop the activity		

Review date	
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Document Control

Version Control

Version	Description of Version	Date Completed
1.0	EIA Template	May 2023
1.1	Additional Welsh Language Standard added	June 2023
2.0	EIA Template – final	September 2024

Associated documentation

Version	Description of documentation
1.0	EIA Template Notes

