

INVITATION TO TENDER

For:

**Review of Equality Impact Assessments for new
treatments and disruptive innovations**

November 2021

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About the NHS Race and Health Observatory

The NHS Race and Health Observatory (RHO) is a new, independent organisation, set up to explore ethnic inequalities in access to healthcare, experiences of healthcare, health outcomes, and inequalities experienced by ethnic minority members of the health and care workforce. In doing so, it assesses aspirations in these areas as outlined in national healthcare policy, including those set-out in the NHS Long Term Plan. It is a proactive investigator, providing strong recommendations that inform policymaking and facilitate change. It is evidence-driven and solution-focused.

The Observatory is supported by NHS England and NHS Improvement, and hosted by NHS Confederation, but its board and team are independent, and we dictate our own direction and areas of focus. The Observatory has three main functions:

- facilitating new, high-quality, and innovative research and evidence
- making strategic policy recommendations for change.
- Facilitating the practical implementation of those recommendations.

Ethnic Health Inequalities in Digital and Data

During stakeholder engagement over the course of 2020, digital inclusion and use of data were identified as major priorities for the RHO. Health care is becoming more digitalised and data driven. Precision medicine, clinical decision support systems and predictive analytics are no longer the future, but our present. COVID-19 has accelerated the adoption of new technologies and new ways of working. However, as highlighted in the recently published RHO paper *Pulse oximetry and racial bias*, technology can inadvertently be a contributing factor to ethnic health inequalities.¹ Research on *Ethnicity coding in English health service datasets*, carried out by the Nuffield Trust and supported by the RHO, found that even though “the proportion of health records containing the patient’s ethnicity code was high”, there is still work to do to improve the quality of ethnicity coding in health care records.²

The NHS long term plan makes a commitment to a more concerted and systematic approach to reducing health inequalities and addressing unwarranted variation in care. One of the key enablers identified in the plan is digital tools. These will be a way to empower people and transform the way people receive and engage with health care services. The NHS Digital Inclusion plan acknowledges that “people who have characteristics that are protected under the Equality Act 2010 (age, disability, **race**) are less likely to have access to the internet, and the skills to use it”. The Observatory is committed to commissioning high quality and impactful research into how new digital innovations are impacting ethnic health inequalities. The RHO will also be looking at how data can be better used to inform and influence work on reducing health inequalities.

¹ <https://www.nhsrho.org/publications/pulse-oximeter-bias-highlighted-in-rapid-review/>

² https://www.nhsrho.org/wp-content/uploads/2021/06/Nuffield-Trust-Ethnicity-coding_WEB.pdf

Scope of the work

Background

Health and social care commissioners and providers have a legal duty to give due regard or regard to addressing health inequalities and advancing equality of opportunity. The legal requirements are outlined in the Public Sector Equality Duty (PSED), the Equality Act 2010 and section 13g in the National Health Service Act 2006.

Organisations carry out an equality impact assessment (EIA) to make sure that new treatments, strategies, or innovations do not increase inequalities. Even though EIAs are routinely completed, our stakeholder engagement suggests that these are not done to an acceptable standard. Various health and social care organisations use their own bespoke EIA documents. These documents vary significantly, are not fit for purpose, and some haven't been updated in line with changes in health and social care provision. COVID-19 resulted in the need for rapid adoption of new technologies and approaches. Some of these innovations have emerged from start-ups and smaller organisations that may not have mature EIA processes in place or the ability or capacity to follow some complex NHS processes. EIAs therefore need to be proportionate, accessible and fair to all organisations that develop new innovations and treatments.

Specifically looking at digital innovations, EIAs are important to make sure that new innovations benefit all patients. There are currently no standards for EIA documentation for new digital innovations. It is also unclear how decisions for funding and service commissioning are influenced by EIAs.

Project outline

The RHO is tendering for new research examining how EIAs are currently being used with regard to new treatments and disruptive digital innovations in health and social care. Disruptive innovation here is defined as a technology which addresses an unmet clinical need for the NHS, or which significantly improves current treatment options, and which is likely to be highly disruptive to current service delivery or lead to a step change in established care pathways in the UK.

The research should include a specific focus on ethnic health inequalities as considered by EIAs in this area. We are particularly interested in commissioning a mixed method study including:

- A consideration of existing literature around best practice in EIAs, with a particular focus on their impact (or lack of impact) for Black and minority ethnic communities.
- Qualitative information gathered through either a survey/focus groups/interviews of people who complete or review EIAs for new treatments and digital innovations.
- A policy review of a sample of existing EIAs.
- Community engagement in terms of scoping the review, and in validating the recommendations.

While we are happy for bidding organisations to apply their own expertise and experience when considering the scope of the project, at a minimum the review should seek to answer the following questions:

- How do health and social care organisations use EIAs when implementing new treatments and digital innovations. This should include different types of organisations (size, maturity, type) The following should be considered:
 - i) When is the EIA completed? How often it is completed/updated?
 - ii) Who completes the EIA? Who is involved in completion of the EIA? Are patients and service users involved?
 - iii) How regularly are the EIA templates/formats revised and updated in organisations?
 - iv) Mitigations against any identified potential inequalities? How organisations ensure EIAs mitigations are actioned and monitored?
 - v) How do EIAs cover the protected characteristics? Are other characteristics given more prominence and mitigated against?
 - vi) Impact of EIAs on commissioning decisions? Any examples of treatments/services/innovations declined because of an EIA.
 - vii) Impact of EIAs on small businesses and start-ups.
- What do good EIAs look like? What do good mitigations look like?
- Are EIAs shared outside the organisations including being published online?

The final report should include recommendations on how commissioners and developers of new healthcare innovations, technologies and treatments can better use EIAs:

- to make sure that they target populations with the greatest need and innovations that can have the biggest impact on already marginalised groups who have worse outcomes.
- to reduce potentially negative impacts for these communities.
- to prioritise reducing health inequalities in their work.

Assuming sufficient intelligence is gathered, the report should also seek to propose new standards for EIAs. The proposed standards must include some sort of classifications that can be used to rate EIAs documents and thresholds that must be met before new treatments are commissioned or funded.

Detailed specifications:

- The initial research period will be 20 weeks from the date of award, with a further 3-4 weeks for review and sign off. Longer projects may be considered if adequate justification can be provided for the longer timescale.
- Quality criteria should be applied to evidence including, where appropriate, evidence of user-validation and stakeholder validity.
- The review should include stakeholder engagement as outlined above.

- The final report should take the form of a word document and should be produced for the NHS Race and Health Observatory.
- We welcome bids up to £35,000. Higher value bids may be considered if adequate justification can be given for the additional amount.
- The report will be for external publication.

Tender submission

Your tender submission should include the following:

Proposal for services

Within your proposal, you should include:

- A summary project plan highlighting key dates to demonstrate how you would meet our proposed deadline of 31 May 2022.
- Details of key personnel who will be involved in the project.
- Key risks and mitigating actions for the project
- An explanation of the unique benefit you will bring to this work.
- An indication of how much input and capacity would be required from the RHO team.
- Detail of any elements of the work that would be provided by another company/freelance staff.
- Details of how you propose to ensure GDPR compliance, as appropriate

Company information

- Briefly outline your values, structure, size and capabilities in general
- Demonstrate your understanding of EIAs.
- Examples of similar tenders you have won and delivered
- List two previous clients (preferably not for profit) that we can contact for reference purposes.
- Complete the equalities questionnaire at schedule 1.

Fee proposal

- Your tender should detail the fee for each separate element of the tender exclusive of VAT

Selection criteria

We will rank tenders on the basis of:

1. Fit to requirements of the brief and proposed methods.
2. A proven track record of impactful high quality previous work in the area.
3. Relevant experience of team.
4. Confidence and proven track record of delivery to similar timescales.
5. Value for money to the RHO.
6. Your approach to equality, diversity and inclusion.

Key Dates

ITT released	8 November 2021
Deadline for bids	3 December 2021
Potential follow-up interviews	W/C 13 December 2021
Contract decision	W/C 13 December 2021
Project start	January 2022
Progress review	W/C 14 March 2022
Draft full report	W/C 2 May 2022
Final report	31 May 2022

Instructions for the return of the tenders

Tenders should be submitted by email to tenderbids@nhsrho.org

Tender ref: RHO_ Equality Impact Assessment

Tenders must be received by end of 19 November 2021. Tenders received after this date will not be considered.

It is incumbent on tenders to ensure they have all of the information required for the preparation of their tenders.

Further information about this tender can be obtained from:

Name	Owen Chinembiri
Title	Senior Implementation Lead
Email address	Owen.chinembiri@nhsrho.org

Schedule 1

Equalities questionnaire

This questionnaire must be completed satisfactorily in order for any company to be considered to tender for this NHS Confederation contract. The equality legislation consists of the Race Relations Act 1976, the Sex Discrimination Act 1975, the Equal Pay Act 1970, the Disability Discrimination Act 1995, the Employment Equality (Sexual Orientation) Regulations 2003, the Employment Equality (Religion/Belief) Regulations 2003, all amendments to these Acts and all relevant regulations made under them.

1. Is it your policy as an employer and as a service provider to comply with your statutory obligations under the equality legislation, which applies to Great Britain, or equivalent legislation in the countries in which your firm employs staff?

Yes No

2. Accordingly, is it your practice not to discriminate directly or indirectly in breach of equality legislation which applies in Great Britain and legislation in the countries in which your firm employs staff:

• In relation to decisions to recruit, select, remunerate, train, transfer and promote employees?

Yes No

• In relation to delivering services?

Yes No

3. Do you have a written equality policy?

Yes No

4. Does your equality policy cover:

• Recruitment, selection, training, promotion, discipline and dismissal?

Yes No

• Victimisation, discrimination and harassment making it clear that these are disciplinary offences?

Yes No

- Identify the senior position for responsibility for the policy and its effective implementation?

Yes No

5. Is your policy on equality set out:

- In documents available and communicated to employees, managers, recognised trade unions or other representative groups?

Yes No

- In recruitment advertisements or other literature?

Yes No

- In materials promoting your services?

Yes No

Please evidence all questions.

If you answered NO to any part of questions 4 or 5 can you provide (and if so, please do) other evidence to show how you promote equalities in employment and service delivery.

6. In the last three years, have any findings of unlawful discrimination been made against your firm by the Employment Tribunal, the Employment Appeal Tribunal or any other court or in comparable proceedings in any other jurisdiction?

Yes No

7. In the last three years, has any contract with your organisation been terminated on grounds of your failure to comply with:

- Legislation prohibiting discrimination; or

Yes No

- Contract conditions relating to equality in the provision of services

Yes No

8. In the last three years, has your firm been the subject of formal investigations by the Commission for Racial Equality, the Disability Rights Commission, The Equal Opportunities Commission or a comparable body, on grounds of alleged unlawful discrimination?

Yes No

9. If the answer to question 6 and 7 is YES, or, in relation to question 8, a finding adverse to your organisation has been made, what steps have you taken as a result of that finding? Please summarise the details below and provide full details as an attachment.

10. If you are not currently subject to UK employment law, please supply details of your experience in complying with equivalent legislation that is designed to eliminate discrimination and to promote equality of opportunity. List any attached documents.

Guidance in answering the equality questionnaire

When completing the questionnaire, all companies must answer each question fully and supply any documentary evidence requested. Failure to fully answer each question or failure to submit any documentary evidence required may lead the NHS Confederation to consider the answer unsatisfactory.

Question 1 and 2

If your firm has implemented an effective equality policy, you will be able to answer yes to these questions. You will be able to confirm your answers by submitting your equality policy and supporting evidence as for as part of this section.

Question 3 and 4

You will need to submit a copy of your firm's equality policy. You will need to ensure that your policy covers:

- Recruitment, selection, training, promotion, discipline and dismissal
- Victimisation, discrimination and harassment
- Identifies the senior position responsibly for the policy

Question 5

Documents available and method of communication to staff. You will be required to submit examples of any documents, which explain your firm's policies in respect of recruitment, selection, remuneration, training and promotion outside of the equality policy asked for in Question 3 and 4.

You will also need evidence of how your firm has communicated this document to staff i.e. notice boards or issue individual employees with a copy. There is no prescribed evidence here. You will need to submit whatever documents your firm uses for these purposes.

In recruitment advertisements or other literature, you will need to submit evidence that makes public your firm's commitment to equality in employment and service delivery.

Small firms may not have detailed procedures, but you must ensure that evidence is provided which demonstrates that personnel operate in accordance with a written equality policy that includes:

- Open recruitment practices such as using job centres and local newspapers to advertise vacancies
- Instructions about how the firm ensures that all job applicants are treated fairly.

In material promoting your services This relates to how your firm provides information in materials promoting your services e.g. in different languages, making information accessible to people with hearing and visual impairment and physical access for disabled users.

Question 6

This question's concern is whether any court or industrial tribunal has found your firm guilty of unlawful discrimination in the last three years. It is important to be honest with your answers. The NHS Confederation may check your responses. If the answer is yes, you may wish to insert additional information which details the actions your firm has undertaken to prevent a repeat occurrence.

Answering yes will not automatically mean that you do not get the contract; you need to ensure that the NHS Confederation feels confident that you have sufficient measures put in place to prevent a re-occurrence.

Question 7

This question's concern is whether your firm has ever had a contract terminated for noncompliance with equality legislation or equality contract conditions. If the answer is yes, your firm may wish to submit additional information which details the actions they have taken to prevent a repeat occurrence.

Question 8

This question asks whether your firm has had any investigation carried out, whatever the outcome. The NHS Confederation can check a contractor's answer from lists that the CRE and EOC produce, so please be honest. The NHS Confederation is aware that because a firm has been investigated does not mean that it is guilty of discrimination. The result of the investigation will be taken into account when assessing your firm's answers to the questionnaire.

Question 9

If your firm has been found guilty of unlawful discrimination, you will need to provide evidence that details the steps your firm has taken to correct the situation. The Court, Industrial Tribunal or CRE will have made recommendations about steps your firm should take to eliminate the discrimination. If no action or inadequate action has been taken in this respect, only then will your firm be considered refusal onto the tender list.

Question 10

If your firm is not subject to UK employment law you must ensure that you supply details of equivalent legislation that you adhere to.