

Promoting equality by assessing discrimination in clinical practice

How well do you understand your impact on the opportunities of others, and their impact on your opportunities? Do you reflect on the equality of your values and whether your behaviour could be improved? This article gives an overview of these issues for hospital doctors.

We are influenced by the judgements we make about the attractiveness of appearance and behaviour of others. These judgements are steeped in environmental conditioning throughout a lifetime of interactive social development and pressures to conform and be accepted. In competitive circumstances people naturally prefer to promote conditions which will confer advantage to their own characteristics in order to maximize the probability of their individual success. However, contented coexistence within a civilized society requires recognition of the advantages that diversity confers to all, and hence the need for acceptance of all as equals. Thus equal opportunity maximizes the success of society as a whole.

What is equality?

Equity depends on both fairness and inclusion (Organisation for Economic Co-operation and Development, 2008): to ensure fairness, demographic factors should not interfere with the potential for success. To ensure inclusion everyone should be subject to the same standards. Equity ensures resources are distributed unequally to give everyone an equal capability, to promote an equal quality of life for all. For equity, resource allocation may need to be distributed disproportionately to enable each individual to reach the same point. However, equality ensures resources are distributed equally to give everyone an equal opportunity, to promote an equal freedom of individual choice. Thus at any given stage individuals are either given an equal opportunity and a chance of participation regardless of background, or supported towards an equitable outcome in attainment, retention, experience or destination (Higher Education Funding Council for England, 2012).

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In health care the identification and rectification of injustices tends to focus on equitable outcomes (NHS England, 2013a). For example, staff representing minority ethnic groups are more likely to be subjected to harassment, bullying or abuse (NHS England, 2015), are more likely to receive patient complaints and face disciplinary action (General Medical Council, 2014), are less likely to be successful in postgraduate examinations (General Medical Council, 2015), or occupy a leadership position (Jaques, 2013). Furthermore, being transgender is associated with decreased patient satisfaction, while gender, deprivation, mental illness and some ethnic groups are all associated with a decreased lifespan; and the diagnosis, treatment and prognosis for cancer, stroke, heart and lung disease are all partly geographically determined (Equality and Human Rights Commission, 2010). In contrast, the leaders of the health and social care sector in the UK have pledged their commitment to advancing equality (of opportunity) for all patients, communities and workers, removing barriers and celebrating success, to ensure a parity of esteem where 'everyone counts' (NHS England, 2014).

'Equality and diversity' is a term used to champion inclusivity and human rights as defining values of society. It promotes equal opportunity for all, giving everyone the chance to achieve their potential, free from prejudice and discrimination. The Equality Act 2010 imposes a public duty to advance equality of opportunity and foster good relations between people with different protected characteristics (Table 1), while eliminating discrimination, harassment and victimization (Table 2), and includes people who are at risk by association (e.g. carers). This is supported by the Equality and Human Rights Commission, which is a public body mandated to challenge discrimination, and to protect and promote human rights. These are set out in the Human Rights Act 1998 and include:

- The right to life
- The right not to be subjected to torture, inhuman or degrading treatment or punishment
- The right to liberty
- The right to respect for private and family life.

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These principles apply whether the service is provided by a public authority or an independent provider. The fear of alleged illegal discrimination makes equality a contentious topic which is often avoided because of the potential for misinterpretation of intentions and consequent reputational risk. However, there is a clear moral duty for everyone to engage with issues of equality in order to improve society.

When, where and why does discrimination occur?

Prejudice is a preconceived idea, positive or negative, without knowing the full facts. It is from prejudice that discrimination occurs. Unfair treatment may arise as a result of a competitive drive to exploit others in order to achieve gain for either oneself or for people who are like oneself. This may be intentional or subconscious. People can also be disadvantaged in their health care at comparative stages because of environmental obstacles at the level of both the community they come from and the system they have been subjected to. System level obstacles include lack of investment in health, lack of role models, and inappropriate behaviour of an institution to its users (Voluntary Service Overseas, 2011). Community level obstacles encompass bias external to the system such as socioeconomic factors (e.g. cultural or familial practices hindering participation; Voluntary Service Overseas, 2011). Thus patients or staff who have been disadvantaged in this way may initially be in a weaker position which can be further exacerbated by other factors (e.g. institutional resources, hidden financial costs or staff behaviours).

If there are people with differences in protected characteristics, as defined by the Equality Act 2010, there is the possibility of unfair differential treatment of one characteristic relative to another. Other unprotected characteristics which are not from the dominant culture are also vulnerable to differential treatment. Different groups of people may arise because of the artificial construct of the situation. Examples of non-standard groups which could give rise to differences include first language, home *vs* overseas origins, accent/rhythm/pace of speech (Rimmer, 2014), name (Esmail and Everington, 1993), appearance, political view, socioeconomic standing, type and degree of prior education, direct *vs* indirect admission, part-time *vs* full-time or temporary employment, and interrupted *vs* continuous participation. Some of these characteristics may correlate with each other. Minority groups may correlate with social isolation and hence be disadvantaged by lack of networking and wider awareness (e.g. of hidden knowledge, and peer feedback). Whether a characteristic is protected depends on the culture of the time and place, and tolerance of treatment which would be considered inappropriate after enlightenment.

How can discrimination be detected?

One must first be able to recognize and then be prepared to act to appropriately challenge unjust or prejudicial conditions and behaviours (Table 2). Recognition depends on determining whether the majority of recipients would find the condition or behaviour acceptable or not. If no survey information is available to answer that question, then ask yourself the following questions: ‘would it be acceptable if the roles were reversed?’ and ‘would you feel

Table 1. Nine protected characteristics as listed by the Equality Act 2010

Characteristic	Additional explanation
Age	Includes reference to a particular age or range of ages
Disability	Physical or mental impairment, which has a substantial and long-term adverse effect on that person’s ability to carry out normal day-to-day activities
Gender reassignment	Meaning transsexual person; includes those proposing to undergo, who are undergoing or who have undergone a process to change physiological or other attributes of gender
Marriage and civil partnership	Does not protect those who are single, cohabiting or divorced
Race	Ethnic origins, colour or nationality; the term race is probably best avoided because humans represent a single species and hence single race
Religion and belief	Including philosophical standpoints such as non-belief and veganism
Sex	Meaning gender, specifically men and women
Sexual orientation	Towards persons of the same, opposite or either gender
Pregnancy and maternity	Includes breastfeeding for first 26 weeks after birth

NB. The Equality Act 2010 permits some exceptions where there are genuine occupational requirements, for example employing women and not men to work in women’s refuges

Table 2. Ways in which someone can be unfairly disadvantaged

Unjust or prejudicial treatment	Definition
Direct discrimination	When someone is treated less favourably than others because he/she has a protected characteristic
Indirect discrimination	When a provision, criterion or practice which is applied equally to all puts someone with a protected characteristic at a disadvantage
Discrimination by association	Direct discrimination against someone because he/she associates with another who has a protected characteristic
Discrimination linked to a perceived characteristic	Direct discrimination against someone because he/she is believed to have a particular protected characteristic
Harassment	Any unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment
Victimization	When one person treats another less favourably because he or she has asserted his/her legal rights in line with the Equality Act 2010 or helped someone else to do so

uncomfortable if you were in that position?'. Furthermore, be aware that you are vicariously liable for those working with you, regardless of your own intentions.

There are various approaches available to review and regularly monitor the success of equality in practice, such as the equality and diversity audit tool advocated by Reisenberger and Dadzie (2002), and the 'Key Performance Indicators' and checklist of equality processes and outcomes as advocated by the Equality Challenge Unit (2009). However, the 'Equality Delivery System' toolkit is now the most commonly used, as it is advocated by NHS England (2013b) for both providers and commissioners of services to measure and improve equality performance. An example of its use is the 'Accessible Information Standard' which helps ensure that both patients and carers receive appropriate communication support for their interactions with health-care services. Whenever there are judgements made about others these can be routinely recorded, analysed psychometrically and monitored to determine whether performance differs between demographic groups. It is crucial to know the extent of any imputation of the data before coming to any conclusions (Sterne et al, 2009). It is also only possible to determine significant differences between groups which contain sufficient numbers of individuals. Furthermore, such differences need to be repeated consistently to be a cause for concern and this may in part depend on how consistent the demographic profile is.

What can be done about discrimination?

Every workplace should have a clear policy to counter discrimination, as stated in the Race Relations Act 2000. Everyone has a stake in, and can contribute to, the development and use of their equality policy. Pervasive cultural stigmas need to be confronted and eliminated so that all people are afforded equal respect and opportunities (Millard and Wessely, 2014). Any talk of a stereotype should be recognized as discriminatory and requiring action. Action depends on being prepared to speak out. However, witnessing inappropriate behaviour which is an unexpected shock can sometimes prevent timely intervention. Thus there need to be supporting systems in place to empower individuals to raise concerns without fear of recrimination and which avert a culture of silence among less experienced individuals.

Similarly, breaches of equality policy should be dealt with as misconduct which could lead to disciplinary proceedings (NHS England, 2013b). Health care needs to be accessible and acceptable to all. Therefore it is essential to eliminate policies and practices that hinder fair treatment for all (e.g. any allocation process should be blinded to personal demographic status). Everyone has a personal responsibility to confront these issues and contribute to a change in the ethos throughout society. We all have rights and responsibilities to respect and celebrate the contributions of each other. Issues of equality and of fostering good relations should be embedded into self-evaluation to

create as inclusive an environment as possible. One should always act impartially, without fear or favour, regardless of one's own status or interests. For those who want to focus more in this area, any NHS employee can sign up with the 'Personal, Fair and Diverse' campaign as a champion in order to help facilitate change (NHS Employers, 2014).

An annual report collating similar activities and analysed for significant differences by demographic group should be formally reviewed and made available to all stakeholders (NHS England, 2013b). The threshold for action following psychometric analyses needs to be transparent to all. If a significant difference in performance associated with a protected characteristic recurs consecutively, then staff demographics and support measures (e.g. training and feedback) should be scrutinized. If this reveals evidence that the difference is the result of a process (e.g. a biased opportunity, reducing comparative engagement) or conscious/unconscious staff behaviour (e.g. biased support, such as comparatively scant or brusque feedback) then the possibility of adjusting priorities should be considered (with involvement of independent external consultation as appropriate). If no such evidence is apparent then it is possible to conclude that while the difference in performance is real, it can be attributed to different groups having different starting points as a result of a prior disadvantage. It is then necessary to consider what additional support measures, which should be offered to all, could be implemented to ameliorate the difference before future evaluation.

It is important to acknowledge that it is not possible to favour one group over another without compromising neutral values. This potentially demeans those supported and creates resentment in those who are not similarly supported (and who become adversely discriminated against as a consequence of the intervention). However, there is an obligation to make relevant adjustments to ensure parity of treatment, and make meaningful interventions to ensure inclusivity. As with education, widening participation strategies are often used to increase the proportion from under-represented groups (Burke, 2013; NHS England, 2013b). It is logical to assume that people who are not fully integrated are thus marginalized and will not perform as well as those who have the advantage of belonging. Widening participation strategies act to improve participation and success for marginalized and disadvantaged people. It is similarly important to be aware that segregation may negatively reinforce differences. In addition, positive action to create equality by positive discrimination for one particular group creates an equivalent discrimination against other groups. Thus it is paramount to act to:

- Improve standards and achievement among all groups
- Incorporate equality concepts into the work culture
- Ensure appropriate handling and reporting of equality-related incidents
- Improve links with local minority communities and facilitate intercultural engagements.

Conclusions

Diversity represents the variety of individual demographic, philosophical and cultural differences which constitutes humanity. Accepting and respecting these differences unites a population which together is enlightened by a wider collective understanding, is more harmoniously efficient, and is therefore stronger. Thus, learning about how others are different should be embraced in order to bring about changes in ourselves which enrich everyone.

To best serve society both the workforce and patients should be representative of all sections of society. Each individual should feel of equivalent value and have equal opportunities to all others, and feel able to give his/her best and realize his/her full potential to ensure maximum collective success. To achieve this, all forms of unlawful and unfair discrimination must be actively opposed, and all judgements for any selection based solely on ability and aptitude. **BJHM**

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KEY POINTS

- Society is strengthened by including demographic variability.
- Equality refers to opportunity and chance of participation, whereas equity refers to outcome and parity of achievement.
- Different outcomes for demographic groups within a system can be caused by different starting points, different treatment inside the system, different concurrent experiences outside the system, or any combination.
- Legally protected and unprotected groups may both be treated unfairly.
- Established toolkits provide a framework for qualitative evaluation of equality in practice.
- Psychometric analyses can provide a quantitative evidence base to monitor performance.
- Everyone has a duty to challenge potentially inappropriate practice and oppose prejudice.
- Any selection of individuals should be anonymously based on the merits of their ability and aptitude.

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