EQUALITY REVIEW ACTION PLAN

An Account of the HSE Action Plan to ensure that Opioid Service Treatment service users are not treated less favourably when compared to a person who does not have a disability or a person who has a different kind of disability

March 2019 – May 2020

Coimisiún na hÉireann um Chearta an Duine agus Comhionannas
Irish Human Rights and Equality Commission

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The Irish Human Rights and Equality Commission was established under statute on 1 November 2014 to protect and promote human rights and equality in Ireland, to promote a culture of respect for human rights, equality and intercultural understanding, to promote understanding and awareness of the importance of human rights and equality, and to work towards the elimination of human rights abuses and discrimination.

An account of the Equality Review carried out by Carlow County Council in respect of Traveller-specific accommodation

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Glossary

CHO- Community Healthcare Organisation

ESA- Equal Status Acts 2000-2018

HSE- Health Service Executive

IHREC- Irish Human Rights and Equality Commission

LHO- Local Health Office

NAAGG- National Alcohol and Addiction Governance Group

NFSN- National Family Support Network

OST- Opioid Substitution Treatment

POCT- Point of Care Test

UISCE- National service user representative group for people who use drugs

UNCRPD- UN Convention on the Rights of Persons with Disabilities

1. Introduction

Further to the HSE's completion of an Equality Review in relation to the Opioid Substitution Treatment Services ('OST'), the Commission invited the HSE under s.32 (2)(b) of the *Irish Human Rights and Equality Commission Act 2014* (the 'Act') to prepare and implement an Equality Action Plan in respect of clinics that provide treatment to people accessing opioid treatment services. This account provides a summary description of the Equality Action Alan undertaken by the HSE at the request of the Commission, pursuant to s.28(2)(a)(ii) of the Act.[1]

2. The Reason for Requesting the Equality Action Plan

Following the Equality Review, the Commission welcomed the recognition by the HSE that the direct supervision of urine samples impacted on the dignity of the service user and, further, welcomed the availability of Point of Care Test Kits (POCT Kits) to all HSE addiction services nationwide.

The Commission requested the HSE to develop an Equality Action Plan to ensure the systematic implementation of the findings of the Equality Review in all HSE Services providing OST and thus asked the HSE to develop actions and time frames to address the following:

1. That the practice of direct supervision of urine samples ceases across all HSE services providing OST;

2. That systems are in place to ensure that OST service users are not refused treatment on the basis of unsatisfactory samples;

3. That systems are in place to ensure that sampling is randomised and reduced in line with HSE Guidelines; and

[1] Section 28(2)(a)(ii) provides that, in its Annual Report, the Commission shall provide an account of any action plan prepared,

4. That OST service users are not treated less favourably when compared to a person who does not have a disability or a person who has a different kind of disability.

3. Invitation to prepare and implement an Equality Action Plan and timeframe

In March 2019, the Commission invited the HSE to prepare and implement an Equality Action Plan. As with the Equality Review process, the HSE demonstrated their commitment to equality and engaged thoroughly in the process. In May 2020, the Commission decided that with regard to the invitation to complete an Equality Review and Action Plan, relating to the experience of service users who access opioid treatment services, the HSE's response was satisfactory and no further action was required in this regard.

4. The Equality Action Plan

In preparing its Equality Action Plan, the Commission asked that, as a starting point, the HSE address the following:

1. Address and prioritise the elimination of direct supervision of urine samples across HSE services in Ireland providing OST;

2. Confirm that the necessary systems are in place to ensure that OST service users are not refused treatment on the basis of unsatisfactory samples and that drug testing is not used as a reason for punitive action towards a service user;

3. Confirm that the necessary systems are in place to ensure that supervision of samples is randomised and occurs with a frequency that is in line with HSE Guidelines;

4. Address Organisational Equality Arrangements;

5. Equal Status Policy & Training; and

6. The Public Sector Equality and Human Rights Duty.

The HSE delivered its Equality Action Plan to the Commission on 26 June 2019. In its introductory comments the HSE addressed certain matters.

Oversight and Governance arrangements

To ensure this issue is addressed, urinalysis is now a regular agenda item - including an update on expenditure on POCT Kits - at the monthly National Addiction Advisory Governance Group ('NAAGG') comprising all HSE addiction service managers.

Service User Engagement

The Chair of NAAGG and the National Clinical Lead for Addiction Services and the National Social Inclusion Office met with UISCE (the national service user representative group) and the National Family Support Network ('NFSN') to explore how they could input into NAAGG monthly meetings.

The HSE also responded to certain issues highlighted by the Commission arising from the Equality Review in relation to the direct supervision of urine analysis by OST service users.

Routine Clinical Practice

With regard to the need for clarity regarding the term 'routine' clinical practice, the HSE responded as follows:

- The provision of OST to patients attending addiction clinics would represent routine clinical practice at a specialised clinic, as this represents the core reason that patients attend for treatment; and

- Non-routine practice would encompass situations where special attention to results would be necessary, such as when directed by a court or in cases involving child welfare.

Clinical Judgment

The HSE responded to the Commission's concern about clinical staff invoking 'clinical judgment' to justify a blanket practice re direct supervision as follows:

- Regarding the concern raised about clinical staff invoking 'clinical judgment' to justify a blanket practice re direct supervision, HSE state that their view is:

  "that this would not happen but would point out that the clinician is responsible for the medical care that they provide to the person who is attending them and at all times will act with the best interests of the person in mind";

- The clinical relationship between doctor and patient is unique. Patients can complain under HSE 'Your Service, Your Say' complaint mechanism; and

- Service users have and will continue to be informed that the supervision of urines will be non-direct.

Address and prioritise the elimination of direct supervision of urine samples across HSE services in Ireland providing OST

To realise the commitment of the HSE to eliminate direct supervision of urine samples across the HSE, the Commission requested that the Equality Action Plan address the following specific issues:

IHREC Query	HSE Action
Actions to ensure the cessation of direct supervision practices	In January 2020 the HSE confirmed that direct supervision of urine sampling in routine clinical practice does not take place in any HSE Addiction Service throughout the country. The HSE provides POCT Kits to allow for non-direct supervision and testing is guided by a HSE guidance document on the effective use of these kits.
Guidance/protocols where direct supervision required in non-routine clinical practice	According to HSE guidance, direct supervision of urine samples in non-routine practice should only be used with service user consent. Within HSE Addiction services, oversight of this issue is carried out by the General

	Assistants and Nursing staff with reports back to the multidisciplinary team meetings.
How will the HSE ensure the change in practice, from direct to non-direct supervision, is maintained?	In January 2020 the HSE advised that all service users have been informed of the practice and all new service users are informed as part of their consent to treatment. This is now routine practice in all CHO areas; The issue remains on the NAAGG agenda for discussion on a regular basis. Oversight is with the local Addiction service managers who all report into the NAAGG. An audit can be carried out on the practice to ensure the practice is maintained; In all 7 NAAGG meetings in 2019 there was discussion on urinalysis and POCT Kits; and The NAAGG has committed to regular three-monthly meetings with service user representative groups, UISCE and NFSN, where any issue, in particular urinalysis, can be raised
How will service users be informed that direct supervision no longer forms part of OST subject to limited instances of non-routine practices?	Service users are informed by staff, handouts/patient information sheets provided when commencing OST, including signing of consent for treatment.
How will service users be consulted in clinics re change in practice	CHO 1-6 - no direct supervision in routine practice; CHO 3 – listening sessions carried out;

and its impact on them?	CHO 7, 8, 9 – informed by staff, handouts/patient information sheets provided when commencing OST, including signing of consent for treatment.

Confirm that the necessary systems are in place to ensure that OST service users are not refused treatment on the basis of unsatisfactory samples and that drug testing is not used as a reason for punitive action towards a service user

The Commission noted that the HSE Guidelines provide that OST is a medical treatment, and should not be used punitively i.e. there should be no dose reduction as a sanction for ongoing illicit drug use.

However, while the Equality Review revealed no evidence of treatment being refused in the three named clinics, with the exception of one reported 'treatment break', it was unclear the extent to which breaks in treatment occur on an *ad hoc* basis throughout the service in general and whether there is any guidance/protocols or appeal mechanisms governing refusals in treatment.

To realise the commitment of the HSE to ensure that treatment is not refused based on unsatisfactory samples, the Commission requested that the Equality Action Plan address the following specific issues:

IHREC Query	HSE Action
What systems are in place to ensure that service users are not refused treatment on basis of unsatisfactory samples?	Guidelines state that there should be no circumstances where a service user is refused treatment on the basis of unsatisfactory samples. Drug treatment should never be used as a reason for punitive action towards the service user – section 5.2 of Guidelines; Breaks in treatment due to unsatisfactory samples should not be happening; If treatment break for another reason e.g. violence or anti-social behaviour, the service user has right to appeal and is directed towards appropriate supports; and CHOs advise that decisions re treatment are based on good clinical practice and adherence to Guidelines.

Can service users seek review of decision to refuse treatment or impose treatment break?	A service user can appeal any aspect of care under HSE policy 'Your service, Your Say'.
How is the service user supported if there is a treatment break?	Alternative supports are offered, including provision of harm reduction advice, referral to psycho-social services (including keyworkers and outreach services) for support and being advised of mechanism for reapplying to the service provider/clinic; and If service user is working with other agencies the key workers will be informed (with service user's agreement).
How is service user consulted throughout this process?	They can appeal any aspect of care; Information re this is displayed in all clinics; Staff are expected to support service user through complaints process; and The service user will be engaged by the clinical team when they attend on a weekly basis in relation to their treatment and, if they are not attending, efforts are made to contact by phone or outreach.
How will the HSE ensure clinical staff adhere to relevant guidance/protocols?	All clinical staff of CHOs are working to local policies informed by and referencing HSE clinical guidelines of OST; These include monthly clinical team meetings, monitoring at CHO level with quarterly reports to NAAGG and a review within 12 months; Local practices ensure clients are advised of guidance protocols – patient information leaflets, information in

	induction packs, informing clients at start of treatment, and key worker or staff advising clients of the practice/change in practice.
How will service users be informed that they cannot be sanctioned by way of dose reduction for on-going illicit drug use?	Local processes include patient information leaflets, information in induction packs, informing clients when they start treatment, key worker or staff advising clients of the practice/change in practice.

Confirm that the necessary systems are in place to ensure that supervision of samples is randomised and occurs with a frequency that is in line with HSE guidelines

The Commission noted that the HSE Guidelines provide that once a patient reaches stability, a reduction in frequency of drug testing is recommended and that drug testing should be randomised where possible. It was also stated in the Equality Review that some patients may find that more regular testing may help them to reach and maintain stability.

To realise the commitment of the HSE to ensure that the supervision of samples is randomised and occurs with a frequency that is in line with HSE guidelines, the Commission requested that the Equality Action Plan address the following specific issues:

IHREC Query	HSE Action
Outline the systems to ensure frequency of testing is in line with the Guidelines	All HSE Addiction services and Primary Care services have been provided with the Guidelines; Directive from National Clinical Lead to all Addiction Services re-iterating the need for non-direct supervision of samples in routine clinical practice and the need to reduce frequency of sampling once stability is achieved; Procurement process to source POCT Kits; Will be discussed on regular basis at NAAGG monthly meetings; and Ensure that the national service user representative group is aware that any issues regarding this can be fed back to NAAGG as a priority.
Outline the systems to ensure drug testing is randomised	All HSE Addiction services and Primary Care services have been provided with the Guidelines; Directive from the National Clinical Lead to all Addiction services re-iterating the need for non-direct supervision of samples in routine clinical practice and the need to reduce the frequency of sampling once stability achieved; Local processes including local policies and standard operating procedures re monthly sampling, audit of testing, clinical team meetings, urine sampling log, and clinic specific systems to randomise sampling; Will be discussed at NAAGG meetings; and

	National service user representative group can feed back any issues to NAAGG.
How to ensure clinical staff adhere to relevant guidance	All clinical staff of CHOs are working to local policies informed by and referencing the HSE's clinical guidelines on OST; These include monthly clinical team meetings, monitoring at CHO level with quarterly reports to NAAGG and a review within 12 months; and Local practices ensure clients are advised of guidance protocols – patient information leaflets, information in induction packs, informing clients at start of treatment, key worker or staff advising clients of the practice/change in practice.
How will service users be informed that drug testing should be randomised and reduced in frequency?	All HSE Addiction services and Primary Care services have been provided with the Guidelines; Directive from National Clinical Lead to all Addiction services re-iterating the need for non-direct supervision of samples in routine clinical practice and the need to reduce frequency of sampling once stability is achieved; Local processes including patient information leaflets, information in induction packs, informing clients when start treatment, key worker or staff advising clients of the practice/change in practice.
Outline the supports available to assist service users reach and maintain	National Drug Rehabilitative Framework (2010) – integrated care pathway for former and current drug users – need co-ordinated services;

stability that do not rely on drug testing	Different service agencies in each community guided by own mandate and providing specific service to that community; National Social Inclusion Office pilot - Combined Assessment and Care Planning tool

HSE Organisational Equality Arrangements

The Commission noted that the HSE Equality Review did not refer to any particular equality arrangements within the organisation, such as an equality committee or equality and diversity training for staff.

The Commission requested that the HSE address this in their Equality Action Plan, noting the value of such arrangements in furthering the promotion of equality of opportunity of the relevant service users and in ensuring that OST service users are not treated less favourably when compared to a person who does not have a disability or a or a person who has a different kind of disability.

The HSE demonstrated their commitment to equality by developing the following organisational arrangements to promote equality for service users:

- The HSE will be developing an overarching equality and human rights statement and action plan as part of a programme of work to address the Section 42 Public Sector Duty;
- This started in March 2019 and is ongoing;
- In the interim, organisational arrangements will support the implementation of the Equality Action Plan;
- Some divisions of HSE have been addressing broader aspects of equality and human rights – e.g. HSE Human Resources has a Diversity, Equality and Inclusion Statement regarding employees, Equality Proofing Tool for events, and had commenced the process of embedding a strategic culture of

equality, diversity and inclusion for staff at senior management and programme level;

- Some service delivery programmes are supported by strategic or national programmes with broad focus on equality and human rights:
    - e.g. National Office of Social Inclusion programme to improve health outcomes of minority and vulnerable groups;
    - e.g. Quality Improvement Division assisted decision making universal access; and
    - e.g. Disability Services programmes driven by human rights and equality agenda influenced by UNCRPD; and
- NAAGG is committed to engaging with service user groups.

HSE Equal Status Policy and Training Plan

The Commission asked the HSE to include the development, publication and effective implementation of a policy that demonstrates the HSE's commitment to provide its services in compliance with the ESA.

The HSE demonstrated their commitment to equality by developing the following organisational arrangements to promote equality for service users:

- The ESA is built into a number of HSE policies and procedures e.g. National Intercultural Strategy/National Guidelines on Accessible Health and Social Care Services/Diversity Equality Inclusion Statement;
- HSE training that includes/has focus on equality and human right and reference to ESA (list provided); and
- The HSE has stated its commitment to provide specific equality training with regard to disability equality law, including in relation to persons with addictions. The HSE's Disability and Social Inclusion Team will be working to frame an overall training programme, including equality training to enable the

HSE to deliver a best practice approach in meeting their responsibilities in this area.

Public Sector Duty of the HSE under section 42 of the 2014 Act

The Commission highlighted the statutory obligations of the HSE as a Public Sector Body under section 42[2] of the Act and requested the HSE to outline the actions taken to assess, identify and report on human rights and equality issues across the functions of the organisation.

The HSE demonstrated their commitment to equality by outlining the actions taken to date and proposed actions to comply with their obligations under section 42:

- The HSE commenced a programme of work in March 2019 to address obligations under the Public Sector Duty. Funding support was received from the Commission. External consultants were contracted to conduct a human rights and equality assessment;

- As of January 2020 this work was continuing. The external consultants are supporting the HSE and are working with three sites to help determine key national actions. The sites are the National Cancer Control Programme (NCCP), National Human Resources and CHO 5;

- The HSE had hoped to be closer to completion than they currently are, but time was lost owing to key staff changeovers within the teams that the HSE are partnering with; and

- The HSE has developed a national Equality and Human Rights Statement to measure compliance. This is being tested in the key sites and will help inform what the HSE needs to do in order to strategically address the Public Sector Duty in the action plan.

[2] Section 42 requires that a public body, in the performance of its functions, must have regard to the need to eliminate discrimination, promote equality of opportunity and treatment of its staff and the persons to whom it provides services, and protect the human rights of its members, staff and the persons to whom it provides services.

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