EQUALITY IMPACT ASSESSMENT RECORD

Title of policy/ practice/ strategy/ legislation etc.	Independent clinics regulation	
Minister	Cabinet Secretary for Health, Wellbeing and Sport	
Lead official	Richard Dimelow	
Officials involved in the EQIA	**name**	**team**
	Sara Davies	
Directorate: Division: Team	Healthcare Quality and Strategy Directorate	
Is this new policy or revision to an existing policy?	Addition to existing policy on the regulation of the independent health care sector	

Screening

Policy Aim

The aim is to bring independent health clinics where services are provided by a doctor, dentist, nurse, midwife or dental care professional into regulation by Healthcare Improvement Scotland (HIS). The strategy is to continue to improve patient safety in Scotland and ensure independent healthcare meets the standards of the NHS. Currently there is no regulation of independent clinics apart from professional regulation of the individuals and certain health and safety measures.

This contributes to the following National Outcomes **Healthier, Safer Stronger**

Who will it affect?

The policy will affect the staff working in the independent healthcare sector and those who use the service. The impact will be beneficial to both :

- Staff will be able to demonstrate that they work in safe and improvement planning organisations

- Patients will have protection in terms of the knowledge of the regulation commencing and a body to whom complaints can be made.

A literature review was conducted by the Scottish Government Library services to find any national or international examples of equality impact from this type of regulation. The only directly relevant document retrieved was the 2015 equality impact assessment by Healthcare Improvement Scotland on the implementation of the current new proposed regulation which found no relevant impacts. The differential impact on different groups in the community is therefore considered to be minimal.

There will be indirect potential negative impacts if the effect of the new regulation is that some organisations go out of business as they do not meet the standard and few may lose their work. This is unlikely to be large scale and will be a benefit for the people of Scotland where unscrupulous and potentially unsafe practices will be reduced.

There is a cost to regulation – in terms of financial cost, the registration fee in the consultation proposed the 2016/2017 fee to be £2,165, and the annual continuation fee will be set during 2016 for 2017 onwards with a current maximum level set in legislation of £3,500 per year per clinic. There may be a time cost to bring a clinic up to standard but this should be considered as improving the service.

There will be an unequal negative impact on consumers if businesses increase their costs. However in a level playing field the businesses will compete on price and therefore it is unlikely that they will pass the regulation costs onwards.

What might prevent the desired outcomes being achieved?

Factors that could reduce the desired outcomes is the wholesale disruption to the services if a large body of providers were found to be below the standards or avoided regulation and required Healthcare improvement Scotland to refer to the Procurator Fiscal.

Stage 1: Framing

Results of framing exercise

The framing work was described in a paper to the Scottish Cosmetic Interventions Expert Group (SCIEG) Informed and Empowered Public (IEP) subgroup in August 2014. It is attached at Annex 1 (stage 2 &3) and discussed both at the IEP and the full SCIEG with no additional comments provided.

In addition a literature review was conducted by the Scottish Government library service October / November 2015 and a further workshop called in November 2015 to review the papers.
The results of these framing exercise has been to concur with the EQIA carried out by the regulator, HIS, that there is currently no expected impact that requires remedial action.

Stage 4: Decision making and monitoring

Identifying and establishing any required mitigating action

Have positive or negative impacts been identified for any of the equality groups?	Age was identified as being a possible negative impact if young people were excluded. However the legislation does not mention an age range and therefore young people are not excluded. Further information on cosmetic interventions has been identified as a need and a new social marketing campaign is being put in place. The work on the EU new requirements and labelling for aesthetic products is being kept under review.
Is the policy directly or indirectly discriminatory under the Equality Act 2010[1]?	No
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	
If not justified, what mitigating	

[1] See EQIA – Setting the Scene for further information on the legislation.

action will be undertaken?	

Describing how Equality Impact analysis has shaped the policy making process

The EQIA enabled the team to engage with different stakeholders including the Transgender Alliance and provide interaction and development of a degree of trust that may not otherwise have occurred. It also flagged where the social marketing campaign might be disseminated into different areas.

Monitoring and Review

The policy will be monitored through the papers from the HIS Independent Healthcare Board and feedback from stakeholders. Additional monitoring and evaluation will come from analysis of the Scottish Health Survey which has included specific cosmetic interventions questions from 2015. The monitoring and evaluation will be undertaken by the policy lead, supported by the medical adviser.

Stage 5 - Authorisation of EQIA

Please confirm that:

- This Equality Impact Assessment has informed the development of this policy:

  Yes X☐ No ☐

- Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:

  - Eliminating unlawful discrimination, harassment, victimisation;
  - Removing or minimising any barriers and/or disadvantages;
  - Taking steps which assist with promoting equality and meeting people's different needs;
  - Encouraging participation (e.g. in public life)

- Fostering good relations, tackling prejudice and promoting understanding.

  Yes X ☐ No ☐

- If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

  Yes ☐ No ☐ Not applicable x☐

Declaration

I am satisfied with the equality impact assessment that has been undertaken for independent clinic regulation and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name:
Position: [Deputy Director level or above]
Authorisation date:

Annex 1
SCIEG IEP (14) 8

SCOTTISH COSMETIC INTERVENTIONS EXPERT GROUP (SCIEG) INFORMED AND EMPOWERED PUBIC SUBGROUP (SCIEG IEP)

EQUALITY IMPACT ASSESSMENT SCREENING PAPER

Meeting date: **19 August 2014**

Agenda item: **11**

Purpose:

FOR DISCUSSION

Draft Equality Impact Assessment scope for Cosmetic Interventions

Summary & Request

A workshop was held on 19 May 2014 to run a screening analysis for an equality impact assessment (EQIA) on the work proposed for cosmetic interventions regulation. The attenders are noted in Annex 1. The aim was to check initial impacts and consider where any gaps in knowledge and the evidence base are to ameliorate or remove any negative impacts and spread the positive impacts of the policies being developed.

Background

A screening EQIA was proposed by the Scottish Health Council member of the Scottish Cosmetics Interventions Expert Group (SCIEG) and supported by them in finding relevant attenders. A summary of the current situation (Annex 2) was laid out for the workshop attenders together with a brief background on the work in Scotland reflecting our experience with the PiP breast implant device removal and the Department of Health's response[2] to the Keogh Report on the Regulation of Cosmetic Interventions from April 2013[3].

The volume of procedures are predominantly in the non-surgical field and include 5 main areas : dermal fillers, botulinum toxin, lasers and intense pulsed light; chemical

[2] DH response Feb 2014 to the Keogh report https://www.gov.uk/government/publications/regulation-of-cosmetic-interventions-government-response

[3] Keogh April 2013 report https://www.gov.uk/government/publications/review-of-the-regulation-of-cosmetic-interventions

peels and hair restoration surgery. These account for 9 out of 10 cosmetic interventions and are worth 75 per cent of the market in total. The screening process started with this area, before considering the potential impacts on the equality fields of both cosmetic surgical interventions and information / redress requirements.

This report will be shared with the workshop attenders, the SCIEG groups and evidence will be sought for the specific areas. As the work continues and questionnaires and policies get framed, the workshop attenders will be asked again for their input.

Assessment

The assessment found the majority of impacts require further information to reduce any negative impacts and through a new and varied public information campaign, many of the impacts will be positive. Regulation is useful if carefully managed and implications on services for both providers and users carefully considered. Questions were asked on how other European countries run services and how would a non-surgical cosmetic service provider set-up in Scotland. The effect of alcohol on all ages to change risk behaviours was noted and to ameliorate this, a paperwork of consent, consideration of capacity and possible 7 day waiting period must be necessary and discussed during the consultation discussions. The screening assessments are shown below.

Non surgical cosmetic interventions ie botox, dermal fillers, lasers, chemical peels

Characteristic[4]	Impact (+/-)	Data gaps identified and action taken
AGE	Teenagers – ensure capacity	If age restrictive (not ideal) make sure not too restrictive. Action : policy supports care of vulnerable people; do not require too many hoops for consumers; ensure follow-up arrangements can be in place and followed. Careful not to replicate NHS system only
DISABILITY	People with mental ill health – ensure not excluded nor exploited	Action : policy supports care of vulnerable people; ensure follow-up arrangements can be in place and followed.
SEX	No impact for non-surgical interventions	
PREGNANCY AND MATERNITY	Information/ safety	Action : ensure appropriate care

Characteristic[5]	Impact (+/-)	Data gaps identified and action taken
GENDER REASSIGNMENT	Nil	
SEXUAL ORIENTATION	Nil	
RACE	Providers should provide information on skin colour / types and procedures to different ethnicities	Skin lightening Hair removal Tailored information
RELIGION OR BELIEF	Animal fat or pork substances in products	Better labelling across EU

Non surgical cosmetic interventions ie botox, dermal fillers, lasers, chemical peels continued

Characteristic	Impact (+/-)	Data gaps identified and action taken
Criminal Justice	Lasers for hair removal	Check with the Scottish Prison Service Beauticians in women's' prisons ?
Homelessness	Access to follow-up if no address / no postal receipts	
Language or social origin	Information available in correct format (language, sign if deaf etc)	
Poverty / social deprivation	Removal of 2 for 1 deals and free deals from training colleges working with trainee beauticians will impact of people with less disposable income	Consultation with the ASA would be required.

General comments
Careful not to replicate NHS system in terms of how to enable people to access services as the adult exceptional aesthetic protocol for the NHS is also to reassure services will be targeted and provides a filtering system.

However an approval system must be in place in the independent sector as well as the protocol in the NHS as the rationale is the same in terms of allowing a period of reflection, freedom from undue pressure on consumers and careful safe medical and health interventions.

Ensure the European dimension is considered.

Surgical procedures, information and redress.

Characteristic	Impact (+/-)	Data gaps identified and action taken
AGE	Literacy levels	
DISABILITY	Literacy levels	Information of use to individual
SEX	Impact for surgical services for certain groups, particularly male to female transgender	Also in general be wary of impacting badly on NHS current contracts to the independent sector in some boards. Awareness raising campaigns need to be in different outlets ie gyms for men possibly, and not only concentrating on women.
PREGNANCY AND MATERNITY		
GENDER REASSIGNMENT	Cosmetic tattooing not mentioned so far and uncertain whether always included in NHS services	Genital laser hair removal not always available – can be subcontracted by NHS to independent sector so be wary of unintended impacts
SEXUAL ORIENTATION		
RACE		Information in language that is required is provided by provider and provider should not assuming English "will do".
RELIGION OR BELIEF		Information to providers and consumers on cosmetic surgery and boundaries and consent, capacity and capability.
Criminal Justice		
Homelessness		
Language or social origin		
Poverty / social deprivation		

Annex 1

Attenders to the cosmetic interventions equality impact assessment screening workshop 19 May 2014

Rosemary Hill, Participation Network Manager, Scottish Health Council

Leeze Lawrence, transperson, documentary film-maker

James Morton, Scottish Transgender Alliance manager

Vittal Katikireddi, registrar in public health, Scottish government

Sara Davies, consultant in public health, Scottish government

Terry O'Kelly, senior surgeon, Scottish government

Annex 2

Regulation of Cosmetic interventions

Developments in 4 areas :

1 Surgical interventions – cosmetic surgery

- Standards & training for cosmetic surgery
- Inspection of cosmetic surgery providers, including clinics
- Patient information / decision aids / consent formats

2 Non-surgical interventions (botulinum toxin, dermal fillers, chemical peels, lasers & lights)

- Training for
    - The practice
    - The supervision

- Considering legislation on controls of cosmetic interventions & regulators of healthcare professionals codes of practice
- Credentialing

3 Ensuring safe products

- EU Medical Devices Directive & EU General Product Safety Directive
- EU register of medical devices & unique device identifier
- Pilot breast implant registry
- Improved reporting of suspected devices failures to MHRA

4 Responsible information, resolution & redress

- Patient information / decision aids / consent formats
- Socially acceptable advertising & Committee on Adverting Practice new guidance
- Follow-up care promoted / Medical Directors required
- Complaints on independent healthcare to the Parliamentary & Healthservice Ombudsman
- Professional indemnity
- Device manufacturer risk pools
- NHS recouping costs