

People Impact Assessment (PIA)

Policy/activity or service area to be assessed:	Performance and Capability Policy and Procedure	Person completing assessment:	Diane Dunlevey
Reason for this assessment: (new policy / review etc)	Amendments to existing Procedure	Date of assessment:	13/12/16

A PIA involves analysing the effect, or potential effect, of the way we do our business upon groups that share protected characteristics as defined in the Equality Act 2010. This requires us to look at the equality data which we capture or have access to and to consider the outcome of our community engagement. We need to assess whether our policies and practices show 'due regard' for the three aims (see below) of the Public Sector Equality Duty (PSED). The analysis should highlight effects that *increase* equality, *decrease* equality or have *no impact* upon equality across the protected characteristics. Its purpose is not just to paint a picture, but to *identify practical steps* to improve our performance by:

- (a) Eliminating any unlawful discrimination,**
- (b) Advancing equality of opportunity and**
- (c) Fostering good relations between different groups.**

1. Briefly describe the purpose, aims and objectives of the policy/activity: ¹	Managing employee attendance/performance is a vital tool in securing the effectiveness of our Service. Therefore the emphasis for Managers at all levels is on supporting employees to attain and maintain competent standards of performance and acceptable levels of attendance whilst also achieving, where appropriate, agreed work objectives. The Service also needs to be able to support employees who are identified through our normal performance management arrangements as not meeting the standards required for competent performance in their roles. This procedure and management guidance provides a fair, open, and reasonable way to respond where the capability of an employee to perform their job gives rise for concerns. For the purpose of this procedure poor performance/capability refers to an employee failing to produce satisfactory work standards and/or meet performance targets/objectives where they may lack the necessary skill, aptitude or qualification to do the job for which they are employed, or due to long term sickness absence or modified duties.
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2. Socio economic is not a Protected Characteristic under the Equality Act 2010. We will however demonstrate due regard to it because as a risk factor poverty has a significant contributor to inequality indicators. Also when present alongside a PCs or multiple PCs the risk increases exponentially

2. Who is the policy/activity aimed at: (communities, staff, partners etc)	All Service Managers
3. Who is responsible for the policy/activity: (Directorate/Department/individual)	Response/ Human Resources/ Occupational Health

Equality Statement

Clearly explain and provide supporting evidence to show how the policy/activity satisfies the three aims of the Public Sector Equality Duty (PSED) and **DOES NOT** cause or have the potential to cause a **NEGATIVE** (detrimental) effect:

Eliminating any unlawful discrimination

The Policy is clear and respectful of the implication in relation to disability and has stated procedure in place to ensure that where performance and capability has a relationship with disability action and consideration are in place to ensure this is taken into consideration in the decision making procedure.

In respect of section 3.5 it is worth noting that ‘disability’ is undefined in legal terms and therefore in the Policy. In this respect there are possibly 3 characteristics which require due regard with the duty as defined by the Equality Act being disability and gender, and possibly age. It is well-known that the menopause can lead to substantial changes to the health of some women and that this can affect their job performance and/or their attendance at work. Yet until now no legal obligation on employers to make adjustments for this has been clearly established.

‘The menopause is certainly not a disability. It is a part of the natural ageing process for women, usually between the ages of 45 and 55. It may, however, produce symptoms such as hot flushes, fatigue, poor concentration, palpitations, anxiety attacks, urinary problems, heavy periods, sleep disturbance, irritability and mood disturbance. The British Occupational Health Research Foundation commissioned researchers at the University of Nottingham to explore women’s experience of working through the menopause. This research, published in 2010 reported that nearly half of the women surveyed found it somewhat or fairly difficult to cope with work during menopausal

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transition.

The Equality Act 2010 defines a disability as existing where there is an impairment having “a substantial and long-term adverse effect on ability to carry out normal day-to-day activities”. The change in recent years has been the focus, as a result of the United Nations Convention on the Rights of Persons with Disabilities (CRPD), on the effect of the impairment on professional life. Discrimination on grounds of “disability” is prohibited by the EU Framework Employment Equality Directive 2000/78, but the Directive contains no definition of “disability”. However, CRPD was applied by the Court of Justice of the European Union in the Ring case (HK Danmark, acting on behalf of Ring v Dansk almennyttigt Boligselskab, see EOR 236) to hold that the Directive’s prohibition covers “a limitation which results in particular from physical, mental or psychological impairments which in interaction with various barriers may hinder the full and effective participation of the person concerned in professional life on an equal basis with other workers, and the limitation is a long-term one”. This interpretation has been regarded as binding on UK courts and tribunals. In the Kaltoft case (Fag og Arbejde (on behalf of Kaltoft) v Kommunernes Landsforening (on behalf of the Municipality of Billund), see EOR 255), the Court of Justice added that it was sufficient to meet the definition of disability that there is a “hindrance” to the exercise of a professional activity. It is also well-established that the particular cause of an impairment is not relevant to whether it is to be regarded as disabling.’ *Menopause and disability is published in EOR 267, May 2016*

The cases cited are not menopause specific but what they do is identify that a disability is about the impact a condition has in day to day activity and it is for this reason **it** should be considered in this social model context.

The Service is progressing specific guidance on menopause and has access to national work being undertaken by the Fire Brigade Union and CFOA. It is vital that the Service does not overlook the vast variety of impact which menopause could have on individual women as well as the specific and possibly increased risks on operational women both during the phase and afterwards following as a consequence of physiologic changes in relation to heat exposure and strength fitness respectively.

The Policy is not so clear on implications of procedure in the absence of monitoring capacity in relation to other variances protected by the Act and subject to due regard. There is a systemic difficulty, to date, for the Service to fully explore PC against procedure implementations and outcome. This Policy should be able to measure these characteristics when the Policy is enacted and give due regard to the PSED and also be mindful of areas of unconscious biases and institutional and unwitting aspects of behaviours which are likely to exist in decision making processes. Plethora of documentation from the Macpherson Inquiry 1999 to date

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Advancing equality of opportunity

In the absence of meaningful monitoring it is difficult to access the Policy implementation in this capacity. The way in which the Policy is drafted expects there not to be any level of inequality in operation this can only be qualified by an ability to monitor staff subject to the Policy and their support structures which are in place.

Fostering good relations between different groups

The Policy makes clear reference to the persons involved and the procedural relationship all of which are articulated to be positive. See above to ensure this is assessable in Policy monitoring.

Where the policy/activity **DOES** or has the **POTENTIAL TO** have a **NEGATIVE** (detrimental) effect indicate which of the Protected Characteristics **MUST** be considered:

Describe the NEGATIVE (detrimental) effect and provide supporting evidence for your rationale *	
Age	For all PC, as listed in the Equality Act 2010 and listed left, there is a necessity to develop a meaningful reporting mechanism to ensure there is proportionality in the implementation of the Policy and where there is not explore any disparity. Moreover where there is an instance that any of the PCs are a possible contributory factor in the implementation of the Policy an exploration of possibility of institutional or unconscious biases needs to be explored.
Disability	
Gender reassignment	
Marriage or civil partnership	
Pregnancy or maternity	
Religion or belief	
Race	

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Sex	
Sexual orientation	
Socio-economic disadvantage 2	

* **NOTE:** Where any **NEGATIVE** (detrimental) effects are likely to occur:

- (a) For the policy/activity to continue corrective actions/amendments **MUST** be taken to prevent/minimise unlawful discrimination
- (b) An action plan **MUST** be completed (next section)
- (c) Where a negative (detrimental) effect can not be avoided, continuation of the policy/activity (with or without amendment) **MUST** be justified

Action plan

This action plan **MUST** accompany the policy/activity and be used continually to assess any negative (detrimental) effects resulting from the delivery of or amendments to the policy/activity based on customer feedback and evaluation.

Negative/detrimental effect	Action needed to prevent/minimise it	By who	By when	Complete (tick)
Possible unwitting misunderstanding of disability in the social definition context.	Appendix to Policy as guidance	Sue Wilkinson\Diane Dunlevey	ASAP	
Possible inability for Firewatch to report on Policy implementations against PC variable	Firewatch self-serv and Firewatch reporting schedule development	Firewatch Development Team – David Greensmith	ASAP	

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All Completed PIA's should be submitted to E&D team for approval.

Signed: _____ **(E&D)**

Name: _____

Date: _____

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