

EQUALITY IMPACT ASSESSMENT

STAGE 2 FULL ASSESSMENT – using CRE guidance.¹

Name of Policy: Capability Policy

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Designations: HR Consultant / Staff Convenor

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Purpose of assessment: a means of ensuring that the policy does not result in unlawful discrimination, that the policy promotes equal opportunities and good relations.

Does the service we provide reach all the communities it is meant for, and does it meet their needs?

1. Identify all the aims.	Key Points	Compliant Yes or No?
1.1 You need to be clear about the purpose of the policy, the context within which it will operate, who it is intended to benefit and the expected results.	To ensure that any concerns about an employee's ability to achieve acceptable standards of work are addressed effectively through a clear and supportive procedures.	YES
1.2 What are the Trust's specific responsibilities in relation to the proposed policy?	Responsibilities under Disability Discrimination Act.	YES
1.3 Where does responsibility for the proposed policy finally rest?	Chief Executive via Director of Human Resources.	YES
1.4 How will the proposed policy be put into effect? Who will be responsible?	Line Managers are directly responsible working with HR Consultants, Director of HR and Chief Executive.	YES
1.5 To what extent will the policy achieve equal opportunities and good relations between different racial and other groups?	Where poor performance is linked to disability, the requirements under the DDA for reasonable adjustments will be taken into account. If we are, with regard to communication, mindful of the needs of those where English is not their first language.	YES

¹ Race equality impact assessment: a step by step guide. www.cre.gov.uk/duty/reia/index.html

1.6 What are the specific outcomes you hope to see from the proposed policy?	Support staff and managers in dealing with problems of poor performance which may arise. Consistent and fair approach. Address issues in a timely way.	YES
What criteria will you use to measure progress towards these outcomes?	Ethnic Monitoring weekly reports will update and report outcomes on ongoing cases.	YES
1.7 Are there any risks associated with the proposals/policy, particularly for meeting the race equality duty, promoting good race relations, duties under the disability discrimination act?	YES. Managers may not be aware that the staff member is covered by the DDA and therefore their obligation under the DDA to make reasonable adjustments	YES
1.8 How does this policy fit in with other policies, within this department and those of other departments and authorities? Is the overall purpose compatible with the Trust's Equality and Diversity policy?	This policy is a HR policy, part of overall policies.	YES
1.9 Which individuals and organisations are likely to have an interest in the proposals?	All Trust staff	YES
1. 10 Do the stakeholders include representatives from all the groups likely to be affected by the proposed policy (noting need to promote equality of access and opportunity)?	YES. Unions are formally consulted on all policies. Information is shared with Directorates but not all staff will have an opportunity to comment.	YES
1.11 Involvement. What relationships do you have, or need to have with these stakeholders, if the policy is to be credible and have their support?	As above but to obtain views from all parties is very difficult.	YES
1.12 Have you considered involving departments or authorities with similar policies in the assessment process, to benefit from their experience, and avoid duplicating work they might have already done?	Yes. Obtain policies from other employers and discussed with them what has worked well and not so well in order to temper this policy.	YES

2. Consider the evidence. “The aim ultimately, should be to establish a reliable and extensive database of information on all equality factors” (age, religion or belief, gender, disability, sexual orientation and racial group).	Note Key Points Have some information, but it is limited. Work underway to establish better systems.	Compliant Yes or No?
2.1 What sort of information are you likely to need to develop an effective policy that benefits all (racial/disability etc.) groups equally?	Better systems reporting staff data.	
2.2 Who will decide what information will be needed and where to look for it?	HR Consultants / business partners and Line Managers	
2.3 What information is already available (quantitative and qualitative)?	Unknown. Capability has historically been dealt with under Performance and Conduct and discretionary application of probationary periods.	
2.4 Could other trusts or authorities with similar policies advise as to the information they found useful?	YES. Could be helpful.	
2.5 Is the available information sufficiently detailed to permit analysis of disparities between small groups?	Not at this time. But should do once policy is implanted and the data recorded.	
2.6 Is the information up to date, relevant and reliable?	Not at this time.	
2.7 Is more information required particularly for incomers: asylum seekers, refugees, gypsies and travellers?	Unknown.	
2.8 Who will be responsible for ensuring new data is gathered? Are there other authorities to work with?	HR Consultants / business partners / Workforce Planning.	

3. Assess likely impact.	Key Points	Yes / No?
<p>3.1 Does your analysis of the policy indicate possible adverse impact on some racial groups? (Are disparities in the ethnic data statistically significant and not due to chance?)</p> <p>Does your analysis of the policy indicate possible adverse impact on disabled people or any other particular group: gender, age, religious or sexual orientation?</p>	<p>Possibly as policy is about Capability – communication may be an issue for those where English is not their first Language.</p> <p>May be implications under Disability Discrimination.</p>	
<p>3.2 Are there other factors that could explain the adverse impact? Would changes to the policy make a difference?</p>	NO	
<p>3.3 Could the policy lead to direct discrimination? If so different ways of achieving the policy aims need to be agreed.</p>	NO	
<p>3.4 Could the policy lead to unlawful indirect discrimination? If yes look at different ways of achieving the policy aims. If the potential for discrimination is justifiable please state the justification.</p>	NO as policy refers to reasonable adjustments for disability cases.	
<p>3.5 Could the policy damage relations between your Trust and a particular racial or other group? Do you need to take any steps to counter any resentment?</p>	NO. It applies to all staff except medical staff.	
<p>3.6 Could the policy be in breach of other legislation or international obligations?</p>	NO	
<p>3.7 Is the policy intended to increase equality of opportunity for some groups? Are you confident that the policy is lawful?</p>	YES. Applies equally to all staff and confident that the policy is lawful.	

3.8 Have you re-assessed the policy, if you have made substantive changes to the original proposal?	YES
3.9 Have you discussed the results of the assessment with the Steering Group and other stakeholders?	YES

4. Consider alternatives.	Note Key Points
<p>If your assessment shows that the policy is likely to have an adverse impact on a particular racial group, or people with a disability – that it will have significant negative consequences for them you must decide whether to:</p> <ul style="list-style-type: none"> • make changes that will satisfy any concerns • consider ways of putting the proposed policy into practice that remove or reduce its potential for affecting some groups adversely • find alternative means of achieving the policy • justify the policy, even though it could affect some groups adversely. Take legal advice. 	
4.1 If the assessment shows any potential adverse impact, look again at the purpose and aims. Can the approach be re-considered?	NO
4.2 Are there aspects that could be changed? Could additional measures be taken to reduce or remove adverse impact without affecting the policy's overall aims? Could this result in disadvantaging another group?	NO. Further changes can be made without impacting on overall aims.
4.3 How does each option above (in bold) advance or hinder equality of opportunity?	It is not possible to remove all risks for potential inequality but legal advice is sought to keep risk to a minimum.
4.4 Could the policy lead to tensions between groups? Can you explain or do anything to reduce this?	NO
4.5 Costs and benefits: what are the social benefits of implementing each option?	Acknowledges and embraces differences.
4.6 If you decide the policy needs to go through without alteration, despite adverse impact, are you sure you can legally justify this action?	All our policies are reviewed by employment solicitors for any legal implications.

5. Listen to public views / involve public views in policy development / consult formally.	Key Points	Yes or No?
<p>Public involvement and consultation should be an on-going process in order to promote legitimacy of the policy and confidence in the ORH. Note the need to include as appropriate: asylum seekers and refugees, gypsies and travellers, people from ethnic minorities, people in isolated rural areas, women, elderly and young people from some racial groups, disabled people, older people and children.</p> <p>Policy relating to employees only: no need for public consultation.</p>		
5.1 Have you identified all the groups affected by the policy (different racial groups / different disabilities)?		
5.2 Which organisations and individuals are likely to have an interest in the policy?		
5.3 Which methods of consultation are likely to succeed?		
5.4 Have other departments or organisations held formal consultations? Can these be used? Can you target other groups?		
5.5 Are members of the steering group involving all stakeholders including the public in their sectors?		
5.6 Have previous attempts to involve and consult particular communities been unsuccessful – if so why?		
5.7 Do you have resources available to conduct meetings in the community? Check guidance on public involvement and planning meetings on the intranet. Have you arranged for interpreting and/or translation services?		
<p>6. Decide whether the policy is compliant with equality legislation.</p>	<p>Key Points</p>	

<p>Base your decision on four factors:</p> <ul style="list-style-type: none">• the aims of the policy• the evidence you have collected• the results of your public involvement and consultations• the relative merits of alternative approaches.	
<p>Keep records of the assessment process and justify your decision.</p>	

Taken from The Commission For Race Equality Step by Step Guide to Race Equality Impact Assessment. www.cre.gov.uk/duty/reia/index.html