

**Equality Impact Assessment (EIA) Recording Form**

Please refer to the notes and examples in the EIA Guidelines to help complete this record.

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| Title of Activity/Proposal/Policy/Practice | Capability Policy & Procedure | | EIA Team and Lead Member of Staff (names of all people involved in this EIA) | Sue Clyne / Irene Michie | Date | 09/04/24 |
| Type of Policy/Practice/ (tick box) | New | x |
| Existing |  |
| Revised |  |

**Step 1 – Plan your process**

Considering the aims of the policy/proposal and the people will be involved.

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| What are the aims and purposes of the activity/ decision/ new or revised policy or procedure?  See Note 1 | The aim of the Edinburgh College Capability Policy & Procedure is to ensure we have a transparent, supportive framework which enables managers and employees to work together with the aim of overcoming the employee’s performance/capability problem. Currently there is no clear process for managing capability issues – these are either managed under other policies and procedures such as disciplinary/ attendance support etc. This P&P gives us a process attuned to this specific purpose. This is clearer and more supportive for both the employee and the manager(s) involved. It also gives a framework which complies with current employment legislation. |
| Who will be affected?  See Note 2 | All employees and managers will benefit from a consistent, supportive approach being taken across the College should a capability issue arise for an employee. There is the potential for capability issues to be addressed sooner and for more appropriate support to be provided to the employee to enable them to improve to a satisfactory level within their role. |
| Who will be consulted?  See Note 3 | Both EIS and Unison were asked to consult on the drafting of this P&P. EIS opted not to be involved/participate in consultation. Unison did provide feedback and input to the consultation process. |

**Step 2 – Consider the Evidence**

What are the evidence we need and how we can gather them?

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| What evidence is available of how the policy/decision, etc. affects, or may affect, protected groups?  Evidence could be quantitative, qualitative or anecdotal.  Do we have enough evidence to judge what the impact may be?  See note 4 | As this is a new P&P it is not possible to gain specific evidence of the impact on specific groups from previous cases within the College. Although, we could potentially review cases previously managed under the Disciplinary / Attendance Support procedures (in conjunction with HR Partners) for an indication of how many of the annual cases over the last couple of years were in fact due to Capability.  It is also an area we can monitor going forward as we now have ability to produce anonymised statistics from iTrent (as basic casework details are now recorded on iTrent) and we compile Quarterly & Annual Casework Dashboards.  Ongoing review and discussion with both EIS-FELA and Unison on the implementation of the updated policy and procedure may provide evidence, where feedback has been received, or support has been given through this process and capability issues have been overcome etc.  Ensure updated policy is available on the intranet and circulated to all employees so they are aware of the framework and support available to employees with capability issues. |

**Step 3 – Assessing the impact**

This involves:

* Considering relevant evidence relating to people who share a protected characteristic
* Assessing the impact of applying a decision of a new or revised policy or practice against the needs of the Public Sector Equality Duty (PSED) and each protected characteristic.

How will the policy / decision help the College to comply with the Public Sector Equality Duty?

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| **Eliminating discrimination, harassment, and victimisation** | **Advancing equality-**   * **Removing disadvantage** * **Meeting different needs** * **Encouraging participation** | **Fostering good relations**   * **Tackling prejudice** * **Promoting understanding** |
| Provides a consistent, supportive and transparent framework to support ALL employees when they have a capability issue. | This P&P means that whenever an employee has a capability issue they are supported in the same way within the framework provided.  It gives an opportunity for ALL employees to put forward the reasons/circumstances which are causing their capability issue and for these to be listened to and support provided to help them overcome it, where possible. | P&P will be well publicised to all employees and outlines the process available to support employees who have a capability issue.  This removes the potential for capability issues having to be addressed / supported using a formal procedure which has been designed to deal with different issues. This is much more supportive for the employee and clearer, more transparent for both the manager and employee to work through/follow. This should enable a more consistent approach being taken across the College. |

See Note 5

Key Questions to ask:

1. What potential positive/neutral/negative impacts can be identified?
2. What does evidence demonstrate about positive/neutral/negative impacts for different protected characteristic groups? E.g. statistics on participation, progression or outcomes, feedback or complaints
3. Does the policy/procedure/practice/decision take account of the needs of people with different protected characteristics? How is this demonstrated?
4. Does it affect some groups differently? Is this proportionate?

See Note 6

| Protected characteristic | Potential  Positive Impact Y/N | Details of Expected Positive Impact | Potential Negative Impact Y/N | Details of Expected Negative Impact |
| --- | --- | --- | --- | --- |
| Age | Yes | P&P provides all employees, regardless of age, the opportunity to be supported in a fair, transparent and consistent manner should they have a capability issue. | Yes | There is a misconception that older workers are likely to be less capable than their younger colleagues e.g. not so familiar with technology etc. This may lead to more older employees potentially being put through this P&P. |
| Disability | Yes | Provides a clear framework for managing capability issues and should ensure disabled employees are managed in the same way as other employees – on their overall capability not their disability. | Yes | Some employees with disabilities may have ‘reasonable adjustments’ in place and may feel they are viewed as being less capable at undertaking their role than others because of their need for reasonable adjustment(s). |
| Gender reassignment | Yes | The informal resolution approach of this P&P should enable employees to clearly outline any short-term implications on their overall capability from the transition process. | Yes | Transitioning employees may find their health / performance temporarily affected due to the impact/side effects of the transition process they are going through. This may be wrongly addressed as a longer-term capability issue. |
| Marriage/civil partnership (relevant in employment law) | Neutral |  | Neutral |  |
| Pregnancy and Maternity | Yes | The informal resolution approach of this P&P should enable employees to clearly outline any short-term implications on their overall capability from being on mat leave for up to a year or longer if also taken accrued leave. | Yes | Employees returning from maternity leave after 1 year (or longer if they have also taken accrued annual leave) are likely to find it takes them time to regain their confidence/catch up with changes which have taken place during their leave and this may wrongly be viewed as a capability issue. |
| Race | Yes | Provides a clear framework for managing capability issues and should ensure BME employees are managed in the same way as other employees – on their overall capability not their race. | Yes | BME employees may, due to perhaps different cultural or educational backgrounds, undertake some or all of their role in a different way from others in their team(s) but still be performing well. These potential differences may be wrongly viewed as a capability issue. |
| Religion or belief | Yes | Provides a clear framework for managing capability issues and should ensure employees with religious beliefs are managed in the same way as other employees – on their overall capability not their religion. | Yes | Similar to race, employees may due to different religious practices/beliefs undertake some of their role in a different way from others in their team(s) but still be performing well. These potential differences may be wrongly viewed as a capability issue. |
| Sex | Yes | Provides a clear framework for managing capability issues and should ensure employees, regardless of their gender, are managed in the same way – on their overall capability not their sex. | Yes | Traditional male/female stereotypes may be linked to how certain roles should be performed. Therefore, when female / male / non-binary employees undertake the same roles they may be viewed as being less capable as they undertake the role in a different way, but just as competently. This change may wrongly be viewed as a capability issue. |
| Sexual orientation | Yes | Provides a clear framework for managing capability issues and should ensure all employees, regardless of their sexual orientation, are managed in the same way – on their overall capability. | Yes | Non-heterosexual employees may be viewed through societal stereotypes and if they undertake their role in a different way from how it has been undertaken in the past they may be viewed as being less capable (similar to negative outlined above for gender). This change in approach may wrongly be viewed as a capability issue. |

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| Other  characteristic  See Note 7 | Potential  Positive Impact Y/N | Details of Expected Positive Impact | Potential Negative Impact Y/N | Details of Expected Negative Impact |
| Social deprivation | Yes | The informal resolution approach of this P&P should enable employees to clearly outline and discuss any implications on their capability due to other concerns and give managers an opportunity to explore and implement other means of support, such as flexible working etc. | Yes | These employees may struggle to meet all their responsibilities which may impact on their capability/performance at work, due to worry/stress etc. |
| Care Experienced people | Yes | The informal resolution approach of this P&P should enable employees to clearly outline and discuss any implications on their capability due to being care experienced and give managers an opportunity to explore and implement other means of support. | Yes | These employees may struggle to meet all their responsibilities which may impact on their capability/performance at work, due to their childhood/care experience. |
| People with caring responsibilities | Yes | The informal resolution approach of this P&P should enable employees to clearly outline and discuss any implications on their capability due to their caring responsibilities and give managers an opportunity to explore and implement other means of support, such as flexible working etc | Yes | Employees with caring responsibilities may become overwhelmed by all their responsibilities, which may then adversely impact on their own performance/capability. This may then be picked up through this P&P as a capability issue, when the actual support needed is different, such as flexible working to enable employee to better balance their caring responsibilities. |
| Any other groups that need to be taken in consideration? | No |  | No |  |

**Step 4 – Acting on the results of the assessment.**

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| What actions can be taken or amendments made to policy to reduce the negative impact?  See note 8 | Ensure managers are trained in the implementation of this P&P so they can identify issues which should be dealt with under this P&P and those which should be addressed by providing other forms of support. This is particularly important at the informal stage when first raising any concerns with their employee. Managers should listen to their employees to ensure any mitigating circumstances are picked up early on. |
| Is there a need to address any gaps in evidence? | Going forward HR can monitor the protected characteristics of those employees who are managed/supported through this policy/procedure and review and identify if particular groups are disproportionately being referred to this policy/procedure.  Regular requests for general feedback on the implementation of this policy/procedure from the Unions at local JNC meetings |
| How will equality be advanced/ good relations be fostered? | This policy and procedure aims to supports employees to address/resolve any capability issue(s) they may have and so enables them to continue in their role at the College. |
| Who has been involved in carrying out this assessment? | HR team and circulated to union colleagues for input/feedback |
| If you cannot fully review the impact now, what else must be done, by/with whom and why? | See above comments |

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| **Recommended decision:** (place an x against relevant outcome)  See note 9 | Outcome 1: Proceed – no potential identified for discrimination or adverse impact, and all opportunities to promote equality have been taken |  |
| Outcome 2: Proceed with adjustments to remove barriers identified or to better promote equality | **x** |
| Outcome 3: Continue despite having identified some potential for adverse impact or missed opportunity to promote equality |  |
| Outcome 4: Stop and rethink as actual or potential unlawful discrimination has been identified |  |
| Any other recommendations? | | |
| No | | |

**Step 5: The monitoring and review stage**

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| **Plan actions to reduce negative impact, advance equality and monitor the impact of the policy, proposal or decision**   * Please indicate if there is any data which needs to be collected as part of action to be taken and how often it will be analysed. * Indicate how the person responsible will continue to involve relevant groups and communities in the implementation and monitoring of the policy, etc. * How will the impact of the policy/procedure/decision be monitored?   See Note 10 | | |
| **Action to be Taken:** | **Person Responsible:** | **Completion/Review Date:** |
| Arrange training for managers on the Capability P&P so they can implement it appropriately and supportively. | Sue Clyne/Nyree Grierson | December 2024 |
| Run quarterly statistical reports on cases which were active/live during this period by each protected characteristic to identify if those in any particular group(s) are being disproportionately affected. | Systems Team (Irene Michie) | Ongoing - quarterly |
| Regular reviews at JNC meetings to be undertaken with Unions to request any appropriate general feedback on the impact of the implementation of the policy & procedure. | Sue Clyne | Ongoing - quarterly |
| Undertake a 3-yearly review of the policy and procedure, or sooner if legislative changes require it, to ensure it remains in line with current legislation, terminology etc. | Sue Clyne | 3 yearly (or more frequently if required) |
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| **Signature of Lead:**   **Date: 18 April 2024** | | |

**Step 6 – Review and Publication**

See Note 11

Please send the completed EIA record to [equality@edinburghcollege.ac.uk](mailto:equality@edinburghcollege.ac.uk) for

* review by Quality and Improvement;
* publication in whole or in part on the College website.

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| **Date of Review** | **18 April 2024** |
| **Date of Publication** | **30 April 2024** |