

Equality impact assessment form

Performance Capability Policy

Directorate - Corporate Resources

Service area – Strategic HR

**Name of Assessment – Performance Capability
Policy**

Date of assessment- 5 December 2019

**Name of Director/Head of Service signing it off
Liz Moore – Head of HR**

Date published on website: TBC

Equality impact assessment – please read this section first before you do the assessment

This is our equality impact assessment form to help you equality check what you are doing when you are about to produce a new policy, review an older one, write a strategy or plan or review your services and functions. In fact you need to do an equality impact assessment whenever a decision is needed that affects people and **before** that decision is made.

So why do we need to do equality impact assessments? Although the law does not require us to do them now, the courts still place significant weight on the existence of some form of documentary evidence of compliance with the **Public Sector Equality Duty** when determining judicial review cases. This method helps us to make our decisions fairly, taking into account any equality implications, so yes we still need to do them.

The Public Sector Equality Duty is part of the Equality Act 2010 and this Duty requires us as a public body to have '**due regard**' to eliminating discrimination, harassment and victimisation and any other conduct that is prohibited by or under the Act. It requires us to advance equality of opportunity and foster good relations between people who share a '**relevant protected characteristic**' and people who don't.

Having 'due regard' means:

- removing or minimising disadvantages suffered by people due to their protected characteristics
- taking steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people
- encouraging people with certain protected characteristics to participate in public life or in other activities where the participation is disproportionately low.

The protected characteristics are:

- age
- disability
- gender identity
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

This completed form should be attached to any Chief Officer Group, Cabinet or Personnel Committee report to help elected members make their decisions by taking the equality implications into account. Equality impact assessments **must be done before** decisions are made. Include the Cabinet or Personnel Committee's decision on the front sheet when you know it.

You'll find that doing these assessments will help you to:

- understand your customers' and communities needs
- develop service improvements
- improve service satisfaction
- demonstrate that you have been fair and open and considered equality when working on re-structuring
- make sure you pay due regard to the requirements of the Public Sector Equality Duty.

Don't do the form by yourself, get a small team together and make sure you include key people in the team such as representatives from our Diversity Forums and employee networks and you could invite trade union representatives too – the more knowledge around the table the better. You also need to decide how and who you will consult with to help inform the equality impact assessment. Our Lead on Equality and Diversity can help with useful contacts – we have a team of people who are used to doing these assessments and can help with information on barriers facing particular groups and remedies to overcome these barriers.

You'll need to pull together all the information you can about how what you are assessing affects different groups of people and then examine this information to check whether some people will be negatively or

positively affected. Then you'll need to look at ways of lessening any negative effects or making the service more accessible – this is where your assessment team is very useful and you can also use the wider community. Against every negative impact you will need to complete the mitigation section to explain how you will lessen the impact.

Agree an equality action plan with your assessment team, setting targets for dealing with any negative effects or gaps in information you may have found. Set up a way of monitoring these actions to make sure they are done and include them in your service business plans.

When you have completed the assessment, get it signed by your Head of Service or Service Director and **send it to our Lead on Equality and Diversity for checking and to publish on our website.** It is a public document so must not contain any jargon and be easy to understand.

Remember, we need to do these assessments as part of our everyday business, so we get our equality responsibilities right and stay within the law – Equality Act 2010.

Equality groups and protected characteristics

These are the equality groups of people we need to think about when we are doing equality impact assessments and these people can be our customers or our employees and job applicants...

- Age equality – the effects on younger and older people
- Disability equality – the effects on the whole range of disabled people, including Deaf people, hearing impaired people, visually impaired people, people with mental health issues, people with learning difficulties, people living with autism and people with physical impairments
- Gender identity – the effects on trans people
- Marriage and civil partnership equality
- Pregnancy and maternity equality - women who are pregnant or who have recently had a baby, including breast feeding mothers

- Race equality – the effects on minority ethnic communities, including newer communities, Gypsies and Travellers and the Roma community
- Religion and belief or non-belief equality – the effects on religious and cultural communities, customers and employees
- Sex equality – the effects on both men and women and boys and girls
- Sexual Orientation equality – the effects on lesbians, gay men and bisexual people

Contact for help

Ann Webster – Lead on Equality and Diversity

ann.webster@derby.gov.uk

Tel 01332 643722 Minicom 01332 640666 Mobile 07812301144

The form

We use the term ‘policy’ as shorthand on this form for the full range of policies, practices, plans, reviews, activities and procedures.

Policies will usually fall into three main categories...

- Organisational policies and functions, such as recruitment, complaints procedures, re-structures
- Key decisions such as allocating funding to voluntary organisations, budget setting
- Policies that set criteria or guidelines for others to use, such as criteria about school admissions, procurement methods, disabled facilities grants, on street parking bays

If in doubt – it’s better and safer to do an Equality Impact Assessment than not to bother! You never know when we may get a legal challenge and someone applies for Judicial Review.

What's the name of the policy you are assessing?

Performance Capability Policy

The assessment team

Team leader's name and job title – Liz Best – HR Manager

Other team members

Name	Job title	Organisation	Area of expertise
Liz Best	HR Manager	Derby City Council	HR issues
Adele Ashmore	HR Lead Policy and Strategy	Derby City Council	HR Issues
Sarah Cook	HR Advisor	Derby City Council	HR Issues

Step 1 – setting the scene

Make sure you have clear aims and objectives on what you are impact assessing – this way you keep to the purpose of the assessment and are less likely to get side tracked.

- 1 What are the main aims, objectives and purpose of the policy? How does it fit in with the wider aims of the Council and wider Derby Plan? Include here any links to the Council Plan, Derby Plan or your Directorate Service Plan.**

The Performance Capability Policy and Procedure has been updated to reflect the change in the Council's Managing Individual Performance (MiP) process, to the Great Performance Conversation (GPC) approach which has been successfully launched earlier this year.

2 Who delivers/will deliver the policy, including any consultation on it and any outside organisations who deliver under procurement arrangements?

The Performance Capability Policy and Procedure provides a framework for managing performance which falls below the expected performance standards of the job role, and the desired improvement has not been achieved through the Great Performance Conversations

Each Directorate needs to implement this Policy, the Council has consulted with the Trade Unions in reaching agreement with the attached policy.

We have produced guidance to support the policy implementation and will be communicating the Policy to all colleagues of the Council.

3 Who are the main customers, users, partners, employees or groups affected by this proposal?

All Council colleagues.

Step 2 – collecting information and assessing impact

- 4 Who have you consulted and engaged with so far about this policy, and what did they tell you? Who else do you plan to consult with? – tell us here how you did this consultation and how you made it accessible for the equality groups, such as accessible locations, interpreters and translations, accessible documents.**

We have consulted our Trade Unions through the Council's collective bargaining framework and reached agreement on the Policy.

We have formal minutes of the discussions that have taken place, which are held in HR.

The policy is available on request in a range of languages and in accessible formats for our disabled colleagues and councillors.

Our latest Soapbox Survey received comments from Colleagues that the Council needed to tackle poor performance as a priority.

- 5 Using the skills and knowledge in your assessment team, and from any consultation you have done, what do you already know about the equality impact of the policy on particular groups? Also, use any other information you know about such as any customer feedback, surveys, national research or data. Indicate by a tick for each protected characteristic group whether this is a negative or a positive impact. If it's negative, fill in the mitigation section as well to explain how you are going to lessen the impact.**

Age

What do you already know?	Positive impact	Negative impact	Mitigation
This policy gives a structured framework for a colleague's performance to be effectively managed.	Yes		

Disability

What do you already know?	Positive impact	Negative impact	Mitigation
<p>This policy gives a structured framework for a colleagues' performance to be effectively managed and to request and raise any adjustments for consideration.</p> <p>Reasonable adjustments will be provided during the whole process for disabled colleagues and they can also get support from our Disabled Employees Network</p>	Yes		

Gender identity- trans

What do you already know?	Positive impact	Negative impact	Mitigation
If a colleague raises that they prefer to be a different gender to that they were assigned at birth, support will be given to make sure that any effect on performance will be considered through the Personal Development Plan. They can also get support from our LGBTQ+ Employee Network and the external Derbyshire LGBTQ+	Yes		

Marriage and Civil Partnership

What do you already know?	Positive impact	Negative impact	Mitigation
<p>This policy gives a structured framework for a colleagues' performance to be effectively managed.</p> <p>If a colleague's performance is affected by marriage to civil partnership breakdown, we will provide the necessary support</p>	Yes		

Pregnancy and maternity

What do you already know?	Positive impact	Negative impact	Mitigation
If a colleague raises that they are pregnant	Yes		

adjustments will be explored and considered as part of the personal development plan.			
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Race

What do you already know?	Positive impact	Negative impact	Mitigation
This Policy can be provided in different languages on request to make sure that all colleagues understand the procedure. Colleagues can get support from our Black and Minority Ethnic Employees Support Network	Yes		

Religion or belief or none

What do you already know?	Positive impact	Negative impact	Mitigation
Any meetings held will take into account religious festivals and beliefs raised by the colleague.	Yes		

Sex

What do you already know?	Positive impact	Negative impact	Mitigation
This policy gives a structured framework for a colleague's performance to be effectively managed.	Yes		

Sexual orientation

What do you already know?	Positive impact	Negative impact	Mitigation
This policy gives a structured framework for a colleagues performance to be effectively managed. Colleagues can get support from our LGBTQ+ Employee Network and the external Derbyshire LGBT+	Yes		

Important - For any of the equality groups you don't have any information about, then make it an equality action at the end of this assessment to find out. This doesn't mean that you can't complete the assessment without the information, but you need to follow up the action and if necessary, review the assessment later. You can get lots of information on reports done from organisations' websites such as the Equality and Human Rights Commission, Stonewall, Press for Change, Joseph Rowntree Trust and so on. Please don't put down that the impact affects 'everyone the same' – it never does!

- 6 From the information you have collected, how are you going to lessen any negative impact on any of the equality groups? How are you going to fill any gaps in information you have discovered?**

The policy has been refreshed to provide a supportive, transparent framework for the performance management of a colleague. HR Advisors will provide advice and guidance to Managers and will monitor the impacts within their service areas.

No gaps have been identified and nor have any negative impacts of the policy.

Step 3 – deciding on the outcome

7 What outcome does this assessment suggest you take? – You might find more than one applies. Please also tell us why you have come to this decision?

Outcome 1	1	No major change needed – the EIA hasn't identified any potential for discrimination or negative impact and all opportunities to advance equality have been taken
Outcome 2		Adjust the policy to remove barriers identified by the EIA or better advance equality. Are you satisfied that the proposed adjustments will remove the barriers you identified?
Outcome 3		Continue the policy despite potential for negative impact or missed opportunities to advance equality identified. You will need to make sure the EIA clearly sets out the justifications for continuing with it. You need to consider whether there are: <ul style="list-style-type: none"> • sufficient plans to stop or minimise the negative impact • mitigating actions for any remaining negative impacts • plans to monitor the actual impact.
Outcome 4		Stop and rethink the policy when the EIA shows actual or potential unlawful discrimination

Our Assessment team has agreed Outcome number(s)

We agreed outcome number 1

Why did you come to this decision?

We came to this decision because we consulted widely with Trade Unions who are in agreement to the revised Policy.

If you have decided on **Outcome 3**, then please tell us here the justification for continuing with the policy. You also need to make sure that there are actions in the Equality Action Plan to lessen the effect of the negative impact. This is really important and may face a legal challenge in the future.

If you have decided on **Outcome 4** then if the proposal continues, without any mitigating actions, it may be likely that we will face a legal challenge and possibly a Judicial Review on the process - it is really important that the equality impact assessment is done thoroughly, as this is what the Judge will consider.

Step 4 – equality action plan – setting targets and monitoring

8 Fill in this table with the equality actions you have come up with during the assessment. Indicate how you plan to monitor the equality impact of the proposals, once they have been implemented.

Equality Action Plan –setting targets and monitoring

HR will look to put in place monitoring against all the Protected Characteristics and will progress this with the current HR Case Management system.

Age

What are we going to do to advance equality	What difference will it make	When will we do it and who will lead	Monitoring arrangements
We need to communicate the policy with all Council colleagues.	It will make sure that all colleagues are aware of the policy and have support to improve their performance.	Strategic HR	Colleague feedback HR Advisor feedback Trade Union feedback

Disability

What are we going to do to advance equality	What difference will it make	When will we do it and who will lead	Monitoring arrangements
We need to communicate the policy with all Council colleagues including in accessible formats for disabled colleagues.	It will make sure that all colleagues are aware of the policy and have support to improve their performance.	Strategic HR	Colleague feedback HR Advisor feedback Trade Union feedback

Gender identity - trans

What are we going to do to advance equality	What difference will it make	When will we do it and who will lead	Monitoring arrangements

What are we going to do to advance equality	What difference will it make	When will we do it and who will lead	Monitoring arrangements
We need to communicate the policy with all Council colleagues.	It will make sure that all colleagues are aware of the policy and have support to improve their performance.	Strategic HR	Colleague feedback HR Advisor feedback Trade Union feedback

Marriage and Civil Partnership

What are we going to do to advance equality	What difference will it make	When will we do it and who will lead	Monitoring arrangements
We need to communicate the policy with all Council colleagues.	It will make sure that all colleagues are aware of the policy and have support to improve their performance.	Strategic HR	Colleague feedback HR Advisor feedback Trade Union feedback

Pregnancy and maternity

What are we going to do to advance equality	What difference will it make	When will we do it and who will lead	Monitoring arrangements
We need to communicate the policy with all Council colleagues.	It will make sure that all colleagues are aware of the policy and have support to improve their performance.	Strategic HR	Colleague feedback HR Advisor feedback Trade Union feedback

Race

What are we going to do to advance equality	What difference will it make	When will we do it and who will lead	Monitoring arrangements
We need to communicate the policy with all Council colleagues. The policy can also be provided in a range of languages on request	It will make sure that all colleagues are aware of the policy and have support to improve their performance.	Strategic HR	Colleague feedback HR Advisor feedback Trade Union feedback

Religion or belief or none

What are we going to do to advance equality	What difference will it make	When will we do it and who will lead	Monitoring arrangements
We need to communicate the policy with all Council colleagues.	It will make sure that all colleagues are aware of the policy and have support to improve their performance.	Strategic HR	Colleague feedback HR Advisor feedback Trade Union feedback

Sex

What are we going to do to advance equality	What difference will it make	When will we do it and who will lead	Monitoring arrangements
We need to communicate the policy with all Council colleagues.	It will make sure that all colleagues are aware of the policy and have support to improve their performance.	Strategic HR	Colleague feedback HR Advisor feedback Trade Union feedback

Sexual orientation

What are we going to do to advance equality	What difference will it make	When will we do it and who will lead	Monitoring arrangements
We need to communicate the policy with all Council colleagues.	It will make sure that all colleagues are aware of the policy and have support to improve their performance.	Strategic HR	Colleague feedback HR Advisor feedback Trade Union feedback

We can give you this information in any other way, style or language that will help you access it. Please contact us on: 01332 Minicom: 01332 640666

Polish

Aby ułatwić Państwu dostęp do tych informacji, możemy je Państwu przekazać w innym formacie, stylu lub języku.

Prosimy o kontakt:

Tel. tekstowy: 01332 640666

Punjabi

ਇਹ ਜਾਣਕਾਰੀ ਅਸੀਂ ਤੁਹਾਨੂੰ ਕਿਸੇ ਵੀ ਹੋਰ ਤਰੀਕੇ ਨਾਲ, ਕਿਸੇ ਵੀ ਹੋਰ ਰੂਪ ਜਾਂ ਬੋਲੀ ਵਿੱਚ ਦੇ ਸਕਦੇ ਹਾਂ, ਜਿਹੜੀ ਇਸ ਤੱਕ ਪਹੁੰਚ ਕਰਨ ਵਿੱਚ ਤੁਹਾਡੀ ਸਹਾਇਤਾ ਕਰ ਸਕਦੀ ਹੋਵੇ। ਕਿਰਪਾ ਕਰਕੇ ਸਾਡੇ ਨਾਲ ਟੈਲੀਫੋਨ ਮਿਨੀਕਮ 01332 640666 ਤੇ ਸੰਪਰਕ ਕਰੋ।

Slovakian

Túto informáciu vám môžeme poskytnúť iným spôsobom, štýlom alebo v inom jazyku, ktorý vám pomôže k jej sprístupneniu. Skontaktujte nás prosím na tel.č: Minicom 01332 640666

Urdu

یہ معلومات ہم آپ کو کسی دیگر ایسے طریقے، انداز اور زبان میں مہیا کر سکتے ہیں جو اس تک رسائی میں آپ کی مدد کرے۔ براہ کرم منی کام 01332 640666 پر ہم سے رابطہ کریں۔



Derby City Council

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