

Capability

Evidence based equality analysis

Main aims, purpose and outcomes and how does it fit in with the wider aims of the organisation:

The Council recognises that when an employee cannot perform the duties required to an acceptable standard it does not necessarily constitute misconduct.

The Capability Procedure should be followed where an employee is not able to perform his or her duties because they do not have the skills, knowledge, experience, physical ability or aptitude they need to fully carry out their job. Mental health may also be an issue.

There are five main principles underlying the operation of capability procedure:

- (i) Employees must know what is expected of them;
- (ii) Their shortcomings must be pointed out as they arise;
- (iii) Employees must be given help, advice, the opportunity and time to improve their performance;
- (iv) The relevant manager(s) must be clear about whatever action is necessary and be able to proceed without undue delay;
- (v) The procedures should be applied irrespective of the age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation of the person concerned. If the person has a health issue or a disability Human Resources must be consulted, before formal capability procedures are started and at each subsequent stage.

Lead officer: Nicola Pierce

Stakeholders: All employees, trade unions

Equality analysis is a valuable tool to help embed equality into everything we do

While process is important, equality analysis is essentially about outcomes.

Lack of evidence of discrimination is not evidence of a lack of discrimination.

It is not acceptable to say that a policy is applied uniformly to all groups and is therefore fair and equal. Applying a policy or procedure consistently may result in differential outcomes for different groups.

For each of the areas below, an assessment needs to be made on whether the policy has a positive, negative or neutral impact, and brief details of why this decision was made and notes of any mitigation should be included. Where the impact is negative, this needs to be given a high, medium or low assessment. It is important to rate the impact of the policy based on the current situation (i.e. disregarding any actions planned to be carried out in future).

High impact – a significant potential impact, risk of exposure, history of complaints, no mitigating measures in place etc.

Medium impact –some potential impact exists, some mitigating measures are in place, poor evidence

Low impact – almost no relevancy to the process, e.g. an area that is very much legislation led and where the Council has very little discretion

| | Neutral | Positive | Negative |
|---|----------------------|--|----------|
| Target group / area | | | |
| Race and ethnicity (including Gypsies and Travellers; migrant workers, asylum seekers etc.) | No issues identified | | |
| Disability (as defined by the Equality Act - a person has a disability if they have a physical or mental impairment that has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities) | | Specific adjustments to the timescales when an employee has had a long time off sick. Specific mention of adjustments to help employees with a disability including seeking specialist advice | |
| Gender | | Specific adjustments to the timescales | |

| | | | |
|--|----------------------|---|--|
| | | when an employee works fewer hours including term time only | |
| Gender reassignment | No issues identified | | |
| Religion and belief | No issues identified | | |
| Sexual orientation (including heterosexual, lesbian, gay, bisexual) | No issues identified | | |
| Age (children and young people aged 0 – 24, adults aged 25 – 50, younger older people aged 51 – 75/80; older older people 81+. The age categories are for illustration only as overriding consideration should be given to needs). | No issues identified | | |
| Rural communities | No issues identified | | |
| Areas of deprivation | No issues identified | | |
| Human rights | | Privacy considerations and data protection is good | |
| Health and wellbeing (consider both the wider determinants of health such as education, housing, employment, environment, crime and transport, as well as the possible impacts on lifestyles and the effect there may be on health and care services) | No issues identified | | |
| Procurement/partnership (if project due to be carried out by contractors/partners etc, identify steps taken to ensure equality compliance) | Not applicable | | |

Evidence:

Capability policy and procedure
Statistics

Action plan:

| Actions required | Key activity | Priority | Outcomes required | Officer responsible | Review date |
|---|---------------------|-----------------|---|----------------------------|--------------------|
| Review capability cases by protected characteristic | Prepare report | Medium | Knowledge of whether there is any potential difference in the treatment of any particular group | Rosemary Hodgson | 31 December 2014 |

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| Sign off | |
| Lead Officer: | Nicola Pierce |
| Approved by Head of Service: | Sam Brousas |
| Moderation and/or Scrutiny | |
| Date: | Resources equality meeting 19 March 2014 and subsequent virtual moderation of draft |
| Date analysis to be reviewed based on rating (high impact – review in one year, medium impact - review in two years, low impact in three years) | Three years |

Please forward the completed Equality Analysis to the Equality and Diversity Managers for publishing on the Council's website