

Equality Impact Assessment – Disciplinary Policy and Procedure

This document provides guidance when completing an Equality Impact Assessment (EIA). The completed EIA for the National Disciplinary Policy and Procedure can be found at the end of this document.

The National Joint Negotiating Committee for Colleges is committed to promoting equality and participation in all its activities.

We require to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations when making decisions and developing policies. To do this, it is necessary to understand the potential impacts of the range of internal and external activities on different groups of people.

What is an Equality Impact Assessment (EIA) and why do we need to complete one?

An equality impact assessment (EIA) is an evidence-based approach designed to help organisations ensure that their policies, practices, events and decision-making processes are fair and do not present barriers to participation or disadvantage any protected groups from participation. This covers both strategic and operational activities.

The EIA will help to ensure that:

- we understand the potential effects of the policy and procedure by assessing the impacts on different groups both external and internal
- any adverse impacts are identified, and actions identified to remove or mitigate them
- decisions are transparent and based on evidence with clear reasoning.

Who is responsible for completing and signing off the EIA?

This EQIA was completed collaboratively with involvement of all members of the policy subgroup. Ultimate responsibility on whether an EIA is required and the evaluation decision(s) made after completing the EIA lies with the Central Committee.

Evaluation Decision

There are four options open:

1. No barriers or impact identified, therefore activity will **proceed**.
2. You can decide to **stop** the policy or practice at some point because the evidence shows bias towards one or more groups
3. You can **adapt or change** the policy in a way which you think will eliminate the bias, or
4. Barriers and impact identified, however having considered all available options carefully, there appear to be no other proportionate ways to achieve the aim of the policy or practice (e.g. in **extreme cases** or where **positive action** is taken). Therefore you are going to **proceed with caution** with this policy or practice knowing that it may favour some people less than others, providing justification for this decision.

In most cases, where disproportionate disadvantage is found by carrying out EIAs, policies and practices are usually changed or adapted. In these cases, or when a change has been justified you should consider making a record on the project risk register.

¹ http://www.acas.org.uk/media/pdf/s/n/Acas_managers_guide_to_equality_assessments.pdf

Equality Impact Assessment

This is an assessment based on agreed policy and draft procedure (January 2025)

Question	Response
1. Name of policy and procedure being assessed	Disciplinary policy and procedure.
2. Summary of aims and objectives of the policy and procedure	<p>This is a disciplinary policy to be used as the minimum standard for all National Joint Negotiating Committee (NJNC) colleges. There is also a model procedure which NJNC colleges can use, however, colleges can choose to continue to use their own procedure if they wish, providing it meets the minimum standard set out in the model procedure.</p> <p>The policy and procedure provide a framework for dealing with potential misconduct, with the focus to encourage an employee whose conduct is unsatisfactory to improve.</p> <p>A disciplinary policy and procedure are required as employers are legally obliged to have disciplinary procedures in place. It is the employer's responsibility to set and maintain standards of behaviour within the organisation and to put in place disciplinary rules and procedures to address instances of misconduct.</p> <p>Further, an effective disciplinary policy and procedure is key to good employment relations and to ensure that individuals are treated fairly and consistently in cases where standards of conduct and behaviour fall below an acceptable level.</p> <p>The policy and accompanying procedure comply with the Advisory, Conciliation and Arbitration Service (ACAS) Code of Practice on Disciplinary and Grievance Procedures and meet all current relevant legislation.</p>

<p>3. What involvement and consultation has been done in relation to this policy and procedure? (e.g. with relevant groups and stakeholders)</p>	<p>The development of this policy and procedure originated from the objectives and direction of the NJNC for colleges. A national policy working group subsequently formed a subgroup to progress the development of this policy and procedure.</p> <p>The subgroup has equal representation from management and staff side with secretariat support and input provided by College Employers Scotland. The subgroup has met a number of times from January 2022 to November 2024 to develop the policy, procedure and all related documents collaboratively.</p> <p>Evidence of all national working group meeting minutes, actions and consultation undertaken are available from College Employers Scotland.</p>
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<p>4. Who is affected by the policy and procedure?</p>	<p>The policy and, where adopted by a relevant college, the procedure, applies to all college employees covered by the National Recognition and Procedures Agreement (NRPA).</p> <p>There are circumstances where individuals not employed by a college may be impacted by the policy and procedure, for example an external witness or a companion asked to attend a disciplinary hearing.</p>
<p>5. What are the arrangements for monitoring and reviewing the actual impact of the policy and procedure?</p>	<p>The policy and procedure will be formally reviewed after 1 year by the Policy Working Group and thereafter every 3 years by the Policy Working Group. They will be actively considered for review if there are related employment legislation changes.</p>

Protected Characteristic Group	Potential for positive or negative impact?	Please explain and give examples of any evidence/data used	Action to address negative impact (e.g. adjustment to the policy)
Disability	Potentially negative	<p>It is possible that an employee's disability could impact on their behaviour at work and result in them facing disciplinary allegations.</p> <p>For example, the appendix of the procedure provides examples of behaviour viewed as misconduct/gross misconduct. The list is not exhaustive but could be taken subjectively. This may cause misunderstanding for example for a person with a neurodiverse disability considers to be obscene, offensive, or reasonable.</p> <p>Articles such as this in Personnel Today highlight employment tribunal cases where employers were shown not to have fully understood the nature of a person's disability before launching disciplinary proceedings that may lead to dismissal.</p>	<p>This potential negative impact has been addressed by inclusion of wording in the policy specifically stating that colleges will not discriminate against employees because of a protected characteristic and will make any reasonable adjustments to the process to remove any disadvantage faced by an employee with a disability. This places a positive obligation on colleges to consider protected characteristics, including disabilities, throughout the procedure and to take appropriate steps to address any potential disadvantage.</p> <p>It is recommended that ongoing and relevant Equality Inclusion and Diversity training is provided for managers involved in disciplinary matters to ensure that they are aware of their role and responsibilities under the Equality Act 2010. This will also assist managers in identifying any mitigating factors arising from disability which should be taken into account throughout the disciplinary process and to identify any required reasonable adjustments. This should further assist in addressing any potential negative impact.</p> <p>Careful monitoring on cases within colleges will be carried out and reported back to NJNC to enable this potential negative impact to be kept under review.</p>

Gender reassignment*	No known negative impact	We have not identified any evidence that the policy or procedure could disproportionately impact a person on the grounds of this Protected Characteristic.	Whilst no specific potential negative impact has been identified here, it is recommended that ongoing and relevant Equality, Diversity and Inclusion training is provided for all managers to ensure that they are aware of their role and responsibilities under the Equality Act 2010 when dealing with disciplinary matters. This will also assist managers in identifying any mitigating factors arising from this protected characteristic which should be taken into account throughout the disciplinary process.
Marriage or civil partnership	No known negative impact	We have not identified any evidence that the policy or procedure could disproportionately impact a person on the grounds of this Protected Characteristic.	Whilst no specific potential negative impact has been identified here, it is recommended that ongoing and relevant Equality, Diversity and Inclusion training is provided for all managers to ensure that they are aware of their role and responsibilities under the Equality Act 2010 when dealing with disciplinary matters. This will also assist managers in identifying any mitigating factors arising from this protected characteristic which should be taken into account throughout the disciplinary process.
Pregnancy and maternity	No known negative impact	While research Pregnancy and maternity discrimination research findings EHRC (equalityhumanrights.com) found evidence of unfair treatment during pregnancy there is no evidence to show there is a direct link to disciplinary action.	Whilst no specific potential negative impact has been identified here, it is recommended that ongoing and relevant Equality, Diversity and Inclusion training is provided for all managers to ensure that they are aware of their role and responsibilities under the Equality Act

			2010 when dealing with disciplinary matters. This will also assist managers in identifying any mitigating factors arising from this protected characteristic which should be taken into account throughout the disciplinary process.
Race	No known negative impact*	We have not identified any evidence that the policy could disproportionately impact a person on the grounds of this Protected Characteristic.	Whilst no specific potential negative impact has been identified here, it is recommended that ongoing and relevant Equality, Diversity and Inclusion training is provided for all managers to ensure that they are aware of their role and responsibilities under the Equality Act 2010 when dealing with disciplinary matters. This will also assist managers in identifying any mitigating factors arising from this protected characteristic which should be taken into account throughout the disciplinary process.
Religion or belief	No known negative impact*	We have not identified any evidence that the policy or procedure could disproportionately impact a person on the grounds of this Protected Characteristic.	Whilst no specific potential negative impact has been identified here, it is recommended that ongoing and relevant Equality, Diversity and Inclusion training is provided for all managers to ensure that they are aware of their role and responsibilities under the Equality Act 2010 when dealing with disciplinary matters. This will also assist managers in identifying any mitigating factors arising from this protected characteristic which should be taken into account throughout the disciplinary process.

Sexual orientation	No known negative impact*	We have not identified any evidence that the policy or procedure could disproportionately impact a person on the grounds of this Protected Characteristic.	Whilst no specific potential negative impact has been identified here, it is recommended that ongoing and relevant Equality, Diversity and Inclusion training is provided for all managers to ensure that they are aware of their role and responsibilities under the Equality Act 2010 when dealing with disciplinary matters. This will also assist managers in identifying any mitigating factors arising from this protected characteristic which should be taken into account throughout the disciplinary process.
Sex (gender)	No known negative impact*	We have not identified any evidence that the policy or procedure could disproportionately impact a person on the grounds of this Protected Characteristic.	Whilst no specific potential negative impact has been identified here, it is recommended that ongoing and relevant Equality, Diversity and Inclusion training is provided for all managers to ensure that they are aware of their role and responsibilities under the Equality Act 2010 when dealing with disciplinary matters. This will also assist managers in identifying in identifying any mitigating factors arising from this protected characteristic which should be taken into account throughout the disciplinary process.
Age	No known negative impact	We have not identified any evidence that the policy or procedure could disproportionately impact a person on the grounds of this Protected Characteristic.	Whilst no specific potential negative impact has been identified here, it is recommended that ongoing and relevant Equality, Diversity and Inclusion training is provided for all managers to ensure that they are aware of their role and responsibilities under the Equality Act

			2010 when dealing with disciplinary matters. This will also assist managers in identifying in identifying any mitigating factors arising from this protected characteristic which should be taken into account throughout the disciplinary process.
Other (caring responsibilities)	No known negative Impact*	We have not identified any evidence that the policy could disproportionately impact a person on the grounds of caring responsibilities.	Whilst no specific potential negative impact has been identified here, it is recommended that ongoing and relevant Equality, Diversity and Inclusion training is provided for all managers to ensure that they are aware of their role and responsibilities under the Equality Act 2010 when dealing with disciplinary matters. This will also assist managers in identifying in identifying any mitigating factors arising from this protected characteristic which should be taken into account throughout the disciplinary process.

*Overall recommendation that equality data is collected from all those undergoing the disciplinary procedure within each college and that this data is analysed on a regular basis to highlight any negative impacts this policy and procedure may have on protected characteristic groups.

Evaluation

Question	Explanation / justification
Is it possible the proposed policy and procedure could discriminate or unfairly disadvantage people?	<p>From our review there is limited evidence to show that application of the policy and/or the procedure could discriminate against or unfairly disadvantage employees with a protected characteristic.</p> <p>However, in order to reduce the risk of discrimination based on protected characteristics, it is recommended that ongoing and relevant Equality, Diversity and Inclusion training is provided for all managers. This will help ensure that managers are aware of their role and responsibilities under the Equality Act 2010 when addressing disciplinary issues. It will also assist in identifying any mitigating factors arising from protected characteristics which should be taken into account throughout the disciplinary process.</p>

	<p>Those subject to disciplinary action are entitled to be represented by a colleague or trade union representative throughout the process. This can help them during stressful situations, and also ensure there is someone else with them to help them understand the process, and aid their communication if needed by reading statements or helping them understand the questions.</p> <p>The policy also explicitly sets out colleges' responsibilities in terms of making reasonable adjustments due to personal circumstances or protected characteristics. For example, the presence of a translator or sign interpreter at formal meetings, or a change to timescales to better accommodate an employee's health.</p>	
Final Decision:	Tick the relevant box	Include any explanation / justification required
1. No barriers identified, therefore activity will proceed.	x	Consider suggested monitoring of disciplinary cases and ongoing training for managers involved.
2. You can decide to stop the policy or practice at some point because the data shows bias towards one or more groups		
3. You can adapt or change the policy in a way which you think will eliminate the bias		
4. Barriers and impact identified, however having considered all available options carefully, there appear to be no other proportionate ways to achieve the aim of the policy or practice (e.g. in extreme cases or where positive action is taken). Therefore you are going to proceed with caution with this policy or practice knowing that it may favour some people less than others, providing justification for this decision.		

Will this EIA be published* Yes/Not required (*EIA's should be published alongside relevant funding activities e.g. calls and events:	Yes
Date completed:	
Review date (if applicable):	

Change log

Name	Date	Version	Change
	When published	1	January 2025