

Appendix 1: Equality Impact Assessment Screening:

Managing poor performance and capability policy

1. Context

This EIA screening is undertaken because the paper requires a decision in relation to a workforce policy review.

2. Relevance to the Public Sector Equality Duty:

- **Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010**

Research by the Health Service Journal (2008) and Kline (2013) provides significant evidence that, in the NHS, “BME workers are grossly under-represented among senior management but disproportionately involved in disciplinaries, grievances, bullying and harassment cases and capability reviews” (Discrimination by Appointment, Kline, 2013).

In order to avoid potentially discriminatory outcomes and to maximise the potential for positive impacts, the draft policy should be revised in order to:

- link with the CCG’s strategic aims around tackling health inequalities and promoting equality and diversity
- highlight the dangers of allowing subjective factors or discriminatory attitudes to influence assessments of performance or capability
- highlight the role of the wider working environment and working relationships in enabling effective/improving performance.
- Include measures for quality assuring practice and outcomes

- **Advance equality of opportunity between people who share a protected characteristic and those who do not**

Poor performance can undermine the design and delivery of effective and equitable services to patients and the public. Therefore, this policy could help to tackle health inequalities by addressing poor individual performance and any issues in the work environment which are contributing to poor performance.

- **Foster good relations between people who share a protected characteristic and those who do not**

This policy has the potential to foster good relations by setting out clear, fair and transparent procedures and guidance around managing poor performance and capability.

3. Impact on Protected Groups:

Has the above identified that the paper has any relevance to any of the following protected characteristics?

Age.	Yes	Disability.	Yes	Sexual Orientation.	Yes
Race.	Yes	Sex.	Yes	Religion or Belief.	Yes
Gender Reassignment.	Yes	Pregnancy & Maternity.	Yes	Marriage or Civil Partnership Status	Yes

To address the issues identified in section 2 above, the following amendments to the draft policy have been reviewed and the policy amended to reflect the recommendations below:

Key principles (s2)

- include a principle around managing poor performance or capability issues which risk undermining the CCG's strategic aims of tackling health inequalities, eliminating unlawful discrimination and advancing equality of opportunity for patients, service users and employees
- include a provision to monitor the implementation of the policy in a way which can identify any differential outcomes related to key protected characteristics

Staff rights (s3)

- Point 5 – add: "...including anything in your working relationships or work environment which might be adversely affecting your performance"

Manager's role (s4)

- Add a point about the manager's responsibility to "create an inclusive work environment which values workforce diversity and which recognises that different individuals may have different needs and preferences in order to enable effective performance"
- Point 5 – add: "...avoiding any negative pre-judgements about performance or capability which might be linked to a protected characteristic"

Identification (s5)

- Add a point about "Discriminatory attitudes, bullying, harassment or the failure to create an inclusive working environment where all employees are enabled to perform effectively, regardless of their protected characteristics"

Stage 1 (s6.1)

- P8, last bullet – after "action plan", add "...plus the actions of others to be involved in your improvement plan"

4. Health Inequalities:

Does it relate to an area with known Health Inequalities? No

5. Where it is considered that the paper has no relevance to the General Duty or Protected Groups, this should be recorded here with reasons along with any advice received:

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6. Conclusion:

Proceed to full EIA: No
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