

Equality Analysis

An Equality Analysis starts at the beginning of and is part of project or policy development, consistent with the approach outlined in AI 14/2016 PSI 20/2016 PI 19/2016. The ‘checklist’ below is a way to capture the audit trail and provides some reminders of what should be considered, throughout the development of the project. Equality Analysis is about taking every opportunity to embed equality into the project or policy. This will improve its quality, partly through identifying and mitigating risks; including the potential for bias, unconscious or otherwise. By populating the fields below, you can show how you have achieved this.

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| **Name of Policy / Project, Practice or Procedure under development (hereafter called ‘product’)**  |
| New HMPPS Attendance Management Policy |
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| **Brief description of the planned product** |
| A new Attendance Management policy to replace PSO 8404 and PI 37/2014, which will be:* designed to encourage line managers and employees to take appropriate action when health and well-being are at risk;
* to support managers in managing attendance effectively by placing a greater emphasis on the line manager using their discretion;
* line managers working together with the employee to remove barriers to attendance at work, encouraging open and honest discussion between the line manager and employee about their attendance;
* promoting early intervention when health issues arise, prompting appropriate action when health and well-being are at risk or when absence levels are unsatisfactory;
* providing a clear understanding of individual roles and responsibilities and ensuring attendance is managed in a way which is fair and transparent.
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| **Equality Analysis Lead: The person leading on the product** |
| Jim Fraser |
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| **Start Date** |
| September 2016 |  |
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| **What are the high level equality objective/s (positive opportunities) associated with your product? How will you ensure that your project is included to all those affected? What are the risks, including risk of bias?**  |
| The objectives of this policy are to:* promote a culture of attendance, focussing on what individuals can do rather than what they cannot and supporting employees to remain at or return to work where possible;
* improve productivity and reduce occupational sick pay costs;
* help achieve a reduction in Average Working Days Lost (AWDL);
* improve manager capability and confidence to exercise discretion to enable them to consistently and effectively manage sickness absence
* promote the adoption of good practice from both the public and private sector across all departments in managing both short and long term absences;
* set out a clear end-to-end process from reporting sickness to managing unsatisfactory attendance;
* clarify individual roles and responsibilities.

The proposed policy will affect all employees within departments which implement them. |
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| **First steps: Identify when in the project you will consider, plan and discuss the equality opportunities associated with your proposed product** |
|  |  | Key Date |
| Consultation with HMPPS Trade Unions |  | 20/09/2016 |
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| Draft policy to Equality Rights & Decency Group |  | November 2016 |
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| Draft policy to GLD |  | November 2016 |
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| Draft policy to Staff Networks |  | September 2016 |
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| **Ongoing record: Key dates when equality was considered and actions taken as a result** |
| Context:  |  | Date:  |
| HMPPS Equalities, Interventions and Operational Practice Group reviewed the policy and supplied comments which were incorporated |  | November 2016 |
|  | Action / Owner:  |
|  | Jim Fraser |
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| Context:  |  | Date:  |
| Meeting with the Staff Networks Disability Chair – comments incorporated in policy. Further meetings arranged to discuss supporting guidance. |  | September 2016 – January 2018 |
|  | Action / Owner:  |
|  | Jim Fraser |
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| Context:  |  | Date:  |
| Trade Union consultation meetings with POA, NTUS and Napo. A number of issues were raised, some of which were incorporated in the policy, some of which were not. The PGA, Unison & GMB SCOOP declined the invitation to meet. |  | November 2016 |
|  | Action / Owner:  |
|  | Jim Fraser |
| Context: |  | Date: |
| GLD asked to review the draft policy and specifically the updated paragraph related to disability. |  | November 2016 |
|  | Action / Owner |
|  | Jim Fraser |
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| Context: |  | Date: |
| Following a meeting between the POA and Michael Spurr earlier in the year, Michael agreed that the HR Directorate would draft some additional guidance following a specific request from the POA and this guidance supports the new policy and the guidance already available to staff and managers. A working group was set up and additional guidance was produced. This was later shared with NTUS and Napo and HMPPS HR Directorate will be meeting with NTUS in October. |  | June – August 2017 |
|  | Action / Owner: |
|  | Jim Fraser |
| Context: |  | Date: |
| Ongoing dialogue with POA, NTUS and Napo to discuss updating the ‘How to Guides’ |  | April – October 2017 |
|  | Action / Owner: |
|  | Jim Fraser |
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| Context:  |  | Date:  |
| Further meeting with Equalities, Interventions and Operational Practice Group to discuss suggested amendments to some of the guidance previously issued. |  | September – December 2017 |
|  | Action / Owner:  |
|  | Jim Fraser |
| **Internal sources of information:**  |
| HMPPS Attendance & Wellbeing Team |
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| HMPPS Equalities, Interventions and Operational Practice Group |
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| MoJ HR Policy |
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| HMPPS Staff Networks |
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| PPAS / DASHRAS |
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| **External sources of information:**  |
| CSEP |
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| Government Legal Department |
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| SSCL |
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| HMPPS Trade Unions |
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| **Summarise here the general ways you have embedded equality and inclusion into your product in order to make sure it is suitable or as relevant as possible. This will include how you have addressed the potential for bias:** |
| The new policy remains broadly similar, however, there will be an impact for managers managing attendance issues. The effective management of staff is a key means by which we deliver the work of the Service and clear guidance and support should be available to staff to help them undertake their responsibilities effectively and exercise discretion appropriately. This policy and supporting guidance available on My Services and ‘[How to Guides](https://intranet.noms.gsi.gov.uk/support/hr/wellbeing-and-attendance/Attendance)’ are intended to provide a simple and clear explanation of the mandatory requirements of the Service’s Attendance Management process, with specific details about issues that impact equality and protected characteristics in a fair and appropriate manner where discretion should be applied for clear and consistent reasons. The policy applies to all directly-employed staff in HMPPS, makes accommodation for pregnancy related and gender reassignment issues, and requires managers to ensure that disabled persons are protected from discrimination in the workplace. The policy is aimed at all HMPPS staff and in particular line managers who will be required to manage attendance of their staff fairly and effectively. Governors/Head of Business Unit/ACO/LDU Cluster Lead’s must make sure that staff and line managers apply Attendance Management arrangements consistently but fairly applying appropriate discretion as set out in this policy. Any decision to issue an absence-related warning or to dismiss on grounds of attendance must be justified taking into account all the facts of the case. Neither should be an automatic action just because an individual has reached a trigger level of days and / or spells. Rather, that should be a trigger for the manager to ensure they understand the reasons for the absence(s) and that appropriate action is being taken. We have consulted trade unions who represent these groups of staff and reaffirmed that whilst this policy sets out clear guidelines and principles it should not prevent appropriate management discretion. The policy has had legal advice underpinned by ensuring differential impact on protected characteristics. HMPPS has taken a cautious stance around these issues by allowing discretion for particular unique circumstances. It will be kept under regular review.To ensure compliance with the Public Sector Equality Duty, decision-makers and managers should:* + exercise discretion around warnings/sanctions in appropriate circumstances;
	+ act fairly and reasonably, considering each case on its own facts and merits;
	+ make reasonable adjustments to aspects of the policy to take into account disability;
	+ receive appropriate training on diversity issues e.g. unconscious bias training;
	+ Obtain appropriate occupational health advice before making key decisions to ensure disability issues are taken into account.

In order to prepare HMPPS for the implementation of the new policy business readiness activity was undertaken in the lead up to and shortly after publication, such as, national SOP events, HRBP Attendance policy briefings, Senior Leader and SOP SPOC briefings, updates to My Services and the Attendance & Wellbeing intranet page, which included updating How to Guides, FAQs and attendance Management Pack.Since the policy was introduced in January 2017, the HMPPS HR Directorate have continued to meet with HMPPS Trade Union colleagues and the disability network chair to review and improve the guidance that supports the policy. The Attendance & Wellbeing Team are also working closely with transgender colleagues to draft additional guidance on gender reassignment.The Attendance & Wellbeing team responded to the concerns regarding the application of manager’s discretion and adjusting triggers for disability related conditions and produced a workshop tackling these key areas. The workshop included case studies so that delegates could apply their knowledge and learning to scenarios that they could possibly face as a manager. Following two pilot workshops with 60 delegates from NPS including managers and national/local union reps. Following the positive feedback received, the workshop package has now been shared with all HRBPs across HMPPS so that the commitment to improving manager capability can continue to be built upon regionally.The HMPPS HR Directorate have had further meetings with the HMPPS Disability Network lead in relation to Reasonable Adjustments and are now in the process of developing a ‘Reasonable Adjustment Passport’ and supporting guidance in liaison with key stakeholders. These products will be shared with trade unions once developed.In January 2018 a review of the Attendance Management policy implementation was issued to trade unions, which included some high level unsatisfactory attendance (UA) MI which compared UA warnings issued in the first year of the new policy in comparison to the last year of the old policy. Getting accurate UA MI continues to be an issue, including attendance equality MI. |
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| **The nine characteristics protected under the Equality Act 2010 are below. Your product may be relevant to all of them. Use these sections to evidence how you have considered, promoted or otherwise advanced your product with reference to any of them.** |
| **1. Age** |
| It is widely reported that older workers have higher levels of sickness absence. ONS reported in February 2014 that employees aged 50-64 have the highest absence rate (2.8%), Civil Service absence levels reflect this trend. Line managers could review the local sickness absence data for staff of a similar age prior to making a decision to give a warning that may lead to remedial action to further ensure age related sickness is correctly mitigated. Any adverse impact will be monitored and reviewed on an annual basis with a view to refocussing the policy to remain within the Public Sector Equality Duty.This policy allows line managers to mitigate against this by using their discretion to decide not to issue a warning when an employee reaches or exceeds their trigger point. Line managers should consider the circumstances of the absence and the employee’s absence history. In applying discretion over whether or not to issue a warning, line managers should consider the employee’s overall attendance record. A line manager may decide not to give a Written Improvement Warning following a sickness absence which is uncharacteristic for an employee who has a positive work-focused approach and whose sickness absence record is otherwise satisfactory. Occupational Health advice may help line managers to determine whether the employee is likely to be able to meet the attendance standard expected of them in future. In dealing with individual cases, line managers are able to exercise discretion, and they need to look at individual circumstances once a trigger point has been reached and to tailor their action accordingly. Further information on using discretion is available on [My Services](https://myservices.justice.gov.uk/noms/guidance/hr/staff-sickness/unsatisfactory-attendance-exclusions-and-Managers-Discretion).Older employees are more likely require regular health screenings to preserve their health. Employees should schedule medical appointments/health screenings outside of normal working hours. Exceptionally, when this is not possible employees should seek to arrange appointments that minimise the disruption to work, and paid time off should be allowed. A sympathetic approach should be taken to employees who are undergoing specialist treatment particularly in relation to facilitating paid time off to attend appointments. Further information on this is available in the HMPPS Absence Management policy (PSI 18/2010 & PI 33/2014).This policy will help managers to manage sickness absence fairly and consistently and encourages an approach which focuses on supporting employees back to work, taking account of particular circumstances as appropriate. There is guidance available to support managers in dealing with a range of issues relating to attendance and sick absence. |
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| **2. Disability** |
| HMPPS have the following arrangements in place to support the management of sickness absence for disabled staff:* disability leave policies (part of Absence Management policy);
* guidance on making reasonable adjustments for disabled employees (‘[How to Guide](https://intranet.noms.gsi.gov.uk/__data/assets/word_doc/0004/665455/M18-How-to-consider-reasonable-adjustments.doc)’ available on considering reasonable adjustments);
* guidance on planning for a return to work (‘[How to Guide](https://intranet.noms.gsi.gov.uk/__data/assets/word_doc/0005/665447/M10_How_to_-_Manage_a_phased_return_to_work.doc)’ available on managing a phased return to work).

Stakeholder consultation during the development of the policy identified some areas where the policy, procedure and advice might be strengthened and improved to take the needs of disabled employees into account. These included highlighting a manager’s responsibility to take potential reasonable adjustments into account throughout the Attendance Management procedures and providing advice for managers where an employee is suffering from an illness of a personal or distressing nature. Managers are also empowered to use judgement and discretion in instigating formal action when dealing with these absences. This policy and procedure will support this approach and promote good practice in the management of sickness absence for disabled employees.Although not specifically within the remit of the attendance management policy it should be highlighted that there have been a number of recent examples of recommended reasonable adjustments not being implemented due to difficulty in obtaining the required equipment. This is a particular problem for assisted technology users, especially in the NPS, however, this should improve with the roll out of the Technology Transition Project (TTP), which should be completed in mid-2018 for NPS staff and the end of 2018 for all HMPPS staff. TTP should ensure that all assistive technology requirements are met as the needs of AT users have been integrated into the project.Accessibility to buildings for staff with disabilities is also a concern, however, there is a move across all government departments to have an accessibility champion in place to make sure that all departments meet the civil service and country wide governance around this area.  There are a large number of establishments in the NPS that are not accessible for staff with disabilities, which is something that HMPPS recognise and need to address. In the first instance local senior managers should be trying to resolve accessibility issues and to escalate accordingly if these issues are not resolved satisfactorily. An accessibility champion will help the service to move forward and become more compliant with the needs of disabled staff. Where reasonable adjustments are not in place managers must review the impact of this on the individual’s sickness absence prior to taking any remedial action. This must be documented and reviewed after the reasonable adjustments are put in place. This should be done irrespective if a reasonable adjustment was to forego a warning letter.The HMPPS HR Directorate, in liaison with the HMPPS Disability Network lead, are now in the process of developing a ‘Reasonable Adjustment Passport’ and supporting guidance. The aim of the Workplace Adjustment Passport is to improve the ease with which employees with a disability, health condition or where other workplace adjustments may be needed, can move jobs in the Civil Service. There are three functions within the passport:* to support a conversation between an employee and their line manager about the disability, health condition or requirements around gender reassignment and any workplace adjustments that might need to be made;
* to act as a record of that conversation and of the adjustments agreed;
* to act as a record of any adjustments made for individuals as a temporary supportive measure.
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| **3. Gender Reassignment** |
| HMPPS does not at present monitor gender reassignment. Current advice and guidance suggests that headcount monitoring in relation to gender reassignment does not provide meaningful data. In essence, asking people to identify their gender history undermines the reason that many have undertaken the arduous process of gender reassignment.The HMPPS Special Leave policy and Occupational Health Referral procedures mitigate against any adverse impact which long term illness related to gender reassignment may have. This policy does not change that approach. We are aware that there can be issues with short term absences/leave linked to gender reassignment and we are working with transgender colleagues in HMPPS to produce some additional guidance in this area.This would need to be reviewed if data became available in the future and any adverse impact was identified. |
| **4. Marriage and Civil Partnership** |
| Currently there is no specific data available to assess whether the content of this policy will have an equality impact relating to marriage or civil partnerships, and we have no evidence to suggest there will be an adverse impact. I have met with HMPPS Equalities, Interventions and Operational Practice Group on several occasions to discuss this and there is nothing further we can add. |
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| **5. Pregnancy and Maternity** |
| The policy and procedure will advocate that pregnancy-related sickness absences do not count for attendance management purposes or towards the calculation of reduced sick pay, in order to avoid less favourable treatment for pregnant employees. There is a specific ‘[How to Guide](https://intranet.noms.gsi.gov.uk/__data/assets/word_doc/0010/665452/M15_How_to_-_manage_pregnancy_related_sickness_absence.doc)’ available on how to manage pregnancy related sickness absence. |
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| **6. Race** |
| We have no evidence to suggest that race has an impact on absence levels. There is evidence that there is elements of ‘unconscious bias’ in some of our HR procedures, although not specifically in attendance management procedures. An Attendance Management policy is not going to resolve the ‘unconscious bias’ issue, however, there is unconscious bias training available on Civil Service Learning. I have met with HMPPS Equalities Group on several occasions to discuss this and there is nothing further we can add. Once available, sick leave data will be analysed regularly with relevance to all the protected characteristics. Where there is any disproportionality recognised, appropriate action will be reviewed and implemented. |
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| **7. Religion or Belief** |
| Currently there is no specific data available to assess whether the content of this policy will have an equality impact relating to religion or belief, and we have no evidence to suggest there will be an adverse impact. There is evidence that there is elements of ‘unconscious bias’ in some of our HR procedures, although not specifically in attendance management procedures. An Attendance Management policy is not going to resolve the ‘unconscious bias’ issue, however, there is unconscious bias training available on Civil Service Learning. I have met with HMPPS Equalities, Interventions and Operational Practice Group on several occasions to discuss this and there is nothing further we can add. |
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| **8. Sex** |
| It is widely reported that women have higher levels of sickness absence than men[[1]](#footnote-1). Labour market statistics report the absence rate for women in the workplace as 2.6%, compared with 1.6% for men. Cabinet Office data on absence levels in the Civil Service reflect this trend as the Average Working Days Lost (AWDL). Figures at the year ending 30 June 2014, showed that men have 6.4 AWDL per staff year in comparison to women who have 8.1 AWDL.Whilst the evidence shows a greater incidence of sickness absence amongst women, the Attendance Management policy aims to have a positive impact on reducing the AWDL for both male and female employees. The policy will ensure that sickness absence is managed fairly and consistently and taking account of particular characteristics and adjustments, support employees back to work and taking account of particular circumstances as appropriate.This policy allows line managers to mitigate against this by using their discretion to decide not to issue a warning when an employee reaches or exceeds their trigger point. Line managers should consider the circumstances of the absence and the employee’s absence history. In applying discretion over whether or not to issue a warning, line managers should consider the employee’s overall attendance record. A line manager may decide not to give a Written Improvement Warning following a sickness absence which is uncharacteristic for an employee who has a positive work-focused approach and whose sickness absence record is otherwise satisfactory. Occupational Health advice may help line managers to determine whether the employee is likely to be able to meet the attendance standard expected of them in future. In dealing with individual cases, line managers are able to exercise discretion, and they need to look at individual circumstances once a trigger point has been reached and to tailor their action accordingly. Further information on using discretion is available on [My Services](https://myservices.justice.gov.uk/noms/guidance/hr/staff-sickness/unsatisfactory-attendance-exclusions-and-Managers-Discretion).We know that female employees are more likely to take sick absence to cover childcare responsibilities, especially if they are single mothers. Female employees are also more likely to report stress related health complaints, often due to outside pressures, such as childcare responsibilities. There are a number of supporting tools and guides available to staff on the [Attendance & Wellbeing](https://intranet.noms.gsi.gov.uk/support/hr/wellbeing-and-attendance) intranet page (under the Health & Safety and Occupational Health links). In addition to this there is a How to Guide on “supporting employees experiencing stress at work” and one on “supporting staff with caring responsibilities”HMPPS is also currently looking into producing some additional guidance in relation to menopause, which will ensure that women suffering with menopause symptoms feel confident to discuss it, and ask for support and any reasonable adjustments so they can continue to be successful in their roles and reduce absenteeism due to menopausal symptoms.  |
| **9. Sexual Orientation** |
| Currently there is no specific data available to assess whether the content of this policy will have an equality impact relating to sexual orientation, and we have no evidence to suggest there will be an adverse impact.There is evidence that there are elements of ‘unconscious bias’ in some of our HR procedures, although not specifically in attendance management procedures. An Attendance Management policy is not going to resolve the ‘unconscious bias’ issue, however, there is unconscious bias training available on Civil Service Learning. I have met with HMPPS Equalities, Interventions and Operational Practice Group on several occasions to discuss this and there is nothing further we can add. |
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| **How have you considered the Welsh Language Act 2010 in relation to the product and in accordance with the HMPPS Welsh Language Scheme?**  |
| This policy may be translated into Welsh if required. If a translation is requested and provided, the Welsh version will be published on the HMPPS intranet alongside the English version in order to avoid duplication. |

1. ONS report on sickness absence in the labour market February 2014 <http://www.ons.gov.uk/ons/rel/lmac/sickness-absence-in-the-labour-market/2014/rpt---sickness-absence-in-the-labour-market.html> [↑](#footnote-ref-1)