

Forestry Commission Equality Analysis Form

1. What is the name of your policy, function or service?

Performance Improvement Policy review.

2. What are the main aims and objectives of the Policy, function or service?

The Performance Improvement policy and procedure set out the FC's approach to managing performance that has fallen below the acceptable standard for their role.

The policy and procedure aim to provide a fair and transparent process for managing performance improvement, ensuring compliance with the ACAS Code of Practice, equalities legislation and all statutory requirements relating to dismissals for reason of capability. The People Matters Guide aims to provide guidance for managers on applying the procedure fairly and consistently in practice.

Where performance issues are identified, managers will work with staff to help them to improve their performance, in line with the FC's Performance Management System. However if performance does not return to an acceptable standard despite the time and support provided for improvement then the manager will this will be managed in line with the formal Performance Improvement procedure.

The objectives of the policy, procedure and People Matters Guide are to:

- encourage managers and staff to openly discuss any factors that are impacting on performance or are likely to do so;
- ensure that individuals are provided with the necessary training for their role and are given support and sufficient opportunity to improve their performance;
- encourage managers to raise performance problems with individuals as soon as they become apparent and take appropriate action to try to resolve the problem;
- provide managers with the necessary support and guidance to identify when performance has fallen below the acceptable standard and take appropriate action to support the individual;
- only resort to the formal procedure when attempts to resolve the performance issues using the Performance Management System (PMS) have been unsuccessful.

3. Briefly describe the impact (or potential impact) on people

Managers are encouraged to use the Performance Improvement procedure as soon as they identify a performance problem. The policy and procedure promote informal resolution of performance problems where possible, however where the necessary improvement is not achieved then performance be managed in line with the formal stages of the procedure.

The policy and procedure will have an impact on any individual whose performance has been identified as having fallen below the acceptable standard for their role and

is considered "Not Fully Effective" (as defined by the FC's Performance Management System).

It is possible that the policy and procedure could have a greater impact on individuals with disabilities, where their disability/health condition affects their ability to carry out their duties and/or has caused or contributed to a deterioration in their performance.

However the policy and procedure encourages staff and managers to discuss any issues that are affecting performance so that any issues can be investigated and addressed, where possible. Where the individual has a disability or health condition, medical advice will be sought from the FC's Occupational Health Advisers. Managers will consider and implement reasonable adjustments, where appropriate, and the formal procedure will be suspended while the reasonable adjustments are put in place and the individual is given time to benefit. The formal procedure would only proceed if performance remains Not Fully Effective after all reasonable adjustments have been made, taking into account the medical advice.

The formal Performance Improvement procedure consists of three formal stages and an appeals process. At each stage the individual will be asked to attend a Formal Performance Review and at stages 1 and 2 they will be issued with formal improvement warnings and given time and support to improve. If performance remains Not Fully Effective then the individual will progress through each of the stages until finally dismissal will be considered.

4. What are the names and contact details of the initiative's owner and the person who completed the Equality Analysis?

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5. Is this a new Equality Analysis, or a review of a previous Equality Analysis?

New.

Yes

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| 3 year review. | |
| Early review, explain why. | |
| Review due to end of the initiative. | |
| 6. If this is a review, when was the previous Equality Analysis signed off? | |
| Not applicable. | |
| 7. How will this initiative be put into practice? | |
| <p>The Performance Improvement procedure is part of a suite of information on managing performance in the FC. There is separate guidance relating to the FC's Performance Management System, including preparing Forward Job Plans (job descriptions), performance review meetings and awarding performance ratings.</p> <p>The Performance Improvement procedure would only be used where an individual's performance has fallen below the acceptable level for the role and their manager is considering awarding a "Not Fully Effective" performance rating.</p> <p>The policy and procedure will be available in the Staff Handbook, which is accessible on the HR pages of eConnect. The People Matters Guide will also be available on eConnect.</p> <p>The policy and procedure will be put into practice by managers who identify performance issues with the staff whom they manage. Line managers are responsible for monitoring performance and carrying out regular meetings to provide feedback and support to improve performance. Where performance does not improve sufficiently despite the guidance and support given, managers will issue a Not Fully Effective rating and apply the formal procedure.</p> <p>HR Case Managers will support managers in tackling performance problems using the formal procedure and will also assist in the development of management capability in this area through delivery of the "People Management: You and HR" training course which is offered to all managers.</p> <p>Once a Not Fully Effective performance rating has been issued, the line manager will invite the individual to attend a Formal Performance Review, which will normally result in a First Improvement Warning being issued. The individual will be placed on a Monitoring Period of between one and three months, during which their performance will be monitored against a Performance Improvement Plan detailing the improvement required and set clear and achievable targets for the individual. The line manager will meet the individual regularly during this time to review progress and provide feedback. Where the individual's performance have not returned to an acceptable standard by the end of the Monitoring Period then the formal procedure will come to an end but an acceptable standard of performance must be maintained</p> | |

for a further 9 months. Alternatively if the individual's performance has not improved during the Monitoring Period, or if it returns to an unacceptable standard while the warning remains live, then they will proceed to the next formal stage of the procedure.

The individual will then be invited to a further Formal Performance Review which will normally result in a Final Improvement Warning being by the Unit Manager. The individual will be placed on a Trial Period for between one and three months and performance will again be monitored against an updated Performance Improvement Plan. The line manager will meet the individual regularly during this time to review progress and provide feedback. Where performance returns to an acceptable standard during the Trial Period then the formal procedure will cease but the acceptable standard of performance must be maintained for a further 12 months. Alternatively if the individual's performance has not improved during the Trial Period, or if it returns to an unacceptable standard while the warning remains live, then dismissal will be considered. The case will firstly be reviewed by the Director HR before any further action is taken. The Unit Manager will then invite the individual to a Final Performance Review and will decide whether they should be dismissed.

HR Case Managers will support managers to manage Not Fully Effective performance using the formal procedure, for example by assisting managers in preparing Performance Improvement Plans which set out clear and achievable targets for the individual and seeking Occupational Health advice and considering reasonable adjustments for individuals with medical conditions that are affecting their performance. HR Case Managers will also assist in the development of management capability in this area through delivery of the "People Management: You and HR" training course which is offered to all managers.

8. What evidence regarding the protected characteristics have you obtained to analyse this initiative? Quote sources including details of engagement.

FC workforce

Data from the Rebus HR/Payroll system indicates that the FC employed a total of 3231 staff at 30th May 2011. The Performance Improvement procedure could potentially apply to 3037 of these staff, as the performance of individuals on Short Term Temporary Appointments, apprentices and office holders is not managed using a formal procedure.

Gender:

2045 males (67%)
992 females (33%)

Disability:

74 declared themselves as having a disability (2%)
2963 declared that they do not have a disability (98%)

Ethnicity:

2940 White British (97%)
77 White Other (2.5%)
19 Black And Minority Ethnic (BAME) (0.6%)

1 No response (<0%)

Age:

16 to 24 = 67 (2%)
25 to 29 = 192 (6%)
30 to 34 = 291 (10%)
35 to 39 = 327 (11%)
40 to 45 = 430 (14%)
46 to 49 = 531 (18%)
50 to 54 = 514 (17%)
55 to 59 = 421 (14%)
60 to 64 = 229 (7%)
Over 65 = 35 (1%)

Pregnancy and maternity:

There were 34 individuals on maternity leave at 1st June 2011.

Sexual Orientation, Religion or Belief and Gender Identity:

Responses from the Staff Survey 2009 have been used to obtain data on the sexual orientation, religion or belief and gender identity of the FC workforce, as this information is not currently captured by the Rebus system.

The Staff Survey responses showed that of the 2,098 (61%) FC staff (of all contract types) who completed the survey, the protected characteristics are:

Sexual Orientation:

1,647 Heterosexual (78%)
29 Bisexual (1%)
43 Other (2%) – including gay, lesbian and other, as low numbers did not allow for separate analysis.
379 No response (18%)

Religion or belief:

897 Christians (43%)
565 No religion (27%)
154 Atheists (7%)
15 Buddhists (1%)
97 Other (5%) - including Hindu, Jewish, Sikh, and all other faiths
264 Preferred Not to Say (13%)
106 No response (5%)

Gender identity:

11 staff (1%) identified as being transgender.

Performance improvement 'cases'

Records kept by the HR Case Managers show that from 1st April 2008 – 31 July 2011 a total of 29 staff have had their performance managed using the formal performance improvement procedure since 2008.

An analysis of the protected characteristics of each of these groups is below:

Gender:

24 males (83%)

5 females (17%)

Disability:

All 29 declared that they do not have a disability (100%)

Ethnicity:

29 White British (100%)

Age:

16 to 24 = 0 (0%)

25 to 29 = 0 (0%)

30 to 34 = 1 (3%)

35 to 39 = 5 (17%)

40 to 45 = 9 (31%)

46 to 49 = 4 (14%)

50 to 54 = 4 (14%)

55 to 59 = 4 (14%)

60 to 64 = 2 (7%)

Over 65 = 0 (0%)

Pregnancy and maternity:

There is no recorded data which suggests that any of the performance cases involved individuals who were pregnant. However the formal Performance Improvement procedure would be suspended where an individual begins a period of maternity leave. On their return to work, time would be allowed for them to settle back into the role and for their manager to assess performance against the Forward Job Plan before deciding whether formal management of performance is still needed.

Business engagement

The review of Performance Improvement began in 2010. At that time an extensive business engagement was carried out across the FC and feedback was gathered from country management boards, executive boards, the HR management board and the Diversity team.

Relevant feedback for the purposes of this Equality Analysis was that more guidance was requested to help manage stress during the Performance Improvement procedure, in particular where an individual begins a period of sickness absence due to work-related stress. In light of these comments, the People Matters Guide has been developed to provide enhanced guidance for managers of individual's who are absent due to stress, including seeking Occupational Health advice and considering and implementing reasonable adjustments if appropriate. The Performance Improvement procedure also includes the provision for the formal procedure to be suspended while an individual is absent due to ill health. In such cases the Sickness Absence Management procedure supports the implementation of the Performance Improvement procedure. A separate HR policy on stress and an associated training course have also been developed to set out the FC's approach to managing stress.

FCTU

The FCTU have been consulted as part of the policy development process and their feedback has been considered. The FCTU noted no major concerns from an equality and diversity perspective. However they did seek clarification that where a reasonable adjustment has been put in place to assist an individual with a disability or health condition, sufficient time would be allowed for the reasonable adjustment to become effective before the formal procedure re-starts. In light of this comment, the procedure has been clarified to confirm that decisions to re-start the process after reasonable adjustments have been made will be based on Occupational Health advice.

Diversity Internal Staff Forum

The Forum was invited to comment on the proposed changes to the FC's performance improvement procedure in September 2011. The main concern raised by the Forum was that staff may become less physically able as they age, particularly for manual work, which has the potential to impact on job performance of older employees.

However analysis of the 29 performance improvement cases indicated that in practice only 4 individuals experienced health conditions during the formal performance improvement process. There was no evidence in any of these cases that the individual's health condition was age-related. In each case Occupational Health advice was obtained and this confirmed that the individual's health condition was not the primary cause of the performance problem and that this should not prevent the formal management of performance.

The Performance Improvement policy and procedure encourage discussion between managers and individuals to establish any factors that are contributing to performance problems so that these can be addressed. Where disability or health conditions are a cause of performance problems managers will seek Occupational Health advice and reasonable adjustments will always be considered to assist individuals in carrying out their duties. However future performance cases will be monitored to determine whether an individual's performance problems are linked to an age-related health condition.

9. What gaps are there in the available evidence?

| | Describe the gaps and what you have done to fill them, or why you cannot fill them. |
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| Age | No gaps identified. |
| Disability | No gaps identified. |
| Gender | No gaps identified. |
| Gender Reassignment | Information in relation to gender identity is not currently captured on the REBUS system, and as per Civil Service guidelines we will not be introducing any amendments to capture this data. However, we do capture evidence via our Staff Survey 2009, although this cannot be linked to data in relation to performance management. |

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| Marriage and Civil Partnership | Information in relation to marriage and civil partnership is not currently captured on the REBUS system, and plans are being progressed to upgrade the data capture facilities. |
| Pregnancy and Maternity | Information in relation to pregnancy is only recorded on the REBUS system where a MATB1 has been issued by a midwife confirming that the staff member is within 11 weeks of their Expected Week of Confinement (EWC). Line managers will be aware of individuals who have advised of their pregnancy before this time, but it is not collectively available for analysis. |
| Race | No gaps identified. |
| Religion and Belief | Information in relation to religion and belief is not currently captured on the REBUS system, and plans are being progressed in 2011 to upgrade the data capture facilities. The FC does capture evidence via our Staff Survey 2009, although this cannot be linked to data in relation to performance management. |
| Sexual Orientation | Information in relation to sexual orientation is not currently captured on the REBUS system, and plans are being progressed in 2011 to upgrade the data capture facilities. The FC does capture evidence via our Staff Survey 2009, although this cannot be linked to data in relation to performance management. |

10. What does all the evidence tell you about the actual or likely impact on different groups?

| | Positive Impact | Negative impact | High, Medium or Low | Comments |
|------------|------------------------|------------------------|----------------------------|--|
| Age | | X | High | <p>The evidence shows that the policy and procedure could have an impact on staff in the upper age ranges. In particular, there were a disproportionate number of performance improvement cases involving staff in the 40-45 age range, as compared the the proportion of staff of this age in the FC workforce.</p> <p>The reason for this is not clear, as there was no evidence to indicate that the performance problems were the result of an age-related health condition or any other reason relating to the individual's age. Analysis of the paybands of staff whose performance was formally</p> |

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| | | | | <p>managed did show that the majority of cases were between FC paybands 4 to 6b. Given that the FC employs a higher number of staff aged between 35 and 49 in these paybands it is perhaps not surprising that the majority of performance cases have involved staff of these ages.</p> <p>However this trend will continue to be monitored in future. Where an individual is experiencing health problems that are impacting or likely to impact on their performance (regardless of whether the condition is age-related), the policy and procedure encourage managers to seek Occupational Health advice and consider and implementing reasonable adjustments to help the individual to remain in work and carry out their duties.</p> |
| Disability | | X | Medium | <p>Given that the policy and procedure will impact on any member of staff whose performance falls below the acceptable standard for the role, it is possible that they could impact disproportionately on individuals with disabilities that impact on their ability to carry out their duties.</p> <p>This is not supported by the evidence, however, as all formal performance improvement cases have involved staff who are not disabled (or had not officially declared a disability to the FC). Of the 29 staff whose performance was managed using the formal procedure, there was no evidence that this was caused by a disability or health concern.</p> <p>Within the policy and procedure,</p> |

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| | | | | <p>seeking Occupational Health advice is an important step in the process. This allows managers to get advice on an individual's capabilities and consider and implement reasonable adjustments to help them perform their duties and/or ensure that the content of their agreed Forward Job Plan is appropriate. The formal procedure would be suspended while the reasonable adjustments are put in place and the individual is given time to benefit. The formal procedure would only proceed if performance remains Not Fully Effective after all reasonable adjustments have been made, taking into account the medical advice.</p> <p>Additional guidance for managers is also available in the People Matters Guide – Managing Sickness Absence and People Matters Guide – Reasonable Adjustments for Staff with Disability, which support the overall implementation of this policy and helps to manage staff with disabilities.</p> |
| Gender | | X | High | <p>The evidence indicates that the policy and procedure may have a greater impact on male staff, since a disproportionate number of performance improvement cases have involved males.</p> <p>Analysis of the paybands of the performance cases indicated that there were more cases in paybands 6a(Op), 5(Op) and 4 than any other payband. The FC's Gender Monitoring Report shows that within each of these paybands 70-80% of staff are male, so it is possible that this</p> |

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| | | | | <p>explains the disproportionate number of male staff within the performance cases. This will be monitored over the next 3-5 years to establish whether this is a recurring trend.</p> <p>The People Matters Guide – Managing Performance Improvement emphasises the importance of managers basing performance assessments on achievement of agreed targets in Forward Job Plans, rather than any personal characteristics, working patterns or caring responsibilities.</p> |
| Gender reassignment | X | | Low | <p>There is no evidence to suggest that there will be any positive or negative impact on those staff undergoing gender.</p> <p>If an individual is undergoing gender reassignment treatment then consideration may be given to adjusting their duties, where the medical advice recommends this. The formal procedure would only proceed if performance remained Not Fully Effective after the individual has had sufficient time to recover from the surgery/treatment.</p> <p>More information for managers is also provided in People Matters Guide – Gender Identity and Gender Reassignment to help manage staff undergoing gender reassignment.</p> |
| Marriage and Civil Partnership | X | | Low | <p>There is no evidence to suggest that the policy and procedure will have any positive or negative impact on staff who are married or in a civil partnership.</p> |
| Pregnancy and Maternity | X | | Low | <p>There is no evidence to suggest that the policy and procedure will have any positive or</p> |

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| | | | | <p>negative impact on those staff who are pregnant or within the maternity period.</p> <p>However it is recognised that pregnancy could potentially impact on an individual's ability to carry out the full duties of their role. Managers of pregnant staff are expected to carry out a risk assessment to determine the duties that they can safely carry out so that adjustments can be made for health and safety reasons.</p> <p>The formal Performance Improvement procedure will not be applied where an individual is unable to carry out their role for reasons related to their pregnancy. Where an individual is not performing to the acceptable standard for reasons unrelated to their pregnancy then the formal procedure will be applied, but this will be suspended during their maternity leave and resume on their return to work. The FC's Maternity Leave policy and procedure will support the implementation of the Performance Improvement procedure in such cases.</p> |
| Race | X | | Low | <p>There is no evidence to suggest that the policy and procedure will have an impact on any particular ethnic group more than others.</p> <p>The evidence shows that the proportion of White British staff that have been subject to the formal procedure is slightly higher than the proportion of White British in the FC workforce as a whole. This result might be expected as the vast majority of staff in the FC are White British.</p> |

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| | | | | Further analysis of the performance improvement cases indicated that the majority of individuals whose performance has been formally managed were employed in paybands 4, 5(Op) and 6a(Op). In contrast, many staff in the White Other and Black and Minority Ethnic (BAME) groups are located within the highest and lowest paybands, according to the FC's annual race monitoring report. This result is therefore not unexpected however this will continue to be monitored in future. |
| Religion and Belief | X | | Low | There is no evidence to suggest that there will be any positive or negative impact on staff as a result of their religion or belief. |
| Sexual Orientation | X | | Low | There is no evidence to suggest that there will be any positive or negative impact on staff as a result of their sexual orientation. |

11. What have you changed in the initiative to reduce or eliminate any negative impact?

The FC's Performance Management System guidance already emphasises that performance assessments should be based on evidence of achievement towards the targets set out in an individual's Forward Job Plan, rather than any personal characteristics, working patterns or caring responsibilities.

The formal policy and procedure for managing Performance Improvement also encourage managers should try to address performance problems informally wherever possible. As a result it is unlikely that the formal procedure would be followed if the performance problems are expected to be temporary, for example where a decline in performance is the result of pregnancy or a short period of recuperation following gender reassignment surgery.

The policy and procedure also emphasise that managers should obtain Occupational Health advice and consider making reasonable adjustments for staff with disabilities, to help ensure that the formal procedure is only applied if performance remains Not Fully Effective after reasonable adjustments have been made and the individual has had time to benefit. This provision will also be of benefit to staff who have age-related health problems that are contributing to performance problems.

12. Where negative impact can not be reduced, give the reasons why.

Analysis of the recent performance improvement cases implied that there may be a disproportionate impact on male staff. It has not been possible to identify any clear explanation for this trend, other than that the majority of performance cases were concentrated in paybands where the FC primarily employs males. As a result this trend will be monitored and, if necessary, action will be taken to reduce any negative impact in future.

13. Does this initiative fulfil the General Equality Duty?

| | Comment |
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| Eliminate unlawful discrimination, harassment and victimisation. | <p>The policy and procedure aim to provide a fair and transparent process for managing of performance where this has fallen below the acceptable standard for the role.</p> <p>In line with the Performance Management System, the Performance Improvement policy and procedure require managers to provide evidence to justify their assessment of an individual's performance, which must be based on achievement of the objectives set out in the individual's Forward Job Plan and the competencies required for their role, rather than any personal characteristics (or perceived characteristics) of the individual.</p> <p>Where a decline in performance is the result of an individual's disability, management decisions will be based on medical information and/or Occupational Health advice and where appropriate reasonable adjustments will be considered and implemented to assist the individual. The formal Performance Improvement procedure will not be used until reasonable adjustments have been put in place and time has been allowed for the individual to benefit.</p> <p>In the event that an employee did not believe the process had been applied in a fair and consistent manner the procedure provides the right to appeal and have this investigated by a more senior manager. There is also the option for employees to raise a grievance under the FC's Grievance procedure if desired.</p> |
| Advance equality of opportunity. | <p>The procedure requires managers to seek Occupational Health advice and consider and implement reasonable adjustments to help staff</p> |

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| | <p>with disabilities to carry out their duties. This may include making adjustments to the Forward Job Plan of an individual with a disability so that they are being assessed against objectives that are appropriate and achievable for them.</p> <p>The policy and procedure encourage staff to make their managers aware of any issues that are likely to impact on their performance, whether on a temporary or permanent basis, so that performance targets can be set that are appropriate for the individual's capabilities. For example if an individual is unable to carry out the full range of duties because they are pregnant or undergoing gender reassignment treatment then this should be taken into account when assessing their performance.</p> |
| <p>Foster good relations.</p> | <p>The policy and procedure promote communication between managers and staff and encourage them to discuss any health, personal or work-related issues that are impacting on an individual's performance or are likely to do so. Employees are also encouraged to use the services of the FC's Employee Assistance Programme.</p> <p>Where appropriate, Occupational Health advice will be obtained and consideration will be given to reasonable adjustments that would assist the individual to carry out their role. All medical reports will be shared and discussed with the individual.</p> <p>Staff will always be given time and support to improve their performance and dismissal will only be considered as a last resort, after warnings have been given and alternative options have been explored.</p> |
| <p>14. Describe the arrangements to measure and monitor the actual impact of this initiative on people from the protected characteristic groups.</p> | |
| <p>How will you measure the effects of the initiative?</p> | <p>HR Case Managers will monitor the application of the procedure by recording details of all staff whose performance is managed using the formal procedure.</p> <p>Feedback will be received from the FCTU on the application of the policy and procedure in specific cases.</p> <p>Individual and managers may also feedback on the</p> |

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| | <p>application of the procedure, via the HR Case Managers or HR Operations Managers.</p> <p>Responses to the bi-annual Staff Survey and employee complaints raised through the FC's Grievance procedure will also be monitored for any complaints/concerns raised in relation to the fairness or consistency of the procedure and its application.</p> <p>If appropriate, the above feedback may result in amendments to the procedure to ensure fairness and consistency of application in future.</p> |
| <p>What type of information is needed for monitoring and how often will it be analysed?</p> | <p>End of Year performance markings are captured in the REBUS HR system and will be used to monitor performance across the FC and identify any individuals whose performance has been rated as Not Fully Effective.</p> <p>The HR Case Managers will monitor this information to ensure that all staff who have been given a Not Fully Effective marking are being managed using the formal procedure and provided with support to improve their performance.</p> <p>The Diversity Team will gather data on staff whose performance is rated as Not Fully Effective and this will be analysed annually to identify any trends in the protected characteristics of staff rated as being NFE.</p> <p>HR Case Managers will also gather and record the personal details and protected characteristics of staff whose performance is being managed using the formal procedure. This will be analysed annually.</p> |
| <p>How will you engage stakeholders* in implementation, monitoring and review?</p> | <p>The policy and procedure will be approved by the HR Service Board, which represents the business.</p> <p>They have been developed in consultation with the FCTU. The FCTU may provide feedback on the policy, procedure or People Matters Guide and will be consulted when a review is carried out.</p> <p>Individuals and managers may also provide feedback. Business engagement will be carried out if a significant review of the policy and procedure is carried out.</p> |

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| Who will be responsible for the monitoring and review? | HR Policy team |
| 15. What is the review date for this Equality Analysis? | |
| Date of next review(s) | The policy and procedure will be reviewed in April 2015, or earlier if dictated by other policy changes or legislative changes. |
| What could trigger an early revision? | Changes required by legislation or issues identified through monitoring of performance cases or feedback from FCTU, managers or individuals. |
| 16. Senior manager sign off | |
| I agree with this Equality Analysis and its supporting evidence relating to this initiative and that it demonstrates that it advances or will advance, the three aims of the General Equality Duty. | |
| Name | Alison McSheaffrey |
| Signature | |
| Job Title | Head of HR Services |
| Date | 16 th March 2012 |