

## EQIA – NHS Wales Disciplinary Policy and Process

1.	<b>What are you equality impact assessing?</b>	NHS Wales Disciplinary Policy and Process
2.	<b>Policy Aims and Brief Description</b>	<p>This policy is a framework for managing workplace behaviour and conduct in a way that is consistent, values-driven and aligned with the principles of a just culture. It directs managers to address concerns early, engage in constructive dialogue, and seek resolution through learning and reflection wherever possible, while also upholding the standards required of all employees, including those accountable to professional regulatory bodies. It recognises the potential to cause to those involved in the disciplinary process and to only use when other avenues have been exhausted.</p> <p>This policy is underpinned by a commitment to equity, inclusion, and cultural competence. It recognises the importance of understanding and respecting diversity across all protected characteristics. It acknowledges emerging evidence of disproportionate disciplinary outcomes and poor experiences among members of the global majority and seeks to actively mitigate bias and promote equitable treatment through reflective practice and inclusive decision-making.</p>
3.	<b>Who is responsible for the Policy/work?</b>	NHS Wales organisations and the sub-committee of the Welsh Partnership Forum Business Committee
4.	<b>Who is Involved in undertaking this EqIA?</b>	Welsh Partnership Forum Business Committee (Sub Group)

5.	<b>Is the Policy related to other Policies/areas of work?</b>	Managing Attendance at Work, Respect and Resolution Policies, Improving Performance at Work Policy. Codes of Conduct of Professional/Regulatory Bodies, Staff Charters
6.	<b>Stakeholders</b>	All employees, trade unions, patients, carers
7.	<b>What might help/hinder the success of the Policy?</b>	<p><b>Factors that may hinder:</b></p> <ul style="list-style-type: none"> <li>• A lack of leadership and commitment at Board level</li> <li>• A lack of training and development to support the implementation of the policy framework.</li> <li>• An insufficient understanding of the potential for psychosocial harm to individuals when applied poorly</li> <li>• Resource constraints.</li> </ul> <p><b>Factors that may help:</b></p> <p>This policy review has taken place alongside an all-Wales programme of improvement that has included:</p> <ul style="list-style-type: none"> <li>• Training 1000+ staff within the NHS, which has provided an opportunity to gain insights from those who commission and lead disciplinary processes;</li> <li>• Research, which has highlighted the limitations of existing processes and recommendations for improvement;</li> <li>• Engagement with professional bodies including Acas, CIPD and the HPMA, in order to ensure it aligns with emerging practice.</li> </ul> <p>Alongside the insights from the training, an evidence review was undertaken, which included a screening assessment of the existing policy to improve its accessibility. There were several recommendations relating to the policy language itself and implementation factors that we considered during the policy redesign work.</p>

		<p>A set of guiding principles were developed to inform the policy redesign that had been shaped from the research and evidence review carried out.</p> <p>During the design of the policy, four engagement events were held, which were attended by 300 stakeholders including a dedicated session seeking feedback through an anti-discriminatory lens. Feedback from these sessions, as well as individual and formal collective feedback from organisations informed reshaping the policy into the current version.</p> <p>The policy includes a set of principles:</p> <p><b>Person-centred approach:</b> The organisation will place the employee at the centre of the process, ensuring that their individual needs, values and circumstances are respected and appropriately addressed.</p> <p><b>Fairness and cultural competence:</b> The organisation recognises that unconscious bias, limited cultural awareness and differing cultural norms can influence how behaviour is perceived and managed. Steps will be taken to ensure that all decisions are informed by cultural competence and are free from bias.</p> <p><b>Psychological Safety and Wellbeing:</b> The organisation acknowledges the potential anxiety and stress experienced by individuals during disciplinary processes and will act with empathy, clarity and consistency to minimise psychological harm.</p> <p><b>Timeliness and communication:</b> The organisation is committed to conducting investigations efficiently and proportionately, minimising harm and cost to all parties. Regular communication will be maintained with those involved to provide clarity regarding process and timelines.</p> <p><b>Proportionality and early resolution:</b> The organisation will encourage managers and disciplining officers to consider and pursue alternative means of resolution before proceeding to formal disciplinary action.</p>
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		<p><b>Evidence-based decision-making:</b> The organisation will ensure that decisions are based on objective, comprehensive and reliable information gathered during both the fact-finding and formal investigation stages.</p> <p><b>Systemic awareness:</b> The organisation recognises that individual behaviour often occurs within complex systems. Broader organisational and contextual factors will therefore be considered before initiating or progressing a disciplinary process.</p>
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## Information Gathering

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	Race	Disability	Gender	Gender Reassign	Sexual Orientation	Age	Maternity and pregnancy	Religion Belief	Marriage and Civil Pship	Welsh Language
Is the policy relevant to the public specific duties relating to each equality strand? Tick as appropriate	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
<b>In other words, should the Policy:</b> <ul style="list-style-type: none"> <li>eliminate discrimination and eliminate harassment in relation to:</li> </ul>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
<ul style="list-style-type: none"> <li>promote equality of opportunity in relation to:</li> </ul>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓

<ul style="list-style-type: none"> <li>• promote good relationships and positive attitudes in relation to:</li> </ul>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
<ul style="list-style-type: none"> <li>• encourage participation in public life in relation to:</li> </ul>	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
In relation to disability only, should the Policy take account of difference, even if it involves treating some individuals more favourably?		✓								
<p>The Human Rights Act contains 15 rights, all of which NHS Wales organisations have a duty to act compatibly with and to respect, protect and fulfil. The 6 rights that are particularly relevant to healthcare are listed below. For a fuller explanation of these rights and other rights in the Human Rights Act please refer to <b>Appendix A: The Legislative Framework</b>.</p> <p>Depending on the Policy you are considering, you may find the examples below helpful in relation to the Articles</p>										
					<b>Yes</b>			<b>No</b>		
<b>Consider, is the Policy relevant to:</b>										
<b>Article 2: The right to life</b>										
<b>Examples:</b> The protection and promotion of the safety and welfare of patients and staff; issues of patient restraint and control						Yes, this policy's aim is to ensure staff and patient safety issues are addressed appropriately and proportionally.				
<b>Article 3: The right not be tortured or treated in an inhuman or degrading way</b>										
						Yes, this policy has fairness and respect at the centre of its design. Adjustments				

<p><b>Examples:</b> Issues of dignity and privacy; the protection and promotion of the safety and welfare of patients and staff; the treatment of vulnerable groups or groups that may experience social exclusion, for example, gypsies and travellers; Issues of patient restraint and control</p>	<p>have been highlighted and bias has been mitigated within the fact-finding process.</p>	
<p><b>Article 5: The right to liberty</b></p> <p><b>Examples:</b> Issues of patient choice, control, empowerment and independence; issues of patient restraint and control</p>		<p>No</p>
<p><b>Article 6: The right to a fair trial</b></p> <p><b>Example:</b> issues of patient choice, control, empowerment and independence</p>	<p>Yes, the policy requires fair decision making processes and independence in decision making.</p>	
<p><b>Article 8: The right to respect for private and family life, home and correspondence; Issues of patient restraint and control</b></p> <p><b>Examples:</b> Issues of dignity and privacy; the protection and promotion of the safety and welfare of patients and staff; the treatment of vulnerable groups or groups that may experience social exclusion, for example, gypsies and travellers; the right of a patient or employee to enjoy their family and/or private life</p>	<p>Yes, issues of dignity and privacy, for example, impact on family life of suspension and potential loss of employment. Confidentiality issues of not wanting family members to know that an employee is going through a process.</p>	
<p><b>Article 11 : The right to freedom of thought, conscience and religion</b></p> <p><b>Examples:</b> The protection and promotion of the safety and welfare of patients and staff; the treatment of vulnerable groups or groups that may experience social exclusion, for example, gypsies and travellers</p>	<p>Yes, issues of respect for different religious beliefs and cultural values and the balance of this in dealing appropriately</p>	

	with harassment and discrimination.	
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Characteristic	Information Gathered
Race	<ul style="list-style-type: none"> <li>• <a href="#">WRES Report NHS Wales 2024 - National report 2024 - NHS Wales</a></li> <li>• <a href="#">New RCN data shows surge in reports of racist abuse at work for ethnic minority staff - IER</a></li> <li>• <a href="#">UNISON wins long-running race discrimination case against Leicester City Council   News, Press release   News   UNISON National</a></li> <li>• <a href="#">2 in 5 BME workers experience racism at work – new TUC report - IER</a></li> <li>• <a href="#">NHS England » Sharing replicable good practice on workforce race equality and inclusion: case studies</a></li> <li>• <a href="#">Race inclusion report: Equality of career progression   CIPD</a></li> <li>• <a href="#">Race in the workplace: The McGregor-Smith review</a></li> <li>• <a href="#">The Race at Work Charter - Business in the Community</a></li> <li>• <a href="#">Supporting race equality, diversity and inclusion (EDI) at work: Guidance for managers   CIPD</a></li> <li>• <a href="#">Key Resources for Workplace Equality - Business in the Community</a></li> <li>• <a href="#">Disproportionality in NHS Disciplinary Proceedings   British Journal of Healthcare Management</a></li> </ul>
Disability	<ul style="list-style-type: none"> <li>• <a href="#">People Manager Guide - Grievance, disciplinary and capability proceedings   Business Disability Forum</a></li> <li>• <a href="#">Capability and performance - Supporting disabled people at work - Acas</a></li> <li>• <a href="#">Bullying, harassment and discrimination of Disabled people in the workplace   TUC</a></li> <li>• <a href="#">Proving disability and reasonable adjustments - EHR.com</a></li> <li>• <a href="#">Disability discrimination – keypoints in the workplace - ACAS</a></li> <li>• <a href="#">Work Foundation report on Work, Health and Absence in the Public Sector</a></li> <li>• <a href="#">The Public Sector and Equality for Disabled People, Dept for Work and Pensions</a></li> <li>• <a href="#">Disability and sickness absence – PCSU</a></li> <li>• <a href="#">Sickness absence and disability – TUC</a></li> <li>• <a href="#">Guidance relating to disability for the NHS – NHS Employers</a></li> </ul>

<b>Gender</b>	<ul style="list-style-type: none"> <li>• <a href="#">Sexual harassment and harassment at work: technical guidance   EHRC</a></li> <li>• The Work Foundation has also produced a number of reports on changing demographics.</li> <li>• Equal Opportunities Commission “Gender Equality and the Future of Work”</li> <li>• Legal and General’s “Value of a Mum”</li> <li>• Gender, culture and organisational change, Open University</li> <li>• Sex Discrimination in the Workplace, ACAS, March 2016</li> <li>• <a href="#">How to improve gender equality in the workplace: actions for employers - GOV.UK</a></li> <li>• <a href="#">Women in the Workplace 2024 report   McKinsey</a></li> </ul>
<b>Gender Reassignment</b>	<ul style="list-style-type: none"> <li>• <a href="#">The Workplace and Gender Reassignment</a></li> <li>• Tribunal Ruling: Harassment at Royal Mail: <a href="https://www.thetimes.com/uk/law/article/sophie-cole-trans-royal-mail">https://www.thetimes.com/uk/law/article/sophie-cole-trans-royal-mail</a></li> <li>• Gender Reassignment Policy – Cardiff University</li> <li>• Gender Reassignment Policy – Aston University</li> <li>• Absence from Work Because of Gender Reassignment – Citizens Advice</li> <li>• <a href="#">Supporting transgender and non-binary people at work: Guide for people professionals   CIPD</a></li> <li>• <a href="#">Preventing discrimination - Gender reassignment discrimination - Acas</a></li> <li>• <a href="#">The Workplace and Gender Reassignment</a></li> <li>• <a href="#">Transgender Workplace Support Project</a></li> <li>• Transforming the Workplace – A TUC guide <a href="#">Activist Template</a></li> <li>• <a href="#">Supporting transgender workers</a></li> </ul>
<b>Sexual Orientation</b>	<ul style="list-style-type: none"> <li>• <a href="#">Preventing discrimination - Sexual orientation discrimination - Acas</a></li> <li>• <a href="#">Inclusion at work: Perspectives on LGBT+ working lives</a></li> <li>• <a href="#">Job Satisfaction and Sexual Orientation in Britain - Sait Bayrakdar, Andrew King, 2022</a></li> <li>• <a href="#">TUC - Sexual harassment of LGBT people in the workplace</a></li> <li>• <a href="https://www.stonewall.org.uk/resources/lgbt-britain-work-report-2018">https://www.stonewall.org.uk/resources/lgbt-britain-work-report-2018</a></li> </ul>

<p><b>Age</b></p>	<ul style="list-style-type: none"> <li>• <a href="https://sheffield.ac.uk/news/anti-age-discrimination-policies-are-failing-workplace">https://sheffield.ac.uk/news/anti-age-discrimination-policies-are-failing-workplace</a></li> <li>• <a href="https://www.hrmagazine.co.uk/content/news/ageism-most-commonly-experienced-at-work-study-finds">https://www.hrmagazine.co.uk/content/news/ageism-most-commonly-experienced-at-work-study-finds</a> The Work Foundation has also produced a number of reports on changing demographics, changing work patters for young workers, retention of older workers, e.g. 0-5 How small children can make a big difference, The Ageing Workforce, Work, Health and Absence in the Public Sector</li> <li>• <a href="https://www.cipd.org/uk/knowledge/employment-law/age-discrimination">https://www.cipd.org/uk/knowledge/employment-law/age-discrimination</a></li> <li>• Productivity and Age – Age UK <a href="#">Policy position paper – grandparents</a></li> <li>• <a href="#">Getting better with age? The experiences of older workers - NIESR</a></li> <li>• <a href="#">Fulfilling work: What do older workers value about work and why?   Centre for Ageing Better</a></li> <li>• <a href="#">Performance life span of workers mapped in new research - HR News</a></li> <li>• <a href="#">The Rising Importance of Older Workers   Bain &amp; Company</a></li> </ul>
<p><b>Maternity and Pregnancy</b></p>	<ul style="list-style-type: none"> <li>• Pregnancy related absence - EHRC</li> <li>• Pregnancy and Maternity Rights – Xpert HR</li> <li>• Discrimination at Work Because of Pregnancy or Maternity Leave - CAB</li> <li>• <a href="#">Preventing discrimination - Pregnancy and maternity discrimination - Acas</a></li> <li>• <a href="#">Tips for Improving Performance of Pregnant Employees at Work:</a></li> <li>• <a href="#">Help, our pregnant employee is underperforming? - Redwing Solutions</a></li> <li>• <a href="#">Managing pregnant employees</a></li> <li>• <a href="#">Pregnancy and maternity: Pregnancy   EHRC</a></li> <li>• <a href="#">Workplace support for employees experiencing pregnancy or baby loss   CIPD</a></li> </ul>
<p><b>Religion or Belief</b></p>	<ul style="list-style-type: none"> <li>• <a href="#">acas-religion-or-belief-and-the-workplace.pdf</a></li> <li>• Various case studies relating to the need for flexible arrangements for staff who may not live in the same country as their relatives.</li> <li>• <a href="#">Preventing discrimination - Religion or belief discrimination - Acas</a></li> <li>• <a href="#">How to embrace religious diversity in the workplace</a></li> <li>• <a href="#">Faith-friendly policies improve workplaces, companies tell No 10 - Religion Media Centre</a></li> <li>• <a href="#">Managing Religion and Belief in the Workplace – People Management 66321</a></li> <li>• <a href="#">Is religious diversity good for team performance? - LSE Business Review</a></li> </ul>

<b>Marriage and Civil Partnership</b>	<ul style="list-style-type: none"> <li>• <a href="#">Preventing discrimination - Marriage and civil partnership - Acas</a></li> <li>• <a href="#">Marriage and civil partnership discrimination: UK employment law   CIPD</a></li> </ul>
<b>Welsh Language</b>	<ul style="list-style-type: none"> <li>• Some Work Foundation reports relating to employers and the Welsh Language.</li> <li>• <a href="#">Welsh language use in the workplace (Welsh Language Use Survey): July 2019 to March 2020 [HTML]   GOV.WALES</a></li> <li>• <a href="#">Welsh as a way of working: 2021-22 Report</a></li> </ul>
<b>Human Rights</b>	<p><b>General</b></p> <p>There are gaps in workforce equality monitoring data across all of the protected characteristics. Disaggregated workforce monitoring data is required to inform future policy review and assessment. It is also noted that public sector employers in Wales will have a specific duty to make arrangements to collect employee data in respect of such procedures.</p>

### Assessment of Relevance and Priority

<b>Equality</b>	<b>Evidence: Existing Information to suggest some groups affected. Gathered from Step 2. (See Scoring Chart A)</b>	<b>Potential Impact: Nature, profile, scale, cost, numbers affected, significance. Insert one overall score (See Scoring Chart B)</b>	<b>Decision: Multiply 'evidence' score by 'potential impact' score. (See Scoring Chart C)</b>
<b>Race</b>	<b>3</b>	<b>+3</b>	<b>9</b>
<b>Disability</b>	<b>2</b>	<b>+3</b>	<b>6</b>
<b>Gender</b>	<b>2</b>	<b>+3</b>	<b>6</b>
<b>Gender reassignment</b>	<b>2</b>	<b>+2</b>	<b>4</b>
<b>Sexual Orientation</b>	<b>2</b>	<b>+2</b>	<b>4</b>
<b>Age</b>	<b>2</b>	<b>+2</b>	<b>6</b>
<b>Religion or Belief</b>	<b>1</b>	<b>+2</b>	<b>2</b>
<b>Maternity and Pregnancy</b>	<b>2</b>	<b>+2</b>	<b>4</b>
<b>Marriage and Civil Partnership</b>	<b>1</b>	<b>+1</b>	<b>1</b>

<b>Welsh Language</b>	<b>2</b>	<b>+2</b>	<b>4</b>
<b>Human Rights</b>	<b>2</b>	<b>+3</b>	<b>6</b>

### Scoring Chart A: Evidence Available

3	Existing data/research
2	Anecdotal/awareness data only
1	No evidence or suggestion

### Scoring Chart B: Potential Impact

-3	High negative
-2	Medium negative
-1	Low negative
0	No impact
+1	Low positive
+2	Medium positive
+3	High positive

### Scoring Chart C: Impact Decision

-6 to -9	High Impact (H)
-3 to -5	Medium Impact (M)
-1 to -2	Low Impact (L)
0	No Impact (N)
1 to 9	Positive Impact (P)

### Outcome

You are advised to use the template below to detail the outcome and any actions that are planned following the completion of EqIA. You should include any remedial changes that have been made to reduce or eliminate the effects of potential or actual negative impact, as well as any arrangements to collect data or undertake further research.

<b>Will the policy be adopted?</b>	Yes
<b>If no please give reasons and any alternative action(s) agreed.</b>	
<b>Have any changes been made to the policy/ plan / proposal / project as a result of conducting this EqIA?</b>	<p>Yes. To mitigate against an overuse of the policy and provide assurance that a robust and accessible assessment is carried out, the policy includes a detailed factfinding assessment document that is required to be completed to support managers in decision making. This should mitigate bias. Managers are required to consider the following:</p> <ul style="list-style-type: none"> <li>Nature of the incident (was there wilful, reckless or malicious behaviour, was the incident intentional or a result of negligence, does the incident involve misconduct of a significant nature (e.g. safeguarding breach, patient harm, gross misconduct?))</li> </ul>

- Impact and harm (was there harm to patients, staff or the organisation, what was the severity and scale of the harm, was there potential for harm, even if none occurred?)
- Evidence of deliberateness (is there evidence that protocols or policies were knowingly ignored? were there clear, agreed protocols in place at the time, was the action a repeated failure despite prior guidance?)
- Health, wellbeing and substance misuse factors (are there indications of mental ill health, stress or wellbeing concerns affecting performance, is there evidence of substance misuse that may have contributed, have appropriate health support processes been considered?)
- Systemic and organisational factors (were there gaps in training, induction or supervision, were resources, workload or system pressures a factor, were policies, procedures and guidance clear and accessible, is there evidence of a wider organisational or cultural issue?)
- Comparability and substitution (would others in a similar role, with similar training and experience, act the same way, were peers given equivalent support and guidance, was the individual given adequate supervision and resources?)
- Prior history and context (is there a history of similar behaviour or previous disciplinary issues, have informal approaches or improvement measures already been attempted, has the individual previously been supported to improve?)
- Mitigating circumstances (are there personal or situational factors that mitigate responsibility, did the individual act under duress, conflicting instructions, or exceptional pressure?)
- Proportionality and learning (would a disciplinary investigation be proportionate to the severity and nature of the incident, could the matter be addressed more effectively through other routes e.g. performance improvement, coaching, mediation, learning review?)

Further changes made as a result of carrying out the EQIA alongside the policy review also includes the introduction of independence in decision-making. A commissioning manager will review the fact finding assessment should the manager be recommending formal disciplinary investigation. An investigation cannot be commissioned without this step in the process.

<b>Action Plan for All Wales Disciplinary Policy and Process</b>		
<b>ACTION</b>	<b>BY WHOM</b>	<b>By WHEN</b>
<p>Measurement plan to be developed that will be able to assess the application of the new policy and procedure</p> <p>These measures will include application, disaggregated against each protected equality characteristic, workplace/directorate and staff group.</p>	Sub Committee of the Business Committee	December 2025
<p>Monitoring arrangements will be determined locally.</p> <p>Monitoring outcomes will be reported to Boards</p>	Workforce and OD Directors	Every 6 months
<p>Policy implementation training for managers to include scope and application of duty to consider reasonable adjustments for disabled employees.</p>	HEIW will deliver a series of in person train the trainer workshops alongside Workforce and OD, Wellbeing and Trade Unions representatives.	
<p>Continued roll out of appropriate training and support to ensure implementation takes into account of debiasing techniques and cultural competence.</p>	NHS Wales Organisations	