

This template summarises the key decisions/actions taken in the EHRIA, and has been separated from the full EHRIA document for publication on the SPS external website in compliance with statutory requirements.

Background	
Title of the Policy or Practice	Occupational Health Services including introduction of new OH portal.
EHRIA Lead (role)	Lee Currie
Date EHRIA completed	01/02/2021
Review date and frequency	Contractual review date.
Is this a new or revised policy/practice?	New <input type="checkbox"/> Revised <input checked="" type="checkbox"/>

Scoping
<p>What are the aims of this policy/practice?</p> <p>Occupational Health Services across Scottish Central Government.</p> <p>Scottish Central Government (CG) has a requirement for Occupational Health Services (OHS) which are available for staff to access. The requirement spans a wide range of public bodies including core Scottish Government departments, Agencies and Non-Departmental Public Bodies. The procurement of OHS involves a collaborative tender exercise covering 114 public bodies of varying type and sizes (employee numbers) within (or affiliated to) the Scottish CG Sector.</p> <p>The purpose of the contract within the SPS is to ensure that the occupational health needs of employees are addressed through the provision of a range of OH Services. The majority of Core OHS activity reflects referrals to an OH nurse or physician. A range of specific (Non-Core) activities such as lifestyle health screening, Hepatitis B immunisations for staff, influenza immunisation clinics, or health promotion activities are also provided when requested by the partner organisation.</p> <p>The evaluation identified 'Working on Wellbeing' (t/a 'Optima Health') as the successful bidder and it is therefore recommended that this FA is awarded to Optima Health.</p> <p>The technical evaluation considered equality and diversity related matters seeking assurances on matters of policy, procedure and process, which the provider was considered to have passed.</p>

WHO did you consult with?

HR Colleagues, SPSC colleagues, Staff Networks (EHRIA), E&D Colleagues, TUS and PGA(S).

WHAT did you learn?

The following was learned from our review –

- The importance of statutory obligations and compliance with all relevant legislation.
- The need for effective training and the need to ensure effectively communicated to all employees.
- Ensure the SPS acts in a fair, reasonable, proactive and consistent manner, in accordance with the duty of care towards employees.
- Provide a clear framework of the relationship between SPS and OH.
- Ensure employee consent is obtained prior to referring to OH.
- Ensure compliance with GDPR and Medical Records Act 1988.

HOW will this shape your policy/practice?

- We will work with OH to develop appropriate training for those involved in OH referral process.
- We will provide greater clarity to employees on the role of OH in attendance management.
- We will provide employees with information and support to help them escalate matters if they have particular concerns with OH provider.
- We will review OH management information and audit referrals made by HR teams.
- We will ensure that we are compliant with our statutory obligations and any other relevant legislation.

What quantitative and/or qualitative evidence as well as case law relating to equality and human rights have you considered when deciding to develop new or revise current policy/practice?

- Equality Act 2010 - legislation;
- EHRC Code of Practice on Employment;
- Equality Act 2010: Duty on employer to make reasonable adjustments for their staff;
- ACAS - Absence Management; Managing Staff Absence and Advice and Guidance on Disability Discrimination;
- CIPD – Absence Management Survey Reports and recommended best practice;
- MIND/CIPD -Managing and Supporting Mental Health at Work:
- Case law and case studies;
- HSE - Working together to prevent sickness absence becoming job loss; Absence Management Toolkit; and Managing Sickness Absence and Return to Work.
- Health & Safety at Work etc Act 1974
- Employment Rights Act 1996
- Human Rights Act 1998
- Medical Record Act 1988
- Employment Relations Act 1999
- Employment Act 2002
- Statutory Sick Pay 2014
- GDPR 2018

We have used above data to inform our thinking relating to transition arrangements for the introduction of the new OH portal and contractual arrangements.

Impact

Will the impact and outcomes of the new/revised policy/practice:

<p>Contribute to eliminating discrimination, harassment and victimisation? E.g.</p> <ul style="list-style-type: none"> • Raise awareness of our SPS vision and values for equality and diversity • Challenge appropriately any behaviours or procedures which do not value diversity and advance equality of opportunity 	<p>POSITIVE: It will contribute to eliminating discrimination, harassment, victimisation <input checked="" type="checkbox"/></p>
	<p>NO EFFECT: It will have no effect on discrimination, harassment and victimisation <input type="checkbox"/></p>
	<p>NEGATIVE: It will make discrimination, harassment and victimisation worse <input type="checkbox"/></p>
<p>Advance equality of opportunity between those who share a protected characteristic and those who do not? E.g.</p> <ul style="list-style-type: none"> • Remove or minimise disadvantage • Meet the needs of equality groups that are different from the needs of others participation in public life 	<p>POSITIVE: It will advance equality of opportunity <input checked="" type="checkbox"/></p>
	<p>NO EFFECT: It will have no effect on equality of opportunity <input type="checkbox"/></p>
	<p>NEGATIVE: It will reduce equality of opportunity <input type="checkbox"/></p>
<p>Foster good relations between those who share a protected characteristic and those who do not? E.g.</p> <ul style="list-style-type: none"> • Tackle prejudice • Promote understanding 	<p>POSITIVE: It will foster good relations <input checked="" type="checkbox"/></p>
	<p>NO EFFECT: It will have no effect on good relations <input type="checkbox"/></p>
	<p>NEGATIVE: It will cause good relations to deteriorate <input type="checkbox"/></p>
<p>Ensure Human Rights Compliance?</p>	<p>It will uphold human rights articles. <input checked="" type="checkbox"/></p>
	<p>It will breach human rights articles. <input type="checkbox"/></p>

Please summarise the results of the Equality & Human Rights Impact Assessment, including the likely impact of the proposed policy/practice advancing equality and human rights.

Positive Impacts

Protected characteristics affected:

What are the positive impacts?

Does the new/revised policy or practice: Advance equality of opportunity? Remove discrimination? Remove harassment? Remove victimisation? Foster good relations? Encourage participation by disabled people? Uphold human rights articles?

Detail the positive impact here:

- It will be compliant with all relevant legislation, and provide clear guidance on support mechanisms available.
- All reasonable support will be given to employees who are absent with the aim of assisting a timely and sustainable return to work.
- A person centred approach towards case management will be adopted focused on the needs of the individual allowing flexibility in considering action based on individual circumstances.
- All employee contact related to sickness absence will be managed sensitively by HR and OH taking into account medical prognosis, Medical records Act 1988, individual circumstances and the needs of the SPS.
- Employees, management, HR, OH and TUS will work collaboratively to promote health and wellbeing.
- OH input will inform management decisions relating to reasonable adjustments, redeployment and rehabilitation to support an employee's return to work. It will minimise the risks to the rights and privacy of individuals with a disability.
- There has been an escalation process identified for any complaints or issues.
- Management information and reporting will take account of E&HR related issues.
- We will clarify to employees the role of OH in attendance management and promote their services.
- The human rights of employees will be respected, protected and fulfilled.
- All SPS employees have the right to be treated with dignity and respect regardless of the protected characteristics of sex, gender identity, marital and civil partnership status, pregnancy and maternity, race (including ethnic or national origin, nationality or colour), disability, sexual orientation, age or religion, belief, and regardless of other characteristics such as: social background, patterns of work, trade union activity or political opinion (this is qualified as per the Civil Service Management Code, Section 4.4).

Negative Impacts

Protected characteristics affected:

It is the intention that the contractual framework will have a positive (or at worst a neutral) impact on individuals with protected characteristics.

We are conscious though that management, HR and/ or OH practice is essential in ensuring consistency of application and compliance with relevant legislation.

Impact	Mitigation

Recommended course of action

Outcome 1: Proceed – no potential for unlawful discrimination or adverse impact or breach of human rights articles has been identified.	<input checked="" type="checkbox"/>
Outcome 2: Proceed with adjustments to remove barriers identified for discrimination, advancement of equality of opportunity and fostering good relations or breach of human rights articles.	<input type="checkbox"/>
Outcome 3: Continue despite having identified some potential for adverse impact or missed opportunity to advance equality and human rights (justification to be clearly set out).	<input type="checkbox"/>
Outcome 4: Stop and rethink as actual or potential unlawful discrimination or breach of human rights articles has been identified.	<input type="checkbox"/>

Summary of Outcome decision and Recommendations

Actions taken to remove or minimise any actual or potential negative impacts identified, and to build positive impacts.

- SPS and OH will continue to promote equality and eliminate discrimination and harassment in accordance with local policies and procedures.
- SPS and OH will ensure that the human rights of staff are upheld as defined by the Human Rights Act 1998.
- SPS and OH will ensure there is a shared understanding of equality, diversity and human rights across the organisation in accordance with our contractual obligations.
- SPS and OH have considered the potential risks involved with not adhering to equality and human rights legislation.
- SPS and OH will continue to encourage staff to develop their awareness of equality and diversity and the relevant policies, procedures and protocols.
- SPS and OH will continue to monitor management information to ensure there are no barriers to those with protected characteristics or those within particular socio-economic groups.
- SPS and OH will monitor any reports of individuals experiencing discrimination, harassment or victimisation and/ or individuals who may have had their human rights breached. Appropriate actions will be taken in accordance with local policies and procedures to ensure these matters are dealt with in a timely manner, with appropriate support provided to the individual.

Summary of Outcome decision and Recommendations

- Any allegations of discriminatory behaviour or practices will be properly investigated, with all relevant documentation retained and, disciplinary action taken (where appropriate) in a non-discriminatory manner.
- SPS and OH managers and staff are expected to operate in accordance with our respective equality and diversity policies. All managers have responsibility for ensuring this policy is fairly and consistently applied by and to all of the staff they manage.
- SPS staff will supported appropriately, including providing support in line with the Employee Assistance Programme (EAP) and Occupational Health.

Recommendation to proceed no potential for unlawful discrimination or adverse impact or breach of human rights articles has been identified.

Next steps

- All selection processes for recruitment, promotion, and access to learning and development will be based solely on merit, as evidenced against published justifiable criteria, supported by the relevant SPS/ OH policies.
- All staff will have fair access to the mechanisms contained in the OH framework agreement to support/ protect them to attend work and carry out their role.
- Where practicable, learning and development will be accessible either at times or through means that meet the needs of staff whatever their work pattern.
- OH and SPS aim to encourage and successfully employ and retain disabled people and those with health conditions wherever and whenever we can.
- OH and SPS will ensure that all staff have the opportunity to manage an effective work/life balance and will provide them with the opportunity to manage urgent caring arrangements, in line with relevant policies and legislation.
- All staff can request flexible working arrangements. Managers will ensure that these requests are properly considered in line with SPS Flexible Working Policy.
- The SPS/ OH has a duty of care to all its employees, under the Health and Safety at Work Act 1974, and will seek to ensure that all staff have the necessary knowledge, skills, equipment, procedures and working environments to minimise risk to themselves, those we support and other people.
- All involved in the framework will be treated with dignity and respect, taking account of their individual needs, and their Human Rights.
- The implementation of any clinical or administrative decisions taken in respect of OH services, will be free from harassment, victimisation or unlawful or unjustifiable discrimination.
- A primary aim of framework agreement is to identify and eliminate or reduce health inequalities where we can, in terms of access to health and wellbeing support, employee experience and health outcomes.
- Tendering for all services, equipment and supplies will include an essential criterion in relation to equality and diversity that is appropriate to the process. Each tender and contract will be assessed for its potential to contribute to reducing inequality and promoting equal opportunities and Human Rights, in line with the Equality Act and the Human Rights Act.

Next steps

- The SPS/ OH aim to design and implement services, policies and measures that meet the diverse needs of our workforce, ensuring that none are placed at a disadvantage over others.
- All new and proposed policies, procedures, practices, guidelines, services and functions, or any proposed changes to them will be screened for relevance to equality duties, and assessed for any disproportionate impact through the Equality Impact Assessment procedure.

If you require this document in an alternative format, please contact SPSEqualityandDiversityTeam@sps.pnn.gov.uk