

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	SPS Employee Grievance Policy
EHRIA Lead Person	Head of HR Central Service
Date EHRIA completed	17/02/2017
Review date and frequency	17/02/2020
Is this a new or revised policy/practice?	New <input type="checkbox"/> Revised <input checked="" type="checkbox"/>

Scoping	
What are the aims of this policy/practice?	The amended policy will promote the resolution of grievances informally if appropriate, reduce the number of stages required to resolve grievances, aim to timeously resolve grievances, and result in the 'How to Challenge and Change Unacceptable Behaviour Policy' being removed and the essential points integrated within the new Scottish Prison Service Dignity at Work policy. This will simplify guidance and information available for Scottish Prison Service staff. The policy will be clarified and communicated to staff across Scottish Prison Service.
WHO did you consult with?	Trade Union Side Prison Governor's Association (PGA) Equality & Diversity Team Advisory, Conciliation & Arbitration Service (ACAS)
WHAT did you learn?	It can take a considerable period of time for grievances to be resolved, line managers may not be clear on occasion how to manage non-standard issues raised and communication with complainants may not always be as regular as it could be. The amendments may enable grievances to be resolved in a more timeous manner, as there will only be two formal stages in the policy. It will aim to promote the resolution of grievances in an informal manner where appropriate, depending on the severity of issues raised.

## Scoping

<p>HOW will this shape your policy/practice?</p>	<p>The policy requires amendment to be in line with Advisory, Conciliation &amp; Arbitration Service (ACAS) Code of Practice, in terms of standards of fairness and reasonable behaviour. Decisions should be communicated to employees raising grievances, in writing, without unreasonable delay and, where appropriate, setting out what action intends to be taken to resolve grievances. The group reviewing the policy will ensure there is compliance, providing an analytical approach to reviewing the existing policy, aiming for a simplified and reasonable approach. Guidance for line managers has also been developed, which should ensure the consistent application of the policy. Advisory, Conciliation &amp; Arbitration Service (ACAS) provide that a lack of consistency can affect that attitude and conduct of employees.</p>
<p>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?</p>	<p>Research was conducted by comparing grievance policies from a cross-section of organisations in the public and private sector. This ascertained some similarities and good practice which could be taken into consideration throughout this review and revision process. The group is reviewing the existing policy and, in addition to overall Advisory, Conciliation &amp; Arbitration Service Code of Practice recommendations, other aspects of the policy will be reviewed in relation to reasonableness and best practise, allied to Scottish Prison Service to practise.</p> <p>Anecdotally, the group also considered previous complex grievances to establish whether they could be properly resolved under the new policy/process.</p> <p>The following case law was also taken into account:</p> <ul style="list-style-type: none"><li>• Burrell v Micheldever Tyre Service Ltd – shifting burden of proof to Respondent because complaints had not been effectively addressed in a timely manner</li><li>• Woodhouse v West North West Homes Leeds LTD - where multiple grievances are made in good faith, albeit are ill founded, they are protected acts for which the employer cannot subject the employee to a detriment. And this has been reflected in the policy.</li></ul> <p>Awareness from attending a seminar by the Scottish Discrimination Law Association on the role of mediation in resolving complaints of discrimination also helped shape the policy by</p>

## Scoping

placing greater emphasis on the role mediation can play in helping resolve grievances where no malice was intended, but the actions were still offensive and the perpetrator can be helped to understand the impact of their behaviour / language. However, the policy makes clear that there are certain circumstances when mediation may not be appropriate, so grievances relating to a protected characteristic or hate crime are not forced down a single route of mediation and can be resolved formally where appropriate.

- Employee Survey 2016 – responses to questions on discrimination etc. (23% of staff say they have experienced discrimination at work and this figure has been increasing incrementally since 2014. Age and gender are the most common categories for reporting discrimination in terms of protected characteristics, as is ‘working pattern’. The training needs identification has suggested that awareness training should be rolled out to recruits, managers and HR teams along with the launch of the policy.
- The policy (along with the Equality & Diversity suite of policies) aspires to collate more data about grievances and mediation, although the technology (e-HR) which would support this is still in a developmental phase.

## Impact

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

### Contribute to eliminating discrimination, harassment and victimisation?

E.g.

- 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

#### POSITIVE:

It will contribute to eliminating discrimination, harassment, victimisation

#### NO EFFECT:

It will have no effect on discrimination, harassment and victimisation

#### NEGATIVE:

It will make discrimination, harassment and victimisation worse

### Advance equality of opportunity between those who share a protected characteristic and those who do not?

#### POSITIVE:

It will advance equality of opportunity

#### NO EFFECT:

<b>Impact</b> Will the impact and outcomes of the new/revised policy/practice:	
E.g. <ul style="list-style-type: none"> <li>Remove or minimise disadvantage</li> <li>Meet the needs of equality groups that are different from the needs of others participation in public life</li> </ul>	It will have no effect on equality of opportunity <input type="checkbox"/>
	<b>NEGATIVE:</b> It will reduce equality of opportunity <input type="checkbox"/>
<b>Foster good relations between those who share a protected characteristic and those who do not?</b> E.g. <ul style="list-style-type: none"> <li>Tackle prejudice</li> <li>Promote understanding</li> </ul>	<b>POSITIVE:</b> It will foster good relations <input checked="" type="checkbox"/>
	<b>NO EFFECT:</b> It will have no effect on good relations <input type="checkbox"/>
	<b>NEGATIVE:</b> It will cause good relations to deteriorate <input type="checkbox"/>
<b>Ensure Human Rights Compliance?</b>	It will uphold human rights articles. <input checked="" type="checkbox"/>
	It will breach human rights articles. <input type="checkbox"/>

**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.**

<b>Positive Impacts</b>
<p>Protected characteristics affected: Age, Race, Gender, Disability, Gender Identity , Religion or Belief, Sexual Orientation, Maternity and Pregnancy, Marriage and Civil Partnership, Socio-economic groups, Human Rights Compliance</p> <p>It is essential that grievances from employees are treated in the same fair manner and that all line and senior managers are familiar with the Scottish Prison Service Employee Grievance Policy. There will be a guidance in place for managers to follow in working to maintain good conduct and acceptable standards of behaviour. Grievances should be settled fairly and as quickly as possible. The revised policy will be streamlined and recognise that most routine complaints and grievances may be resolved informally in discussions with the employee's immediate line manager, depending on the severity of issues raised. The reduction of stages in the policy and the inclusion of managing unacceptable behaviour will aim to help reduce discrimination, harassment and victimisation.</p> <p>Additionally, there will be separate guidance provided for managers conducting formal grievance meetings.</p> <p>Removing the "How to Challenge and Change Unacceptable Behaviour" policy reduces the number of policies under which unacceptable behaviour can be addressed, and allows for employees to be clearly signposted to the appropriate policy to address their concerns. The promotion of informal resolution should allow individuals to understand the impact of their behaviours (especially where unknowing) on colleagues with protected characteristics, which should promote understanding of diversity and foster good relations.</p>

### Positive Impacts

Timely resolution of grievances should prevent the deterioration of relationships and perceptions of victimisation / lack of support that can accompany drawn-out processes (Advisory, Conciliation & Arbitration Service ACAS).

Consistency, gained through improved guidance and a clearer policy, should avoid issues such as behaviours deteriorating or employee attitudes being negatively affected (Advisory, Conciliation & Arbitration Service ACAS).

### Negative Impacts

Protected characteristics affected:

Impact

Mitigation

None identified

### Recommended course of action

**Outcome 1:** Proceed – no potential for unlawful discrimination or adverse impact or breach of human rights articles has been identified.

**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.

**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).

**Outcome 4:** Stop and rethink as actual or potential unlawful discrimination or breach of human rights articles has been identified.

### Summary of Outcome decision and Recommendations

Proceed with the amendment of the Employee Grievance Policy and Procedure.

- Work with Business Improvement to seek to monitor and record Grievances on e-HR, so that SPS management can collate overall data by protected characteristic, identifying any areas where action needs to be taken to protect employees.

### Next steps

- Review policy/EHRIA if there are legislative changes / changes to Advisory, Conciliation & Arbitration Service (ACAS). ACAS Guidance / case law which changes legal position.
- Build capability to record grievances on e-HR to enable equality monitoring.
- Conduct equality monitoring of grievances.

If you require this document in an alternative format, please contact [SPSEqualityandDiversityTeam@sps.pnn.gov.uk](mailto:SPSEqualityandDiversityTeam@sps.pnn.gov.uk)