

Scottish Borders Council

Stage 3 Equality Impact Assessment - Sign Off

3.1	Title of Proposal:	Guidelines on Employment References
3.2	Service Area: Department:	Human Resources
3.3	Description:	<p>These Guidelines have been developed to assist managers who are involved in the recruitment and selection of employees and/or are asked to provide employment references. The Guidelines outline the legal considerations and emphasise the general duty of care in giving and receiving references.</p> <p>References is made to issues of confidentiality and the Data Protection Act particularly with regards to sensitive data. These Guidelines outline responsibilities for giving references and provide templates with sample reference request letters. The Introductory Section details that SBC wishes to ensure that it acts in a fair and consistent manner when providing and requesting employment references.</p> <p>Note: the following assessment has identified a potentially positive <u>and</u> negative impact on people who share protected characteristics with regards to these Guidelines. The reason for this is that the Guidelines emphasise the importance of fairness and consistency, which should assist SBC in reducing the risk of discrimination. However, even with this emphasis, there is the risk that in practice discrimination <u>could</u> occur (although there is no evidence to date that this is the case). It should also be noted that the risk of discrimination in the circumstances is difficult to quantify given the fact that unconscious bias may impact on how references are given or interpreted.</p>

3.4	Impact Assessment				
Equality Characteristic	Impact			Description	Mitigation & Recommendations
	No Impact	Positive Impact	Negative Impact	<i>Please enter your reasoning for your assessment based on the evidence you have gathered.</i>	<i>Please enter any mitigations if you have identified a negative impact &/ or recommendation for implementation</i>
Age (Older or younger people or a specific age grouping)		✓	✓	<p>No quantitative evidence is available which would demonstrate a negative impact on people on the grounds of their age, or that discrimination has occurred in the previous implementation of these Guidelines. However, it is known that there can be negative stereotypes based on people’s ages and that managers could be unconsciously biased (even with the best of intentions) It is therefore important that this process is as objective as possible.</p> <p>There is also the risk, albeit remote, that SBC staff will rely on references from other employers which are discriminatory. This is not something which SBC can control directly; however the Guidelines expect fairness and objectivity from SBC staff yet the sample letter refers to subjective criteria, such as quality of work.</p>	<p>The Guidelines should remind managers of their responsibility to avoid discrimination, and their responsibilities in terms of the Equality Act.</p> <p>Staff who are involved in the Recruitment and Selection process should undergo equality training which includes reference to the issue of unconscious bias.</p> <p>The subjective criteria in the sample letter should be reviewed.</p>

<p>Disability e.g. Effects on people with mental, physical, sensory impairment, learning disability, visible/invisible, progressive or recurring</p>		✓	✓	<p>The Sample Reference Request Letter asks previous employers to appraise candidates using a range of factors, which include quantity of work, and timekeeping/punctuality. There is the risk that candidates who have a disability could be marked lower if their disability affects timekeeping/punctuality. There is also the risk that SBC staff refer to attendance matters while providing references and that attendance issues are related to disability.</p>	<p>The mitigatory actions above will also be relevant for this protected characteristic.</p>
<p>Gender (Males, Females, Transgender or Transsexual people)</p>		✓	✓	<p>Given that women are more likely than men to experience sexual discrimination in the workplace, and given that there can be negative attitudes towards transgender people, there is a risk that references sought or provided could be biased.</p>	<p>The mitigatory actions above will also be relevant for this protected characteristic.</p>
<p>Race Groups: including colour, nationality, ethnic origins, including minorities (e.g. gypsy travellers, refugees, migrants and asylum seekers)</p>		✓	✓	<p>Again, there can be negative stereotypes about black or ethnic minority groups. Those providing or assessing references should aim to be objective and should also be aware that unconscious bias can occur.</p>	<p>The mitigatory actions above will also be relevant for this protected characteristic.</p>
<p>People with Religious or other Beliefs: different beliefs, customs (including atheists and those with no aligned belief)</p>		✓	✓	<p>There can be issues of religious segregation Scotland and there can also be negative societal attitudes towards minority religions.</p>	<p>The mitigatory actions above will also be relevant for this protected characteristic.</p>
<p>Sexual Orientation, e.g. Lesbian, Gay, Bisexual, Heterosexual</p>		✓	✓	<p>Given that LGBT groups are more likely to face bullying and harassment by both colleagues and managers, there is a risk that those providing or assessing references are unconsciously biased towards LGBT groups.</p>	<p>The mitigatory actions above will also be relevant for this protected characteristic.</p>

	Carers (those who have caring responsibilities for someone with an equality Characteristic)		✓	✓	National evidence shows that there are proportionately more female than male carers in Scotland. These caring responsibilities may have an impact on an employee's timekeeping or punctuality, which are referred to in the Sample Reference Letter.	The mitigatory actions above will also be relevant for this protected characteristic.
	Poverty (people who are on a low income including benefits claimants, people experiencing fuel poverty, isolated rural communities etc)	✓			Consideration of poverty in this circumstance is not relevant as this category is more focused on SBC as a service provider as opposed to as an employer.	None
	Employees (those employed by the Council including full time, part time and temporary)	✓			The impact on staff in general has been discussed above.	None.

3.5	Relevance to the Equality Duty in Summary:	
	What impact will your proposal have on the following :	
	Equality Duty	Reasoning:
	Elimination of discrimination (both direct & indirect), victimisation and harassment?	While this assessment has identified a potentially negative impact, there is no indication that discrimination has occurred. The Guidelines themselves emphasise the importance of fairness, and the mitigatory steps suggested above should assist SBC in the elimination of discrimination.

	Promotion of equality of opportunity?	Ultimately these Guidelines should assist the Council in the promotion of equality of opportunity, as the Guidelines should ensure that SBC meet its duty of care to all staff who share protected characteristics.
	Foster good relations?	It is submitted that this particular part of the General Equality Duty is not relevant in the circumstances of the provision of references.

3.6	Recommendations & Mitigation		
	Please summaries all recommendations and mitigations for approval by the decision makers who will approve your proposal		
	Characteristic	Mitigation/Recommendation	Approved Yes/No
ALL	The Guidelines should remind managers of their responsibility to avoid discrimination, and their responsibilities in terms of the Equality Act.		Yes
	Staff who are involved in the Recruitment and Selection process should undergo equality training which includes reference to the issue of unconscious bias.		Yes
	The subjective criteria in the Sample Letter should be reviewed.		Yes

Signed Off (Sign off <u>must</u> be completed by Service Manager or Director)			
Name:	Clair Hepburn	Directorate:	Chief Executive
Post:	Chief Officer HR	Date:	30 th November 2016

EIA Completed By			
Name	Clare Fraser Lorna Aitken Ian Angus Iain Davidson Erick Ullrich Simone Doyle	Service Area.	<ul style="list-style-type: none"> – External Equality & Diversity Consultant – HR Advisory Team Leader – Human Resources Shared Services Manager – Employee Relations Manager - Organisational Development Manager - Equality & Diversity Officer (Human Resources)
		Dates:	Initiated: 10 th May 2016 Interim: 27 th May 2016 & 24 th August 2016 Finalised: 30 th November 2016