

Impact Assessment (IA) form

General Information

Name of policy/proposal	<ul style="list-style-type: none"> • Increase representation and attendance at hearings including supporting workers to attend Fitness to Practise hearings (travel expenses) • Introduce enhanced support for hearing witnesses • Making hearings more efficient and effective
Responsible department	Hearings
Date	December 2019

Aims of the proposal

What do you hope to achieve? Why is the policy/proposal needed, for example is there currently a gap in service delivery?	<p><u>Increase representation and attendance at hearings including supporting workers to attend Fitness to Practise hearings:</u></p> <p>Priority two of the Strategic Plan is that our fitness to practise process is proportionate and accessible. Part of the work in meeting this priority is to improve the support that we offer to those within the fitness to practise process. The outcome of a fitness to practise hearing can have a significant impact on a worker's ability to remain in the profession. Supporting workers who want to attend hearings, is an important part of this work. We monitor the percentage of</p>
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workers who attend hearings through our strategic measures. It has averaged around 30% for the last three years and the hope is that by improving the support we offer we can improve the attendance rate.

The Hearings and Fitness to Practise Departments have recently been more proactive in offering to hold hearings in the workers' location or to use video conferencing facilities to facilitate engagement. Workers and witnesses attending the hearing through video conferencing takes place in a variety of locations.

The cost of attending hearings has been cited by workers previously as preventing them from attending. The cost of travel to Dundee can be substantial and many workers within the sector receive low rates of pay. By offering to pay travel and subsistence of workers (and their representatives, supporters and witnesses) we are seeking to remove any barriers that might stop a worker attending. Offering these payments has been approved by Council on a permanent basis. We hope that this will increase the numbers of workers attending hearings.

Many workers currently do not engage in the hearings process (as above, around 70% of workers do not attend) and of those that do attend, most are unrepresented. Legal aid is not available for our processes. Legal advice and representation can be extremely costly, and we are not able to finance this. We are looking at ways to try to increase attendance and representation at hearings. We are working with Law Clinics/Centres – organisations who can provide free advice and representation to workers – to provide them with information and training to enable them to help workers involved in our processes. We will work to publicise this to workers and raise awareness within the sector of these options. We hope that this will result in more workers attending hearings, and greater numbers of workers having representation.

	<p><u>Enhancing support for witnesses:</u></p> <p>We are developing a lengthy survey to complete with witnesses who have been involved in our processes so that we can learn from their experiences. We will use the information obtained to discover which areas could do with greater support/how we can improve and will then consider how we can use our existing resources to do this.</p> <p><u>Making hearings more efficient and effective</u></p> <p>A number of parts of processes have been identified as needing improvement, and the team has actively made changes and implemented new processes to ensure improvements were made. These have included: clerks note-taking during hearings to assist legally qualified chairs (LQCs) when writing up hearing decisions; expanded template Notices of Decision with sections pre-populated; introduction of a case management meeting template for clerks; development and introduction of a conditions bank for panel members; creation of an updated hearings video for our website to take into account changes in hearings since the previous video; review and updating of factsheets and the introduction of new factsheets to ensure workers understand what the outcome of their hearing means.</p>
How will it contribute to the SSSC's strategic objectives and/or priorities?	<p>Outcome 1: The right people are on the register</p> <p>Priority 2 Our fitness to practise process is proportionate and accessible</p>
Equality duties and protected groups Who will it affect (either positively or negatively)?	<p><u>Please highlight relevant legislation(s) and provide an explanation:</u></p> <p>Equality Act 2010</p> <p>Human Rights Act 1998</p>

	<p>Children and Young People (Scotland) Act 2014</p> <p>United Nations Convention on the Rights of the Child</p> <p>Islands (Scotland) Act 2018</p>
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Data and evidence gathering, involvement and consultation

(Please include any evidence or relevant information that has influenced the decisions contained in this IA)

<p>Please include details of all evidence used (qualitative and quantitative) you have included. This should include, where relevant, numbers of children and young people and their views/experiences and how this will affect them.</p>	<p>Increasing attendance at hearings and supporting workers to attend fitness to practise hearings (travel expenses):</p> <p>We calculated the estimated costs involved in 5 options for paying costs of workers to attend hearings, each of which we presented to Council. This involved evidence gathered from clerks through their experiences and conversations with workers, and the reasons commonly cited by workers for non-attendance. Council decided to pay the expenses of workers and their representatives, witnesses and supporters to attend hearings. This was trialled for 6 months and Council reviewed this in June 2019 at which time it was approved as a permanent policy.</p> <p>We are liaising with providers (currently Aberdeen Law Project, Strathclyde Law Clinic and Fife Law Centre) and offering to provide training to them to enable them to represent workers involved in our hearings. We have engaged with the Faculty of Advocates regarding their free legal services provision and will continue to take this forward. We monitor the statistical</p>
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	<p>evidence of numbers of workers attending and being represented at hearings and will continue to do so as this project progresses.</p> <p>Introduce enhanced support for hearing witnesses:</p> <p>A detailed questionnaire was drafted, and this is now being completed by witnesses who have attended hearings. These questionnaires have been completed over a number of months and will continue until a sufficient evidence base has been gathered – it is anticipated that this will be early 2020. The data will then be analysed.</p> <p>Making hearings more efficient and effective:</p> <p>The plans to make hearings more efficient were trialled and feedback sought from the LQCs/clerks as appropriate before rolling this out further.</p>
<p>Has the proposal been the subject of relevant engagement and/or consultation?</p> <p>If yes, please say who with.</p> <p>If no, please say why none took place.</p>	<p>Increasing attendance at hearings and supporting workers to attend fitness to practise hearings (travel expenses): We have been recording information (where provided) from workers about whether us paying their travel costs encouraged them to attend their hearing.</p> <p>Introduce enhanced support for hearing witnesses: We are engaging with witnesses and the results of the questionnaires answered by witnesses will determine what action, if any, needs to be taken to improve support.</p> <p>Making hearings more efficient and effective:</p>

	The plans to makes hearings more efficient were trialled and feedback sought verbally from the LQCs/clerks as appropriate before rolling this out further.
Engagement and/or consultation carried out	<p>Feedback – from workers who have their expenses paid, and from their witnesses, representative and supporters.</p> <p>Engagement with witnesses who complete questionnaires.</p> <p>Feedback – from LQCs and clerks about improvements to processes.</p>
What were the results? Please include any consultation report/engagement results	<p>Increase representation and attendance at hearings including supporting workers to attend fitness to practise hearings (travel expenses):</p> <p>Costs to enable workers and associated parties to attend hearings have been approved on a permanent basis. There has not been any positive impact on attendance or representation statistics to date but this continues to be monitored and we are continuing to raise awareness of this.</p> <p>Witness support:</p> <p>Project ongoing but level of engagement is good.</p> <p>Making hearings more efficient and effective:</p> <p>Feedback from LQCs and clerks about improvements to processes has been positive.</p>

<p>Have you used best judgement (officer/practitioner knowledge and experience) in place of data/research/evidence?</p> <p>If yes, who provided this best judgement and what was this based on?</p>	<p>Best judgement was used when developing the plan for supporting workers to attend hearings; coupled with the hearsay evidence from clerks that the cost of travel was routinely used as a prohibiting factor to attendance at hearings.</p> <p>Best judgment has been used when taking forward the plans to increase representation at hearings. There are few options open to workers who are not in a position to pay a solicitor to represent them, and we are using our knowledge of these options to engage and put measures in place to make this more accessible for workers.</p>
<p>What gaps (if any) did you find in your data?</p>	<p>With regard to attendee expenses, going forward we have amended the forms used to claim back expenses to ensure all those claiming back are asked whether this payment encouraged them to attend their hearing. We will then have substantive evidence as to the success or otherwise of paying expenses in securing worker attendance.</p>
<p>Is further research necessary?</p> <p>If yes, what will you do, for example a further consultation, conduct a survey, engage with specific groups of people etc?</p>	<p>No further research planned at this time.</p>

ASSESSING THE IMPACTS AND IDENTIFYING OPPORTUNITIES TO PROMOTE EQUALITY

Having considered the data and evidence you have gathered; you need to consider potential impacts – negative and positive that your proposal might have on each of the protected characteristics. It is important to remember the duty is also a positive one – this means we must explore whether the proposal offers the opportunity to promote quality and/or foster good relations. Under each protected characteristic please consider how your proposal achieves the following:

- **eliminates discrimination, harassment, victimisation or any other prohibited conduct**
- **advances equality of opportunity by having due regard to:**
 - **removing or minimising disadvantage**
 - **meeting the needs of particular groups that are different from the needs of others**
 - **encouraging participation in public life**
- **fostering good relations – tackling prejudice, promoting understanding.**

Gender – does the proposal take account of different roles and responsibilities? Does it assume, perhaps wrongly that men have no caring responsibilities? Is the proposal flexible enough to provide a service that everyone can access?

Positive impact	Neutral impact	Negative impact	Reasons for your decision
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>Funding being available to assist with attending hearings will benefit all workers involved in the process and more so those lower paid workers or those working part-time due to parental and/or those with caring responsibilities. There are higher numbers of women than men on the SSSC register and higher numbers of women than men work part-time and have caring responsibilities. Women will be positively impacted by this policy.</p> <p>Enhanced support for witnesses, and making hearings more efficient and effective has a positive impact on all witnesses and others involved in hearings.</p>

Ethnicity – have you covered all minority ethnic groups? Consider the impact your proposal has on someone from a minority ethnic group and remember this impact may differ depending on the gender, disability, faith, sexual orientation or ethnicity of the person as different cultures have different views on what is acceptable. Consider language and format.

Positive impact	Neutral impact	Negative impact	Reasons for your decision
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The policies have a positive impact on every worker, therefore those with protected characteristics will be affected positively.

Disability – a person has a disability if they have a physical or mental impairment which has a substantial and long-term adverse effect on that person’s ability to carry out day-to-day activities. How does this proposal affect disabled people? Are there any impairment groups who are unfavourably affected by the policy?

Positive impact	Neutral impact	Negative impact	Reasons for your decision
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The policies have a positive impact on every worker, therefore those with protected characteristics will be affected positively. Workers and hearing attendees with disabilities may find it easier to attend and engage with the hearing process, as funding is available to assist with attending hearings. Eg travel and accommodation.

Sexual orientation – what are the issues for this group in terms of your proposal? Does it meet the needs of this group?

Positive impact	Neutral impact	Negative impact	Reasons for your decision
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The policies have a positive impact on every worker, therefore those with protected characteristics will be affected positively.

Gender reassignment – does your proposal include people of different gender identities? Will your proposal impact transgender individuals in any way?

Positive impact	Neutral impact	Negative impact	Reasons for your decision
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The policies have a positive impact on every worker, therefore those with protected characteristics will be affected positively.

Age – remember different age groups have different concerns. When considering age remember that some individuals are more vulnerable or have issues that may need additional consideration.

Positive impact	Neutral impact	Negative impact	Reasons for your decision
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The policies have a positive impact on every worker, therefore those with protected characteristics will be affected positively.

Marriage and civil partnership – it is unlawful discrimination for people who are married/civil partnership/same-sex couple to be treated less favourable in employment than those who are not married/civil partnership/mixed-sex couple.

Positive impact	Neutral impact	Negative impact	Reasons for your decision
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The policies have a positive impact on every worker, therefore those with protected characteristics will be affected positively.

Pregnancy and maternity – protection against maternity discrimination covers 26 weeks after giving birth – this includes treating a woman unfavourable because she is breastfeeding.

Positive impact	Neutral impact	Negative impact	Reasons for your decision
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The policies have a positive impact on every worker, therefore those with protected characteristics will be affected positively. Those on maternity leave and in receipt of maternity pay/no pay may be restricted from attending hearings by the cost of travel.

			Paying travel expenses would positively impact against those potential disadvantages.
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Religion/belief/non-belief – does your proposal take into account different festivals, holidays, religious days and traditions? Will the different faith beliefs impact on women from that group and exclude or prevent them from using the service?

Positive impact	Neutral impact	Negative impact	Reasons for your decision
<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	The policies have a positive impact on every worker, therefore those with protected characteristics will be affected positively.

CHALLENGES AND OPPORTUNITIES FOR EQUALITIES GROUPS LIVING IN AN ISLAND COMMUNITY

This section considers the impact or effect of your proposal on an island community and whether this could be significantly different from its effect on other communities. Your proposal should be developed and delivered to improve or reduce any negative impact(s). Please consider each of the protected characteristics and complete the table below highlighting your evidence and justification for your response.

Is the impact positive, negative or no impact? Give comments	Positive Impact	Neutral Impact	Negative Impact	Reasons for your decision
Eliminating unlawful discrimination,	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No one should be prevented from engaging with our hearings process, so we are taking positive steps such as paying for travel and accommodation for those traveling to Dundee. We can also provide video conferencing or move

harassment and victimisation				the hearing itself closer to the attendee's location in order to increase engagement.
Advancing equality of opportunity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	As stated above we are increasing the opportunities available to all involved to engage with hearings.
Promoting good relations among and between	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	As stated above we are increasing the opportunities available to all involved to engage with hearings.

CHILD RIGHTS AND WELLBEING

This section considers the impact of your proposal on children and young people, or specific groups of children and young people, in Scotland. The UNCRC (The United Nations Convention on the Rights of the Child) has four general principles which you should consider as you develop your proposal.

- 1. Non-discrimination children should not be discriminated against in the enjoyment of their rights. No child should be discriminated against because of the situation or status of their parent/carer(s).**
- 2. Best interests of the child every decision and action taken relating to a child must be in their best interests.**
- 3. Life, survival and development every child has a right to life and to develop to their full potential.**
- 4. Respect for the views of the child every child has a right to express their views and have them given due weight in accordance with their age and maturity. Children should be provided with the opportunity to be heard, either directly or through a representative or appropriate body.**

Please identify the individual rights you consider most relevant to your proposal and highlight the potential impact.

Is the impact positive, negative or no impact? Give comments	Positive Impact	Neutral Impact	Negative Impact	Reason for your decision
Civil rights and freedoms (Children have a right to access and to move freely in public spaces, and to meet up and spend time with others. Children have a right to think and believe what they like, to access information and to speak their mind, so long as this is not harmful to others. They have a right to keep personal matters and communications private.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Violence against children (Children have a right to be protected from inhuman or degrading treatment in every setting.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

<p>Family environment and alternative care (Children have a right not to be separated from their parents, unless this is in their best interests. Where children must live apart from their families, they have a right to be well cared for. If the child's parents are living apart, the child has the right to maintain contact with both, if that is safe and in their best interests. Children should have a say when adults make decisions about where they live and how they should be cared for, and those placements should be subject to regular review.)</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
<p>Disability, basic health and welfare (Disabled children are</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

<p>children first and have a right to the same opportunities as every child. That means removing the barriers - whether social, cultural, attitudinal or physical which impede their inclusion in education, play and recreation, and society, and providing whatever protective measures, health and social care services they might need. It also means promoting their equal rights and protecting them from discrimination. To fully take part in these opportunities, disabled children and their families sometimes require special care and assistance which should, where possible, be delivered free of charge.)</p>				
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<p>Education, leisure and cultural activities (All children, no matter what their ability, interests or background, have a right to an education that will help them achieve their potential without discrimination. Education should be child-centred and empowering. It should strengthen their capacity to enjoy the full range of human rights as well as promote human rights values. Children should be able to express their views, and encouraged to participate in preschool, school and college life. Children have a right to learn about human rights. Children also have a right to play and</p>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
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recreational activities, to rest and leisure, and to take part in cultural life.)				
Special protection measures (There are groups of vulnerable and marginalised children who require special protection and these are often the children who are most at risk of having their rights ignored or infringed. They include asylum-seeking and refugee children, child victims of trafficking or exploitation, and children in trouble with the law. Asylum-seeking children and child refugees are entitled to special protection and all the other rights in the UNCRC. They must not be the victims of	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	

<p>discrimination or stigmatisation. If they arrive unaccompanied by any parents or other family members, they should be well cared for. They should not be deprived of their liberty. Institutions where children are detained should treat them in a manner which takes into account their age, capacity and individual needs.)</p>				

HEALTH AND WELLBEING AND HEALTH INEQUALITIES

This is about physical, mental health and wellbeing and includes for example, participation, creativity and developing potential. It also covers all aspects of poverty including income and fuel poverty. The Fairer Scotland Duty requires us to actively consider how we can reduce inequalities in any major decision we make. Think about health and the different causes of health inequalities:

- **fundamental causes like macro-economic position, societal values about fairness and equity**
- **wider environmental influences like availability of jobs, physical environment for example, availability of services**
- **individual experiences like mental health and wellbeing, family income, ability to navigate services, connectedness**
- **socio-economic disadvantage like low income, low wealth, material deprivation and area deprivation.**

Think about the different causes and types of poverty.

- **Will this proposal provide services that meet the needs of people experiencing poverty?**

Will the information and services be easy to access?

Is the impact positive, negative or no impact? Give comments	Positive Impact	Neutral Impact	Negative Impact	Comments
Remove inequalities and increase access to opportunities for improving health and wellbeing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No one should be prevented from engaging with our hearings process, so we are taking positive steps such as paying for travel and accommodation for those traveling to Dundee. We can also provide video conferencing or move the hearing itself closer to the attendee's location in order to increase engagement.

Advance opportunities for increasing health and wellbeing across the sector	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>As stated above we are increasing the opportunities available to all involved to engage with hearings.</p> <p>Changes to the effective running of hearings and witness support work aim to improve customer service and the overall experience for those attending hearings.</p>
Foster good practice for sector wide health and wellbeing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<p>As stated above we are increasing the opportunities available to all involved to engage with hearings. We are working to improve hearings for all involved.</p>

ECONOMIC AND SOCIAL SUSTAINABILITY

This is about pay, employment opportunities, valuing and supporting voluntary work. It also covers some areas of poverty including individual and community resilience. The Fairer Scotland Duty requires us to actively consider how we can reduce inequalities in any major decision we make.

How will your proposal impact on social status, employment (paid or unpaid), encourage investment in skills and training, assist people on low incomes or support other disadvantaged groups in any way, the impact of delivery of services for people living rurally?

How will your proposal work in rural areas where the existing infrastructure is typically less developed or where infrastructure does not exist, for example there's no fast broadband connections?

Is the impact positive, negative	Positive impact	Neutral impact	Negative impact	Reason for your decision
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or no impact? Give comments				
Removes disadvantage of inequality	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Being able to offer funding to attending hearings will benefit all workers involved in the process and more so those lower paid workers. For those unable to travel video conferencing or even moving the hearing location can be used to ensure all involved in the hearing process can engage.
Advance opportunities for individuals	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	As stated above we are increasing the opportunities available to all involved to engage with hearings.
Foster good relations and sustainability of communities	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	As stated above we are increasing the opportunities available to all involved to engage with hearings.

DECISION MAKING

Which one of the following statements best matches your assessment of this proposal? Please give your reasons.

No major change – proposal is robust, evidence shows no potential for discrimination, all opportunities to promote equality have been taken

X - The changes proposed will positively impact those involved in the hearing process by increasing opportunities to engage. The positive impact will be greater on those lower paid workers who would otherwise be prevented from engaging in their hearing. Similarly, the costs to those in Island Communities of attending hearings are greater. We would always consider holding such a hearing in the worker's locality for such a case, but the ability to pay travel costs would allow a worker to attend Dundee if that is what is arranged or what a worker would prefer. Attempts to engage with providers of representation should increase the numbers of workers able to secure representation. This will have a particularly positive impact on those with lower incomes. Changes to increase the efficiency of hearings will lead to less time being wasted and fewer delays, improving customer service.

The proposal needs to be adjusted to remove barriers or better promote equality

Proceed with proposal despite potential for adverse impact or missed opportunity to promote equality (not possible to remove all the risk protected characteristic groups)

Stop and remove the proposal – shows actual/potential unlawful discrimination/in breach of equality legislation	
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MONITORING AND REVIEWING

How will you monitor the implementation of the proposal? For example, customer surveys.	<p>Support for workers to attend hearings – Council has approved this policy to continue on a permanent basis. We will continue to monitor the numbers of workers attending hearings and will continue to ask workers whether payment of expenses has enabled them to attend so that we can demonstrate the ongoing success of this policy.</p> <p>Enhanced support for witnesses – once all questionnaires have been completed the results will be analysed and will inform the measures then taken to make improvements. We will seek feedback from witnesses once improvements have been put in place to determine the success of these.</p> <p>We monitored the improvements put in place to make hearings more efficient and effective through communication with chairs. This determined that these improvements were effective and accordingly have we have kept the changes in place.</p>
How will you use the results of the monitoring to develop the proposal? (This information will be useful when you review the policy.)	<p>The results of the monitoring were included in the report for Council, which led to the travel expenses policy being implemented permanently.</p>

	<p>The results of the monitoring of the support for witnesses project will determine how the proposal to improve support is taken forward and what measures are implemented.</p>
<p>When and how will you review the proposal? (Please also give details of who is responsible.)</p>	<p>Increase representation and attendance at hearings including supporting workers to attend fitness to practise hearings (travel expenses): Travel expenses policy was reviewed by Council in June and is now a permanent policy.</p> <p>Review report will be put to Council in June for a decision. This report contains details of the numbers of workers supported to attend, and the responses to the question as to whether this has enabled them to attend.</p>