

NATIONAL PROBATION SERVICE HAMPSHIRE AREA

EQUALITY IMPACT ASSESSMENT

Section Two: Full Impact Assessment

This “Equality Impact Assessment” documents the outcome of a full impact assessment on the specified function, policy or procedure, addressing the equalities strands of: Race, Gender, Disability, Sexuality, Faith and Age. It is to be completed, published as specified, and appended to policy and/or strategy documents.

1. Function Name, Policy or Procedure:

Implementation of Enforcement Action, according to National Standards and HPA Guidance “Dealing with Non Compliance” 2008

2. Aims and Approach of Function/Policy/Procedure

NOMS National Standards for the Management of Offenders 2007 provides standards for action that should be taken by all offender managers if the offender fails to comply with their sentence. These standards dictate that when an offender fails to provide an **acceptable** explanation for failure to comply with any appointment or requirement of their order this constitutes a failure to comply with the whole sentence. This will result in a warning on the first occasion followed by a return to court for breach of order following a second unacceptable absence.

National Standards guidance is that “*the offender manager forms a view about the reasonableness or otherwise of any excuse provided by an offender for any apparent failure to comply. Judgements as to reasonableness take account of the nature of the failure, the circumstances of it and the circumstances of the offender*”

Further guidance has now been produced by HPA on “Dealing with Non-Compliance”. This document provides further guidance on what is an acceptable and unacceptable absence in order to assist the decision making process and to provide a framework through which decisions are

fairly applied to all offenders in a way that doesn't disadvantage any particular group.

The guidance looks in general terms at what is and what is not acceptable and then provides guidelines in relation to the most frequently provided explanations for non-attendance:

- sickness/injury
- Employment, Education and Training
- Religious, cultural obligations
- Custody/Court appearances
- Holidays
- Childcare
- Domestic circumstances
- Finances
- Transport/Traffic
- Other appointments

3. What data/information is available & does it suggest differential impact for any of the groups identified as part of the impact assessment process?

(A range of different data may be used for this section – e.g. internal monitoring data, national reports/research, locally commissioned reports/audits/research, results of previous consultations/workshops, statistical data such as census data, Home Office Statistics)

HPA's Annual Diversity Report for the period 2007-2008 provides information on enforcement action and the outcomes of that action for offenders in relation to ethnicity, gender and disability.

The compliance measure used is offenders who have completed 6 months of their order without being returned to Court for breach proceedings. On this measure 69% of male offenders were compliant compared to 74% of female offenders. Female offenders are therefore less likely to experience enforcement action than male offenders.

70% of minority ethnic offenders are compliant compared to 69% of White British, 64% of White Irish and 74% of White Other. Minority ethnic offenders are therefore less likely to experience enforcement action than White British Offenders.

These are continuing trends from previous Diversity report.

Disability data shows that 69% of offenders who had disclosed a disability were compliant in terms of this measure. This is proportional to the

overall compliance level for this data of 69%. Looking specifically at dyslexia and mental illness, the levels are 73% and 74% respectively. The lowest level of compliance was for offenders with a learning disability – 29% (n = 14)

For those offenders who underwent enforcement action two outcome measure were considered – “proven new sentence” and “order unchanged”. It is not possible to produce data on custody as an outcome, although custody will be included in the new sentence data. This data therefore is of interest but has limited evaluative purpose.

Overall 32.6% of enforcement actions resulted in a new sentence. Women were more likely to receive a new sentence than men and minority ethnic offenders were less likely to receive a new sentence than White British offenders. Disabled offenders were more likely to receive a new sentence than non-disabled offenders.

Overall, 3.7% of enforcement actions resulted in order unchanged. Women were less likely to have their order unchanged than men. Minority ethnic offenders were more likely to have their order unchanged than White British offenders. Disabled offenders were only very slightly more likely to have their order unchanged than non-disabled offenders.

The interpretation of these results is difficult because an order unchanged can be a positive indicator, but it may be that if the order did not meet the specific needs of an offender a modification or new sentence is what is required.

4. What consultation has been undertaken and with whom?

(include information on what was needed from the consultation, how it was carried out and with whom)

A consideration of the application of National Standards and the new “Dealing with Non-Compliance” Guidance was made by HPA’s Equalities Consultation Panel. The Panel currently has a large number of HPA Staff, alongside external members, which enabled an informed discussion on how national standards are actually applied and the decision making processes that underpin that application.

5. What are the main findings of the consultation undertaken (what positive or negative impacts were identified for any of the different groups)?

The Panel had access to the data when they met, which was not suggesting different outcomes across the equality strands of race, gender or disability (with the possible exception of learning difficulties). Nevertheless, consideration was given to the guidance to further explore whether there was the opportunity for any groups to be disadvantaged.

- a major consideration was that the guidance should make clear that if an offender has a disability effective reasonable adjustments need to be in place. If lack of attendance can be attributed to any failings on our part to have achieved this then enforcement action should not be proceeded with until this is rectified. A particular consideration here was around learning difficulties and ensuring that reasonable adjustments have been identified and implemented.
- Again, in relation to disability, guidance around long-term sickness could make reference to home visits where appropriate and other measures to avoid those with a disability through long term health problems not having access to interventions. The Panel recognised that there will be occasions when returning to court for revocation on health grounds will be the only option, but that all other measures should be fully explored before this is decided upon.
- The panel welcomed the section on Religious and Cultural obligations
- There were concerns raised around Holidays as a reason for absence, in particular the ability for offenders whose families are not close by them to have the ability to spend time with them. It was considered important that the opportunity for this to be fully considered remained open.
- Concerns were raised about the section on Childcare, in which it states that offenders whose absence is due to lack of childcare, where that childcare was arranged by the offender, will be deemed unacceptable. It is actually quite unusual for offenders with childcare responsibilities to choose to use the option of paid childminders, nurseries etc, even where HPA will fund this. The reasons for this can often be through a concern about leaving young children with strangers. An approach which penalises carers for preferring to find friends and family who their children know and they can trust was deemed unfair. Persistent difficulties in this area may be something that needs to be challenged, but a single instance as unacceptable is seen as discriminatory against women offenders.

6. Does this policy have the potential to cause unlawful discrimination, exclusion of some groups of people from its benefits or lead to negative relations?

The guidance could benefit from a few additional points to be made to ensure that the diverse needs of different groups are fully taken into consideration in deciding what is and what is not an acceptable absence.

7. What measures have been identified in order for the policy/procedures to achieve its aims without risking any adverse impact?

As above

8. What action is now to be undertaken?

The results of the EIA have been fed back to Jackie Hall, Area Manager with responsibility for the guidance on acceptable/unacceptable absences. The comments of the panel have been used to make adjustments to the guidance along the lines suggested.

9. Monitoring arrangements and review process

Enforcement action will continue to be monitored and reported on in relation to race, gender and disability through the Diversity Reporting system.

10. How results will be published

.This equality impact assessment will be published on the HPA Diversity Database and on HPA's website.

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Signature of Policy Lead

Position

Date