

Scottish Government core – position on hybrid working

Equality Impact Assessment – Results

July 2023

Equality Impact Assessment Record

Title of policy/ practice/ strategy/ legislation etc.

Scottish Government core – position on hybrid working

Minister

Minister for Business, Trade, Tourism and Enterprise

Lead official

Deborah Smith, People Directorate

Officials involved in the EQIA

Name - Team

Elizabeth Hill - Projects

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Directorate: Division: Team

People Directorate, Projects

Is this new policy or revision to an existing policy?

Revision and formalisation of practice developed during and after Covid-19 pandemic

Screening Policy Aim

The aim of the policy is to provide clarity on organisational expectations of hybrid working. Prior to the COVID-19 pandemic, Scottish Government civil servants generally worked in Government workspaces with many having the opportunity to do occasional home working. During the pandemic, civil servants who were able to do so worked from home. When Scottish Government buildings re-opened in 2021, hybrid working was introduced on a trial basis to embrace the benefits which people have experienced working from home while retaining benefits gained from being together in a workspace. The policy is intended to provide a model for Scottish Government Directorates, Divisions and teams to continue to operate hybrid working on a long-term basis to meet both personal preference and business need. This will then allow further work on digital, estates and HR policies to be developed to support our future ways of working. It is intended to ensure that all SG staff are as happy and productive in their work environment as possible, and that business need is met.

This in turn should support the delivery of all National Outcomes.

The broad policy direction that has been developed and considered against the EQIA criteria is:

Hybrid working involves Scottish Government civil servants working partly in the workplace, partly from home, and – for some roles – working in

communities and with stakeholders. The majority but not all roles are suited to hybrid working. At the same time, the policy will recognise that working from home is not the best option for everyone and, where this is the case, the policy will provide for this. The policy does not cover arrangements where the civil servant's role requires them to work from home and this is their contractual place of work, or arrangements where it may be appropriate for formal homeworking agreements to be in place as part of an adjustment under equality legislation.

The Executive Team's expectation is that for roles suited to hybrid working, colleagues will combine working from home with presence in a workplace (and for some roles, with stakeholders and in communities) each week. This may vary from week to week depending on business need, recognising that some roles will be more location-specific than others, and that we must adapt expectations to meet the needs of colleagues who should have adjustments in place under equality legislation, or where adaptations are agreed via the Employee Passport process.

Recognising that this will look different for different Directorates, there is no centrally fixed amount of time to be spent in the workplace each week. Directors are expected to agree this locally and while outcomes may be different, we expect a consistent approach to considering the principles together.

Who will it affect?

The policy will affect all staff working for the Scottish Government. It will also indirectly impact on those they live with, in particular their children and others for whom they have caring responsibilities.

What might prevent the desired outcomes being achieved?

The outcomes may not be achieved if the published policy lacks clarity; if it is not consistently applied or if required enforced, or if there is too great or long a gap between our stated hybrid policy and the HR, estates and IT requirements to support it in the longer term. It will also not achieve the required outcomes if staff cannot see the benefits of the policy; or if it has a negative impact on equality and diversity.

Stage 1: Framing

Results of framing exercise

The key questions considered during the framing exercise were:

- Will this policy advance equality, eliminate discrimination, or foster good relations in relation to people with protected characteristics?
- Might it inadvertently disadvantage some people?
- Will your policy affect people, or will your policy impact on another policy that affects people?
- Will your policy affect other policies, organisations or work which could affect equality?
- Will individuals have access to, or be denied access to a service or function as a result of your policy or the changes you propose to make?
- Will the implementation of your policy directly or indirectly result in individuals being employed, a change in staffing levels, terms and conditions, employer or location?
- Is there a change in the size of the budget, or an impact on resources, and will this change (potentially) impact on individuals? (For example, will a service be withdrawn, changed or expanded?)

From the outset of policy development, the trade unions and the Disabled Staff network were involved in discussions through the Senior Advisory Group on Hybrid working. It was clear at all times that there was significant potential for the hybrid policy to inadvertently or indirectly discriminate against certain groups of colleagues (for example those with caring responsibilities, or reasonable adjustments) ; and that it could equally be designed in such a way as to foster good relations in relation to people with protected characteristics.

The answer to all the above questions, save the last two, was “yes” and it was therefore clear that an EQIA would be needed.

Extent/Level of EQIA required

As this is an internal policy, and one which is capable of ongoing adjustment to meet emerging circumstances, a reasonably “light touch” assessment was required, drawing on key sources:

1. Data collected through staff surveys (the annual People Survey and two staff surveys on hybrid working carried out in 2021 and 2022);
2. Desk top research (but recognising the limitations of this, given that any post Covid hybrid policy has not been evaluated over the longer term);
3. Engagement with Senior Civil Service leaders, Trade Union representatives and senior representatives of our Disabled Staff Network, sharing successive drafts of advice and guidance;

4. Discussions with individuals with protected characteristics, recognising their lived experience of hybrid to date, and their views on the challenges and potential opportunities of future policy positions.

Stage 2: Data and evidence gathering, involvement and consultation

Include here the results of your evidence gathering (including framing exercise), including qualitative and quantitative data and the source of that information, whether national statistics, surveys or consultations with relevant equality groups.

Characteristic¹ 1 - Age

Evidence Gathered and Strength/Quality of Evidence - Age

Some younger colleagues, especially those newer to the SG, indicated that they felt isolated and lonely without regular office contact; and that their

home environments were less conducive to home working. (anecdotal)

This chimed with the research: Younger employees are naturally more vulnerable to experiencing loneliness, and as such may be at a risk of experiencing loneliness when working from home

Research has also been limited around the impact of hybrid and home working on employees of different ages, however one study focusing on how hybrid working influences employees experiences found that employees of all ages had experienced hybrid working in a similar way (ONS, 2021).

Evidence from the Hybrid Working Survey 2022 found that overall experiences of hybrid working were similar across different age groups, though some notable differences did exist. Firstly, employees over the age of 50 were more likely to indicate that working from home had affected their physical health (previous research has indicated that this finding reflects employees feeling as though they are exercising less, due to not having to commute to work), and that employees under the age of 29 were more likely to experience loneliness. It should be noted that research generally indicates that younger individuals experience higher levels of loneliness in life compared to other age groups, regardless of where and how they work (e.g. Nguyen et al., 2020). Nevertheless, it should be considered that younger employees may be at a greater risk of experiencing loneliness while working from home.

Source - Age

One to one discussions

Research sources as cited

Data Gaps Identified and Action Taken - Age

n/a – recognition that there will be data limitations in relation to all protected characteristics as post Covid hybrid working is new. Policy will therefore be kept under rolling review

Characteristic¹ 2 – Disability

Evidence Gathered and Strength/Quality of Evidence - Disability

Risks:

- That hybrid working policy and practices moves disabled staff away from a working experience which has enhanced their wellbeing and broadened their opportunities to develop, network and engage with the organisation.
- A hybrid working policy which disabled staff do not feel supported by, may encourage disabled staff to explore the increasing job opportunities open to them in other organisations.
- A hybrid policy which is too strict may risk excluding employees who would like to work, but who in the short-term would be unwilling to commute as a result of health condition or as part of their recovery from a health condition.
- An increase in home working, may reduce the focus on office facilities. In turn, offices may become less well set-up for disabled staff (e.g. efforts to make offices more accessible may decline and the maintenance of facilities/provisions currently in place for disabled staff may be overlooked as offices are less regularly used).
- That a hybrid working policy treats all individuals with disabilities the same, overlooking the different ways in which work and working conditions can affect those with different conditions, and even affect individuals with the same conditions in different ways.
- Individuals with mental health conditions, or conditions which make it difficult to socially interact on a regular basis, may be particularly affected by loneliness while working from home, though equally hybrid teams mean that similar experiences

may also occur in the office. As such, efforts should be made to bring teams together regularly, in ways which are not only focused on work.

- The SG overlooks the changes in the needs of staff with physical and mental health conditions caused by the transition to hybrid and home working and does not adequately address these by pro-actively changing the way in which employees can work

Any discussion around the impact of home, hybrid and office working on disability must firstly acknowledge that disabilities vary greatly in terms of their symptoms, how they impact life and how they impact work. Even individuals with the same condition may work better in different environments and in different ways, depending on the severity of their symptoms and the way in which their symptoms affect them (e.g. some individuals with anxiety or depression may prefer to work from home, as it allows them to work in a quieter calmer environment which benefits their mental health, while others experiencing the same symptoms may prefer to work in an office as being around others may reduce the intensity of their symptoms). These differences have been highlighted in previous SG research. With this caveat in mind, there are a number of significant findings in the literature which relate to the impact of home and hybrid working on the lives of employees with disabilities.

Research conducted during the pandemic, both by the SG and other organisations, has highlighted that for a large portion of employees with disabilities, the shift to home working during the pandemic was 'life-changing' (Hybrid Working Survey, Schur et al., 2020). The Hybrid Working Survey 2022 found that SG employees with disabilities believed that the opportunity to work from home and meet through videocall had actually opened up more opportunities to network, learn and develop than were previously been available. Furthermore, findings from the survey showed that not only had working from home in many cases helped alleviate symptoms or made life less stressful (due to reductions in commute, improved work-life balance or the ability to better control the working environment), but it had also been vitally important as it helped those more vulnerable to contracting Covid-19, or who would suffer more than average from the symptoms of Covid-19, to shield from the virus. Research has also found that working from home can greatly benefit those in recovery from serious health conditions such as cancer, and can mean that individuals who would like to return to work but have concerns about adding too much stress to their lives too soon, can potentially return to work earlier in a way that allows them to manage their health better.

While evidence overwhelmingly suggests that overall those with disabilities have benefited from home working, there is also evidence that this isn't the case for all with disabilities. In particular, it has been highlighted that those with mental health conditions may benefit from working in a different environment. It is also important to acknowledge that for some with a disability, working primarily from home can also exacerbate symptoms. For example, research has highlighted that working from home can be associated with higher levels of loneliness (Bollestad et al., 2022, Hybrid Working Survey 2022), which may affect those with poor mental health in particular. However, evidence from the Hybrid Working Survey 2022 highlighted that because offices have been quieter since re-opening after the pandemic, even those visiting the office regularly have experienced loneliness while working. This indicates that when working in a hybrid way, teams may need to do more to bring together employees socially, in ways which are not only focused on work but which also allow time for more informal social connections to develop (either online or in person). Lastly, homeworking may also have a greater impact on those with conditions which mean they require additional support from others (e.g. employees with learning difficulties), as in some cases it may be more difficult to receive this support through videocall rather than in person. This may mean that there is a need to reconsider the ways in which this kind of

support is provided and also check-in more regularly with those who need support to ensure that the method of delivering support is appropriate.

An additional area of risk in the transition to hybrid working relates to the provision of workplace adjustments, which can include making equipment such as standing desks, particular types of monitors and specialised lighting available to employees who require this to work. Many individuals with disabilities may benefit from working from home because it allows them to create an environment and workstation which perfectly fits their needs. However, this opportunity may not be available to all employees for a variety of reasons and so it is possible that an office can be the best place for individuals with disabilities to find a workspace that suits their needs. It is important that as overall employees gradually spend time less regularly in offices, a variety of workspaces continue to be available to those with different needs, and that the maintenance of these is not overlooked simply because offices are less busy overall. Anecdotal evidence has recently indicated that this may already be an issue in SG evidence, and even that important facilities such as disabled toilets, have not been maintained in the same way as they were prior to the pandemic.

A final area of risk relating to disability, is that given the broadening of employment opportunities available to disabled employees since remote working became normalised, it is possible that if SG does not present an attractive offer to disabled staff, some will leave to work in organisations with a better offer. SG Research has already shown that disabled staff feel less engaged in the organisation compared to other staff, feel they are less fairly treated than non-disabled staff, and more disabled staff are leaving the SG than are joining the SG (SG Diversity & Inclusion Report).

Some research carried out during the pandemic has highlighted that some of the potential risks of hybrid working to this with disabilities may be mitigated by forward planning. For example, Das et al. (2021) reported on the hybrid working experiences of neurodivergent individuals with conditions including Autism Spectrum Disorders and ADHD, a group of individuals who can struggle with some aspects of social interaction and communication, can either struggle with planning or else require highly specific plans, and who can struggle with sudden changes in routine. Given this, the sudden switch to home and hybrid working was initially a challenge for some in the neurodivergent population, it was found that by implementing simple measures and processes (which could equally benefit all employees, not just those with neurodivergent conditions), the impact of the transition was dampened. Changes included providing meeting agendas and materials in advance, encouraging open discussions around mental health and stress, encouraging different methods of communicating in meetings (e.g. through typing in the chat bar during videocalls), and ensuring that presentations and materials were provided in an accessible format which was easy for those with different needs to read and process (this could be simply a case of increasing font size or adjusting line spacing in a document). This approach of pro-actively responding to risks could potentially benefit not only the neurodivergent population, but also the broader population of employees with disabilities, and potentially (as indicated above) the entire workforce.

Engagement with the Disabled Staff Network raised similar issues, and a recognition that a “one size fits all” policy, and any policy which did not recognise the need for reasonable adjustments, could lead to unintentional discrimination. As well as the need for reasonable adjustments, there was concern that significant further work on estates/IT/health & Safety aspects would be necessary to ensure that there was a safe and appropriate environment for staff with a disability coming into the office.

Through the conversations with the DSN and other networks, mental health impacts were a recurring theme. As per the research, for some staff it was important to be able to spend as much time as required in the office, and to have the assurance that other colleagues would also be around. For others the ability to work from home, sometimes with a camera switched off during calls, had greatly enhanced their working experience when faced with mental health challenges.

Staff also suggested that some adjustments to the estate could help significantly with the ability to combine in office working with mental health challenges such as anxiety – for example the provision of “safe spaces” across buildings.

Source – Disability

Engagement with DSN

Research sources as cited.

Data Gaps Identified and Action Taken – Disability

n/a – recognition that there will be data limitations in relation to all protected characteristics as post Covid hybrid working is new. Policy will therefore be kept under rolling review

Characteristic¹ 3 - Sex

Evidence Gathered and Strength/Quality of Evidence - Sex

Risks:

- Strongly encouraging female employees to come into offices or stay at home, when it may expose them to difficult/uncomfortable interactions with others, could have an adverse affect on employee wellbeing as well as productivity
- Discouraging female parents from attending the office, which in turn may result in greater childcare responsibilities (regardless of whether children are at school for large periods of the day), could affect employee wellbeing and productivity
- Overlooking female parents for promotion and other work opportunities available as a result of proximity bias.

Several research studies have explored to what extent the increase in working from home could amplify pre-existing sex and gender inequalities in the work-place. One strand of this research has focused on evidence that females often bear more responsibility for childcare as well as other care responsibilities, which was evidenced throughout the Covid-19 pandemic (Alon et al., 2020, Hjalmsdóttir & Bjarnadóttir, 2020).

Research focusing on this issue has highlighted that in situations where employees are prevented or discouraged from using offices (e.g. through not having an appropriate/allocated space to work in the office), female parents could be more disadvantaged than the rest of the workforce, as they would be more likely have care responsibilities to manage, and so could be at greater risk of being stressed and overworked, as well as being exposed to greater distractions while working. Even in situations where staff are encouraged to use offices, female parents who require workplace adjustments (e.g. those who have a need for a particular type of desk/screen or access to particular facilities in the workplace) could experience similar difficulties, as if they are unable to secure a permanent workstation which meets their needs, then they may feel forced to work at home, and as such also be faced with the same situation described above.

These issues can also be tied to additional concerns surrounding 'proximity bias', wherein employees who more regularly work in the office are expected to be treated more favourably. It has been proposed that as women may be more likely to take on childcare responsibilities and in turn more likely to work from home (or stay at home to focus on care responsibilities), they are also more likely to lose out as a result of proximity bias (Global Women, Harvard Business Review). While it is important to acknowledge this as a potential risk, current evidence suggests that in the last year, females within the Scottish Government have been promoted more than males.

However, it has also been proposed that in many cases, working from home could benefit females, in some instances for reasons which mirror those above. For example, while it is true that females report having more care responsibilities, hybrid working can mean that many females who prior to the transition to home working may have been forced to take time off work, now have more of an opportunity to balance childcare and work commitments (Sherman, 2020). There is also evidence to suggest that some women may prefer to work from home because it allows them to avoid difficult and uncomfortable experiences in the workplace (Agovino, 2022). Research in general shows that females experience higher levels of bullying and harassment compared to men, and this is reflected in the Scottish Government's own research (Salin, 2021; Scottish Government Statistics Publication, 2021). In many cases, it may therefore be extremely important for some women to take advantage of the opportunity to work from home, and this should not

be overlooked in discussions surrounding the amount of time that employees are asked to spend in offices.

Finally, it is important to acknowledge that there are some employees who live in homes which for a variety of reasons are unsafe or have a serious impact on wellbeing. Research has shown that rates of domestic violence increased during the pandemic (Piquero et al., 2021), and this was linked to people spending more time at home. Women were consistently highlighted as the most frequent victims of this violence, and though the proportion of people spending all of their time at home will have subsided since the pandemic, it is still possible that there will be cases when all members of a household are still working primarily from home. With this in mind, any hybrid working approach which discouraged employees from attending the office (including not providing staff with a suitable space to work), could be putting some members of staff at risk for the reasons mentioned above.

Lived experience also suggested that women found benefits in flexible hybrid working in order for them to fit unpaid labour into their day. This was seen as being particularly acute for minority ethnic women, who may shoulder more of the domestic burden. On the other hand, there was perceived to be a risk to women's mental health in not being able to "switch off" from domestic responsibilities if spending too much time working from home.

Source - Sex

Engagement with Women's Development Network

Research sources as cited

Data Gaps Identified and Action Taken - Sex

n/a – recognition that there will be data limitations in relation to all protected characteristics as post Covid hybrid working is new. Policy will therefore be kept under rolling review

Characteristic¹ 4 – Pregnancy and Maternity

Evidence Gathered and Strength/Quality of Evidence - Pregnancy and Maternity

Lived experience suggests that for women flexible hybrid working can allow an easier combination of work with childcaring responsibilities and a simpler transition from maternity leave to return to work.

Working from home also facilitates breastfeeding and expressing of breast milk, supporting longer breast feeding.

Concerns were expressed that For pregnant women carrying all the work equipment when going into the office could be an additional risk. Using chairs and desks that are not set up appropriately during 'hot-desking', whilst pregnant, could also increase discomforts that could be easier mitigated at home

In terms of cost of living issues, additional childcare costs to cover commuting time will impact those with younger children and put them at a disadvantage financially, as well as emotionally and physically

Source - Pregnancy and Maternity

Engagement with Women's Development Network

Data Gaps Identified and Action Taken - Pregnancy and Maternity

n/a – recognition that there will be data limitations in relation to all protected characteristics as post Covid hybrid working is new. Policy will therefore be kept under rolling review

Characteristic¹ 5 – Gender Reassignment

Evidence Gathered and Strength/Quality of Evidence - Gender Reassignment

The LGBT network raised specific concerns that if teams did not have set spaces in the office, it may be harder for trans or non binary staff to feel comfortable in “unknown” work areas. There was also a concern raised that sufficient safe spaces were not provided across the estate.

Source - Gender Reassignment

Engagement with LGBT Network (no research data available)

Data Gaps Identified and Action Taken - Gender Reassignment

n/a – recognition that there will be data limitations in relation to all protected characteristics as post Covid hybrid working is new. Policy will therefore be kept under rolling review

Characteristic¹ 6 – Sexual Orientation

Evidence Gathered and Strength/Quality of Evidence - Sexual Orientation

Discussion of lived experience raised concerns on bullying and harassment akin to those described by those in other networks; ie that bullying and harassment may be less evident while working from home, but on the other hand such behaviour is harder to call out. There was also a worry that working from home could lead to reduced visibility of LGBTI staff

Source - Sexual Orientation

Engagement with LGBT network (no research data available)

Data Gaps Identified and Action Taken - Sexual Orientation

n/a – recognition that there will be data limitations in relation to all protected characteristics as post Covid hybrid working is new. Policy will therefore be kept under rolling review

Characteristic¹ 7 – Race

Evidence Gathered and Strength/Quality of Evidence – Race

Individuals from different ethnic backgrounds may be more likely to encounter hurtful or difficult interactions in the workplace, and so may prefer to work from home for this reason. Any hybrid working policy which required staff to attend the office on a more regular basis, may increase the risk of employees from ethnic minority backgrounds from encountering this kind of interaction

Research has less frequently focused on the impact of hybrid and home working on individuals from different ethnic backgrounds, however some have proposed that hybrid working could intensify pre-existing differences in the experiences of those from different ethnic groups. However, closer inspection of these findings reveals that if these inequalities increase, it would most likely be because employees from an ethnic minority background are less likely to occupy roles which are less suited to home working – notably there is no evidence of this within the Scottish Government.

Some commentators have indicated that in the US, non-white workers may prefer to work from home as it allows them to avoid microaggressions (i.e. hurtful or difficult race-related interactions with colleagues) in the office. SG evidence indicates that black employees report higher levels of bullying and discrimination compared to white employees (though

rates of bullying and discrimination are more mixed across other ethnic groups). While there is currently no evidence from SG research to suggest that black employees work from home more than employees of any other ethnic group, this remains an issue that it is important to keep in mind.

The REN raised similar issues about the possibility of working from home as a way to avoid bullying and micro aggressions; but there was a corollary that of course it is the fundamental issue that we should be addressing. Similarly, when bullying happens on teams it can be less visible and therefore harder to address.

Source – Race

Engagement with Race Equality Network

Research sources as cited.

Data Gaps Identified and Action Taken – Race

n/a – recognition that there will be data limitations in relation to all protected characteristics as post Covid hybrid working is new. Policy will therefore be kept under rolling review

Characteristic¹ 8 – Religion or Belief

Evidence Gathered and Strength/Quality of Evidence - Religion or Belief

Again, the Faith & Belief Network raised similar issues around Islamophobia and Anti-Semitism being more hidden in a hybrid working environment. They also noted that flexible hybrid policies very much facilitated the combination of work with faith and community based activity – for example fasting during Ramadan is much easier from home, as is finishing work early on a Friday to observe the Sabbath.

Source - Religion or Belief

Engagement with Faith & Belief Network (no research data available)

Data Gaps Identified and Action Taken - Religion or Belief

n/a – recognition that there will be data limitations in relation to all protected characteristics as post Covid hybrid working is new. Policy will therefore be kept under rolling review

Characteristic¹ 9 – Marriage and Civil Partnership

The Scottish Government does not require assessment against this protected characteristic unless the policy or practice relates to work, for example HR policies and practices - refer to Definitions of Protected Characteristics document for details

Evidence Gathered and Strength/Quality of Evidence - Marriage and Civil Partnership

While the policy is a people oriented one and therefore marriage and civil partnership are in scope, there was no evidence of impact.

Source - Marriage and Civil Partnership

N/A

Data Gaps Identified and Action Taken - Marriage and Civil Partnership

N/A

The EU nationals network was also consulted for us to understand more fully the impact of hybrid working policies on staff of other nationalities. The key issues that emerged were that – similar to women – nationals from other countries who may have less of a local support network may benefit proportionally more from a policy which offers more flexibility; and there was specific concern around the working from abroad policy which needs to be further considered by HR.

And again the considerations around childcare responsibilities, which are explored here under “sex”, could equally apply to those with caring responsibilities for others.

All the discussions and research have also been looked at through the intersectionality lens, which amplifies and which does not contradict any of the experience above. For example, female ethnic minority staff may find that the benefits and disadvantages of hybrid working around the balance between work and non paid responsibilities are particularly acute.

It is also worth mentioning that there was a general consensus that the operation of the staff networks has been facilitated by a hybrid working style and allowed staff not based in the central belt to take a greater role in the running of, and participation in, staff networks.

Stage 3: Assessing the impacts and identifying opportunities to promote equality

Having considered the data and evidence you have gathered, this section requires you to consider the potential impacts – negative and positive – that your policy might have on each of the protected characteristics. It is important to remember the duty is also a positive one – that we must explore whether the policy offers the opportunity to promote equality and/or foster good relations.

Do you think that the policy impacts on people because of their age?

- Eliminating unlawful discrimination, harassment and victimisation
 - Potential impact: None
- Advancing equality of opportunity
 - Potential impact: Positive
 - Reasons for your decision: Policy will have a greater emphasis on time in the office for activities such as team building and induction so managers can ensure younger colleagues are better supported in the office.
- Promoting good relations among and between different age groups
 - Potential impact: Positive
 - Reasons for your decision: As above

Do you think that the policy impacts disabled people?

- Eliminating unlawful discrimination, harassment and victimisation
 - Potential impact: Positive
 - Reasons for your decision: Policy ensures that reasonable adjustments are built into decisions about where staff can work.
- Advancing equality of opportunity
 - Potential impact: Positive & Negative
 - Reasons for your decision: Opportunity to ensure that colleagues with disabilities can best work in the way that supports them and manages their conditions, and that mental health is best supported through anchors of time in the office. Hybrid working is likely to involve various desk and room booking arrangements. These need to be set up in a way which ensures that those with workplace adjustments are able to take advantage of these. The guidance will address this and ensure that any desk allocation schemes prioritises space for employees who require workplace adjustments'. Separate guidance (not under hybrid working policy) recognises that full-time home working may be appropriate for some disabled staff as a workplace adjustment.
- Promoting good relations among and between disabled and non-disabled people
 - Potential impact: Positive
 - Reasons for your decision: More flexible working patterns available to all staff (compared to pre Covid) should reduce proximity bias

Do you think that the policy impacts men and women in different ways?

- Eliminating unlawful discrimination, harassment and victimisation
 - Potential impact: None
- Advancing equality of opportunity

- Potential impact: Positive
- Reasons for your decision: Policy is designed to support the combination of work and non paid responsibilities which tend to follow more greatly on women. There are likely to be benefits of hybrid working – for example being able to work around school pickups and caring responsibilities. However, we recognise that there are also risks of a conflict between work and caring and this will need to be addressed in guidance (managers and staff need to agree on the time required to undertake caring responsibilities within the working week including where it is not possible to combine some forms of caring and childcare with work, and where managers need to give as much notice as possible of requirement to attend the workplace). Special leave remains available to deal with domestic emergencies and other caring issues.

Once concern which we will require monitoring going forward is the possibility that people will reduce their external support on the days when they work from home. They might, for example, no longer put their children into after school clubs and then work evenings to make up the time. This could adversely affect wellbeing and raise the risk of burnout.

- Promoting good relations among and between men and women
 - Potential impact: None

Do you think that the policy impacts on people because of pregnancy and maternity?

- Eliminating unlawful discrimination, harassment and victimisation
 - Potential impact: Positive
 - Reasons for your decision: Can help support breastfeeding
- Advancing equality of opportunity
 - Potential impact: N/A
 - Reasons for your decision: Opportunities available to all staff should reduce proximity bias
- Promoting good relations
 - Potential impact: None

Do you think your policy impacts on people proposing to undergo, undergoing, or who have undergone a process for the purpose of reassigning their sex? (NB: the Equality Act 2010 uses the term 'transsexual people' but 'trans people' is more commonly used)

- Eliminating unlawful discrimination, harassment and victimisation
 - Potential impact: Positive & Negative
 - Reasons for your decision: Mixed bag – some trans people may be more comfortable working from home but harassment can be harder to see and call out
- Advancing equality of opportunity
 - Potential impact: Positive & Negative
 - Reasons for your decision: Possible lack of visibility of trans people in the office; but some may feel more comfortable working from home.
- Promoting good relations
 - Potential impact: Positive & Negative

- Reasons for your decision: As above, Those undergoing gender reassignment may find the home working element of hybrid working makes it easier to arrange work around appointments. These employees will remain entitled to the relevant special leave provisions.

Do you think that the policy impacts on people because of their sexual orientation?

- Eliminating unlawful discrimination, harassment and victimisation
 - Potential impact: Positive & Negative
 - Reasons for your decision: Mixed bag – some LGBT colleagues may feel working at home avoids harassment but it can be harder to see and call out.
- Advancing equality of opportunity
 - Potential impact: Positive & Negative
 - Reasons for your decision: Possible lack of visibility of LGBT staff in the office; but some may feel more comfortable working from home
- Promoting good relations
 - Potential impact: Positive & Negative
 - Reasons for your decision: As above

Do you think that the policy impacts on people because of their race?

- Eliminating unlawful discrimination, harassment and victimisation
 - Potential impact: Positive & Negative
 - Reasons for your decision: Again balance between working from home reducing harassment but also harder to identify
- Advancing equality of opportunity
 - Potential impact: Positive
 - Reasons for your decision: Working from home can increase opportunities to balance work with religious imperatives and community involvement
- Promoting good relations
 - Potential impact: None
 - Reasons for your decision: On the days they work from home, employees may find it easier to observe certain religious rituals such as praying or fasting. However, support to undertake these in the workplace will remain

Do you think that the policy impacts on people because of their marriage or civil partnership?

- Eliminating unlawful discrimination, harassment and victimisation
 - Potential impact: None
 - Reasons for your decision: No evidence that a hybrid policy as described would have a differential impact on those who are married or in a civil partnership

Stage 4: Decision making and monitoring

Identifying and establishing any required mitigating action

If, following the impact analysis, you think you have identified any unlawful discrimination – direct or indirect - you must consider and set out what action will be undertaken to mitigate the negative impact. You will need to consult your legal team in SGLD at this point if you have not already done so.

Have positive or negative impacts been identified for any of the equality groups?
Yes

Is the policy directly or indirectly discriminatory under the Equality Act 2010³?
No

If the policy is indirectly discriminatory, how is it justified under the relevant legislation?
No

If not justified, what mitigating action will be taken?
N/A

The EQIA has demonstrated that there are possible positive and negative impacts from an equality lens of a focus on both an expectation of working from home; and an emphasis on greater time anchored in an office environment. The key will therefore be to ensure that our hybrid policy is predicated on balance, and that any locally set expectations based on business need are sufficiently adaptable to address individual needs. This should take place – as is already the case – through the use of the Employee Passport tool.

Specific recommendations flowing from the EQIA are also covered below.

Describing how Equality Impact analysis has shaped the policy making process

Throughout the policy development process, the Senior Advisory Group on hybrid, including representation for the Disabled Staff Network, has been involved in development of the policy. This has led directly to a greater emphasis on diversity being at the heart of the policy; and the need for reasonable adjustments to be made for staff who may not be able to be present in the office as much as other colleagues. Similarly, a greater emphasis on value on time in the office has been developed, recognising that this can be really important to colleagues with mental health issues, and younger colleagues.

The data gathering and analysis from the EQIA has not identified any “show stoppers”. It has however identified a number of issues which require to be taken forward in parallel with our hybrid guidance:

- There are real concerns about how our estate configuration can keep up with our hybrid policy. While resource constraints mean that the perfect estate may be some years away, there is an urgent need to make sure that staff with

disabilities have a clear pathway to identify the right equipment (and other things that help them at work, such as safe spaces) when in the office.

- EU nationals continue to have concerns about the working from abroad policy, and have asked for this to be reviewed.
- Diversity & inclusion resources will require to be kept up to date with new hybrid ways of working.

Concerns about bullying and harassment both in the office and virtually should be considered as part of wider action in this area, rather than specifically as part of our hybrid policy.

Monitoring and Review

Once the policy has been finalised, an evaluation plan will be put in place as part of the delivery programme. This will include ongoing assessment against the EQIA

Stage 5 - Authorisation of EQIA

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes No

- ◆ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:

- Eliminating unlawful discrimination, harassment, victimisation;
- Removing or minimising any barriers and/or disadvantages;
- Taking steps which assist with promoting equality and meeting people's different needs;
- Encouraging participation (e.g. in public life)
- Fostering good relations, tackling prejudice and promoting understanding.

Yes No

- ◆ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

Yes No Not applicable

Declaration

I am satisfied with the equality impact assessment that has been undertaken for Scottish Government core position on hybrid working and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name: Deborah Smith

Position: Deputy Director, People Directorate

Authorisation date: April 2023



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