

# DOE SECTION 75 EQUALITY OF OPPORTUNITY SCREENING ANALYSIS FORM

## Section 1

### Introduction

This form is intended to help you to consider whether a new policy (either internal or external) or legislation will require a full equality impact assessment (EQIA). Those policies identified as having significant implications for equality of opportunity must be subject to full EQIA.

The form will provide a record of the factors taken into account if a policy is screened out, or excluded for EQIA. It will provide a basis for consultation on the outcome of the screening exercise and will be referenced in the Annual Report to the Equality Commission. Copies of completed forms should be retained on file within business areas (**and a copy sent to the Equality Unit**) and reference should be made to the outcome of the screening exercise and subsequent consultation in any submission made to the Minister.

### Background

#### The Legal Background

Under section 75 of the Northern Ireland Act 1998, the Department is required to have due regard to the need to promote equality of opportunity:

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally;
- between persons with a disability and persons without; and
- between persons with dependants and persons without.

The main groups within each of the nine categories, highlighted above, are identified at Appendix 1.

In addition, without prejudice to its obligations above, the Department is also required, in carrying out its functions relating to Northern Ireland, to have regard to the desirability of promoting good relations between persons of different religious beliefs, political opinion or racial group.

It is important that the screening form is completed carefully and thoughtfully. Your Divisional or Agency Equality Officer and the Department's Equality Unit in room 413A Clarence Court (ext 40203/40813) will be happy to assist with all aspects of the screening process and will help with the completion of the form, if required.

Further advice on the screening process can be accessed at Section 4 of the Equality Commission's Guide to the Statutory Duties.

## **Policies included for EQIA**

If, after screening, it is decided that a policy will require a full EQIA, a decision will be required on the priority and timing of the assessment. The screening form should be noted accordingly, signed off and copied to the Equality Unit for inclusion in the EQIA programme.

## **Policies excluded for EQIA**

If a decision is taken to screen out the policy or where there is ambiguity about the equality implication of the proposal, the screening form should be signed off by a senior officer responsible for the policy and a copy sent to the Equality Unit. Copies of all screening out forms will be placed on the Department's website.

## **Section 2 – Policy to be Screened**

### **Definition of Policy**

There have been some difficulties in defining what constitutes a policy in the context of Section 75. To be on the safe side it is recommended that you consider changes to or any new initiatives, proposals, schemes or programmes as policies. The policies covered in the Equality Scheme EQIA programme are a reasonable guide both to the nature of external departmental policies and the level at which they should be considered.

The revised Guidance from The Equality Commission emphasises that the Statutory duties apply to **internal** policies (relating to people who work for the organisation) as well as **external** policies (relating to those who are, or could be, served by the organisations).

It is important to remember that even if a full EQIA has been carried out in respect of an “overarching” policy or strategy, it will still be necessary for the policy maker to consider if a further EQIA needs to be carried out in respect of those policies cascading from the overarching strategy.

OFMDFM Guidance on Legislative Procedures (Primary and Subordinate) sets out clearly the stages at which equality of opportunity considerations should be taken into consideration in the development of legislation.

### **Overview of Policy Proposals**

The aims and objectives of the policy must be clear and well defined. You must take into account any available data or evidence that will enable you to come to a decision on whether or not a policy may or may not have a differential impact on any of the S75 categories. Evidence may be qualitative and or quantitative and may include research or internal information and or experience in relation to service and customer monitoring exercises. Where appropriate, arrangements should be made to obtain any data necessary to assist screening. The Equality

Unit or Central Statistics & Research Branch (Michael Bennett ext 40916) are available to provide advice on data requirements.

- 2.1 Please insert below a brief description of the policy/legislation, including the title and all the main aims and objectives
- Title Proposed change to the transitional provisions which protect members who can avail of the 85 year rule in the Local Government Pension Scheme in Northern Ireland (LGPS) to match those currently in place in the LGPS in Scotland.
- Aims Possible change to the transitional provisions in the LGPS (NI) to match the Scottish transitional provisions which protect members from the removal of the 85 year rule until 31st March 2020 with no period of tapered protection thereafter.

It is essential that all the aims/objectives of the policy be clearly and fully defined.

- 2.2 On whom will the policies/legislation impact? Please specify

The proposal will have an impact on the LGPS-

- the administering authority - the Northern Ireland Local Government Officers' Superannuation Committee (NILGOSC);
- employers; and
- members.

- 2.3 Who is responsible for (a) devising and (b) delivering the policy, eg is it DOE, a Whitehall Department or EU? What is the relationship and have they considered this issue and any equality issues?

- (a) (i) The 85 year rule was initially removed because of the introduction of the European Employment Directive 2000/78/EC which establishes a general framework for equal treatment in employment and occupation. The NI Department responsible for implementing the age strand of the Directive into UK law is the Office of the First Minister and Deputy First Minister. The Employment Equality (Age) Regulations (NI) 2006 have, with effect from 1 October 2006, prohibited unjustified direct and indirect age discrimination, harassment and victimisation on grounds of age. The 85 year rule discriminates directly on grounds of age.
- (ii) In his judgement on the judicial review - Unison -v- First Secretary of State [2006] EWHC 2373 Admin – A Nichol QC accepted that there was justification for some transitional protection, on the basis-
- that members close to retirement might otherwise have

- difficulties in making alternative arrangements; and
  - the cost of transitional protections,
- were rational bases for the transitional protections.
- (iii) The current transitional provisions in Northern Ireland are in line with the policy of parity with the LGPS in England and Wales. These give full protection to members, who were members at 30 September 2006, who will be 60 and satisfy the 85 year rule and retire by 31 March 2016. There is also a tapered reduction period for members who will be 60 and satisfy the 85 year rule and who retire between 1 April 2016 and 31 March 2020. The tapered reduction is calculated using factors supplied by the Government Actuary's Department.
- (iv) Following meetings with the Department and trade unions, Minister Poots agreed to consult on the proposed change to the current transitional provisions which protect members who can avail of the 85 year rule to match the Scottish transitional provisions.
- (b) NILGOSC.
- (c) The NI transitional protections are in line with the policy of maintaining broad parity with the LGPS in England and Wales. Scotland also has a policy of maintaining broad parity but in this case the then Minister with responsibility for local government in Scotland took the view that the transitional protection arrangements should be the maximum possible within the constraints of being legal, affordable and proportionate. The transitional protections in Scotland provide full transitional protection for members who would satisfy the 85 year rule and will be 60 by 31 March 2020 without any tapered reduction period thereafter (the Scottish transitional protections).

The Scottish Public Pensions Agency (SPPA), which is responsible for the legislation relating to the LGPS in Scotland, acknowledges the deviation from parity by explaining that Scottish Ministers have chosen to use executive devolved powers to develop a Scottish solution to the removal of the 85 year rule from the LGPS while ensuring that the LGPS Regulations are consistent with legal requirements both in Scotland and the UK as a whole.

#### 2.4 What linkages are there to other NI Departments/NDPBs in relation to this policy/legislation?

NILGOSC is the Non Departmental Public Body linked to Local Government Policy Division (LGPD), DOE, which administers the LGPS and implements the policy/legislation.

DOE - LGPD is responsible for the subordinate legislation governing the LGPS. The lead Department in relation to policy in the LGPS is the Department for Communities and Local Government.

2.5 What data are available to facilitate the screening of this policy/ legislation?

The Department commissioned actuaries (Hymans Robertson) to assess the cost of a change to the existing protections using data from the 2004 valuation of the fund in NI. This exercise was repeated using data from the 2007 valuation of the fund.

2.6 Is additional data required to facilitate screening? If so, give details of how and when it will be obtained.

No.

See Appendix 4 of the Equality Commission Practical Guidance on EQIA which provides a list of Sources of S75 data or speak to Central Statistics and Research Branch (Michael Bennett, ext 40916) or Equality Unit (Alex Boyle, ext 41194, or Laura McAleese, ext 40203).

### Section 3 – Screening Analysis

In cases where there is no available quantitative evidence, you will need to take a pragmatic, common sense judgement as to whether the policy/legislation you are screening may have a particular/differential impact on any of the groups. Discussions with Equality Unit, Statistics Branch and organisations representing the Section 75 Groups will be important and helpful at this stage in obtaining qualitative evidence of impacts. Every effort should be made to ensure that assessments are evidence based.

The following criteria must be considered when screening.

3.1 Is there any indication or evidence of higher or lower participation or uptake by the following Section 75 groups?

	Yes	No
Religious belief		No
Political opinion		No
Racial group		No
Age	Yes	
Marital status		No
Sexual orientation		No
Gender		No
Disability		No
Dependants		No

Please give details

The 85 year rule discriminates on the grounds of age therefore the change to the transitional provisions allowing the continuation of the 85 year rule will have a detrimental impact. However, given that both the current transitional provisions and the Scottish transitional provisions end on 31st March 2020, the impact is likely to be marginal.

3.2 Is there any indication or evidence that any of the following Section 75 groups have different needs, experiences, issues and priorities in relation to this policy issue?

	Yes	No
Religious belief		No
Political opinion		No
Racial group		No
Age	Yes	
Marital status		No
Sexual orientation		No

Gender		No
Disability		No
Dependants		No

Please give details

### Age

The following example demonstrates the age-discriminatory aspects of the 85 year rule. Two LGPS members who wish to retire are in comparable situations except for their age-

Person A is 61 years old with 22 years service

Person B is 63 years old with 22 years service

Person B can retire with an unreduced pension because the 85 year rule is met ( $63+22=85$ ), whereas person A's pension would be actuarially reduced ( $61+22=83$ ) because they do not satisfy the 85 year rule.

- 3.3 Have consultations with the relevant representative organisations or individuals within any of the Section 75 categories, indicated that policies of this type create problems specific to them?

	Yes	No
Religious belief		
Political opinion		
Racial group		
Age		
Marital status		
Sexual orientation		
Gender		
Disability		
Dependants		

Please give details of any consultations carried out, and any problems identified.

Not known at present because this screening has been completed to accompany the policy consultation. The deadline for receipt of comments is 31 December 2009.

- 3.4 Is there an opportunity to better promote equality of opportunity or community relations by altering the policy, or by working with others, in Government, or in the larger community in the context of this policy?

Yes No

Please give details

There is no equivalent to the 85 year rule in any other public sector pension scheme therefore the proposed change does not have any effect on general public sector pension policy.

- 3.5 It may be that a policy/legislation has a differential impact on a certain Section 75 group, as the policy has been developed to address an existing or historical inequality or disadvantage. If this is the case, please give details below:

N/A

- 3.6 Please consider if there is any way of adapting the policy to promote better equality of opportunity or good relations.

Please give details

No. Please see answer at 3.4 above.

- 3.7 In relation to Departmental obligations under Section 49A of the Disability Discrimination Act 1995 (DDA) (as amended by the Disability Discrimination (Northern Ireland) Order 2006), please consider if there is any way of adapting the policy to show due regard to the need to promote positive attitudes towards disabled people and/or encourage participation by disabled people in public life.

Please give details

No. Please see answer at 3.4 above.

## Section 4 EQIA Recommendation

You should consider carefully in this section whether full EQIA is necessary, particularly where answers to any questions in Section 3 are affirmative.

- 4.1 Full EQIA procedures should be carried out on policies considered to have significant implications for equality of opportunity. Please fill in the following grid in relation to the policy/legislation.

<b>Prioritisation Factors</b>	<b>Significant Impact</b>	<b>Moderate Impact</b>	<b>Low Impact</b>
Social Need.			<b>X</b>
Effect on people's daily lives.			<b>X</b>
Effect on economic, social and human rights.			<b>X</b>
Strategic significance			<b>X</b>
Financial significance			<b>X</b>

Please give details

The Scottish transitional provisions give full protection to members from the removal of the 85 year rule until 31st March 2020. The drawback of this protection is that it creates a situation where those who satisfy the 85 year rule on or before 31 March 2020 will receive full protection but those retiring before age 65 after that date will have their pension actuarially reduced.

The latest costing, based on the 2007 valuation data, showed that the increase of the current transitional protections to the same as those in Scotland would be 0.3% of the total existing members' payroll over their expected period of future service. This is equivalent to £18.2m or 0.15% of pay over 20 years assuming a stable payroll over that period.

The proposed change would increase the number of members currently eligible for full protection from the removal of the 85 year rule by 5,657 (13% of active membership). Total active membership as at 2007 valuation

was 42,229.

- 4.2 In view of the considerations in Section 3 and 4 do you consider that this policy/legislation should be subject to a full EQIA? Please give reasons for your considerations. If you are unsure, please consult with affected groups and revisit the screening analysis accordingly. Yes/No/Unsure

No a full EQIA is not considered necessary.

The proposed extension of the transitional provisions to match those in Scotland creates a marginal detrimental impact on grounds of age.

- 4.3 If an EQIA is considered necessary please comment on the priority and timing in light of the factors in table 4.1.

N/A

- 4.3 If an EQIA is considered necessary is any data required to carry it out/ensure effective monitoring?  
Please give details

N/A

## **Section 5**

### **Endorsement**

I can confirm that the proposed policy has been screened for equality of opportunity and good relations implications and has been screened out for equality impact assessment/~~requires a full equality impact assessment.~~

Signed:



**Wesley Shannon**  
**Director**

Division:

**Local Government Policy Division**

Date:

30<sup>th</sup> October 2009

**PLEASE FORWARD A COPY OF THE COMPLETED FORM TO:**

**DOE EQUALITY UNIT  
ROOM 413A  
CLARENCE COURT  
10-18 ADELAIDE STREET  
BELFAST  
BT2 8GB**

**QUERIES TO:**

**ALEX BOYLE, EXT 41194**  
[alex.boyle@doeni.gov.uk](mailto:alex.boyle@doeni.gov.uk)

**LAURA McALEESE, EXT 40203**  
[laura.mcaleese@doeni.gov.uk](mailto:laura.mcaleese@doeni.gov.uk)

**Section 6**

**For Completion by Equality Unit**

**Date**

**Screening result recorded:** \_\_\_\_\_

**Placed on website:** \_\_\_\_\_

**Screening out completed:** \_\_\_\_\_

**Screening to be reconsidered:** \_\_\_\_\_

**Give reasons:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Agency/Division notified date:** \_\_\_\_\_

\_\_\_\_\_

<b>Main Groups Relevant to the Section 75 Categories</b>	
<b><u>Category</u></b>	<b><u>Main Groups</u></b>
Religious belief	Protestants; Catholics; people of non-Christian faiths; people of no religious belief
Political opinion	Unionists generally; Nationalists generally; members/supporters of any political party
Racial Group	White people; Chinese; Irish Travellers; Indians; Pakistanis; Bangladeshis; Black Africans; Black Caribbean people; people with mixed ethnic group
Gender	Men (including boys); women (including girls); trans-gendered people
Marital status	Married people; unmarried people; divorced or separated people; widowed people
Age	For most purposes, the main categories are: children under 18, people aged between 18-65, and people over 65. However, the definition of age groups will need to be sensitive to the policy under consideration
“Persons with a disability”	Disability is defined as: A physical or mental impairment, which has a substantial and long- term adverse effect on a person’s ability to carry out normal day-to-day activities as defined in Sections 1 and 2 and Schedules 1 and 2 of the Disability Discrimination Act 1995
“Persons with dependants”	Persons with personal responsibility for the care of a child; persons with personal responsibility for the care of a person with an incapacitating disability; persons with personal responsibility for the care of a dependant elderly person
Sexual orientation	Heterosexuals; bi-sexuals; gays; lesbians

