

# 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 Business Planning and Equality Team**) 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.

### **Advice on Completion of the Screening Form**

It is important that the screening form is completed carefully and thoughtfully. Your Divisional or Agency Equality Officer and the Department's Business Planning and Equality Team in room 413B 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 Business Planning and Equality Team 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 Business Planning and Equality Team who will ensure that copies of all screening out forms are 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 Business Planning and Equality Team 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** Draft Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2012 (“the draft Regulations”)

**Aims** The Local Government Pension Scheme in Northern Ireland (the Scheme) is governed by the following principal Regulations-

- Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009 (the Benefits Regulations);
- Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009 (the Administration Regulations); and
- Local Government Pension Scheme (Amendment and Transitional Provisions) Regulations (Northern Ireland) 2009.

The draft Regulations contain amendments to the Benefits Regulations and the Administration Regulations.

The Local Government Pension Scheme in Northern Ireland maintains broad parity with the Local Government Pension Scheme in England and Wales. A number of the proposed amendments correspond to amendments made to the Local Government Pension Scheme in England and Wales.

It is proposed to make the following amendments to the Benefits Regulations.–

- Regulation 4 (meaning of “pensionable pay”) will be amended to ensure that any sum representing the arrears of pay for the purposes of achieving equal pay is included but any award of compensation is excluded from the definition of pensionable pay
- Regulation 10 (final pay: reductions) allows a member whose pensionable pay has been reduced or restricted in specified conditions to choose to have his final pay calculated by dividing by three any three consecutive years within a period of 10 years before the member’s last date. The regulation will be amended to give the Committee the discretion to give notice on behalf of a deceased member who meets the qualifying conditions, to have his final pay calculated in accordance with this regulation, whether or not the period of notice has expired. An amendment will also be made to specify that the member must give notice in writing to the Committee by the month before he ceases membership. A further

**amendment will be made to clarify that this regulation does not apply to a member who has opted to take flexible retirement under regulation 18.**

- **A new paragraph will be added to regulation 18 (flexible retirement) to make it clear that benefits paid after age 65 will be actuarially enhanced in accordance with guidance issued by the Government Actuary.**
- **Regulation 20 (early leavers: ill-health) will be amended to avoid misinterpretation by replacing the term “obtaining any gainful employment” with “being capable of undertaking any gainful employment”. This is intended to clarify that the independent registered medical practitioner is assessing the member’s ability to undertake gainful work. Regulation 20(7) will also be amended to clarify that the transitional protection for a person who was a member before 1<sup>st</sup> April 2009 and was aged 45 (or more) before that date only applies to members with continuous membership from before 1st April 2009.**
- **Regulations 23 (death grants: active members) and 24 (survivor benefits: active members) will be amended to disregard the reduction in pay where a member was in part-time employment as a result of a medical condition and that condition subsequently leads to the death of the member. This amendment ensures equal treatment for**
  - **an active member who is in part-time employment as a consequence of a condition that results in the early release of retirement benefits on the grounds of ill-health; and**
  - **an active member who has reduced his hours as a result of an illness but dies in service.**
- **Regulation 39 (commutation: small pensions) will be amended to include a flexibility under section 164(1)(f) of the Finance Act 2004 which enables the commutation of benefits not in excess of £2,000 in one scheme. This will bring the Benefits Regulations into line with the Registered Pension Schemes (Authorised Payments) Regulations 2009.**

**It is proposed to make the following amendments to the Administration Regulations.**

- **Regulation 13 (concurrent employments) will be amended to enable members, subject to certain conditions, to aggregate periods of membership in concurrent employments.**

- **Regulation 22 (use of accumulated value of additional voluntary contributions and shared cost additional voluntary contributions) will be amended to include two new paragraphs. The first of these will give the Committee the discretion to pay the accumulated value to a member's personal representatives in the event of his or her death. This discretion was included in the Local Government Pension Scheme Regulations (Northern Ireland) 2002 but was not carried forward to the current Administration Regulations. The second new paragraph will require the Committee to make the payment of the total accumulated value within two years of the member's death, to his or her personal representatives.**
- **A new regulation, regulation 47A (payments for persons incapable of managing their affairs) will be added to enable the Committee to determine how and to whom benefits may be paid for the benefit of a person who is incapable of managing their own affairs.**

**The draft Regulations will also make an amendment to regulation 11 of the Administration Regulations to ensure the continued protection of the pensions for those classroom assistants covered by the collective agreement of the employer and employee negotiating machinery for the Education and Library Boards (the Joint Negotiating Council) or the subsequent decision by the Department of Education. In those cases the pension will be protected where a member:-**

- **decides to aggregate a period or periods of protected membership with another period of membership; or**
- **where a member has concurrent employments and is a member of the LGPS in both employments, if one employment ends and the member then decides to join the period or periods of protected membership from the terminated employment with the period of membership in the current employment.**

**The Local Government Pension Scheme (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010 No. 164) introduced amendments to protect certain periods of membership accrued by classroom assistants. The collective agreement reached on 30 November 2007 by the Joint Negotiating Council changed the conditions of service, including the whole-time conditioned hours, for classroom assistants employed by the Education and Library Boards. This included a buy out of historic terms and conditions. Pension rights on the basis of a whole-time equivalent of 32.5 hrs per week during the period from 1 January 1995 to 30 November**

2007 (inclusive) were protected. Pension rights thereafter are accrued on the basis of a whole-time equivalent of 36 hrs per week.

The Department of Education subsequently (6th February 2009) made resources available to voluntary grammar and grant maintained integrated schools to implement conditions of service, including pay rates for classroom assistants employed in those schools in line with collective agreement by the Joint Negotiating Council. In the case of these classroom assistants the protection period is from 1 January 1995 to 6 February 2009.

The draft Regulations also contain a number of minor technical amendments.

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 draft Regulations will impact on-

- the Northern Ireland Local Government Officers' Superannuation Committee (the Committee), the administering authority for the Local Government Pension Scheme (LGPS) in Northern Ireland;
- LGPS members; and
- LGPS employers

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

- (a) The Department of the Environment is responsible for the legislation in relation to the LGPS in Northern Ireland.
- (b) Northern Ireland Local Government Officers' Superannuation Committee (the Committee) is responsible for administration of the LGPS in Northern Ireland.
- (c) See section 3 below.

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

Northern Ireland Local Government Officers' Superannuation Committee is an Arm's length Body of the Department of the Environment (DOE). It administers the LGPS and implements the

**policy/legislation.**

**DOE (LGPD) is responsible for the subordinate legislation governing the LGPS.**

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

**None.**

**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 the Business Planning and Equality Team (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 the Business Planning and Equality Team, 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?**

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

**Please give details**

#### **Gender**

The draft Regulations ensures the continued protection of the pensions of classroom assistants employed by the Education & Library Boards, grant maintained integrated (GMI) and voluntary grammar (VG) schools in accordance with the collective agreement reached by the Joint Negotiating Council and the Minister of Education's decision to make additional resources available for the implementation of the collective agreement in GMI and VG schools. It is probable that the group covered by this amendment is predominately female and it will therefore have a greater impact on that gender. The amendment is, however, designed to maintain the protection of pension rights as agreed under the collective agreement.

#### **Disability/People with Dependants**

The proposed amendments to introduce a new regulation (regulation 47A (payments for persons incapable of managing their own affairs)) would allow the Committee to determine how and to whom benefits may be paid for the benefit of a person who is incapable of managing their own affairs.

The proposed amendment would allow the Committee to reassign benefits to an appropriate person or, where necessary would be able to Committee

to expend the benefits on behalf of the beneficiary.

The proposed regulation would reduce the complexity and cost to relatives of the current system of having to apply to the Office of Care and Protection where there is no enduring power of attorney in place. It should also ensure that the payments from the pension scheme are used for the benefit of the beneficiary.

**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		No
Marital status		No
Sexual orientation		No
Gender		No
Disability		No
Dependants		No

**Please give details**

**There is no indication or evidence of different needs.**

**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 consultation on the proposed amendments. The deadline for receipt of comments is 31 December 2011.**

- 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 evidence that altering the policy would better promote equality of opportunity or community relations.**

- 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 draft Regulations will amend the Benefits and Administration Regulations to maintain the policy of broad parity with England and Wales and to ensure the continued protection of classroom assistants' pensions. It has a low impact across all prioritisation factors.**

- 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 draft Regulations will amend the LGPS Regulations to maintain the policy of broad parity with England and Wales and to ensure the continued protection of classroom assistants' pensions. The draft**

**Regulations have a low impact across all prioritisation factors.**

**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**

**4.4 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

  
Director of Local Government Policy Division

17 / 11 / 11  
Date

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

**DOE BUSINESS PLANNING AND EQUALITY TEAM  
ROOM 413B  
CLARENCE COURT  
10-18 ADELAIDE STREET  
BELFAST  
BT2 8GB**

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

**Section 6**

**For Completion by the Business Planning and Equality Team**

**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