

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.

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 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** Draft Local Government (Provision of Services) Regulations (Northern Ireland) 2010 (the draft SR)
- Aims** To ensure that Schedule 2 to the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985 (S.I. 1985 No. 1208 (N.I. 15)) (the Order) complies with Directive 2006/123/EC of the European Parliament and of the Council on services in the internal market (OJ No. L 376, 27.12.2006, p 36) (the Directive).

The Directive establishes general provisions facilitating the exercise of freedom of movement of services, while maintaining a high quality of services.

The draft SR proposes the following changes to Schedule 2 to the Order –

The current requirement for an applicant to be resident in the UK for 6 months before applying for a licence (or be a body corporate incorporated in the UK) does not comply with the Directive. The draft SR replaces references to the United Kingdom with references to a Member State of the EEA.

Two amendments are being made to ensure that the provisions in Schedule 2 reflect the requirements of The Provision of Services Regulations 2009 (SI 2009/2999) which gave effect to the main elements of the Directive in the United Kingdom. These are:

- provision for a council, when it receives an application, whether by means of a relevant electronic facility or otherwise, to send a copy of the application to the appropriate district commander of the Police Service of Northern Ireland: and
- a requirement for a district council to provide reasons for refusing to grant, transfer or renew a licence, whether or not requested by the applicant.

The Regulations also replace the definition of “appropriate sub-divisional commander” with a new definition for “appropriate district commander” and references to “appropriate sub-divisional commander” are also replaced with “appropriate district commander”.

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 SR will impact on-

- district councils; and
- applicants for licences and licence holders seeking to transfer or renew a licence.

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) The Department of the Environment, as a department designated under section 2(2) of the European Communities Act 1972 in relation to services in the internal market is responsible for implementing the Directive in so far as it relates to Schedule 2 to the Order. The Department therefore has a duty to amend the legislation in order to ensure compliance with the Directive.

(b) District councils are responsible for licenses issued under Schedule 2 to the Order.

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

None.

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

Please give details

There is no indication of evidence of higher or lower participation or uptake by the section 75 groups. The draft SR amends the Order to comply with Directive 2006/123/EC of the European Parliament and of the Council on services in the internal market, specifically in relation to the licensing of premises by district councils under Schedule 2 to the Order. The draft SR will:-

- provide for councils to forward applications made by electronic and other means to the Police Service of Northern Ireland;
- place a requirement on district councils to provide applicants and holders applying for the transfer or renewal of licences with the reasons for a refusal whether requested or not; and
- amend the Order to replace references to “the United Kingdom” with references to “an EEA state” in relation to the residency conditions for refusing an application for a grant, renewal or transfer of a licence.

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, experiences, issues and priorities in relation to this draft SR among applicants for licences and licence holders seeking the transfer or renewal of licences.

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.

No consultation has been carried out. The draft SR is urgently required to comply with the Directive, which came into operation on 28 December 2009. As a consequence of the time constraints for the implementation of the Directive, consultation has not been possible.

- 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 opportunity to alter the policy because it is necessary to ensure compliance with the Directive.

- 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.

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

Please give details

The draft SR relates solely to the licences issued under Schedule 2 to the Order by district councils and 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 SR makes minor amendments to the Order to –

- allow for the processing of applications made by electronic means;
- require a district council, where it has refused to grant, renew or transfer a licence, to give the applicant or holder a statement in writing of the reasons for its decision; and
- replace references to “the United Kingdom” with references to “an EEA state” in relation to the conditions for refusing an application for the granting, renewal or transfer of a licence.

The draft SR has 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

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

N/A

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: _____

Main Groups Relevant to the Section 75 Categories	
<u>Category</u>	<u>Main Groups</u>
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