

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 40855/40813) 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 (Stephanie Harcourt ext 40878 or 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 NEW LOCAL GOVERNMENT PENSION SCHEME

- 1. Draft Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2008 (the Benefits Regulations)**
- 2. Draft Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2008 (the Administration Regulations); and**
- 3. Draft Local Government Pension Scheme (Transitional Provisions) Regulations (Northern Ireland) 2008 (the Transitional Provisions Regulations).**

Aims It is proposed that the Benefits Regulations will make provision for-

- an improved accrual rate of 1/60th (previously 1/80th) for all new and existing members from 1 April 2009 with the option to convert up to 25% of the value of the pension to a lump sum;**
- employee contribution rates ranging from 5.5% to 7.5% depending on rate of pay (transitional relief is provided for members with lower contribution rate rights);**
- a three tier ill-health benefit provision;**
- survivor benefits for widows, widowers, civil partners and “nominated” co-habiting partners at a rate of 1/160th;**
- survivor benefits for children at a maximum rate of 1/160th;**
- improved death in service lump sum benefit of 3 times salary (previously 2 times salary);**
- flexible retirement arrangements which would enable members, with their employer’s permission, to draw down some or all of their accrued pension rights from the Scheme while continuing to work;**
- a facility to buy up to £5,000 of added annual pension;**
- a facility to contribute additional voluntary contributions; and**
- future cost sharing arrangements for employee and employers.**

It is proposed that the Administration Regulations will make provision for-

- the rules relating to membership of the Scheme;**
- the procedure where a member decides to pay additional regular contributions or additional voluntary contributions;**
- the pension fund and employers’ payments;**
- payment of benefits;**
- the determination of questions and disputes;**

- **special adjustments; and**
- **transfers in and out of the Scheme.**

It is proposed that the Transitional Provisions Regulations will make provision for the revocation of most of the Local Government Pension Scheme Regulations (Northern Ireland) 2002 but certain parts will continue to apply such as, the transitional protection following the removal of the 85 year rule. The revocation does not affect any of the rights relating to deferred and pensioner members of the Scheme and the periods of membership used in calculating their benefits and other entitlements accruing to 31 March 2009.

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 proposed Benefits Regulations, Administration Regulations and Transitional Provisions Regulations will impact on-

- **the Northern Ireland Local Government Officers' Superannuation Committee (NILGOSC) which administers the Local Government Pension Scheme in Northern Ireland;**
- **employers who contribute to the Local Government Pension Scheme (LGPS); and**
- **employees who are members of the LGPS.**

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 is responsible for the legislation in relation to the LGPS in Northern Ireland.

(b) NILGOSC and employers.

The DOE maintains the long established and widely accepted policy of parity with the Local Government Pension Scheme in England and Wales. Equality issues have been identified at section 3 below.

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 the DOE's Local Government Policy Division, which administers the LGPS and implements the policy/legislation.

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

Actuarial valuations.

Actuarial report on cost of extending 85 year rule protections.

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 (Stephanie Harcourt, ext 40878, or 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 was part of the Scheme under the LGPS Regulations (NI) 2002. It was removed with effect from 1st October 2006, however transitional provisions were introduced to protect those Scheme members closest to retirement, who would have insufficient time to make alternative arrangements for retirement.

The LGPS has a normal retirement age of 65. Usually when a pension is paid before age 65 it is reduced because it is probable that it will be paid for a longer period. This 85 year rule allowed LGPS members whose age plus length of service equals 85 to retire from 60 (or from 50 with employer consent) on an unreduced pension. Any Scheme member can retire from 60 (or from 50 with employer consent), but if they do not satisfy the 85 year rule, they will face a reduction in their pension.

The 85 year rule was removed because it contravened the European Directive 2000/78/EC (the Directive) by discriminating directly on the grounds of age. The age strand of the Directive was given implemented in UK with effect from

1 October 2006.

The transitional provisions allow existing members who will be 60 and would have satisfied the 85 year rule to continue to avail of it until 31 March 2016 – tapered reduction applies from 1 April 2016 until 31 March 2020. The taper will allow a progression from zero reduction as at 31 March 2016 - for those members covered by the additional protection - to full reduction for members choosing to retire before the Scheme's normal retirement age on and after 1 April 2020. The Government Actuary's Department guidance will set out how this phasing may vary in individual cases.

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 may be useful in demonstrating 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 the 85 year rule is not satisfied.

The reason for the different pension entitlement is each person's age therefore the 85 year rule is age-discriminatory.

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 the statutory consultation is ongoing with a deadline for receipt of comments of 31st October 2008.

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

N/A

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:

The proposed introduction of survivor benefits for nominated co-habiting partners will have a positive impact on the marital status category of section 75.

Until now the co-habiting partner of a member of the Local Government Pension Scheme did not qualify for survivor benefits.

A member may now, under certain qualifying conditions, nominate his or her co-habiting partner to receive survivor benefits.

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.

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 introduction of the new Local Government Pension Scheme will not have significant implications for equality of opportunity.

- 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 85 year rule discriminates directly on grounds of age. It was removed with effect from 1 October 2006 in order to comply with the European Employment Directive 2000/78/EC.

The proposed continuation of the protection for Scheme members closest to retirement will have an impact on the age category because the protection will only apply to members closest to retirement and therefore put other age groups at a disadvantage. It will, however, cease from 1 April 2020.

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**

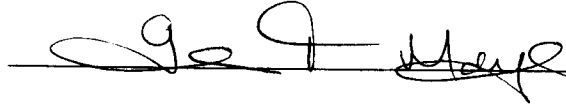
N/A

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:



**Ian Maye
Director**

Division:

Local Government Policy Division

Date:

10 June 2008

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**

**UNA DOWNEY, EXT 40855
una.downey@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: _____

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
Martial 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