

DRD SECTION 75 EQUALITY OF OPPORTUNITY SCREENING ANALYSIS FORM 2005

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 quarterly review of progress made to the Minister and in the Annual Report to the Equality Commission. Copies of completed forms should be retained on file within business areas 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 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 to arrange for consultation. Copies of all screening out forms will be placed on the Department's consultation 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 of 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.

2.1 Please insert below a brief description of the policy/legislation, including the title and all the main aims and objectives.

Title	Roads (Miscellaneous Provisions) Bill – Proposal to amend the Traffic Management (NI) Order 2005 (“the 2005 Order”) in consequence of the Constitutional Reform Act 2005 (“the 2005 Act”).
Aims	<p>To introduce a requirement on the Lord Chancellor to consult the Lord Chief Justice for Northern Ireland in exercising the following powers under the 2005 Order:</p> <ul style="list-style-type: none">• Article 16(3), which provides that the Lord Chancellor may determine additional matters that must be stated in a statutory declaration; and• Article 30(1), which provides that the Lord Chancellor may make regulations providing for the procedure to be followed in relation to proceedings before adjudicators.
Notes	<p>The 2005 Order includes provisions to allow the decriminalisation of parking and waiting restrictions in Northern Ireland, the enforcement by the Department of these restrictions and the establishment of an independent adjudication process. The Lord Chancellor has not used the powers available to him under Article 16(3). The Traffic Management (Proceedings before Adjudicators) Regulations (Northern Ireland) 2006 (2006 No.421) were made under Article 30(1) in October 2006.</p> <p>The 2005 Act reformed the office of the Lord Chancellor to give legal effect to the separation of judicial and executive functions. Although overall responsibility for the administration of the court system remained with the Lord Chancellor, the Lord Chief Justice became head of the judiciary in Northern Ireland and, as a result, many of the Lord Chancellor's judiciary and court related functions transferred to him.</p> <p>In consequence of the modification of the office of the Lord Chancellor by the 2005 Act, the two functions noted above which are exercisable by the Lord Chancellor under the 2005 Order require amendment. Both are akin to court-related rule-making functions which, following the commencement of the</p>

2005 Act, are exerciseable by the Lord Chancellor after consultation with the Lord Chief Justice.

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 amendment to the existing legislation introduces a change to the administrative procedures of the Offices of the Lord Chancellor and the Lord Chief Justice for Northern Ireland. The amendment will, therefore, have an impact on the relevant staff of the Northern Ireland Court Service (NICtS).

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

- (a) The change in administrative procedure is being introduced as a consequence of the 2005 Act, which extends to Northern Ireland. The equality screening for the 2005 Order can be accessed at <http://www.roadsni.gov.uk/dpe.pdf>.
- (b) NICtS.

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?

Not applicable, as there are no impacts on external groups as a result of the purely administrative change in procedures. Any proposal to change the requirements of statutory declarations under Article 16(1), or to amend the 2006 Regulations would be subject to separate equality impact assessment screenings.

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 Research Branch, (Stephanie Harcourt, ext 40878) or Equality Unit (Jackie Gregg, ext 40867, or Tim Lavery ext 40850).

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 evidence of higher or lower participation or uptake by the following Section 75 groups?

	Yes	No
Religious belief		√
Political opinion		√
Racial group		√
Age		√
Marital status		√
Sexual orientation		√
Men and Women generally		√
Disability		√
Dependency		√

Please give details

Not applicable – administrative change to procedures only.

3.2 Is there 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		√
Political opinion		√
Racial group		√
Age		√
Marital status		√
Sexual orientation		√

	Yes	No
Men and Women generally		√
Disability		√
Dependency		√

Please give details

Not applicable – administrative change to procedures only.

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		√
Men and Women generally		√
Disability		√
Dependants		√

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

Public consultation on this proposal was carried out between 4 December 2008 and 6 March 2009.

The consultation provided an opportunity for interested parties to comment on this equality screening.

No comments on equality issues were received.

The screening decision will also be included in the Department's biannual consultation with S75 consultees.

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

Not applicable – administrative change to procedures only.

- 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:**

Please give details

Not applicable – administrative change to procedures only.

- 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

Not applicable – administrative change to procedures only.

- 3.7 In relation to departmental obligations under Section 49A of the Disability Discrimination Act 1995 (DDA 1995) (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

Not applicable – administrative change to procedures only.

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.			√
Effect on people's daily lives.			√
Effect on economic, social and human rights.			√
Strategic significance			√
Financial significance			√

- 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.**

Full EQIA not considered to be required. Administrative change to rule-making procedures will have no impacts on the public (including all Section 75 groups).

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

Not applicable – administrative change to procedures only.

- 4.4 If an EQIA is considered necessary is any data required to carry it out/ensure effective monitoring?**

Please give details

Not applicable – administrative change to procedures only.

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: Clare Carey

Agency/Division: DRD, Roads Service, Primary Legislation Unit

Date: 10 March 2009

Section 6

Consultation – For Completion by Equality Unit

	Date
Screening result recorded:	<u>11 March 2009</u>
Placed on website:	<u>March 2009</u>
Issued for consultation:	<u>April 2009</u>
Agency/Division notified date:	_____

PLEASE FORWARD A COPY OF THE COMPLETED FORM TO:

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

QUERIES TO: JACKIE GREGG EXT 40867 Jackie.Gregg@drdni.gov.uk
TIM LAVERTY EXT 40850 Tim.Laverty@drdni.gov.uk

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	<i>Unionists generally; Nationalists generally; members/supporters of any political party</i>
Racial Group	White people; Chinese; Irish Travellers; Indians; Pakistanis; Bangladeshis; Black Africans; Black Caribbean people; people with mixed ethnic group
“Men and women generally”	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