

## Assembly Section

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Mr Shane McAteer  
Clerk  
Committee for Finance and Personnel  
Room 419  
Parliament Buildings  
Stormont

20 June 2013

**Dear Shane,**

### **LCM ON MARRIAGE (SAME SEX COUPLES) BILL**

Officials have advised that the format of the Equality Commission's screening form has been revised and we have, therefore, populated the new form with the information from the form which was originally sent to the Committee.

Please note that the substance of the information in the form and the overall conclusion has not changed .

Yours sincerely,

A handwritten signature in blue ink that reads "Judith Finlay".

**Judith Finlay**

# Appendix 1

## Screening flowchart and template

### Introduction

**Part 1. Policy scoping** – asks public authorities to provide details about the policy, procedure, practice and/or decision being screened and what available evidence you have gathered to help make an assessment of the likely impact on equality of opportunity and good relations.

**Part 2. Screening questions** – asks about the extent of the likely impact of the policy on groups of people within each of the Section 75 categories. Details of the groups consulted and the level of assessment of the likely impact. This includes consideration of multiple identity and good relations issues.

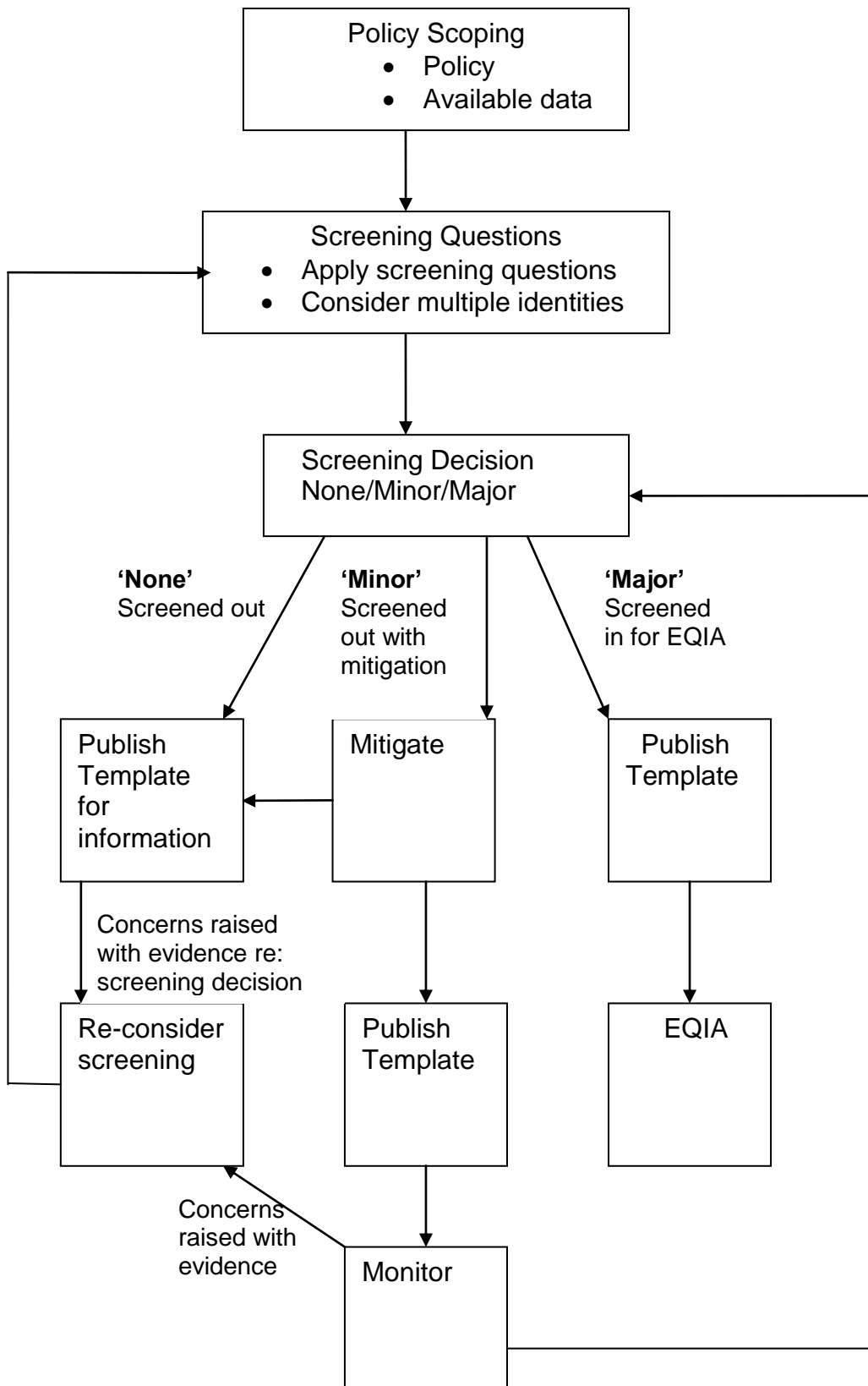
**Part 3. Screening decision** – guides the public authority to reach a screening decision as to whether or not there is a need to carry out an equality impact assessment (EQIA), or to introduce measures to mitigate the likely impact, or the introduction of an alternative policy to better promote equality of opportunity and/or good relations.

**Part 4. Monitoring** – provides guidance to public authorities on monitoring for adverse impact and broader monitoring.

**Part 5. Approval and authorisation** – verifies the public authority's approval of a screening decision by a senior manager responsible for the policy.

A screening flowchart is provided overleaf.

# SCREENING FLOWCHART



## Part 1. Policy scoping

The first stage of the screening process involves scoping the policy under consideration. The purpose of policy scoping is to help prepare the background and context and set out the aims and objectives for the policy, being screened. At this stage, scoping the policy will help identify potential constraints as well as opportunities and will help the policy maker work through the screening process on a step by step basis.

Public authorities should remember that the Section 75 statutory duties apply to internal policies (relating to people who work for the authority), as well as external policies (relating to those who are, or could be, served by the authority).

### Information about the policy

Name of the policy

Legislative Consent Motion in respect of the Marriage (Same Sex Couples) Bill ("the Bill")

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Is this an existing, revised or a new policy?

New Policy

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What is it trying to achieve? (intended aims/outcomes)

The overall aim of the policy is to take account of the Bill and to ensure that there is an appropriate fit between the proposed new law on same sex marriage in England and Wales and the law in Northern Ireland.

The proposed Legislative Consent Motion will allow the Bill to provide for how English/Welsh same sex marriages will be treated in Northern Ireland. It will also allow for the making of transitional/consequential provision in the devolved sphere with the consent of the Department and, in the context of applications for gender recognition certificates, will provide for the correction of errors/ handling of fraudulent applications. The proposed Legislative Consent Motion will provide for the following provisions in the Bill to apply to Northern Ireland:

- Clauses 10(3), 12, 15(1) to (3) and 16,
- paragraph 2 of Schedule 2; and
- Schedule 5 (as introduced in the House of Commons on 24 January 2013).

Are there any Section 75 categories which might be expected to benefit from the intended policy?

If so, explain how.

Yes. Same sex marriage is directly related to sexual orientation and the policy is, therefore, of particular relevance to those in the LGBT community. However, there are differing views on same sex marriage and the policy is also of interest to those who have a religious belief.

As the policy relates to the treatment of same sex marriages which are entered into England and Wales and, as such marriages will ordinarily be entered into by people who originate from those jurisdictions, the policy is also of interest to people from other racial groups.

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Who initiated or wrote the policy?

The Civil Law Reform Division of the Departmental Solicitor's Office, Department of Finance and Personnel ("CLRD").

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Who owns and who implements the policy?

The Legislative Consent Motion must be passed by the Northern Ireland Assembly. If it is, CLRD will be responsible for highlighting the new provisions. However, the ongoing implementation of the new law will fall to the courts.

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## Implementation factors

Are there any factors which could contribute to/detract from the intended aim/outcome of the policy/decision?

Yes.

If yes, are they

- financial
- legislative
- other, please specify

If the legislative consent motion is not passed by the Assembly, the policy aim, as stated above, cannot be achieved.

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## Main stakeholders affected

Who are the internal and external stakeholders (actual or potential) that the policy will impact upon?

- staff
- service users
- other public sector organisations
- voluntary/community/trade unions
- other, please specify –

The policy will apply across the board and will be of interest to all of the above. For example, voluntary/community organisations may be asked to advise on the new legislative provisions. Also, individuals in the above groupings may be directly affected by policy.

## Other policies with a bearing on this policy

- what are they?

Proposed introduction of same sex marriage in Scotland.

- who owns them?

Scottish Government.

## Available evidence

Evidence to help inform the screening process may take many forms. Public authorities should ensure that their screening decision is informed by relevant data.

What evidence/information (both qualitative and quantitative) have you gathered to inform this policy? Specify details for each of the Section 75 categories.

<b>Section 75 category</b>	<b>Details of evidence/information</b>
Religious belief	There is no detailed analysis regarding the number of people who would wish to avail of a same sex marriage, rather than a civil partnership, and no detailed analysis of how many civil partnerships would be converted into same sex marriages. It is, therefore, impossible to secure evidence/information on this issue.  It is often assumed that people of faith are less likely to wish to avail of same sex marriage. However, that assumption has not been tested.
Political opinion	As above.
Racial group	As above.
Age	As above.
Marital status	As above.

Sexual orientation	As above.
Men and women generally	As above.
Disability	As above.
Dependants	As above.

### **Needs, experiences and priorities**

Taking into account the information referred to above, what are the different needs, experiences and priorities of each of the following categories, in relation to the particular policy/decision? Specify details for each of the Section 75 categories

<b>Section 75 category</b>	<b>Details of needs/experiences/priorities</b>
Religious belief	There are differing views on same sex marriage and the policy is of interest to those in this grouping.
Political opinion	
Racial group	As the policy relates to the treatment of same sex marriages which are entered into England and Wales and, as such marriages will ordinarily be entered into by people who originate from those jurisdictions, the policy is also of interest to those in this grouping.
Age	



Marital status	
Sexual orientation	Same sex marriage is directly related to sexual orientation and the policy is, therefore, of particular relevance to those in this grouping.
Men and women generally	
Disability	
Dependants	

## Part 2. Screening questions

### Introduction

In making a decision as to whether or not there is a need to carry out an equality impact assessment, the public authority should consider its answers to the questions 1-4 which are given on pages 66-68 of this Guide.

If the public authority's conclusion is **none** in respect of all of the Section 75 equality of opportunity and/or good relations categories, then the public authority may decide to screen the policy out. If a policy is 'screened out' as having no relevance to equality of opportunity or good relations, a public authority should give details of the reasons for the decision taken.

If the public authority's conclusion is **major** in respect of one or more of the Section 75 equality of opportunity and/or good relations categories, then consideration should be given to subjecting the policy to the equality impact assessment procedure.

If the public authority's conclusion is **minor** in respect of one or more of the Section 75 equality categories and/or good relations

categories, then consideration should still be given to proceeding with an equality impact assessment, or to:

- measures to mitigate the adverse impact; or
- the introduction of an alternative policy to better promote equality of opportunity and/or good relations.

### **In favour of a 'major' impact**

- a) The policy is significant in terms of its strategic importance;
- b) Potential equality impacts are unknown, because, for example, there is insufficient data upon which to make an assessment or because they are complex, and it would be appropriate to conduct an equality impact assessment in order to better assess them;
- c) Potential equality and/or good relations impacts are likely to be adverse or are likely to be experienced disproportionately by groups of people including those who are marginalised or disadvantaged;
- d) Further assessment offers a valuable way to examine the evidence and develop recommendations in respect of a policy about which there are concerns amongst affected individuals and representative groups, for example in respect of multiple identities;
- e) The policy is likely to be challenged by way of judicial review;
- f) The policy is significant in terms of expenditure.

### **In favour of 'minor' impact**

- a) The policy is not unlawfully discriminatory and any residual potential impacts on people are judged to be negligible;
- b) The policy, or certain proposals within it, are potentially unlawfully discriminatory, but this possibility can readily and easily be eliminated by making appropriate changes to the policy or by adopting appropriate mitigating measures;
- c) Any asymmetrical equality impacts caused by the policy are intentional because they are specifically designed to promote equality of opportunity for particular groups of disadvantaged people;

- d) By amending the policy there are better opportunities to better promote equality of opportunity and/or good relations.

**In favour of none**

- a) The policy has no relevance to equality of opportunity or good relations.
- b) The policy is purely technical in nature and will have no bearing in terms of its likely impact on equality of opportunity or good relations for people within the equality and good relations categories.

Taking into account the evidence presented above, consider and comment on the likely impact on equality of opportunity and good relations for those affected by this policy, in any way, for each of the equality and good relations categories, by applying the screening questions given overleaf and indicate the level of impact on the group i.e. minor, major or none.

## Screening questions

1 What is the likely impact on equality of opportunity for those affected by this policy, for each of the Section 75 equality categories? minor/major/none		
Section 75 category	Details of policy impact	Level of impact? minor/major/none
Religious belief	<p>The options were:</p> <ul style="list-style-type: none"> <li>• do nothing;</li> <li>• provide for English/Welsh same sex marriages to be treated as civil partnerships in Northern Ireland;</li> <li>• provide for English/Welsh same sex marriages to be treated as marriages in Northern Ireland.</li> </ul> <p>Option 2 was selected because it was considered that it achieved an appropriate balance between the interests of the various equality groupings and, in so doing, promotes equality of opportunity.</p> <p>Options 1 and 3 would not have promoted equality of opportunity because they would have resulted in English/Welsh same sex marriages being treated differently to same sex marriages from certain other jurisdictions. Ultimately, it is considered appropriate to apply the same rules to English/Welsh same sex marriages as we apply to other overseas marriages.</p> <p>Moreover, option 3 would not have been achievable as the Northern Ireland Assembly has voted against same sex marriage.</p>	Major, but will promote equality of opportunity.
Political opinion	As above.	As above.
Racial group	As above.	As above.

Age	As above.	As above.
Marital status	As above.	As above.
Sexual orientation	As above.	As above.
Men and women generally	As above.	As above.
Disability	As above.	As above.
Dependants	As above.	As above.

**2** Are there opportunities to better promote equality of opportunity for people within the Section 75 equalities categories?

Section 75 category	If <b>Yes</b> , provide details	If <b>No</b> , provide reasons
Religious belief		No, see assessment in impact section above.
Political opinion		No, see assessment in impact section above.
Racial group		No, see assessment in impact section above.
Age		No, see assessment in impact section above.

Marital status		No, see assessment in impact section above.
Sexual orientation		No, see assessment in impact section above.
Men and women generally		No, see assessment in impact section above.
Disability		No, see assessment in impact section above.
Dependants		No, see assessment in impact section above.

3 To what extent is the policy likely to impact on good relations between people of different religious belief, political opinion or racial group? minor/major/none		
Good relations category	Details of policy impact	Level of impact minor/major/none
Religious belief	The policy achieves an appropriate balance between the interests of the various equality groupings, including religious belief.	Major but will promote good relations
Political opinion	The policy achieves an appropriate balance between the interests of the various equality groupings.	As above.
Racial group	The policy will ensure that the same rules are applied to English/Welsh same sex marriages as are applied to other overseas marriages.	As above

4 Are there opportunities to better promote good relations between people of different religious belief, political opinion or racial group?		
Good relations category	If <b>Yes</b> , provide details	If <b>No</b> , provide reasons
Religious belief		No. As stated above, the policy achieves an appropriate balance between the interests of the various equality groupings.
Political opinion		As above.
Racial		As above.

group		
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## **Additional considerations**

### **Multiple identity**

Generally speaking, people can fall into more than one Section 75 category. Taking this into consideration, are there any potential impacts of the policy/decision on people with multiple identities? *(For example; disabled minority ethnic people; disabled women; young Protestant men; and young lesbians, gay and bisexual people).*

Yes.

Provide details of data on the impact of the policy on people with multiple identities. Specify relevant Section 75 categories concerned.

As stated above, there is no detailed analysis regarding the number of people who would wish to avail of a same sex marriage, rather than a civil partnership, and no detailed analysis of how many civil partnerships would be converted into same sex marriages. It is, therefore, impossible to secure data on people with multiple identities. However, it is considered that the policy achieves an appropriate balance between the interests of the various equality groupings and, in so doing, promotes equality of opportunity.

### **Part 3. Screening decision**

If the decision is not to conduct an equality impact assessment, please provide details of the reasons.

It is considered that the policy achieves an appropriate balance between the interests of the various equality groupings and, in so doing, promotes equality of opportunity/good relations.

If the decision is not to conduct an equality impact assessment the public authority should consider if the policy should be mitigated or an alternative policy be introduced.

As stated above, the available alternatives would not achieve equality of opportunity and do not, therefore, present as viable alternatives.

If the decision is to subject the policy to an equality impact assessment, please provide details of the reasons.



All public authorities' equality schemes must state the authority's arrangements for assessing and consulting on the likely impact of policies adopted or proposed to be adopted by the authority on the promotion of equality of opportunity. The Commission recommends screening and equality impact assessment as the tools to be utilised for such assessments. Further advice on equality impact assessment may be found in a separate Commission publication: Practical Guidance on Equality Impact Assessment.

## **Mitigation**

When the public authority concludes that the likely impact is 'minor' and an equality impact assessment is not to be conducted, the public authority may consider mitigation to lessen the severity of any equality impact, or the introduction of an alternative policy to better promote equality of opportunity or good relations.

Can the policy/decision be amended or changed or an alternative policy introduced to better promote equality of opportunity and/or good relations?

If so, give the **reasons** to support your decision, together with the proposed changes/amendments or alternative policy.



## Timetabling and prioritising

Factors to be considered in timetabling and prioritising policies for equality impact assessment.

If the policy has been '**screened in**' for equality impact assessment, then please answer the following questions to determine its priority for timetabling the equality impact assessment.

On a scale of 1-3, with 1 being the lowest priority and 3 being the highest, assess the policy in terms of its priority for equality impact assessment.

Priority criterion	Rating (1-3)
Effect on equality of opportunity and good relations	
Social need	
Effect on people's daily lives	
Relevance to a public authority's functions	

Note: The Total Rating Score should be used to prioritise the policy in rank order with other policies screened in for equality impact assessment. This list of priorities will assist the public authority in timetabling. Details of the Public Authority's Equality Impact Assessment Timetable should be included in the quarterly Screening Report.

Is the policy affected by timetables established by other relevant public authorities?

If yes, please provide details

## Part 4. Monitoring

Public authorities should consider the guidance contained in the Commission's Monitoring Guidance for Use by Public Authorities (July 2007).

The Commission recommends that where the policy has been amended or an alternative policy introduced, the public authority should monitor more broadly than for adverse impact (See Benefits, P.9-10, paras 2.13 – 2.20 of the Monitoring Guidance).

Effective monitoring will help the public authority identify any future adverse impact arising from the policy which may lead the public authority to conduct an equality impact assessment, as well as help with future planning and policy development.

## Part 5 - Approval and authorisation

<b>Screened by:</b>	<b>Position/Job Title</b>	<b>Date</b>
Laura McPolin	Senior Legal Policy Adviser	30/5/13
<b>Approved by:</b>		
Ossie Paulin	Departmental Solicitor	30/5/13

Note: A copy of the Screening Template, for each policy screened should be 'signed off' and approved by a senior manager responsible for the policy, made easily accessible on the public authority's website as soon as possible following completion and made available on request.