

POLICY SCREENING FORM

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 without¹.

Without prejudice to the obligations set out above, the Department is also required **to have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.**

The Task

In order to determine whether an EQIA is necessary, changes to existing policies and new or proposed policies should be screened for significant equality issues as they arise. This form is intended to assist with the screening of any policies for which you take the lead and to record the outcome in respect of each policy. It should also be used as a prompt when considering legislative proposals.

The screening procedure should lead to one of these conclusions:

- the policy being screened does not have a significant impact on equality of opportunity; or
- the policy being screened has (or is likely to have) a significant impact on equality of opportunity. Policies falling into this category will need to be considered further and may require an Equality Impact Assessment.

¹ A list of the main groups identified as being relevant to each of the section 75 categories is at Annexe A of this document.

Officials should complete a form for each of the new or revised policies for which they are responsible (see page 3 for a definition of policy in respect of section 75). When you have completed the form it should be retained on file in the branch for record purposes, a copy being sent to the Equality Unit for information.

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**ANNEXE A - MAIN GROUPS IDENTIFIED AS RELEVANT TO THE
SECTION 75 CATEGORIES FOR NORTHERN IRELAND PURPOSES**

1. IDENTIFICATION OF 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. 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 terms of reference well defined. You must take into account any available data 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.

1.1 Title of policy to be screened:

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

1.2 Brief description of policy to be screened:

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).

1.3 Aims of policy to be screened:

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.

*It is essential that **all** the aims of the policy be clearly and fully defined.*

1.4 Directorate and Business Unit/s responsible for devising and delivering policy:

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

1.5 Are there any linkages to other NI Departments/NDPBs in relation to this policy/legislation?

Yes, there will be some read-across to matters within the remit of DSD and DHSSPS. There will also be a read-across to the Northern Ireland Court Service (NICtS"), in that the courts will be responsible for applying the Northern Ireland related provisions in the Bill, if they are enacted.

1.5 On whom will the policy/legislation impact?

People from the LBGT community, faith organisations and advisers/lawyers who will be responsible for providing advice on the new provisions.

1.7 Who implements the policy?

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

2. SCREENING ANALYSIS

Answering the Four Screening Questions

The following four questions ask for evidence in relation to the Section 75 dimensions. You should not think of the “don’t know” column in the form as the easy option to respond to any of the questions. In cases where you don’t know and you don’t have data, you will need to make a judgement based on experience as to whether the policy you are screening may have an impact on any of the nine dimensions. If your judgement is that the policy may have a differential adverse impact in relation to any of the Section 75 dimensions (i.e. it affects some groups differently and less favourably than other groups), you should seek to obtain evidence. You should note that evidence can be qualitative – i.e. drawn from the experience of individuals from their perspective – as well as quantitative. Officers must give consideration to steps that they could reasonably be expected to obtain evidence and thereby inform their decision-making. Such steps could include meeting with a representative group or selective consultation.

Where there is little or no evidence, and common sense indicates that a differential impact may be expected, you should discuss this with the Equality Officer.

As to sources of data, an audit of current key sources within Northern Ireland Departments is at Appendix 4 of the document available at:-
<http://www.equalityni.org/pdf/ACF445.pdf>.

The Northern Ireland Statistics and Research Agency web-site gives details of additional data sets (<http://www.nisra.gov.uk>).

2.1 Is there any evidence of higher or lower participation or uptake by different groups? If so, please indicate below.

CATEGORY	YES	NO	DON'T KNOW
Gender		X	
Sexual orientation		X	
Religion		X	
Political opinion		X	
Disability (physical and learning)		X	
Race or ethnic origin (includes Travellers)		X	
Age		X	
Dependant responsibilities		X	
Marital status		x	

YES/NO: Give reasons for your answer, including sources used.

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 say whether there would be higher or lower participation/uptake.

It is often assumed that people of faith are less likely to wish to avail of same sex marriage. However, again, that assumption has not been tested.

2.2 Is there any evidence that different groups have different needs, experiences, issues and priorities in relation to the particular policy?

CATEGORY	YES	NO	DON'T KNOW
Gender		X	
Sexual orientation	X		
Religion	X		
Political opinion		X	
Disability (physical and learning)		X	
Race or ethnic origin (includes Travellers)	X		
Age		X	
Dependant responsibilities		X	

Marital status		X	
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Give reasons for your answer, including source:

Same sex marriage is directly related to sexual orientation and the policy is, therefore, of particular relevance to those in group 2 above. However, there are differing views on same sex marriage and the policy is also of interest to those in group 3 above.

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 group 6 above.

Any additional comments:

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2.3 Is there an opportunity to better promote equality of opportunity or better community relations by altering the policy or working with others in Government or in the larger community?

CATEGORY	YES	NO	DON'T KNOW
Gender		X	
Sexual orientation		X	
Religion		X	
Political opinion		X	
Disability (physical and learning)		X	
Race or ethnic origin (includes Travellers)		X	
Age		X	
Dependant responsibilities		X	
Marital status		X	

YES/NO: Give reasons for your answer:

The options were:

- do nothing;
- provide for English/Welsh same sex marriages to be treated as civil partnerships in Northern Ireland;
- provide for English/Welsh same sex marriages to be treated as marriages in Northern Ireland.

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.

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.

Moreover, option 3 would not have been achievable as the Northern Ireland Assembly has voted against same sex marriage.

2.4 Equality Commission guidance states that the screening process should include pre-consultation with those that may be affected by the policy. Have consultations with relevant groups, organisations or individuals indicated that particular policies create problems, which are specific to them?

CATEGORY	YES	NO	DON'T KNOW
Gender		X	
Sexual orientation		X	
Religion		X	
Political opinion		X	
Disability (physical and learning)		X	
Race or ethnic origin (includes Travellers)		X	
Age		X	
Dependant responsibilities		X	
Marital status		X	

Give reasons for your answer, and details of any consultations that have taken place:

Given the speed with which the Bill was introduced and has made its way through Parliament there has been no opportunity for the customary consultation. However, through correspondence, the Department has been made aware of the difference of opinion which exists between those who support the proposed legislative provisions and those who do not.

The Committee for Finance and Personnel has been formally tasked with assessing the proposed Legislative Consent Motion and it has invited views and will be seeking the Department's comments on any views which are provided.

If the answer to **any** of the questions in respect of any of the categories is “**YES**”, you – in discussion with the Equality Unit - will have to consider whether the policy has a significant impact on equality of opportunity and, therefore, should be subject to an equality impact assessment.

If the answer to **all** the questions in section 2 is **NO** an equality impact assessment is not required.

If the answer to any of the above questions is **DON'T KNOW**, and common sense and experience indicate that a differential impact may be expected, you will need to discuss this with the Equality Unit.

It may be that a policy has an adverse differential impact on certain people in one or more of the categories as a consequence of targeting or affirmative action to combat an existing or historical inequality. If this is the case, please give details below and contact the Equality Unit if you are in doubt:

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3. EQUALITY IMPACT ASSESSMENT RECOMMENDATION

Equality impact assessment procedures are confined to those policies considered likely to have significant implications for equality of opportunity.

3.1 If screening has indicated that a policy is having an adverse differential impact, how would you categorise it? N/A

Please tick.

Significant impact		
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Low impact		
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3.2 Do you consider that this policy needs to be submitted to a full equality impact assessment?

YES	NO
	x

If NO but the policy has significant impact, please give reasons for your recommendation:

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3.3 What data are required to ensure effective monitoring in the future?

Number of same sex marriages entered into in England and Wales.

Number of same sex married couples who move to Northern Ireland.

Signed: Laura McPolin

Grade: 6

Branch/Division Branch/: CLRD

Date: 30 May 2013

**Please forward a copy of this form to Carolyn Barr at the
Equality Unit, Rathgael House, Balloo Road, Bangor.
e-mail carolyn.barr@dfpni.gov.uk**

ANNEXE A

MAIN GROUPS IDENTIFIED AS RELEVANT TO THE SECTION 75 CATEGORIES FOR NORTHERN IRELAND PURPOSES

Category	Main Groups
Religious belief	Protestants; Catholics; people of other religious belief; 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; Afro Caribbean people; people of mixed ethnic group, other groups
Men and women generally	Men (including boys); women (including girls); trans-gender
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 and 65. However the definition of age groups will need to be sensitive to the policy under consideration. For example, for some employment policies, children under 16 could be distinguished from people of working age
Persons with a disability	Persons with a physical, sensory or learning disability as defined in Schedules 1 and 2 of the Disability Discrimination Act 1995
Persons with dependants	Persons with primary responsibility for the care of a child; persons with personal responsibility for the care of a person with a disability; persons with primary responsibility for a dependent elderly person
Sexual orientation	Heterosexuals; bisexuals; gays; lesbians