

**DOJ Section 75**

**EQUALITY SCREENING FORM**

**Title of Policy: Justice (Miscellaneous Provisions) Bill – Biometric Legislative Amendments**

***June 2020***

**FORM CONTENTS.**

**Page No**

The Legal Background 3

Introduction 3

Screening decisions 5

Screening and good relations duty 5

**Part 1**

Definition of a Policy 6

Overview of Policy Proposals 6

Policy Scoping 6

Information about the Policy 7

Implementation Factors 7

Main stakeholders affected 8

Other policies with a bearing on this policy 8

Available evidence 9

Needs, experiences and priorities 10

**Part 2**

Screening Questions 11

Introduction 11

In favour of ‘none’ 11

In favour of a ‘major’ impact 11

In favour of a ‘minor’ impact 12

Screening questions 13

Additional considerations - Multiple identity 16

**Part 3**

Screening decision 17

Timetabling and prioritising 18

**Part 4**

Monitoring 20

**Part 5**

Formal record of screening decision 21

**Part 6**

Approval and authorisation 22

**Annex**

A – Screening Flowchart 23

B – Main Groups identified as relevant to the Section 75 categories 24

**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 person 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; and**

● **meet legislative obligations under the Disability Discrimination Order.**

**Introduction**

1. This form should be read in conjunction with the Equality Commission’s revised Section 75 guidance, “Effective Section 75 Equality Assessments: Screening and Equality Assessments” which is available on the Equality Commission’s website.

<http://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/Public%20Authorities/S75Advice-ScreeningEQIA.pdf>

**Section 75** statutory duties apply to **internal policies** (relating to people who work for department), as well as **external policies** (relating to those who are, or could be, served by the department).

1. The purpose of screening is to identify those policies that are likely to have an impact on equality of opportunity and/or good relations and so determine whether an Equality Impact Assessment (EQIA) is necessary. Screening should be introduced at an early stage when developing or reviewing a policy.

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

3. The lead role in the screening of a policy should be taken by the policy decision-maker who has the authority to make changes to that policy and should involve, in the screening process:

* other relevant team members;
* those who implement the policy;
* staff members from other relevant work areas; and
* key stakeholders.

A flowchart which outlines the screening process is provided at Annex A.

4. The first step in the screening exercise is to gather evidence to inform the screening decisions. Relevant data may be either quantitative or qualitative or both (this helps to indicate whether or not there are likely equality of opportunity and/or good relations impacts associated with a policy). Relevant information will help to clearly demonstrate the reasons for a policy being either ‘screened in’ for an equality impact assessment or ‘screened out’ from an equality impact assessment.

5. The absence of evidence does not indicate that there is no likely impact but if none is available, it may be appropriate to consider subjecting the policy to an EQIA.

6. Where data/evidence gaps exist consider engaging with the main representative groups directly, for example Disability Action, Rainbow, and NICCY to find out what you need to know. Bring stakeholders together to discuss policy or link up with other UK bodies who may have similar policies.

7. Screening provides an assessment of the likely impact, whether ‘minor’ or ‘major’, of its policy on equality of opportunity and/or good relations for the relevant categories. In some instances, screening may identify the likely impact is none.

8. Contact [EqualityandStaffSupportServices@justice-ni.x.gsi.gov.uk](mailto:EqualityandStaffSupportServices@justice-ni.x.gsi.gov.uk) at any stage of the process for support or guidance.

**Screening decisions**

8. Completion of screening should lead to one of the following three outcomes. The policy has been:

1. ‘screened in’ for equality impact assessment;
2. ‘screened out’ *with* mitigation or an alternative policy proposed to be adopted; or
3. ‘screened out’ *without* mitigation or an alternative policy proposed to be adopted.

**Screening and good relations duty**

9. The Commission recommends that a policy is ‘screened in’ for equality impact assessment if the likely impact on **good relations** is ‘major’. While there is no legislative requirement to engage in an equality impact assessment in respect of good relations, this does not necessarily mean that equality impact assessments are inappropriate in this context.

**Part 1**

**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 any new initiatives, proposals, schemes or programmes as policies or changes to those already in existence. It is important to remember that even if a full EQIA has been carried out in an “overarching” policy or strategy, it will still be necessary for the policy maker to consider if further screening or an EQIA needs to be carried out in respect of those policies cascading from the overarching strategy.

**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.

**Policy Scoping**

10. 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.

**Part 1: Policy Scoping**

**11. Information about the policy**

|  |
| --- |
| **Name of the Policy/ decision to be screened** |
| Proposals to amend the legislation governing the retention of DNA and fingerprints in Northern Ireland. |
| **Is this an existing, revised or a new policy / decision?** |
| This is an existing policy that the Department of Justice (DOJ) needs to amend as a result of an ECHR ruling [*Gaughran v UK*](https://hudoc.echr.coe.int/eng-press#{"itemid":["003-6638275-8815904"]})*.*  The DOJ also proposing to extend the policy to include some additional measures that the original legislation did not cover. |
| **What is it trying to achieve? (intended aims/outcomes)** |
| The aim of the proposals is to amend the provisions within the [Police and Criminal Evidence (Northern Ireland) Order 1989 (PACE NI)](http://www.legislation.gov.uk/nisi/1989/1341/contents) relating to the retention of DNA and fingerprints in Northern Ireland. All of the proposals will involve changes to the yet to be commenced biometric provisions set out in [Schedule 2 of the Criminal Justice Act (Northern Ireland) 2013](http://www.legislation.gov.uk/nia/2013/7/schedule/2) (CJA).  Commencement of CJA has been complicated by a recent ECtHR judgment in the case of Gaughran v UK. On the 13 February 2020 the Court ruled that the current policy and practice of the indefinite retention of DNA profiles, fingerprints and photographs, of individuals convicted of a criminal offence was a violation of Article 8 of the ECHR.  The Court found that ‘the indiscriminate nature of the powers of retention of DNA profiles, fingerprints and photograph of the applicant as a person convicted of an offence, even if spent, without reference to the seriousness of the offence or the need for indefinite retention, and in the absence of any real possibility of review, failed to strike a fair balance between the competing public and private interests’.  The policy amendments seek to introduce a balanced and proportionate regime for the retention of biometric information such as DNA and fingerprints in Northern Ireland. The retention framework set out below seeks to achieve an appropriate balance between the need for public protection and the rights of the individual in accordance with Article 8 (right to private life) of the European Convention of Human Rights yet maintain public confidence in the police and the criminal justice system.  ***The main policy changes are:***   1. *The removal of indefinite retention for convicted individuals as follows:*  * 75 years retention period for DNA and fingerprints for all convictions associated with serious violent, sexual and terrorism offences (otherwise known as a qualifying offence, as set out in Section 53A of PACE NI); * 50 years retention period for adult convictions for recordable offences that do not fall within the serious category; and * 25 years retention for two or more juvenile[[1]](#footnote-1) non-serious convictions which do not involve a custodial sentence of more than 5 years (an under 18 conviction for a non-serious offence involving a custodial sentence of more than 5 years will attract a 50 years retention period).  1. To make provision within CJA for a regulation-making power that will enable the Department to set out clearly in secondary legislation a detailed review mechanism that will apply to all material falling within the 75/50/25 maximum retention periods set out in point 1. We envisage that the regulations will include detail on the review periods; the criteria to be applied; who will conduct the review; how it will be conducted; and how individuals can request a review of their retained data. Regulations made under this power would be subject to separate consultation. 2. *To enable DNA and fingerprints that are taken by the PSNI under PACE NI in connection with an offence in Northern Ireland to be retained on the basis of a conviction for a recordable offence committed in a country or territory outside the United Kingdom.* 3. *To enable the DNA and fingerprints taken in connection with an offence that has been ‘left on books’ by the court to be retained for a period of 12 months.*      1. *To widen the functions of the Northern Ireland Biometric Commissioner.* |
| **Are there any Section 75 categories which might be expected to benefit from the intended policy? If so, explain how.** |
| All Section 75 categories could potentially benefit from this policy as a result of the corrective proposals to comply with Article 8 Rights.  The policy introduces a less stringent retention period for holding of biometric material of young people under 18 years of age who have two or more juvenile non-serious convictions which do not involve a custodial sentence of more than 5 years (an under 18 conviction for a non-serious offence involving a custodial sentence of more than 5 years will attract a 50 years retention period).  Both adults and juveniles convicted of offences will benefit from benefit from the policy in that their DNA profiles and fingerprints will no longer be held  Indefinitely but destroyed in line with the proposed retention policy. The policy further provides that the Department will introduce regulations for a review mechanism which will in due course provide an outline for how biometric records will be reviewed before the maximum retention period has been reached.  In summary, all groups will benefit from the policy as the retention of biometric data of convicted individuals will no longer be held indefinitely. |
| **Who initiated or wrote the policy?** |
| The Department of Justice |
| **Who owns and who implements the policy?**  The Department of Justice owns the policy.  The Police Service of Northern Ireland (PSNI) is the responsible owner of DNA/fingerprint database information. Forensic Science Northern Ireland (FSNI) retains all physical DNA samples and manages the DNA database which contains DNA profiles on behalf of the PSNI. The PSNI maintains a separate database for fingerprints. They will jointly implement the policy. |
|  |

**12. Implementation factors**

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

If yes, are they

*Tick Box*

financial

legislative

other, please specify \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**13. Main stakeholders affected**

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

*Tick Box*

Service users

other public sector organisations

voluntary/community/trade unions

**x** other, please specify **The policy will apply to everyone who has their DNA or fingerprints taken by the PSNI and who has subsequently been convicted of an offence.**

**14. Other policies with a bearing on this policy**

*what are they?*

|  |  |
| --- | --- |
| |  | | --- | | The Police and Criminal Evidence (Northern Ireland) Order 1989 (PACE NI) and associated codes govern how the PSNI carry out their functions in relation to police powers.  PACE Code C[[2]](#footnote-2) governs the detention, treatment and questioning of persons by Police Officers.  PACE Code D[[3]](#footnote-3)governs the practice for the identification of persons by police officers. | |

*who owns them?*

|  |
| --- |
| Department of Justice |

**15. Available Evidence**

***Evidence to help inform the screening process may take many forms. Set out all evidence /data (both \*qualitative and quantitative) below along with details of the different groups you have met and / or consulted with to help inform your screening assessment. Specify details for each of the Section 75 categories.***

Account has been taken of the Marper and Gaughran judgments and views expressed during previous consultations in respect of children in terms of the needs of their development and integration into society. Accordingly, the policy proposes a differential in the retention regime for those under 18 year olds convicted of for two or more juvenile non-serious convictions which do not involve a custodial sentence of more than 5 years. However, if a juvenile has a conviction for a non-serious offence involving a custodial sentence of more than 5 years this will attract a 50 years retention period, the same as an adult.

**PSNI PACE Statistics April 19 to March 20[[4]](#footnote-4)** (not broken down by any of the other Section 75 categories)

* There were 22,607 arrests made under the Police and Criminal Evidence (PACE) Order during 2019/20, 84% of which were males.

**The Northern Ireland Appropriate Adult Scheme (NIAAS) annual report for 2018/1**9[[5]](#footnote-5)

* The Northern Ireland Appropriate Adult Scheme (NIAAS) annual report for 18/19 shows that detentions requiring an Appropriate Adult for juveniles is approximately 20% of the overall appropriate adult use.
* The report indicates that on 3,292 occasions individuals were identified as having a mental vulnerability.

**The Northern Ireland Prison Service population report for 18/19[[6]](#footnote-6)**

* The overall average daily prison population increased by 0.6% during 2018/19 to 1,448. Males increased slightly from 1,382 to 1,384 while the female population increased from 57 to 65.
* The remand population increased by 18.5% from 368 in 2017/18 to 436 this year and is at its highest level since reporting by financial year began in 2014/15.
* During 2018/19 the average daily immediate custody prison population fell by 5.1% to 1,006, its lowest level since reporting by financial year began in 2014/15.
* Prisoners aged between 30 to 39 years of age made up the largest proportion of the average daily immediate custody prison population (32.9%). In each of the previous four financial years, the age group 21 to 29 years had accounted for the largest number of prisoners.
* The proportion of those aged between 18 and 20 years of age has decreased each year since 2014/15, accounting for 2.9% of the total population during 2018/19.

**The Northern Ireland Youth Justice Workload Statistics[[7]](#footnote-7)**

* The total number of individual young people in custody decreased by 4.2% from 167 in 2017/18 to 160 in 2018/19. As such, less than one in every 1,000 young people in Northern Ireland was involved with Custodial Services in 2018/19.
* The number of individual young people involved with YJS has increased from 887 in 2017/18 to 977 in 2018/19, an increase of 10.1%. This equates to 5.2 in every 1,000 young people in Northern Ireland being involved with YJS.
* 38.8% of young people in custody in 2018/19 were aged 17 and over, fairly similar to the proportion during the previous four years.
* Young people aged 15 and over accounted for 89.4% in 2018/19, an increase from 2017/18 (85.6%) but a slight decrease over the five year period (2014/15, 91.5%).
* In 2018/19, just under two fifths of young people involved with the JJC were in care (28.1% were subject to a care order and 10.6% were voluntary accommodated). With the exception of 1.9%, whose care status was unknown, the remaining young people were not in care (59.4%)

|  |  |
| --- | --- |
| **Section 75 Category** | **Details of evidence/information** |
| Religious belief | Before a person’s DNA or fingerprints can be added to the databases the person must have been arrested for, or charged with a recordable offence or have volunteered a sample. There is no evidence of a disproportionate arrest rate on grounds of religious belief. |
| Political opinion | Before a person’s DNA or fingerprints can be added to the databases the person must have been arrested for, or charged with a recordable offence or have volunteered a sample There is no evidence of a disproportionate arrest rate on grounds of political opinion. |
| Racial group | There is no evidence that any negative differential impact is occurring in this group. |
| Age | There is evidence that a high proportion of juvenile offenders are males of 15 and over.  This has been given due cognisance in development of the policy proposals by introducing a less stringent regime for convicted juveniles. As the period of sentence normally reflects the severity of an offence the length of retention has been based on whether the individual has two or more juvenile non-serious convictions which do not involve a custodial sentence of more than 5 years.  The principle of affording young people additional statutory protections over and above those for adults is already well established in PACE legislation and the Codes of Practice.  The Department funds an Appropriate Adult Scheme to ensure that young people get the proper support they need during police investigations by ensuring that they receive appropriate advice in the absence of a parent or guardian so that they understand what is happening to them and why while they are going through the detention process, including the taking of their fingerprints and DNA. |
| Marital status | There is no evidence to indicate that there is any negative differential impact occurring in this group. |
| Sexual orientation | There is no evidence to indicate that there is any negative differential impact occurring in this group. |
| Men and Women generally | There will be significantly more DNA/fingerprints of men than women retained on the PSNI databases. This is due to the greater number of male arrests rather than any disproportionate use or effect of DNA or fingerprint evidence. |
| Disability | There is no evidence to indicate that this group is proportionally over-represented on the DNA database.  There is however evidence to suggest that a significant number of people in the wider criminal justice system have mental health related issues. |
| Dependants | There is no evidence to suggest that this is a particular cause of any disproportionate representation. |

\***Qualitative data** – refers to the experience of individuals related in their own terms, and based on their own experience and attitudes. Qualitative data is often used to complement quantitative data to determine why policies are successful or unsuccessful and the reasons for this.

**Quantitative data** – refers to numbers (that is quantities), typically derived from either a population in general or samples of that population. This information is often analysed either using descriptive statistics (which summarise patterns), or inferential statistics (which are used to infer from a sample about a wider population).**16. 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.**

The nature of the policy requires that it deals with people with widely varying needs and circumstances including those who may have physical disability, mental illness, learning and communication difficulties, and other health issues including addiction.

The Police and Criminal Evidence Codes of Practice are in place to ensure that people across all S75 categories groups who are arrested, charged and convicted of an offence are treated with respect and dignity. In recognition that vulnerable groups and in particular young people who become involved with police require additional safeguards and protections, special provisions are in-built to the PACE Codes of Practice.

The policy supports the detection and prevention of crime and apart from the special provisions for young people with a custodial sentence under 5 years, does not discriminate across other s75 group. The policy seeks to achieve a retention framework that is both proportionate and necessary. For this purpose it differentiates between minor and serious offences for those convicted. A further benefit of the proposed policy is the development of a review mechanism.

The policy also recommends the widening of the remit for a Biometrics Commissioner to provide independent oversight of the system in Northern Ireland.

PACE Code C relates to the detention, treatment and questioning of persons by police officers. The code states:

“*The powers and procedures in this code must be used fairly, responsibly, with respect for the people to whom they apply and without discrimination on the grounds of religious belief or political opinion, racial group, age, marital status, sexual orientation, gender or disability”*

*This will not be impacted by the new policy proposals.*

PACE Code D concerns the principal methods used by police to identify people in connection with the investigation of offences and the keeping of accurate and reliable criminal records. The code states:

*The powers and procedures in this code must be used fairly, responsibly, with respect for the people to whom they apply and without discrimination on the grounds of religious belief or political opinion, racial group, age, marital status, sexual orientation, gender or disability.*

*This will not be impacted by the new policy proposals.*

|  |  |
| --- | --- |
| **Section 75 Category** | **Details of evidence/information** |
| Religious belief | There is a lack of data to substantiate particular needs, experiences and priorities associated with this group. |
| Political opinion | There is a lack of data to substantiate particular needs, experiences and priorities associated with this group. |
| Racial group | There is a lack of data to substantiate particular needs, experiences and priorities associated with this group. |
| Age | The policy removes indefinite retention of DNA/fingerprints for those convicted of a recordable offence.  The policy sets out retention periods that may be different between juveniles and adults depending on the nature of the offence that they have been convicted of. The policy creates some counter balance to the negative impact on young people who are convicted two or more juvenile non-serious convictions which do not involve a custodial sentence of more than 5 years.  Scope for mitigation within the policy is limited, particularly with the need to balance respect for victims and public protection.  . |
| Marital status | There is a lack of data to substantiate particular needs, experiences and priorities associated with this group. |
| Sexual orientation | There is a lack of data to substantiate particular needs, experiences and priorities associated with this group. |
| Men and Women generally | The proposals may impact on anyone who have their biometric material retained by the PSNI. However, the most recent statistics show that in 2019/20, males accounted for 84% of PACE arrests. |
| Disability | There is some evidence to suggest that many of those coming into and within the criminal justice system have mental illness or vulnerability. PACE Codes make special provision for their treatment. |
| Dependants | There is a lack of data to substantiate particular needs, experiences and priorities associated with this group. |

**Part 2**

**SCREENING DECISIONS**

17. **Decision** - **In favour of none**

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

* **Considerations** –
* The policy has no relevance to equality of opportunity or good relations.
* 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.

18. **Decision** - **In favour of a ‘major’ impact**

If the 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 (EQIA).

* **Considerations-**
* Is the policy significant in terms of its strategic importance?
* The 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;
* The 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;
* 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;
* The policy is likely to be challenged by way of judicial review;
* The policy is significant in terms of expenditure.

19**. Decision - In favour of ‘minor’ impact**

If the 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.

* **Considerations –**
* The policy is not unlawfully discriminatory and any residual potential impacts on people are judged to be negligible;
* 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;
* 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;
* By amending the policy there are better opportunities to better promote equality of opportunity and/or good relations.

**Part 2 Screening questions**

|  |  |  |
| --- | --- | --- |
| **2.1** What is the likely impact on equality of opportunity for those affected by this policy, for each of the Section 75 equality categories? | | |
| **Section 75 category** | **Details of policy impact** | **Level of impact? Minor/Major/None** |
| Religious belief |  | None |
| Political opinion |  | None |
| Racial group |  | None |
| Age |  | Minor |
| Marital status |  | None |
| Sexual orientation |  | None |
| Men and Women generally |  | None |
| Disability |  | None |
| Dependants |  | None |

|  |  |  |
| --- | --- | --- |
| **2.2 Are there opportunities to better promote equality of opportunity for people within the Section 75 equalities categories?**  There is very limited scope within this policy to better promote equality of opportunity. There is a general need across all categories to balance public protection needs with the human rights of individuals arrested/charged for recordable offences under PACE and achieving proportionality in respect of the severity of the offence for which they have been convicted. | | |
| **Section 75 category** | **If Yes, provide details** | **If No, provide reasons** |
| Religious belief |  | **None** |
| Political opinion |  | **None** |
| Racial group |  | **None** |
| Age | Yes, minor opportunity through creation of bias in favour of juveniles.  Depending on the nature of the offence and the sentence imposed, biometric material relating to juveniles may be subject a shorter retention period than adults. |  |
| Marital status |  | **None** |
| Sexual orientation |  | **None** |
| Men and Women generally |  | **None** |
| Disability |  | **None** |
| Dependants |  | **None** |

|  |  |  |
| --- | --- | --- |
| **2.3.** To what extent is the policy likely to impact on good relations between people of different religious belief, political opinion or racial group? | | |
| **Good relations category** | **Details of policy impact** | **Level of impact Minor/Major/None** |
| Religious belief |  | None |
| Political opinion | . | None |
| Racial group |  | None |

|  |  |  |
| --- | --- | --- |
| * 1. **Are there opportunities to better promote good relations between people of different religious belief, political opinion or racial group?**   No, not directly, but the policy should improve public perception across all s75 groups in that the removal of indefinite retention and the proposal to introduce review periods for biometrics responds to the Gaughan ruling. The proposal to expand the remit of the Biometrics Commissioner to provide independent oversight of the biometrics regime in Northern Ireland should also be considered as a positive development. | | |
| **Good relations category** | **If Yes, provide details** | **If No, provide reasons** |
| Religious belief |  | No, as above  . |
| Political opinion |  | No, as above |
| Racial group |  | No, as above |

**Additional Considerations**

**Multiple Identity**

20. 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).*

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

|  |  |  |  |
| --- | --- | --- | --- |
| |  | | --- | | Not applicable | |  | |  | |

**Part 3 Screening Decision**

**3.1**. **Screened In** - If the decision is to conduct an equality impact assessment, please provide details of the rationale and relevant evidence to support this decision.

|  |
| --- |
| Not Applicable |

**3.2**. **Screened Out** – No EQAI necessary (no impact)

If the decision is not to conduct an equality impact assessment, please provide details of the rationale and relevant evidence to support this decision.

|  |
| --- |
|  |

**3.3.** **Screened Out – Mitigating Actions** (minor impacts)

When the decision is that the likely impact is ‘minor’ and an equality impact assessment is not to be conducted, you 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. Explain how these actions will address the inequalities.

|  |  |
| --- | --- |
| On the basis of the screening exercise there is considered to be no adverse impact on any s.75 group which would warrant an equality impact assessment.  It has been decided not to conduct an equality impact assessment.  The policy includes mitigation to lessen the impact on juveniles. Depending on the nature of the offence and the sentence imposed, biometric material relating to juveniles may be subject a shorter retention period than adults.  The policy seeks to introduce limits on the retention of biometric material  with a view to achieving a proper balance between public protection requirements,  respect for victims’ rights and the competing interests of preserving the respect for  private life of those arrested under the Police and Criminal Evidence (Northern  Ireland) Order 1989.   |  | | --- | | The provisions being proposed when commenced in NI will set out the retention periods for the DNA and fingerprints of individuals convicted of a criminal offence. The proposals will introduce corrective measures in response to an ECtHR judgment.  Males currently account for around 84% of all arrests under the Police and Criminal Evidence (NI) Order 1989. However, there is no specific evidence that males will be disproportionately impacted by these amendments.  Even if this were to be the case, it would be more appropriate in this instance to treat the group of people who are under criminal investigation as the population comparator. On this basis there is no disproportionate impact on men or any of the other section 75 groups – the policy will apply equally to everyone who has their DNA or fingerprints taken by the PSNI and who has subsequently been convicted of an offence.  **The PACE codes C & D provide safeguards for individuals in police custody and methods used to identify individuals.**  **PACE Code C - Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers**  The powers and procedures in this code must be used fairly, responsibly, with respect for the people to whom they apply and without discrimination on the grounds of religious belief or political opinion, racial group, age, marital status, sexual orientation, gender or disability.  **PACE Code D - Code of Practice for the identification of persons by police officers**  This Code of Practice concerns the principal methods used by police to identify  people in connection with the investigation of offences and the keeping of  accurate and reliable criminal records. The powers and procedures in this code must be used fairly, responsibly, with respect for the people to whom they apply and without discrimination on the grounds of religious belief or political opinion, racial group, age, marital status, sexual orientation, gender or disability. | |

**Timetabling and Prioritising**

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

23. 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.

24. 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 in timetabling. Details of the Equality Impact Assessment Timetable should be included in the quarterly Screening Report.

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

* If yes, please provide details.

|  |
| --- |
|  |

**Part 4 Monitoring**

1. Section 75 places a requirement on the Department to have equality monitoring arrangements in place in order to assess the impact of policies and services etc. and to help identify barriers to fair participation and to better promote equal opportunity.
2. Effective monitoring will help 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.
3. Outline what data you will collect in the future in order to monitor the impact of this policy/ decision on equality, good relation and disability duties.

|  |  |
| --- | --- |
| **Equality** | None |
| **Good relations** | None |
| **Disability Duties** | None |

**Part 5 Formal Record of Screening Decision**

|  |
| --- |
| **Title of Proposed Policy / Decision being screened** |

**I can confirm that the proposed policy/decision has been screened for –**

|  |  |
| --- | --- |
|  | **Equality of opportunity** |
|  | **Good Relations** |
|  | **Disability duties** |

**On the basis of the answer to the screening questions, I recommend that this policy /decision is –**

|  |  |
| --- | --- |
|  | **Screened in – necessary to conduct a full EQIA** |

|  |  |
| --- | --- |
|  | **Screened Out – no EQIA necessary (no impacts)** |

|  |  |
| --- | --- |
|  | **Screened Out – mitigating actions (minor impacts)** |

**Part 6 Approval and Authorisation**

***(Have you sent this document to the Equality Unit prior to obtaining signature?)***

|  |  |  |
| --- | --- | --- |
| **Screened/completed by:** | **Grade** | **Date** |
| **Name Denise Bloomer** | **DP** | **15 June 2020** |
| **Approved by (Grade 7 or above):** | | |
| **Name William Dukelow** | **7** | **16 June 2020** |

**Quality Assurance**

**Prior to final approval** the Screening Form should be forwarded to [EqualityandStaffSupportServices@justice-ni.x.gsi.gov.uk](mailto:EqualityandStaffSupportServices@justice-ni.x.gsi.gov.uk) for comment/quality assurance. Contact the branch should you require advice or have any queries prior to this stage.

Any NIPS forms should be forwarded to [Peter.Grant@justice-ni.x.gsi.gov.uk](mailto:Peter.Grant@justice-ni.x.gsi.gov.uk)

When you receive a response and there are no further considerations required, the form should be ‘signed off’ and approved by a senior manager responsible for the policy, this would normally be at least grade 7.

The completed Screening Form should be placed on the DOJ Website where it will be made easily accessible to the public and be available on request. In addition, it will be included in a quarterly listing of all screenings completed during each 3 month period and issued to consultees.

**The Screening exercise is now complete**.

Please retain a record in your branch and send a copy for information to:-

Equality and Staff Support Services (ESSS)

Room 3.4, Castle Buildings

Stormont Estate

BELFAST

BT4 3SG

Tel: 02890 522611

or e-mail to [EqualityandStaffSupportServices@justice-ni.x.gsi.gov.uk](mailto:EqualityandStaffSupportServices@justice-ni.x.gsi.gov.uk)

**ANNEX A**

**SCREENING FLOWCHART**

**Policy Scoping**

Consider Available Data and Evidence

**Screening Questions**

Apply screening questions

Consider multiple identities

**Screening Decision**

None/Minor/Major

**‘None’**

Screened out

**‘Minor’**

Screened

out with

mitigation

**‘Major’**

Screened in

for EQIA

**Send the form to**

[**EqualityandStaffSupportServices@justice-ni.x.gsi.gov.uk**](mailto:EqualityandStaffSupportServices@justice-ni.x.gsi.gov.uk)

**When returned arrange to be signed off by Grade 7 or above**

Concerns /queries raised i.e. evidence re: screening decision

Publish completed Screening Form on **DOJ Internet**

**EQIA**

Re-consider Screening

Future Monitoring

**ANNEX B**

**MAIN GROUPS IDENTIFIED AS RELEVANT TO THE SECTION 75 CATEGORIES**

|  |  |
| --- | --- |
| **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 |
| 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 |
| Marital/Civil Partnership Status | Married people; unmarried people; divorced or separated people; widowed people; civil partnerships |
| Sexual Orientation | Heterosexuals; bisexual people; gay men; lesbians |
| Men and Women generally | Men (including boys); women (including girls); trans-gender and trans-sexual people |
| Persons with a disability and persons without | Persons with a physical, sensory or learning disability as defined in Schedules 1 and 2 of the Disability Discrimination Act 1995. |
| Persons with dependants and persons without | 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. |

1. Under the age of 18 at the time of the offence [↑](#footnote-ref-1)
2. [PACE Code C](https://www.justice-ni.gov.uk/sites/default/files/publications/doj/16-06-pace-code-c-2015.pdf) [↑](#footnote-ref-2)
3. [PACE Code D](https://www.justice-ni.gov.uk/sites/default/files/publications/doj/pace-code-d-2015-final-version.pdf) [↑](#footnote-ref-3)
4. <https://www.psni.police.uk/globalassets/inside-the-psni/our-statistics/police-and-criminal-evidence/2019/pace-statistics-report-2019.20.pdf> [↑](#footnote-ref-4)
5. <https://www.mindwisenv.org/media/2101/niaas-annual-report-2018-2019.pdf> [↑](#footnote-ref-5)
6. <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/ni-prison-population-18-19.pdf> [↑](#footnote-ref-6)
7. <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/YJA%20Workload%20Statistics%20bulletin%202018-19.pdf> [↑](#footnote-ref-7)