

**DOJ Section 75**

**EQUALITY SCREENING FORM**

**Title of Policy: Commencement of NI provisions in the Criminal Finances Act 2017 - consultation on Proceeds of Crime Act 2002 Codes of Practice**

**EQIA conducted November 2020**

***[DoJ EQIA Template Revised Feb 2020]***

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**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 |
| Commencement of NI provisions in the Criminal Finances Act 2017 - consultation on Proceeds of Crime Act 2002 Codes of Practice |
| Is this an existing, revised or a new policy / decision?  The Proceeds of Crime Act 2002 (POCA) NI codes of practice provide guidance on powers to assist with the identification and recovery of assets or recoverable property:  **Search, Seizure and Detention of Property (Northern Ireland)**  Issued under section 195T of POCA to provide guidance to officers in the exercise of seizure powers, search powers, power to detain property, issues of approval and reports to the appointed person.  **Recovery of Cash: Search Powers (Northern Ireland)**  Issued under Section 293A of POCA to provide guidance to officers in the exercise of powers under section 289 to search for cash, including the search of a person, premises and vehicles if there are reasonable grounds for suspecting that relevant cash is on the premises, in a vehicle or being carried by a person. It covers issues of approval and reports to the appointed person.  **Investigations (Northern Ireland)**  Issued under Section 377ZA of POCA to provide guidance to officers when conducting investigations under Part 8 of POCA.  **Seizure of certain personal (moveable) property: Search Powers (Northern Ireland)**  Issued under Section 303I of POCA to provide guidance to officers on the operation of powers to search for ‘listed assets’ (defined in POCA) where there are reasonable grounds to suspect that the asset or assets or ‘recoverable property’ (again defined in POCA). |
| The parent legislation, Proceeds of Crime Act 2002 (POCA) is an existing policy. The four NI codes of practice are a statutory requirement under POCA. Three of the codes have been in existence and will subject to updates arising from the commencement of the Criminal Finances Act 2017 in NI. One of the codes (Seizure of certain personal (moveable) property) is a new code required due to new provisions introduced by the Criminal Finances Act 2017.  The NI codes of practice closely mirror the equivalent codes of practice for England and Wales issued by the Secretary of State (under revision and also to be consulted on from November 2020). Scottish Ministers are responsible for issuing codes of practice relevant to that jurisdiction. |
| What is it trying to achieve? (intended aims/outcomes)  To meet a statutory requirement for a code of practice (guidance for operational use of legislation). Legislation prescribes that where the Department of Justice proposes to issue a code of practice, it must—  (a) publish a draft,  (b) consider any representations made about the draft, and  (c) if the Department of Justice thinks it appropriate, modify the draft in the light of any such representations.  The draft codes will be laid before the Northern Ireland Assembly for approval. |
| The codes are written in the form of a manual to provide operational guidance on the use of the relevant POCA powers. The NI codes cover use of the powers by constables and accredited financial investigators. The codes are made available in public offices of agencies with legal access to the powers. |
| Are there any Section 75 categories which might be expected to benefit from the intended policy? If so, explain how. |
| No. |
| Who initiated or wrote the policy? |
| The Home Office has overall responsibility for POCA. The making of the four NI codes for constables and accredited financial investigators in NI is devolved to the Department of Justice. |
| Who owns and who implements the policy?  Home Office and Department of Justice. Scottish Ministers are responsible for equivalent codes for Scotland. |
|  |

**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*

staff

service users

other public sector organisations

voluntary/community/trade unions

other, please specify \_\_\_PSNI; agencies with access to POCA powers in NI – e.g. NIEA, Department for Communities. Potential impact on the general public; financial institutions; business sector; solicitors and qualified accountants if required to give legal or financial advice.

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

*what are they?*

|  |
| --- |
| There are separate codes of practice, prepared by the Secretary of State, for officers of Revenue and Customs, immigration officers and officers of the National Crime Agency operating in Northern Ireland. The NI codes of practice closely mirror codes of practice for England and Wales issued by the Secretary of State. Scottish Ministers are responsible for issuing codes of practice relevant to that jurisdiction. |

*who owns them?*

|  |
| --- |
| Home Office, Scottish Ministers |

**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.

|  |  |
| --- | --- |
| **Section 75 Category** | **Details of evidence/information** |
| Religious belief | The codes of practice provide operational guidance in relation to POCA legislation. The NI codes closely mirror codes of practice issued by the Secretary of State that have been in place for some time.  Constables and AFIs will be appropriately trained and accredited before having access to the powers. Training and accreditation is managed by the Proceeds of Crime Centre in the National Crime Agency.  The codes state that:   * Officers must exercise their powers fairly, responsibly, with respect and without discrimination on the grounds of religious belief or political opinion, racial group, age, marital status, sexual orientation, gender or disability and in accordance with any statutory duties on them. * Officers should ensure that in the exercise of their functions, they have regard to the need to safeguard and promote the welfare of all persons under the age of 18 years and that the decision to search a child must be in the best interests of the child and in compliance with obligations under Article 3 of the UN Convention on the Rights of the Child. * Officers should exercise particular sensitivity where a person being searched is wearing items of clothing which the person says, or the officer believes, are of religious significance.   There is no reason to believe that this category would be adversely affected. |
| 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. |

\***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.

|  |  |
| --- | --- |
| **Section 75 Category** | **Details of evidence/information** |
| Religious belief | The codes are for the benefit of operational officers trained in the use of the relevant POCA powers. There is no reason to believe the codes would have an effect on the needs, experience and priorities of this group. |
| Political opinion | As above. |
| Racial group | As above. |
| Age | As above.  The NI Investigations code highlights provision of support for juveniles in relation to interviews. |
| Marital status | As above. |
| Sexual orientation | As above. |
| Men and Women generally | As above. |
| Disability | As above.  In respect of the NI Investigations code in relation to interviews there is provision for the support of persons who are mentally disordered or mentally vulnerable. |
| Dependants | As above. |

**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 | No impact on equality of opportunity has been identified in relation to the policy. | None. |
| Political opinion | As above. | None. |
| Racial group | As above. | None. |
| Age | As above. | None. |
| Marital status | As above. | None. |
| Sexual orientation | As above. | None. |
| Men and Women generally | As above. | None. |
| Disability | As above. | None. |
| Dependants | As above. | None. |

|  |  |  |
| --- | --- | --- |
| **2.2** Are there opportunities to better promote equality of opportunity for people within the Section 75 equalities categories? | | |
| **Section 75 category** | **If Yes, provide details** | **If No, provide reasons** |
| Religious belief |  | Opportunities to promote equality of opportunity for this category have not been identified. The NI codes of practice provide guidance on the proper and uniform use of the relevant powers. |
| 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. |

|  |  |  |
| --- | --- | --- |
| **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. | N/A. |
| Political opinion | None. | N/A. |
| Racial group | None. | N/A. |

|  |  |  |
| --- | --- | --- |
| **2.4.** Are there opportunities to better promote good relations between people of different religious belief, political opinion or racial group? | | |
| **Good relations category** | **If Yes, provide details** | **If No, provide reasons** |
| Religious belief |  | Opportunities to promote good relations between people of different religious belief, political opinion or racial group have not been identified. The NI codes of practice are in place to provide instructions to constables and accredited financial investigators in the conduct of their duties as defined in legislation. |
| Political opinion |  | As above. |
| Racial group |  | 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.

|  |
| --- |
| No impact identified. |

**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.

|  |
| --- |
|  |

**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.

|  |
| --- |
| This policy is related to changes in legislation and relevant codes of practice which provide constables and accredited financial investigators with appropriate guidance on how to conduct themselves in the exercise of their duties under powers outlined in legislation.  The Department does not consider the policy proposals will impact adversely on equality of opportunity of any of the section 75 groups.  In light of this the policy proposals should be screened out and an equality impact assessment is not deemed necessary at this time. |

**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.

|  |
| --- |
| There is no need to mitigate the policy or to have an alternative policy. |

**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** | The Department will launch a 12 week public consultation on the policy proposals on 23 November 2020. Any comments relating to equality under consultation will be recorded and carefully considered and addressed. |
| **Good relations** | The Department will launch a 12 week public consultation on the policy proposals on 23 November 2020. Any comments relating to good relations under consultation will be recorded and carefully considered and addressed. |
| **Disability Duties** | The Department will launch a 12 week public consultation on the policy proposals on 23 November 2020. Any comments relating to disability duties under consultation will be recorded and carefully considered and addressed. |

**Part 5 Formal Record of Screening Decision**

|  |
| --- |
| **Title of Proposed Policy / Decision being screened**  **Commencement of NI provisions in the Criminal Finances Act 2017 - consultation on Proceeds of Crime Act 2002 Codes of Practice** |

**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**  **Andrea Watson** | **DP** | **6 November 2020** |
| **Approved by (Grade 7 or above):** | | |
| **Name**  **Sinead Simpson** | **G7** | **2 December 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. |