



Department of
Justice

An Roinn Dlí agus Cirt
Máinnystrie O tha Laa

**DOJ section 75
EQUALITY SCREENING FORM**

**Title of policy:
Consultation on minor settlements**

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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;
- men and women generally;
- persons with a disability and persons without; and
- 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).

2. 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 at any stage of the process for support or guidance.

Screening decisions

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

- i. 'screened in' for equality impact assessment;
- ii. 'screened out' *with* mitigation or an alternative policy proposed to be adopted; or
- iii. 'screened out' *without* mitigation or an alternative policy proposed to be adopted.

Screening and good relations duty

10. 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

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.

Policy scoping

11. Information about the policy

Name of the policy/decision to be screened

This screening form considers the implications for equality of opportunity of policy options being consulted on in relation to compensation settlements for children for personal injuries (also known as “minor settlements”), specifically whether or not, and if so how, the Department of Justice ought to legislate to require court approval of such settlements where these are reached without legal proceedings being issued.

The current position in Northern Ireland is that any settlement of compensation for a child where legal proceedings have issued must be approved by the court, after which the court may (and almost always does) order that the approved sum be paid into court and it is then managed by, the Court Funds Office until the child reaches the age of eighteen.

In respect of settlements reached where legal proceedings have not issued, there is a procedure whereby court approval can be sought on behalf of the child and then a court direction will be made about the management of the sum (i.e. by the Court Funds Office). However, this is entirely voluntary.

The lack of a legal requirement for all compensation settlements for a child to be approved by a court gives rise to a concern that there are cases in which parents, sometimes without the benefit of legal advice, are settling claims with insurance companies for a sum that may not properly compensate the child and which may not be kept for the child until they turn 18, nor spent in the child’s best interests.

Therefore, the Gillen Review of Civil Justice (2017) made a recommendation that the Department should bring forward legislation ‘to compel a requirement for court approval for all legal cases involving a settlement or award of damages to minors’.

Officials researched the extent of the problem to inform consideration of the issue. Analysis of the data indicates that there are around 100 settlements of compensation to children per year that are not submitted for court approval. This represents around 6% of all children’s compensation settlements, although the value of all of these cases is not known.

In view of this, the Minister considered that there was merit in taking views on the Gillen Report’s recommendation through a public consultation.

Is this an existing, revised or a new policy/decision?

New policy options.

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

To ensure by proportionate means the proper compensation of children and the proper protection of compensation awards to children.

Are there any section 75 categories which might be expected to benefit from

the intended policy? If so, explain how.

Children.

Who initiated or wrote the policy?

The policy options were developed by the Department of Justice (“the Department”).

Who owns and who implements the policy?

The policy is owned by the Department and it will primarily be responsible for the implementation of any next steps following consultation. For example, if there is support for mandatory court approval for all minor settlements, this will have to be provided for in primary legislation brought forward by the Department.

12. Implementation factors

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

Any next steps will depend on the outcome of the consultation. Another equality screening would be carried out when a policy position is agreed and ahead of any implementation.

If yes, are they

Tick Box

- financial
- legislative
- other, please specify: court processes

13. Main stakeholders affected

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

Tick Box

- staff (e.g. NICTS)
- service users (e.g. legal representatives)
- other public sector organisations
- voluntary/community/trade unions
- other, please specify –

1. persons making a claim for compensation on behalf of a minor
2. organisations representing personal injury lawyers and lawyers acting for insurance companies
3. defendants to claims for compensation and compensators, e.g. insurance companies.

14. Other policies with a bearing on this policy

what are they?

None

who owns them?

N/A

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/data
Religious belief	No available evidence.
Political opinion	No available evidence.
Racial group	No available evidence.
Age	Quantitative data from NICTS indicates that approximately 100 settlements of compensation to children per year are not submitted for court approval.
Marital status	No available evidence
Sexual orientation	No available evidence
Men and women generally	No available evidence
Disability	It is possible that children with a disability would be more affected by this policy than children without, as they may have been disabled as a result of the negligence of another eg. a RTA and will, therefore, seek compensation. However, the main impact is likely to be for children receiving compensation for less serious injuries.
Dependants	People with dependent children would be affected by this policy more than those without, as the policy is about children on whose behalf they may be making a claim for damages for personal injury.

***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	It is not considered that the policy options would have a significant effect on the needs, experiences and priorities of this category.
Political opinion	As above.
Racial group	As above.
Age	The policy options are intended to improve outcomes for children by removing or reducing the risk that they are under-compensated and/or the compensation award is not used for them or in their best interests.
Marital status	As 'religious belief' above.
Sexual orientation	As 'religious belief' above.
Men and women generally	As 'religious belief' above.
Disability	The policy options are intended to improve outcomes for children who have suffered a personal injury and, therefore, may be more likely to have a disability than children generally. However, the main impact is likely to be for children receiving compensation for less serious injuries.
Dependants	The policy options are intended to improve outcomes for children who have suffered a personal injury and, therefore, for parents and guardians charged with their care. The policy also seeks to ensure appropriate protection of compensation awards to children. This is likely to result in compensation being paid into court and not to parents.

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.

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.

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	The overall aim of the policy options is to ensure, by proportionate means, the fair compensation of children and the proper protection of their awards. As the final policy will apply equally to all minors as a single class, it is not considered that there would be any adverse impact on equality of opportunity for this category.	None
Political opinion	As above.	None
Racial group	As above.	None
Age	The aim of the policy options is to ensure, by proportionate means, the fair compensation of children and proper protection of their awards. It is anticipated, therefore, that there would be a positive impact on equality of opportunity for children if legislation on this issue was to be taken forward.	Minor
Marital status	As 'religious belief' above.	None
Sexual orientation	As 'religious belief' above.	None
Men and women generally	As 'religious belief' above.	None
Disability	It is possible that children with a disability would be positively affected by this policy, perhaps more so than children without, as they may have been disabled as a result of negligence, e.g. in a RTA, and will, therefore, seek compensation. However, the main impact is likely to be for children receiving compensation for less serious injuries.	Minor
Dependants	People with dependent children would be positively affected by this policy, more than people without, as they may be charged with caring for a child as a result of a personal injury. However, the payment of children's compensation into court rather than directly to parents may be considered by some as a negative impact.	Minor

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		No, as this category is not relevant.
Political opinion		As above.
Racial group		As above.
Age	The policy options may have a positive impact on equality of opportunity for children.	
Marital status		As above.
Sexual orientation		As above.
Men and Women generally		As above.
Disability	The policy options may have a positive impact on equality of opportunity for some children with disabilities resulting from personal injury.	As above.
Dependants	The policy options may have a positive impact on those caring for dependent children who have suffered a personal injury.	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	The policy options being consulted on are not likely to have any impact on good relations between people of different religious belief.	None.
Political opinion	The policy options being consulted on are not likely to have any impact on good relations between people of different political opinion.	None.
Racial group	The policy options being consulted on are not likely to have any impact on good relations between people of different racial group.	None.

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		There are no opportunities for promoting good relations between people of different religious belief.
Political opinion		There are no opportunities for promoting good relations between people of different political opinion.
Racial group		There are no opportunities for promoting good relations between people of different racial group.

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.)

While there is potential for child claimants to present with multiple identities, the policy options are intended to ensure, so far as possible, the fair compensation of *all* children and the protection of their awards.

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

No data is available.

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.

The policy options are to ensure, by proportionate means, the fair compensation of all children who suffer a personal injury caused by negligence and the protection of their awards, and it is, therefore, anticipated that there would be a positive impact on equality of opportunity for children if taken forward. In view of this, an EQIA is not considered necessary.

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.

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

26. 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.

27. 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.

28. 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	This equality screening will be published alongside the consultation paper and comments on it invited. A further equality screening will be carried out when the policy position is agreed and ahead of implementation. That screening will take into account any comments made in respect of this document.
Good relations	N/A.
Disability duties	N/A.

Part 5

Formal record of screening decision

Title of proposed policy/decision being screened

Consultation on awards of compensation to children outside court proceedings.

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

<input checked="" type="checkbox"/>	Equality of opportunity
<input checked="" type="checkbox"/>	Good relations
<input checked="" type="checkbox"/>	Disability duties

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

<input type="checkbox"/>	Screened in – necessary to conduct a full EQIA
<input checked="" type="checkbox"/>	Screened out – no EQIA necessary (no impacts)
<input type="checkbox"/>	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: Norma Dempster	DP	09/06/21
Approved by (Grade 7 or above):		
Name: Martin Moore	G7	11/06/21

Quality Assurance

Prior to final approval the Screening Form should be forwarded to 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.

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.

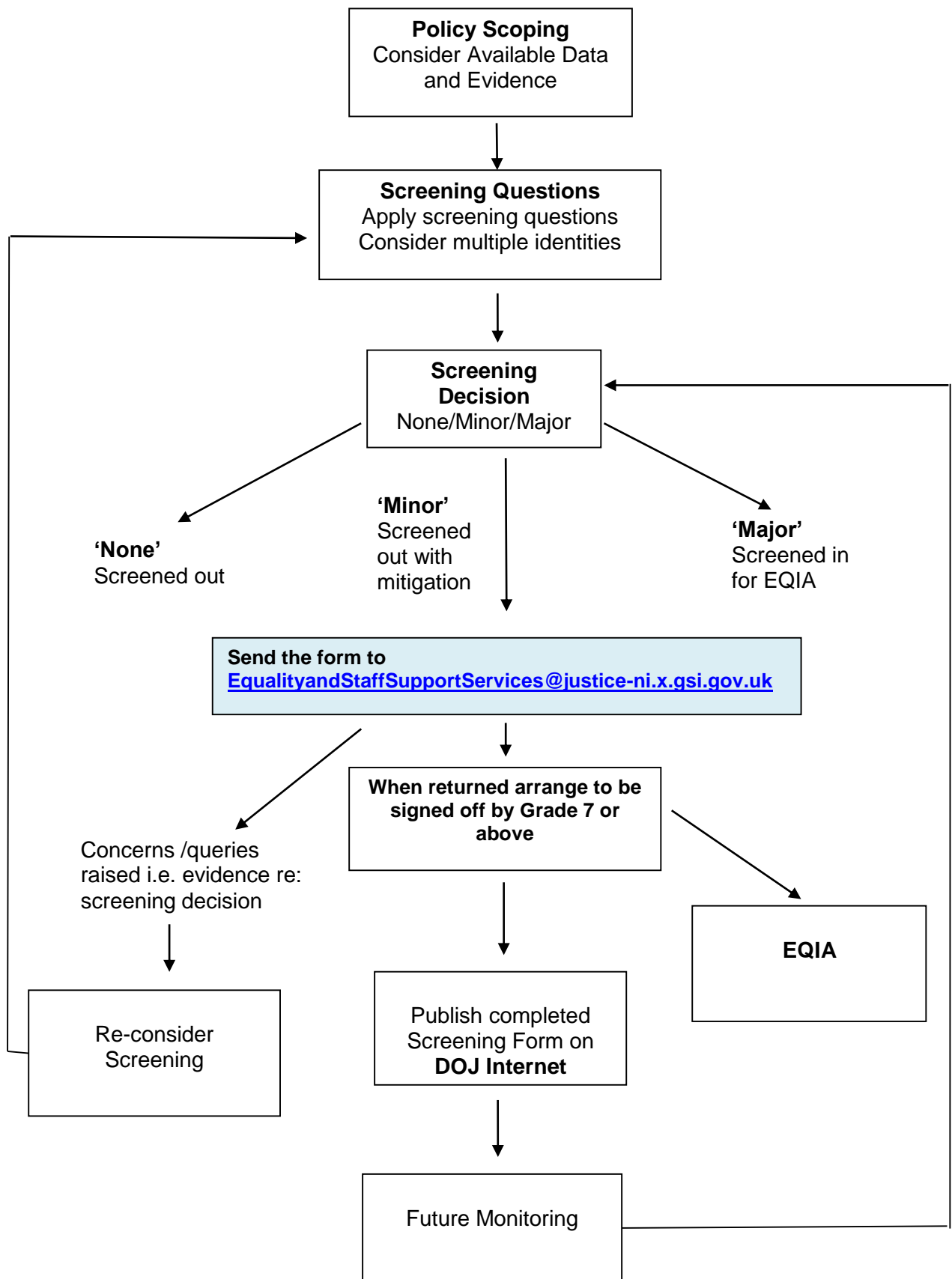
The screening exercise is now complete.

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

SCREENING FLOWCHART



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.