



## SECTION 75 – THE LEGAL BACKGROUND

1. Under Section 75 of the Northern Ireland Act 1998, the NIO is required to have due regard to the need to promote equality of opportunity between:
  - persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation
  - men and women generally
  - persons with a disability and persons without
  - persons with dependants and persons without.
2. In addition, and without prejudice to the obligations above, in carrying out our functions in relation to Northern Ireland we are required to have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group. The NIO is also required to meet our legislative obligations under the Disability Discrimination Order 1995.
3. A list of the main groups identified as being relevant to each of the Section 75 categories is at **Annex A** of this document.

## INTRODUCTION

4. This form should be read in conjunction with the Equality Commission's Section 75 guidance "A Guide for Public Authorities" April 2010, available on the Equality Commission's website ([www.equalityni.org](http://www.equalityni.org)). **Staff should complete a form for each new or revised policy for which they are responsible (see page 4 for a definition of a policy in respect of Section 75).**
5. 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.
6. 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 areas of work; and
- key stakeholders.

7. A flowchart which outlines the screening process is attached at **Annex B**.

8. 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 EQIA or 'screened out'.

9. 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.

10. 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.

11. The Equality Commission has developed a series of four questions, included in Part 2 of this screening form with supporting sub-questions, which should be applied to all policies as part of the screening process. They identify those policies that are likely to have an impact on equality of opportunity and/or good relations.

## SCREENING DECISIONS

12. 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

13. The Equality Commission recommends that a policy is 'screened in' for EQIA 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 EQIAs are inappropriate in this context.

## FURTHER INFORMATION

14. Further information on equality, including a copy of the NIO Equality Scheme, yearly progress reports on equality to the Equality Commission for Northern Ireland, information on data sources and the Cabinet Office code of practice on consultation may be found on the NIO Intranet under About the NIO > Equality.

15. If you have any questions regarding the screening exercise or Section 75 in general please contact the Corporate Governance Team on 028 9076 5497; or [nio.equalityscheme@nio.gov.uk](mailto:nio.equalityscheme@nio.gov.uk).

16. When you have completed the form please retain on file in the branch for record purposes, and send a copy to the s75 equality advisor.

## **PART 1 – POLICY SCOPING**

### **DEFINITION OF POLICY**

1.1. 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 a further EQIA needs to be carried out in respect of those policies cascading from the overarching strategy.

### **OVERVIEW OF POLICY PROPOSALS**

1.2. 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.

### **SCOPING THE POLICY**

1.3. 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.

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

# EQUALITY SCREENING FORM

## INFORMATION ABOUT THE POLICY

Name of the policy	Northern Ireland (Executive Formation etc) Bill (2022) - provision to exercise appointment functions
Is this an existing, revised or new policy?	This proposed legislation is similar to previous legislation enacted in 2018 (the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018.
What is it trying to achieve (intended aims/outcomes)?	The policy will enable a specified Minister of the Crown to exercise the appointment functions of Northern Ireland Ministers in relation to a specified office during the current period without an Executive. The policy addresses the most urgent cases, where the making of an appointment is necessary to maintain governance and public confidence in the institutions in Northern Ireland. These are: the Northern Ireland Commissioner for Children and Young People; and Commissioners for the Northern Ireland Judicial Appointments Commission.
Are there any s75 categories which might be expected to benefit from the intended policy? If so, explain how.	These measures will ensure that public bodies can continue to function with necessary officers in post.  The legislation is very similar to the legislation noted above and no adverse impacts were noted at the time it applied.
Who initiated or wrote the policy?	The Northern Ireland Office
Who owns and who implements the policy?	A specified Minister of the Crown will be responsible for making some public appointments that would normally be made by a Northern Ireland Minister.

## IMPLEMENTATION FACTORS

Are there any factors which could contribute to/detract from the intended aim/outcome of the policy/decision?	It is not possible at this time to predict the Parliamentary passage so there is a
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	possibility that amendments could influence the intended outcomes.
If yes, are they: <ul style="list-style-type: none"> <li>- financial</li> <li>- legislative</li> <li>- other (please specify)</li> </ul>	Legislative

## MAIN STAKEHOLDERS AFFECTED

Who are the internal and external stakeholders (actual or potential) that the policy will impact upon? <ul style="list-style-type: none"> <li>- staff</li> <li>- service users</li> <li>- other public sector organisations</li> <li>- voluntary/community/trade unions</li> <li>- other (please specify)</li> </ul>	<ul style="list-style-type: none"> <li>● Ministers of the Crown</li> <li>● Northern Ireland government departments; those public bodies to which appointments will be made and their users and beneficiaries</li> </ul>
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## OTHER POLICIES WITH A BEARING ON THIS POLICY

What are they?	The two offices specified in the Bill are made under the following: <ol style="list-style-type: none"> <li>1. Commissioner for Children and Young People (NI) Order 2003 (SI 2003/439).</li> <li>2. The Justice (NI) Act 2002.</li> </ol>
Who owns them?	<ol style="list-style-type: none"> <li>1. Secretary of State for Northern Ireland (in absence of an Executive)</li> <li>2. Lord Chancellor</li> </ol>

## AVAILABLE EVIDENCE

1.5. Evidence to help inform the screening process may take many forms. Please ensure that your screening decision is informed by relevant data.

**What evidence / information (both qualitative and quantitative) have you gathered to inform this policy? Specify details for each of the s75 categories.**

Section 75 category	Details of evidence/information
Religious belief	No impacts on this group were identified during policy development.
Political opinion	No impacts on this group were identified during policy development.
Racial group	No impacts on this group were identified during policy development.
Age	It is anticipated that this policy will have a positive impact on children and young people in Northern Ireland. The policy allows a relevant Minister of the Crown to exercise appointment functions for the office of the Northern Ireland Commissioner for Children and Young People who has a mandate to safeguard and promote the rights and best interests of children and young people in Northern Ireland.
Marital status	No impacts on this group were identified during policy development.
Sexual orientation	No impacts on this group were identified during policy development.
Men and women generally	No impacts on this group were identified during policy development.
Disability	No impacts on this group were identified during policy development.
Dependants	No impacts on this group were identified during policy development.

## NEEDS, EXPERIENCES AND PRIORITIES

1.6. 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 s75 categories.

Section 75 category	Details of needs/experiences/priorities
Religious belief	None identified
Political opinion	None identified
Racial group	None identified
Age	It is anticipated that this policy will protect the needs, experiences and priorities of children and young people by ensuring that the

	Northern Ireland Commissioner for Children and Young People can be appointed.
Marital status	None identified
Sexual orientation	None identified
Men and women generally	None identified
Disability	None identified
Dependants	None identified



## PART 2 – SCREENING QUESTIONS

### INTRODUCTION

2.1. In making a decision as to whether or not there is a need to carry out an EQIA, please give consideration to your answers to the questions 1-4 which are given on pages 66-68 of the Equality Commission “A Guide for Public Authorities”.

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

2.3. If your 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.

2.4. If your 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:

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

### IN FAVOUR OF A ‘MAJOR’ IMPACT

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

## IN FAVOUR OF 'MINOR' IMPACT

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

## IN FAVOUR OF NONE

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

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

## SCREENING QUESTIONS

1. What is the likely impact on equality of opportunity for those affected by this policy, for each of the Section 75 equality categories? (minor/major/none)

Section 75 category	Details of policy impact	Level of impact? minor/major/none
Religious belief	We do not consider there to be a likely impact on equality of opportunity for those of this Section 75 group.	<b>None</b>
Political opinion	We do not consider there to be a likely impact on equality of opportunity for those of this Section 75 group.	<b>None</b>
Racial group	We do not consider there to be a likely impact on equality of opportunity for those of this Section 75 group.	<b>None</b>
Age	We consider there to be a positive impact on equality of opportunity for children and young people by ensuring that the Northern Ireland Commissioner for Children and Young People can be appointed.	<b>Minor</b>
Marital status	We do not consider there to be a likely impact on equality of opportunity for those of this Section 75 group.	<b>None</b>
Sexual orientation	We do not consider there to be a likely impact on equality of opportunity for those of this Section 75 group.	<b>None</b>
Men and women generally	We do not consider there to be a likely impact on equality of opportunity for those of this Section 75 group.	<b>None</b>
Disability	We do not consider there to be a likely impact on equality of opportunity for those of this Section 75 group.	<b>None</b>
Dependants	We do not consider there to be a likely impact on equality of opportunity for those of this Section 75 group.	<b>None</b>

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

<b>Section 75 category</b>	<b>If Yes, provide details</b>	<b>If No, provide reasons</b>
Religious belief		No, the policy is only intended to allow pressing public appointments to be made in the absence of Northern Ireland Ministers.
Political opinion		No, the policy is only intended to allow pressing public appointments to be made in the absence of Northern Ireland Ministers.
Racial group		No, the policy is only intended to allow pressing public appointments to be made in the absence of Northern Ireland Ministers.
Age		Yes. This policy provides the opportunity to better promote equality of opportunity for children and young people by allowing a Minister of the Crown to appoint the Northern Ireland Commissioner for Children and Young People. This office is mandated to keep under review the adequacy and effectiveness of law, practice and services relating to the rights and best interests of children and young people by relevant authorities.
Marital status		No, the policy is only intended to allow pressing public appointments to be made in the absence of Northern Ireland Ministers.
Sexual orientation		No, the policy is only intended to allow pressing public appointments to be made in the absence of Northern Ireland Ministers.
Men and women generally		No, the policy is only intended to allow pressing public appointments to be made in the absence of Northern Ireland Ministers.
Disability		No, the policy is only intended to allow pressing public appointments to be made in the absence of Northern Ireland Ministers.
Dependants		No, the policy is only intended to allow pressing public appointments to be made

		in the absence of Northern Ireland Ministers.
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**3. To what extent is the policy likely to impact on good relations between people of different religious belief, political opinion or racial group? (minor/major/none)**

<b>Good relations category</b>	<b>Details of policy impact</b>	<b>Level of impact minor/major/none</b>
Religious belief	We do not consider there to be a likely impact on good relations between people of different religious belief	None
Political opinion	We do not consider there to be a likely impact on good relations between people of different political opinion.	None
Racial group	We do not consider there to be a likely impact on good relations between people of different racial group.	None

**4. Are there opportunities to better promote good relations between people of different religious belief, political opinion or racial group?**

<b>Good relations category</b>	<b>If Yes, provide details</b>	<b>If No, provide reasons</b>
Religious belief		No, the policy is only intended to allow pressing public appointments to be made in the absence of Northern Ireland Ministers.
Political opinion		No, the policy is only intended to allow pressing public appointments to be made in the absence of Northern Ireland Ministers.
Racial group		No, the policy is only intended to allow pressing public appointments to be made in the absence of Northern Ireland Ministers.

## ADDITIONAL CONSIDERATIONS

### **Multiple identity**

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

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

It is anticipated that this policy will have a positive impact on children and young people with multiple identities in Northern Ireland (for example; children and young people with disabilities; young ethnic minority people). The policy allows a relevant Minister of the Crown to exercise appointment functions for the office of the Northern Ireland Commissioner for Children and Young People who has a mandate to safeguard and promote the rights and best interests of children and young people in Northern Ireland.

## PART 3 – SCREENING DECISION

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

The provision to allow a Minister of the Crown to make pressing public appointments will not have any adverse impacts on equality of opportunity and/or good relations.

The policy will provide a limited power for the relevant UK Minister to exercise appointment functions during the current period without an Executive. Appointment functions in relation to those specified offices are currently conferred on Northern Ireland Ministers. It confers only equivalent powers as to those conferred on Northern Ireland Ministers and makes no further changes to the appointment functions affected.

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

This Bill is a necessary step to make pressing public appointments in Northern Ireland.

Further mitigations or alternative policies are not applicable.

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

Not applicable.

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

### MITIGATION

3.2. If you have concluded 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.**

The Bill may be amended during the Parliamentary passage but given the limited remit of the legislation we have not identified alternative policies that could promote equality of opportunity or good relations.

## TIMETABLING AND PRIORITISING

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

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

Priority criterion	Rating (1-3)
Effect on equality of opportunity and good relations	N/A
Social need	N/A
Effect on people’s daily lives	N/A
Relevance to the NIO’s functions	N/A
<b>Total rating score (total of 12)</b>	N/A

*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 you in timetabling. Details of the NIO’s Equality Impact Assessment Timetable should be included in the quarterly Screening Report.*

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

The legislation will only apply during any period that the Assembly is not functioning as defined.

**If yes, please provide details.**

Not applicable.



## **PART 4 – MONITORING**

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

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

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

## PART 5 - APPROVAL AND AUTHORISATION

<b>Screened by:</b>	██████████
<b>Grade/Branch/Group:</b>	SEO/ Strategy Unit
<b>Date:</b>	November 2022
<b>Approved by Deputy Director:</b>	Máire Cairns
<b>Date:</b>	11 November 2022

*Note: A copy of the Screening Template for each policy screened should be 'signed off' and approved by a senior manager responsible for the policy and made available on request.*

*Any screening forms completed within the Department will be published on a six monthly basis in line with our Departmental Equality Policy monitoring arrangements. Such information will be collated and published by the Corporate Governance Team.*

## ANNEX A – MAIN GROUPS IDENTIFIED AS RELEVANT TO THE SECTION 75 CATEGORIES

Category	Example Groups
<b>Religious Belief</b>	<p>Buddhist; Catholic; Hindu; Jewish; Muslims; people of no religious belief; Protestants; Sikh; other faiths.</p> <p>For the purposes of Section 75, the term “religious belief” is the same definition as that used in the <i>Fair Employment &amp; Treatment (NI) Order</i>. Therefore, “religious belief” also includes any <i>perceived</i> religious belief (or perceived lack of belief) and, in employment situations only, it also covers any “<i>similar philosophical belief</i>”.</p>
<b>Political Opinion</b>	Nationalists generally; Unionists generally; members/supporters of other political parties.
<b>Racial Group</b>	Black people; Chinese; Indians; Pakistanis; people of mixed ethnic background; Polish; Roma; Travellers; White people.
<b>Men and women generally</b>	Men (including boys); Trans-gendered people; Transsexual people; Women (including girls).
<b>Marital Status</b>	Civil partners or people in civil partnerships; divorced people; married people; separated people; single people; widowed people.
<b>Age</b>	Children and young people; older people.
<b>Persons with a disability</b>	Persons with disabilities as defined by the Disability Discrimination Act 1995.
<b>Persons with dependants</b>	Persons with personal responsibility for the care of a child; care of a person with disability; or the care of a dependant older person.

**Sexual orientation**

Bisexual people; heterosexual people; gay or lesbian people.

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## ANNEX B – SCREENING FLOWCHART

