



## **PUBLIC PROSECUTION SERVICE**

# **GUIDELINES FOR PROSECUTING CASES INVOLVING ELECTRONIC COMMUNICATIONS**

## **SECTION 75 EQUALITY SCREENING FORM**

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## PPS POLICY EQUALITY SCREENING FORM

### The Legal Background

Under section 75 of the Northern Ireland Act 1998, the PPS is required **to have due regard to the need to promote equality of opportunity:**

- between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally;
- between persons with a disability and persons without; and,
- between persons with dependants and persons without<sup>1</sup>.

Without prejudice to the obligations set out above, the PPS 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 and the Human Rights Act.**

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

### Introduction

1. This form should be read in conjunction with the Equality Commission's revised Section 75, "A Guide for Public Authorities" April 2010 and available via the following link [S75 Guide for Public Authorities April 2010](#). **Staff should complete a form for each new or revised policy for which they are responsible (see page 6 for a definition of policy in respect of section 75).**
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 will help improve the organisation's service provision through a systematic review of all services, policies, procedures, practices and/or

decisions. It will also help determine whether an Equality Impact Assessment (EQIA) is necessary.

Screening should be introduced at an early stage when developing or reviewing a policy.

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.
4. The first step in the screening exercise, is to gather evidence and relevant data 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. 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.
6. 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.

7. The Equality Commission has developed a series of four questions, included in Part 3 of this screening form with supporting sub-questions, which should be applied to all policies as part of the screening process. The questions should assist in identifying those policies that are likely to have an impact on equality of opportunity and/or good relations.

### **Screening decisions**

8. 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**

9. The Equality 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.

**Staff should complete a form for each of new or revised policy for which they are responsible (see page 6 for a definition of policy in respect of section 75).**

If you have any questions regarding the screening exercise or S75 in general please contact the Equality Officer in Policy and Information Unit at the address given below.

## 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.
11. Public authorities should remember that the Section 75 statutory duties apply to internal policies (relating to people who work for the authority), as well as external policies (relating to those who are, or could be, served by the authority).

## Information about the policy

<b>Name of the Policy</b>
Guidelines for Prosecuting Cases Involving Electronic Communications. _____
<b>Is this an existing, revised or a new policy?</b>
New policy based on internal guidance to prosecutors. _____
<b>What is it trying to achieve? (intended aims/outcomes)</b>
The policy aims to achieve the following:  <ul style="list-style-type: none"><li>• The policy seeks to explain the approach taken by the PPS when considering cases where it is alleged that criminal offences have been committed by the sending of an electronic communication, including communications sent via social media.</li><li>• It is intended that this policy will also provide practical and legal guidance to prosecutors dealing with cases involving electronic communications.</li></ul>
<b>Are there any Section 75 categories which might be expected to benefit from the intended policy? If so, explain how.</b>
Criminal offences committed by the sending of an electronic communication can affect a range of different people including adults, children, men, women, as well as a range of vulnerable groups. _____
<b>Who initiated or wrote the policy?</b>
Public Prosecution Service – Policy and Information Unit. _____
<b>Who owns and who implements the policy?</b>
The Public Prosecution Service owns the Policy. It will be implemented by Public Prosecutors, PPS administrative staff and Independent Counsel who are instructed to act on the behalf of the PPS. _____

## **Implementation factors**

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

If yes, are they

- ☐ financial  
☒ legislative  
☐ other, please specify \_\_\_\_\_

## **Main stakeholders affected**

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

- ☒ staff  
☒ service users  
☐ other public sector organisations  
☐ voluntary/community/trade unions  
☐ other, please specify

## **Other policies with a bearing on this policy**

What are they?

- Victim and Witness Policy.
- Code for Prosecutors.
- Guidelines for Diversion.
- Hate Crime Policy.

Who owns them?

The Director of Public Prosecutions for Northern Ireland.



### Available evidence

14. Evidence to help inform the screening process may take many forms. Public authorities should ensure that their screening decision is informed by relevant data.
15. What evidence/information (both qualitative and quantitative) have you gathered to inform this policy? Specify details for each of the Section 75 categories.

Section 75 Category	Details of evidence/information
N/A	Qualitative evidence in respect of PPS practices and procedures has been sought from prosecutors and members of the senior management team with experience of working in this area.

### Needs, experiences and priorities

16. 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	No specific needs, experiences or priorities have been identified.
Political opinion	No specific needs, experiences or priorities have been identified.

Racial group	No specific needs, experiences or priorities have been identified.
Age	No specific needs, experiences or priorities have been identified.
Marital status	No specific needs, experiences or priorities have been identified.
Sexual orientation	No specific needs, experiences or priorities have been identified.
Men and Women generally	No specific needs, experiences or priorities have been identified.
Disability	No specific needs, experiences or priorities have been identified.
Dependants	No specific needs, experiences or priorities have been identified.

## Part 2(a)

### 17. HUMAN RIGHTS IMPACT ASSESSMENT

#### Articles as identified by European Convention of Human Rights.

- Article 2 - Right to life
- Article 3 - Prohibition of torture, inhuman or degrading treatment
- Article 4 - Prohibition of slavery and forced labour
- Article 5 - Right to liberty and security
- Article 6 - Right to fair and public trial
- Article 7 - Right to no punishment with law
- Article 8 - Right to respect for private and family life, home and correspondence
- Article 9 - Right to freedom of thought, conscience and religion
- Article 10 - Right to freedom of expression
- Article 11 - Rights to freedom of assembly and association
- Article 12 – Right to marry and to found a family
- Article 14 – The prohibition of discrimination
- Protocol 1 Article 1 – Protection of Property
- Protocol 1 Article 2 - Right to education

#### Definitions of degree of risk of infringement of each article:

**High risk** – It is foreseeable that this policy is very likely to breach this Article.

**Medium risk** – This policy is likely, in certain circumstances, to breach this Article.

**Low risk** – It is possible, though very unlikely, that this policy will breach this Article.

#### 18. Indicate any potential Human Rights implications associated with this policy, the perceived degree of risk (see above) and who the victim may be.

	Has this policy the potential to infringe the rights (Please Tick)		If yes indicate here the degree of risk – High, Medium or Low (See definitions above)	If yes indicate here who the potential victim(s) would be
	Yes	No		
Article 2		No		
Article 3		No		
Article 5		No		
Article 6		No		
Article 8		No		

Article 9		No		
Article 10		No		
Article 11		No		
Article 12		No		
Article 14		No		
Article 1 of Protocol 1		No		
Article 2 of Protocol 1		No		

**19. Outline any justification for any infringements identified:**

N/A

**20. Are any alternatives available which may not infringe Human Rights?**

Yes ☐

No ☐

**If yes, and the decision has been taken NOT to pursue the alternatives, please give a rationale for this decision.**

N/A

**21. Outline any action which could be taken to reduce the level of infringement.**

N/A

**22. Are there actions that can be taken that would promote human rights?**

Yes ☐

No ☐

**Please specify:**

N/A

## Part 2(b)

### **OBLIGATIONS UNDER THE DISABILITY DISCRIMINATION ORDER**

Under section 49A of the Disability Discrimination Act 1995, public authorities, when carrying out their functions must have due regard to the need to:

- **promote positive attitudes towards disabled people; and**
- **encourage participation by disabled people in public life.**

Questions 5 and 6 below relate to these two areas.

#### **Consideration of Disability Duties**

23. Does this proposed policy / decision provide an opportunity for PPS to better promote positive attitudes towards disabled people?

**Explain your assessment in full**

N/A

24. Does this proposed policy / decision provide an opportunity for PPS to actively increase the participation by disabled people in public life?

**Explain your assessment in full**

N/A

## Part 3

### SCREENING QUESTIONS

#### Introduction

25. In making a decision as to whether or not there is a need to carry out an equality impact assessment, consider questions 1-4 listed below.
26. If the conclusion is **none** in respect of all of the Section 75 equality of opportunity and/or good relations categories, then the decision maybe 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.
27. 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.
28. 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:
- introduce measures to mitigate the adverse impact; or
  - the introduction of an alternative policy to better promote equality of opportunity and/or good relations.

#### Factors that would indicate a conclusion in favour of a 'major' impact

29. (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.

**Factors that would indicate a conclusion in favour of ‘minor’ impact**

30. (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.



**Factors that would indicate a conclusion in favour of none**

31. (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.
32. 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

<b>1.</b> 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		
<b>Section 75 category</b>	<b>Details of policy impact</b>	<b>Level of impact? Minor/Major/None</b>
Religious belief	<b>None</b>	<b>None</b>
Political opinion	<b>None</b>	<b>None</b>
Racial group	<b>None</b>	<b>None</b>
Age	<b>None</b>	<b>None</b>
Marital status	<b>None</b>	<b>None</b>
Sexual orientation	<b>None</b>	<b>None</b>
Men and Women generally	<b>None</b>	<b>None</b>
Disability	<b>None</b>	<b>None</b>
Dependants	<b>None</b>	<b>None</b>

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 specific equality issues have been identified.
Political opinion		No specific equality issues have been identified.
Racial group		No specific equality issues have been identified.
Age		No specific equality issues have been identified.
Marital status		No specific equality issues have been identified.
Sexual orientation		No specific equality issues have been identified.
Men and Women generally		No specific equality issues have been identified.
Disability		No specific equality issues have been

		<b>identified.</b>
Dependants		<b>No specific equality issues have been identified.</b>

<b>3.</b> 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		<b>None</b>
Political opinion		<b>None</b>
Racial group		<b>None</b>

<b>4.</b> 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		<b>None</b>
Political opinion		<b>None</b>
Racial group		<b>None</b>

### **Additional considerations**

### **Multiple Identities**

33. 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?

Prosecutors recognise the diversity of victims. Victims' experiences of trafficking may be affected by a mix of their ethnicity, age, religion, disability etc.

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

N/A

## Part 4

### Screening decision

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

No adverse impacts on s75 categories have been identified.

Prosecutors will consider the needs of each victim on an individual basis and will ensure that, where appropriate, legal measures are sought, and pre-trial consultations are held to protect and support the victim(s) during the criminal justice process.

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

There is no requirement to have mitigation or to have an alternative policy introduced as no negative impact on s75 categories has been identified.

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

N/A

38. Further advice on equality impact assessment may be found in a separate Commission publication: Practical Guidance on Equality Impact Assessment.

## Mitigation

39. When the public authority concludes that the likely impact is 'minor' and an equality impact assessment is not to be conducted, the public authority 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.
40. Can the policy/decision be amended or changed or an alternative policy introduced to better promote equality of opportunity and/or good relations?
41. If so, give the **reasons** to support your decision, together with the proposed changes/amendments or alternative policy.

N/A



## Timetabling and prioritising

42. Factors to be considered in timetabling and prioritising policies for equality impact assessment.
43. 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.
44. 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	

45. 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 the public authority in timetabling. Details of the Public Authority's Equality Impact Assessment Timetable should be included in the quarterly Screening Report.
46. Is the policy affected by timetables established by other relevant public authorities?
47. If yes, please provide details.

## **Part 5**

### **Monitoring**

48. Public authorities should consider the guidance contained in the Commission's Monitoring Guidance for Use by Public Authorities (July 2007).
49. The Commission recommends that where the policy has been amended or an alternative policy introduced, the public authority should monitor more broadly than for adverse impact (See Benefits, P.9-10, paras 2.13 – 2.20 of the Monitoring Guidance).
50. Effective monitoring will help the public authority 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.

## Part 6


### Approval and authorisation

Screened by:	Position/Job Title	Date
	Principal Public Prosecutor	11/10/21
Approved by:		
I am satisfied that this policy has been properly screened for both equality impact and human rights infringement, and I agree with the screening decision made.	Head of Policy and Information	22/10/21
<b>Authorised by:</b> (Head of Division)		

**Note:** A copy of the Screening Template should be made easily accessible on the public authority's website as soon as possible following completion. This will be undertaken by the Equality Officer on receipt as per below. Hard copies should also be made available on request.

**The screening exercise is now complete.**

When you have completed the form please retain a record in your branch and send a signed copy for information to:

Equality and Corporate Governance Officer  
Policy and Information Unit  
Room 123  
Belfast Chambers  
93 Chichester Street  
Belfast  
BT1 3JR  
 47608

If any EQIA **is** required, the Equality Officer should be contacted for further advice if necessary.

Further information on equality, including a copy of the PPS Equality Scheme, yearly progress reports on equality to the Equality Commission for Northern Ireland, information on data sources and other useful links may be found on the PPS Intranet under the Equality Scheme section.

## Annex A

### 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
Men and Women generally	Men (including boys); women (including girls); trans-gender and trans-sexual people
Marital/Civil Partnership status	Married people; unmarried people; divorced or separated people; widowed people; civil partnerships
Age	For most purposes, the main categories are: children under 18; people aged between 18 and 65. However the definition of age groups will need to be sensitive to the policy under consideration. For example, for some employment policies, children under 16 could be distinguished from people of working age
Persons with a disability 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.
Sexual orientation	Heterosexuals; bisexual people; gay men; lesbians