



Department of  
**Justice**  
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## **DOJ Section 75**

# **EQUALITY SCREENING FORM**

**Introduction of a Statutory Registration Scheme for  
all providers of Publicly Funded Legal Services in  
Northern Ireland**

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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 without<sup>1</sup>.

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, "A Guide for Public Authorities" April 2010, which is 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 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 so determine whether an Equality Impact Assessment (EQIA) is necessary. Screening should be introduced at an early stage when developing or reviewing a policy.

<sup>1</sup>A 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. 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.

7. The 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

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 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.

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

Name of the Policy

The Statutory Registration Scheme (the Scheme) for all providers of publicly funded legal services in Northern Ireland.

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Is this an existing, revised or a new policy?

New policy.

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

The purpose of the introduction of the Scheme is to put in place arrangements to ensure that those who receive public funding for the delivery of legal services provide the appropriate level and quality of service to their clients and the public purse. The Scheme is not intended to exclude any provider from continuing to undertake publicly funded representation.

The Scheme will require that:

- all firms of solicitors, individual solicitors and barristers, whether in private practice or working in the voluntary sector, operating under a waiver issued by the Law Society, will be required to register with the Department in order to continue to provide publicly funded legal services;
- the requirements for registration will be set out in a Code of Practice (the Code);
- compliance with minimum quality standards, as detailed in the Audit & Compliance Frameworks section of the Code, must be evidenced by self-certification, audit and compliance visits, administrative desktop reviews, customer surveys and complaints reviews;
- the Agency will have the power to impose sanctions or conditions, suspend and exclude providers who fail to meet or maintain requisite standards;
- the Scheme must be fully self-financing in terms of costs incurred in administering the Scheme and ensuring compliance which will be recouped through fees charged to those registering; and
- the data provided at registration may also be used to help the Agency meet its monitoring obligations under section 75 of the Northern Ireland Act 1998.

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Are there any Section 75 categories which might be expected to benefit from the intended policy? If so, explain how.

No

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Who initiated or wrote the policy?

Public Legal Services Division, Department of Justice.

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Who owns and who implements the policy?

The policy is owned Public Legal Services Division, and implemented by the Legal Services Agency Northern Ireland.

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### 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?

- x staff
- x service users
- other public sector organisations
- x voluntary/community/trade unions

x other, please specify The legal profession in particular solicitors and barristers who provide services to legally aided clients. A number of voluntary sector organisations also provide publicly funded representation under a waiver issued by the Law Society.

## Other policies with a bearing on this policy

- what are they?
- who owns them?

## 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.

| <b>Section 75 Category</b> | <b>Details of evidence/information</b>   |
|----------------------------|--|
| Religious belief           | There is no evidence to indicate that the proposals will adversely impact on this sec.75 category. |
| 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   |

## 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        | This policy does not adversely impact the need, experiences or priorities of this section 75 group. |
| 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  |

## Part 2

### SCREENING QUESTIONS

#### Introduction

17. 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.

18. 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 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.

19. 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.

20. 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.

#### In favour of a 'major' impact

21 (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**

22 (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**

23 (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.

24. 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

| <b>Section 75 category</b> | <b>Details of policy impact</b> | <b>Level of impact?<br/>Minor/Major/None</b> |
|----------------------------|---------------------------------|--|
| Religious belief           |                                 | <b>None</b>                                  |
| Political opinion          |                                 | <b>None</b>                                  |
| Racial group               |                                 | <b>None</b>                                  |
| Age                        |                                 | <b>None</b>                                  |
| Marital status             |                                 | <b>None</b>                                  |
| Sexual orientation         |                                 | <b>None</b>                                  |
| Men and Women generally    |                                 | <b>None</b>                                  |
| Disability                 |                                 | <b>None</b>                                  |
| Dependants                 |                                 | <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. This policy relates solely to the introduction of a Registration Scheme for lawyers undertaking legal aid representation and does not have any wider impact. |
| 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   |



**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<br/>Minor/Major/None</b> |
|--------------------------------|---------------------------------|---|
| Religious belief               |                                 | <b>None</b>                                 |
| Political opinion              |                                 | <b>None</b>                                 |
| Racial group                   |                                 | <b>None</b>                                 |

**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. This policy relates solely to the introduction of a Registration Scheme for lawyers undertaking legal aid representation and does not have any wider impact. |
| Political opinion              |                                | As above   |
| Racial group                   |                                | As above   |

## **Additional considerations**

### **Multiple identity**

25. 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).*

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

### Part 3

#### Screening decision

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

The policy has been screened and there were no adverse impacts identified relating to any specific group. In relation to the introduction of a fee, it had been suggested that the Department should consider a weighting mechanism whereby 'years standing' in the Bar should be a factor when applying a fee for barristers. The rational suggested was that those counsel below 5 years standing, which would usually reflect younger barristers, should pay less than those with more seniority. The Department considered this suggestion, however, it was deemed more equitable to introduce fees bands based on the level of remuneration received from legal aid work rather than introducing an 'age-weighting' as had been suggested. By introducing the banded approach the Department recognised that a young barrister has the opportunity to receive significant income from legal aid cases, in the same way a more senior member of the Bar has. It was not considered appropriate to ask a QC, for example, to pay a more significant fee purely based on the fact he had more experience at the Bar than a younger barrister.

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

No. The policy is fit for purpose and has a neutral impact on section 75 groups.

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

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

### **Mitigation**

31. 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.

32. Can the policy/decision be amended or changed or an alternative policy introduced to better promote equality of opportunity and/or good relations?

33. If so, give the **reasons** to support your decision, together with the proposed changes/amendments or alternative policy.

## Timetabling and prioritising

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

35. 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.

36. 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.

| <b>Priority criterion</b>                            | <b>Rating<br/>(1-3)</b> |
|--|-------------------------|
| Effect on equality of opportunity and good relations |                         |
| Social need  |                         |
| Effect on people's daily lives                       |                         |
| Relevance to a public authority's functions          |                         |

37. 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.

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

39. If yes, please provide details.

## Part 4

### Monitoring

40. Public authorities should consider the guidance contained in the Commission's Monitoring Guidance for Use by Public Authorities (July 2007).
41. 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).
42. 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 5

### Approval and authorisation

| <b>Screened by:</b>   | <b>Position/Job Title</b> | <b>Date</b>          |
|-----------------------|---------------------------|----------------------|
| <b>Mark McGuicken</b> | <b>Principal</b>          | <b>January 2017</b>  |
| <b>Approved by:</b>   |                           |                      |
| <b>Mark McGuckin</b>  | <b>SCS</b>                | <b>February 2017</b> |

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, made easily accessible on the public authority's website as soon as possible following completion and 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 copy for information to:-

Central Management Unit


Room A4.2

Castle Buildings

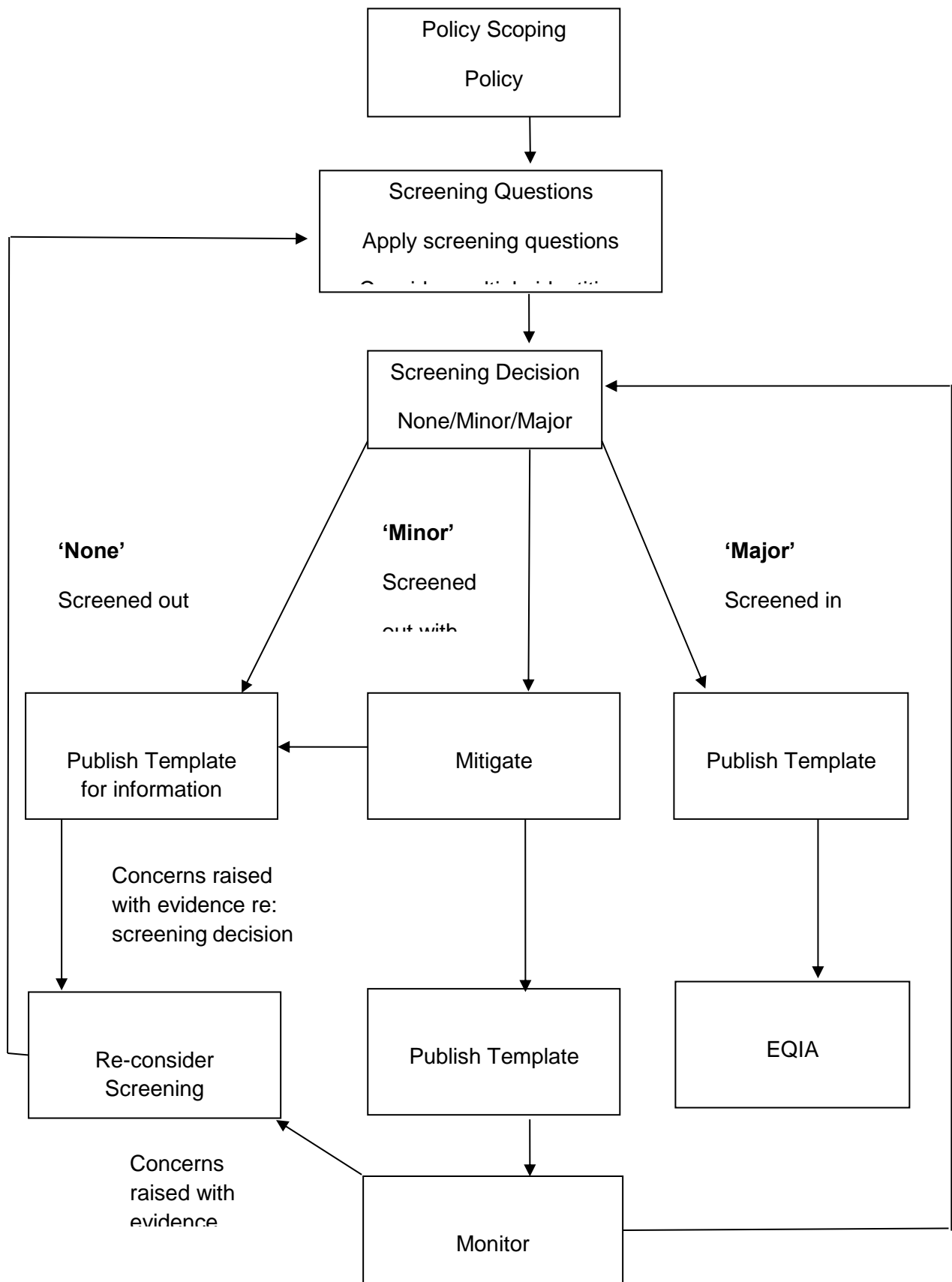
Stormont Estate

BELFAST

BT4 3SG

 89784

**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.  |