



Department of
Justice

An Roinn Dlí agus Cirt
Máinnystrie O tha Laa

**DOJ section 75
EQUALITY SCREENING FORM**

Title of policy:

**Consultation on evidence of
domestic abuse that should trigger
an automatic prohibition on cross-
examination in person in family
proceedings**

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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 considers the implications for equality of opportunity of policy options being consulted on in relation to forms of evidence of domestic abuse that should trigger an automatic prohibition on cross-examination in person in family proceedings.

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

New policy options.

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

The Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021 makes provision to prohibit perpetrators (or alleged perpetrators) of domestic abuse from cross-examining their (alleged) victims in person in family proceedings and vice-versa. An automatic prohibition on cross-examination in person will apply in specified circumstances.

The consultation seeks views on what types of evidence of domestic abuse, in addition to those already provided for in the legislation, should be specified in new secondary legislation, to be made under a power in the 2021 Act, to trigger an automatic prohibition on cross-examination in person.

In order to protect all parties' right to a fair hearing, the types of evidence specified need to be sufficiently objective and robust to justify an automatic prohibition. However, where a party is prohibited from carrying out cross-examination in person, the court will have a power to appoint a legal representative to conduct the cross-examination instead.

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

The new Regulations would apply equally to all victims and perpetrators of domestic abuse, irrespective of whether they belong to a section 75 category.

Statistical information, however, indicates that women are more likely than men to be victims of domestic abuse. It is, therefore, anticipated that the provision to protect victims of domestic abuse from being cross-examined by the perpetrator would benefit a higher proportion of women than men.

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 next steps following consultation, for example making secondary legislation.

12. Implementation factors

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

Yes.

If yes, are they

Tick Box

- financial
- legislative
- other, please specify:

13. Main stakeholders affected

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

Tick Box

- staff (e.g. NICTS)
- service users (e.g. legal representatives)
- other public sector organisations (e.g. health & social care trusts, NIHE)
- voluntary/community/trade unions (e.g. Women's Aid and Men's Advisory Project)
- other, please specify

14. Other policies with a bearing on this policy

what are they?

The "domestic abuse waiver", i.e. evidence that can be provided when applying to the Legal Services Agency for a discretionary waiver of the financial eligibility test for access to civil legal services in certain family law cases for victims of domestic abuse.

who owns them?

Enabling Access to Justice Division

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	There is limited data available in Northern Ireland (NI) on domestic abuse in relation to religious belief. Evidence collated for the development of the Stopping Domestic & Sexual Violence & Abuse in NI Strategy, which was published in 2018, indicated that domestic abuse is not confined to any one religious belief.
Political opinion	There is limited data available in NI on domestic abuse in relation to political opinion. Evidence collated for the development of the Stopping Domestic & Sexual Violence & Abuse in NI Strategy indicated that domestic abuse is not confined to any one political opinion.
Racial group	PSNI statistics for 2020/21 show that nearly nine in ten victims were of white ethnicity.
Age	PSNI statistics for 2020/21 show that young adults (those in their 20s and 30s) are more likely to be victims of domestic abuse than those in other age groups.
Marital status	There is limited data available in NI in relation to domestic abuse and marital status. For example, PSNI statistics group spouse, partner, girlfriend, boyfriend, etc. together in one relationship category. However, the statistics suggest that there is no significant difference of experiencing domestic abuse whether in a marital/civil partnership or former marital/civil partnership. While 2020/21 statistics show that 59% of victims were abused by a partner/former partner, it is important to note that domestic abuse is not confined to marital/civil partnership status; it can occur in a number of different familial relationships, e.g. parent/child (24%) and siblings (8%). The MARAC [Multi-Agency Risk Assessment Conference] Dashboard for June 2022 shows that in half of the 132 cases considered that month, the alleged perpetrator was a former intimate partner and in 38.63% of cases, the alleged perpetrator is a current intimate partner.
Sexual orientation	There is limited data available in NI in relation to domestic abuse and sexual orientation. The MARAC Trends & Statistics 2016 management report (“the MARAC 2016 report”) shows that, of the 10,752 high risk cases discussed since records began, 0.46% of victims were from the lesbian, gay, bisexual and transgender communities. The MARAC Dashboard for June 2022 shows that there were no LGBT victims that month.

Men and women generally	<p>PSNI statistics for 2020/21 show that 69% of victims of domestic abuse were women.</p> <p>The options for specified evidence discussed in the consultation paper impact those persons who do not have legal representation (known as “litigants in person” (LIPS)) in family proceedings hearings. The UUJ Study, “Litigants in person in NI: barriers to legal participation, 2018”, found that there were more male LIP participants whose cases were disposed of than female LIPs between 2012 -16. The proportion of male LIPs was around three-fifths of all LIPs across both family and civil business areas.</p>
Disability	<p>There is limited data available in NI in relation to domestic abuse and disability.</p> <p>The MARAC 2016 report shows that, of the 10,752 high risk cases discussed since records began, 1.5% of victims had a disability.</p> <p>The MARAC Dashboard for June 2022 recorded 9.85% of victims as having a disability.</p>
Dependants	<p>There is limited data available in NI in relation to domestic abuse and dependants.</p> <p>MARAC statistics for December 2017 show that, from January 2010, of the 12,181 cases discussed and the 2771 repeat cases, there were 15,709 children in the households.</p>

***Qualitative data** – refers to the experience of individuals related in their own terms, and based on their own experience and attitudes.

***Quantitative data** – refers to numbers (that is quantities), typically derived from either a population in general or samples of that 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 any of the options on the types of evidence of domestic abuse that should be specified in new Regulations to trigger an automatic prohibition on cross-examination in person would have a significant effect on the needs, experiences and priorities of this category.
Political opinion	As 'religious belief' above.
Racial group	As 'religious belief' above.
Age	As young adults are more likely to be victims of domestic abuse, they are, therefore, more likely to benefit from new Regulations which will further protect victims of domestic abuse giving evidence in family proceedings.
Marital status	Those in a current or former marital/civil partnership are more likely to be victims of domestic abuse and they are, therefore, more likely to benefit from new Regulations which will further protect victims of domestic abuse giving evidence in family proceedings.
Sexual orientation	As 'religious belief' above.
Men and women generally	Statistical information indicates that women are more likely than men to be victims of domestic abuse. It is, therefore, anticipated that they are more likely to benefit from new Regulations which will further protect victims of domestic abuse from being cross-examined by the perpetrator. Conversely, men are more likely than women to be perpetrators of domestic abuse so a higher proportion of men than women are likely to be prevented from carrying out cross-examination in person under the new Regulations.
Disability	As 'religious belief' above.
Dependants	Children affected by domestic abuse may be expected to benefit indirectly from new Regulations which will further protect victims of domestic abuse giving evidence in family proceedings.

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 easily be eliminated by making appropriate changes to the policy or by adopting 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 new Regulations, specifying evidence of domestic abuse which would automatically prohibit cross-examination in person in family proceedings, would apply equally to all s75 categories, so it is not considered that there would be any adverse impact on equality of opportunity for this category.	None
Political opinion	As 'religious belief' above.	None
Racial group	As 'religious belief' above.	None
Age	While the new Regulations are more likely to benefit young adults, overall it is not anticipated that there would be any adverse impact on equality of opportunity for any particular age group.	Minor
Marital status	While the new Regulations are more likely to impact on those in a current or former marital/civil relationships, overall it is not anticipated that there would be any adverse impact on equality of opportunity for any particular marital status.	Minor
Sexual orientation	As 'religious belief' above.	None
Men and women generally	As statistical information indicates that women are more likely to be victims of domestic abuse, it is, therefore, anticipated that the new Regulations would benefit a higher proportion of women than men. Conversely, as men are more likely to be perpetrators, a higher proportion are likely to be prevented from carrying out cross-examination in person. This would be mitigated by the court appointing a legal representative to carry out the cross-examination instead and, therefore, any impact is unlikely to be negative.	Minor
Disability	As 'religious belief' above.	None
Dependants	As it is rare for children to give evidence in family proceedings, the benefit for them from the new Regulations is likely to be indirectly through better outcomes as a result of adult witnesses being supported to give their best possible evidence.	None

2.2 Are there opportunities to better promote equality of opportunity for people within the section 75 equalities categories?

Section 75 category	If Yes, provide details	If No, provide reasons
Religious belief		No, as the new Regulations, specifying evidence of domestic abuse which would automatically prohibit cross-examination in person in family proceedings, would apply equally to all s75 categories.
Political opinion		As 'religious belief' above.
Racial group		As 'religious belief' above.
Age		As 'religious belief' above.
Marital status		As 'religious belief' above.
Sexual orientation		As 'religious belief' above.
Men and Women generally		As 'religious belief' above.
Disability		As 'religious belief' above.
Dependants		As 'religious belief' 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 options for evidence of domestic abuse, which would automatically prohibit cross-examination in person in family proceedings being consulted on are not likely to have any impact on good relations between people of different religious belief.	None.
Political opinion	As above.	As above.
Racial group	As above.	Above.

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 specific categories as the new Regulations, specifying evidence of domestic abuse which will automatically lead to a prohibition on cross-examination in person, will apply equally to all s75 categories.
Political opinion		As above.
Racial group		As above.

Additional considerations - multiple identity

20. Generally speaking, people can fall into more than one section 75 category. Taking this into consideration, are there any potential impacts of the policy/decision on people with multiple identities?

(For example, disabled minority ethnic people; disabled women; young Protestant men; and young lesbians, gay and bisexual people.)

Multiple s75 identities may make an individual more likely to be a victim of domestic abuse. However, the new Regulations specifying evidence of domestic abuse which will automatically lead to a prohibition on cross-examination in person will apply equally to all s75 categories and any combination of these categories.

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 EQIA 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.

An EQIA is not necessary as we do not anticipate any adverse equality-related impacts on any s75 category.

Although minor impact was identified in respect of age, marital status and gender, it is unlikely that this will be a negative impact.

It is considered that the new Regulations, which will specify evidence of domestic abuse which will automatically lead to a prohibition on cross-examination in person and so will protect victims of domestic abuse giving evidence in family proceedings, would be a positive change for all victims affected by domestic abuse, regardless of s75 category, by helping to improve their experience of the justice system.

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.
Good relations	N/A.
Disability duties	N/A.

Part 5

Formal record of screening decision

Title of proposed policy/decision being screened

Consultation on evidence of domestic abuse that should trigger an automatic prohibition on cross-examination in person in family 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	31/01/23
Approved by (Grade 7 or above):		
Name: Jane Maguire	Acting G6	02/02/23

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.

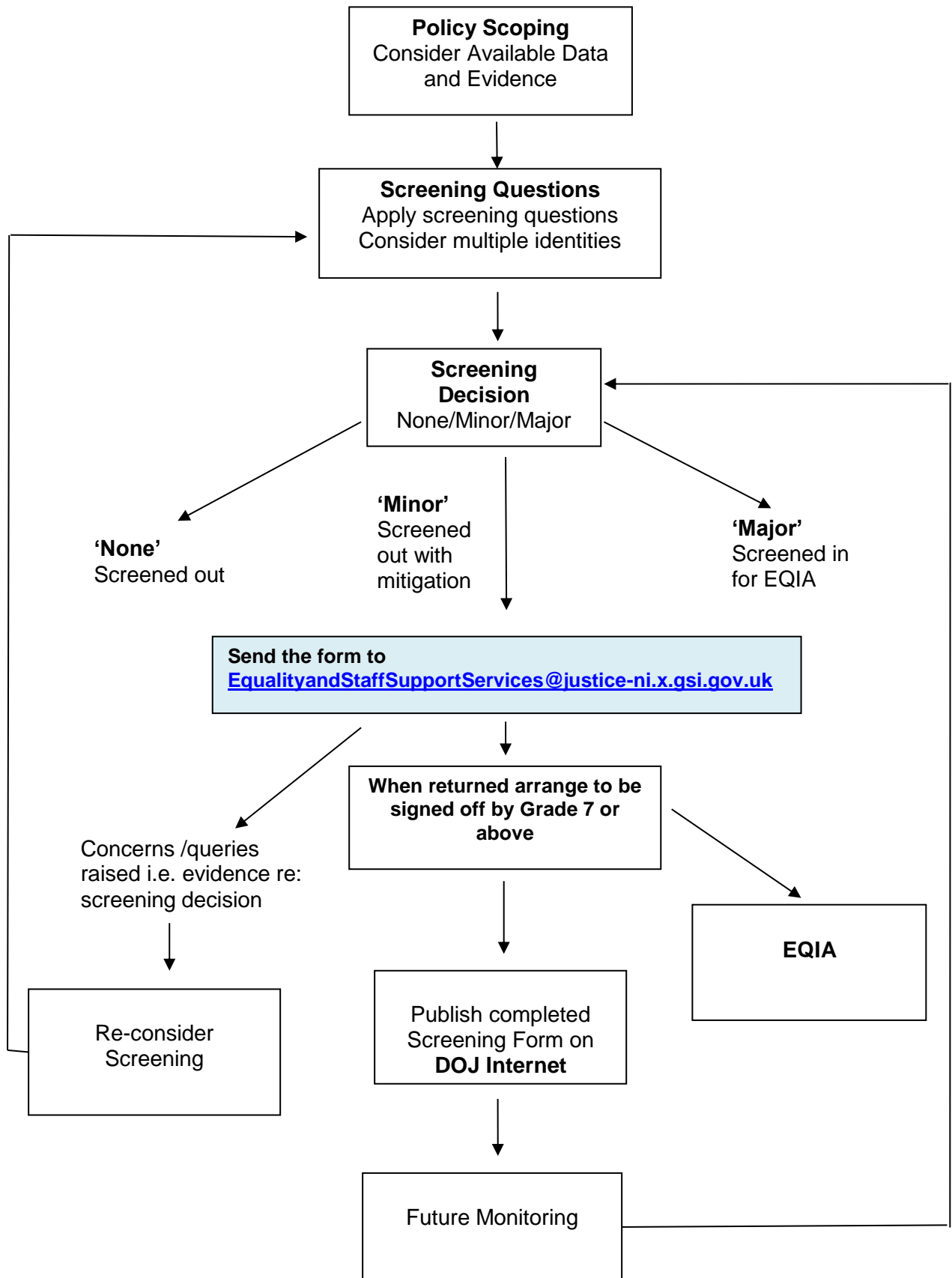
The screening exercise is now complete.

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.