

DEPARTMENT FOR INFRASTRUCTURE

SECTION 75 EQUALITY OF OPPORTUNITY SCREENING ANALYSIS FORM

The purpose of this form is to help you to consider whether a new policy (either internal or external) or legislation will require a full equality impact assessment (EQIA). Those policies identified as having significant implications for equality of opportunity must be subject to full EQIA.

The form will provide a record of the factors taken into account if a policy is screened out, or excluded for EQIA. It will provide a basis for quarterly consultation on the outcome of the screening exercise, and will be referenced in the biannual review of progress made to the Minister and in the Annual Report to the Equality Commission.

Further advice on completion of this form and the screening process including relevant contact information can be accessed via the Department for Infrastructure (DfI) Intranet site.

HUMAN RIGHTS ACT

When considering the impact of this policy you should also consider if there would be any Human Rights implications. Guidance is at:

- <https://www.executiveoffice-ni.gov.uk/articles/human-rights-and-public-authorities>

Should this be appropriate you will need to complete a Human Rights Impact Assessment. A template is at:

- <https://www.executiveoffice-ni.gov.uk/publications/human-rights-impact-assessment-proforma>

PART 1. 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.

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
Use of a mobile phone while driving: review of existing offence and associated penalties.
Is this an existing, revised or a new policy?
Revision to an existing policy. A description of the current policy and proposals for its revision are contained in the Background section of this paper.
What is it trying to achieve? (intended aims/outcomes)
<p>The purpose of the proposal is to achieve a stronger deterrent to offending and make offenders clear of the risk to road safety. The proposal is made up of two main elements:</p> <ul style="list-style-type: none">• An increase to the fixed penalty notice (FPN) fine and penalty point levels which apply to this offence; and• A legislative change aimed at improving the enforceability of the current offence. <p>The intended aims and outcomes are as follows:</p> <ul style="list-style-type: none">• To reduce the number of people killed or seriously injured in collisions where the principal or contributory collision factor is driver distraction through the use of a mobile phone or other hand-held device;• To bring about a change in road user behaviour that will make the use of a mobile phone while driving socially unacceptable; and

- To address public concern about the perceived increase in the use of mobile phones while driving.

Are there any Section 75 categories which might be expected to benefit from the intended policy?

If so, explain how.

A reduction in the number of people killed or seriously injured in collisions caused by driver distraction through use of a mobile phone should benefit all Section 75 groups.

Who initiated or wrote the policy?

The Department for Infrastructure.

Who owns and who implements the policy?

Responsibility for the policy and legislation lies with the Department for Infrastructure. It will continue to be enforced by PSNI.

Background

A. Increase in level of Fixed Penalty and Penalty Points

In Northern Ireland, you are breaking the law if you drive a vehicle while 'using' a hand-held mobile phone or similar device. The offence is punishable by a fixed penalty (currently £60) and three penalty points on your driving licence. The maximum penalty on conviction in court includes a £1,000 fine (£2,500 for a passenger carrying vehicle or goods vehicle) and three penalty points. You may also be disqualified from driving.

Despite this, mobile phone use by drivers is an increasing problem with many drivers still refusing to take the offence seriously which suggests that the current level of deterrent is not sufficient.

In Great Britain, the same offence of using a hand-held mobile phone while driving attracts a fixed penalty of £200 and 6 penalty points (increased from £100 and 3 penalty points on 1 March 2017).

Northern Ireland's Road Safety Strategy (NIRSS) to 2020, which was published in March 2011, outlines the key road safety challenges to be addressed by government between 2010 and 2020. It identified 4 key casualty reduction targets and over 200 action

measures for improving road safety. Action Measure 105 states “We will consider further measures to reduce mobile phone usage, including texting, while driving”.

There is widespread acceptance that mobile phones are distracting and potentially dangerous while driving. Studies have found that their use behind the wheel increases the risk of a collision by a factor of four¹, and driving behaviour is impaired more during a phone conversation than by having a blood alcohol level at the current drink drive limit of 80mg/100ml².

The 2013 Northern Ireland Road Safety Monitor³ reported that over a third (36%) of motorists report using a mobile phone while driving, (5% hand held, 28% hands free and 3% sometimes hand held or hands free). The majority of those who would use a hand-held mobile phone while driving said they were aware of risks associated with this behaviour.

Figures provided by the PSNI revealed that between 2012 and 2016 four people were killed or seriously injured and 26 slightly injured on our roads where use of a mobile phone was deemed the ‘principal’ causation factor. During the same period 12 people were killed or seriously injured and 52 slightly injured where use of a mobile phone was deemed the ‘contributory factor’.

These statistics may understate the true position. PSNI would suggest that these figures are likely to be an under-estimate of the actual problem. If the principal cause of a collision is identified as, for example, inattention/ attention diverted or excessive speed, use of a mobile phone may be recorded as a secondary cause. The police will usually only examine the phone in the case of a fatality.

In Great Britain, similar evidence of increasing levels of illegal use of mobile phones while driving was presented in the Department for Transport’s consultation that issued in January 2016⁴. A new fixed penalty of £200 and 6 penalty points (increased from £100 and 3 penalty points) was introduced on 1 March 2017.

It could be argued that the current fixed penalty in this jurisdiction, having been in place since 2007, is underplaying the seriousness of the offence and no longer represents an active deterrent. There is no provision for the £60 fine to increase in line with inflation and so the scale of this deterrent will continue to decline in real terms unless action is taken. An increase to the fixed penalty fine would not only act as a

¹ <http://www.bmj.com/content/331/7514/428>

² <https://trl.co.uk/reports/TRL547>

³ <https://www.infrastructure-ni.gov.uk/publications/northern-ireland-road-safety-monitor-2013-annual-report>

⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/494672/hand-held-mobile-phone-driving.pdf

stronger deterrent to offending but should make potential offenders also consider the risk to road safety.

An increase in penalty points from 3 to 6 will impact on all drivers but particularly on new drivers who, under the Road Traffic (New Drivers) (NI) Order 1998, will have their licence revoked if they reach 6 penalty points within 2 years of passing their driving test.

B. The legislative definition of “using” a mobile phone

While the law – Regulation 125A (6)(a) of the Motor Vehicles (Construction & Use) Regulations (NI) 1999 - seems specific and clear, the PSNI has reported difficulties in both detecting and in achieving successful prosecutions. Mobile phones, smart phones and mobile devices are now capable of carrying out an array of functions not clearly reflected in legislation.

One particular difficulty is the ambiguity around what constitutes “using”.

Where the driver declines a fixed penalty offer and the case proceeds to court, the police can face real obstacles in obtaining a successful conviction. The court must be persuaded the driver was sending or receiving texts or making or receiving calls and the amount of evidence needed for a conviction is set at a very high level.

This currently means that drivers could evade prosecution by arguing, for example, that they were reading a text that had been received earlier - and as such was not "sending or receiving a written message" - as currently stated in legislation.

Such interpretation runs contrary to the original intent of the legislation and, therefore, intervention is required to provide clarification. The Department considers that legislative change is now required to remove any confusion as to what constitutes a mobile phone offence. This would require primary legislation that would be drafted in a way that would reduce the risk of legal loop-holes appearing in the future as existing mobile phone technologies are developed and new functions are introduced

Implementation factors

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

If yes, are they

financial

legislative – legislative change will bring clarity to the law on use of mobile devices while driving

other, please specify _____

Main stakeholders affected

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

The revised policy will impact on any person who is caught driving a vehicle while using a hand-held mobile phone. A resultant reduction in driver distraction casualties would potentially benefit all road users, their families and their communities.

Other policies with a bearing on this policy

- What are they?

Creating a safe community is a key aspect of the draft Programme for Government and this consultation is about making our roads safer for everyone.

NI Road Safety Strategy to 2020 – Action Measure 105 in particular which states “*We will consider further measures to reduce mobile phone usage, including texting, while driving*”.

- Who owns them?

DFI and PSNI

Available evidence

Evidence to help inform the screening process may take many forms. Public authorities should ensure that their 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 Section 75 categories.

Section 75 category	Details of evidence/ information
Religious belief	<p>There is no specific evidence or information in relation to this category. However, the following general evidence has been gathered:</p> <ul style="list-style-type: none">• PSNI data on casualties and collisions attributable to driver/rider distraction – use of mobile phone.• Northern Ireland Road Safety Monitor (a NISRA publication).• A range of independent and worldwide research papers on driver distraction, brought together at Road Safety Observatory: <p>http://www.roadsafetyobservatory.com/KeyFacts/drivers/driver-distraction</p>

Political opinion	As above
Racial group	As above
Age	<p>Evidence relating to young people is included in the general evidence referred to above. In particular, young people aged 17-24 are over-represented in NI road traffic collision statistics.</p> <ul style="list-style-type: none"> • Between 2012 and 2016, although 17 to 19 year olds accounted for only 3% of all car driving licence holders they were deemed responsible for 11% of all fatal or serious collisions and 8% of all collisions where the driver was deemed responsible. • Over the same period, drivers aged 20 to 24 represented 8% of licence holders but were deemed responsible for 16% of all fatal or serious collisions and 14% of all collisions where the driver was responsible. <p>Smart phone ownership in 2016 is high in all age groups but is marginally higher amongst drivers aged 17 to 24 (95.6%) – 17 to 35 years old was 93.5% and 17 to 49 years old was 90.6% (source: TGI 2016 NI)</p> <p>The RAC Foundation report “Eyes on the Road” found that 15% of drivers aged 17 to 24 surveyed (2014) admitted that they text or check social media (or other websites) while driving⁵.</p>
Marital status	As above
Sexual orientation	As above
Men and women generally	As above
Disability	As above

⁵http://www.racfoundation.org/assets/rac_foundation/content/downloadables/Eyes_on_the_road_Robbins_&_Jenkins_September_2015.pdf

Dependants	As above
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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 needs/experiences/priorities
Religious belief	There are no specific needs, experiences or priorities in relation to this category. However studies have found that the use of mobile phones behind the wheel increases the risk of a collision by a factor of four, and driving behaviour is impaired more during a phone conversation than by having a blood alcohol level at the current drink drive limit of 80mg/100ml ⁶ .
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

⁶ <http://www.bmj.com/content/331/7514/428>
<http://www.roadsafetyobservatory.com/evidence/details/10900>

Disability	As above
Dependants	As above

PART 2. SCREENING QUESTIONS

Introduction

In making a decision as to whether or not there is a need to carry out an equality impact assessment, the public authority should consider its answers to the questions 1-4 which are given on pages 66-68 of this Guide.

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

If the public authority's 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.

If the public authority's 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

- 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.

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	<p>The revised policy will impact equally on those drivers and riders within this category who break the law.</p> <p>There will be no impact on equality of opportunity for people in this group who drive within the law.</p>	None
Political opinion	As above	None
Racial group	As above	None
Age	<p>The revised policy may have a disproportionate impact on young people but only those who break the law on the use of a mobile phone while driving.</p> <p>Young people who are new drivers are already subject to the Road Traffic (New Drivers) (NI) Order 1998 and will have their licence revoked if they reach 6 penalty points within 2 years of passing their driving test. An increase in penalty points from 3 to 6 will mean that many young and new drivers will have their licence revoked after one offence of driving while using their mobile phone.</p> <p>The loss of a driving licence may affect further education, training and employment opportunities.</p>	None
Marital status	As above for 'religious belief'	None

Sexual orientation	As above for 'religious belief'	None
Men and women generally	As above for 'religious belief'	None
Disability	As above for 'religious belief'	None
Dependants	As above for 'religious belief'	None

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		The revised policy is not aimed at this or any other individual group. Therefore there are no opportunities to better promote equality of opportunity for people in this 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

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		
Good relations category	Details of policy impact	Level of impact minor/major/none
Religious belief	The revised policy will not impact on good relations between people of religious belief. An increase in penalty for using a mobile phone while driving will apply to all drivers and riders.	None
Political opinion	As above	None
Racial group	As above	None

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		The revised policy will apply to all drivers and riders. Therefore there are no opportunities to

		better promote good relations between people in this group.
Political opinion		As above
Racial group		As above

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).*

None

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

N/A

PART 3. SCREENING DECISION

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

The decision is not to conduct an equality impact assessment.

It is currently an offence to use a hand-held mobile phone while driving. This revision to policy is aimed at reducing further the numbers of people killed or seriously injured in collisions where the principal causation factor is driver distraction through the use of a mobile phone or other hand-held interactive device.

A number of previous road safety interventions have been aimed at certain groups of driver or rider due to their over-representation in casualty data profiles. This is aimed at all drivers and riders rather than at a certain group.

While the revised policy is likely to have a disproportionate impact on some young new drivers –an increase in penalty points from 3 to 6 will mean that many young and new drivers will have their licence revoked after one offence of driving while using their mobile phone – the impact will only apply to those who break the law.

Subject to funding, the Department will continue to use road safety campaigns that seek to highlight and address poor attitudes and behaviours including a campaign that will raise awareness of any change in legislation and level of fixed penalty. Social media and websites such as road to zero <https://www.sharetheroadtozero.com/> will also be used to raise awareness.

No impact has been identified for any of the Section 75 categories.

As part of the statutory process the screening form will be circulated to Section 75 bodies. Any issues identified during this process relating to any Section 75 group will be fully considered.

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

No mitigation or alternative policy is required at this time.

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

N/A

All public authorities' equality schemes must state the authority's 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 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 a separate Commission publication: Practical Guidance on Equality Impact Assessment.

Mitigation

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.

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.

N/A

Timetabling and prioritising

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

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	
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 the public authority in timetabling. Details of the Public Authority’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?

If yes, please provide details

PART 4. MONITORING

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

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).

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

Screened by:	Position/Job Title:	Date:
John Brogan	DP	28/02/2018
Approved by:		
Donald Starritt	G7	28/02/2018

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.

For Equality Team Completion:

Date received:	12 April 2017
Amendments requested?	yes
Date returned to Business Area:	23/5/17
Date final version received:	01/03/18
Date placed on S75 Screening Webpage:	06/03/18