

EQUALITY SCREENING ON AMENDMENTS TO THE EMPLOYMENT EQUALITY (SEXUAL ORIENTATION) REGULATIONS (NORTHERN IRELAND) 2003

Background

1. In accordance with Section 75 of the Northern Ireland Act 1998 and the requirements set out in our Departmental Equality Scheme, we have considered the extent and nature of the impact of the amendments to the Employment Equality (Sexual Orientation) Regulations (NI) 2003 on the Section 75 categories. In our screening exercise we have followed the procedure outlined in the Equality Commission's Guidance for implementing Section 75 of the NI Act 1998.
2. The Employment Equality (Sexual Orientation) Regulations (NI) were made in 2003 to ensure compliance with an EU Directive establishing a general framework for equal treatment in employment and occupation (Council Directive 2000/78/EC). The Regulations provide that it is unlawful to discriminate on grounds of sexual orientation in matters of employment and vocational training. Equivalent Regulations apply in GB.
3. These Regulations now need to be amended to take account of the introduction of civil partnership. The Civil Partnership Act 2004 allows same sex couples a means to obtain recognition for their relationship and to obtain rights and responsibilities similar to those given to spouses. The amendments to the Regulations will take effect from the date that the Civil Partnership Act comes into force namely the 5 December 2005.
4. Section 259 of the Civil Partnership Act contains a power to allow Northern Ireland departments to amend legislation, by statutory rule, for the general purposes of the Act, in consequence of any provision by or under the Act or for giving effect to the Act or any provision of it. We intend to amend the Regulations in a statutory rule to be made in autumn of this year.

Screening Criteria

4. In carrying out the screening exercise we considered the impact of the amendments to the Regulations on equality of opportunity and good relations in terms of the Section 75 categories using the following questions:
 - (a) Is there any indication or evidence of higher or lower participation or uptake by different groups?

- (b) Is there any indication or evidence that different groups have different needs, experiences, issues and priorities in relation to the particular policy?
- (c) Have previous consultations with relevant groups, organisations or individuals indicated that particular policies create problems that are specific to them?
- (d) Is there an opportunity to better promote equality of opportunity or good relations by altering the policy or working with others in government or in the larger community?

Screening Process

- 5. Screening was undertaken by officials responsible for the policy area with support provided by the Department's Equality & Human Rights Unit and senior officials. This ensured that the amendments were thoroughly and objectively assessed against the screening criteria as outlined in paragraph 4.
- 6. As explained at paragraph 2, the Regulations protect people from discrimination on the grounds of sexual orientation. The policy being screened is therefore consequential amendments to this legislation taking into account added protection that will come into effect through the Civil Partnership Act.

Screening Results

- 9. Criteria (a)

The purpose of the policy is to treat lesbian, gay and bisexual civil partners in the same way as married couples for the purpose of the Sexual Orientation Regulations. The amendments will therefore clarify the protection available to civil partners in the context of prohibiting discrimination on grounds of sexual orientation in matters of employment and training. The policy is likely to have a positive equality impact on lesbian, gay and bisexual people who enter into a civil partnership as it will ensure they are treated in the same way as married heterosexual people. Data is not yet available in Northern Ireland to indicate how many civil partnerships are likely to be entered into in the future. Heterosexual people who choose not to marry and lesbian, gay and bisexual people who choose not to enter a civil partnership will not be entitled to the same benefits as those who marry or are in civil partnerships. However, the objective in relation to this limited technical area is, as stated, to treat civil partners and married couples in the same way under the Regulations.

10. Criteria (b)

The policy is specifically geared to ensuring that those in the lesbian, gay and bisexual community who have entered into a civil partnership are treated in the same way as a married couple for the purpose of the Sexual Orientation Regulations. In that respect it will have positive impacts on this community.

11. Criteria (c)

We are aware that faith groups have concerns about sexual orientation and civil partners particularly in relation to their role as an employer. This has already been mitigated as far as possible with the Genuine Occupational Requirement (Regulation 8(3) of the Employment Equality (Sexual Orientation) Regulations (NI) 2003).

The proposed amendments will extend and clarify those Regulations in relation to civil partners but are essentially supplementary to the existing provisions prohibiting discrimination on the grounds of sexual orientation and taking into account the new Civil Partnership Act.

Informal consultation with representatives from COSO and LASI has indicated that they have no particular equality concerns with the amendments as proposed.

12. Criteria (d)

The overall policy is intended to promote equality of opportunity for all those who wish to gain legal status for their relationship, whether via marriage or civil partnership. Consideration of the issues through this screening exercise indicates that there is no opportunity to better promote equality of opportunity or good relations by any other means. The policy will allow Northern Ireland to keep pace with corresponding changes to equivalent Regulations in Great Britain. This policy already provides the best possible opportunity and all appropriate mitigations of any potential negative impacts.

Screening Conclusion

13. The policy proposals set out in the consultation on Amendments to the Employment Equality (Sexual Orientation) Regulations (Northern Ireland) 2003 will have a positive equality impact for lesbian, gay and bisexual people who enter a civil partnership. Such couples will be treated in the same way as married couples, which in the context of the Regulations, is more favourable than individuals, unmarried heterosexual couples or lesbian, gay and bisexual people not in a civil partnership. This is consistent with the overall policy on civil partnerships and is justified and proportionate.

14. As a result of the above conclusions, this policy has been screened out, in accordance with the Department's Equality Scheme provisions.