

Equality Impact Assessment Initial Screening – Relevance to Equality Duties

1. Name of the proposed new or changed legislation, policy, strategy, project or service being assessed

Definitive guideline on Sexual Offences.

2. Individual officer(s) & Unit responsible for completing the Equality Impact Assessment:

Michelle Crotty, Head of Office of the Sentencing Council.

3. What is the main aim or purpose of the proposed new or changed legislation, policy, strategy, project or service and what are the intended outcomes?

<p>Aims/objectives</p> <p>The Sentencing Council aims to:</p> <ul style="list-style-type: none"> • promote a clear, fair and consistent approach to sentencing; • produce analysis and research on sentencing; and • work to improve public confidence in sentencing. <p>The Council issued a draft sexual offences guideline for consultation to support the achievement of these aims, specifically in relation to sexual offences. The consultation process informed the production of the definitive guideline on sentencing sexual offences. This guideline will apply to offences sentenced in both the Crown Court and magistrates' courts and will replace the existing Sentencing Guidelines Council (SGC) guideline.</p>	<p>Outcomes</p> <p>In preparing this guideline, the Council has had regard to its statutory duties set out in section 120 of the Coroners and Justice Act 2009.</p> <p>The Council's intention is that the guideline will result in:</p> <ul style="list-style-type: none"> • relevant and up to date guidance on sentencing sexual offences; • consistency of approach to sentencing sexual offences; and • increased public understanding of sentencing and in particular sentencing for sexual offences.
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4. What existing sources of information will you use to help you identify the likely equality on different groups of people?

(For example statistics, survey results, complaints analysis, consultation documents, customer feedback, existing briefings submissions or business reports, comparative policies from external sources and other Government Departments)

A broad range of information and evidence about sentencing and diversity issues was taken into account during the development of the draft guideline and subsequently the definitive guideline.

Alongside the consultation, resource assessment and this equality impact assessment, the Council published an analysis and research bulletin that sets out key data in relation to the sentencing of sexual offences. The bulletins can be found on the Sentencing Council's website: **www.sentencingcouncil.org.uk**

5. Are there gaps in information that make it difficult or impossible to form an opinion on how your proposals might affect different groups of people? If so, what are the gaps in the information and how and when do you plan to collect additional information?

Note this information will help you to identify potential equality stakeholders and specific issues that affect them - essential information if you are planning to consult as you can raise specific issues with particular groups as part of the consultation process. EIAs often pause at this stage while additional information is obtained.

6. Having analysed the initial and additional sources of information including feedback from consultation, is there any evidence that the proposed changes will have a **positive impact** on any of these different groups of people and/or promote equality of opportunity?

Please provide details of who benefits from the positive impacts and the evidence and analysis used to identify them.

The guideline's principal objective is to promote greater consistency in sentencing by giving courts a structured decision making process to follow for sexual offences. The Council considers that the increased consistency and transparency in the sentencing process should ensure that there is less scope for any discrimination.

In particular the definitive guideline includes the following factors:

- offences which are racially or religiously aggravated, or which are motivated by, or demonstrating, hostility to the victim based on the victim's sexual orientation or disability (or presumed sexual orientation or disability) or transgender identity (or presumed transgender identity) have increased culpability.
- Offenders who have a mental disorder or learning disability where linked to the commission of the offence, and offenders where age and/or having lack of maturity affects the responsibility will have these factors considered when mitigation is assessed.
- a factor 'victim is particularly vulnerable due to personal circumstances' has been included as a harm factor and is broad enough to include different circumstances such as vulnerability due to age, disability or additional harms that may be experienced by BME women who are the victim of sexual offences.
- the guideline also incorporates content from the existing SGC guideline, *Overarching Principles: Domestic Violence*, in order to ensure that courts can more easily take account of aggravating and mitigating factors which are present in cases involving domestic violence. Many sexual offences can happen in a domestic context and it is important to reflect this in the factors considered.

7. Is there any feedback or evidence that additional work could be done to promote equality of opportunity?

If the answer is yes, please provide details of whether or not you plan to undertake this work. If not, please say why.

The responses to the consultation did not provide any feedback or evidence on this particular area.

8. Is there any evidence that proposed changes will have **an adverse equality impact** on any of these different groups of people?

Please provide details of who the proposals affect, what the adverse impacts are and the evidence and analysis used to identify them.

Although both men and women are victims of sexual offences there are some offences where only a male can be the offender (e.g. the offence of rape is committed by penile penetration) and many other offences where the offenders are almost exclusively male e.g. in 2011, 99 per cent of adults sentenced for sexual assault were male, all adults sentenced for sexual activity with a child were male, 99 percent of adults sentenced for indecent images were male and 99 per cent of adults sentenced for exposure were male.

Further details on the breakdown of offenders are available in the analysis and research bulletin on sexual offences sentencing data available at www.sentencingcouncil.org.uk

9. Is there any evidence that the proposed changes have **no equality impacts**?

Please provide details of the evidence and analysis used to reach the conclusion that the proposed changes have no impact on any of these different groups of people.

N/A

10. Is a full Equality Impact Assessment Required?
(If no, please explain why not)

No

Having conducted a 14 week consultation on the proposed guidelines, there is no evidence that the guideline will have any adverse impact on equalities to warrant a full Equality Impact Assessment. The Council's decision has been informed by responses to the consultation.

NOTE - You will need to complete a full EIA if:

- the proposals are likely to have equality impacts and you will need to provide details about how the impacts will be mitigated or justified
- there are likely to be equality impacts plus negative public opinion or media coverage about the proposed changes
- you have missed an opportunity to promote equality of opportunity and need to provide further details of action that can be taken to remedy this

If your proposed new or changed legislation, policy, strategy, project or service involves an Information and Communication Technology (ICT) system and you have identified equality impacts of that system, a focused full EIA for ICT specific impacts should be completed. The ICT Specific Impacts template is available from MoJ ICT or can be downloaded from the Intranet at: <http://intranet.justice.gsi.gov.uk/justice/eqdiv/equal-impact.htm> , and should be referenced here.

11. If a full EIA is not required, you are legally required to monitor and review the proposed changes after implementation to check they work as planned and to screen for unexpected equality impacts. Please provide details of how you will monitor evaluate or review your proposals and when the review will take place.

The Council has a statutory duty to monitor the impact of the new guidelines. This monitoring will be undertaken through the Crown Court Sentencing Survey which monitors the frequency of certain aggravating and mitigating factors which could have potential equalities impact. Sentencing in the magistrates' courts will be monitored using existing Ministry of Justice sentencing statistics data.

12. Name of Senior Manager and date approved

(Note - sign off at this point should **only** be obtained if:

- there are no equality impacts
- the changes have promoted equality of opportunity

You should now complete a brief summary (if possible, in less than 50 words) **setting out which policy, legislation or service the EIA relates to, how you assessed it, a summary of the results of consultation a summary of the impacts (positive and negative) and, any decisions made, actions taken or improvements implemented as a result of the EIA**, including the review mechanism. The summary will be published on the external MoJ website.

The Council has had regard to a wide variety of information and evidence relating to sentencing and its equalities impact. It is expected and intended that the definitive guideline on sexual offences will help to promote equality of opportunity and will reduce the potential for discrimination as it is designed to promote greater consistency in sentencing. Following its implementation the Council will monitor the impact of the guideline.

Name (must be grade 5 or above): Michelle Crotty

Department: Office of the Sentencing Council

Date: 5 December 2013

Note: If a full EIA is required hold on to the initial screening and when the full EIA is completed send the initial and full screening together. **If a full EIA is not required send the initial screening by email to the Corporate Equality Division (CED), for publication. Where an EIA has also been completed in relation to ICT specific aspects, email this to CED and copy to MoJ ICT**