

## 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.

Draft guideline on Allocation, Totality and Offences taken into consideration (TICs)

2 Individual Officer(s) & Unit responsible for completing the Equalities Impact Assessment.

Vanessa Watling, Office of the Sentencing Council.

3 What are the main aims/objectives of the proposed new or changed legislation, policy, strategy, project or service and what are the intended outcomes?

Aims/Objectives	Outcomes
<p>The Sentencing Council aims to:</p> <ul style="list-style-type: none"> <li>○ promote a clear, fair and consistent approach to sentencing;</li> <li>○ produce analysis and research on sentencing; and</li> <li>○ work to improve public confidence in sentencing.</li> </ul> <p>The Council has produced draft guidelines on allocation, totality and TICs for consultation to support the achievement of these aims.</p>	<p>In preparing these guidelines, the Council has had regard to its statutory duties set out in section 120 and 122 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"> <li>○ a more consistent approach to the application of totality, the treatment of TICs and more consistent allocation decisions ; and</li> <li>○ no change in the overall severity of sentencing.</li> </ul>

The Council's objectives is to produce a definitive allocation, totality and TICs guideline, informed by the consultation process, which will apply to the sentencing of all offenders over 18 sentenced in both the magistrates' court and Crown Court .

**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).*

There exists extensive literature on equality and diversity issues within the criminal justice system. The Council has considered material from books, academic papers, reports from Government Departments and NGOs. However, the literature typically deals with more general equalities issues; it is much more difficult to find studies that relate to allocation decisions, the treatment of TICs, and the application of totality. The Council has therefore had to infer that similar issues may be present for these guidelines as are identified more generally in the arena of sentencing.

**5** Are there gaps in the 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 and how and when do you plan to collect additional information?

*(Note: This information will help 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. EIA's often pause at this stage while additional information is obtained).*

### **Allocation**

The Ministry of Justice does not publish information on how allocation decisions differ between different groups of the population and whether this affects the final sentence offenders are awarded.

### **TICs**

The situation for TICs is similar to totality: data is not available on how TICs are factored into sentences. This makes it difficult to know whether there are differences in how TICs are treated amongst different groups.

### **Totality**

Comprehensive data is not available on how the principle of totality is applied. As such, it is not possible to compare whether there are differences in its application across various groups. This makes it extremely difficult to know whether the guideline is likely to have a disproportionate effect on some groups.

### **Plans for additional information:**

A question has been included in the consultation documents asking respondents to identify any equality issues and if possible provide evidence.

The Crown Court Sentencing Survey will provide some additional data, once the first cleaned dataset becomes available:

- It will provide some information on the groups who are most likely to have offences taken into consideration. However, it will not provide information on how TICs affected the type or length of the sentence.
- It will provide some limited information about whether judges sentence concurrently or consecutively when they apply the principles of totality. It may be possible to consider whether there are differences in the application of totality between different groups;
- It will provide information on the profile of offenders committed for trial and committed for sentence, but not whether they elected for a trial by jury.

In addition, in response to publication of the definitive guideline on assault, the Crown Court Sentencing Survey form for assault has been changed to collect more accurate information on TICs.

**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 Council anticipates that the guideline will have a generally positive equality impact. The guideline's principal objective is to promote greater consistency in sentencing and transparency.

The Council considers that the increased consistency and transparency in the sentencing process should ensure that there is less scope for any discrimination.

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.)*

The Sentencing Council has to date received no feedback or evidence to suggest that the draft guideline requires amendment on the basis of promoting equality. The Council will be informed by responses to the consultation.

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

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

The Council's expectation is that the guideline will result in a more consistent approach to sentencing, whilst having no affect on the average severity of sentencing. The Council does not expect that the guideline will adversely affect any groups.

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 groups of people).*

N/A

**10** Is a full equality impact assessment required?

No

Having conducted a 12 week public consultation on the proposed guidelines, there is insufficient 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 have 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 you 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](#) 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 was launched in October 2010 and will allow the Council to monitor some aspects of the use of the allocation, TICs and totality guidelines. Sentencing in the magistrates courts will be monitored using existing Ministry of Justice sentencing statistics data. The Council is considering whether a similar exercise can be extended to the magistrates' courts.

**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 Ministry of Justice website.*

Name (must be Grade 5 or above):	<i>Michelle Crotty</i>
Department:	<i>Office of the Sentencing Council</i>
Date:	<i>6 March 2012</i>
<i>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 required, send the initial screening by email to the Corporate Equality Division (CED) for publication. Where an EIA has also been complete in relation to the ICT specific impacts, email this to CED and a copy to Ministry of Justice ICT.</i>	