

PART I

1. SCOPING THE POLICY

1.1. Title of policy

Review of the law on sexual offences in Northern Ireland

1.2. Brief description of policy

The ongoing review of the law on sexual offences in Northern Ireland has been motivated by a desire to achieve a strengthened, modernised and harmonised body of law in line with similar legislation as operates across the UK and in accord with international examples of good practice.

More specifically, the review has been informed by a similar review of the law on sex offences carried out in England and Wales by the Home Office which preceded the Sexual Offences Act 2003.

Following from this review, in October 2003 we wrote to a number of organisations with an interest in and concerns about the law on sex offences, inviting their views on issues which they thought should be addressed by the review. We also invited the same organisations to a consultation seminar on November 2003 to discuss the key issues identified. In July 2006 we issued for public consultation a document setting out a detailed discussion of the issues considered during the course of the review.

Section 75 principles have continued to inform each stage of the review process, including consultation. Having reflected on outcomes of consultation this review process can now be screened to identify any significant impact on equality of opportunity.

1.3. Aims of policy

- To review existing sexual offences law in Northern Ireland and thereby strengthen, harmonise and modernise this law, informed by contemporary practice across the UK.**
- To remove potential adverse impact in relation to salient section 75 grounds in age, gender, sexual orientation, disability, race marital status and dependency.**
- To increase the protection of vulnerable adults and children.**

- **To acknowledge competing priorities across section 75 grounds and accommodate these in a fair, reasonable and proportionate manner**

These policy objectives provide a sound basis for a new law which, in contrast with the existing sexual offences legislation, is free from discriminatory offences, particularly in terms of sexual orientation and gender, but which also seeks to provide the more vulnerable groups with added protection from sexual abuse. The review also aims to recognise that those of consenting age who may have a disability through mental health problems also have sexual rights and not all mental health impairment should necessarily exclude those rights.

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1.4. Who is responsible for devising and delivering the policy?

The Sexual Crime Unit of the Criminal Justice Directorate of the Northern Ireland Office but driven by an earlier review of sexual offences law in England and Wales (2003).

1.5. Are there any linkages to other NI Departments or NDPBs in relation to this policy/legislation? How are these interfaces managed?

The review has been informed by working in partnership with a range of criminal justice agencies including the police, probation, prisons, Court Service and Public Prosecution Service.

There has also been ongoing consultation with NGOs such as NSPCC and Barnardo's.

1.6. Who is the policy/legislation likely to impact upon? What data is available to facilitate the screening exercise?

The outcome of the review is likely to impact on victims of sexual crime, in particular children and vulnerable adults as well as the criminal justice system from the police through to the courts and the judiciary. The review will also impact on perpetrators of sexual crime.

The review has sought to engage with a wide range of interested parties through a review steering group made up of criminal justice partners; a consultation seminar and a public consultation exercise.

The following supporting documents are available on-line:

**Setting the Boundaries Reforming the Law on sex offences (Home Office) at :
<http://www.homeoffice.gov.uk/documents/vol1main.pdf?view=Binary>**

**Reforming the law on sexual offences in Northern Ireland – Volume 1
Summary of proposals at:
http://www.nio.gov.uk/reforming_the_law_on_sexual_offences_in_northern_ireland_consultative_document_-_volume_1.pdf**

**Reforming the law on sexual offences in Northern Ireland – Volume 2
Detailed discussion and consideration at:
http://www.nio.gov.uk/reforming_the_law_on_sexual_offences_in_northern_ireland_consultative_document_-_volume_2.pdf**

Reforming the law on sexual offences in Northern Ireland – Summary of responses at:

http://www.nio.gov.uk/reforming_the_law_on_sexual_offences_in_ni_summary_of_responses.pdf

9. Who will implement the policy?

The review will be used to inform a single statute setting out sexual offences law in Northern Ireland.

PART II

2. SCREENING ANALYSIS

2.1 Is there any evidence, or potential likelihood, of higher or lower participation or uptake by different groups? If so, please indicate below.

CATEGORY	YES	NO	DON'T KNOW
Gender		x	
Sexual orientation		x	
Religion	x		
Political opinion		x	
Disability (physical and learning)		x	
Race or ethnic origin (includes Travellers)		x	
Age		x	
Dependant responsibilities		x	
Marital status		x	

Please give reasons for your answer, including sources of data used.

By its nature, the legislation and the review of existing legislation impacts on all nine grounds.

During the review we have aimed to be as broad as possible in our consultation process. However, there are particular groups who have more or less interest in this legislation. For example, there was a significant response to a number of questions attached to the review as a result of lobbying by one particular Christian group, in particular with regard to:

1. Lowering the age of consent to 16.
2. How the criminal law should deal with consensual teenage activity.
3. Placing the offence of sex in a public lavatory in a public order/nuisance context.
4. Redefining the meaning of a brothel so that two or three women may work together in the interest of safety.

(See also response to questions 5 and 6.)

Sexual offending is also predominantly carried out by men.

Please see Annex A for a full list of parties who responded to the review's consultation document.

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2.2. Is there any evidence that different groups have different needs, experiences, issues and priorities in relation to the particular policy?

CATEGORY	YES	NO	DON'T KNOW
Gender	x		
Sexual orientation	x		
Religion	x		
Political opinion			x
Disability (physical and learning)	x		
Race or ethnic origin (includes Travellers)	x		
Age	x		
Dependant responsibilities	x		
Marital status	x		

Please give reasons for your answer, including sources of data used:

The review has had to accommodate the different needs, experience, issues, priorities of groups associated with a least eight of the nine section 75 grounds. The operation of the existing legislation, and hence its review, immediately raises issues of significance in relation to gender, sexual orientation, religious beliefs, disability, race, age, dependency and marital status. Regarding political opinion, it is less obvious how this may impact on the review although this may be indirectly by association with particular religious beliefs.

At this stage we are content that the review has taken on board these significant issues, balancing priorities between competing aspects of identity (e.g. religious belief and sexual orientation/gender) and these issues will be brought forward in the emerging legislation.

The review has identified considerable disparities between Northern Ireland legislation and that which operates in the rest of the United Kingdom, raising further concerns on grounds of nationality or ethnic origin within this context.

Setting the Boundaries Reforming the Law on sex offences (Home Office) at :

<http://www.homeoffice.gov.uk/documents/vol1main.pdf?view=Binary>

Sexual Offences Act 2003 at:

<http://www.opsi.gov.uk/ACTS/acts2003/20030042.htm>

2.3. Is there an opportunity to better promote equality of opportunity or better community relations by altering the policy or working with others in Government or in the larger community?

CATEGORY	YES	NO	DON'T KNOW
Gender		X	
Sexual orientation		X	
Religion		X	
Political opinion		X	
Disability (physical and learning)		X	
Race or ethnic origin (includes Travellers)		X	
Age		X	
Dependant responsibilities		X	
Marital status		X	

Please give reasons for your answer, including sources of data used:

The review has been undertaken in a fully inclusive manner. All section 75 interests have had an opportunity to contribute to the review.

The statute likely to emerge from the review will advance equality of opportunity by addressing anomalies and inconsistencies inherent in

existing sexual offences legislation in Northern Ireland, for example in relation to age, gender and sexual orientation. It will also afford enhanced protection to vulnerable adults and children, including those with a disability. The proposed changes to the legislation will aspire to treat everyone equitably regardless of gender or sexual orientation.

2.4. Equality Commission guidance states that the screening process should include pre-consultation with those that may be affected by the policy. Have consultations with relevant groups, organisations or individuals indicated that particular policies create problems, which are specific to them?

CATEGORY	YES	NO	DON'T KNOW
Gender	x		
Sexual orientation	x		
Religion	x		
Political opinion	x		
Disability (physical and learning)	x		
Race or ethnic origin (includes Travellers)	x		
Age	x		
Dependant responsibilities	x		
Marital status	x		

Please give reasons for your answer, and details of any consultations that have taken place:

The wide consultation revealed issues relating to a number of section 75 grounds. The majority welcomed the review process and looked forward to positive outcomes that will result in the legislation.

Representatives and individuals of Christian groups highlighted problems that they attached to a number of questions raised in the consultation and these concentrated on four areas (see 1. Above)

PART II

2.5. It may be that a policy has an adverse differential impact on certain people in one or more of the categories as a consequence of targeting or affirmative action to combat an existing or historical inequality. If this is the case, please give details below and contact the Equality Unit if you are in doubt:

The review has endeavoured to reflect on existing legislation, to consider alternatives to that legislation within a wider UK context and to propose suggestions/recommendations as to how new legislation may combat existing or historical inequalities.

The proposed outcome of the review will have positive differential impact in relation to several section 75 grounds. At the same time certain groups may feel that proposed reforms may have an adverse impact, for example on grounds of religious belief. The review will seek to take all competing interests into account in reaching a decision on proposed legislation.

PART III

EQUALITY IMPACT ASSESSMENT RECOMMENDATION

Equality impact assessment procedures are confined to those policies considered likely to have significant implications for equality of opportunity.

3.1. If screening has indicated that a policy is having an adverse differential impact, how would you categorise it?

Please tick.

Significant impact	Low impact x
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3.2. Do you consider that this policy needs to be submitted to a full equality impact assessment?

YES	NO
	x

If NO but the policy has significant impact, please give reasons for your recommendation:

Yes we have identified certain Christian groups and individuals who regard this as having an adverse impact on them but this is countered by a significant number of other groups representing several S75 grounds who regard the review as having a positive impact on the promotion of equality of opportunity

While we believe the review itself does not require an EQIA, a further screening will be undertaken of the proposed legislation.

3.3. What data is required to ensure effective monitoring in the future?

We will continue to be responsive to feedback from consultees and others.

Annex A