

Equality Impact Assessment Record

**Amendment to the
Homeless Persons
(Unsuitable Accommodation)
(Scotland) Amendment
Order 2017**

September 2017



Scottish Government
Riaghaltas na h-Alba
gov.scot

EQUALITY IMPACT ASSESSMENT RECORD

Title of policy/ practice/ strategy/ legislation etc.	Amendment to The Homeless Persons (Unsuitable Accommodation)(Scotland) Amendment Order 2017	
Minister	Kevin Stewart	
Lead official	Lynsey McKean	
Officials involved in the EQIA	name	team
	Catriona MacKean	Head of Housing Support and Homelessness Unit
	Marion Gibbs	Homelessness team
	Lynsey McKean	Homelessness Team
Directorate: Division: Team	DIRECTORATE FOR HOUSING AND SOCIAL JUSTICE: Better Homes Division: Homelessness Team.	
Is this new policy or revision to an existing policy?	Amendment to existing legislation	

Screening

Policy Aim

Describe in this paragraph what the purpose of your policy/strategy/plan is and its desired outcomes and to which

The SNP 2016 manifesto included a commitment to ‘introduce a cap of one week for families with children and pregnant women living in B&B accommodation unless there are exceptional circumstances’.

To do this, an amendment to the Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2014 (“the 2014 Order”) is required. Therefore, the purpose of the change to the legislation is to amend the 2014 Order by reducing the time allowed, from 14 days to 7 days, for families with children or pregnant women living in bed and breakfast accommodation, unless there are exceptional circumstances.

Local authorities currently demonstrate good practice in providing suitable accommodation for homeless applicants. The use of bed and breakfast accommodation should be used only in exceptional circumstances when temporarily housing families with children or pregnant women. The desired outcome of the change to the legislation is to minimise the amount of time families with pregnant women and children should spend in this type of accommodation, and reduce the time to a maximum of 7 days.

The policy contributes to the following national outcomes:

- Our children have the best start in life and are ready to succeed.
- We have improved the life chances for children, young people and families at risk.

Who will it affect?

The change in legislation will affect local authorities and homeless households where the applicant is (a) pregnant; (b) a person whose household includes a pregnant woman; or (c) a person whose household includes dependent children.

What might prevent the desired outcomes being achieved?

If the required accommodation is not available, and local authorities are unable to find other temporary or settled accommodation, then they will need to keep households with children or pregnant women in bed and breakfast accommodation until they can move them into suitable accommodation which may be outwith the desired limit of 7 days. This would therefore constitute a breach of the 2014 Order. To date, breaches of the Order by local authorities, as measured by the official homelessness statistics, have been low.

Stage 1: Framing

Results of framing exercise

The amendment has a **low** impact using The Risk and Impact Assessment Matrix and therefore a framing exercise was not required:

- Impacts identified are positive for the relevant protected characteristics.
- Good range of robust evidence covering all relevant protected characteristics
- Little or no likelihood for any complaint or legal challenge on equality grounds, or very easily resolved.
- No negative impact on Scottish Government's reputation

Extent/Level of EQIA required

The Risk and Impact Assessment Matrix concludes that, for this policy: "no framing exercise required, proceed to complete the EQIA template with existing information and evidence".

The change in legislation involves reducing the time period households with children and pregnant women can stay in bed and breakfast accommodation. Stakeholder consultation was carried out on the 2017 draft Scottish Statutory Instrument and Business Regulatory Impact Assessment for this policy. As part of the process, stakeholders were invited to consider the impact on Equalities groups. These are summarised in the Stage 2 table below.

Stage 2: Data and evidence gathering, involvement and consultation

Include here the results of your evidence gathering (including framing exercise), including qualitative and quantitative data and the source of that information, whether national statistics, surveys or consultations with relevant equality groups.

Characteristic ¹	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
AGE	This amendment to the 2014 Order will have a positive impact on children as time spent in unsuitable accommodation will be further limited.	West Dunbartonshire Council, Fife Council, South Lanarkshire Council, Angus Council, Association of Local Authority Chief Housing Officers (ALACHO).	
DISABILITY	No impact.	All bodies consulted; local authorities, local government representative bodies and third sector.	
SEX	The amendments are likely to impact positively on pregnant women.	Angus Council, ALACHO, COSLA.	

¹ Refer to Definitions of Protected Characteristics document for information on the characteristics

<p>PREGNANCY AND MATERNITY</p>	<p>This amendment to the 2014 Order will likely advantage pregnant women by ensuring they are moved to more appropriate accommodation sooner.</p> <p>Possible negative – more likely to be housed in suitable accommodation, but poses a risk of not being housed in existing community/ community of their choice.</p>	<p>West Dunbartonshire Council, Aberdeen City Council, Fife Council, South Lanarkshire Council, Angus Council, ALACHO, COSLA.</p> <p>Highland Council.</p>	
<p>GENDER REASSIGNMENT</p>	<p>No impact.</p>	<p>All bodies consulted; local authorities, local government representative bodies and third sector.</p>	
<p>SEXUAL ORIENTATION</p>	<p>No impact.</p>	<p>All bodies consulted; local authorities, local government representative bodies and third sector.</p>	
<p>RACE</p>	<p>No impact.</p>	<p>All bodies</p>	

		consulted; local authorities, local government representative bodies and third sector.	
RELIGION OR BELIEF	No impact.	All bodies consulted; local authorities, local government representative bodies and third sector.	
MARRIAGE AND CIVIL PARTNERSHIP (the Scottish Government does not require assessment against this protected characteristic unless the policy or practice relates to work, for example HR policies and practices - refer to Definitions of Protected Characteristics document for details)			

Stage 3: Assessing the impacts and identifying opportunities to promote equality

Having considered the data and evidence you have gathered, this section requires you to consider the potential impacts – negative and positive – that your policy might have on each of the protected characteristics. It is important to remember the duty is also a positive one – that we must explore whether the policy offers the opportunity to promote equality and/or foster good relations.

Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	
Advancing equality of opportunity	X			<p>Limiting the time from 14 to 7 days that children spend in unsuitable accommodation should be advantageous in terms of limiting distress and uncertainty within their housing environment. Two stakeholders stated B&B accommodation has historically had a negative impact on families and can be disruptive to their life chances. Reducing the time spent in such accommodation should in the longer term have a more positive outcome.</p> <p>One rural local authority stated that while they support the amendment to the legislation, they thought the amendment could make it less likely for households with children to be housed in their existing community or their community of choice.</p>

Promoting good relations among and between different age groups			X	
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Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	Disabled people will not be impacted - the amendment to the legislation directly affects pregnant women and families with children.
Advancing equality of opportunity			X	As above.
Promoting good relations among and between disabled and non-disabled people			X	As above.

Do you think that the policy impacts on men and women in different ways?

Sex	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	

Advancing equality of opportunity	X			For pregnant women and households with children, the amendment to the legislation will reduce the amount of time they can stay in unsuitable accommodation
Promoting good relations between men and women			X	

Do you think that the policy impacts on women because of pregnancy and maternity?

Pregnancy and Maternity	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	
Advancing equality of opportunity	X			The amount of time pregnant women can stay in unsuitable accommodation will be reduced. This is subject to one possible slight negative as one rural local authority stated that, while they support the amendment to the legislation, they thought the amendment could make it less likely for pregnant women to be housed in their existing community or their community of choice.
Promoting good relations			X	

Do you think your policy impacts on transsexual people?

Gender reassignment	Positive	Negative	None	Reasons for your decision

Eliminating unlawful discrimination			x	There is no scope in the amendment to the legislation to do this.
Advancing equality of opportunity			x	There is no scope in the amendment to the legislation to do this.
Promoting good relations			x	There is no scope in the amendment to the legislation to do this.

Do you think that the policy impacts on people because of their sexual orientation?

Sexual orientation	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			x	There is no scope in the amendment to the legislation to do this.
Advancing equality of opportunity			x	There is no scope in the amendment to the legislation to do this.
Promoting good relations			x	There is no scope in the amendment to the legislation to do this.

Do you think the policy impacts on people on the grounds of their race?

Race	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			x	There is no scope in the amendment to the legislation to do this.
Advancing equality of opportunity			x	There is no scope in the amendment to the legislation to do this.
Promoting good race relations			x	There is no scope in the amendment to the legislation to do this.

Do you think the policy impacts on people because of their religion or belief?

Religion or belief	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	There is no scope in the amendment to the legislation to do this.
Advancing equality of opportunity			X	There is no scope in the amendment to the legislation to do this.
Promoting good relations			X	There is no scope in the amendment to the legislation to do this.

Do you think the policy impacts on people because of their marriage or civil partnership?

Marriage and Civil Partnership²	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination				N/A

² In respect of this protected characteristic, a body subject to the Public Sector Equality Duty (which includes Scottish Government) only needs to comply with the first need of the duty (to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010) and only in relation to work. This is because the parts of the Act covering services and public functions, premises, education etc. do not apply to that protected characteristic. Equality impact assessment within the Scottish Government does not require assessment against the protected characteristic of Marriage and Civil Partnership unless the policy or practice relates to work, for example HR policies and practices.

Stage 4: Decision making and monitoring

Identifying and establishing any required mitigating action

If, following the impact analysis, you think you have identified any unlawful discrimination – direct or indirect - you must consider and set out what action will be undertaken to mitigate the negative impact. You will need to consult your legal team in SGLD at this point if you have not already done so.

Have positive or negative impacts been identified for any of the equality groups?	Positive impact for (a) pregnant women; (b) a person whose household includes a pregnant woman; or (c) a person whose household includes dependent children.
Is the policy directly or indirectly discriminatory under the Equality Act 2010 ³ ?	Even if the policy were to be regarded as directly discriminatory in relation to age (as it only applies to dependent children up to the age of 16), this would be a proportionate means of achieving the legitimate aim of reducing the time spent in bed and breakfast accommodation for children. In relation to the positive treatment of pregnant women, the Act allows special treatment afforded to a woman in connection with pregnancy or childbirth.
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	Even if the policy were to be regarded as indirectly discriminatory in relation to age (insofar as it only applies to dependent children up to the age of 16), or in relation to pregnant women as compared to men, this can be justified as there is a legitimate aim of reducing the time spent in bed and breakfast accommodation for these particularly vulnerable groups.
If not justified, what mitigating action will be undertaken?	N/A as it is justified.

³ See EQIA – Setting the Scene for further information on the legislation.

Describing how Equality Impact analysis has shaped the policy making process

To address the Equality Impact Analysis, we consulted with the key stakeholders on the impact of the policy on the equality groups. Stakeholders included local authorities, local government representative bodies, the third sector and homelessness charities. 17 organisations responded. Respondents felt that it would positively affect pregnant women and households with dependent children by further reducing the amount of time they spend in unsuitable accommodation.

The aim of amendment to the Order is to benefit pregnant women and households with children. Therefore we believe the amendment should proceed.

Monitoring and Review

Scottish Government Legal Department has confirmed that there is no statutory requirement to review the operation of the Homeless Persons Unsuitable Accommodation (Scotland) Order 2017.

Stage 5 - Authorisation of EQIA

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes No

- ◆ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:

- Eliminating unlawful discrimination, harassment, victimisation;
- Removing or minimising any barriers and/or disadvantages;
- Taking steps which assist with promoting equality and meeting people's different needs;
- Encouraging participation (e.g. in public life)
- Fostering good relations, tackling prejudice and promoting understanding.

Yes No

- ◆ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

Yes No Not applicable

Declaration

I am satisfied with the equality impact assessment that has been undertaken for the Amendment to The Homeless Persons (Unsuitable Accommodation) (Scotland) Amendment Order 2017 and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name: David Signorini

Position: [Deputy Director, Better Homes Division]

Authorisation date: 24 August 2017



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