

Management of Offenders (Scotland) Bill – Parole Reform in Scotland

Equality Impact Assessment Record

February 2018

EQUALITY IMPACT ASSESSMENT RECORD

Title of policy/ practice/ strategy/ legislation etc.	Parole Reform in Scotland (element of the Management of Offenders Bill)	
Minister	Cabinet Secretary for Justice	
Lead official	Avril Coats	
Officials involved in the EQIA	name	team
	Linda Pollock Lesley Menzies	Community Justice Parole Reform
Directorate: Division: Team	Justice: Community Justice; Parole Reform	
Is this new policy or revision to an existing policy?	Revision to existing legislation and policy	

Screening

Policy Aim

The proposed changes to the Prisoners and Criminal Proceedings (Scotland) Act 1993 (“the 1993 Act”) will partially deliver the manifesto commitment “We will improve the effective rehabilitation and reintegration of people who have committed offences and complete the implementation of the parole reform project to modernise and improve support for the vital work of the Parole Board”.

The objective is to reinforce the role and status of the Parole Board, simplify and modernise processes, and support consistency of approach.

This contributes to National Outcomes:

- We live our lives safe from crime, disorder and danger;
- We live in well-designed sustainable places we are able to access the amenities and services we need;

- We have strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others.

Who will it affect?

The proposed changes make amendments to the 1993 Act in relation to the Parole Board for Scotland. This includes amendments to the composition and appointment of Parole Board members, to the functions and requirements of the Parole Board and to the role of the Scottish Ministers in certain types of parole cases. The changes also reinforce the independence of the Parole Board and provide for the administrative arrangements within the Parole Board to be set out in secondary legislation.

For those being considered by the Parole Board, who will be prisoners in custody or on licence, children and young people in secure accommodation and restricted patients in secure hospitals the key factors for them, is being able to provide their views on the information being presented to the Parole Board. The changes to the legislation will not affect these people as there are no changes being made to the way prisoners and others share their views. The process and material considered in decision-making by the Parole Board as to release or not, or to recall to custody or not, will also remain unchanged. In addition, the process will remain the same for victims and their families and families of those being considered by the Parole Board.

What might prevent the desired outcomes being achieved?

A public consultation on proposals for reform of the Parole Board in Scotland closed on 13 October 2017. Twenty-three responses were received in total. Responses represented a range of interests and included individuals currently in custody who have gone through or are going through the parole process. There was a consensus that roles and responsibilities in the parole process should be set out more clearly and in particular that there should be clarity around the independence of the Parole Board from the Scottish Ministers. Stakeholders may perceive that the changes do not go far enough.

Stage 1: Framing

Results of framing exercise

Preliminary consideration was given to address any equality issues emerging from the proposed legislative changes on parole. The consensus was the proposals would not impact on individuals with protected characteristics. It was recognised however that throughout the current legislation there are male gendered references such as “chairman of the Parole Board” and this has been reflected in the proposed changes by amending any such references from ‘chairman’ to ‘chair’ in schedule 2 of the 1993 Act.

The proposed changes were discussed in detail with key partners pre and post consultation in meetings and specific discussion. It is also a standing agenda item for the Parole Reform Programme Board.

The Parole Reform in Scotland public consultation ran from July – October 2017. The consultation included a question on potential impacts:

“Please tell us about any potential impacts, either positive or negative, that you consider any of the proposals in this consultation may have on anyone (including custody or community facing) or any organisation affected by the parole process”

A consistent message from the consultation responses and engagement with key stakeholders and individuals was ensuring transparency and clarity of current processes and any subsequent changes. Any changes which would expedite the process were welcomed with the understanding it would not be to the detriment of those involved especially the prisoner, victims and families of both victims and prisoners.

Of the 23 respondents to the Parole Reform consultation, 17 provided comments to this question. Removal of gender specific language in the existing legislation was highlighted. Continuing and where appropriate enhanced support for individuals who may have capacity issues such as literacy and communication was suggested as was ensuring any changes are mindful of the specific needs of children and young people as well as those prisoners who are housed within secure hospitals. Policy officials

for these areas contributed and it was agreed any changes which may impact on these areas would be discussed with the relevant policy leads prior to any implementation.

Justice Analytical Services (JAS) were approached to provide assistance of collation of consultation responses and subsequent policy responses from SG colleagues who have a vested interest in the parole system. They were able to provide broad guidelines on how best to represent the findings.

A separate impact questionnaire was sent to key stakeholders in relation to equality it asked;

“Do you believe any of the proposed changes above would have a positive or negative impact to one or more these individuals or groups?”

- impact due to age
- impact on disabled people
- impact differently for male and female
- impact those who are pregnant
- impact on transsexual people
- impact on people because of their sexual orientation
- impact on people on grounds of their race
- impact on people because of their religion or belief
- impact on people because of their marriage or civil partnership

The responses all indicated there would be no impact.

Extent/Level of EQIA required

The proposed legislative changes mean a fairly light touch assessment is required. The proposals do not make any changes to how the Parole Board take account of the information presented to them on any individual. Their decision to release, not release, recall to custody or not recall still remains risk based with public safety at the heart of any decision.

Key stakeholders have been kept informed of proposed changes as they have developed. As previously mentioned any of these

changes will take into account alternative options where required for those individuals who may be vulnerable. This includes those who may have limited capacity with literacy, general understanding, individuals with mental health issues and children and young people.

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.

Characteristic¹	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
AGE	There are no changes in relation to age to which Members must step down from serving on the Parole Board (i.e. the statutory retirement age of 75). In relation to the other proposed changes and the parole process, age plays no part in the Parole Board's decision to release, not release, recall to custody or not recall.		
DISABILITY	For any individual who is seen as disabled in terms of DDA , alternative options will always be sought to ensure the process is fair and in the interests of justice.		Any groups or individuals who are vulnerable, have capacity issues in terms of literacy etc and may require additional support through the process. Resources to provide this will be discussed with relevant stakeholders
SEX	In relation to the parole process and proposed changes a person's gender plays no part in the Parole Board's decision to release, not release, recall to custody or not recall. The tests for recall/release or not are all risk-based with public safety at the centre of any	Prisoners and Criminal Proceedings (Scotland) Act 1993	Legislation to be reviewed and remove the dated and gender specific references. These are references to chairman of the Parole Board

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

	decision. The wording of the legislation will be reviewed to ensure it is not gender specific.		
PREGNANCY AND MATERNITY	In relation to the parole process and proposed changes pregnancy/maternity plays no part in the Parole Board's decision to release, not release, recall to custody or not recall. The tests for recall/release or not are all risk-based with public safety at the centre of any decision.		
GENDER REASSIGNMENT	In relation to the parole process and proposed changes a person's gender or gender reassignment plays no part in the Parole Board's decision to release, not release, recall to custody or not recall. The tests for recall/release or not are all risk-based with public safety at the centre of any decision.		
SEXUAL ORIENTATION	In relation to the parole process and proposed changes a person's sexual orientation plays no part in the Parole Board's decision to release, not release, recall to custody or not recall. The tests for recall/release or not are all risk-based with public safety at the centre of any decision.		
RACE	In relation to the parole process and proposed changes a person's race plays no part in the Parole Board's decision to release, not release, recall to custody or not recall. The tests for recall/release or not are all risk-		

	based with public safety at the centre of any decision.		
RELIGION OR BELIEF	In relation to the parole process and proposed changes a person's religion or belief plays no part in the Parole Board's decision to release, not release, recall to custody or not recall. The tests for recall/release or not are all risk-based with public safety at the centre of any decision.		
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)	N/A		

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	The proposals do not make changes which may impact , either positively or negatively, in relation to the age of current Parole Board Members.
Advancing equality of opportunity	X			The proposed changes seek to ensure consistency of approach in relation to age limits for tribunal bodies and those who have a judicial decision making role
Promoting good relations among and between different age groups			X	The proposals do not impact either positively or negatively on the relations between different age groups.

Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	Any groups or individuals who are vulnerable, have capacity issues in terms of literacy etc who may require additional support through the process should be provided with this. Resources to provide this will be discussed with relevant stakeholders
Advancing equality of opportunity	X			The proposed changes seek to ensure consistency of approach in terms of process. Any changes will be weighted with fairness and in the interests of justice
Promoting good relations among and between disabled and non-disabled people			X	The proposals do not impact either positively or negatively on the relations between disabled and non-disabled people.

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			Legislation to be reviewed and remove gender specific references. These include references to chairman of the Parole Board
Advancing equality of opportunity			X	The proposals do not impact either positively or negatively on advancing equality of opportunity.
Promoting good relations between men and women			X	The proposals do not impact either positively or negatively on promoting good relations between men and women

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	The proposals do not impact either positively or negatively on eliminating unlawful discrimination.
Advancing equality of opportunity			X	The proposals do not impact either positively or negatively on advancing equality of opportunity.
Promoting good relations			X	The proposals do not impact either positively or negatively on promoting good relations

Do you think your policy impacts on transsexual people?

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	The proposals do not impact either positively or negatively on eliminating unlawful discrimination.
Advancing equality of opportunity			X	The proposals do not impact either positively or negatively on advancing equality of opportunity.
Promoting good relations			X	The proposals do not impact either positively or negatively on promoting good relations

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	The proposals do not impact either positively or negatively on eliminating unlawful discrimination.
Advancing equality of opportunity			X	The proposals do not impact either positively or negatively on advancing equality of opportunity.
Promoting good relations			X	The proposals do not impact either positively or negatively on promoting good relations

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	The proposals do not impact either positively or negatively on eliminating unlawful discrimination.
Advancing equality of opportunity			X	The proposals do not impact either positively or negatively on advancing equality of opportunity.
Promoting good race relations			X	The proposals do not impact either positively or negatively on promoting good relations

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	The proposals do not impact either positively or negatively on eliminating unlawful discrimination.
Advancing equality of opportunity			X	The proposals do not impact either positively or negatively on advancing equality of opportunity.
Promoting good relations			X	The proposals do not impact either positively or negatively on promoting good relations

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			X	The proposals do not impact either positively or negatively on eliminating unlawful discrimination.

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

Have positive or negative impacts been identified for any of the equality groups?	No
Is the policy directly or indirectly discriminatory under the Equality Act 2010 ³ ?	No.
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	N/A
If not justified, what mitigating action will be undertaken?	N/A

Describing how Equality Impact analysis has shaped the policy making process

The EQIA has highlighted a lack of data on impact across stakeholders. This has flagged up the need to reiterate at every appropriate opportunity the role of the stakeholders and the need for them to take stock of their policies and if indeed they may need an EQIA if they need to amend or create policies to deliver on the proposed changes.

There are no cost implications as a result of the EQIA analysis nor are there any budgetary changes as a result of it.

The EQIA has assisted in looking at all individuals and groups involved within parole not just the person being considered by the Parole Board. It includes the victims and their families, the families of the person being considered, witnesses who attend tribunals and oral hearings and all those who contribute to the reports which form the dossier which goes to the Parole Board for Scotland.

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

Monitoring and Review

We will seek to capture relevant data at key points through the parole process this will include engaging with and including Scottish Prison Service, SG colleagues with responsibility for Children and Young People in secure accommodation and those with responsibility for restricted patients.

Engagement and monitoring also required with individuals and organisations who are affected by people released back into the community on licence. This includes social work, victims support , police, families etc.

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 Parole Reform provisions and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name: Linda Pollock

Position: Deputy Director, Community Justice

Authorisation date: 14 February 2018



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