

Equality Impact Assessment Initial Screening - Relevance to Equality Duties

Before you complete an Equality Impact Assessment you must read the guidance notes and unless you have a comprehensive knowledge of the equality legislation and duties, it is strongly recommended that you attend an EIA training course.

The EIA should be used to identify likely impacts on:

- disability
- race
- sex
- gender reassignment
- age
- marriage and civil partnership
- religion or belief
- sexual orientation
- pregnancy and maternity
- caring responsibilities (usually only for HR polices and change management processes such as back offices)

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

A new enforcement tool to deal with economic crime committed by commercial organisations: Deferred prosecution agreements.

2. Individual Officer(s) & unit responsible for completing the Equality Impact Assessment.

Yvonne Murray, Judicial Policy and Criminal Trials Unit

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?

Aims/objectives	Outcomes
To enhance prosecutors' ability to tackle economic crime committed by commercial organisations.	More commercial organisations which have committed wrongdoing brought to justice, more quickly and efficiently.
To improve outcomes for victims of serious economic crime committed by commercial organisations.	More victims should receive reparation more quickly and be more satisfied with the outcome of proceedings.

4. What existing sources of information will you use to help you identify the likely equality impacts 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).

MoJ, AGO, SFO and CPS have considered the data they hold on organisations which have been convicted of relevant crimes or have been subject to a relevant Civil Recovery Order and the victims and witnesses in these cases, and whether there is any information on the makeup of these groups. Based on the data sources available, we can find no evidence of the protected characteristics of these groups.

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.

There is an absence of data about the equalities characteristics of individuals who work for, own, or are in any other way involved with commercial organisations which have either been successfully prosecuted by the SFO or CPS or have entered into a Civil Recovery Order with the SFO or CPS, or who were victims or witnesses in these cases.

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 which benefits from the positive impacts and the evidence and analysis used to identify them.

According to our Impact Assessment analysis, DPAs are likely to lead to benefits for victims. There may also be benefits for employees and other individuals associated with these companies, in that a DPA may reduce the likelihood of an organisation going out of business, as compared to a conviction. However, as noted above, we are unable to find relevant data with which to analyse the equality characteristics of victims, witnesses or people associated with relevant commercial organisations.

We hope that following the introduction of DPAs, more commercial organisations will engage with this process than with current processes and accept responsibility for their actions. We expect that DPAs would include a clause about reimbursement of funds to victims. The size of the reparation to victims would depend upon the size of the offending, but we expect that more victims will be financially compensated for the wrongdoings of commercial organisations. The terms of any reparation would be unique to the circumstances of the wrongdoing in an individual case. It is not therefore possible to forecast and quantify this benefit.

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.

No feedback or evidence.

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.

No evidence. As noted above, there is an absence of data about the equalities characteristics of individuals who work for, own, or are in any other way involved with commercial organisations which have either been successfully prosecuted by the SFO or CPS or have entered into a CRO with the SFO or CPS, or who were victims or witnesses in these cases. Our Impact Assessment analysis suggests an unquantifiable beneficial impact for them.

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.

We believe that the introduction of DPAs will have an unquantifiable beneficial impact as outlined above on everyone. It has not, however, been possible to determine the precise impact on people with specific protected characteristics due to the absence of data.

DPAs will be used by prosecutors to deal with commercial organisations who commit criminal wrongdoing such as bribery. Which organisations these will be, their characteristics and those of their employees and other relevant individuals cannot be predicted. The use of DPAs will depend on commercial organisations' behaviour and on the SFO and other prosecuting agencies discovering the offending. The factors prosecutors should take into account in deciding whether to enter into a DPA will be set out in a Code issued by the Director of Public Prosecutions and the Director of the Serious Fraud Office.

10. Is a full Equality Impact Assessment Required? Yes No

If you answered 'No', please explain below why not?

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

We have considered the potential impact of deferred prosecution agreements on individuals with protected characteristics but do not consider that a full equality impact assessment is necessary.

As discussed above, the evidence suggests that there would be an unquantifiable beneficial impact for everyone. However, it has not been possible to determine the impacts on people with specific protected characteristics.

We are not aware of any sources of evidence which would further inform this assessment although we have consulted on our proposals.

The consultation closed on the 9 August 2012. We received 13 responses to the three questions relating to equality impacts of DPAs. None of the responses, however, raised significant equality issues and we therefore do not consider we need to alter the policy direction on DPAs.

11. Even 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.

We will analyse prosecutors' DPA, trial and CRO outcomes data and victim and witness data four years after Royal Assent, in line with the Government's policy on post-legislative scrutiny ('Post-Legislative Scrutiny – the Government's Approach' (Cm 7320) March 2008).

12. Name of Senior Manager and date approved

The relevant senior analyst has advised that the analysis of equalities impacts provided is fair and reasonable given the lack of available data.

Name (must be grade 5 or above): Sophie Langdale

Department: Justice Policy Group, Ministry of Justice

Date: 23 October 2012

Note: The EIA should be sent **by email to analyticalservices@justice.gsi.gov.uk of the Equality Analytical Programme for publication.**