

EQUALITY IMPACT ASSESSMENT RECORD

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| Title of policy/ practice/ strategy/ legislation etc | Miscellaneous Amendments to the Planning System – <ul style="list-style-type: none"> • The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 • The Town and Country Planning (Appeals) (Scotland) Regulations 2013 • The Town and Country Planning (Schemes of Delegation and Local Review Procedure) (Scotland) Regulations 2013 • The Town and Country Planning (Control of Advertisements) (Scotland) Amendment Regulations 2013 | |
| Minister | Minister for Local Government & Planning | |
| Lead official | Alan Cameron | |
| Officials involved in the EQIA | name | team |
| | Alan Cameron Graham Robinson | Planning and Architecture Division |
| Directorate: Division: team | Planning and Architecture Division | |
| Is this new or revision to an existing policy? | Amendments to existing legislation | |

1. The public sector equality duty requires the Scottish Government to pay “due regard” to the need to:
 - eliminate discrimination, victimisation, harassment or other unlawful conduct that is prohibited under the Equality Act 2010;
 - advance equality of opportunity between people who share a protected characteristic and those who do not; and
 - foster good relations between people who share a relevant protected characteristic.

2. These three requirements apply across the “protected characteristics” of age; disability; gender reassignment; pregnancy and maternity; race; religion and belief; sex and sexual orientation.

3. Equality considerations are therefore integrated into all the functions and policies of Scottish Government Directorates and Agencies.
4. Equalities Impact Assessment (EQIA) enables us to consider how our policies may impact, either positively or negatively, on different sectors of the population in different ways.

What is the purpose of the proposed policy (or changes to be made to the policy)?

5. The objective is to ensure that statutory planning procedures are proportionate, efficient and effective. In particular those that relate to the development management procedures, local reviews and planning appeals introduced in August 2009.
6. This EQIA relates to a number of refinements and amendments to the procedures on:

Development Management

- amend neighbour notification and advertising requirements in certain circumstances to streamline processing and remove requirements for advertising in local newspapers where this serves little purpose
- add requirements to consult Network Rail in certain circumstances
- remove the restriction on delegating to officers for decision those applications for local development where the planning authority or member is the applicant or the authority has an interest in the land.

Local Review Procedures

- extend the period for local review bodies to consider reviews sought on the grounds of non-determination

Planning Appeals

- Amend the requirements so that requests for minor information so the Scottish Government reporter assigned to the case can decide the extent to which circulation and comment is required
- Bring appeals in relation to applications for advertisement consent into the same procedural requirements as most other planning appeals
- Re-introduce provisions on access to national security sensitive information at inquiries relating to applications which are the subject of an appeal or called-in by Ministers for their determination
- Introduce an “opt-in” procedure to deal with large numbers of standard letters of representation or petitions in appeal cases or applications called-in for determination by Scottish Ministers.

7. The changes are contained in consolidated versions of the regulations in these areas listed in the heading of this EQIA.

Who is affected by the policy or who is intended to benefit from the proposed policy and how?

8. These changes are primarily about streamlining the planning process and ensuring requirements are clear, proportionate and effective.
9. The changes to neighbour notification and advertising of planning applications remove certain anomalies in triggering advertising where neighbour notification could not be undertaken because there are no premises on neighbouring land. An advert would no longer be required in such cases where said neighbouring land was owned by the applicant or the planning authority or the land was a road or where the proposal was for householder development only (e.g. house extensions or garden sheds). In these cases there is little or no justification for an advert to reach the owners of neighbouring land. Other publicity arrangements, such as web published weekly lists and public registers of applications remain in place.
10. The consultation requirement with Network Rail ensures their views on development near railway lines are included in a planning authority consideration of an application.
11. The ability to delegate planning authority interest cases is to streamline processing. Decisions in such cases will qualify for a local review by authority members rather than an appeal to Scottish Ministers. Existing requirements to notify Scottish Ministers where a planning authority wishes to grant permission in certain of these cases remain in place.
12. The extensions of the period for determining a local review on the grounds of non-determination ensures statutory requirements on further processing can be met before the automatic refusal of permission for undetermined cases applies. This should avoid applicants and planning authorities and other parties from having to enter a further appeal procedure unnecessarily due to such automatic refusals.
13. The appeal provisions on advertisement consents and minor additional information are to streamline procedures while retaining a fair and transparent process. They allow the person appointed by the Scottish Ministers (the reporter) to decide which of the statutory procedures available (written submissions, site inspection, hearing or inquiry or some combination of these) is best for the particular case. This brings advertisement consent cases into line with the similar procedures in relation to most other planning consent regimes, e.g. planning permission. They also give the reporter discretion on how best to deal with minor pieces of additional information (e.g. corrections or different

scale plans) rather than having to always treat them as entirely new evidence with the procedural requirements that involves. This should benefit applicants, appellants, planning authorities and other parties to an appeal.

14. The national security provisions were initially introduced upon the removal of Crown immunity from planning control in 2006, to ensure the system could cope with proposals with national security sensitivities. When significant elements of planning legislation were modernised in 2009, the element was set aside until the main procedures were in place. This package of amendments and related consolidation of legislation provides an opportunity to re-introduce these requirements. The provisions ensure that developments with national security sensitive aspects can be subject to appropriate scrutiny in the planning system. Existing provisions allow for the appointment of representatives to view and make representations on national security sensitive information on behalf of those parties without the necessary security clearance.
15. The new “opt-in” procedure is to allow reporters considering appeals or applications called-in for Ministerial determination which have very large numbers of standard letters of representations or petitions to write to those making such representations to confirm they wish to be involved in any further information gathering on the case, such as written submissions procedure, hearing or inquiry sessions. Where large numbers of people have signed standard letters or petitions, some or many may want their views considered but do not necessarily wish to be involved in further processing. This new optional procedure means reporters and such parties do not have to engage with large amounts of unnecessary communication about such further processing if the parties do not wish to be involved. The original representations made by these parties will in any event be given due consideration.

How have you or will you put the policy into practice, and who is or will be delivering it?

16. Most of the changes will be matters for the planning authorities to implement in dealing with planning applications and local reviews. Scottish Government reporters processing appeals and called-in applications will be dealing with the changes in that area. There will be amendments as appropriate to the guidance introduced in 2009 in relation to Development Management, Appeals and Schemes of Delegation and Local Reviews.

How does the policy fit into our wider or related policy initiatives?

17. These changes will help improve clarity of the existing provisions and contribute to achieving a planning system which is efficient and *fit for purpose*.

What we already know about the diverse needs and/or experiences of your target audience

18. Equality Impact Assessments were prepared for the planning legislation these proposals seek to amend. Building on those assessments, we are not aware of any evidence that any of the equality strands will be affected by the proposals. The proposals will affect all business or individuals seeking approval of a relevant planning application or appealing against various planning enforcement mechanisms proportionately, and those engaging in the processing as interested parties, e.g. objectors.

Do we need more information to help us understand the diverse needs and/or experience of our target audience?

19. We recognised that there was scope to increase our knowledge as to whether and if so how the proposals may affect particular sections of society. To assist in this, we included a specific question in the consultation paper “Miscellaneous Amendments to the Planning System 2012” seeking views on whether there are particular impacts on societal groups that we should be aware of.
20. Certain of the changes were not included in that consultation: the application of the modernised appeal mechanisms to advertisement consent cases and the re-introduction of national security provisions simply fulfil established policy; the “opt-in” procedure is a new addition and is simply to allow those who made representations an opportunity to decide whether they wish to actively engage in any further processing of the case.
21. Most respondents either did not respond at all (36 respondents) or indicated that they had no comments to make (37 respondents). The other comments largely fell into two, essentially inter-related, categories:
 - Nine respondents said that it was unlikely that the proposals would impact on equalities groups
 - Eleven respondents said that the partial EQIA was comprehensive - which might suggest, although it is not stated in these responses, that the respondents agree with the conclusions reached in the EQIA

Describing how Equality Impact analysis has shaped the policy making process

22. These changes are largely technical, fine tuning measures with regard to the existing planning procedures. However, the need for this equality impact analysis has ensured we are not complacent in considering the impact of the measures involved. We did not believe

there were likely to be any such impacts and nothing has emerged to contradict that view.

Monitoring and Review

23. These amendments arise from a review of the modernisation of the planning system and are designed, in part, to address some concerns around the changes. We are in regular, on-going contact with planning system stakeholders or their representative bodies, and will take the opportunity to take views on these amendments.

Authorisation

24. These changes are largely technical refinements and fine tunings of the existing procedural requirements.

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

Yes **No**

- Opportunities to promote equality in respect of age, disability, gender, gender identity/transgender, sexual orientation, race and religion and belief 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**

Declaration

I am satisfied with the equality impact assessment that has been undertaken for Miscellaneous Amendments to the Planning System and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name: Graham Jones
Position: Assistant Chief Planner
Authorisation date: 21 May 2013