

EQUALITY IMPACT ASSESSMENT RECORD

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| Title of policy/ practice/ strategy/ legislation etc | Glasgow Commonwealth Games Act 2008 (Compensation for Enforcement Action) (Scotland) Regulations 2013 | |
| Minister | Shona Robison, Minister for Commonwealth Games and Sport | |
| Lead official | Eleanor Stanley | |
| Officials involved in the EQIA | name | team |
| | Jane MacPherson Oscar Guinea | Games Delivery Team Communities Analytical Services Justice Analytical Services |
| Directorate: Division: team | Directorate for Commonwealth Games and Sport: Commonwealth Games: Games Delivery Team | |
| Is this new or revision to an existing policy? | New regulations | |

Screening

Policy Aim

The aim of this policy is to ensure there is a clear process for a person whose property is damaged as a result of enforcement of the Glasgow Commonwealth Games Act 2008 to obtain compensation (unless it concerns an offence by that person) and to set out how much compensation can be claimed.

The process for claiming compensation is set out in the Glasgow Commonwealth Games Act 2008 (Compensation for Enforcement Action) (Scotland) Regulations 2013 ('the Compensation Regulations').

Glasgow will host the Commonwealth Games in 2014. The Glasgow Commonwealth Games Act 2008 ('the 2008 Act') sets out the broad framework for ensuring that the necessary legislation required for the Commonwealth Games is in place.

The 2008 Act sets out a number of offences including the touting offence, the advertising offence and the trading offence. The touting offence means that it is an offence to tout a Commonwealth Games ticket. The advertising and trading offences mean it is an offence to undertake unauthorised advertising and street trading within defined zones surrounding Commonwealth Games venues. Further detail on the advertising and street trading offences will be set out further in the Street Trading and Advertising regulations which are due to be laid in the Scottish Parliament in Autumn 2013.

The 2008 Act defines the criteria for an enforcement officer and what powers an enforcement officer has for the purpose of the Games and any specific powers that constables have in relation to the enforcement of Games offences. The 2008 Act sets out a general enforcement power and grants enforcement officers the power to prevent or end a Games-related offence. Steps can include seizing, concealing or destroying infringing articles. Enforcement officers have the power to enter and search any place without a warrant for the purpose of preventing or ending a Games offence, with restrictions on entering houses.

It is only in the use of these specific powers that compensation under the Compensation Regulations applies.

If property is damaged in the course of using the general enforcement power, or the power to enter and search, and the enforcement action does not relate to a Games offence by that person, the person is entitled to claim compensation.

Compensation can be claimed from the Glasgow 2014 Organising Committee (if the damage was caused by an enforcement officer or accompanying constable) or, if the damage is caused by a constable who is not accompanying an enforcement officer, it can be claimed from the Scottish Police Authority.

These regulations set out that the amount of compensation that can be claimed is equal to the cost of repairing or replacing the items. They set out the process for claiming compensation and they confer jurisdiction for determining appeals on the sheriff.

Our aim is that any person affected would have an equal ability to claim for compensation.

Who will it affect?

This regulation will affect a person whose property is damaged in the enforcement of the Glasgow Commonwealth Games Act 2008 under the powers in section 22 (general enforcement power) and section 24 (power to enter and search) but who has not committed an offence. The regulations could affect individuals or businesses, but it is difficult to judge if this would be any particular individuals, groups or businesses given that the regulations will only apply in circumstances where a Games offence has not been committed and property has been damaged.

These regulations could also affect the Glasgow 2014 Organising Committee and the Scottish Police Authority who are liable to pay compensation in the circumstances described.

What might prevent the desired outcomes being achieved?

Any group having barriers that limit their ability to apply for compensation

Stage 1: Framing

Results of framing exercise

The 2008 Act set out the principle that compensation may be claimed in certain circumstances where property is damaged and no offence has been committed. The inclusion of this principle was subject to the full scrutiny of the Scottish Parliament which included consideration of equalities issues.

It is anticipated that the enforcement of the Street Trading and Advertising Regulations will involve the highest number of likely offences under the 2008 Act. It therefore follows that is the most likely aspect of enforcement that could lead to circumstances where compensation might be paid as set out in the Compensation Regulations. The development of these regulations, including consideration of possible impact on protected groups, has therefore taken into account the development and drafting of the Street Trading and Advertising Regulations.

Scottish Government Analytical Services officials have been consulted in order to identify any particular protected groups that might be affected by these regulations.

As this is new, untested legislation and anyone eligible to compensation would be a person who has not committed a Games offence, it is not possible to establish if any particular group would be affected more than any other. Most justice statistics available relate to victims or perpetrators of crime. It is considered that statistics related to civil law actions might be more relevant here and these have been used in order to inform the development of the Equalities Impact Assessment.

The Scottish Crime and Justice Survey 2010/11 breaks down the types of civil law problems experienced by adults. The most relevant to these regulations might be unfair treatment by police, which 2% of adults reported that had experienced.

In considering the impact of the regulations, we have considered if there is a group more likely to be affected because of the geographical area in which they live. We considered if there is a particular geographical area where these regulations are most likely to be used. Although a Games offence, and therefore the enforcement of the Act, could happen anywhere in Scotland, the majority of venues are in the Glasgow City Council area and it is probable that most enforcement action would be carried out in the Glasgow area. It follows that potential claims for compensation under the Compensation Regulations would also be likely to come from this geographical area.

Evidence from the London 2012 Olympic and Paralympic Games has been considered when drafting these regulations. London 2012, although larger in scale to the Commonwealth Games, was a similar event which put in place similar regulations which set out similar circumstances and processes for claiming compensation. A post-event review of London 2012 demonstrated that 121 articles were surrendered, removed or destroyed while enforcing the London 2012 advertising and street trading regulations.

Only 40 articles were removed using the powers under the equivalent Act and there were no claims for Compensation. This shows the low probability of the Compensation Regulations being used during the 2014 Commonwealth Games and therefore the low probability of the regulations disproportionately affecting a particular group.

When developing the Compensation Regulations, Scottish Government officials also considered evidence from those who will be enforcing the 2008 Act to understand how enforcement will be carried out. A meeting was held with the Glasgow 2014 Organising Committee, Glasgow City Council Trading Standards and Strathclyde Police (now part of Police

Scotland) to understand their current processes for enforcing similar offences and their likely approach to enforcing offences under the Commonwealth Games Act, along with any impact on individuals that they were aware of. There was general agreement that it was likely that action towards removing, concealing or destroying property in the course of enforcement would only be undertaken after trying other steps such as offering guidance or issuing a warning. A receipt would be issued in the event of any damage to property. On the understanding that this could potentially affect those with language barriers or visual impairment if no mitigating action was put in place, Trading Standards officers and the Police described that they would expect officers to check that a person understood they had been given a receipt, for example through using their contracted translation services.

The methods used for enforcement add to the low probability that the circumstances which would lead to compensation claims will be met and therefore there is a low probability of any group being affected.

Extent/Level of EQIA required

As described above, there is only a small probability that these regulations would be used and the equivalent regulations for London 2012 were not used, despite being a much larger event. Compensation can only be claimed in a specific set of circumstances, which is where property is damaged using specific enforcement powers but the person did not commit a Games offence. Discussion with the Organising Committee, Police Scotland and GCC Trading Standards suggest that the step of removing, concealing or destroying items of property would only be taken after other measures such as giving advice or issuing a warning first. This also follows the London 2012 experience where only 12% of contraventions of the Advertising and Street Trading regulations resulted in removing or concealing items. As the likelihood of the regulations being used is low and it is unlikely they will affect any particular group, a light touch EQIA is required.

Stage 2: Data and evidence gathering, involvement and consultation

| Characteristic | Evidence gathered and Strength/quality of evidence | Source | Gaps identified and action taken |
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| AGE | <p>There is some evidence available about the number of civil law cases differing by age.</p> <ul style="list-style-type: none"> • People aged over 60 are less likely to have experienced civil legal problems in the previous three years than those in other age brackets (13% of those aged over 60, compared to 30% of those aged 16-24, 37% of those aged 25-44, and 29% of those aged 45-59). • In addition those aged over 60 tend to suffer fewer problems: an average 1.29 problems compared to 1.78 for those aged 16-24, 1.76 for those aged 25-44, and 1.62 for those aged 45-59. <p>The survey did not indicate whether there were any differences in accessing civil legal systems or support.</p> | Scottish Crime and Justice Survey 2010/11 | <p>Given the likely low impact of these regulations, we have no plans to gather more evidence as this would be disproportionate to the level of EQIA required.</p> <p>The regulations apply to a specific, one-off event as opposed to general legislation which will be in force beyond the period of the Games in 2014.</p> |
| DISABILITY | <p>People with a disability are more likely to experience civil legal problems than non-disabled people (31% as opposed to 26% in 2010/2011). In 2010/2011, people with a disability were less likely to have solved their problems than non-disabled people at 42%</p> | Scottish Crime and Justice Survey 2010/11 | <p>Given the likely low impact of these regulations, we have no plans to gather more evidence as this would be disproportionate to the level of EQIA required.</p> |

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| | <p>and 56% respectively.</p> <p>The survey did not indicate whether there were any differences in accessing civil legal systems or support.</p> | | <p>The regulations apply to a specific, one-off event as opposed to general legislation which will be in force beyond the period of the Games in 2014.</p> |
| SEX | <p>The Scottish Legal Aid Board, Single Equality Scheme: annual report 2011 has some information about the gender split for accessing civil justice.</p> <ul style="list-style-type: none"> • Overall, the gender split of applicants of civil legal aid in 2010-11 was 52% female and 48% male. • The split was similar for civil advice and assistance (53% female & 47% male). <p>The report did not indicate whether there were any differences in accessing civil legal systems or support or if either gender was more likely to access the civil justice system.</p> | <p>Scottish Legal Aid Board, Single Equality Scheme: annual report 2011</p> | <p>Given the likely low impact of these regulations, we have no plans to gather more evidence as this would be disproportionate to the level of EQIA required.</p> <p>The regulations apply to a specific, one-off event as opposed to general legislation which will be in force beyond the period of the Games in 2014.</p> |
| GENDER REASSIGNMENT | <p>No evidence or statistics in relation to this</p> | | <p>Given the likely low impact of these regulations, we have no plans to gather more evidence as this would be disproportionate to the level of EQIA required.</p> <p>The regulations apply to a specific, one-off event as</p> |

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| | | | opposed to general legislation which will be in force beyond the period of the Games in 2014. |
| SEXUAL ORIENTATION | No evidence or statistics in relation to this. | | <p>Given the likely low impact of these regulations, we have no plans to gather more evidence as this would be disproportionate to the level of EQIA required.</p> <p>The regulations apply to a specific, one-off event as opposed to general legislation which will be in force beyond the period of the Games in 2014.</p> |
| RACE | <p>The report into the Experience of Civil Law Problems in Scotland 1997-2004 showed that people from ethnic minority groups are more likely to experience civil law problems than the general population. It showed:</p> <ul style="list-style-type: none"> • 1 in 3 people from an ethnic minority group experienced civil law problems over a five year period compared to 1 in 4 for the general population. • The prevalence of civil law problems among a booster sample survey of people belonging to ethnic minority groups in | The Experience of Civil Law Problems in Scotland 1997-2004 | <p>Given the likely low impact of these regulations, we have no plans to gather more evidence as this would be disproportionate to the level of EQIA required.</p> <p>The regulations apply to a specific, one-off event as opposed to general legislation which will be in force beyond the period of</p> |

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| | <p>Glasgow West was significantly higher than other groups in Scotland at 36%.</p> <p>The Local Authority areas which will host Games venues are most likely to be affected. The vast majority are in the Glasgow City Council area. Glasgow City has a higher percentage of people from an ethnic minority (5.44%) than the Scottish population as a whole (2%). This could mean that people from an ethnic minority are more likely to be affected by these regulations than as per their representation in the overall Scottish population. Edinburgh (4.09%) (which will host a venue and a satellite athletes' village) and Dundee (3.66%) (which will host a satellite athletes' village) also have a higher percentage than Scotland as a whole. . The remaining venues are in areas with a lower percentage than Scotland overall - North Lanarkshire (1.27%) , South Lanarkshire (1.13%) and Angus (0.78%) (Angus will also host a satellite athletes' village).</p> | <p>2001 Scottish Census</p> | <p>the Games in 2014.</p> |
| <p>RELIGION OR BELIEF</p> | <p>No evidence or statistics in relation to this</p> | | <p>Given the likely low impact of these regulations, we have no plans to gather more evidence as this would be disproportionate to the level</p> |

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| | | | <p>of EQIA required.</p> <p>The regulations apply to a specific, one-off event as opposed to general legislation which will be in force beyond the period of the Games in 2014.</p> |
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Stage 3: Assessing the impacts and identifying opportunities to promote equality

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

| Age | Positive | Negative | None | Reasons for your decision |
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| Eliminating unlawful discrimination, harassment and victimisation | | | x | The policy will have no wider influence on this due to the limited and specific scope and impact of the regulations. |
| Advancing equality of opportunity | x | | | Without the introduction of these regulations, the process for claiming compensation would be unclear and the amount awarded could be arbitrary. By having a clear process and amount set out, this should make it easier to access compensation if the person is entitled to it, and ensure that it is awarded in a consistent manner. This means that the policy will have a positive impact on all groups. |
| Promoting good relations among and between different age groups | | | x | Although the policy will help improve access to compensation in the specified circumstances for all groups, it does not proactively promote good relations between different age groups. |

Do you think that the policy impacts disabled people?

| Disability | Positive | Negative | None | Reasons for your decision |
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| Eliminating unlawful discrimination, harassment and | | | x | The policy will have no wider influence on this due to the limited and specific scope and impact of the regulations. |

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| victimisation | | | | |
| Advancing equality of opportunity | x | | | Without the introduction of these regulations, the process for claiming compensation would be unclear and the amount awarded could be arbitrary. By having a clear process and amount set out, this should make it easier to access compensation if the person is entitled to it, and ensure that it is awarded in a consistent manner. This means that the policy will have a positive impact on all groups. Evidence suggests that people with a disability are more likely to experience civil law problems than people without a disability. Having a clear process for claiming compensation should therefore mean a particularly positive impact for people with a disability. |
| Promoting good relations among and between disabled and able bodied people | | | x | Although the policy will help improve access to compensation in the specified circumstances for all groups, it does not proactively promote good relations between disabled and able bodied people. |

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

| Gender | Positive | Negative | None | Reasons for your decision |
|-------------------------------------|-----------------|-----------------|-------------|--|
| Eliminating unlawful discrimination | | | x | The policy will have no wider influence on this due to the limited and specific scope and impact of the regulations. |
| Advancing equality of opportunity | x | | | Without the introduction of these regulations, the process for claiming compensation would be unclear |

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| | | | | and the amount awarded could be arbitrary. By having a clear process and amount set out, this should make it easier to access compensation if the person is entitled to it, and ensure that it is awarded in a consistent manner. This means that the policy will have a positive impact on all groups. |
| Promoting good relations between men and women | | | x | Although the policy will help improve access to compensation in the specified circumstances for all groups, it does not proactively promote good relations between men and women. |

Do you think your policy impacts on transsexual people?

| Gender reassignment | Positive | Negative | None | Reasons for your decision |
|-------------------------------------|----------|----------|------|---|
| Eliminating unlawful discrimination | | | x | The policy will have no wider influence on this due to the limited and specific scope and impact of the regulations. |
| Advancing equality of opportunity | x | | | Without the introduction of these regulations, the process for claiming compensation would be unclear and the amount awarded could be arbitrary. By having a clear process and amount set out, this should make it easier to access compensation if the person is entitled to it, and ensure that it is awarded in a consistent manner. This means that the policy will have a positive impact on all groups. |
| Promoting good relations | | | x | Although the policy will help improve access to compensation in the specified circumstances for all |

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| | | | | groups, it does not proactively promote good relations. |
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Do you think that the policy impacts on people because if they are lesbian, gay or bisexual?

| Sexual orientation | Positive | Negative | None | Reasons for your decision |
|-------------------------------------|-----------------|-----------------|-------------|---|
| Eliminating unlawful discrimination | | | x | The policy will have no wider influence on this due to the limited and specific scope and impact of the regulations. |
| Advancing equality of opportunity | x | | | Without the introduction of these regulations, the process for claiming compensation would be unclear and the amount awarded could be arbitrary. By having a clear process and amount set out, this should make it easier to access compensation if the person is entitled to it, and ensure that it is awarded in a consistent manner. This means that the policy will have a positive impact on all groups. |
| Promoting good relations | | | x | Although the policy will help improve access to compensation in the specified circumstances for all groups, it does not proactively promote 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 policy will have no wider influence on this due to the limited and specific scope and impact of the regulations. |
| Advancing equality of opportunity | x | | | Without the introduction of these regulations, the process for claiming compensation would be unclear |

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| | | | | <p>and the amount awarded could be arbitrary. By having a clear process and amount set out, this should make it easier to access compensation if the person is entitled to it, and ensure that it is awarded in a consistent manner. This means that the policy will have a positive impact on all groups.</p> <p>Both Glasgow City Council Trading Standards and Police Scotland have confirmed that they have existing procedures which involve access to a translation service if a person they are dealing with does not speak English. They would expect to use these procedures in enforcing the Glasgow Commonwealth Games Act and this will ensure that anyone who does not speak English who then is entitled to compensation in the circumstances related to the regulations should have equal opportunity to access compensation.</p> |
| Promoting good race relations | | | x | <p>Although the policy will help improve access to compensation in the specified circumstances for all groups, it does not proactively promote good race relations.</p> |

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

| Religion and Belief | Positive | Negative | None | Reasons for your decision |
|-------------------------------------|-----------------|-----------------|-------------|--|
| Eliminating unlawful discrimination | | | x | The policy will have no wider influence on this due to the limited and specific scope and impact of the regulations. |
| Advancing equality of | x | | | Without the introduction of these regulations, the |

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| opportunity | | | | process for claiming compensation would be unclear and the amount awarded could be arbitrary. By having a clear process and amount set out, this should make it easier to access compensation if the person is entitled to it, and ensure that it is awarded in a consistent manner. This means that the policy will have a positive impact on all groups. |
| Promoting good relations | | | x | Although the policy will help improve access to compensation in the specified circumstances for all groups, it does not proactively promote good relations. |

Stage 4: Decision making and monitoring

Identifying and establishing any required mitigating action

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| Have positive or negative impacts been identified for any of the equality groups? | The regulations have been discussed with both Glasgow City Council Trading Standards and Police Scotland in relation to how they would deal with a language barrier in the course of enforcement. Both organisations make use of contracted translations services in these circumstances and would do the same in the course of enforcing the Commonwealth Games Act. We have not identified any other potential source of discrimination or negative impact for equality groups. We believe having a clear process for claiming compensation and the amount set at the cost of repairing or replacing the damaged item means there should be equal access to claiming compensation for all groups. |
| Is the policy directly or indirectly discriminatory under the Equality Act 2010? | 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 Equality Impact analysis process has helped to identify the different characteristics of groups who may be impacted by the regulations and any mitigating actions that may be required to limit any negative impact as a result of the policy.

During the course of discussions with Glasgow City Council and Police Scotland it is apparent that existing procedures are in place in order to ensure equal access to information in relation to enforcement of a range of existing offences. This will also follow through for the Compensation Regulations. The equalities impact process has helped to identify that no modification to the Compensation Regulations or the underlying policy is required in order to take account of particular equality groups.

The Compensation Regulations will help to ensure a positive impact on people and communities by ensuring that they have equal access to claim compensation under the 2008 Act should this be required.

Monitoring and Review

As part of the implementation of the Commonwealth Games the use of particular regulations, including the Compensation Regulations, will be monitored and lessons learned captured for future use. As the regulations relate to a one-off event it is not anticipated that regular monitoring will be required.

Stage 5 - Authorisation of EQIA

Please confirm that:

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

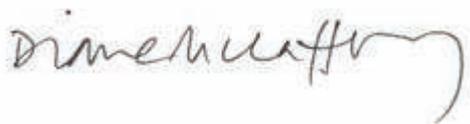
Yes No

- ◆ Opportunities to promote equality in respect of age, disability, gender, 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 the Glasgow Commonwealth Games Act 2008 (Compensation for Enforcement Action) (Scotland) Regulations 2013 and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

A handwritten signature in black ink, appearing to read "Diane McLafferty". The signature is written in a cursive style with a long, sweeping tail.

Name: Diane McLafferty

Position: Deputy Director for the Commonwealth Games

Authorisation date: 9 May 2013