

## **EQUALITY IMPACT ASSESSMENT RECORD**

|   |  |                                    |
|---|--|------------------------------------|
| <b><u>Title of policy/ practice/ strategy/ legislation etc.</u></b> | Implementation of the land use planning aspects of European Council Directive 2012/18/EU (the Seveso III Directive)  |                                    |
| <b><u>Minister</u></b>  | Cabinet Secretary for Social Justice, Community Empowerment and Pensioners' Rights   |                                    |
| <b><u>Lead official</u></b>   | Alan Cameron   |                                    |
| <b><u>Officials involved in the EQIA</u></b>                        | <b><u>Name</u></b>   | <b><u>team</u></b>                 |
|   | Alan Cameron<br>Bernard Whittle  | Planning and Architecture Division |
| <b><u>Directorate: Division: Team</u></b>                           | Directorate for Local Government and Communities<br>Planning and Architecture Division   |                                    |
| <b><u>Is this new policy or revision to an existing policy?</u></b> | Revision to existing policy. The Seveso III Directive supersedes the Seveso II Directive. The objective of both Directives is to prevent major accidents which involve dangerous substances and the limitation of their consequences for human health and the environment. |                                    |

### **Introduction**

The public sector equality duty requires the Scottish Government to assess the impact of applying a proposed new or revised policy or practice. It is a legislative requirement.

Equality legislation covers the characteristics of: age, disability, gender reassignment, sex including pregnancy and maternity, race, religion and belief, and sexual orientation.

An equality impact assessment (EQIA) aims to consider how a policy (a policy can cover: activities, functions, strategies, programmes, and services or processes) may impact, either positively or negatively, on different sectors of the population in different ways.

In order to determine the potential equality impact, the Scottish Government undertook an initial review of equality issues plus wider evidence from the Scottish Government's Equalities Evidence Finder. This was followed by a public consultation from 10 December 2014 to 2 March 2015 which sought comments on the review and the following questions:

- In relation to the Equality Impact Assessment, please tell us about any potential impacts, either positive or negative; you feel the proposals in this consultation document may have on any particular groups of people.
- In relation to the Equality Impact Assessment, please tell us what potential there may be within these proposals to advance equality of opportunity between different groups and to foster good relations between different groups.

## **Screening**

### **Policy Aim**

The objective is to transpose the land use planning aspects of Council Directive 2012/18/EU (the Seveso III Directive) on the control and major accident hazards involving dangerous substances into planning legislation in Scotland.

Implementation of the Directive is in line with Strategic Objectives on Safer and Stronger, Wealthier and Fairer and Greener. For example, it seeks to ensure decisions regarding hazardous substances are made in a way that protects communities, the natural environment and without unduly affecting business and employment opportunities.

### **Who will it affect?**

The main principles of the existing hazardous land use planning legislation will remain but there are some changes that will be required in order to transpose the Directive. The main land use planning changes are as follows:

Scope – the Directive sets out changes in the classification of hazardous substances. As a consequence there may be sites that do not currently require hazardous substances consent that in the future will and sites that currently require consent that in the future will not.

Public information – the Seveso III Directive has been brought into line with the Aarhus Convention. There are provisions within the current land use planning system in relation to public information but the Seveso III Directive strengthens the requirements in respect of hazardous substances with information to be made permanently and electronically available to the public and kept up to date.

We are also taking the opportunity to update application and appeal procedures for hazardous substances consent to bring them more into line with the more modern procedures on applications for planning permission.

It will have a positive impact in that it will result in greater transparency, making more information about the presence of hazardous substances and the potential impacts of the presence of hazardous substances available to public scrutiny and will increase opportunities for public involvement in decision making.

**What might prevent the desired outcomes being achieved?**

As Seveso III is a European Directive the UK Government and devolved administrations are required to fully implement its requirements, which means transposing the Directive through domestic legislation within the timescales set out in the Directive, i.e. by 31 May 2015. The Scottish Government approach to transposition is set out in 'Influencing and Implementing EU Obligations, A Guide for Scottish Government Officials' (3<sup>rd</sup> Edition, 2012) [www.scotland.gov.uk/resource/0038/00389097.doc](http://www.scotland.gov.uk/resource/0038/00389097.doc) .

## **Stage 1: Framing**

The Government's Equality Evidence Finder has also been used (<http://www.scotland.gov.uk/Topics/People/Equality/Equalities/DataGrid>) alongside evidence from previous consultations undertaken by the Government's Planning and Architecture Division and its predecessors.

### **Results of framing exercise**

Limited information was available across all of the protected characteristics with further evidence requested in the consultation exercise. We have no information and evidence related to sexual orientation and gender reassignment and limited evidence on religion and faith.

### **Outcome from public consultation**

Only one respondent made reference to the partial EqIA and voiced concerns that making information about hazardous substances available to the general public could result in its misuse, leading to a negative impact on industry and surrounding community.

### **Extent/Level of EQIA required**

The potential impact on each of the protected groups of transposing the land use planning aspects of the Seveso III Directive has been considered and no negative impacts have been identified. Public consultation was carried out on the proposed legislative changes required to implement the Directive and this informed the extent/level of any further assessment that may be required.

**Stage 2: Data and evidence gathering, involvement and consultation**

| <b><u>Characteristic<sup>1</sup></u></b> | <b><u>Evidence gathered and Strength/quality of evidence</u></b>   | <b><u>Source</u></b>   | <b><u>Data gaps identified and action taken</u></b> |
|--|--|--|---|
| <b><u>AGE</u></b>                        | <p>Information / documents need to be provided in a user friendly manner.</p> <p>Research contained in Planning and Community Involvement indicated that generally the people likely to volunteer their views on a planning application come from an age profile dominated by the middle aged and the elderly.</p> <p>In its pre-legislative consultation on the Planning Bill, the Parliament's Communities Committee heard from a representative of the Scottish Youth Parliament that there is a need to consider how the planning process can be made more open and transparent so that it is easier to understand and that young people should be consulted in a proactive and non-tokenistic manner.</p> | <p>The Town and Country Planning (Development Management Procedures) (Scotland) Regulations 2008 EqIA</p> <p>Planning and Community Involvement in Scotland PPS Local and Regional Ltd 2004.</p> <p>Planning etc. Scotland Bill 2006</p> | <p>No gaps identified in consultation</p>           |

|                                 |  |  |   |
|---------------------------------|--|--|---|
|                                 | <p>37% of adults aged 60 to 74, and 75% of those aged 75 or over, do not use the internet.</p> <p>An EqIA was undertaken during the development of the Digital Strategy, and it reported that the strategy may impact negatively on older people, as they are less likely to have access to or have the skills for using the internet.</p> | <p>Scottish Householder Survey, 2014</p> <p>Scotland's Digital Future (2011)</p>                     |   |
| <p><b><u>DISABILITY</u></b></p> | <p>Both the Scottish Disability Equality Forum and the then Disability Rights Commission commented on the proposals in the draft Planning Advice Note 81: Community Engagement. There was also a general theme that information should be accessible and easy to understand.</p>   | <p>Planning Advice Note 81: Community Engagement</p>   | <p>No gaps identified in consultation</p> |
| <p><b><u>SEX</u></b></p>        | <p>Women's Environment Network - there was a lack of information on opportunities to participate and a concern with the use of jargon.</p>   | <p>The Town and Country Planning (Development Management Procedures) (Scotland) Regulations 2008</p> | <p>No gaps identified in consultation</p> |

|                                       |   |  |  |                                    |
|---------------------------------------|---|--|--|------------------------------------|
|                                       |   |  | EqlA   |                                    |
| <b><u>PREGNANCY AND MATERNITY</u></b> | No information found  |  |  | No gaps identified in consultation |
| <b><u>GENDER REASSIGNMENT</u></b>     | No information found  |  |  | No gaps identified in consultation |
| <b><u>SEXUAL ORIENTATION</u></b>      | No information found  |  |  | No gaps identified in consultation |
| <b><u>RACE</u></b>                    | Black and Ethnic Minority young adults and gypsy travellers in the Grampian area put forward views on encouraging participation in the planning process and expressed a particular concern relating to access to information and a need to simplify language. |  | The Town and Country Planning (Development Management Procedures) (Scotland) Regulations 2008 EqlA | No gaps identified in consultation |
| <b><u>RELIGION OR BELIEF</u></b>      | No information found  |  |  | No gaps identified in consultation |

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

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

| <b><u>Age</u></b>  | <b><u>Positive</u></b> | <b><u>Negative</u></b> | <b><u>None</u></b> | <b><u>Reasons for your decision</u></b>   |
|--|------------------------|------------------------|--------------------|---|
| <u>Eliminating unlawful discrimination, harassment and victimisation</u> |                        |                        | None               | No direct or indirect impact identified   |
| <u>Advancing equality of opportunity</u>                                 | Yes                    |                        |                    | The proposed changes will enhance opportunities for all to access information and to be involved in the hazardous substances consent decision making process. |
| <u>Promoting good relations among and between different age groups</u>   | Yes                    |                        |                    | The proposed changes will improve opportunities for access to information for stakeholders.   |

**Do you think that the policy impacts disabled people?**

| <b><u>Disability</u></b>  | <b><u>Positive</u></b> | <b><u>Negative</u></b> | <b><u>None</u></b> | <b><u>Reasons for your decision</u></b>  |
|---|------------------------|------------------------|--------------------|--|
| <u>Eliminating unlawful discrimination, harassment and victimisation</u>    |                        |                        | None               | No direct or indirect impact identified.   |
| <u>Advancing equality of opportunity</u>                                    | Yes                    |                        |                    | The proposed changes enhance opportunities for all to access information and to be involved in the hazardous substances consent decision making process.<br><br>The proposals maintain existing planning controls restricting the siting of developments used by vulnerable stakeholders close to hazardous sites. |
| <u>Promoting good relations among and between disabled and non-disabled</u> | Yes                    |                        |                    | The proposed changes enhance opportunities for all to access information and to be involved in the hazardous substances consent decision making process.   |



|               |  |  |  |  |
|---------------|--|--|--|--|
| <u>people</u> |  |  |  |  |
|---------------|--|--|--|--|

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

| <b><u>Sex</u></b>                                     | <b><u>Positive</u></b> | <b><u>Negative</u></b> | <b><u>None</u></b> | <b><u>Reasons for your decision</u></b> |
|---|------------------------|------------------------|--------------------|---|
| <u>Eliminating unlawful discrimination</u>            |                        |                        | None               | No direct or indirect impact identified |
| <u>Advancing equality of opportunity</u>              |                        |                        | None               | No direct or indirect impact identified |
| <u>Promoting good relations between men and women</u> |                        |                        | None               |   |

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

| <b><u>Pregnancy and Maternity</u></b>      | <b><u>Positive</u></b> | <b><u>Negative</u></b> | <b><u>None</u></b> | <b><u>Reasons for your decision</u></b>   |
|--|------------------------|------------------------|--------------------|---|
| <u>Eliminating unlawful discrimination</u> |                        |                        | None               | No direct or indirect impact identified   |
| <u>Advancing equality of opportunity</u>   | Yes                    |                        |                    | The proposed changes enhance opportunities for all to access information and to be involved in the hazardous substances planning consent decision making process.<br><br>The proposals maintain existing planning controls restricting the siting of developments used by vulnerable stakeholders close to hazardous sites. |
| <u>Promoting good relations</u>            |                        |                        | None               | The proposed changes enhance opportunities for all to access information and to be involved in the hazardous substances land use planning decision making process.<br><br>The proposals maintain existing planning controls restricting   |

|  |  |  |  |  |
|--|--|--|--|--|
|  |  |  |  | the siting of developments used by vulnerable stakeholders close to hazardous sites. |
|--|--|--|--|--|

**Do you think your policy impacts on transsexual people?**

| <b><u>Gender reassignment</u></b>          | <b><u>Positive</u></b> | <b><u>Negative</u></b> | <b><u>None</u></b> | <b><u>Reasons for your decision</u></b> |
|--|------------------------|------------------------|--------------------|---|
| <u>Eliminating unlawful discrimination</u> |                        |                        | None               | No direct or indirect impact identified |
| <u>Advancing equality of opportunity</u>   |                        |                        | None               | No direct or indirect impact identified |
| <u>Promoting good relations</u>            |                        |                        | None               | No direct or indirect impact identified |

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

| <b><u>Sexual orientation</u></b>           | <b><u>Positive</u></b> | <b><u>Negative</u></b> | <b><u>None</u></b> | <b><u>Reasons for your decision</u></b> |
|--|------------------------|------------------------|--------------------|---|
| <u>Eliminating unlawful discrimination</u> |                        |                        | None               | No direct or indirect impact identified |
| <u>Advancing equality of opportunity</u>   |                        |                        | None               | No direct or indirect impact identified |
| <u>Promoting good relations</u>            |                        |                        | None               | No direct or indirect impact identified |

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

| <b><u>Race</u></b>                         | <b><u>Positive</u></b> | <b><u>Negative</u></b> | <b><u>None</u></b> | <b><u>Reasons for your decision</u></b>   |
|--|------------------------|------------------------|--------------------|---|
| <u>Eliminating unlawful discrimination</u> |                        |                        | None               | No direct or indirect impact identified   |
| <u>Advancing equality of opportunity</u>   | <u>Yes</u>             |                        |                    | The proposed changes enhance opportunities for all to access information and to be involved in the hazardous substances planning consent decision making process. |
| <u>Promoting good race</u>                 |                        |                        | None               | No direct or indirect impact identified   |

|                  |  |  |  |  |
|------------------|--|--|--|--|
| <u>relations</u> |  |  |  |  |
|------------------|--|--|--|--|

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

| <b><u>Religion or belief</u></b>           | <b><u>Positive</u></b> | <b><u>Negative</u></b> | <b><u>None</u></b> | <b><u>Reasons for your decision</u></b> |
|--|------------------------|------------------------|--------------------|---|
| <u>Eliminating unlawful discrimination</u> |                        |                        | None               | No direct or indirect impact identified |
| <u>Advancing equality of opportunity</u>   |                        |                        | None               | No direct or indirect impact identified |
| <u>Promoting good relations</u>            |                        |                        | None               | No direct or indirect impact identified |

#### **Stage 4: Decision making and monitoring**

##### **Identifying and establishing any required mitigating action**

|  |                |
|--|----------------|
| <u>Have positive or negative impacts been identified for any of the equality groups?</u>               | Yes            |
| <u>Is the policy directly or indirectly discriminatory under the Equality Act 2010<sup>2</sup>?</u>    | No             |
| <u>If the policy is indirectly discriminatory, how is it justified under the relevant legislation?</u> | Not applicable |
| <u>If not justified, what mitigating action will be undertaken?</u>                                    | Not applicable |

##### **Describing how Equality Impact analysis has shaped the policy making process**

The EQIA analysis has supported thinking on whether the transposition of the Seveso III Directive into Scots Law will impact on the protected characteristics and to reach the conclusion that they will not be negatively affected by the proposed changes. The reasons for reaching this conclusion are that the proposed changes will provide greater consistency in the classification of hazardous substances, improve access to information and opportunities for involvement in decision making on land use planning decisions and will maintain existing planning controls to reduce the risks and consequences of major accident hazards.

##### **Monitoring and Review**

The proposed changes were subject to public consultation and any impacts identified on protected characteristics were considered as part of that process prior to transposition of the Directive.

## 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 Implementation of the land use planning aspects of European Council Directive 2012/18/EU (the Seveso III Directive) and give my authorisation for the results of this assessment to be published on the Scottish Government's website.**

**Name:** JOHN MCNAIRNEY  
**Position:** Chief Planner  
**Authorisation date:** 17/04/2015