

## EQUALITY IMPACT ASSESSMENT RECORD

<b>Title of policy/ practice/ strategy/ legislation etc.</b>	<b>The Scottish Parliament (Elections etc.) Order 2015</b>	
<b>Minister</b>	<b>Minister for Parliamentary Business</b>	
<b>Lead official</b>	<b>Roddy Angus</b>	
<b>Officials involved in the EQIA</b>	<b>name</b>	<b>team</b>
	<b>Maria McCann James Newman Roddy Angus</b>	<b>Elections Team Strategy Unit Elections Team</b>
<b>Directorate: Division: Team</b>	<b>Strategy &amp; Constitution: Strategy, Elections and FOI: Elections</b>	
<b>Is this new policy or revision to an existing policy?</b>	<b>Revision to an existing policy</b>	

### Screening

#### *Policy Aim*

The Order sets out the rules for the conduct of the **Scottish Parliament elections to be held in May 2016**. It contributes to the National Outcome: 'Our public services are high quality, continually improving, efficient and responsive to local people's needs.'

The aim of the specific change contained in the Order that is relevant to this assessment is to help disabled candidates operate on a level playing field in relation to election expenses. Specifically it allows for any expenditure incurred by a candidate which is attributable to a long term physical or mental impairment, which affects their ability to carry out normal day-to-day activities, to be excluded when calculating the maximum amount of election expenses they can incur. Election expenditure is strictly regulated and this takes away the need to for disabled candidates to count this type of expenditure, which all those consulted have agreed is fair.

#### *Who will it affect?*

It will affect candidates for the Scottish Parliament Elections 2016 who are disabled.

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

The desired outcome might not be achieved if people who are disabled and interested in becoming electoral candidates do not know that this barrier has been removed. This will be addressed by the guidance for the Order which the Electoral Commission is required to produce for candidates. The change will be highlighted in SG communications about the Order which are yet to be agreed. News of this development will also be proactively cascaded through all available networks known to SG including those representing people who are disabled and the Political Parties Panel.

## **Stage 1: Framing**

### ***Results of framing exercise***

A framing exercise was led by the Equality Unit in consultation with groups representing people who are disabled including Inclusion Scotland and the One in Five Campaign. They were looking at ways of trying to encourage increased participation of disabled people as electoral candidates. It was agreed that disabled candidates may have to spend money on things they need to help them during the electoral campaign which non-disabled candidates would not require e.g. communication support, more expensive forms of transport etc. This puts them at a disadvantage because under previous conduct orders for elections they would have to account for all of this expenditure and so would have less to spend on campaigning. This was acknowledged as being potentially discriminatory. It was agreed to try to remove this barrier within the conduct order for the Scottish Parliament Elections to take place in 2016 by enabling any personal expenditure for disabled candidates not to be counted.

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

There was no need to do further analysis at this stage. There are other actions which groups representing disabled candidates would like the SG to take but they are not within the scope of this Order. The representative groups were clear that the proposed measure is aimed at eliminating discrimination and promoting equality of opportunity. It was clear that it also fostered good relations with the representative groups who have posted positive comments on social media about their working relation with SG and even photographs of one of the joint meetings with officials. The proposal has also been through the statutory consultation process required for the Order and has been seen by: Electoral Commission, Electoral Management Board, and the Political Parties Panel. No negative comments have been received.

## 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.

Characteristic <sup>1</sup>	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
<b>AGE</b>			
<b>DISABILITY</b>	<p>The evidence was strong because it came from Inclusion Scotland and the One in Five Campaign. Both organisations represent disabled people and are led by disabled people.</p> <p>Inclusion Scotland (IS) is a consortium of organisations of disabled people and disabled individual which aims to draw attention to the physical, social, economic, cultural and attitudinal barriers that affect the everyday lives of disabled people in Scotland.</p> <p>One in Five run a campaign to encourage, empower and increase political participation amongst disabled people in Scotland. There is cross party support for the campaign.</p>	<p>Equality Unit Inclusion Scotland One in Five Campaign</p>	<p>We have identified that there is no routine collection of data about disabled electoral candidates, or electoral candidates in other under represented groups. We have put a submission up to ministers asking if they wish to commission the collection of this data.</p>

<sup>1</sup> Refer to Definitions of Protected Characteristics document for information on the characteristics

<b>SEX</b>			
<b>PREGNANCY AND MATERNITY</b>			
<b>GENDER REASSIGNMENT</b>			
<b>SEXUAL ORIENTATION</b>			
<b>RACE</b>			
<b>RELIGION OR BELIEF</b>			
<b>MARRIAGE AND CIVIL PARTNERSHIP</b> (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)

**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? - NO**

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation				
Advancing equality of opportunity				
Promoting good relations among and between different age groups				

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

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			x	There is no suggestion that the provisions made by previous Orders were unlawful or that if the Order had not been amended in this way that it would have faced a legal challenge.

Advancing equality of opportunity	x			Election candidates for the Scottish Parliament have strictly imposed and monitored spending limits. By not counting any expenditure incurred by a candidate due to a disability towards that limit, we are creating a level playing field and thereby ensuring equality of opportunity for all candidates, regardless of their disability status. Everyone that we consulted agreed with this argument.
Promoting good relations among and between disabled and non-disabled people	x			<p>We have witnessed the positive response of disabled people to the proposal at meetings we have attended.</p> <p>Furthermore, the proposal will create a level playing field and remove any suggestion or impression that a candidate's non-disabled status is giving them an advantage over a disabled candidate, thus leaving the outcome of the election open to criticism on the basis of a candidate's disability status.</p>

**Do you think that the policy impacts on men and women in different ways? NO**

Sex	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination				

Advancing equality of opportunity				
Promoting good relations between men and women				

**Do you think that the policy impacts on women because of pregnancy and maternity? NO**

<b>Pregnancy and Maternity</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination				
Advancing equality of opportunity				
Promoting good relations				

**Do you think your policy impacts on transsexual people? NO**

<b>Gender reassignment</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination				
Advancing equality of opportunity				
Promoting good relations				

**Do you think that the policy impacts on people because of their sexual orientation? NO**

<b>Sexual orientation</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination				
Advancing equality of opportunity				
Promoting good relations				

**Do you think the policy impacts on people on the grounds of their race? NO**

<b>Race</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination				
Advancing equality of opportunity				
Promoting good race relations				

**Do you think the policy impacts on people because of their religion or belief? NO**

<b>Religion or belief</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful				

discrimination					
Advancing equality of opportunity					
Promoting good relations					

**Do you think the policy impacts on people because of their marriage or civil partnership? NO**

<b>Marriage and Civil Partnership<sup>2</sup></b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination				

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<sup>2</sup> 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 – Not applicable***

If, following the impact analysis, you think you have identified any unlawful discrimination – direct or indirect - you must consider and set out what action will be undertaken to mitigate the negative impact. You will need to consult your legal team in SGLD at this point if you have not already done so.

Have positive or negative impacts been identified for any of the equality groups?	
Is the policy directly or indirectly discriminatory under the Equality Act 2010 <sup>3</sup> ?	
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	
If not justified, what mitigating action will be undertaken?	

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

The equality impact analysis has played a role in helping to clarify what can be achieved within the scope of the Order. It has also given rise to other ideas which could help support disabled candidates, which are outwith the scope of the Order, and these will be taken forward

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<sup>3</sup> See EQIA – Setting the Scene for further information on the legislation.

separately. This could lead to significant changes in the future yet to be scoped.

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

Monitoring of electoral return forms is carried out by the Electoral Commission. They should be able to spot if any disabled candidates are still reporting any expenditure associated with their disability. Obviously the hope will be that they are not. More positively, the views of the effectiveness on the change will be sought by officials from groups representing disabled people, the Electoral Commission, and the Political Parties in order to report back to Ministers after the 2016 Scottish Parliament Election. These views will be taken into consideration on whether this provision or an amended version should be included in future election orders.

### **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 Scottish Parliament (Elections etc.) Order 2015 and give my authorisation for the results of this assessment to be published on the Scottish Government's website.**

**Name: Heather McCauley**

**Position: Deputy Director – Strategy, Elections & FOI Division**

**Authorisation date: 28 October 2015**