

EQUALITY IMPACT ASSESSMENT RECORD

Title of policy/ practice/ strategy/ legislation etc.	The Marine Works and Marine Licensing (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020	
Minister	Mairi Gougeon MSP. Minister for Rural Affairs and the Natural Environment	
Lead official	Gayle Holland	
Officials involved in the EQIA	Name	Team
	Gayle Holland	Marine Scotland Licensing Operations Team
Directorate: Division: Team	Marine Scotland Planning and Policy, Marine Scotland Licensing Operations Team	
Is this new policy or revision to an existing policy?	Revision	

Screening

Policy Aim

The aim of the policy is to reduce the potential spread of COVID-19 in relation to the processing of marine licence applications and with regard to specific requirements which contravene public health policy on public gatherings and physical distancing. This involves suspending the need for an applicant to make a hard copy of an Environmental Impact Assessment report available for inspection by the public in a specified location, and replacing the requirement for an applicant to hold a pre-application consultation event at a suitably accessible venue with an online event.

The changes are temporary and only for the duration of the current crisis and whilst public health policy bans public gatherings and requires physical distancing.

Those subject to the relevant provisions of the Marine Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (EIA Regulations) do already utilise electronic communications for most of the statutory requirements. The temporary suspension of the need to make a hard copy available for inspection is likely to have a limited impact on the public, while there is an overriding need for public safety. Whilst applicants will no longer be required to place application documents or Environmental Impact Assessment reports in a physical place for public inspection, such reports will require to be made available online.

Those subject to the relevant provisions in the Marine Licensing (Pre-application Consultation) (Scotland) Regulations 2013 will be able to access a pre-application consultation event online rather than at a suitably accessible venue.

Who will it affect?

The applicant and the public interested in the application would be affected.

Supporting efforts to minimise the spread of COVID-19 are likely to have a particularly positive effect on older people and those with an underlying health condition, and their families. Pregnant women are advised to take additional precautions because of an increased risk from viral infections generally. Scottish Government advice can be found here –

<https://www.gov.scot/publications/coronavirus-covid-19-staying-at-home-and-away-from-others-social-distancing/>.

The aim will be to use digital methods for inspection of documents and the making of public representations. This may have implications for groups less digitally enabled, however we have no alternative but to remove the requirement for documents to be physically available in public places and pre-application consultation events to be held at suitably accessible venues.

What might prevent the desired outcomes being achieved?

We have not identified any factors which might prevent the desired outcomes.

Stage 1: Framing

Results of framing exercise

Government guidance on COVID-19 identifies that there are enhanced risks for those aged over 70 and people with underlying health conditions. Pregnant women are advised to take additional precautions because of an increased risk from viral infections generally. The most recent restrictions include a ban on meetings of more than two people from outwith the same household and people only leaving their houses for a very limited number of reasons.

There is some evidence which would suggest that moving from public meetings to online information may have a slightly greater effect on certain protected characteristics due to lower use of online technologies. This is particularly true with those groups who have less access or use of the internet (age and socio-economic characteristics).

Extent/Level of EQIA required

The evidence would suggest that all protected characteristics would be protected from potential harm by the public health policy which drives the need to remove the requirement for a public event.

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 ¹	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
AGE	<p>In 2018, just under one in five people (19%) in Scotland were aged 65 and over, compared with 16% in mid-2007. People aged under 16 made up 17% of the population in 2017 and 64% of people were aged 16 to 64.</p> <p>Although older adults were less likely to use the internet, the gap in internet use between adults aged 16-24 and adults aged 60 and above has fallen over time from 57 percentage points in 2007 to 35 percentage points in 2018. This result has mainly been driven by an increase in internet use amongst adults aged 60+ (from 29 per cent to 65 per cent).</p> <p>The majority of young people feel they should be involved in planning in their local area and that their local councils should look at ways to support children and young people to do this.</p>	<p>Mid-2018 Population Estimates Scotland (2019)</p> <p>Scottish Household Survey: Annual Report (2019)</p> <p>YoungScot survey (2017)</p>	

¹ Refer to Definitions of Protected Characteristics document for information on the characteristics

<p>DISABILITY</p>	<p>In 2011, the proportion of people in Scotland with a long-term activity-limiting health problem or disability was 20%, the same as reported in the 2001 Census.</p> <p>Thirty six per cent of those who have some form of long-standing physical or mental health condition or illness reported not using the internet. This compares with 10 per cent of those who do not have any such condition.</p> <p>Across all age groups disabled people are less likely to use the internet than those who are not disabled. For example:</p> <ul style="list-style-type: none"> - Nearly a half of people (48%) aged 75+ who are not disabled have recently used the internet compared to (31%) who are not disabled. - Among those aged 65-74 the figures are 65% of non-disabled people compared to 79% of those who are disabled 	<p>Scotland's 2011 Census (Release 2A, Table 8)</p> <p>Scotland's People Annual Report: Results from 2014 Scottish Household Survey (2015) (section 8.3)</p> <p>Reported by Age UK (2016)</p>	
<p>SEX</p>	<p>Language barriers, lack of confidence and dominant characters can discriminate against some people during community engagement specifically women, minority ethnic groups, young and old people and people with disabilities.</p>	<p>Hard to reach, easy to ignore (2017)</p>	

	Overall there was no significant difference in use of internet between genders	Scotland's People Annual Report: Results from 2015 Scottish Household Survey (2016) (section 8.2.2)	
PREGNANCY AND MATERNITY	We have not been able to gather any information regarding this characteristic		
GENDER REASSIGNMENT	We have not been able to gather any information regarding this characteristic		
SEXUAL ORIENTATION	As a whole, this group had no special needs or requirements when it came to planning. Their views were representative of the general population.	Consultation on the Modernisation of the Planning System with 'seldom heard' Groups (2009)	
RACE	Language barriers, lack of confidence and dominant characters can discriminate against some people during community engagement specifically women, minority ethnic groups, young and old people and people with disabilities. Some people from specific communities of interest and identity described finding it	Hard to Reach, Easy to Ignore (2017) Local Governance Review: analysis	

	<p>difficult to get involved in decisions, or having no experience of involvement at all. For example, some asylum seekers, EU citizens, foreign language groups, and some people from different ethnic minority groups described experiences of being detached from the wider community and formal decision-making organisations and forums. They did not know about local groups or understand whether and how they could get involved.</p> <p>In 2011 Gypsy/Travellers in Scotland, compared to the population as a whole, were more likely to report a long-term health problem or disability and were more likely to report bad or very bad general health.</p>	<p>of responses to Democracy Matters (2019)</p> <p>Gypsy/Travellers in Scotland - A Comprehensive Analysis of the 2011 Census (2015)</p>	
<p>RELIGION OR BELIEF</p>	<p>Some people from specific communities of interest and identity described finding it difficult to get involved in decisions, or having no experience of involvement at all. For example, some asylum seekers, EU citizens, foreign language groups, and some people from different ethnic minority groups described experiences of being detached from the wider community and formal decision-making organisations and forums. They did not know about local groups or</p>	<p>Local Governance Review: analysis of responses to Democracy Matters (2019)</p>	

	understand whether and how they could get involved		
MARRIAGE AND CIVIL PARTNERSHIP	Not applicable		

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?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	This is not the main thrust of the policy in this emergency context.
Advancing equality of opportunity	X			The public health policy driving this change is aimed at protecting the health of all sectors of society, although older people may be more at risk. The move to online information may affect this group more as they are slightly less likely to use online technologies.
Promoting good relations among and between different age groups			X	This is not the main thrust of the policy in this emergency context.

Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	This is not the main thrust of the policy in this emergency context.
Advancing equality of opportunity	X			The public health policy driving this change is aimed at protecting the health of all sectors of society, although those with long-term health conditions may be more at risk. The move to online information may affect disabled people more as they are less likely to use online technologies.
Promoting good relations among and between disabled and non-disabled people			X	This is not the main thrust of the policy in this emergency context

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

Sex	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	Men and Women have similar access to the internet.

Advancing equality of opportunity	X				The public health policy driving this change is aimed at protecting the health of all sectors of society.
Promoting good relations between men and women				X	This is not the main thrust of the policy in this emergency context

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

Pregnancy and Maternity	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	No information available
Advancing equality of opportunity	X			The public health policy driving this change is aimed at protecting the health of all sectors of society. Pregnant women are advised to take additional precautions because of an increased risk from viral infections generally.
Promoting good relations			X	No information available

Do you think your policy impacts on transsexual people?

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	No information available

Advancing equality of opportunity	X				The public health policy driving this change is aimed at protecting the health of all sectors of society.
Promoting good relations				X	No information available

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

Sexual orientation	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	No information available
Advancing equality of opportunity	X			The public health policy driving this change is aimed at protecting the health of all sectors of society.
Promoting good relations			X	No information available

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	This is not the main thrust of the policy in this emergency context
Advancing equality of opportunity	X			The public health policy driving this change is aimed at protecting the health of all sectors of society.
Promoting good race relations			X	This is not the main thrust of the policy in this emergency context

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

Religion or belief	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	This is not the main thrust of the policy in this emergency context
Advancing equality of opportunity	X			The public health policy driving this change is aimed at protecting the health of all sectors of society.
Promoting good relations			X	This is not the main thrust of the policy in this emergency context

Do you think the policy impacts on people because of their marriage or civil partnership?

Marriage and Civil Partnership²	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination				Not assessed

² 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

Have positive or negative impacts been identified for any of the equality groups?	<p>This policy will support the health and wellbeing of the people of Scotland while ensuring that applications for marine licences can continue to be submitted and progressed.</p> <p>Not making hard copies of EIA related information available for inspection, and not holding pre-application consultation events at a suitably accessible venue may have a slightly greater effect on certain protected characteristics due to lower use of online technologies. This is particularly true with those groups who have less access or use of the internet (age, disability and socio-economic characteristics).</p>
Is the policy directly or indirectly discriminatory under the Equality Act 2010 ³ ?	Potentially indirectly discriminatory in terms of access to online engagement of older people and disabled people.
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	It is justified due to the wider policy drivers to protect the health of the people of Scotland, and to support the economic recovery after the crisis.
If not justified, what mitigating action will be undertaken?	

³ See EQIA – Setting the Scene for further information on the legislation.

Describing how Equality Impact analysis has shaped the policy making process

The EQIA has helped highlight the potential issues which may disproportionately impact on the protected characteristics. Due to the emergency nature of the legislation, the EQIA will shape primarily the accompanying guidance regarding the way this legislation is interpreted and how best to utilise available resources.

The driver for these legislative changes is the existing COVID-19 crisis and related public health policy banning public gatherings and requiring physical distancing. These statutory changes are in effect consequential on earlier health policy decisions.

These changes are temporary in nature, for the duration of the crisis only.

Monitoring and Review

This is a temporary policy change in light of the current unprecedented public health risk. It will be reviewed in light of changes to Government policy on COVID-19.

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 Marine Works and Marine Licensing (Miscellaneous Temporary Modifications) (Coronavirus) (Scotland) Regulations 2020 and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name: Mike Palmer

Position: Deputy Director, Marine Planning and Policy

Authorisation date: 11 May 2020