

## DoF Screening template

Screening is the first of two methods by which the necessary level of “regard” is demonstrated as being paid to the statutory equality goal, as set out in Section 75 of the Northern Ireland Act 1998. The DoF Equality Scheme commits us to screening our policies. This includes our strategies and plans, policies, legislative developments; and new ways of working such as – the introduction, change or end of an existing service, procedure, policy etc.

This screening template is designed to help business areas consider the likely equality and human rights impacts of their proposed decisions on different groups of customers, service users, staff and visitors.

Detailed information about the Section 75 equality duties and what they mean in practice is available on the Equality Commission’s website:  
<http://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/S75GuideforPublicAuthoritiesApril2010.pdf>

A copy of the Screening Template, for each policy screened, should be ‘signed off’ and approved by a senior manager responsible for the policy, made accessible on the DoF website as soon as possible following completion and made available in alternative formats on request.

All Section 75 consultees should be advised of the screening exercise once the final policy decision has been taken.

The screening template has 4 sections to complete. These are:

**Section A** - details about the policy / decision that is being screened.

**Section B** - 4 key questions that require you to outline the likely impacts on equality groups, and all supporting evidence.

**Section C** - 4 key questions in relation to obligations under the Disability Discrimination Order and the Human Rights Act.

**Section D** - the formal record of the screening decision.

## SECTION A

### Information about the policy

This stage of the screening process involves scoping the policy under consideration. The purpose of policy scoping is to help prepare the background and context and set out the aims and objectives for the policy being screened. At this stage, scoping the policy will help identify potential constraints as well as opportunities and will help the policy maker work through the screening on a step-by-step basis.

Remember that the Section 75 statutory duties apply to internal policies (relating to people who work for us) as well as external policies (relating to those who are, or could be, served by us).

*Is this a new or revised policy?*

Revised

It is a set of Amendment Regulations that amend the provisions of The Public Service (Civil Servants and Others) Pensions Regulations (Northern Ireland) 2014.

a) Name of the policy

The Public Service (Civil Servants and Others) Pensions (Remediable Service) Regulations (Northern Ireland) 2023.

b) Brief Description of the policy

These regulations make provision for the remedy of the discrimination identified by the transitional protections introduced by the 2014 public service pension scheme reforms (The Public Service (Civil Servants and Others) Pension Regulations (Northern Ireland) 2014) – (Known as the alpha pension scheme). Phase one, (Prospective Remedy) is complete and these new regulations will enable the scheme to implement the second (Retrospective) phase of the 2015 “McCloud” Remedy and give in-scope pension scheme members a choice of their benefits from 2015-

2022. Members who have already taken benefits will be given an immediate choice of alpha or PCSPS(NI) scheme benefits for the remedy period, applied retrospectively. Whereas those who haven't taken benefits defer their choice and will make it on retirement.

c) Aims of the policy/ Rationale behind the changes

In 2018, the Court of Appeal held that the 2015 reforms to the judicial pension scheme were unlawfully discriminatory on the grounds of age. Since then, the government has taken steps to resolve the discrimination for affected public service pension scheme members.

The regulations are for the civil service pension scheme arrangements to deal with the policy and administration for the remedy set out in the Public Service Pensions and Judicial Offices Act 2022 ('PSPJOA'). The 'PSPJOA' sets out powers for retrospective changes to remedy the unlawful discrimination. These retrospective changes will impact the payment of benefits for remediable service already paid and future benefits in the remediable service period 1 April 2015 to 31 March 2022.

These regulations aim to address the discrimination caused by the transitional protection element of the 2015 pension reforms, by allowing members to choose PCSPS(NI) (Classic, Classic Plus, Premium or nuvos), or alpha-like benefits for any remediable service.

Affected members and fully protected members will receive at the point they retire a choice of which pension benefits they would prefer to receive in respect of any remediable service from 1 April 2015 to 31 March 2022. This choice is between benefits under the relevant legacy scheme PCSPS(NI) or reformed scheme (alpha) provisions. This is known as the Deferred Choice Underpin, or 'DCU', and the remediable service remedy. Members who have already taken benefits, including an eligible decision-maker for a deceased member, will be given a choice to continue receiving the benefits in payment or opt for alternative scheme benefits. This choice will be provided within 18 months of 1 October 2023.

The Public Service Pensions and Judicial Offices Act 2022 (the 'PSPJOA') provides the framework to address the discrimination that arose when legacy public service pension schemes were closed to certain members

in 2015. From 1 April 2022 all protected civil service pension scheme members were put into the reformed scheme, alpha, as the first stage of the remedy. This means all civil service pension scheme members are in the same pension scheme from 1 April 2022 onwards. Regulations were made for this stage in March 2022.

d) Who will the policy affect?

It is aimed at all members with remediable service in the remedy period, 1 April 2015 to 31 March 2022, who will be in scope for the retrospective changes to end the discrimination identified in 2018.

The proposed secondary legislation will provide the framework for the remediable service remedy, to address age discrimination that came about with the implementation of alpha in 2015. It will enable the scheme administrator to provide members with a choice of the benefits they wish to receive for the remedy period. There are four main policy areas covered by the proposed scheme regulations which need to be in place no later than 1 October 2023 in accordance with the PSPJOA:

- scheme regulations to manage the consequences of the ‘rollback’ provisions of the PSPJOA, which have the effect of treating unprotected and taper protected alpha pension scheme members as if they had never left the PCSPS(NI) legacy schemes for the remedy period 1 April 2015 to 31 March 2022;
- activate the remedy for around 40,000 members;
- put in place immediate choice remedy solution for those whose benefit entitlement has already arisen, including members who have received benefits or died within the remedy period, estimated to be around 11,000 members; and
- put in place deferred choice provisions, to give members the information to make an informed choice of the benefits they wish to receive at retirement or when benefits are brought into payment.

The PSPJOA introduced a framework of powers and measures to provide a remedy for those who were affected by direct age discrimination and

indirect sex and race discrimination between 1 April 2015 to 31 March 2022, the remediable service period.

The proposed scheme regulations bring into force Section 2 of the PSPJOA for members who were too young to receive transitional protection and were compulsorily transferred into the reformed scheme on or after 1 April 2015, known as unprotected and taper protected members. They will be moved back into their former legacy scheme (PCSPS) and treated as having built up service in that scheme for the remediable service period. This applies to active, including active members who have partially retired and deferred alpha members. For members with new scheme benefits in payment, section 6(4)(a) of the PSPJOA means that members with benefits in payment won't see a change to their benefits when this happens.

Further regulations are also included to fully implement the remedy for all members affected by the unlawful discrimination. This will be for those who have already taken benefits that include remediable service and for those who will take remediable service benefits in the future. After 1 October 2023, members with remediable service will have the option to choose between PCSPS benefits or benefits equivalent to those available under the reformed pension scheme (alpha), for the remedy period, 1 April 2015 to 31 March 2022.

e) Is this a NICS wide policy?

Yes.

f) Who will implement the policy?

ESS Pensions Division

g) Will this policy or revision address an existing inequality? Yes  
If yes, please give details.

In 2018, the Court of Appeal held in its judgment on the McCloud case that the transitional protections introduced as part of the 2015 reforms to public service pension schemes were unlawfully discriminatory on the

grounds of age. Since then, the government has taken steps to resolve the discrimination for affected public service pension scheme members.

The regulations are for the civil service pension scheme arrangements to deal with the policy and administration for the remedy set out in the Public Service Pensions and Judicial Offices Act 2022 (the 'PSPJOA'). The PSPJOA sets out powers for retrospective changes to remedy the unlawful discrimination. These retrospective changes will impact the payment of benefits for remediable service already paid and future benefits in the remediable service period 1 April 2015 to 31 March 2022.

h) Will this policy or revision benefit any Section 75 categories? Yes  
If yes, please give details.

Potentially yes. Some older members who qualified for transitional protection and retained membership of the PCSPS(NI) for service after 1 April 2015 may benefit from being offered a choice of benefits for remediable service as they are being offered a choice that was not previously available for the remedy period 1 April 2015 and 31 March 2022. This could be of particular benefit to those who have already accrued maximum service in the PCSPS(NI) and intend to continue in service for the foreseeable future. Any such indirect effects would be incidental to the policy imperative to remove unlawful discrimination identified by the Courts and could depend on a variety of external factors and choices, which can affect any individual's pension outcomes, including length of employment; salary levels; career choice, and personal financial decisions.

All members will also benefit from the protection of pension rights already accrued during the period discrimination has occurred regardless of their age or other protected characteristic.

This policy is addressing the direct age discrimination and the indirect sex and race discrimination introduced by transitional protections that formed part of the 2015 public service pension scheme reforms. This policy affects older members who have retired or died. It allows members or where the member is deceased an eligible decision-maker to choose the benefits they wish to receive for the remedy period. The immediate choice group represents just over a quarter of the remedy population.

All eligible members no matter what protected characteristic group could be viewed as 'benefiting' from being offered a choice of benefits for remediable service as they are being offered a choice that was not previously available.

It could also be viewed that members who choose different benefits to the benefits which they had already built up prior to the Remediable Service Remedy, could be seen as having 'benefited' from being offered a choice of benefits for the Remedy Period.

- i) Will this policy or revision have an adverse differential impact upon any of the Section 75 groupings? ~~Yes~~/No. If yes, please give details.

No. Consideration was given to the impact on members with tapered protection and whether it could be indirectly discriminatory by affecting those over a certain age. The Department considers that the fact that those with tapered protection will be over a certain age reflects the discriminatory nature of the taper protections, the removal of which in response to the courts findings cannot itself be a discriminatory act. This rationale also applies in respect of the removal of full transitional protection where it could unlawfully discriminate against previously protected members. In both cases, a continued difference in treatment for these groups would perpetuate rather than remove the original age discrimination identified by the courts. Conversely, by accruing all service in the reformed schemes from 1 April 2022 all members will be now treated equally without reference to age or any other protected characteristic. Any indirect effects on age or sex have been considered further below in response to the individual screening questions. In each case the Department of Finance considers any indirect impacts for protected characteristics for age and sex to be minor, incidental to the imperative to remove unlawful age-based discrimination, and do not constitute an adverse differential impact.

The remedy policy does not include any provisions that would be applied differently to members of any of the protected characteristic groups. The scheme manager is aware that the remedy measures could impact differently on certain members who may share a protected characteristic. However, where this is the case, it is considered that this can be justified

in achieving the overall remedy objective as set by the core principles of the PSPJOA 2022.



## Section B

### Available evidence

Evidence to help inform the screening process may take many forms. Public authorities should ensure that their screening decision is informed by relevant data.

What evidence / information (both qualitative and quantitative) have you gathered to inform this policy? Set out all evidence below along with details of the different Section 75 groups you have met and / or consulted with to help inform your screening assessment. Please also provide details of priorities and needs identified for each Section 75 group.

- **Religious belief**

There is no data available on the religious belief specific to members of the PCSPS(NI) or to alpha scheme members. However, the current [Equality Statistics for the Northern Ireland Civil Service for 2023](#) based on NICS staff in post at 1 January 2023 report the community background composition for the NICS as 50.2% Catholic and 49.8% Protestant . These figures exclude those with a community background recorded as 'Not Determined'.

There is no indication that this policy will disproportionately impact on the basis of religious belief, as these Amendment Regulations will be applied equally to all relevant scheme members.

- **Political opinion**

There is no data available on the political opinion of members of the PCSPS(NI) or alpha scheme members. The NICS does not collect data on the political opinion of staff. However, there is no indication that these Amendment Regulations will disproportionately impact on the basis of political opinion, as they will be applied equally to all relevant scheme members.

- **Racial group**

The current [Equality Statistics for the Northern Ireland Civil Service for 2023](#) show that Ethnicity data are missing for 9.3% of staff. Of staff for whom ethnicity is available, 0.5% were from a minority ethnic group (including members of mixed ethnic groups and the Irish Travelling Community). There is no indication that these Amendment Regulations will disproportionately impact on the basis of racial group, as they will be applied equally to all relevant scheme members.

- **Age**

The age profile of the NICS pension scheme membership as at the 31 March 2022 was:

<b>AGE</b>	<b>ACTIVE</b>	<b>PARTIAL</b>	<b>DEFERRED</b>	<b>PENSIONER</b>	<b>Grand Total</b>
Under 30	2,319	0	87	0	2,406
31 - 40	7,340	0	1,802	33	9,175
41 - 50	9,235	4	3,244	206	12,689
51 - 60	8,810	790	3,211	2,947	15,758
61 - 70	1,466	1,206	373	10,678	13,723
71 +	57	29	41	11,770	11,897
<b>Grand Total</b>	29,227	2,029	8,758	25,634	65,648

Source: NICS Pension Scheme data

- **Marital status**

The marital composition of the NICS pension scheme membership as at 31 March 2022 was:

<b>MARITAL STATUS</b>	<b>ACTIVE</b>	<b>PARTIAL</b>	<b>DEFERRED</b>	<b>PENSIONER</b>	<b>GRAND TOTAL</b>
Single	9,074	207	1,221	2,008	12,510
Married	14,969	1,483	3,103	15,864	35,419
Civil Partner	71	2	5	19	97
Co-Habiting	227	3	24	6	260
Separated	26	9	5	39	79
Divorced	896	211	121	1,148	2,376
Ex Married	132	9	18	7	166
Widow	107	47	12	568	734
Other including unknown	3,725	58	4,249	5,975	14,007
<b>Grand Total</b>	<b>28,227</b>	<b>2,029</b>	<b>8,758</b>	<b>25,634</b>	<b>65,648</b>

Source: NICS Pension Scheme data

There is no indication that these Amendment Regulations will disproportionately impact on the basis of marital status, as they will be applied equally to all relevant scheme members.

- **Sexual orientation**

There is no data available on the sexual orientation of scheme members. However, the current [Equality Statistics for the Northern Ireland Civil Service for 2023](#) states that sexual orientation data are missing for 73.4% of NICS staff. Of those staff for whom data are available 3.6% described their orientation as towards someone of the same sex, 2.3% towards both sexes and 94.2% towards someone of different sex. However since coverage is limited to a relatively small proportion of staff, staff with a recorded sexual orientation may not be representative of the whole NICS and so it would not be appropriate to use these figures as an estimate of the NICS profile.

- **Men & women generally**

The gender composition of the NICS pension scheme membership as at 31 March 2022 was:

<b>GENDER</b>	<b>ACTIVE</b>	<b>PARTIAL</b>	<b>DEFERRED</b>	<b>PENSIONER</b>	<b>Grand Total</b>
FEMALE	14,891	1,192	4,757	10,651	31,491
MALE	14,336	837	4,001	14,983	34,157
<b>Grand Total</b>	29,227	2,029	8,758	25,634	65,648

Source: NICS Pension Scheme data

There is no indication that these Amendment Regulations will disproportionately impact on the basis of men and women generally, as they will be applied equally to all relevant scheme members.

- **Disability**

There is no data available on disability of scheme members. However, the current [Equality Statistics for the Northern Ireland Civil Service for 2023](#) states that disability data are missing for 47.5% of staff. Some 5.7% of all staff were recorded as disabled. For the purposes of this report anyone whose disability information is missing (47.5% of staff in 2023) were allocated to the 'No disability declared' category. Potentially, therefore, the true proportion of disabled staff could be as high as 53.2% (on the most extreme scenario where all missing data related to disabled staff). The reported proportion of 5.7% should therefore be considered as a minimum – some staff whose disability information is missing may have a disability, and some others who are recorded as not having a disability may have developed a disability since the information was provided. Both of these scenarios would mean that the proportion all staff having a disability is likely to be higher.

There is no indication that these Amendment Regulations will disproportionately impact on the basis of disability as they will be applied equally to all relevant scheme members.

- **Dependents**

No scheme data on dependants is held for active or deferred members.

However, the current [Equality Statistics for the Northern Ireland Civil Service for 2023](#) states that data on dependants are missing for 71.7% of NICS staff. For those staff with data on dependants, 63.9% identify as having no dependants, with 36.1% stating they have dependants. However since coverage is limited to a relatively small proportion of staff, staff with recorded information on dependants may not be representative of the whole NICS and so it would not be appropriate to use these figures as an estimate of the NICS profile.

The dependants composition of the NICS pension scheme membership as at 31 March 2022 was:

<b>Dependant</b>	<b>No. of pensioner members</b>
Child	218
Dependant	9
Partner	7
Spouse	5,103
Ex-Spouse	101
<b>Total</b>	<b>5,438</b>

Source: NICS Pension Scheme data

There is no indication that these Amendment Regulations will disproportionately impact on the basis of dependants, as they will be applied equally to all relevant scheme members.

**If you have no evidence held, outline how you will obtain it:**

Not applicable.

## Screening questions

There are 4 essential screening questions:

1. What is the likely impact on equality of opportunity for those affected by this policy, for each of the nine Section 75 categories?

**None**

2. Are there opportunities to better promote equality of opportunity for people within the Section 75 categories?

**No. The Amendment Regulations do not offer any opportunities in this respect.**

3. To what extent is the policy likely to impact upon good relations between people of different religious belief, political opinion or racial group?

**None, as there is no impact upon such good relations.**

4. Are there opportunities to better promote good relations between these three groups?

**No, as the draft Amendment Regulations relate to the NICS pension schemes and do not provide any opportunities to better promote good relations between these three groups.**

## Are there likely impacts on Section 75 Categories?

### Religious belief:

None, as the Amendment Regulations will apply equally to all relevant scheme members regardless of religious belief.

- **Political opinion:**

None, as the Amendment Regulations will apply equally to all relevant scheme members regardless of political opinion.

- **Racial group:**

None, as the Amendment Regulations will apply equally to all relevant scheme members regardless of racial group.

- **Age:**

None - The Department of Finance does not believe that the proposals for future arrangements constitute an unjustified adverse differential impact on the grounds of age. Whilst the courts have ruled the transitional protections give rise to unlawful discrimination, this does not extend to the fundamental components of the 2015 reforms for career average scheme design and revised pension ages. These reforms remain valid and appropriate for future service as agreed by the Assembly in 2014, as a proportionate means to deliver sustainable future pension arrangements that are fairer across the public service, especially for lower and middle earners who represent the majority of that workforce.

- **Marital status:**

None, as the Amendment Regulations will apply equally to all relevant scheme members regardless of marital status.

- **Sexual orientation:**

None, as the Amendment Regulations will apply equally to all relevant scheme members regardless of sexual orientation.

- **Men and women generally:**

None, as the Amendment Regulations will apply equally to all relevant scheme members regardless of gender.

- **Disability:**

None, as the Amendment Regulations will apply equally to all relevant scheme members regardless of disability.

- **Dependants:**

None, as the Amendment Regulations will apply equally to all relevant scheme members regardless of their being a dependent in receipt of a pension.



## **Additional considerations**

### **Multiple identity**

Generally speaking, people can fall into more than one Section 75 category. Taking this into consideration, are there any potential impacts of the policy/decision on people with multiple identities?

*(For example; disabled minority ethnic people; disabled women; young Protestant men; and young lesbians, gay and bisexual people).*

**No.**

Provide details of data on the impact of the policy on people with multiple identities. Specify relevant Section 75 categories concerned.

**Not applicable.**

## **Mitigation**

When the public authority concludes that the likely impact is 'minor' and an equality impact assessment is not to be conducted, the public authority may consider mitigation to lessen the severity of any equality impact, or the introduction of an alternative policy to better promote equality of opportunity or good relations.

Alternatively there may already be policies in place which would mitigate any adverse impact identified.

Mitigation measures proposed:

**Not applicable.**

## Section C

DoF also has legislative obligations to meet under the [Disability Discrimination Order](#) and the [Human Rights Act](#) . The following questions relate to these two areas.

### Consideration of Disability Duties

Does the proposed policy / decision provide an opportunity for DoF to better **promote positive attitudes** towards disabled people?

#### Explain your assessment in full

Not applicable.

Does the proposed policy / decision provide an opportunity to actively **increase the participation** by disabled people in public life?

#### Explain your assessment in full

Not applicable.

## Consideration of Human Rights

The Human Rights Act (HRA) 1998 brings the European Convention on Human Rights (ECHR) into UK law and it applies in N Ireland. Articles 3 and 4 are classified as “absolute” rights ie the State can never withhold or take away these rights. All others are either “qualified” or “limited”. Further information is available via the following link

<http://www.nicshumanrightsguide.com/>

Indicate any potential adverse impacts that the policy / decision may have in relation to human rights issues.

	<b><u>Adverse Impact</u></b>	
	(delete as appropriate)	
Right to Life	<b>Article 2</b>	No
Prohibition of torture, inhuman or degrading treatment	<b>Article 3</b>	No
Prohibition of slavery and forced labour	<b>Article 4</b>	No
Right to liberty and security	<b>Article 5</b>	No
Right to a fair and public trial	<b>Article 6</b>	No
Right to no punishment without law	<b>Article 7</b>	No
Right to respect for private and family life, home and correspondence	<b>Article 8</b>	No
Right to freedom of thought, conscience and religion	<b>Article 9</b>	No
Right to freedom of expression	<b>Article 10</b>	No
Right to freedom of peaceful assembly and association	<b>Article 11</b>	No

Right to marry and to found a family	<b>Article 12</b>	No
The prohibition of discrimination	<b>Article 14</b>	No
Protection of property and enjoyment of possessions	<b>Protocol 1 Article 1</b>	No
Right to education	<b>Protocol 1 Article 2</b>	No
Right to free and secret elections	<b>Protocol 1 Article 3</b>	No

Please indicate any ways which you consider the policy positively promotes human rights.

None. The Amendment Regulations do not provide an opportunity to positively promote human rights.

Please explain any adverse impacts on human rights that you have identified.

None.

If you have identified any adverse impacts on human rights through this screening you must complete a Human Rights Impact Assessment:  
<https://www.executiveoffice-ni.gov.uk/publications/human-rights-impact-assessment-proforma>.

## **Monitoring Arrangements**

Public authorities should consider the guidance contained in the Commission's [Monitoring Guidance for Use by Public Authorities \(July 2007\)](#):

<http://www.equalityni.org/ECNI/media/ECNI/Publications/Employers%20and%20Service%20Providers/S75MonitoringGuidance2007.pdf>

The Commission recommends that where the policy has been amended or an alternative policy introduced, the public authority should monitor more broadly than for adverse impact (See Benefits, P.9-10, paras 2.13 – 2.20 of the Monitoring Guidance).

Effective monitoring will help the public authority identify any future adverse impact arising from the policy which may lead the public authority to conduct an equality impact assessment, as well as help with future planning and policy development.

### **Please detail proposed monitoring arrangements below:**

This screening document may be reviewed following the closure of the associated consultation.

Current data as collected and published by the NICS and Civil Service Pensions in compliance with GDPR.

## Section D - Formal Record of Screening Decision

### Title of Proposed Policy / Decision being screened:

The Public Service (Civil Servants and Others) Pensions (Remediable Service) Regulations (Northern Ireland) 2023.

I can confirm that the proposed policy / decision has been screened for (i) equality of opportunity, (ii) good relations disabilities duties and (iii) human rights issues

On the basis of the answers to the screening questions, I recommend that this policy / decision is –

\* **Screened Out** – No EQIA necessary (no impacts)

Provide a brief note to explain how this decision was reached:

There are no unjustified adverse differential impacts for the section 75 groupings.

All members of the Northern Ireland Civil Service Pension Schemes will be treated equally for future pensionable service accrued from 1 April 2022 without reference to protected characteristics.

### Screening assessment completed by -

**Name** Patrick Donaghey  
**Grade** EO1  
**Date** 28 March 2023

### And approved by –

**Name** Peter Philip  
**Grade** G7  
**Date** 28 March 2023

Central Support Team Notified

30 March 2023

Equality Contacts advised

30 March 2023

Screening uploaded to DoF website

(insert date)