

SCOTTISH ENVIRONMENT PROTECTION AGENCY	Ref: BP-HR-064
Equality and Diversity Equality and Human Rights Impact Assessment Form (EqIA)	Page No: 1 of 9
	Issue No: 2
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	Originator: Joan Robertson
	Authoriser: Carol Johnston, Head of Employee Development and Safety

Scottish Environment Protection Agency

Equality and Human Rights Impact Assessment (EqIA)

Policy Name	Financial Provision Policy for Waste Management Activities		
Policy Author	Chris Dailly		
Date Written/Reviewed	28 th May 2015		
Impact Screening Undertaken by	C Dailly	Date: 28 th May 2015	
EqIA carried out by	C Dailly	Date: 28 th May 2015	
EqIA authorised by	J Kenny		
Date Authorised			

Introduction

An Equality and Human Rights Impact Assessment (EqIA) identifies whether any policy, practise or activity has any disproportionate impact on any individual or group of people with a protected characteristic as determined by the Equality Act 2010.

The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 requires that all new and revised policies undergo a screening for impact. Where impact is identified, a full EqIA is undertaken.

This form has five parts;

- Part 1 provides general information about the policy, the owner and its purpose and is self-explanatory.
- Part 2 is a screening process to identify whether there is impact. If impact is identified, Part 3 must be completed.
- Part 3 is a full EqIA, where evidence is captured.
- Part 4 captures what will be monitored to ensure impact is either reduced, negated or remains constant and
- Part 5 is the approval section.

The Guidance Document should be read in conjunction with this form.

ON COMPLETION please indicate if this is a screening document only or full EqIA;

Screening only		Full Assessment	Y
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Scottish Environment Protection Agency Equality Impact assessment

PART 1

About the Policy/Activity

Portfolio/Function developing/reviewing policy or activity	Name: National Operations B
Title of policy/activity	Financial Provision Policy for Waste Management Activities: Public consultation and proposed revision to existing policy.
Date EqIA Screening Commenced	01/05/2015

Briefly describe the aims, objectives and purpose of the policy/activity	<p>There is a legal requirement for the SEPA to assess whether applicants for, and holders of, authorisations for waste management sites are fit and proper persons. Assessing whether the applicant/holder has made or is in a position to make suitable financial provision is a key element of the fit and proper person assessment.</p> <p>We propose to improve the way in which we assess financial provision in relation to new sites and to apply a new approach to existing sites in certain circumstances.</p> <p>This will be a change to an existing policy (derived from a legal requirement) rather than a new policy.</p> <p>The nature of the proposed changes are as follows:</p> <ul style="list-style-type: none"> ▪ SEPA proposes to change the method for calculating the amount of financial provision for new non-landfill waste management activities (including transfers of authorisations); ▪ SEPA proposes to update the guidance for calculating the amount of financial provision required for landfill activities; ▪ SEPA proposes to change to the way it requires applicants to demonstrate financial provision
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	<p>for both new landfill and non-landfill waste management activities;</p> <ul style="list-style-type: none"> ▪ SEPA proposes to take a risk-based approach to how it requires applicants to demonstrate financial provision. Where there is a greater financial liability or where the waste management activity is considered to be of higher risk, SEPA would require funds to be secured (ring fenced) using a financial provision mechanism which has been approved by SEPA. <p>The proposed risk-based approach will provide a balance between protection of the environment, landowners and the public purse on one hand and impact on waste operators on the other.</p> <p>Initially, SEPA will undertake a public consultation on proposals for change and, subsequently, SEPA expects to revise its existing policy of financial provision for waste management activities.</p>
<p>What are the intended consequences of the policy/activity?</p>	<p>The intended consequences of the activity are that the financial provision required by operators of waste management activities should be:</p> <ul style="list-style-type: none"> ▪ Sufficient ▪ Secure; and, ▪ available when required <p>This would mean a more refined and accurate method of calculating financial liability for all waste management activities and for those activities which have a higher financial risk, financial provision would be secured (ring fenced) using a financial provision mechanism.</p>
<p>Does this policy/activity link with any other? If Yes, please list.</p>	<p>The “fit and proper person” test which applies to waste management activities (and which includes an assessment of financial provision) will be further reviewed as part of the SEPA/Scottish Government Better Environmental Regulation Change Programme. That work will be informed by, and is likely to build on, the proposals set out in this consultation on changes to financial provision</p>

	<p>policy.</p> <p>The proposed change in policy will affect a number of existing guidance documents. However, all of these guidance documents can be considered part of the same financial provision policy and therefore are considered together.</p>
Who are the main stakeholders in relation to the policy/activity?	<p>Waste management operators who hold authorisations including: companies, local authorities and individual sole traders. Often these organisations / individuals are represented by trade associations.</p> <p>SEPA Board, Agency Management Team and Operations Portfolio Management Team.</p>
Who implements and who is responsible for the policy/activity?	<p>John Kenny is SEPA's corporate risk owner for financial provision.</p>

Part 2

Initial Screening for Relevance

This section is designed to determine the relevance of the policy/activity to equality.

- This section also fulfils the duty to consider any impact in relation to Human Rights.
- Initial screening will determine whether there is impact and where none is found, set out any evidence/justification for that determination.

Indicate in the table below whether policy/activity has any impact on the protected characteristics or is likely to influence SEPA's ability to comply with the general duty, which is to;

- Eliminate discrimination, victimisation, harassment or other unlawful conduct that is prohibited under the Equality Act 2010 and/or;
- Advance equality of opportunity between people who share a characteristic and those who do not and/or;
- Foster good relations between people who share a relevant protected characteristic and those who do not.

Please tick as appropriate	Positive Impact	Negative Impact	No Impact	Unknown
Age			√	
Disability				√
Gender reassignment			√	
Marriage and civil partnership (relevant only to point a) above)			√	
Pregnancy and maternity			√	
Race				√
Religion and belief			√	
Sex (gender)			√	
Sexual Orientation			√	

If you have answered 'no' for all of the above, what is your justification or evidence for that determination?

Those characteristics which have been identified as having no impact, have no actual influence in relation to how the activity will progress or on the intended outcomes of the activity.

Indicate on the table below whether the policy/activity has any impact on the Human Rights Act 1998

Please tick as appropriate	Positive Impact	Negative Impact	No Impact	Unknown
Article 6				√
Article 8				√
Article 14				√

If you have answered 'no' for all of the above, what is your justification or evidence for that determination?

The Financial Provision Policy for Waste Management Activities has no relevance to the Right to a Fair Hearing (Article 6) or to right to respect for private and family life (Article 8).
It is not known whether there will be any impact relating to prohibition of discrimination (Article 14).

Concluding Part 2

Has Relevance been Identified?	Please Tick	Next Steps
There is no relevance to Equality or the Human Rights Act 1998		Proceed to Part 4 Monitoring and Review
There is relevance to some or all of the Equality characteristics and/or the Human Rights Act 1998	√	Proceed to Part 3 Impact Assessment
It is unclear if there is relevance to some or all of the Equality characteristics and/or the Human Rights Act 1998		Proceed to Part 3 Impact Assessment

Part 3

Full Impact Assessment

This section captures details of any impact relevant to the listed protected characteristics and to Human Rights. It should also show details of relevance, evidence gathered and used, suggestions as to steps that could be taken to negate or reduce impact and decisions taken relating to impact. This should be based on proportionality

Age	The proposal to change the Financial Provision Policy for Waste Management Activities has no differential impact associated with age.
Disability	<p>Currently SEPA do not capture any information on disability in relation to the profile of holders of waste management authorisations. However the Scottish Census 2011 identifies the fact that around 19% of the population have a long term health problem or disability. This includes learning disabilities or difficulties at around 2.5% and sensory disabilities at around 9%.</p> <p>There is some evidence from operations staff of individual operators with disabilities that are related to learning and literacy.</p> <p>The offer of support to those individuals who require support in completing any paperwork related to these charges should be considered and would be best practice.</p> <p>The use of clear English in documents will be a broad principal when undertaking the consultation and amending the documentation.</p> <p>Evidence source: 2011 Scottish Census table DC3310SC</p>
Gender reassignment	The proposal to change the Financial Provision Policy for Waste Management Activities has no relevance to gender reassignment.
Marriage and Civil Partnership	The proposal to change the Financial Provision Policy for Waste Management Activities has no differential impact on people in either a marriage or civil partnership.
Pregnancy and maternity	The proposal to change the Financial Provision Policy for Waste Management Activities has no relevance in relation to pregnancy and maternity.
Race	The population of Scotland has a minority ethnic population of 7% although it varies greatly across Scotland, with variations from just over 1% in some parts of Scotland to as much as 19% in other more populous areas. The availability of materials in alternative languages and formats on request would be best practice in relation race

	<p>matters and the use of clear English would support those who use English but do not have technical language skills. Further, the offer of a telephone contact to talk through proposals would also be considered good practice.</p> <p>Evidence source: 2011 Scottish Census</p>
<p>Religion and Belief</p>	<p>The proposal to change the Financial Provision Policy for Waste Management Activities has no relevance in relation to religion and belief.</p>
<p>Sex (gender)</p>	<p>The proposal to change the Financial Provision Policy for Waste Management Activities has no relevance in relation to sex (gender).</p>
<p>Sexual Orientation</p>	<p>The proposal to change the Financial Provision Policy for Waste Management Activities has no relevance in relation to sexual orientation.</p>
<p>Human Rights</p>	<p>Article 14 - The Right to be Free From Discrimination.</p> <p>It is unknown as yet whether there will be any impact as a consequence of the outcomes of this project, although it is hoped that there will be little or no impact.</p> <p>Consultation documents and guidance will be written in clear English. Where technical terms are used, these will be explained in clear English.</p> <p>There may be implications in relation to the means to pay of any individual. At present there is no evidence to suggest that this will be an issue, however consideration of how to establish whether this is an issue may be useful.</p> <p>Article 8 - The Right to Family Life And Privacy.</p> <p>Any gathering of data required for consultation and/or implementation of a revised policy on financial provision for waste management activities will be compliant with the Data Protection Act 1998.</p> <p>Article 6 – The Right to a Fair Trial.</p> <p>If there is non-compliance with the requirements of a waste management authorisation, criminal proceedings may be initiated by the Procurator Fiscal, based on a report submitted by SEPA. The Scottish legal system complies with the right to a fair trial or hearing.</p>

Summary and Conclusion of Impact Assessment

There is no current information to indicate whether there is an impact on the protected characteristics of race and disability. The key potential impact of the new role in relation to the protected characteristics is primarily linked to communication arising from the consultation and any subsequent policy change. Those communication issues are likely to be most relevant to race and disability.

The use of clear English in documentation and the availability of other languages and formats on the request should be considered. This benefits the individuals and contributes positively to the general duty to eliminate unlawful discrimination and promote equality of opportunity.

In relation to the Human Rights implications, compliance with already established Data Protection requirements and applying reasonableness to the level of financial provision required should address potential relevancy to Article 8 and Article 14.

Concluding Part 3

Impact Assessment	Please Tick	Next Steps
There is no relevance to Equality or the Human Rights Act 1998		Proceed to Part 4 Monitoring and Review
There is relevance to some or all of the Equality characteristics and/or the Human Rights Act 1998	X	Proceed to Part 4 Monitoring and Review

Part 4

Monitoring and Review

The purpose of this section is to show how you will monitor the impact of the policy/activity.

- The reason for monitoring is to determine if the actual impact of the policy/activity is the same as the expected or intended.
- A statement on monitoring is required for all policy/activity regardless of whether there is any relevance to Equality or the Human Rights Act.

If you have provided evidence or justification for believing there is no relevance to Equality or the Human Rights Act in Part 2 Initial Screening or Part 3 Impact Assessment:

Q1 How do you intend to monitor and review the policy/activity?

As the consultation is released we will record the level of response and whether specific requests arise from either groups with potential disability (as far as the work within the charging scheme) or from specific ethnic groups requiring additional support.

Q2 What will be monitored?

The level of responses as outlined under Q1. Specifically, impact and expected impact will be monitored in relation to the protected characteristics and in relation to Article 14. This will be done by reviewing any compliments or complaints relating to SEPA's consultation and any subsequently revised financial provision policy.

Q3 What is the frequency of monitoring?

As each response come in - so will be primarily during consultation time. Thereafter, monitoring will take place of requests arising in relation to any revised policy.

Q4 How will monitoring information be used?

The information will be used to assess whether additional changes / focusing is required.

Part 5

Approval

All screening documents and EqlA's must be submitted to the Equality mailbox for approval.

This Equality and Human Rights Impact Assessment was completed by:

Name	Chris Dailly
Department/Function/Team	Operations Portfolio, National Operations B, Waste & Landfill Tax Manager.
Date	29/05/2015

This Equality and Human Rights Impact Assessment was approved by:

Name and Designation	J Kenny, Head of National Operations
Date	1 st July 2015

ON COMPLETION please indicate if this is a screening document only or full EqlA;

Screening only		Full Assessment	Y
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