

Scottish Environment Protection Agency	Business Process: BP-HR-065.1
Business Process	Page no: 1 of 7
	Issue No: 02
Equality Impact Assessment (EqIA)	Issue date: 08/08/2013
	Review date: 08/08/2016
	Originator: Carol Gillespie
	Authorised by: Jennifer Russell

It is important to note that not all policy, strategy or projects will require a full impact assessment to be carried out. In order to ascertain whether this is required or not please ensure that you have carried out an Initial Equality Impact Assessment. The following table provides further details on each of the protected characteristics and definitions of each strand.

Protected characteristic	Definition
Age	Protects people of all ages
Disability	Applies to a range of people that have a condition (physical or mental) which has a significant and long-term adverse effect on their ability to carry out 'normal' day-to-day activities. This protection also applies to people that have been diagnosed with a progressive illness such as HIV or cancer
Gender	Applies to male or female
Gender Reassignment	The definition of gender reassignment includes people who chose to live in the opposite gender to the gender assigned to them at birth removing the previously legal requirement for them to undergo medical supervision
Marriage or civil partnership (HR projects only)	The Act protects employees who are married or in a civil partnership against discrimination. Single people are not protected
Sexual Orientation	The Act protects lesbian, gay, bi-sexual and heterosexual people
Race	This includes colour, ethnic / national origin or nationality
Religion or Belief	The Act covers any religion, religious or non-religious beliefs. Also includes philosophical belief or non-belief
Pregnancy and Maternity	A woman is protected against discrimination on the grounds of pregnancy and maternity. With regard to employment, the woman is protected during the period of her pregnancy and any statutory maternity leave to which she is entitled

Name of Business Unit	Human Resources
Name/designation of person(s) responsible for managing/ conducting this policy, strategy or projects	Jennifer Russell
Have you carried out an Initial Equality Impact Assessment?	Yes

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Scottish Environment Protection Agency	Business Process: BP-HR-065.1
Business Process	Page no: 2 of 7
	Issue No: 02
Equality Impact Assessment (EqIA)	Issue date: 08/08/2013
	Review date: 08/08/2016
	Originator: Carol Gillespie
	Authorised by: Jennifer Russell

Name of Policy, Strategy or Project	Sponsorship of migrant workers	
Is it (*delete as applicable)	Revised	
Is responsibility for delivery shared with others? (*delete as applicable)		Yes
If yes, who are your partners?	UK Border Agency, AMT representatives, line managers	

Which of the following equality areas are relevant to this policy, strategy or projects?			
Age	No	Sexual Orientation	No
Disability	No	Race	Yes
Gender	No	Religion or Belief	No
Gender Reassignment	No	Pregnancy and Maternity (HR projects only)	No
Marriage or Civil Partnership (HR projects only)	No		

Start Date	04/02/2014	Completion Date	04/02/2014
Approved by	AMT	Date Approved	25/02/2014
Date sent to: <a href="mailto:equalities@sepa.org.uk">equalities@sepa.org.uk</a>	13/03/2014	Signed:	
Date the Equality Impact Assessment was published		Signed:	

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Scottish Environment Protection Agency	Business Process:
Business Process	Page no: 3 of 9
	Issue No: 01
	Issue date: 11/09/2012
	Review date: 11/09/2014
	Originator: Carol Gillespie
Full Equality Impact Assessment (EqIA)	Authorised by: Jennifer Russell

1. Identify ALL the Aims of the policy, strategy or projects

1. What is the purpose of the policy, strategy or projects? (consider explicit and implicit aims)
2. Who does the policy, strategy or projects affect?
3. Who does the policy, strategy or projects benefit directly? (e.g. employees/service users; equality groups, other stakeholders)
4. What results/outcomes are intended?

1 SEPA is licensed to sponsor migrant workers under Tier 2 (General) of the UK Border Agency Points Based System. The Tier 2 (General) category is for foreign nationals who have been offered a skilled job to fill a gap in the workforce that cannot be filled by a “settled worker”. (A “settled worker” is defined as someone who is normally resident in the UK with no restriction on the length of their stay.) Migrant workers who are already employed by SEPA may also request sponsorship under the Tier 2 (General) category. They may wish to transfer to this category from an alternative tier or category or to extend their leave to remain. The policy is intended to provide a framework to help ensure consistent decision-making around sponsorship; to ensure SEPA is operating in line with UK Border Agency guidance; and to protect the organisation from legal challenge or reputational risk.

2 This policy affects SEPA staff members who may wish to be considered for sponsorship and future job applicants again who may wish to be considered for sponsorship with SEPA.

3 The policy benefits SEPA as an organisation, current and prospective staff, SEPA managers and migrant workers. SEPA is committed to equal opportunities and our Equal Opportunities Statement describes this commitment as follows:

“We treat everyone fairly and with respect regardless of their sex, marital status, age, race, ethnic origin, sexual orientation, disability, religion or belief, working pattern, gender identity, caring responsibility or trade union membership.

SEPA believes that its workforce should be as diverse as the environment it protects. Our roles call for a variety of skills and for people from all kinds of backgrounds with different life experiences. We offer employment and training to people solely on the basis of their skills, aptitudes and attitude.”

The policy helps SEPA managers to make consistent decisions over sponsorship, which reflect UK Border Agency guidance. It therefore helps SEPA to recruit skilled staff for hard

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Scottish Environment Protection Agency	Business Process:
Business Process	Page no: 4 of 9
	Issue No: 01
Full Equality Impact Assessment (EqIA)	Issue date: 11/09/2012
	Review date: 11/09/2014
	Originator: Carol Gillespie
	Authorised by: Jennifer Russell

to fill roles and to balance its obligation to promoting equal opportunities with the requirement to prevent illegal working. The key benefit for migrant workers (either existing SEPA employees or prospective candidates) is that they can see the process SEPA will use to decide whether or not to sponsor them.

4 By conducting this Equality Impact Assessment we are seeking to identify whether the proposed policy will have an adverse impact on staff who share any of the protected characteristics listed above and, if so, whether there are any changes that can be made to reduce any impact.

## 2. Consider the Evidence (data and information)

1. What information or data would it be useful to have? What data (quantitative and qualitative) is available? (in-house/external)
2. How reliable/valid/up-to-date is it?
3. What information is available?
4. What does the data/information tell you about
  - Different needs?
  - Different experiences?
  - Different access to services, information or opportunities?
  - Different impacts/different outcomes?
5. Are there any gaps that you should fill now/later by further evidence gathering/commissioning or by secondary analysis of existing data? Are there any experts or stakeholders you should consult now? Have you consulted any experts already? What were their views?

1. SEPA's monitoring of equal opportunity data for existing staff members highlights the differences between groups, such as minority groups and gender. As part of this process I have taken the opportunity to disaggregate this data by the protected characteristics of race. The analysis highlighted that:

- 2.15% of staff members have identified themselves to be of ethnic minority
- 9.62% of staff members have not declared their ethnicity

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Scottish Environment Protection Agency	Business Process:
Business Process	Page no: 5 of 9
	Issue No: 01
Full Equality Impact Assessment (EqIA)	Issue date: 11/09/2012
	Review date: 11/09/2014
	Originator: Carol Gillespie
	Authorised by: Jennifer Russell

- 88.23% of staff members have identified themselves to be white.

HR routinely report on the equal opportunity data for all job applicants, from 04 February 2013 to 04 February 2014, SEPA received 4675 job applications of which 1.67% were from applicants who identified themselves as ethnic minority. Whilst from the 238 successful applicants 1.68% stated that they were of ethnic minority.

SEPA is not currently sponsoring any migrant workers. SEPA has issued nine certificates of sponsorship under Tier 2 (General) since it first obtained its sponsorship licence in 2008. A total of six individuals have been sponsored.

2. This data is valid as at 04 February 2014

3. This data is comprehensive allowing the Equality Impact Assessment to be completed.

### 3. Assess the likely impact on different groups

1. Does your analysis of the evidence indicate any possible adverse impact on a particular group (age, disability, gender, transgender, sexual orientation, race, religion or belief, pregnancy or maternity and marriage or civil partnership)
2. If it is adverse, is it likely to be discriminatory?
3. In what areas does it have an impact? E.g. access to information, experience of services.
4. Even if there is no evidence of adverse impact, is there an opportunity to promote equality more effectively, or foster good relations between groups.

1. The analysis does not highlight any adverse impact on the protected characteristic of race.

2. In terms of direct discrimination there is no evidence that this policy is unlawful towards the protected characteristic of race. As an employer SEPA has to adhere to both the Equalities Act 2010 as well as immigration legislation and the policy seeks to achieve this by reflecting UK Border Agency guidance.

3. SEPA managers will use the policy in order to aid decision-making on whether or not to sponsor a migrant worker under Tier 2 (General). If the decision is taken not to sponsor a

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Scottish Environment Protection Agency	Business Process:
Business Process	Page no: 6 of 9
	Issue No: 01
Full Equality Impact Assessment (EqIA)	Issue date: 11/09/2012
	Review date: 11/09/2014
	Originator: Carol Gillespie
	Authorised by: Jennifer Russell

migrant worker this may mean that they are unable to commence work or continue working with SEPA unless they obtain entry clearance or leave to remain via a different route. The policy seeks to ensure that SEPA has a framework in place to ensure consistent decision-making around sponsorship and therefore minimize the risk of discrimination. Adherence with UK Border Agency guidance further reduces the risk of discrimination. The policy does allow some scope for management discretion e.g. an AMT member in consultation with the Head of HR will take the final decision on whether or not to sponsor a migrant worker. It has been highlighted that allowing for management discretion in the decision-making process could introduce discrimination, but we take the view that if we cross check the decision at the time with the Border Agency's stance (which of course does change over time) and ensure that the potential for a discriminatory decision is specifically considered, any risk can be managed. As there is a cost associated with issuing a certificate of sponsorship and there is an annual limit on the number of certificates it is felt that management scrutiny and oversight is required.

4. Having a clear policy in place will help existing staff and prospective candidates to understand the process that will be followed to reach a decision on sponsorship. This will help to demonstrate fairness and equality of opportunity as well as SEPA's compliance with legislation.

#### 4. Consider alternatives (what to do if you find adverse impact)

1. How can you change your proposal in a way that is proportionate, and will

- Remove discrimination?
- Reduce any adverse impact?
- Promote equality more effectively?
- Foster good relations between groups?

2. If there are none, can the policy, strategy or projects still be justified?

3. Can the aims be met in some other way? What can you do now/later?

4. What are you recommending?

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Scottish Environment Protection Agency	Business Process:
Business Process	Page no: 7 of 9
	Issue No: 01
Full Equality Impact Assessment (EqIA)	Issue date: 11/09/2012
	Review date: 11/09/2014
	Originator: Carol Gillespie
	Authorised by: Jennifer Russell

This policy is primarily driven by the legislation relating to the sponsorship of migrant workers and the guidelines that the UK Border Agency has provided to organisation which offer sponsorship opportunities. All decisions relating to sponsorship will be taken with reference to the most current UK Border Agency guidance for sponsors and SEPA's business needs.

No other conditions of employment have been affected by this policy and it mitigates any effects on the protected characteristics highlighted within section 2. It is recommended that the policy is implemented, subject to consultation with UNISON and agreement by AMT.

#### 5. Consult formally (relevant stakeholders)

1. What are the views of the people who are likely to be affected or who have an interest about?
  - Whether you have identified the right issues?
  - Whether you have proposed suitable modifications?
  - Whether your proposals will meet their needs?
2. How will you consult?
3. Whom do you need to get views from?(internally/externally)
4. What methods will you use?
5. What formats will you use for communicating with different groups?

As this is an internal policy there is no requirement to consult externally.

The policy will require to be formally consulted upon with our Trade Union UNISON and this will be progressed through the normal arrangements for consultation.

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Scottish Environment Protection Agency	Business Process:
Business Process	Page no: 8 of 9
	Issue No: 01
Full Equality Impact Assessment (EqIA)	Issue date: 11/09/2012
	Review date: 11/09/2014
	Originator: Carol Gillespie
	Authorised by: Jennifer Russell

6. Decide whether to adopt this policy, strategy or project- (consider these questions to prompt answers)

What were your findings from the consultation?

Taking into account all of the data, information, potential impact issues and consultation feedback, what will you recommend?

- Stop and remove the policy, strategy or project
- No major change the policy, strategy or project is robust
- Modify the policy, strategy or project (Say how your changes will deal with adverse impacts) (consider if there are any new adverse impacts for any equality group)
- Adopt the policy, strategy or project as proposed. (You should justify this where you identified adverse impact, or where you are not incorporating feedback from your consultations)

As there is no evidence of direct discrimination and there is no adverse impact I have recommended that SEPA should adopt the policy as proposed. However it is recognised that there may be changes required dependent on the outcome of consultation with UNISON.

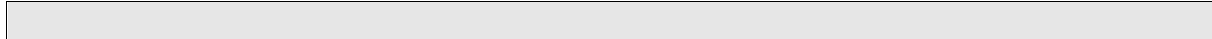
7. Make Monitoring (and review) Arrangements - (consider these questions to prompt answers)

1. How will you know what the actual effect of the policy, strategy or project is?
2. In what ways will you monitor? e.g. continuously or irregularly, quantitative methods such as surveys, qualitative methods such as interviews
3. How often will monitoring information be analysed (and published)?
4. When will you review the policy, strategy or project taking into account any monitoring information?

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Scottish Environment Protection Agency	Business Process:
Business Process	Page no: 9 of 9
	Issue No: 01
Full Equality Impact Assessment (EqIA)	Issue date: 11/09/2012
	Review date: 11/09/2014
	Originator: Carol Gillespie
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It is recommended that once consultation with UNISON has been completed that this policy is reviewed again in order to incorporate any changes.

The actual effect of this policy will be identified by monitoring the number of requests for sponsorship that are received by SEPA from existing staff and prospective candidates; the number of certificates of sponsorship that are assigned by SEPA each year; and the number of requests for sponsorship that are refused. The actual effect of this policy should be that SEPA takes consistent decision on sponsorship.

The effects of this policy will be monitored annually. The data monitored will include the equality data on SEPA's workforce; the number of requests for sponsorship; the number of refusals; and the number of certificates of sponsorship that are assigned each year. This data will be reported to Resources Management Team.

The policy will be reviewed at least annually (it may be reviewed more frequently, if required, to reflect changes to UKBA guidance or legislative change).