



HOME OFFICE FULL EQUALITY IMPACT ASSESSMENT TEMPLATE

Directorate	SIG
Unit	SPPU
Date	21 December 2010

Name of Policy/Guidance/Operational activity
To remove decriminalised offences for consensual gay sex with those aged 16 and over from the Police National Computer (PNC).

What are the aims, objectives & projected outcomes?
<p>Intended policy aim: The Coalition Programme for Government (section 20) said “<i>We will change the law so that historical convictions for consensual gay sex with over16s will be treated as spent and will not show up on criminal records checks</i>”.</p> <p>Objectives: Individuals will no longer have to declare these offences and those convictions will no longer show up on criminal record checks</p> <p>Outcomes: These cautions and convictions will no longer appear on CRB checks or have to be disclosed in any environment (e.g. when applying for employment).</p>

1 SCOPE OF THE EIA *(see Module 5 of the EIA e-Learning)*

1.1 Scope of the EIA work
<p>The Coalition Programme for Government (section 20) said “<i>we will change the law so that historical convictions for consensual gay sex with over16s will be treated as spent and will not show up on criminal records checks</i>”.</p> <p>The offences that criminalised consensual homosexual sex between men over the age of consent were section 12 of the Sexual Offences Act 1956 for the offence of buggery and section 13 of the 1956 Act for the offence of gross indecency between men. Consensual sex in private between two men over the age of 21 was decriminalised by the Sexual Offences Act 1967; in 1994 the age of consent was lowered to the age of 18 years (by section 143 of the Criminal Justice and Public Order Act of that year); in 2000 it was lowered again to 16 years (by the Sexual Offences (Amendment) Act). Such convictions, however, continue to be recorded in police records, principally on the names database held on the Police National Computer, and would appear on a standard or enhanced criminal records disclosure issued by the Criminal Records Bureau. It is estimated that there are some 16,000 such convictions recorded on the Police National Computer.</p>

This work is being taken forward together with the Government Equalities Office (GEO), the Ministry of Justice and is reflected in the HM Government document [http://www.equalities.gov.uk/pdf/424757 LGBT-factsheet Web.pdf](http://www.equalities.gov.uk/pdf/424757_LGBT-factsheet_Web.pdf) published in June 2010.

This EIA has been completed by the Home Office in conjunction with the GEO.

The number of cases on the Police National Computer (PNC) which involve a Section 12 or Section 13 offence is estimated at in excess of 50,000 of which some 16,000 may fall within the scope of this policy. In view of the numbers it is not possible to examine each one individually and individuals who wish to have their records deleted will be asked to apply in writing.

These provisions also cover persons with a conviction for a corresponding offence under military service law, or for the inchoate offences of attempting, conspiring or inciting to commit an offence of buggery or gross indecency; or aiding, abetting, counselling or procuring the commission of an offence of buggery or gross indecency.

Third sector stakeholders have been engaged and will be involved in further development of the process.

1.2 Will there be a procurement exercise?

No procurement exercise is necessary.

2 COLLECTING DATA *(see Module 6)*

2.1 What relevant quantitative and qualitative data do you have?

This may include national research, surveys or reports, or research done by colleagues in similar areas of work. Please list any evidence in the boxes below (complaints, satisfaction surveys, focus groups, questionnaires, meetings, email, research interviews etc) of communities or groups having different needs, experiences or attitudes in relation to this policy/guidance/operational area.

Race	None at present
Religion/ belief & non belief	None at present
Disability	None at present

Gender	None at present
Gender Identity	None at present
Sexual Orientation	<p>The policy will allow men who were convicted of a consensual offence with an individual aged 16 or over under Section 12 or Section 13 Sexual Offenders Act 1956 to have records of those convictions deleted. There are in excess of 50k records held on police records but it is not practicable to determine which ones fall within the scope of the policy which relates to consensual sex with those aged 16 and over. Individuals will therefore have to apply to have their records deleted. This will necessarily involve completion of an application form which will be sent to the Home Office. Sufficient details will be needed to ensure that the correct offences are identified. A Privacy Impact Assessment is available which details the proposed process to ensure that applicants' privacy is maintained.</p> <p>By removing the offences from the records, this also opens up the opportunity for gay men to volunteer more as they will no longer be barred by having a criminal record. The removal also reduces the possibility of men having to 'out' themselves in employment situations.</p>
Age	None at present
Welfare of Children [UKBA ONLY]	None at present
Socio-economic	Removal of these offences from the records will allow individuals to legally say that they have no criminal record, if that was their only recorded offence, which will enable them to apply for employment and voluntary work without fearing disclosure of that disregarded record or their sexual orientation.
Human Rights	This policy will correct a legal position which was inherently discriminatory against homosexual men who engaged in consensual sex with an individual aged 16 or over. By allowing for complete deletion of the records it will remove the stigma attached to an individual who has a criminal record as the fact of the conviction (or caution) will not have to be disclosed under any circumstances. It will also comply with Article 8 of the ECHR.

2.2 What are the overall trends/patterns in this data?

- Full analysis of the data available from the PNC is not possible without examining each record individually.
- This is unachievable given the numbers involved, over 50k, and the resources that would be required to do this.
- Barriers to deletion will be overcome by allowing individuals to make their own choice about whether to apply to have the records deleted.
- This has the benefit that it allows an individual freedom about what to do and also ensures that the offence and their sexuality are not revealed (which it could be if Government were to initiate the removal process by attempting to contact individuals named on the PNC).

2.3 Please list the specific equality issues and data gaps that may need to be addressed through consultation and/or further research?

For example, you may need to ensure qualitative data groups include stakeholders with respect to this policy/guidance/activity.

NB. Include any recommendations in your action plan.

- The proposals will cover offences dealt with under corresponding pre-1956 offences (under the Criminal Law Amendment Act 1861) and corresponding offences under Military service law.
- These provisions also cover persons with a conviction for the inchoate offences of attempting, conspiring or inciting to commit an offence of buggery or gross indecency; or aiding, abetting, counselling or procuring the commission of an offence of buggery or gross indecency.

3 INVOLVING AND CONSULTING STAKEHOLDERS

In this section, describe the data you have gathered through stakeholder involvement and engagement.

3.1 Internal consultation and Involvement: e.g. with Other Government Departments, Staff (including support groups), Agencies & NDPBs

- This work is being taken forward by the Home Office (policy lead), the GEO and the Ministry of Justice.
- The Association of Chief Police Officers (ACPO) has been, and continues to be, consulted about process and numbers issues.

3.2 External consultation and involvement: strand specific organisations e.g. charities, local community groups, third sector

- Engagement with Third Sector groups has been actively sought and such engagement will continue throughout the development of these proposals, and in particular around developing the application process.
- Third Sector groups were supportive of the proposals and the application process.
- Third Sector groups recognised the benefits the proposal would bring to these individuals who would no longer have the stigma of a conviction attached to them.
- One concern identified was that this proposal was limited to a specific range of offences and did not cover other offences which have been repealed. However the Coalition commitment was specific and this proposal will deliver that commitment.

4 ASSESSING IMPACT

In this section please record your assessment and analysis of the evidence. This is a key element of the EIA process as it explains how you reached your conclusions, decided on priorities, identified actions and any necessary mitigation.

4.1 Assessment of the impact

- The impact of the proposal will be beneficial to those affected by it as they will be able to have their record deleted.
- No adverse consequences have been identified which will impact on others.
- The proposal rights an inherently discriminatory piece of legislation and will comply with the ECHR.

Now complete the report and Action Plan.

Action Plan not yet done

5 REPORT, ACTION PLANNING AND SIGN OFF (see Module 9)

5.1 EIA Report

The EIA Report is a concise summary of the results of the full EIA. A template is provided at Annex A.

5.2 Sign-off

Now submit your EIA and related evidence for clearance

Date of completion of EIA	21 December 2010
Compiled by	Kevin Walsh
SCS sign-off	John O'Brien 
<i>I have read the Equality Impact Assessment and I am satisfied that all available evidence has been accurately assessed for its impact on equality strands. Mitigations, where appropriate, have been identified and actioned accordingly.</i>	
Date of publication of EIA Report	11 February 2011
Review date	

5.2 Publication and Review (see Module 10)

Ensure that the EIA Report including the Action Plan are published alongside your policy/guidance/operational activity.

IMPORTANT - Review, revise and update annually