

9. Appendix - Equality Impact Assessment (EQIA)

Equality Impact Assessment (EQIA) Template

EQIAs make services better for everyone and support value for money by getting services right first time.

EQIAs enable us to consider all the information about a service, policy or strategy from an equalities perspective and then action plan to get the best outcomes for staff and service-users¹. They analyse how all our work as a Government might impact differently on different groups². They help us make good decisions **by considering and using robust evidence to inform decisions** instead of making decisions based on assumptions.³

Before proceeding with an EQIA, you should have undertaken an equality screening using the Equality Screening Template. If the outcome of this demonstrates a negative impact on protected groups, only then should you proceed with an EQIA⁴

Guidance notes are provided throughout by hovering your cursor over the footnote (eg: Age¹³)

It is also advisable to carry out EQIAs in a group to ensure that the assessment of the policy is not subjective.

For further information please send your query to equality@gov.im

Equality Impact Assessment (EQIA)	
Title of EQIA⁵	Payment of National Insurance Contributions by persons who have reached State Pension Age
Department/Office/Statutory Board⁶	Treasury
Division (if applicable)	Income Tax Division
Focus of EQIA⁷	<p>An employed/self-employed individual who reaches State Pension Age (SPA) is exempted from the liability to pay National Insurance Contributions (NICs). This has been the case since the introduction of NICs in 1948.</p> <p>From 1948 to 1989 “the Earnings Rule” was in place. This meant that where an individual who had reached SPA and had earnings above a certain limit the Basic State Pension was progressively reduced. The Earnings Rule was aimed at reducing the pensions bill on the basis that those working and with reasonable incomes did not need to claim the State Pension. However, the rule disincentivised individuals of SPA to work and in fact encouraged some to leave work to claim their State Pension. It also contributed to pensioner poverty by limiting the income of pensioners who may have been prepared to work in order to increase their income. The Earnings Rule was abolished in 1989.</p> <p>The result being that the age exception for NICs remains, without the balance of the Earnings Rule. Employer contributions are still paid without regard to SPA.</p> <p>The purpose of the current National Insurance Scheme has not changed since the introduction of the scheme in July 1948. National Insurance Contributions (NICs) are paid by employees, employers and the self-employed to</p>

help build entitlement to the State Pension and certain state benefits, such as Jobseekers Allowance and Incapacity Benefit.

When the scheme was first introduced, it coincided with the introduction of the NHS and it was envisaged that this new service would help those who were unable to work due to sickness get better. Part of the compulsory NICs were therefore allocated to this service to pay for this support.

NICs do not form part of the general revenue of the Government and can only be used to fund the contributory benefit scheme and provide a contribution to the costs of the NHS.

Considering the purpose of NICs, it may be considered unreasonable and unequitable that individuals above SPA pay NICs towards a State Pension and contributory benefits when they cannot accrue a greater State Pension or claim any of the contributory benefits.

It should be noted however that individuals above SPA tend to be major users of the NHS which part of NICs are allocated to.

On balance, it does not seem equitable that individuals who chose to remain in work pay NICs without receiving additional State Pension or access to contributory benefits.

In August 2015, the Treasury consulted on proposed changes to National Insurance for workers over State Pension Age. Overall, the responses to the proposal that both employed and self-employed workers over State Pension Age should be subject to National Insurance Contributions was not very positive.

After consideration of the many comments received against the proposal, the economic climate and the practice regarding neighbouring jurisdictions at the time, Treasury decided not to introduce immediate change to NICs for workers over state pension age.

Further analysis has been carried out and it is clear that a relatively small number of individuals who have reached State Pension Age and are employed/self-employed would be liable, if the exception were removed, to pay NICs.

Update on previous EQIA and outcomes of previous actions if applicable⁸

What actions did you plan last time? (List them from the previous EQIA)	What improved as a result? What outcomes have these actions achieved?	State briefly what further actions you need to take? (add these to the Action plan below)
N/A		

Review of information, equality analysis and potential actions

Protected characteristic Groups from the Equality Act 2017	What do you know ⁹ about your service users or staff? Summary of data about your service-users or staff	What do people tell you ¹⁰ ? Summary of consultation	What does this mean ¹¹ ? Impacts identified from data and/or consultation	What can you do ¹² ? All potential actions to: <ul style="list-style-type: none">• advance equality of opportunity,• eliminate discrimination, and• foster good relations
Age¹³	Small number of individuals who have reached State Pension Age and are employed/self-employed would be liable to pay NICs	Responses not positive to payment of NICs above SPA	<ul style="list-style-type: none"> • Poor relations with individuals above SPA • Possible increase in pension poverty as may encourage individuals to leave work 	Treasury has decided not to consult again on the payment of NICs by individuals over SPA

			<ul style="list-style-type: none"> • Possible impact on availability of workers for employers, particularly in key roles • Individuals paying NICs but not able to accrue additional State Pension or claim contributory benefits 	
Disability¹⁴	N/A	N/A	N/A	N/A
Gender reassignment¹⁵	N/A	N/A	N/A	N/A
Pregnancy and maternity¹⁶	N/A	N/A	N/A	N/A
Race/ethnicity¹⁷	N/A	N/A	N/A	N/A

Religion or belief¹⁸	N/A	N/A	N/A	N/A
Sex/Gender¹⁹	N/A	N/A	N/A	N/A
Sexual orientation²⁰	N/A	N/A	N/A	N/A
Marriage and civil partnership²¹	N/A	N/A	N/A	N/A
Human Rights ²²	N/A	N/A	N/A	N/A
Assessment of overall impacts and any further recommendations²³				

Treasury is not satisfied that it is equitable to bring forward the payment of NICs for employed/self-employed individuals who have reached SPA. It has been noted in the public consultation, due to be launched in July 2022, that NICs for those above SPA will not be taken forward at this time as it is not considered equitable.

Evidence of data and/or consultation that informed your EQIA

Title (of data, research or consultation – add link or appendices)	Date	Did you identify any gaps in data? State what action you will take²⁴
Internal National Insurance Report	February 2022	Detailed the small number of postings where an individual is over SPA, would be liable to pay NICs and the area in which they work.
Proposed changes to National Insurance for Workers over State Pension Age <ul style="list-style-type: none"> Consultation document Response document 	2015/16	EQIA not completed as prior to the Equality Act 2017

Action Plan²⁵			
Impact identified and group(s) affected	What will you do to reduce or eliminate negative impact?	Expected outcome	Timeframe
Age – working individuals who have reached SPA	Treasury has decided not to proceed with a proposal for payment of NICs by workers over SPA	Included in consultation but no proposal or question. Confirmation that at this time Treasury does not intend to bring forward payment of NICs by workers of SPA and above	Consultation to launch in July for 12 weeks
EQIA sign-off			
Person responsible for EQIA:		Audrey Christian – Deputy Assessor	
Email copy to Equality Team at equality@gov.im for record keeping			

Guidance end-notes

¹ The following principles, drawn from case law, explain what we must do to fulfil our duties under the Equality Act:

- **Knowledge:** everyone working for Government must be aware of our equality duties and apply them appropriately in their work.
- **Timeliness:** the duty applies at the time of considering policy options and/or before a final decision is taken – not afterwards.
- **Real Consideration:** the duty must be an integral and rigorous part of your decision-making and influence the process.
- **Sufficient Information:** you must assess what information you have and what is needed to give proper consideration.
- **No delegation of Public Sector Equality Duty:** Government is responsible for ensuring that any contracted services which provide services on our behalf can comply with the duty, are required in contracts to comply with it, and do comply in practice. It is a duty that cannot be delegated.
- **Review:** the Public Sector Equality Duty is a continuing duty. Ensure that there is a formal process of monitoring and review.
- **Proper Record Keeping:** to show that we have fulfilled our duties we must keep records of the process and the impacts identified. Retain copies of equality screening documents and EQIA and forward a copy to Equality@gov.im

NB: Filling out this EQIA in itself does not meet the requirements of the equality duty. All the requirements above must be fulfilled or the EQIA (and any decision based on it) may be open to challenge. Properly used, an EQIA can be a tool to help us comply with our equality duty and as a record to demonstrate that we have done so.

² Our duties under the Equality Act 2017

As a public sector organisation, we have a legal duty to show that we have identified and considered the impact and potential impact of our activities on all people with 'protected characteristics' (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership).

This applies to policy decisions. Policy is a broad term under the Act and includes policies, practices, services and decisions that affect both our service users and our employees. The level of detail will depend on what you are assessing, who it might affect, those groups' vulnerability, and how serious any potential negative impacts might be. We use this EQIA template to complete this process and evidence our consideration.

The following are the specific duties in the Act. You must give 'due regard' (pay conscious attention) to the need to:

- **Eliminate unlawful** discrimination, victimisation and harassment or other conduct prohibited under the Equality Act.
- **Promote equality of opportunity.** This means the need to:
 - Remove or minimise disadvantages suffered by different protected groups

- Take steps to meet the needs of different protected groups
- Encourage protected groups to participate in public life or any other activity where participation is disproportionately low
- Consider if there is a need to treat disabled people more favourably, as permitted by the Equality Act.
- **foster good relations between people who share a protected characteristic and those who do not.** This means:
 - Tackle prejudice
 - Promote understanding

³ EQIAs are always proportionate to:

- The size of the service or scope of the policy/strategy
- The resources involved
- The numbers of people affected
- The size of the likely impact
- The vulnerability of the people affected

The **greater** the potential adverse impact of the proposed policy on a protected group (e.g. disabled people), the more vulnerable the group in the context being considered, the more thorough and demanding the process required by the Act will be.

⁴ **When to complete an EQIA:**

- When planning or developing a new service, policy or strategy
- When reviewing an existing service, policy or strategy
- When ending or substantially changing a service, policy or strategy
- When there is an important change in the service, policy or strategy, or in the city (eg: a change in population), or at a national level (eg: a change of legislation)

Assessment of equality impact can be evidenced as part of the process of reviewing or needs assessment or strategy development or consultation or planning. It does not have to be on this template, but must be documented. Wherever possible, build the EQIA into your usual planning/review processes.

Do you need to complete an EQIA? Consider:

- Is the policy likely to be relevant to any people because of their protected characteristics?
- How many people is it likely to affect?

- How significant are its impacts?
- Does it relate to an area where there are known inequalities?
- How vulnerable are the people (potentially) affected?

If there are potential limited adverse impacts on people but you decide not to complete an EQIA it is usually sensible to document why.

⁵ **Title of EQIA:** This should clearly explain what policy you are assessing

⁶ **Department/Office/Statutory Board:** Area responsible for the policy being assessed

⁷ **Focus of EQIA:** A member of the public should have a good understanding of the policy and any proposals after reading this section. Please use plain English and write any acronyms in full first time - eg: 'Equality Impact Assessment (EQIA)'

This section should explain what you are assessing:

- What are the main aims or purpose of the policy?
- Who implements, carries out or delivers the policy? Please state where this is more than one person/team/body and where other organisations deliver under procurement or partnership arrangements.
- How does it fit with other services?
- Who is affected by the policy? Who are the external and internal service-users, groups, or communities?
- What outcomes do you want to achieve, why and for whom? (Eg: what do you want to provide, what changes or improvements, and what should the benefits be?)
- What do existing or previous inspections of the policy tell you?
- What is the reason for the proposal or change (financial, service, legal etc)? The Act requires us to make this clear.

⁸ **Previous actions:** If there is no previous EQIA or this assessment is of a new policy, then simply write 'not applicable'.

⁹ **Data:** Make sure you have enough data to inform your EQIA.

- What data relevant to the impact on protected groups of the policy is available? (Check Sharepoint Equality database in addition to your own sources)
- What further evidence is needed and how can you get it? (Eg: further research or engagement with the affected groups).
- What do you already know about needs, access and outcomes? Focus on each of the protected characteristics in turn. Eg: who uses the service? Who doesn't and why? Are there differences in outcomes? Why?

- Have there been any important demographic changes or trends locally? What might they mean for the policy?
- Does data/monitoring show that any policies create particular problems or difficulties for any groups?
- Is the service having a positive or negative effect on particular people in the community, or particular groups or communities?
- Use local sources of data or national ones where they are relevant. Look to the United Kingdom for data where local data gaps exist but consider developing local data.

¹⁰ **Consultation:** You must engage appropriately with those likely to be affected to fulfil the equality duty.

- What do people tell you about the policy?
- Are there patterns or differences in what people from different groups tell you?
- What information or data will you need from communities?
- How should people be consulted? Consider:
 - (i) Meetings with groups/external organisations/individual who represent the negatively impacted characteristic
 - (ii) Focus Groups
 - (iii) Workshops
 - (iv) Survey questionnaires (ensure different formats available – paper; accessible docs; online)
 - (v) Web based discussion group
- Make sure you:
 - (a) consult when proposals are still at a formative stage;
 - (b) explain what is proposed and why, to allow intelligent consideration and response;
 - (c) allow enough time for consultation;
 - (d) make sure what people tell you is properly considered in the final decision.
- Try to consult in ways that ensure all perspectives can be considered, where proportionate.
- Identify any gaps in who has been consulted and identify ways to address this.

¹¹ Your EQIA must address any actual and potential impacts.

- The equality duty does not stop decisions or changes, but means we must conscientiously and deliberately confront the anticipated impacts on people.
- Be realistic: don't exaggerate speculative risks and negative impacts.

- Be detailed and specific so decision-makers have a concrete sense of potential effects. Instead of “the policy is likely to disadvantage older women”, say how many or what percentage are likely to be affected, how, and to what extent.
- Questions to ask when assessing impacts depend on the context. Examples:
 - Are one or more protected groups affected differently and/or disadvantaged? How, and to what extent?
 - Is there evidence of higher/lower uptake among different groups? Which, and to what extent?
 - If there are likely to be different impacts on different groups, is that consistent with the overall objective?
 - If there is negative differential impact, how can you minimise that while taking into account your overall aims
 - Do the effects amount to unlawful discrimination? If so the plan must be modified.
 - Does the proposal advance equality of opportunity and/or foster good relations? If not, could it?

¹² Consider all three aims of the Act: removing barriers, and also identifying positive actions we can take.

- Where you have identified impacts you must state what actions will be taken to remove, reduce or avoid any negative impacts and maximise any positive impacts or advance equality of opportunity.
- Be specific and detailed and explain how far these actions are expected to improve the negative impacts.
- If mitigating measures are contemplated, explain clearly what the measures are, and the extent to which they can be expected to reduce / remove the adverse effects identified.
- An EQIA which has attempted to airbrush the facts or carry out a tick box exercise is an EQIA that is **vulnerable to legal challenge and carries both financial and reputational risks to the Government.**

¹³ **Age:** People of all ages

¹⁴ **Disability:** A person is disabled if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. The definition includes: sensory impairments, impairments with fluctuating or recurring effects, progressive, organ specific, developmental, learning difficulties, mental health conditions and mental illnesses, produced by injury to the body or brain. Persons with cancer, multiple sclerosis or HIV infection are all now deemed to be disabled persons from the point of diagnosis.

¹⁵ **Gender Reassignment:** In the Act a transgender person is someone who proposes to, starts or has completed a process to change his or her gender. A person does not need to be under medical supervision to be protected.

¹⁶ **Pregnancy and Maternity:** Protection is during pregnancy and any statutory maternity leave to which the woman is entitled.

¹⁷ **Race/Ethnicity:** This includes ethnic or national origins, colour or nationality, and includes refugees and migrants, and Gypsies and Travellers. Refugees and migrants means people whose intention is to stay in the UK for at least twelve months (excluding visitors, short term students or tourists). This definition includes asylum seekers; voluntary and involuntary migrants; people who are undocumented; and the children of migrants, even if they were born in the UK.

¹⁸ **Religion and Belief:** Religion includes any religion with a clear structure and belief system. Belief means any religious or philosophical belief. The Act also covers lack of religion or belief.

¹⁹ **Sex:** Both men and women are covered under the Act.

²⁰ **Sexual Orientation:** The Act protects bisexual, gay, heterosexual and lesbian people

²¹ **Marriage and Civil Partnership:** Only in relation to due regard to the need to eliminate discrimination.

²² **Human Rights:** All staff should be aware of their obligations under the Human Rights Act (2001) and incorporated into law in the European Convention on Human Rights. Section Six of the Human Rights Act makes it unlawful for a public authority to act in a way which is incompatible with a Convention right. The underlying intention of the Act is to create a Human Rights culture in public services. Questions relating to the human rights implications of public sector policies and procedures include:

- will it affect the right to life of an individual?
- will someone be deprived of their liberty or have their security threatened?
- could this result in a person being treated in a degrading or inhuman manner?
- could this result in a person not having a fair, independent and impartial hearing?
- is there a possibility a person will be prevented from exercising their beliefs?
- will private and family life be interfered with?

If the answer is yes to any of these questions, the activity should be reviewed to avoid impacting upon Human Rights.

²³ **Assessment of overall impacts and any further recommendations**

- Make a frank and realistic assessment of the overall extent to which the negative impacts can be reduced or avoided by the mitigating measures. Explain what positive impacts will result from the actions and how you can make the most of these.
- Countervailing considerations: These may include the reasons behind the formulation of the policy, the benefits it is expected to deliver, budget reductions, the need to avert a graver crisis by introducing a policy now and not later, and so on. The weight of these factors in favour of implementing the policy must then be measured against the weight of any evidence as to the potential negative equality impacts of the policy.

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- Are there any further recommendations? Is further engagement needed? Is more research or monitoring needed? Does there need to be a change in the proposal itself?

²⁴ If you identify a data gap, you can continue with your policy whilst you gather additional data. Once the data is received you should revisit the policy to see if adjustments are required

²⁵ **Action Planning:** The Equality Duty is an ongoing duty: policies must be kept under review, continuing to give 'due regard' to the duty. If an assessment of a broad proposal leads to more specific proposals, then further equality assessment and consultation are needed.