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Northern Ireland Court Service
Consultation Document
Proposal to allow the Public Prosecution Service
to issue summonses

March 2010

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The report will be made available in a wide range of alternative formats. Requests for alternative formats should be made to the Communications Group.

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Contents	Page
Introduction	3
Current arrangements and drivers for change	4
The proposal	8
Questions to consider	12
How to respond	12
Annex A - Consultation criteria	13
Annex B – Equality impact screening outcome	14
Annex C – List of consultees	31

1. Introduction

- 1.1 This consultation paper proposes a change to the way in which some proceedings in the magistrates' courts in Northern Ireland are begun. The reform is intended to modernise and simplify the procedure, in order to help address avoidable delay in the criminal justice system.
- 1.2 This paper follows on from the discussion paper published by the Northern Ireland Court Service¹ in May 2009, which set out proposals to increase the use of postal service for summonses in criminal offences in the magistrates' courts.
- 1.3 The paper proposes that the Public Prosecution Service for Northern Ireland ("PPS") should be able to commence criminal proceedings in the magistrates' courts by issuing a summons on their own authority i.e. without first having to seek permission from a Lay Magistrate. Primary legislation will be required in order to give effect to this proposal.
- 1.4 The consultation criteria being used in this consultation are set out in **Annex A** to this document. This consultation is being conducted for a period of 8 weeks (and not the standard 12 week period).
- 1.5 This is to help facilitate possible early decisions after devolution by a new Justice Minister whether or not to include provision giving effect to the proposal in any early Assembly justice legislation.
- 1.6 We consider an eight-week period provides sufficient time to allow for proper consideration by consultees, given that the consultation relates to a single proposal. We will also be meeting key stakeholders, including the Northern Ireland Human Rights Commission, the Law Society and the Bar Council to discuss the proposal. In addition, if any consultees would like to meet with officials during the consultation to

¹ "Proposal to increase the use of postal service for summonses in criminal proceedings in the magistrates' courts"; Northern Ireland Court Service, available at www.courtsni.gov.uk

discuss the proposal and offer views in ways other than by written submission, please do let us know.

- 1.7 The consultation paper also includes the results of the equality screening exercise (required under s.75 of the Northern Ireland Act 1998) which has been carried out on the proposal. This is at **Annex B**. We would also be grateful for comments on this.
- 1.8 It was not considered necessary to carry out any additional impact assessments as the policy will not lead to costs or savings for business or third sector organisations or to public sector bodies above the current threshold of £5m.
- 1.9 A list of the individuals and organisations that this consultation paper has been sent to is at **Annex C**. However, this list is not meant to be exhaustive or exclusive and responses are welcomed from anyone with an interest in, or views on, the topics contained in this paper.

2. Current arrangements and drivers for change

Current arrangements

- 2.1 At present, there are three ways in which a defendant can be compelled to attend court in criminal proceedings. Firstly, they may be arrested and charged with an offence by the police and required to appear at a magistrates' court (either in custody or on police bail) to answer the charges against them. Secondly, a defendant may be detained on foot of an arrest warrant issued by a Lay Magistrate and brought to court.
- 2.2 Please note, this consultation does **not** propose any changes to the current arrangements for charging a defendant or for the issue of arrest warrants.

- 2.3 The third way in which a defendant may be compelled to attend court in criminal proceedings is by being summoned to appear at a magistrates' court to answer a 'complaint' made against them by a prosecutor (in most cases from the Public Prosecution Service for Northern Ireland).
- 2.4 Currently, under the Magistrates' Courts (Northern Ireland) Order 1981, where a complaint has been made to a Lay Magistrate that a person has, or is suspected of having committed a summary offence, the Lay Magistrate may issue a summons requiring the accused to appear to answer the complaint. Where the complaint alleges that a person has, or is suspected of committing an indictable offence into which a magistrates' court has jurisdiction to conduct a preliminary investigation or a preliminary inquiry, the Lay Magistrate may either issue a summons or an arrest warrant.² (A Clerk of Petty Sessions may also issue summonses in more limited circumstances³ without needing to have a Lay Magistrate's permission to do so. This is, however, rarely exercised.)
- 2.5 In the relatively recent case of DPP v. Long, Long and Johnston⁴ (2008), the Northern Ireland Court of Appeal outlined the factors that have to be considered when deciding whether or not a summons should be issued following the making of a complaint. The Court said that the person to whom the complaint is made must be satisfied that the complaint has been properly made within the relevant time limit and that it is appropriate that the summons should be issued. In deciding whether it is appropriate to issue the summons, consideration must be given to whether or not the complaint alleges an offence known to law and that the relevant law is in force.

² Article 20 of the Magistrates' Courts (NI) Order 1981.

³ Under Article 21 of the Magistrates' Courts (NI) Order 1981 a Clerk of Petty Sessions may exercise the functions of a Lay Magistrate relating to the making of complaints (other than complaints on oath) or relating to the issue of a summons.

⁴ [2008] NICA 15

- 2.6 In practice, bundles of summonses are brought, by arrangement, to a local courthouse by PPS staff every few days. The frequency of such visits varies, from daily visits in Belfast, to, in general, weekly visits elsewhere. The summonses are placed before a Lay Magistrate and he or she considers the complaint and signs the summons. If the Lay Magistrate has any queries about a summons he or she will raise them with the member of the PPS present and it is usual for the query to be resolved at that point.
- 2.7 Once the summons is signed by the Lay Magistrate, it is returned to the PPS. It is then posted to the accused by the PPS or (in certain circumstances) served on the defendant in person by the police. If the summons is returned un-served to the court (or if it is not possible to serve the summons on the accused in time for the hearing date) it is given a new hearing date. It must then be re-dated and taken back to a Lay Magistrate to be re-issued.
- 2.8 It is established law that the validity of proceedings brought by way of summons depends upon the complaint made by the prosecutor and not on the summons itself (which has been described by the Divisional Court in England and Wales⁵ as “merely a convenient way of bringing a defendant before the court”).
- 2.9 The House of Lords has ruled that a complaint is considered to have been laid (in other words “made”) when it is received at the magistrates’ court office by a member of staff authorised to receive it⁶. The Divisional Court in Northern Ireland has agreed with this view indicating that once the complaint is received by the court office, no more is required of the prosecutor to initiate the intended criminal proceedings⁷.

⁵ R v. Brentford Justices, ex parte Catlin [1975] QB 455

⁶ R. v. Manchester Stipendiary Magistrate, ex parte Hill, R. v Dartford Justices, ex parte Dhesi and R. v. Edmonton Justices, ex parte Hughes [1983] 1 A.C. 328

⁷ Re McFarland’s Application [1987] NI 246

Drivers for change

- 2.10 In its report on “Avoidable Delay”⁸, the Criminal Justice Inspectorate of Northern Ireland (“CJINI”) considered the arrangements for the issue of a summons to a defendant. As well as recommending that greater use should be made of postal summonses⁹, CJINI examined the current arrangements whereby the PPS attend before a Lay Magistrate to have bundles of summonses signed and recommended that **“this issue should be reviewed and that alternative arrangements for the signing of summonses should be implemented. This should include the use of electronic signatures which are authorised by a PPS prosecutor.”**
- 2.11 Following the CJINI report, the inter-agency Delay Action Team (“DAT”) was established by the Criminal Justice Board¹⁰ to develop a joint strategy to address avoidable delay in the processing of criminal cases. DAT published this strategy in late 2006¹¹ and they accepted the CJINI recommendation that alternative arrangements for the signing of summonses in criminal cases should be introduced, noting that legislation should be introduced **“giving the prosecutor power to issue the summons on the strength of his or her signature so long as a complaint has been laid before the court.”**

⁸ <http://www.cjini.org/CJINI/files/ed/ed9d97d7-a15f-4fa5-90d1-3e3867124c21.pdf> (“Avoidable Delay” CJINI May 2006)

⁹ The proposal to increase the use of postal service for summonses in criminal proceedings in the magistrates’ courts was consulted upon in May 2009. As a result of favourable responses from consultees, amendments to the Magistrates’ Courts Rules (NI) 1984 came into operation on 30 September 2009 to allow greater use of postal summonses.

¹⁰ The Criminal Justice Board was formed in May 1998 and has responsibility for developing a strategy for the criminal justice system and ensuring that it works co-operatively and in a co-ordinated way. The Board meets approximately every two months and is chaired by the Director of Criminal Justice at the Northern Ireland Office. Its membership comprises the Heads (or, in the case of the PSNI, senior representatives) of the main criminal justice agencies: Northern Ireland Court Service, Northern Ireland Prison Service, Police Service of Northern Ireland, Probation Board for Northern Ireland, Public Prosecution Service and the Youth Justice Agency. A representative of the Attorney General’s Office also attends meetings.

¹¹ http://www.nio.gov.uk/a_strategy_and_action_plan_to_reduce_avoidable_delay_in_the_northern_ireland_criminal_justice_system.pdf

3. The proposal

- 3.1 It is proposed that a PPS prosecutor should be able to commence criminal proceedings in the magistrates' courts by issuing a summons to a defendant on his or her own authority i.e. without first having to seek permission from a Lay Magistrate.
- 3.2 The aim of this proposal is to speed up the process in summons cases, by streamlining procedures and so help to address avoidable delay. It is estimated that the proposal would save PPS around £10k in expenses per year and bring a resource saving in terms of administrative staff no longer having to visit courthouses to have summonses signed.
- 3.3 The PPS prosecutor will sign, date and issue a summons directly to the defendant setting out the nature of the complaint against him or her and requiring the defendant to attend court on a specified day. At the same time, the prosecutor will send an electronic copy of the summons to the court through Causeway¹². Once received by the court office, this will constitute the point at which the complaint is laid before the court, and at which proceedings are instigated. This proposal would require primary legislation. The prosecutor will also provide the court with a hard copy of the signed and dated summons and (any supporting documentation) in advance of the hearing date. In time, it should be possible for the supporting documentation to be sent to the court electronically through Causeway.
- 3.4 Consultees might have a concern that in removing the Lay Magistrate from the process, an element of scrutiny would be lost and that the proposed new arrangements would be less robust than they are at present. It is important to note, however, that there are a number of safeguards already in place in relation to the exercise of a prosecutor's power to initiate criminal proceedings in Northern Ireland.

¹² Causeway is a joint enterprise by the criminal justice organisations which aims to enhance performance by sharing information electronically.

- 3.5 Although a Lay Magistrate is exercising a judicial function when he or she decides whether or not to issue a summons, it should be noted that where a prosecutor decides to make a complaint and initiate proceedings, the prosecutor will already have considered the same range of factors that the Court of Appeal indicated should be considered before a summons is issued.
- 3.6 Under its Code for Prosecutors, a PPS prosecutor will only initiate a prosecution where he or she is satisfied that the Test for Prosecution is met.¹³ The Test for Prosecution is met only if the evidence which can be adduced in court is sufficient to provide a reasonable prospect of conviction (known as the “evidential test”) and prosecution is required in the public interest (the “public interest test”). Each aspect of the test must be separately considered and passed before a decision to prosecute can be taken. The Evidential Test must be passed before the Public Interest Test is considered. The Public Prosecutor must analyse and evaluate all of the evidence and information submitted in a thorough and critical manner.
- 3.7 In applying the Test for Prosecution, the Public Prosecutor must also adhere to various obligations set out in the Code of Ethics of the Prosecution Service for Northern Ireland (see Section 7 of the Code for Prosecutors.)
- 3.8 The complaint (and the evidence relating to it) will therefore have been the subject of a rigorous assessment by a qualified prosecutor and will have satisfied a test that is more stringent than that which is required for the issue of a summons.
- 3.9 In addition, the PPS computer system and its interface with Causeway would provide a record of the details of the complaint and a record of

¹³ <http://www.ppsni.gov.uk/default.aspx?CATID=77> - “Code for Prosecutors”, Public Prosecution Service Northern Ireland.

when the complaint was transmitted to the court office (and therefore made) – constituting a record of when proceedings were commenced.

England and Wales

- 3.10 Consultees may be interested to note that the arrangements for the issue of a summons in England and Wales, at present, are broadly comparable to the current arrangements in Northern Ireland i.e. a summons can only be issued with the approval of a justice of the peace. Sections 29 and 30 of the Criminal Justice Act 2003 provide, however, for a new method of instigating proceedings in England and Wales which, when commenced, will allow a public prosecutor to initiate proceedings and require a defendant to attend court without first having to have approval from a justice of the peace to do so. Under these new arrangements, the prosecutor will send copies of the relevant documents to the defendant, and at the same time send copies to the court office – once these are received by the court, proceedings will have been instigated.

Private prosecutions

- 3.11 It is not proposed to introduce this change in relation to private prosecutions. These do not have to satisfy the same Prosecutorial Test that applies to prosecutions brought by the PPS, and, therefore, it is appropriate that they should continue to be considered by a Lay Magistrate who would decide whether or not a summons should be issued.

- 3.12 Please now consider the questions overleaf.

4. Questions to consider

4.1 We would welcome responses to the following questions –

Question 1: Do you agree that a PPS prosecutor should be able to commence proceedings without having to ask a Lay Magistrate to authorise the issue of a summons? Please explain your answer.

Yes No

Comments

Question 2: Do you agree that the safeguards outlined in the proposal are sufficient? Please explain your answer.

Yes No

Comments

5. How to Respond

- 5.1 The last date for responses to this consultation is **23 April 2010**.
- 5.2 When responding, please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make it clear who the organisation represents and, where applicable, how the views of members were assembled.
- 5.3 Consultation responses should be sent to:

E-mail: informationcentre@courtsni.gov.uk

Post: Paula Stevenson
Consultation Co-ordinator
Northern Ireland Court Service
Communications Group
Laganside House
23 – 27 Oxford Street
BELFAST
BT1 3LA

Telephone: 028 9041 2386

Textphone: 028 9041 2920

Fax: 028 9072 8942

- 5.4 This document is also available at www.courtsni.gov.uk

Additional Copies

- 5.5 You may make copies of this document without seeking permission. If you require further printed copies of the consultation document, we would invite you to access the document through our website www.courtsni.gov.uk and make the copies yourself. If you do not have access to the internet and require us to provide you with further copies, please contact the Consultation Co-ordinator with your specific request.
- 5.6 This document will also be made available in a wide range of alternative formats on request. Requests for alternative formats should be made to the Consultation Co-ordinator at the above address.

Confidentiality

- 5.7 Information provided in response to this consultation, including personal information, may be subject to publication or disclosure in accordance with the information access legislation (i.e the Freedom of Information Act 2000 [FOI] and the Data Protection Act 1998 [DPA]). If you want information that you provide to be treated as confidential, please be aware that under FOI, there is a statutory Code of Practice with which public authorities must comply, and which deals with, amongst other matters, obligations of confidence.
- 5.8 In light of this, it would be helpful if you would explain why you regard the information you are providing to be confidential. If we subsequently receive a request for disclosure of the information we will take your explanation into account – although we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system, or included as a general statement on documentation (for example on your fax coversheet) will not, of itself, be regarded as binding on the Court Service, and will be taken to apply, therefore, only to information in your response for which confidentiality has been requested.
- 5.9 The Court Service will process your personal data in accordance with the DPA and, in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.
- 5.10 If you have comments or complaints about the way this consultation has been conducted, these should be sent to the Consultation Co-ordinator at the above address.

Consultation criteria

The Cabinet Office Code of Practice on Consultation stipulates that the seven consultation criteria must be reproduced with any consultation document. The consultation criteria are:

1. **When to consult** – Formal consultations should take place at a stage where there is scope to influence the policy outcome.
2. **Duration of consultation exercises** – Consultations should normally last for at least 12 weeks with consideration given to longer timescales where feasible and sensible.
3. **Clarity of scope and impact** – Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence and the expected costs and benefits of the proposals.
4. **Accessibility of consultation exercises** – Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is intended to reach.
5. **The burden of consultation** – Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
6. **Responsiveness of consultation exercises** – Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
7. **Capacity to consult** – Officials running consultations should seek guidance in how to run an effective consultation exercise and share what they have learned from the experience.

Annex B

NIO POLICY EQUALITY SCREENING FORM

The Legal Background

Under section 75 of the Northern Ireland Act 1998, the Department is required to **have due regard to the need to promote equality of opportunity:**

- between person of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally;
- between persons with a disability and persons without; and,
- between persons with dependants and persons without¹.

Without prejudice to the obligations set out above, the Department is also required to:

- **have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group; and**
- **meet legislative obligations under the Disability Discrimination Order.**

The Task

In order to determine whether an EQIA is necessary, changes to existing policies, functions or duties and new or proposed policies should be screened for significant equality issues as they arise. This form is intended to assist with the screening of any policies for which you take the lead and to record the outcome in respect of each policy. It should also be used as a prompt when considering legislative proposals.

The screening procedure should lead to one of these conclusions:

- the policy being screened does not have a significant impact on equality of opportunity; or
- the policy being screened has (or is likely to have) a significant impact on equality of opportunity. Policies falling into this category will need to be considered further and may require an Equality Impact Assessment.

¹A list of the main groups identified as being relevant to each of the section 75 categories is at Annex B(i) of the document.

Staff should complete a form for each of new or revised policy for which they are responsible (see page 4 for a definition of policy in respect of section 75).

If you have any questions regarding the screening exercise or S75 in general please contact your Divisional Equality Driver or the Equality staff in Central Management Unit (CMU) at the address given below. CMU would also be happy to arrange training for you or a group of staff from your division if you feel it relevant.

When you have completed the form please retain on file in the branch for record purposes, and send a copy to:-

The Equality Unit

CMU

Room 14

Stormont House Annex

Stormont,

BT4 3SH

028 9052 7062

or e-mail to Leanne.Mills@nio.x.gsi.gov.uk for information.

Further information on equality, including a copy of the NIO Equality Scheme, yearly progress reports on equality to the Equality Commission for Northern Ireland, information on data sources and the Cabinet Office code of practice on consultation may be found on the NIO Intranet under About the NIO/Diversity and Equality.

FORM CONTENTS

		Page No
Part I	Scoping the Policy	4
Part II	Screening Analysis	6
Part III	Obligations under the Disability Discrimination Order	12
Part IV	Equality Impact Assessment Recommendation	13
Annex A	Main groups identified as relevant to the Section 75 categories	15

PART I

1. SCOPING THE POLICY

Definition of Policy

There have been some difficulties in defining what constitutes a policy in the context of Section 75. To be on the safe side it is recommended that you consider any new initiatives, proposals, schemes or programmes as policies or changes to those already in existence. It is important to remember that even if a full EQIA has been carried out in an “overarching” policy or strategy, it will still be necessary for the policy maker to consider if a further EQIA needs to be carried out in respect of those policies cascading from the overarching strategy.

Overview of Policy Proposals

The aims and objectives of the policy must be clear and terms of reference well defined. You must take into account any available data that will enable you to come to a decision on whether or not a policy may or may not have a differential impact on any of the S75 categories.

1. Title of policy

PPS prosecutorial power to commence proceedings in the magistrates’ courts without recourse to a Lay Magistrate.

2. Brief description of policy. Do any other policies interact with this policy?

The Public Prosecution Service (“PPS”) have requested that provision be taken to allow them to instigate proceedings by issuing a summons without recourse to a LM. This would enable a PPS prosecutor to commence proceedings unilaterally without first having to attend before a LM to lay a complaint. Notification of the requirement to attend court will be communicated to the defendant by the prosecution. At the same time as documents are issued to the defendant, copies will be issued to the court – and proceedings will be instigated.

Currently in Northern Ireland, Article 20(1) of the Magistrates’ Courts (Northern Ireland) Order 1981 (“the 1981 Order”) provides that where a complaint has been made to a Lay Magistrate (“LM”) that a person has, or is suspected of having committed a summary offence, the LM may issue a summons requiring the accused to appear to answer the complaint.

The policy interacts broadly with the PPS Code for Prosecutors.

3. Aims of policy

The aim of the policy is to allow a PPS prosecutor to initiate proceedings in the magistrates' courts by issuing a summons to a defendant – without first having to attend before a Lay Magistrate to lay a complaint. PPS have argued that this policy would speed up the front end process for non-charge cases, streamline procedures and help address avoidable delay in the criminal justice system.

This proposal has been endorsed by the Criminal Justice Board at Ministerial level by the Criminal Justice Strategy and Delivery Group.

*It is essential that **all** the aims of the policy be clearly and fully defined.*

PART I

4. Who is responsible for devising and delivering the policy?

Principally, the Public Prosecution Service for Northern Ireland are responsible for devising and will be responsible for delivering the out-workings of the policy.

The Northern Ireland Court Service will be responsible for the preparation of instructions to Counsel to give legislative effect to the proposal.

5. Are there any linkages to NI Departments or NDPBs in relation to this policy/legislation? How are these interfaces managed?

The policy creates links between the Public Prosecution Service, who are responsible for taking decisions on whether to prosecute people for committing criminal offences and is also responsible for prosecuting the case at court, the Police Service of Northern Ireland (who are responsible for the detection and investigation of alleged offences) and the Northern Ireland Court Service which is responsible for the administration of the courts.

These interfaces are managed through legislation, ongoing liaison and professional protocols between the organisations

6. Who is the policy/legislation likely to impact upon? What data is available to facilitate the screening exercise?

The policy will impact upon persons who are reported for prosecution by the police and subsequently summoned to appear at court, who can be classified as criminal defendants, about whom data are available from the Northern Ireland Court Service Customer Exit Survey 2007.

The following comparator data in respect of the general population has been used:

NISRA, NINIS data catalogue for Northern Ireland Census 2001. Available at <http://www.ninis.nisra.gov.uk/mapxtreme/DataCatalogue.asp?button=Census> and <http://www.ninis.nisra.gov.uk/mapxtreme/viewdata/Census/CensusKS08.xls>.

NISRA, Mid-Year Estimates 2008. Available at <http://www.nisra.gov.uk/demography/default.asp17.htm>

7. Who will implement the policy?

The policy will be implemented by the Public Prosecution Service.

PART II

2. SCREENING ANALYSIS

Answering the Four Screening Questions

The following four questions ask for evidence in relation to the Section 75 dimensions. You should not think of the “don’t know” column in the form as the easy option to respond to any of the questions. In cases where you don’t know and you don’t have data, you will need to make a judgement based on experience as to whether the policy you are screening is likely to have an impact on any of the nine dimensions. If your judgement is that the policy may have a differential adverse impact in relation to any of the Section 75 dimensions (i.e. it affects some groups differently and less favourably than other groups), you should seek to obtain evidence. You should note that evidence can be qualitative – i.e. drawn from the experience of individuals from their perspective – as well as quantitative. Staff must give consideration to steps that they could reasonably be expected to take to obtain evidence and thereby inform their decision-making. Such steps could include meeting with a representative group or selective consultation.

Where there is little or no evidence, and common sense indicates that the impact of your policy may be different for different groups of people, you should discuss this with staff from the Equality Unit 028 9052 7062.

The Northern Ireland Statistics and Research Agency web-site gives details of data sets (<http://www.nisra.gov.uk>) and information on other sources of data may be found on the NIO Intranet under About the NIO/Diversity and Equality.

PART II

1 Is there any evidence or indication of higher or lower participation or uptake by different groups? If so, please indicate below.

CATEGORY	YES	NO	DON'T KNOW
Gender/Gender Identity	X		
Sexual orientation		X	
Religion	X		
Political opinion		X	
Disability (physical and learning)	X		
Race or ethnic origin (includes Travellers)	X		
Age	X		
Dependant responsibilities	X		
Marital/Civil Partnership status	X		

Please give reasons for your answer, including sources of data used.

Persons who are reported for prosecution by the police and subsequently summoned to appear at court can be classified as criminal defendants.

Data from the NICtS customer exit survey 2007 indicate that criminal defendants are:

Gender

- disproportionately male (87% of defendants, cf. 48% of adult population [NISRA, Mid-Year Estimates 2008 (Adults defined for the purposes of this comparison as those aged 16 and over)])

Marital status

- disproportionately single (67% of defendants, cf. 33% of adult population [Northern Ireland Census 2001, Table KS04])
- slightly more likely (though not significantly) to be separated (7% of defendants, cf. 4% of adult population [Northern Ireland Census 2001, Table KS04])
- slightly more likely (though not significantly) to be divorced (7% of defendants, cf. 4% of adult population [Northern Ireland Census 2001, Table KS04])

Age

- disproportionately young (64% of defendants were aged 16-34, cf. 34% of the adult population [NISRA, Mid-Year Estimates 2008 (Adult population defined for the purposes of this comparison as those aged 16 and over)])

Dependency

- slightly less likely (though not significantly) to have a child as a dependant as the general population (41% of defendants, cf. 36% of all households [Northern

- slightly less likely to have a sick, disabled or elderly relative as a dependant (6%) than the adult population generally is to provide unpaid care (11% [Northern Ireland Census 2001, Table KS08 (Note that the provision of unpaid care need not necessarily be to a dependant)])

Disability

- less likely to have a disability (14% of defendants, cf. 20% of all persons [Northern Ireland Census 2001, Table KS08])

Ethnic origin

- disproportionately members of an ethnic minority (2.8% of defendants, cf. 0.8% of the total population [Northern Ireland Census 2001, Table KS06])

Religion

- less likely to have a Protestant community background than the general population (42% of defendants stated a Protestant denomination as their religion, cf. 53% of the total population having a Protestant community background [Northern Ireland Census 2001, Table KS07b])

Therefore, those groups more likely to be negatively affected by this policy are:

- men;
- single people;
- young people;
- people without disability; and
- people from ethnic minorities.

NB:

- There were 1,883 respondents to the survey.
- The survey did not distinguish *convicted* criminal defendants from other defendants.
- It was not deemed appropriate to ask respondents to the exit survey their political opinion or sexual orientation and therefore there are no data available in relation to political opinion or sexual orientation

2. Is there any evidence or indication that different groups have different needs, experiences, issues or priorities in relation to the particular policy?

CATEGORY	YES	NO	DON'T KNOW
Gender/Gender Identity		x	
Sexual orientation		x	
Religion		x	
Political opinion		x	
Disability (physical and learning)		x	
Race or ethnic origin (includes Travellers)		x	
Age		x	
Dependant responsibilities		x	
Marital/Civil Partnership status		x	

Please give reasons for your answer, including sources of data used:

The Northern Ireland Court Service is unaware that any particular section 75 categories have any different needs, experiences, issues or priorities in relation to the commencement of criminal proceedings by the PPS.

Any additional comments:

PART II

3 Is there an opportunity to better promote equality of x opportunity or better community relations by altering the policy or working with others in Government or in the larger community?

CATEGORY	YES	NO	DON'T KNOW
Gender/Gender Identity		x	
Sexual orientation		x	
Religion		x	
Political opinion		x	
Disability (physical and learning)		x	
Race or ethnic origin (includes Travellers)		x	
Age		x	
Dependant responsibilities		x	
Marital/Civil Partnership status		x	

Please give reasons for your answer, including sources of data used:

We cannot identify any opportunities to better promote equality of opportunity or better community relations, but the consultation on this screening exercise now provides an opportunity for consultees to identify any such opportunities.

PART II

4 Equality Commission guidance states that the screening process should include pre-consultation with those who may be affected by the policy. Have consultations with relevant groups, organisations or individuals indicated that the policy may create problems, which are specific to them?

CATEGORY	YES	NO	DON'T KNOW
Gender/Gender Identity		x	
Sexual orientation		x	
Religion		x	
Political opinion		x	
Disability (physical and learning)		x	
Race or ethnic origin (includes Travellers)		x	
Age		x	
Dependant responsibilities		x	
Marital/Civil Partnership status		x	

Please give reasons for your answer, and details of any consultations that have taken place:

Consultation has not taken place to date, but is planned. Any issues emerging from consultation will be used to refine the policy where appropriate.

Have you answered YES?

If the answer to **any** of the questions in respect of any of the categories is “**YES**”, then you – in discussion with the Equality Unit – will need to consider whether the policy has a significant impact on equality of opportunity and, therefore, should be subject to an equality impact assessment.

If the answer to **all** the questions in section 2 is **NO** an equality impact assessment is not required.

If the answer to any of the above questions is **DON'T KNOW**, and common sense and experience indicate that a differential impact may be expected, you will need to discuss this with the staff in the Equality Unit.

PART II

It may be that a policy has an adverse differential impact on certain people in one or more of the categories as a consequence of targeting or affirmative action to combat an existing or historical inequality. If this is the case, please give details below and contact the Equality Unit if you are in doubt:

n/a

PART III

OBLIGATIONS UNDER THE DISABILITY DISCRIMINATION ORDER

Under section 49A of the Disability Discrimination Act 1995, public authorities, when carrying out their functions must have due regard to the need to:

- **promote positive attitudes towards disabled people; and**
- **encourage participation by disabled people in public life.**

Questions 5 and 6 below relate to these two areas.

Consideration of Disability Duties

5. Does this proposed policy / decision provide an opportunity for NIO to better promote positive attitudes towards disabled people?

Explain your assessment in full

The policy will allow criminal proceedings to be commenced by the PPS. As such, there are no opportunities for better promoting positive attitudes towards disabled people.

6. Does this proposed policy / decision provide an opportunity for NIO to actively increase the participation by disabled people in public life?

Explain your assessment in full

As above, there are no opportunities for actively increasing the participation by disabled people in public life.

PART IV

EQUALITY IMPACT ASSESSMENT RECOMMENDATION

Equality impact assessment procedures are confined to those policies considered likely to have significant implications for equality of opportunity.

- 1 If screening has indicated that a policy is having an adverse differential impact, how would you categorise it?**

Please tick.

Significant impact	Low impact <input checked="" type="checkbox"/>
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- 2 Do you consider that this policy needs to be submitted to a full equality impact assessment?**

YES	NO
	X

If NO but the policy has significant impact, please give reasons for your recommendation:

3. What data do you believe may be required to ensure effective monitoring of the policy in the future?

The Court Service will continue to monitor court-users through its regular Customer Exit surveys.

Signed: Graham Walker

Grade: Deputy Principal

Branch/Division: Criminal Policy Division, Northern Ireland Court Service

Date: 8th January 2009

Agreed by Head of Division: Geraldine Fee

Copy to Divisional Equality Driver: Alan Cartwright

The Screening exercise is now complete.

Please forward a copy of this form to

The Equality Unit
CMU
Room 14
Stormont House Annexe
Stormont Estate
Belfast

Alternatively you may email a copy to Donna Knowles or Joanna Wilson in the Equality Unit. If you do have any difficulties in completing the form or any queries regarding equality please contact us on 028 9052 7062.

Thank you.

**MAIN GROUPS IDENTIFIED AS RELEVANT TO THE SECTION 75
CATEGORIES**

Category	Main Groups
Religious belief	Protestants; Catholics; people of other religious belief; people of no religious belief
Political opinion	Unionists generally; Nationalists generally; members/supporters of any political party
Racial group	White people; Chinese; Irish Travellers; Indians; Pakistanis; Bangladeshis; Black Africans; Afro Caribbean people; people of mixed ethnic group, other groups
Men and Women generally	Men (including boys); women (including girls); trans-gender and trans-sexual people
Marital/Civil Partnership status	Married people; unmarried people; divorced or separated people; widowed people; civil partnerships
Age	For most purposes, the main categories are: children under 18; people aged between 18 and 65. However the definition of age groups will need to be sensitive to the policy under consideration. For example, for some employment policies, children under 16 could be distinguished from people of working age
Persons with a disability and persons without	Persons with a physical, sensory or learning disability as defined in Schedules 1 and 2 of the Disability Discrimination Act 1995.
Persons with dependants and persons without	Persons with primary responsibility for the care of a child; persons with personal responsibility for the care of a person with a disability; persons with primary responsibility for a dependent elderly person.
Sexual orientation	Heterosexuals; bisexual people; gay men; lesbians

Action for Children Northern Ireland
Age Concern Northern Ireland
Age Sector Platform
Alliance Party
An Munia Tober - Traveller Support Group
Antrim and Ballymena Solicitors Association
Antrim Borough Council
Ards Borough Council
Armagh City and District Council
Armagh Solicitors Association
Armagh Traveller Support Group
Association of Baptist Churches in Ireland
Association of District Judges
Association of District Judges
Autism NI (PAPA) - Parents and Professionals and Autism
Ballymena Borough Council
Ballymoney Borough Council
Banbridge District Council
Bangor Solicitors Association
Bar Council
Bar Council
Bar Council
Barnados
Belfast Central Mission
Belfast Chamber of Trade
Belfast City Council
Belfast City Council Youth Forum
Belfast Health & Social Care Trust
Belfast Health & Social Care Trust
Belfast Solicitors Association
British Deaf Association (NI)
British-Irish Rights Watch
Business in the Community
Cara-Friend
Carers National Association NI
Carrickfergus Borough Council
Castlereagh Borough Council
Cedar Foundation
Centre for Young Men's Studies
Challenge for Youth
Chief Officers 3rd Sector
Child Care Northern Ireland
Child Poverty Action Group (NI)
Children's Law Centre
Chinese Welfare Association
Church of Ireland
Citizens Advice
Citizens Advice
Coalisland & Dungannon Solicitor's Association
Coalition on Sexual Orientation
Coleraine & Ballymoney Solicitor's Association
Coleraine Borough Council
Committee for Administration of Justice
Committee for Administration of Justice
Community Relations Council
Compensation Agency

Cookstown Borough Council
Cookstown Solicitor's Association
Council of Her Majesty's County Court Judges
Council of Her Majesty's County Court Judges
Craigavon Borough Council
Craigavon Travellers Support Committee
Criminal Justice Inspection Northern Ireland
Crown Solicitors Office
Da' - Young Fathers Project
Democratic Unionist Party
Department for Employment & Learning
Department for Social Development
Department of Agriculture & Rural Development (DARD)
Department of Culture, Arts & Leisure (DCAL)
Department of Education
Department of Enterprise, Trade & Investment
Department of Finance & Personnel
Department of Health, Social Services & Public Safety
Department of Regional Development
Department of the Environment
Departmental Solicitors Office
Derry City Council
Derry Well Woman
Directorate of Legal Services
Disability Action
Down District Council
Down District Solicitors Association
Downs Syndrome Association
Dungannon and South Tyrone Borough Council
Early Years - The Organisation for Young Children
Employers Forum on Disability
Equality Commission of Northern Ireland
Families Need Fathers (NI)
Family Planning Association NI
Fathers Legal Research
FDA Union
Federation of Small Businesses
Fermanagh District Council
Fermanagh Women's Network
Foyle Solicitors Association
Free Presbyterian Church
Gay and Lesbian Youth Northern Ireland
Gingerbread NI
Green Party
Guardian Ad Litem Agency
Help the Aged
High Court Judge
HM Revenue & Customs
Human Rights Commission
Include Youth
Indian Community Centre
Institute of Professional Legal Studies
Juvenile Justice Centres
Larne Borough Council
Latinoamerica Unida
Law Centre (Northern Ireland)
Law Society of NI
Law Society of NI

Lesbian Line Belfast
Liberty
Limavady Borough Council
Limavady Solicitors Association
Lisburn City Council
Lisburn Solicitors Association
Lord Chief Justice's Office
Lord Chief Justice's Office
Magherafelt Solicitors Association
Mandarin Speakers Association
Members of the Northern Ireland Assembly
Men to Men
Menaware
Mencap in NI
Mens Action Network
Mens Advisory Project
Methodist Church in Ireland
Mid-Ulster Women's Network
Mindwise
Ministry of Justice
Moyle District Council
Multi-Cultural Resource Centre
National Childrens Bureau NI
National Deaf Childrens Society
Nederlandse Vereniging in Noord Ierland
Newry & Banbridge Solicitors Association
Newry & Mourne Senior Citizens Consortium
Newry & Mourne Women
Newry and Mourne District Council
Newtownabbey Borough Council
Newtownabbey Senior Citizens Forum
Nexus Institute
NI Court Service Brokers - Cunningham Coates
NI Inter-faith Forum
NI Pakistani Cultural Association
NI Prison Service
NI Young Solicitor Association
NICEM
NIGRA (Northern Ireland Gay Rights Association)
NI-TECA
North Down Borough Council
North West Community Network
North West Forum of People with Disabilities
Northern Health & Social Care Trust
Northern Health & Social Care Trust
Northern Ireland African Cultural Centre
Northern Ireland Anti-Poverty Network
Northern Ireland Association for Mental Health
Northern Ireland Association of Care and Resettlement of Offenders (NIACRO)
Northern Ireland Council for Voluntary Action (NICVA)
Northern Ireland Human Rights Commission (NIHRC)
Northern Ireland Judicial Appointments Ombudsman
Northern Ireland Law Commission
Northern Ireland Lay Magistrates Association
Northern Ireland Legal Services Commission
Northern Ireland Members of Parliament
Northern Ireland Office
Northern Ireland Office

Northern Ireland Peers
Northern Ireland Public Service Alliance
Northern Ireland Statistics and Research Agency (NISRA)
Northern Ireland Women's Aid Federation
Northern Ireland Women's European Platform
Northern Ireland Youth Forum
NSPCC
NUS USI, Northern Ireland Student Centre
Occupational Health Service
Office of First Minister & Deputy First Minister
Office of First Minister & Deputy First Minister
Omagh District Council
Omagh Forum of Rural Associations
Omagh Solicitors Association
Omagh Women's Area Network
Opportunity Youth
Pakistani Community Association
Parents Advice Centre
Polish Association Northern Ireland
Portadown Solicitors Association
Presbyterian Church in Ireland
Probation Board
Public and Commercial Services Union
PUP
Queer Space
Roman Catholic Church
Royal National Institute for Deaf People (NI)
Royal National Institute for the Blind
Save the Children
SDLP
Sense NI
Sinn Fein
Social Security Agency
Socialist Party
South Eastern Health & Social Care Trust
South Eastern Health & Social Care Trust
Sperrin Lakeland Senior Citizens' Consortium
Strabane District Council
Strabane Ethnic Community Association
Strabane Solicitors Association
TADA Rural Support Network
The Cedar Foundation
The Guide Dogs for the Blind Association
The Mens Project (And all member organisations)
The Participation Network (And all member organisations)
The Rainbow Project
The Women's Centre
The Workers Party
Ulster Unionist Party
Victim Support NI
Victim Support NI
Voice of Young People in Care (VOYPIC)
Wah Hep Chinese Community Association
West Belfast Greater Shankill Enterprise Council
Women's Forum Northern Ireland
Women's Information Group
Women's Resource and Development Agency
Women's Support Network

Youth Action NI
Youth Council for Northern Ireland
Youth Justice Agency



For further information on the work of the Northern Ireland Court Service please contact

Northern Ireland Court Service

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