



Department of
Justice

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Proposal to change the time limits for bringing a judicial review

Consultation

This consultation begins on 22 June 2015 and closes on 14 September 2015.

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Executive Summary

This paper sets out the Department's proposal for the reform of the time limits for bringing judicial review proceedings in Northern Ireland.

Judicial review provides a mechanism for challenging the decisions of public bodies to ensure that they are lawful. As such, it provides a vital check on the power exercised by the State, can enhance the quality of public bodies' decision making and is a tool for ensuring the rule of law. It can be used to challenge a wide variety of matters ranging from decisions about planning and awards of criminal injuries compensation to assessments regarding care provision for the elderly and children's educational needs.

Proceedings for judicial review currently must be brought 'promptly' and in any event within three months from the date of the decision which is to be reviewed. These time limits are an important aspect of judicial review procedure; they afford a finality and certainty to the decisions of public bodies and ensure that they are not unduly delayed or obstructed by an indefinite risk of legal challenge.

Decisions as to what amounts to 'promptly' are currently a matter of judicial discretion. The Court of Justice of the European Union ('CJEU') has, however, held that the requirement to bring an application for review 'promptly' is insufficiently certain and incompatible with the principles of certainty and effectiveness in European law¹. Its reasoning has been applied by the courts in Northern Ireland with the effect that the promptitude requirement is now disapplied in judicial review challenges on European Union ('EU') grounds².

This means that the time limits required in judicial reviews (or those parts of them) that raise domestic grounds of challenge are currently different from those that raise EU grounds. The Department is concerned that this 'two-track system' is difficult to interpret consistently, creates uncertainty for potential applicants and, as such, could impede access to justice.

In this paper, the Department proposes that there should be no requirement to bring judicial review proceedings promptly in any case and that all proceedings should, rather, be required to be brought within three months of the date of the reviewed decision. It

¹ *Uniplex (United Kingdom) Ltd v NHS Business Services Authority* (C-406/08) (2010) PTSR 1377

² See *Musgrave Retail Partners (NI) Ltd's Application (Leave stage)* (2012) NIQB 109 and *Mooreland and Owenvarragh Residents' Association's Application* (2014) NIQB 130

considers that this change will provide a greater degree of certainty to the judicial review process and ensure continued compliance with obligations arising from EU law.

The Department appreciates that delays caused by judicial review can be of particular concern for specific categories of cases (especially those that affect third party and business interests such as those involving planning or procurement decisions). The Department, therefore, also seeks views on the impact of its proposal for particular types of cases and whether there are any categories of case in which it might be appropriate to have a shorter time limit than three months.

Although its proposal can be effected through changes to court procedural rules which do not generally require consultation, the Department is mindful that the judicial review procedure is of fundamental importance to the functioning of an accountable society in Northern Ireland. As such, it wishes to ensure that the delicate balance between the public's interest in good quality public administration and finality in decision making achieved by the procedure is maintained. The Department, therefore, welcomes views on its proposal.

Chapter 1: Introduction

- 1.1 The purpose of this consultation paper is to seek views about the Department's proposal to change the time limits within which judicial review proceedings must be brought.
- 1.2. The paper is divided into five chapters. Chapter 2 provides some background to the judicial review procedure and sets out the need for change. Chapter 3 details the Department's proposal for reform and provides specific questions for respondents. Chapter 4 provides a summary of the key questions on which the Department is inviting views, whilst chapter 5 outlines the procedure for providing responses to the paper. An equality screening exercise required by section 75 of the Northern Ireland Act 1998 has been conducted and is set out at Appendix 1.
- 1.3. If, following the consultation, the Department proceeds with its proposal, it will do so by inviting the Court of Judicature Rules Committee to bring forward the necessary amendments to the Rules of the Court of Judicature (Northern Ireland) 1980 ('the 1980 Rules'). As such, a Regulatory Impact Assessment for the proposal is not required.
- 1.4. The consultation is aimed at those who may be involved in or affected by judicial review proceedings in Northern Ireland. The list of consultees (Appendix 2) is not, however, meant to be exhaustive or exclusive and responses are welcomed from anyone with an interest in or views on the matters covered by this consultation paper. Appendix 3 provides a questionnaire for completion by respondents which is also available on the Department's website.
- 1.5. The consultation will close on 14 September 2015. Following analysis of the responses received, the Department will consider and, if it determines appropriate, ask the Court of Judicature Rules Committee to amend the 1980 Rules³.

³ These rules are made by the Rules Committee with the allowance of the Department.

Chapter 2: Background

2.1. Judicial Review is a process by which individuals, businesses and other interested parties can challenge the lawfulness of decisions or actions of public authorities and those exercising public functions including Northern Ireland Departments, District Councils and other public bodies. It is a largely judge-developed procedure and provides a key mechanism for holding the Executive to account. It is, however, intended to operate quickly and proportionately. Certain protections are provided against spurious claims: only those with sufficient interest are able to bring a case and they must first obtain leave (or permission) for their case to be heard.

2.2. There are three main grounds on which a decision or action may be challenged:

- **illegality**: for example, it was not taken in accordance with the law that regulates it or goes beyond the powers of the relevant body;
- **irrationality**: for example, that it was not taken reasonably, or that no reasonable person could have taken it;
- **procedural irregularity**: for example, a failure to consult properly or to act in accordance with natural justice or with the underpinning procedural rules.

There is a degree of overlap between the various grounds for review and they have continued to develop to take into account the changing legal landscape.

2.3. Judicial review is often described as a remedy of last resort: the Court will normally expect parties to use other avenues, including other rights of appeal, where they are available before embarking on a judicial review. Parties contemplating bringing judicial review proceedings are required to adhere to the Pre-Action Protocol which encourages parties to seek to resolve matters without reference to court⁴. However, in urgent matters, the parties can dispense with the Protocol.

⁴ Practice Note 1/2008: Judicial Review: Revised 10 October 2013.

2.4 Judicial review proceedings are governed by sections 18 to 25A of the Judicature (Northern Ireland) Act 1978 and the relevant procedure is set out in Order 53 of the 1980 Rules. Judicial reviews are assigned to the Queen's Bench Division of the High Court⁵. Usually, they are heard by a High Court Judge but, in certain cases, may be heard by what is known as a Divisional Court (a court comprising two or more High Court Judges)⁶.

2.5. Judicial Review is concerned with the lawfulness of the decisions taken. It is not the court's role to substitute its own judgment for that of the decision maker. Where the Court concludes that a decision was not taken lawfully it may make one of the following orders:

- a **quashing order**, setting aside the original decision;
- a **mandatory order**, requiring the public body to do something or take a particular course of action;
- a **prohibiting order**, preventing a public body from doing something or taking a particular course of action;
- a **declaration**, for example, that a decision is incompatible with the European Convention on Human Rights; and
- an **injunction**, for example, to stop a public body acting in an unlawful way⁷.

The Court also has discretion to award damages where they would have been available under an ordinary action, for instance in tort or under the Human Rights Act 1998.

Process

2.6. The Court's leave is generally required for an application for judicial review to proceed to hearing⁸. Leave proceedings must be commenced *ex parte* (without notice) by lodging in the Court Office a statement (verified by affidavit) setting out the applicant's identity, the remedies sought and the grounds on which they are sought. The power to grant leave may be exercised in chambers but the Court

⁵ See Order 1, Rule 11(e) of the 1980 Rules.

⁶ In a criminal cause of matter the jurisdiction of the Court shall be exercised by three judges sitting together but the Lord Chief Justice can direct such jurisdiction to be exercised by two judges: Order 53, Rule 2 of the 1980 Rules.

⁷ See Order 53 Rule 1 of the 1980 Rules.

⁸ The only exception is that the Attorney General can apply directly to the Court without having to obtain leave when seeking a certiorari order: section 18(2)(a) of the Judicature (Northern Ireland) Act 1978.

may direct the applicant to appear before it in an oral hearing⁹. Leave may be granted in full or limited to certain grounds set out in the application.

- 2.7. Unless the leave application has been decided in his or her presence, the applicant must be informed of the result of the application¹⁰. In cases where the Court refuses leave (either in full or in part), the applicant may consider whether he or she wishes to appeal to the Court of Appeal.
- 2.8. Where leave is granted, the applicant makes an application to the Court for judicial review by lodging a court document called an originating motion specifying the grounds relied on. Notice of the motion must be served on all persons directly affected within 14 days of the grant of leave¹¹.

Time limit: legislation

- 2.9. The 1980 Rules require applications for leave to apply for judicial review to be brought 'promptly and in any event within three months from the date when grounds for the application first arose'¹². This time limit cannot be extended between the parties themselves but the Court has a general power to extend time where it considers that there is good reason¹³. Where there has been undue delay in making an application for judicial review, the Court may refuse to grant leave. This reflects the intention that judicial review should be a swift process. The need for the speed arises primarily because decisions by public bodies tend to impact on the rights and interests of third parties who are affected by them. There is, in these circumstances, a need for any challenge to the legality of public law decision-making to occur without delay. As the Court explained in *Musgrave Retail Partners (NI) Ltd's Application (Leave stage)* (2012); it is important that a point in time is arrived at which it can confidently be said that a public law decision is beyond question¹⁴.

⁹ Order 53 Rule 3(3) and (10) of the 1980 Rules.

¹⁰ Order 53 Rule 3(12) of the 1980 Rules.

¹¹ Order 53 Rule 5(1) and (5) of the 1980 Rules.

¹² Order 53, Rule 4(1) of the 1980 Rules.

¹³ Order 53 Rule 4(1) of the 1980 Rules. The question of when the applicant became aware of the grounds of review will be relevant to whether the Court will grant an extension of time (*R v Secretary of State for Transport Exp Presvac Engineering Ltd* (1991) 4 Admin L Rep 121 at 133).

¹⁴ (2012) NIQB 109 at Para 13 or as Sir John Donaldson MR put it in *R v Monopolies and Mergers Commission ex parte Argyll Group PLC* (1986) 1 WLR 763; 'good administration requires decisiveness and finality unless there are compelling reasons to the contrary'.

2.10. The rules do not contain a definition of what ‘promptly’ means. This depends on the circumstances of each individual case and there is no general rule of thumb as to what constitutes a timely application. The requirement to seek leave promptly is independent of the requirement in any event to do so within three months¹⁵. The courts in Northern Ireland have consistently made it clear that an application will not necessarily be made ‘promptly’ if it is brought within the three month period when it could, or ought to, have been brought earlier¹⁶.

Uniplex case

2.11. In the 2002 case of *R v (Burkett) v Hammersmith and Fulham LBC* (2002)¹⁷ Lord Steyn questioned whether the obligation to apply ‘promptly’ is sufficiently certain to comply with EU Law and the European Convention on Human Rights. Although his suggestion was subsequently repudiated by the English Court of Appeal in *Hardy and others v Pembrokeshire County Council and others* (2006)¹⁸, it arose again more recently in a referral by the English High Court to the CJEU in the case of *Uniplex (C-406/08)*.

2.12. In *Uniplex*, the issue before the Court was whether a requirement under the Public Contracts Regulations 2006 (‘the 2006 Regulations’) that the relevant proceedings must be brought ‘promptly’ was consistent with the protections of the EU Procurement Directive 89/665. It was argued that this requirement infringed the EU law principle that limitation periods should be sufficiently precise, clear and foreseeable to enable individuals to ascertain their rights and obligations. The CJEU accepted this argument and held that a limitation period whose duration lay at the discretion of national courts was not predictable as to its effects and, as such, did not effectively transpose the Directive. In its view, the ability of the domestic courts to dismiss a case brought within three months on the basis that it was not made ‘promptly’ was contrary to the EU legal principle of certainty. It decided that the requirement rendered it excessively difficult to exercise EU law rights and, therefore, also contravened the EU principle of effectiveness.

¹⁵ See Larkin and Scofield: *Judicial Review in Northern Ireland: A Practitioners Guide* (2007) at Para 5.07.

¹⁶ See *Re Shearer’s application* (1993) 2 NIJB 12 QBD at Para 27; *Re McCabe’s application* (1994) NIJB 27 (QBD) at Para 28a; *Re Zhanje’s Application* (2007) NIQB 14 at Para 7.

¹⁷ (2002) 1 WLR 1593 (HL) at Para 53.

¹⁸ (2006) EWCA Civ 240: The Court of Appeal noted that an attack of the compatibility of the promptitude requirement had already been dismissed by the European Court of Human Rights in *LAM v UK* (1998) (Application 41671/98).

2.13. Following the *Uniplex* decision, the UK Cabinet Office undertook a public consultation on how it should be implemented in England and Wales and Northern Ireland¹⁹. This resulted in the time limits for bringing challenges under the 2006 Regulations being changed to achieve compliance with EU law²⁰.

Domestic case law developments

2.14. The relevant provisions of the 2006 Regulations, as they stood at the time of the *Uniplex* ruling, however, substantially reflected those presently applied to applications for judicial review. The *Uniplex* case has, consequently, been given a wide application by domestic courts. Courts across the UK have accepted that the general and core principles of EU law applied in *Uniplex* are applicable to all European Directives and that the requirement of certainty (and its application to limitation periods) has general application to enforcement proceedings arising out of any Directive. The effect is that in Northern Ireland (as in the rest of the UK) the requirement to bring a case ‘promptly’ is not currently enforced by the courts in judicial review challenges brought on EU grounds²¹. This means that the time limits applied to judicial reviews (or those parts of them) that raise domestic grounds of challenge are now different from those that raise EU grounds.

Departmental concerns

2.15. The Department is concerned that this ‘two-track system’ may create unnecessary uncertainty for potential applicants and respondents alike, has the potential to cause confusion and is difficult to interpret consistently.

2.16. It is also of the view that the current position has the potential to raise practical difficulties in those judicial reviews which raise issues regarding compliance with both domestic and EU law; in these cases, a lack of promptitude may mean that a case does not proceed on the domestic grounds of challenge but may go ahead on the relevant EU grounds. This could prevent all issues from being properly ventilated at hearing.

2.17. The Department is conscious of the findings of the Aarhus Compliance Committee that, by failing to establish clear limits within which environmental judicial reviews may be brought, the UK breaches the requirement in the Aarhus Convention to

¹⁹ Cabinet Office: *Consultation Document on Taking Account of the Uniplex Case (C-406/08)* (2010).

²⁰ See the Public Procurement (Miscellaneous Amendments) Regulations 2011: Regulations 12, 19 and 26.

²¹ See *R (Buglife) v Medway Council* (2011) EWHC 746, *Musgrave Retail Partners (NI) Ltd’s Application (Leave stage)* (2012) NIQB 109 and *Mooreland and Owenvarragh Residents’ Association’s Application* (2014) NIQB 130.

ensure its review procedures are fair and equitable²². It wishes to ensure compliance with the Convention by putting in place a clear and transparent time frame for the bringing of judicial review proceedings in Northern Ireland.

2.18. The Department is aware of the steps have been taken in other jurisdictions to clarify the time limits for judicial review. Ireland removed the general requirement for applications for judicial review in that jurisdiction to be brought promptly in 2011²³ following the judgment of the CJEU in *European Commission v Ireland* (C-456/08). Once provision contained in the Courts Reform (Scotland) Act 2014 is commenced there will be a three month time limit for bringing an application for judicial review in Scotland with no overriding requirement that it should be brought promptly²⁴.

2.19. It is acknowledged that the issue of whether or not time limits for judicial review generally should be clarified was not taken forward as part of the wider reforms of judicial review in England and Wales and that the dual system developed by the courts here also applies in that jurisdiction. Nonetheless, the Department is concerned that if the position here continues to prevail the judicial review procedure in Northern Ireland will not offer applicants the degree of certainty afforded to counterparts in Scotland and the Ireland. It considers it appropriate to take action to remedy this disparity and to provide greater clarity to the judicial process so that individuals here are able to establish their rights and obligations.

²² See the Committees' findings in ACCC/C/2008/33.

²³ See the Rules of the Superior Courts (Judicial Review) 2011 (S.I. No. 691 of 2011).

²⁴ There is currently no fixed time within which an application for judicial review must be made in Scotland; applications can be dismissed for undue delay under common law doctrines. This will change when section 89 of the Courts Reform (Scotland) Act 2014 (which inserts new sections 27A to 27D into the Court of Session Act 1988) is commenced. It will provide that an application for judicial review in Scotland must be made before the end of the period of three months beginning with the date on which the grounds arose or such longer period as the Court considers equitable having regard to all the circumstances.

Chapter 3: The Proposal

3.1. This chapter sets out the Department's proposal for reform to the time limits within which an application for judicial review can be brought.

Proposal

3.2. It is proposed that all leave applications should be made within three months of the date when grounds for review first arose. Under this proposal, there will no longer be a requirement to apply 'promptly' within the three month period.

3.3. The Department is of the view that the current reference to 'promptly' is undesirably vague and ill-suited to a procedure designed to provide a speedy and effective remedy to challenge the decisions of public bodies. It considers that a definite period within which to make an application will provide applicants with the utmost certainty about when they are required to submit their applications for judicial review.

3.4. The Department considers that removing the promptly requirement will provide more opportunity to resolve disputed matters by other available means prior to leave for judicial review being sought²⁵. It is possible that this may give rise to lower volumes of applications for leave. Nevertheless, we recognise that the proposal may mean that some leave applications that have not been brought promptly will proceed to substantive hearing and that this could impact on court and judicial resource as well as that of respondents. The number of cases affected by the proposal is, however, likely to be limited (anecdotal evidence suggests that few leave applications have been dismissed on grounds that they have not been brought sufficiently promptly²⁶).

3.5. The Department is satisfied that its proposal gives sufficient time to make an application and strikes the right balance between the need for certainty in public affairs and to provide potential applicants with sufficient time to prepare their case. It acknowledges, however, that there may be cases where an application may genuinely take longer to submit. The Court currently has discretion to extend the

²⁵ There has, however, been some suggestion that applicants in judicial review cases currently have to apply so promptly that attempts at settlement can be rendered impractical: See Bondy and Sunkin: '*Judicial Review Reform: Who is afraid of judicial review? Debunking the myths of growth and abuse*': UK Constitutional Law Association.

²⁶ From October to December 2014, there were 76 applications for leave to apply for judicial review disposed of by the Court in Northern Ireland. 45 of these applications were withdrawn, refused or dismissed: *High Court Bulletin: October to December 2014*. It is not possible on the basis of data currently collated to determine the number of applications that were dismissed on the promptitude ground.

three month time limit in appropriate circumstances. The Department considers this judicial discretion is necessary to cater for different circumstances that can arise in judicial review cases. It does not think that it should be fettered by prescribing specific scenarios where applicants might exceed the time limit. It is the Department's intention, therefore, to retain the flexibility afforded by this discretion.

Q.1. Have you been deterred from bringing a judicial review because of uncertainty over the requirement to bring a case promptly? If so, please provide details.

Q.2. Do you agree that is appropriate to remove the requirement to bring a judicial review promptly as long as it is made within three months? Please give your reasons.

Q.3. What impact will the proposal to remove the requirement to bring a judicial review promptly have on you or your organisation?

Q.4. Do you agree with the proposal that the Courts power to extend the time limit in appropriate cases should be retained? Please give reasons.

Other reform options

3.6. The Department considers that its proposal provides the most clear and simple option to remove the potential confusion caused by the current system. There are, however, a few other possible options for reform. These are set out below and although they have been judged less favourable than the Department's preferred option, feedback is welcomed on them.

Codification of existing position

3.7. One possible option would be to place the existing legal position on a statutory footing. This route would involve amending the 1980 Rules to remove the 'promptly' requirement for leave applications made on EU grounds. The merits of this approach are that would ensure continued compliance with European obligations and improve transparency and certainty in respect of the time limits for the applications affected. This minimalist approach would, however, involve retaining the concept of promptly for those judicial reviews (or aspects of them) that raise matters of domestic law. As such, this option would maintain the twin track system currently applied to judicial reviews and would not give applicants the

certainty that they legitimately require. For these reasons, it is not the Department's preferred approach to reform.

Codification for EU and Aarhus Convention cases

- 3.8. Another potential option would be to remove the promptitude requirement in the 1980 Rules for cases brought under the Aarhus Convention as well as those involving EU law. This option would address the concerns regarding the time limits in environmental judicial reviews raised by the Aarhus Convention Committee. Nonetheless, the Department is not convinced that this would achieve the legal certainty it desires and indeed considers that this option could potentially give rise to a system that is more complex and confusing than is currently the case.

Q. 5. Do you agree that it would be inappropriate to remove the promptitude requirement for applications made on EU grounds (and under the Aarhus Convention) but retain it for applications made on domestic grounds? Please give reasons for your answer.

Shorter time limits

- 3.9. Under the Department's proposal, the same three month time limit will apply to all applications for leave for judicial review, regardless of their nature. The Department sees merit in having a simple, straightforward and consistent time limit which applies to all leave applications. This will be the position in Scotland once provision contained in the Courts Reform (Scotland) Act 2014 is commenced.
- 3.10. It acknowledges, however, that delays caused by litigation or the threat of it can be of particular concern for specific categories of cases such as those involving planning and procurement decisions. The Department is, therefore, mindful that its proposal may have a greater impact on these types of cases.
- 3.11. The Courts have generally adopted a fairly stringent approach to the 'promptness' requirement in planning and procurement cases²⁷. This is because judicial reviews in these areas can have a significant impact on the relevant planning and procurement processes which tend to be put on hold during the period of legal challenge. They often involve the delivery of important public services and

²⁷ In *Re Hill's application* (2007) NICA 1 at Para 33, the Court of Appeal in Northern Ireland indicated that there was 'need for great expedition in the presentation of applications for leave to apply for judicial review in planning cases'. The same approach has been taken by courts in England and Wales: see for example *Finn-Kelcey v Milton Keynes Borough Council* (2008) EWCA Civ 1607 at Paras 21 to 25 and *R (Berky) v Newport City Council* (2012) EWCA Civ 378 at Paras 34 to 35 and 49.

infrastructure and delays can have significant implications for user services, cost delivery and business interests.

- 3.12. In both these types of cases, there is a route of appeal which must be made within a shorter timescale (within 30 days or six weeks of the relevant procurement or planning decision respectively). It is, however, possible for a judicial review to be brought in respect of the same decisions up to three months after that decision. The disjuncture between the time limits for appeal and judicial review arguably creates uncertainty for those affected by the matter challenged. In these circumstances, it is, therefore, reasonable to at least consider whether the time limit for bringing judicial review proceedings in these specific categories of case should be reduced so that they are aligned with the time limits available for the relevant statutory appeals²⁸.
- 3.13. The Department notes that changes were introduced in England and Wales in July 2013 to harmonise the judicial time limits in planning and procurement cases with those for certain statutory challenges to the same decisions; shorter time limits of 30 days and six weeks now apply respectively to procurement and planning judicial reviews and there is no longer a requirement to bring these reviews promptly²⁹. In Ireland, there is a time limit of eight weeks and 30 days respectively for bringing leave applications in planning and certain procurement judicial reviews³⁰.
- 3.14. The Department recognises that parties need a reasonable amount of time to consider the merits of the case and that the three month time limit is short compared to the limitation periods applicable to other types of cases (generally proceedings need to be issued within six years of the grounds giving rise to proceedings (three years in the case of personal injury). As such, the Department is mindful that reducing the time limits for particular types of cases could reduce access to justice particularly for the disadvantaged or vulnerable. There might also be a risk of increased costs to applicants and respondents associated with preparing cases more quickly and cases being prepared in less depth³¹. It also

²⁸ An amendment to the Planning Bill (Northern Ireland) 2013 (which was later withdrawn from the Northern Ireland Assembly) proposed a six week time limit for the review of planning decisions.

²⁹ See the Civil Procedure (Amendment No.4) Rules 2013 which made the relevant amendments to the Civil Procedure Rules 1998.

³⁰ See section 50(4) of the Planning and Development Act 2000 (Number 30 of 2000) and Order 84A of the Rules of the Superior Courts introduced in September 2010.

³¹ Bondy and Sunkin: '*Judicial Review Reform: Who is afraid of judicial review? Debunking the myths of growth and abuse*' (UK Constitutional Law Association) suggest that shortening the time period for applications may increase the proportion of weak claims and the burden on public authorities who are obliged to respond to more premature claims.

acknowledges that any reduction in the time limit for bringing particular proceedings may constrain the time available to seek a negotiated settlement and explore alternative avenues; it could encourage applicants to move prematurely to litigation potentially leading to inappropriate growth in the use of judicial review.

- 3.15. For these reasons, the Department is not presently proposing a reduction in the time limit for bringing any particular judicial review proceedings. Nevertheless, it is interested to know whether consultees foresee its proposal having a particular impact of certain types of judicial review. The Department also wonders whether there are any classes of case in which it might be appropriate for shorter time limits to apply.

Q.6. Do you think the proposal to remove the promptly requirement will have an adverse impact on any particular categories of judicial review? If so, please explain your answer.

Q.7. Are there any types of case in which you consider a time limit shorter than three months might be appropriate? If so, please explain your answer.

Q.8. If a shorter time limit than three months were introduced for certain cases, would the courts power to allow an extension of time to bring an application be sufficient to ensure that access to justice was protected?

Chapter 4: Summary of Key Questions

1. Have you been deterred from bringing a judicial review because of uncertainty over the requirement to bring a case promptly? If so, please provide details.
2. Do you agree that is appropriate to remove the requirement to bring a judicial review promptly as long as it is made within three months? Please give your reasons.
3. What impact will the proposal to remove the requirement to bring a judicial review promptly have on you or your organisation?
4. Do you agree with the proposal that the Court's power to extend the time limit in appropriate cases should be retained? Please give reasons.
5. Do you agree that it would be inappropriate to remove the promptitude requirement for applications made on EU grounds (and under the Aarhus Convention) but retain it for applications made on domestic grounds? Please give reasons for your answer.
6. Do you think the proposal to remove the promptly requirement will have an adverse impact on any particular categories of judicial review? If so, please explain your answer.
7. Are there any types of case in which you consider a time limit shorter than three months might be appropriate? If so, please explain your answer.
8. If a shorter time limit than three months were introduced for certain cases, would the Court's power to allow an extension of time to bring an application be sufficient to ensure that access to justice was protected?

Chapter 5: How to respond and when

5.1 The Department welcomes views on its proposal and issues raised in this consultation paper. The consultation will run from 22 June 2015 and all responses should be submitted by 5pm on 14 September 2015. Responses can be sent by e-mail, fax or post as below.

5.2. For queries and responses to the consultation please contact:

*Paul Moore
Department of Justice
Civil Justice Policy Division
Access to Justice Directorate
Massey House
Stormont Estate
Belfast
BT4 3SX*

*Tel: 028 9016 9206
Fax 028 9016 9502
Textphone: 028 9016 9502*

Email: atojconsultation@dojni.x.gsi.gov.uk

5.3. When responding, please state whether you are making a submission 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.

5.4. A list of those notified of this exercise is presented at Appendix 3.

Additional copies and alternative formats

5.5. An electronic copy of this document is available to view and download from the consultation section of the Department of Justice website (<http://www.dojni.gov.uk>).

5.6. You may make copies of this document without seeking permission and if you require further printed copies, we would invite you to access the document through our website. If you do not have access to the internet and require us to provide you with further copies, please contact us with your specific request.

5.7. Copies in other formats, including Braille, large print or audio cassette may be made available on request. If it would assist you to access the document in an

alternative format, or a language other than English, please let us know and we will do our best to assist you.

Confidentiality

- 5.8. At the end of the consultation period, copies of responses received by the Department may be made available publicly. A summary of responses may also be published on the Department of Justice website. If you prefer all or part of your response or name to be anonymised, please state this clearly in your response. Any confidentiality disclaimer that may be generated by you or your organisation's IT system or included as a general statement in your fax cover sheet, will be taken to apply only to information in your response for which confidentiality has been specifically requested.
- 5.9. Any personal data which you provide will be handled in accordance with the Data Protection Act 1998. Respondents should also be aware that the Department's obligations under the Freedom of Information Act 2000 may require that responses not subject to specific exemptions in the Act be communicated to third parties on request.
- 5.10. Please contact the Consultation Co-ordinator at the address below to request copies of responses. An administrative charge may be made to cover photocopying of the responses and postage costs.

Equality

- 5.11. Section 75 of the Northern Ireland Act 1998 requires that all public authorities in Northern Ireland comply with a statutory duty to:
- have due regard to the need to promote equality of opportunity between persons of different religious belief, political opinion, racial group, age, marital status, or sexual orientation, gender, and those with or without a disability and those with or without dependents; and
 - have regard to the desirability of promoting good relations between persons of different religious belief, political opinion and racial group.

5.12. In addition, public authorities are also required to meet legislative obligations under the Disability Discrimination (Northern Ireland) Order 2006,³² particularly in the formation of public policy making.

5.13. The Department is committed to fulfilling those obligations and proposals arising from this paper have been subjected to screening to determine impact on equality of opportunity, good relations and other statutory duties (see screening form at Appendix 1).

Complaints

5.14. Any comments, queries or concerns about the way this exercise has been conducted should be sent to the Departmental Consultation Co-ordinator at the following address:

Peter Grant
Equality Branch
Central Management Unit
Department of Justice
Stormont Estate
Belfast
BT4 3SG

³² S.I. 2006 No.312 (N.I.1)

DOJ Section 75
EQUALITY SCREENING FORM

Title: Proposal to change the time limits for bringing a judicial review

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.**

Introduction

1. This form should be read in conjunction with the Equality Commission's revised Section 75 guidance, "A Guide for Public Authorities" April 2010, which is available on the Equality Commission's website (www.equalityni.org). **Staff should complete a form for each new or revised policy for which they are responsible (see page 6 for a definition of policy in respect of section 75).**
2. The purpose of screening is to identify those policies that are likely to have an impact on equality of opportunity and/or good relations and so determine whether an Equality Impact Assessment (EQIA) is necessary. Screening should be introduced at an early stage when developing or reviewing a policy.

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

3. The lead role in the screening of a policy should be taken by the policy decision-maker who has the authority to make changes to that policy and should involve, in the screening process:
 - other relevant team members;
 - those who implement the policy;
 - staff members from other relevant work areas; and
 - key stakeholders.

A flowchart which outlines the screening process is provided at Annex A.

4. The first step in the screening exercise is to gather evidence to inform the screening decisions. Relevant data may be either quantitative or qualitative or both (this helps to indicate whether or not there are likely equality of opportunity and/or good relations impacts associated with a policy). Relevant information will help to clearly demonstrate the reasons for a policy being either 'screened in' for an equality impact assessment or 'screened out' from an equality impact assessment.
5. The absence of evidence does not indicate that there is no likely impact but if none is available, it may be appropriate to consider subjecting the policy to an EQIA.
6. Screening provides an assessment of the likely impact, whether 'minor' or 'major', of its policy on equality of opportunity and/or good relations for the relevant categories. In some instances, screening may identify the likely impact is none.
7. The Commission has developed a series of four questions, included in Part 2 of this screening form with supporting sub-questions, which should be applied to all policies as part of the screening process. They identify those policies that are likely to have an impact on equality of opportunity and/or good relations.

Screening decisions

8. Completion of screening should lead to one of the following three outcomes. The policy has been:
- i. 'screened in' for equality impact assessment;
 - ii. 'screened out' with mitigation or an alternative policy proposed to be adopted; or
 - iii. 'screened out' without mitigation or an alternative policy proposed to be adopted.

Screening and good relations duty

9. The Commission recommends that a policy is 'screened in' for equality impact assessment if the likely impact on **good relations** is 'major'. While there is no legislative requirement to engage in an equality impact assessment in respect of good relations, this does not necessarily mean that equality impact assessments are inappropriate in this context.

Part 1

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 further screening or an 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.

Policy Scoping

10. The first stage of the screening process involves scoping the policy under consideration. The purpose of policy scoping is to help prepare the background and context and set out the aims and objectives for the policy, being screened. At this stage, scoping the policy will help identify potential constraints as well as opportunities and will help the policy maker work through the screening process on a step by step basis.
11. Public authorities should remember that the Section 75 statutory duties apply to internal policies (relating to people who work for the authority), as well as external policies (relating to those who are, or could be, served by the authority).

Information about the policy

Name of the Policy

Proposal to change the time limits for bringing a judicial review

Is this an existing, revised or a new policy?

This is a new policy.

What is it trying to achieve? (intended aims/outcomes)

The policy aims to provide a greater degree of certainty to the judicial review process and ensure continued compliance with European legal obligations.

Proceedings for judicial review currently must be brought ‘promptly’ and in any event within three months’ from the date of the decision which is to be reviewed. The Court of Justice of the European Union has, however, held that the requirement to bring an application for review ‘promptly’ is insufficiently certain and incompatible with the principles of certainty and effectiveness in European law. Its reasoning has been applied by the courts in Northern Ireland with the effect that the promptitude requirement is now disapplied in judicial review challenges on EU grounds. There is, therefore, currently a distinction drawn between the time requirements for judicial reviews (or those parts of them) that raise domestic and EU grounds of challenge.

Views are sought on the Department’s proposal that there should be no requirement to bring judicial review proceedings promptly and that all proceedings should be brought within three months of the date of the reviewed decision.

The proposal is designed to benefit the potential applicants by removing the uncertainty created by the current position and, thereby, enhancing their access to justice.

Are there any Section 75 categories which might be expected to benefit from the intended policy? If so, explain how.

No. It is expected that the proposal will apply equally across all of the section 75 categories.

Who initiated or wrote the policy?

Department of Justice (Access to Justice Directorate).

Who owns and who implements the policy?

Department of Justice.

Implementation factors

12. Are there any factors which could contribute to/detract from the intended aim/outcome of the policy/decision?

If yes, are they

- financial
- legislative
- other, please specify -
 - **Outcome of the consultation**

Main stakeholders affected

13. Who are the internal and external stakeholders (actual or potential) that the policy will impact upon?

- staff
- service users
- other public sector organisations
- voluntary/community/trade unions
- other, please specify-
 - **Other Northern Ireland Departments;**
 - **Members of the judiciary; and**
 - **Businesses (including legal practitioners).**

Other policies with a bearing on this policy

- what are they?

N/A

- who owns them?

N/A

Available evidence

- 14. Evidence to help inform the screening process may take many forms. Public authorities should ensure that their screening decision is informed by relevant data.
- 15. What evidence/information (both qualitative and quantitative) have you gathered to inform this policy? Specify details for each of the Section 75 categories.

Information is not currently gathered on the number of applicants for judicial review falling within each of the section 75 categories. It is, however, expected that the proposal will apply equally across all of the categories and that it will have a positive impact on access to justice generally. As public authorities, respondents to judicial review cases do not fall into any of the section 75 categories.

This answer is subject to the views of consultees.

Section 75 Category	Details of evidence/information
Religious belief	See answer at 15.
Political opinion	See answer at 15.
Racial group	See answer at 15.
Age	See answer at 15.
Marital status	See answer at 15.
Sexual orientation	See answer at 15.
Men and Women generally	See answer at 15.
Disability	See answer at 15.
Dependants	See answer at 15.

Needs, experiences and priorities

16. Taking into account the information referred to above, what are the different needs, experiences and priorities of each of the following categories, in relation to the particular policy/decision? Specify details for each of the Section 75 categories.

It has not been possible to identify data on separate section 75 categories. There does not appear to be any needs, experiences or priorities which are relevant to section 75 categories. This answer is subject to consultation responses.

Section 75 Category	Details of evidence/information
Religious belief	See answer at 16.
Political opinion	See answer at 16.
Racial group	See answer at 16.
Age	See answer at 16.
Marital status	See answer at 16.
Sexual orientation	See answer at 16.
Men and Women generally	See answer at 16.
Disability	See answer at 16.
Dependants	See answer at 16.

Part 2

SCREENING QUESTIONS

Introduction

17. In making a decision as to whether or not there is a need to carry out an equality impact assessment, consider questions 1-4 listed below.
18. If the conclusion is **none** in respect of all of the Section 75 equality of opportunity and/or good relations categories, then the decision may to screen the policy out. If a policy is 'screened out' as having no relevance to equality of opportunity or good relations, give details of the reasons for the decision taken.
19. If the conclusion is **major** in respect of one or more of the Section 75 equality of opportunity and/or good relations categories, then consideration should be given to subjecting the policy to the equality impact assessment procedure.
20. If the conclusion is **minor** in respect of one or more of the Section 75 equality categories and/or good relations categories, then consideration should still be given to proceeding with an equality impact assessment, or to:
 - measures to mitigate the adverse impact; or
 - the introduction of an alternative policy to better promote equality of opportunity and/or good relations.

In favour of a 'major' impact

21. (a) The policy is significant in terms of its strategic importance;
- (b) Potential equality impacts are unknown, because, for example, there is insufficient data upon which to make an assessment or because they are complex, and it would be appropriate to conduct an equality impact assessment in order to better assess them;

- (c) Potential equality and/or good relations impacts are likely to be adverse or are likely to be experienced disproportionately by groups of people including those who are marginalised or disadvantaged;
- (d) Further assessment offers a valuable way to examine the evidence and develop recommendations in respect of a policy about which there are concerns amongst affected individuals and representative groups, for example in respect of multiple identities;
- (e) The policy is likely to be challenged by way of judicial review;
- (f) The policy is significant in terms of expenditure.

In favour of 'minor' impact

22. (a) The policy is not unlawfully discriminatory and any residual potential impacts on people are judged to be negligible;
- (b) The policy, or certain proposals within it, are potentially unlawfully discriminatory, but this possibility can readily and easily be eliminated by making appropriate changes to the policy or by adopting appropriate mitigating measures;
- (c) Any asymmetrical equality impacts caused by the policy are intentional because they are specifically designed to promote equality of opportunity for particular groups of disadvantaged people;
- (d) By amending the policy there are better opportunities to better promote equality of opportunity and/or good relations.

In favour of none

23. (a) The policy has no relevance to equality of opportunity or good relations.

(b) The policy is purely technical in nature and will have no bearing in terms of its likely impact on equality of opportunity or good relations for people within the equality and good relations categories.

24. Taking into account the evidence presented above, consider and comment on the likely impact on equality of opportunity and good relations for those affected by this policy, in any way, for each of the equality and good relations categories, by applying the screening questions given overleaf and indicate the level of impact on the group i.e. minor, major or none.

Screening questions

1. What is the likely impact on equality of opportunity for those affected by this policy, for each of the Section 75 equality categories?

None. No bearing on equality of opportunity for section 75 categories is expected. This is subject to consultation responses.

Section 75 category	Details of policy impact	Level of impact? Minor/Major/None
Religious belief		None.
Political opinion		None.
Racial group		None.
Age		None.
Marital status		None.
Sexual orientation		None.
Men and Women generally		None.
Disability		None.
Dependants		None.

2. Are there opportunities to better promote equality of opportunity for people within the Section 75 equalities categories?

No opportunities to promote equality of opportunity for section 75 categories are expected. This is subject to replies to the consultation.

	If Yes, provide details	If No, provide reasons
Religious belief		No opportunities expected.
Political opinion		No opportunities expected.
Racial group		No opportunities expected.
Age		No opportunities expected.
Marital status		No opportunities expected.
Sexual orientation		No opportunities expected.
Men and Women generally		No opportunities expected.
Disability		No opportunities expected.
Dependants		No opportunities expected.

3. To what extent is the policy likely to impact on good relations between people of different religious belief, political opinion or racial group?

None. There does not appear to be any bearing in terms of its likely impact on good relations for people within the equality and good relations categories. This is subject to responses to the consultation.

Good relations category	Details of policy impact	Level of impact Minor/Major/None
Religious belief		None.
Political opinion		None.
Racial group		None.

4. Are there opportunities to better promote good relations between people of different religious belief, political opinion or racial group?

There does not appear to be any opportunities to promote good relations. This is subject to responses to the consultation.

Good relations category	If Yes, provide details	If No, provide reasons
Religious belief		No opportunities expected.
Political opinion		No opportunities expected.
Racial group		No opportunities expected.

Additional considerations

Multiple identity

25. Generally speaking, people can fall into more than one Section 75 category. Taking this into consideration, are there any potential impacts of the policy/decision on people with multiple identities?

None apparent. This is subject to the consultation responses.

(For example; disabled minority ethnic people; disabled women; young Protestant men; and young lesbians, gay and bisexual people).

26. Provide details of data on the impact of the policy on people with multiple identities. Specify relevant Section 75 categories concerned.

Part 3

Screening decision

27. If the decision is not to conduct an equality impact assessment, please provide details of the reasons.

At this stage, it is not anticipated that an equality impact assessment is required as it is not envisaged that the proposal will have any bearing in terms of its likely impact on equality of opportunity or good relations for people within the equality and good relations categories. This is subject to consultation responses.

28. If the decision is not to conduct an equality impact assessment, consider if the policy should be mitigated or an alternative policy be introduced.

Subject to consultees' views, this is not considered necessary.

29. If the decision is to subject the policy to an equality impact assessment, please provide details of the reasons.

30. Further advice on equality impact assessment may be found in a separate Commission publication: Practical Guidance on Equality Impact Assessment.

Mitigation

31. When the public authority concludes that the likely impact is ‘minor’ and an equality impact assessment is not to be conducted, the public authority may consider mitigation to lessen the severity of any equality impact, or the introduction of an alternative policy to better promote equality of opportunity or good relations.

32. Can the policy/decision be amended or changed or an alternative policy introduced to better promote equality of opportunity and/or good relations?

33. If so, give the **reasons** to support your decision, together with the proposed changes/amendments or alternative policy.

Timetabling and prioritising

- 34. Factors to be considered in timetabling and prioritising policies for equality impact assessment.
- 35. If the policy has been ‘**screened in**’ for equality impact assessment, then please answer the following questions to determine its priority for timetabling the equality impact assessment.
- 36. On a scale of 1-3, with 1 being the lowest priority and 3 being the highest, assess the policy in terms of its priority for equality impact assessment.

Priority criterion	Rating (1-3)
Effect on equality of opportunity and good relations	
Social need	
Effect on people’s daily lives	
Relevance to a public authority’s functions	

- 37. Note: The Total Rating Score should be used to prioritise the policy in rank order with other policies screened in for equality impact assessment. This list of priorities will assist the public authority in timetabling. Details of the Public Authority’s Equality Impact Assessment Timetable should be included in the quarterly Screening Report.
- 38. Is the policy affected by timetables established by other relevant public authorities?
- 39. If yes, please provide details.

Part 4

Monitoring

40. Public authorities should consider the guidance contained in the Commission's Monitoring Guidance for Use by Public Authorities (July 2007).
41. The Commission recommends that where the policy has been amended or an alternative policy introduced, the public authority should monitor more broadly than for adverse impact (See Benefits, P.9-10, paras 2.13 – 2.20 of the Monitoring Guidance).
42. Effective monitoring will help the public authority identify any future adverse impact arising from the policy which may lead the public authority to conduct an equality impact assessment, as well as help with future planning and policy development.

Part 5

Approval and authorisation

Screened by:	Position/Job Title	Date
Naomi Callaghan	Grade 7, EU Branch, Civil Justice Policy Division	20 May 2015
Approved by:		
Laurene McAlpine	Deputy Director, Civil Justice Policy Division	22 May 2015

Note: A copy of the Screening Template, for each policy screened should be 'signed off' and approved by a senior manager responsible for the policy, made easily accessible on the public authority's website as soon as possible following completion and made available on request.

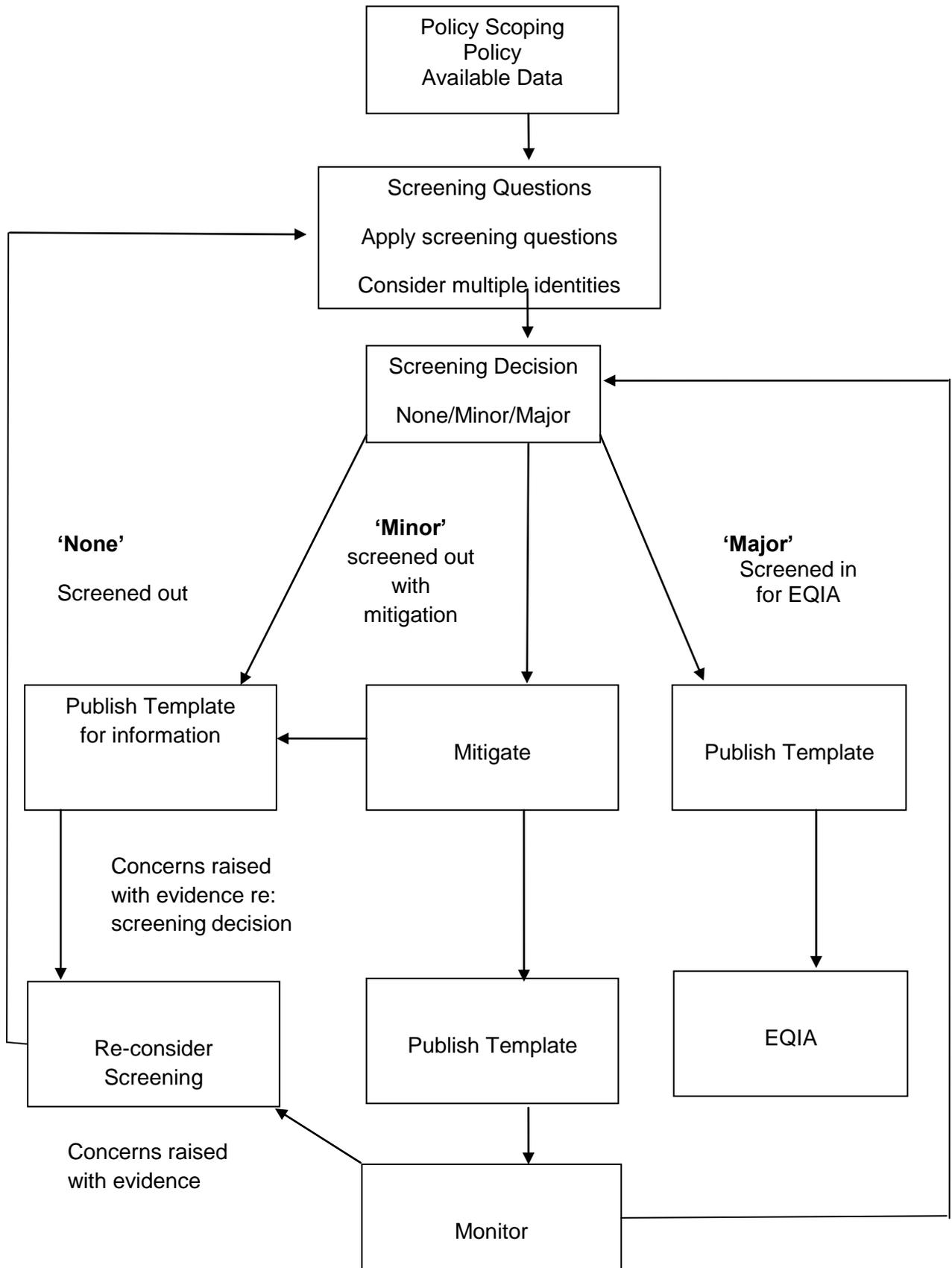
The Screening exercise is now complete.

When you have completed the form please retain a record in your branch and send a copy for information to:-

Central Management Unit
Room B3.13b
Castle Buildings
Stormont Estate
BELFAST
BT4 3SG
 23118

or e-mail to Peter Grant peter.grant@dojni.x.gsi.gov.uk or Heather Gallagher heather.gallagher@dojni.x.gsi.gov.uk.

SCREENING FLOWCHART



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
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
Marital/Civil Partnership Status	Married people; unmarried people; divorced or separated people; widowed people; civil partnerships
Sexual Orientation	Heterosexuals; bisexual people; gay men; lesbians
Men and Women generally	Men (including boys); women (including girls); trans-gender and trans-sexual people
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.

Appendix 2 – List of consultees

This consultation document has been sent to the following individuals and organisations:

- Advice NI
- Age NI
- Amnesty International
- An Munia Tober
- Association of Chief Police Officers
- Association of District Judges
- Attorney General for Northern Ireland
- Baptist Church
- Belfast Hebrew Congregation
- Belfast Islamic Centre
- British Deaf Association Northern Ireland
- British - Irish Rights Watch
- British Medical Association
- Carers Northern Ireland
- Catholic Church
- Children's Law Centre
- Chinese Welfare Association
- Christian Scientists
- Church of Ireland
- Citizens Advice Bureau
- Coalition on Sexual Orientation
- Coiste na nIarchimi
- Community Foundation for Northern Ireland
- Community Relations Council
- Committee on the Administration of Justice
- Consumer Council for Northern Ireland
- Council of District Judges (Magistrates Courts) in Northern Ireland
- Council of Employment Judges
- Council of Her Majesty's County Court Judges
- Criminal Justice Inspection Northern Ireland
- Departmental Solicitor

- Department of Agriculture and Rural Development
- Department of Culture, Arts and Leisure
- Department of Education
- Department for Employment and Learning
- Department of Enterprise, Trade and Investment
- Department of the Environment
- Department of Finance and Personnel
- Department of Health, Social Services and Public Safety
- Department for Regional Development
- Department for Social Development
- Derry travellers Support Group
- Directorate of Legal Services
- Disability Action
- District Councils
- Early Years
- Education Authority, Northern Ireland
- Environment and Planning Law Association of Northern Ireland
- Equality Coalition
- Equality Commission
- Extern
- Family mediation NI
- Foras na Gaeilge
- Gay and Lesbian Youth Northern Ireland
- General Council of the Bar of Northern Ireland
- Ginger Bread NI
- Health & Social Care Trusts
- Irish Congress of Trade Unions
- Independent Assessor for PSNI/ Recruitment Applications
- Independent monitoring board - Maghaberry Prison/ Magilligan Prison/ Hydebank Prison and Young Offenders Centre
- Institute of Professional Legal Services
- Indian Community Centre Belfast
- Judiciary/Tribunal Judiciary
- Irish Congress of trade unions
- Labour relations agency

- Law Centre (Northern Ireland)
- Law Society of Northern Ireland
- Lesbian advocacy services Initiatives (LASI)
- Lord Chief Justice Northern Ireland
- Mediation NI
- Mencap
- Men's Advisory Project
- Members of the Northern Ireland Assembly
- Methodist Church
- Ministry of Justice
- Multi-Cultural Resource Centre
- National Society for the Prevention of Cruelty to Children (NSPCC)
- Northern Ireland Association for the Care and Resettlement of Offenders (NIACRO)
- Northern Ireland African Cultural Centre
- Northern Ireland Association of Mental health
- Northern Ireland Chamber of Commerce
- Northern Ireland Commissioner for Children and Young people
- Northern Ireland Council for Ethnic Minorities
- Northern Ireland Gay Rights Association
- Northern Ireland Human Rights Commission
- Northern Ireland Judicial Appointments Commission
- Northern Ireland Judicial Appointments Ombudsman
- Northern Ireland Law Commission
- Northern Ireland Lay Magistrates' Association
- Northern Ireland Legal Services Commission
- Northern Ireland Local Government Association
- Northern Ireland Ombudsman
- Northern Ireland Political Parties
- Northern Ireland Police Fund
- Northern Ireland Policing Board
- Northern Ireland Public Service Alliance
- Northern Ireland Woman's Aid Federation
- Office of First Minister and deputy First Minister
- Older People's Advocate Northern Ireland

- Parenting Forum Northern Ireland
- Parole Commissioners for Northern Ireland
- PILS Project
- Planning Appeals Commission
- POBAL
- Police Federation for Northern Ireland
- Police Ombudsman for Northern Ireland
- Police Rehabilitation and Retraining Trust
- Police Service of Northern Ireland
- Polish Association Northern Ireland
- Presbyterian Church
- Prison Fellowship Northern Ireland
- Prison Governors' Association
- Prison Officers' Association
- Prison Service Trust
- Prisoner Ombudsman for Northern Ireland
- Probation Board for Northern Ireland
- Public Prosecution Service
- Queens University of Belfast, School of Law
- Rainbow Project
- RNIB Northern Ireland
- Royal Institution of Chartered Surveyors, Northern Ireland
- Scottish Justice Department
- Sentence Review Commissioners for Northern Ireland
- Superintendents Association of Northern Ireland
- Tar Anall
- Tribunal Presidents Group
- Ulster Quaker Service
- Ulster Scots Agency
- UNISON
- University of Ulster, School of Law
- Victim Support Northern Ireland
- Woman's Forum Northern Ireland
- Youth Action Northern Ireland

Appendix 3 – Questionnaire for Respondents

Please Note this form should be returned with your response to ensure that we handle your response appropriately.

1. Name/Organisation

Organisation Name

Title Mr Ms Mrs Miss Dr *Please tick as appropriate*

Surname

Forename

2. Postal Address

Postcode	Phone
Email	

3. Permissions - I am responding as... (choose one)

An Individual <input type="checkbox"/>	An Organisation <input type="checkbox"/>
(a) Do you agree to your response being made available to the public? Please tick as appropriate <input type="checkbox"/> Yes <input type="checkbox"/> No	(b) The name of your organisation will be made available to the public Are you content for your response to be made available? Please tick as appropriate <input type="checkbox"/> Yes <input type="checkbox"/> No

CONSULTATION QUESTIONS [continue on separate sheet of paper as required)

Question 1: Have you been deterred from bringing a judicial review because of uncertainty over the requirement to bring a case promptly? If so, please provide details.

Yes / No

Comments:

Question 2: Do you agree that is appropriate to remove the requirement to bring a judicial review promptly as long as it is made within three months? Please give your reasons.

Yes / No

Comments:

Question 3: What impact will the proposal to remove the requirement to bring a judicial review promptly have on you or your organisation?

Yes / No

Comments:

Question 4: Do you agree with the proposal that the Court's power to extend the time limit in appropriate cases should be retained? Please give reasons.

Yes / No

Comments:

Question 5: Do you agree that it would be inappropriate to remove the promptitude requirement for applications made on EU grounds (and under the Aarhus Convention) but retain it for applications made on domestic grounds? Please give reasons for your answer.

Yes / No

Comments:

Question 6: Do you think the proposal to remove the promptly requirement will have an adverse impact on any particular categories of judicial review? If so, please explain your answer.

Yes / No

Comments:

Question 7: Are there any types of case in which you consider a time limit shorter than three months might be appropriate? If so, please explain your answer.

Yes / No

Comments:

Question 8: If a shorter time limit than three months were introduced for certain cases, would the Court's power to allow an extension of time to bring an application be sufficient to ensure that access to justice was protected?

Yes / No

Comments:



Department of Justice,
Civil Justice Policy Division,
Access to Justice Directorate,
Massey House,
Stormont Estate,
Belfast,
BT4 3SX.

<http://www.dojni.gov.uk>