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SCOTLAND**  
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**Equality and Human Rights  
Impact Assessment (EqHRIA)  
Standard Operating Procedure**

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### **1. Purpose**

- 1.1 This Standard Operating Procedure (SOP) supports the Police Service of Scotland (hereinafter referred to as Police Scotland) Equality and Diversity Policy.
- 1.2 The SOP supports Police Scotland and the Scottish Police Authority (SPA) to meet their commitment and statutory duties imposed under the Equality Act 2010 (Section 149) and the Human Rights Act 1998 (HRA), to help advance equality and to protect individuals' rights and freedoms. It also supports the Police Scotland Equality, Diversity and Dignity (Police Officers and Authority/Police Staff) SOP.
- 1.3 This SOP provides instruction on how an Equality and Human Rights Impact Assessment (EqHRIA) is conducted. This document should always be referred to in the first instance when considering undertaking an EqHRIA.

### **2. Legislative Basis**

#### **2.1 Public Sector Equality Duty - General Equality Duty**

- 2.1.1 The Equality Act 2010 s149 (1) sets out a General Equality Duty that requires a public authority, in the exercise of its functions, to have 'due regard' to the three 'needs' in relation to the 'protected characteristics' as specified under this duty.

#### **2.2 Specific Equality Duties (Scotland) Regulations 2012**

- 2.2.1 To help meet the requirements of the General Equality Duty, The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 impose certain specific duties that also require to be met. Assessment and review of policies and practices is one of those duties.
- 2.2.2 The Equality and Human Rights Commission (EHRC) has issued Technical Guidance on the Public Sector Equality Duty, which provides practical information on all aspects of the statutory requirements and case law examples for anyone seeking additional knowledge on the subject.

#### **2.3 Human Rights**

- 2.3.1 Police Scotland/SPA has a positive duty to protect the Rights and Freedoms afforded to individuals under The European Convention on Human Rights ('The Convention'), and The Human Rights Act 1998 (HRA). There are a number of different 'types of rights' that require to be treated appropriately in order to ensure legal compliance.

- Useful Resources: Human Rights: Human Lives – A Guide on Human Rights for Public Authorities, Equality and Human Rights Commission, 2014

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### **3 Equality and Human Rights Impact Assessment**

#### **3.1 What is an Equality and Human Rights Impact Assessment?**

3.1.1 An Equality and Human Rights Impact Assessment (EqHRIA) is a tool that helps to ensure that a policy / practice proactively considers its potential impact on equality and human rights, using relevant evidence, in a systematic and structured way. A policy / practice so assessed, is likely to be fairer and more responsive to the needs of those affected by it.

#### **3.2 What needs to be assessed for Impact?**

3.2.1 Policy / practice is a generic term used throughout this document and EqHRIA Form Guidance to refer to all areas of decision-making and police powers. The requirement to conduct an EqHRIA is inclusive of, but not limited to:

- Policies;
- Standard Operating Procedures (SOP);
- Guidance;
- Functions;
- Practices;
- Service Provision;
- Events and Operations;
- Employment practice related documents / processes;
- Procurement / Contracts Award Criteria;
- Strategic Decisions;
- Financial Decisions;
- Organisational / Business Change Projects.

#### **3.3 When to Assess Impact?**

3.3.1 For a meaningful EqHRIA, considerations regarding potential impacts **must** form part of the decision-making process **from the outset** and **continue in tandem** with the development of a new policy / practice or revision of an existing one. The results of the assessment **must** be used to inform the final decision regarding the policy / practice.

3.3.2 An assessment should not be undertaken in isolation or as an afterthought.

#### **3.4 How to Assess Impact?**

3.4.1 An EqHRIA should be approached with an open mind and be based on current evidence / data that can help determine the likely impact of what is being proposed or reviewed. Best practice suggests that each assessment should be proportionate to the level of relevance the proposed policy / practice has to the

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requirements of the equality and human rights legislations. The EqHRIA Form 060-008 should be used to help facilitate a systematic and coherent approach to assessment.

- 3.4.2 A detailed guidance for authors on how to complete each of the sections of the form is contained in the EqHRIA Form Guidance Document. Relevant sections of this guidance can also be accessed interactively by clicking on a specific section heading within the EqHRIA Form.

### **3.5 Policy / Practice Undergoing a Review**

- 3.5.1 Check if it has previously been the subject of an Equality Impact Assessment (EIA) or an EqHRIA.
- 3.5.2 If only an EIA was completed previously, include reference to the key findings from that assessment within the new EqHRIA along with assessment of any significant changes that are proposed and likely to impact on Human Rights.
- 3.5.3 If an EqHRIA was completed previously, review it in tandem with the relevant policy / practice, and update the existing EqHRIA form by recording any significant changes within the appropriate sections, quality assure and update the Management Log.
- 3.5.4 Remember, community / staff profiles / demographics can change over time and new evidence, information and / or research may now be available which has implications for the policy / practice in question.

## **4. Publication of Equality and Human Rights Impact Assessments**

### **4.1 Legal Requirement**

- 4.1.1 Police Scotland / SPA, as public bodies, have a legal obligation to publish a summary of results in relation to Equality Impact Assessments. EqHRIA Summary of Results Form 060-009 should be used to record the pertinent considerations, outcomes and mitigating actions identified during the assessment. Essentially, state what the assessment showed and how the findings were used to better inform the policy or practice under development or review, including any mitigating actions already taken and/or those planned.

### **4.2 Internal**

- 4.2.1 Policy Support will publish the full EqHRIAs for national Policies and SOPs on the guidance site of the Police Scotland Intranet.
- 4.2.2 It will be the responsibility of Divisions / Departments to consider where EqHRIAs in relation to other documents will be published internally. Publication to the Police Scotland Internet site will be facilitated by Corporate Communications.

### **4.3 External**

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- 4.3.1 Police Scotland will publish a summary of EqHRIA results for all national Policies and SOPs as part of the Model Publication Scheme on the Police Scotland Internet site.
- 4.3.2 EqHRIA authors will be responsible for providing the results using EqHRIA Summary of Results (Form - 060-009) to ensure corporate standards are maintained. Policy Support will facilitate publication on the Police Scotland Internet site, via Corporate Communications.
- 4.3.3 Owing departments for all other strategies and related projects, guidance, manuals, etc., that are published on the Police Scotland website, must ensure that these are impact assessed, and that an EqHRIA Summary of Results (Form 060-009) is published in unison with the associated document. Publication on the Police Scotland Internet site will be facilitated by Corporate Communications.

## 5. Retention, Storage and Accessibility

- 5.1 It is essential that an accessible record of an EqHRIA is retained with the core document it refers to.
- 5.2 Policy Support will retain an EqHRIA for all national Policies and SOPs, however, Owing Departments will be responsible for maintaining all research material and evidence obtained through consultation. Any information of a personal / sensitive nature must be treated in accordance with the requirements of the Data Protection legislation.
- 5.3 Divisions / Departments will be responsible for managing EqHRIAs in relation to all other documents, ensuring all research material and evidence obtained through consultation is maintained.
- 5.4 The Assessment Form will be subject to the same retention period / rules as the document to which it refers. For specific guidance in relation to record retention and storage, reference should be made to the Records Retention SOP and Storage of Records SOP.

## 6. Roles and Responsibilities

### 6.1 Equality and Human Rights Impact Assessment Author

- 6.1.1 The EqHRIA author is the police officer or SPA / police staff member with the task of undertaking the EqHRIA process. The EqHRIA author **must** have knowledge of, or be the author of the policy / practice under assessment.
- 6.1.2 The EqHRIA author **must** have access to all documentation in relation to the subject under assessment.
- 6.1.3 The EqHRIA author will gather all relevant evidence and conduct internal and

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external consultation, as appropriate, and, on completion of the EqHRIA, will endorse Part 1 of the Management Log of EqHRIA Assessment (Form 060-008).

**Note:** Although the EqHRIA author may identify mitigating actions for inclusion in the EqHRIA Form, **responsibility for implementation rests with the owning department.**

- 6.1.4 The original EqHRIA author is not automatically responsible for subsequent reviews. It will be the responsibility of the Owing Department to allocate this task.
- 6.1.5 Where the assessment has discovered any infringements in relation to Convention rights, then the EqHRIA author **must** ensure that the conditions set out under 3.4.2 above are met. **If any of these conditions are not satisfied or the author is not sure whether a right is engaged or whether it can be refused or restricted, they should seek legal advice from the Police Scotland / SPA Legal Team.**
- 6.1.6 On completion of the assessment, the EqHRIA author will be responsible for providing the results of the assessment using EqHRIA Summary of Results (Form 060-009 (A) and arranging publication in accordance with procedures set out under section 5 above.

## 6.2 Owing Department

- 6.2.1 The Divisional Commander / Head of Department (or designate) will have responsibility for ensuring that an EqHRIA is conducted. They will review each completed assessment, appending any comments as appropriate to Part 3 of the Management Log of EqHRIA Form.
- 6.2.2 The Divisional Commander / Head of Department (or designate) will ensure that all mitigating actions are undertaken and practices amended and implemented as required.
- 6.2.3 The Divisional Commander / Head of Department (or designate) will be responsible for ensuring that the EqHRIA is updated if there is a significant change to the policy / practice.

## 6.3 Policy Support Department (Operational Service Delivery Related Policy / Practice):

- 6.3.1 Policy Support will provide advice, assistance and quality assurance to Owing Departments of all EqHRIA Forms relating to national Policies, SOPs and Guidance. Contact details are provided at Appendix 'D' to this SOP.
- 6.3.2 Policy Support will retain an auditable record of completed EqHRIAs in relation to national Policies, SOPs and Guidance documents.
- 6.3.3 Policy Support will coordinate with the EqHRIA author to ensure that a summary of results for all national Policies, SOPs and Guidance documents is published on the Police Scotland website.

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### **6.4 Safer Communities Equality and Diversity Department**

- 6.4.1 Safer Communities Equality and Diversity (E&D) Advisers will provide general advice, assistance and quality assurance to Owing Departments, and EqHRIA authors, on request, for service related EqHRIAs that would not normally be quality assured by Policy Support. Contact details are provided in Appendix 'D' to this SOP.

### **6.5 People and Development Department**

- 6.5.1 The People and Development Policy Department is the gatekeeper for all employment / staff related policies / practices. They will work closely with Policy Support to ensure corporate governance is applied to all documentation.
- 6.5.2 The People and Development's Equality and Diversity Team are responsible for providing advice, assistance and quality assurance in relation to employment / training related policies / practices. Contact details are provided at Appendix 'D' to this SOP.

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**List of Associated Legislation**

- Equality Act 2010
- Human Rights Act 1998
- The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012

**List of Associated Reference Documents**

**Policy**

- Equality and Diversity Policy

**Standard Operating Procedures**

- Equality, Diversity and Dignity (Police Officers and Authority/Police Staff) SOP
- Records Retention SOP
- Storage of Records SOP

**Guidance**

- Police Scotland EqHRIA Form Guidance
- Police Scotland, Organisational Support, Equality and Diversity intranet page
- Technical Guidance on the Public Sector Equality Duty, Equality and Human Rights Commission, 2014
- [www.equalityhumanrights.com](http://www.equalityhumanrights.com)
- Human Rights: Human Lives - A guide to the Human Rights Act for Public Authorities, Equality and Human Right Commission
- Police Scotland, Diversity Booklet, A Practical Guide

**List of Associated Forms**

- EqHRIA Form 060-008
- EqHRIA Summary of Results Form – 060-009 (A)
- EqHRIA Consultation Record Form

**Contacts List**

**People and Development Equality and Diversity Team**

Email: Information has been removed due to its content being exempt in terms of the Freedom of Information (Scotland) Act 2002, Section 30(c) Prejudice to effective Conduct of Public Affairs

Telephone: As above

**National Safer Communities (Service Delivery / Operational Equality and Diversity)**

EqHRIA Enquiries: Information has been removed due to its content being exempt in terms of the Freedom of Information (Scotland) Act 2002, Section 30(c) Prejudice to effective Conduct of Public Affairs

General Enquiries: As above

Email: As above

**Policy Support (General Advice)**

Email: Information has been removed due to its content being exempt in terms of the Freedom of Information (Scotland) Act 2002, Section 30(c) Prejudice to effective Conduct of Public Affairs

Telephone: As above

**Equality and Human Rights Police Support (Operational / Service Delivery)**

Email: Information has been removed due to its content being exempt in terms of the Freedom of Information (Scotland) Act 2002, Section 30(c) Prejudice to effective Conduct of Public Affairs

Telephone: As above

**Glossary of Terms**

E&D	Equality and Diversity
EHRC	Equality and Human Rights Commission
EIA	Equality Impact Assessment
EqHRIA	Equality and Human Rights Impact Assessment
HRA	Human Rights Act 1998
P&D	People and Development
Police Scotland	Police Service of Scotland
SOP	Standard Operating Procedure
SPA	Scottish Police Authority
'The Convention'	The European Convention on Human Rights