

Applications by Gas Licence Holders for the Grant of Necessary Wayleaves - Proposed Guidance for Applicants and Landowners and/or Occupiers

 January 2017

Consultation Paper

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**Purpose of Consultation and How to Respond**

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**Purpose of consultation**

* 1. In this consultation, the Department for the Economy (“the Department”) is seeking views on its revised guidance document, “Applications by Gas Licence Holders for the Grant of Necessary Wayleaves – Guidance for Applicants and Landowners and/or Occupiers”. This guidance outlines and explains procedures to be followed when a gas licence holder applies to the Department for a necessary wayleave under the Gas (Northern Ireland) Order 1996[[1]](#footnote-1) **(“the Gas Order”**) in order to gain access to land to install a gas pipeline.
	2. Further details and information on the revised guidance are set out in Chapter 2.

**How to respond**

* 1. Responses should be sent, preferably by email, **to arrive by 5pm on Friday 31st March 2017** to:

**gasbranch@economy–ni.gov.uk**

or by post to:

**Energy, Telecoms, Minerals and Petroleum Division**

**Department for the Economy**

**Netherleigh, Massey Avenue**

**BELFAST**

**BT4 2JP**

All responses should include the name and postal address of the respondent.

**Confidentiality & Data Protection**

* 1. Your response may be made public by the Department and placed on its website. If you do not want all or part of your response or name made public, please state this clearly in the response by marking your response as “CONFIDENTIAL”. Any confidentiality disclaimer that may be generated by your organisation’s IT system or included as a general statement in any accompanying cover sheet will be taken to apply only to information in your response for which confidentiality has been specifically requested.
	2. Information provided in responses, including personal information, may be subject to publication or disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 1998 (DPA)). If you want other information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.
	3. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department*.*

**Copies of the document**

* 1. This document is being produced in electronic form and may be accessed at <https://www.economy-ni.gov.uk/consultations> or may be obtained from the address above or by telephoning 028 9052 9567
	2. If you require access to this consultation paper in a different format – e.g. Braille, disk, audio cassette, larger font – or in a minority ethnic language please contact the Department on 028 9052 9567 and appropriate arrangements will be made as soon as possible.

**APPLICATIONS FOR NECESSARY GAS WAYLEAVES – PROPOSED GUIDANCE FOR APPLICANTS AND LANDOWNERS AND/OR OCCUPIERS**

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**Background**

2.1 The Department supports extending the natural gas network in Northern Ireland, where it is economic to do so, in order to:

1. Extend the availability of natural gas as a more efficient and potentially cheaper fuel, providing additional fuel choice and enabling businesses to improve their competitiveness in an increasingly global market place;
2. Extend the availability of natural gas as a lower carbon fuel, displacing more polluting fossil fuels, thus providing environmental benefits;
3. Enable domestic consumers in further towns and villages to connect to natural gas, thus contributing to reducing fuel poverty; and
4. Promote the development and maintenance of an efficient, economic and co-ordinated gas industry in Northern Ireland.

2.2 There are a number of planned and ongoing extensions to the existing gas network in Northern Ireland, including the Gas to the West project, a £250m investment by Mutual Energy and SGN Natural Gas which will connect some 40,000 further businesses and households in further towns in the West to natural gas. The Northern Ireland Executive is supporting this project with grant assistance up to £32.5 million.

**Land Access**

2.3 Connecting further towns and villages to natural gas may require installing high pressure gas pipelines across the countryside and/or laying intermediate pressure pipelines, usually in the roadway, but also occasionally across privately-owned land at certain points. Gas companies may, therefore, need permission from a landowner, or occupier of the land, to install new gas infrastructure and to have ongoing access to the land for maintenance purposes. In such cases, the gas companies are expected to engage directly with landowners and/or occupiers with a view to reaching agreement on land access, including an appropriate compensation package. Compensation may vary from project to project depending upon particular circumstances, but the gas companies typically consult with relevant representative bodies, such as the Ulster Farmers Union and the NI Agricultural Producers, to ensure that the compensation offered is fair.

2.4 In most cases, a gas company’s rights to install, and keep installed, a gas pipeline or related gas apparatus, together with access to the land as required for maintenance, are secured voluntarily. However, if agreement cannot be reached with landowners and/or occupiers, under legislative provisions established in the Gas Order, a gas licence holder may apply to the Department for a necessary (compulsory) wayleave in order to access land along a proposed pipeline route.

**Applications for necessary gas wayleaves - proposed guidance for applicants and landowners and/or occupiers**

2.5 Schedule 3, paragraph 10 of the Gas Order provides that, where an owner or occupier of land has failed to give a wayleave on a voluntary basis, or has given the wayleave subject to terms and conditions to which the gas company objects, a gas licence holder may apply to the Department for a necessary wayleave to install gas apparatus in the land.

2.6 Before applying for a necessary wayleave, the gas licence holder must first issue the landowner or occupier with a written notice which:

1. states the licence holder's intention to install gas apparatus;

(b) gives a description of the nature of the apparatus and of the position and manner in which it is intended to be installed; and

(c) requires the owner or occupier of the land to give the necessary wayleave within a period (not being less than 21 days) specified in the notice.

If the landowner or occupier fails to respond to the written notice, the gas licence holder may apply to the Department for a necessary wayleave in order to install, and keep installed, gas apparatus in the land and to have access to the land for the purpose of inspecting, maintaining, adjusting, repairing or altering the apparatus.

2.7 When an application for a necessary wayleave is made, it is the role of the Department to fully consider all relevant information in order to come to a fully informed, objective, transparent and equitable decision on whether or not the necessary wayleave should be granted. The Gas Order specifically provides that the Department must give the occupier of the land and, where the occupier is not also the owner of the land, the owner, an opportunity to put forward their views on the application as part of the process. It should be noted that the compensation package offered by a gas licence holder, as mentioned at paragraph 2.3 above, is not a matter that will be considered when the Department makes its decision to either grant or refuse a necessary wayleave.

 2.8 The Gas Order’s legislative provision for necessary gas wayleaves has not changed and remains the same as that utilised, where appropriate, in previous gas network extension projects in Northern Ireland. However, the Department has reviewed and revised some of the procedures to be followed by gas licence holders, landowners and/or occupiers in the event of an application for necessary wayleave in order to update them and bring them into line with existing procedures for electricity wayleaves.

2.9 The revised guidance, “Applications by Gas Licence Holders for the Grant of Necessary Wayleaves – Guidance for Applicants and Landowners and/or Occupiers”, which is attached for comment at **Annex A**, outlines:

* Circumstances in which a gas licence holder may apply to the Department for the Economy (DfE) for a necessary gas wayleave;
* Required notices before making a necessary wayleave application;
* Information which must be included in the application;
* Procedure to assess whether to appoint an independent wayleave officer to undertake a wayleave enquiry;
* Purpose and scope of a wayleave enquiry;
* Provision to hear representations from the landowner and or occupier and the gas company;
* Potential for convening a meeting of key interested parties;
* Wayleave officer’s report and DfE’s decision; and
* Timelines.

2.10 The key changes in the revised guidance concern (i) the addition of a new section on procedures to be followed in the event that a landowner or occupier does not wish to participate in the wayleave process; and (ii) revised arrangements for the independent wayleave officer to hear representations from the landowner or occupier. With regard to the latter, previously when a gas licence holder applied for a necessary wayleave, the wayleave officer would arrange a hearing, usually in Departmental headquarters, and invited representatives of the key interested parties to attend in order to hear representations. The revised guidance outlines the new process for hearing representations whereby the wayleave officer will arrange to visit the landowner and/or occupier to hear his or her views before asking the gas company separately for its response to issues raised. These arrangements have been in place for several years in the case of electricity wayleaves and have proven a more effective way of obtaining relevant information.

2.11 The proposed guidance also outlines the procedures to be followed in the case of an application for a necessary wayleave in respect of an existing gas pipeline. This may happen when a landowner or occupier wishes to remove a gas pipeline from his or her land but the gas company wishes to put forward a case for retaining the pipeline in its existing location.

**Equality and regulatory impacts**

2.12 The Department has completed a Section 75 Equality of Opportunity screening form on the revised guidance which concludes that a full equality impact assessment is not required. The screening form is attached for comment at **Annex B** of this document.

2.13 The Department has also considered the issue of regulatory impacts and has concluded that it is not appropriate to carry out a full regulatory impact assessment on the revised guidance because (i) regulatory provision for necessary gas wayleaves remains unchanged; (ii) the guidance for gas licence holders and landowners/occupiers has only been revised as far as is necessary to bring procedures for gas wayleave applications into line with existing procedures for electricity wayleaves; and (iii) the Department would not anticipate any of the revisions to procedures for gas wayleaves to have a particular cost impact on gas licence holders or landowner/occupiers.

**Consultation questions**

2.14 The Department is seeking comments on the proposed guidance document, “Applications by Gas Licence Holders for the Grant of Necessary Wayleaves – Guidance for Applicants and Landowners and/or Occupiers” and would, in particular, welcome views on the following questions:

1. Is the guidance sufficiently clear in outlining the processes to be followed by gas licence holders and their representatives in applying for a necessary gas wayleave?
2. Is the role of the independent wayleave officer clearly explained?
3. Do you agree that the processes outlined afford landowners or occupiers sufficient opportunity to contribute their views on a gas wayleave application?
4. Is there any further information on the gas wayleave application process which would be useful to gas licence holders, landowners and/or occupiers?
5. Do you have any comments on the Section 75 Equality of Opportunity screening form attached at **Annex B** or on the Department’s decision that a full regulatory impact assessment is not required?

**ANNEX A**

GAS (NORTHERN IRELAND) ORDER 1996

APPLICATIONS BY GAS LICENCE HOLDERS FOR THE GRANT OF NECESSARY WAYLEAVES

**GUIDANCE FOR APPLICANTS AND LANDOWNERS AND/OR OCCUPIERS**

DEPARTMENT FOR THE ECONOMY

XXXX 2017

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**1.** **INTRODUCTION**

1.1 The overriding objective of energy policy in Northern Ireland is to ensure secure, diverse, clean, efficient and sustainable supplies of energy at competitive prices.

1.2 The extension of the natural gas network is a key element in the achievement of this objective. The availability of a natural gas supply adds to the range of available fuels, increases consumer choice and contributes to reducing carbon emissions. It also has the potential to help reduce fuel poverty for domestic consumers and improve the competitiveness of domestic and industrial/commercial consumers.

1.3 Any extension of the natural gas network may require the installation of gas apparatus in land in private ownership. Gas companies therefore require permission from the landowner and/or occupier of the land to install the apparatus, together with future access to the land.

1.4 If a landowner or occupier refuses permission the gas company can apply to the Department for the Economy (DfE) for a necessary (that is compulsory) wayleave, as provided for in the **Gas (Northern Ireland) Order 1996 (“the 1996 Order”).**

1.5 This note is intended to provide general guidance to:-

 (a) Gas Companies (holders of a gas licence under the 1996 Order) who propose to apply to the Department for a necessary wayleave to install, and keep installed any gas apparatus; and

 (b) Landowners and/or occupiers whose land is, or may be, the subject of such applications.

1.6 The legislative authority for the grant, by the Department, of necessary wayleaves for the installation of gas apparatus is presently contained in **Article 13 and paragraph 10 of Schedule 3 to the 1996 Order.**

1.7 Gas apparatus is defined at **paragraph 1 of Schedule 3 to the 1996 Order** as:-

 (a) pipes and other conduits for the conveyance of gas; and

 (b) pressure governors, ventilators and other apparatus used for, or in connection with, the conveyance or supply of gas.

1.8 For convenience, the term “gas pipeline” is substituted for the term “gas apparatus” throughout this guidance document.

1.9 It should be noted that a number of the procedures outlined in this document are not explicitly provided for in the legislation. However, the Department considers that it is important for these procedures to be followed by gas companies and landowners/occupiers in order to assist it in reaching fully informed, objective, transparent and equitable decisions.

1.10 This guidance may be refined, in the light of experience, in the processing of applications for necessary wayleaves, with a view to improving the effectiveness and/or clarity of the procedures.

1.11 If you require any further information, or have any questions, on necessary wayleaves, please contact the Department for the Economy, Netherleigh, Massey Avenue, Belfast, BT4 2JP (e-mail: **xxxxxxx**  , telephone: (028) 905 xxx or (028) 9052 xxx).

**2.** **REQUIREMENT FOR NECESSARY WAYLEAVES**

2.1 A gas company requires permission to install, and keep installed, a gas pipeline on, over or under private land, and to have access to that land for the purpose of inspecting, maintaining, adjusting, repairing or altering the pipeline.

2.2 In most cases, the rights to install and keep installed the pipeline, together with access to the land, are secured by the gas company voluntarily.

2.3 However, if a voluntary agreement cannot be reached between the parties, the gas company may apply to the Department for a necessary (or compulsory) wayleave under **paragraphs 10-12 of** **Schedule 3 to the 1996 Order** to enable the installation etc of the pipeline.

2.4 **Paragraph 10(5) of Schedule 3 to the 1996 Order** precludes the grant of a necessary wayleave for a gas pipeline where a dwelling covers the land or where valid planning permission exists for a dwelling to be constructed. **Paragraph 10(6) of Schedule 3** stipulates that this provision does not apply in the case of land in respect of which a wayleave was granted before **paragraph 10(5)** came into operation (10 June 1996).

2.5 It is important to note that the statutory provisions entitle the **occupier** of the land and, where the occupier is not also the ownerof the land the **owner**, an opportunity of being heard by a person (known as a wayleave officer) appointed by the Department (**see paragraph 10(7) of Schedule 3 to the 1996 Order**) to provide an **independent** view to the Department on whether a necessary wayleave should be granted.

2.6 The 1996 Order does not provide definitions of “owner” and “occupier”. As a general rule, the Department takes the view that, in accordance with general legal principles, the “owner” for purposes of Schedule 3 means a person who is entitled to be registered as the outright owner of the land or otherwise the person(s) who own(s) all of the legal estate in the land. The Department would not generally construe “owner” to mean a party who only has a beneficial interest in the land in question.

2.7 The Department also takes the view that the “occupier” is a party who has lawful possession (including temporary possession) of the land in question, or is exercising a legal right to use the land, for example, under the terms of a lease.

2.8 These can be difficult issues and the Department may require the parties to provide further information on the ownership or occupation of the land to help it reach a view, for example, in cases where there is a dispute.

2.9 Central to the wayleave enquiry process is affording landowners/occupiers the fullest opportunity to give their views. They will have a chance to meet and speak to the wayleave officer in person, make representations in writing and attend any informal meeting the wayleave officer decides to convene. The wayleave officer will also want to inspect the site of the proposed or actual pipeline. The gas company will also be invited to be represented and to express its views.

2.10 The independent wayleave officer appointed by the Department, will consider the representations made by the gas company and the owner and/or occupier, and will produce a report for the Department. This will include an analysis of the representations by each party and any other relevant information together with firm conclusions and a reasoned recommendation as to whether the Department should grant a necessary wayleave to allow the installation or retention of the gas pipeline.

2.11 The Department will then decide, on the basis of the wayleave officer’s report and recommendation – and any other information it may consider relevant - whether a necessary wayleave should be refused, granted or granted with conditions.

* 1. Before granting any necessary wayleave to which the Department wishes to attach conditions (other than the Department’s standard conditions) the Department will consult the gas company regarding the technical feasibility, impact on other landowners and the cost.

2.13 The procedures for the processing of applications by a gas company to the Department for the grant of necessary wayleaves for the installation or retention of a gas pipeline are described in more detail in the following sections.

**3**. **REQUIRED NOTICES BEFORE MAKING A NECESSARY WAYLEAVE APPLICATION**

3.1 The **1996 Order** recognises two situations as regards applications for necessary wayleaves: where the application for the grant of a necessary wayleave relates to a new gas pipeline; and where it relates to an existing pipeline.

3.2 Where the gas company is unable to agree a voluntary wayleave (or easement) and wishes to apply to the Department for the grant of a necessary wayleave it is required, first of all, to give the landowner or the occupier a minimum period of 21 days written notice that it requires the grant of a necessary wayleave (**see paragraph 10(1)(b) of Schedule 3 to the 1996 Order**).

3.3 If, after the specified period, the owner or occupier has failed to give the necessary wayleave, or has given the wayleave subject to terms and conditions to which the gas company objects, then the company may apply to the Department for the grant of the necessary wayleave in accordance with **paragraph 10(4) of Schedule 3 to the 1996 Order**.

3.4 The written notice sets the statutory wayleave proceedings in operation. It is important to note that the landowner /or occupier must have been given the notice and that the specified period of at least 21 days must have elapsed before the gas company may apply to the Department for a necessary wayleave. Any applications made before the specified notice period has elapsed will be rejected.

3.5 The application by the gas company to the Department should take the form of a letter and attach a copy of the notice to the landowner and/or occupier. The application should also clearly identify the land that is the subject of the necessary wayleave application and should state the name of the landowner and - where the landowner is not also the occupier - the occupier, along with an explanation of the nature of his occupation of the land (if known after reasonable enquiry).

* 1. In addition, the gas company should attach a map clearly showing, where possible, the boundaries of the owner and/or occupier’s land and the route of the proposed gas pipeline across that land, including the position of ancillary apparatus **(see Section 4.1(a) of this guidance note)**.

 3.7 **Paragraph 12 of Schedule 3 to the 1996 Order** sets out the procedures to be followed where an owner/occupier wishes a gas company to remove a gas pipeline from his land. The gas company may apply to the Department for a necessary wayleave to retain the pipeline, in circumstances where the existing wayleave:

 (a) Is determined by the expiration of a period specified in the wayleave

 Some wayleaves are determined by the expiration of a period specified in the wayleave agreement.

 In those cases, the owner and/or occupier who is party to the wayleave agreement may, either within 3 months before the end of the specified period, or at any time afterwards, give notice to the gas company to remove the pipeline, as provided for by **paragraphs 12(1)(a) and 12(2)(a) of Schedule 3 to the 1996 Order**.

 (b) Is terminated by the owner/occupier in accordance with a term specified in the wayleave

 Where there is already a wayleave in existence and the owner/or occupier requires the gas pipeline which is the subject of that wayleave to be removed, he may give notice to the gas company to terminate the existing wayleave agreement in accordance with a term contained in it. This is provided for by **paragraph 12(1)(b) of Schedule 3 to the 1996 Order**.

 Once the period required for the notice of termination has been completed, the owner and/or occupier may give a notice to the gas company to remove the gas pipeline at any time, as provided for by **paragraph 12(2)(b) of Schedule 3**.

 Accordingly, in such cases, two notices are required before the gas company may apply to the Department for the grant of a necessary wayleave: (1) a notice to terminate the existing wayleave; and (2) a subsequent notice to remove the gas pipeline.

 (c) Ceases to be binding on the owner/occupier by reason of a change in the ownership/occupation of the land after the granting of a wayleave

 In some cases, an existing wayleave will cease to be binding following a change in ownership or occupancy of the land and, in such cases, a notice to remove the gas pipeline may be given at any time after the change in ownership or occupancy as provided for by **paragraphs 12(1)(c) and 12(2)(c) of Schedule 3 to the 1996 Order**.

3.8 **Paragraph 12 of Schedule 3 to the 1996 Order** refers to the owner and/or occupier giving to the licence holder (i.e the licensed gas company) a notice – which must be in writing - requiring him to “remove the gas pipeline from the land”. The Department considers, therefore, that the removal notice needs to make a clear reference to the removal of the gas pipeline or apparatus from the land. It should not simply be a request to reposition, move or divert, relocate the gas pipeline (unless the notice makes it clear that the pipeline is to be repositioned, relocated or diverted off the land in question i.e removed). Similarly, it should not merely be a request that the gas company make contact and discuss what can be done about the gas pipeline.

3.9 The Department also considers that the gas company must actually receive the notice to remove (and notice to terminate) referred to in **paragraph 12 of Schedule 3 to the 1996 Order** for it to be effective.

3.10 If the gas company does not intend to comply with a notice to remove a gas pipeline, **paragraph 12(3) of Schedule 3 to the 1996 Order** provides that, within 3 months from the date of receiving the notice, it must make either an application to the Department for a necessary wayleave or for a vesting order.

3.11 If the validity of the notice to remove is in doubt, it may be in the gas company’s interest to write to the owner and/or occupier to obtain confirmation of the owner and/or occupier’s intention. The period allowed for making applications should provide adequate time to do this.

3.12 It is recommended that, as a matter of good practice, the gas company, landowners and/or occupiers should send their applications and notices by recorded or special delivery post (as these methods require an acknowledgement of receipt). It is also suggested that the gas company contact the Department’s Energy Division (Wayleaves Section) if confirmation of receipt has not been given prior to the end of the 3 month period of making necessary wayleave applications. Although the Department will endeavour to acknowledge new applications within two days of receipt, there may be occasions where a response is delayed. There is no requirement for the owner and/or occupier to copy notices to the Department.

3.13 A notice to remove can be withdrawn by an owner/occupier by writing to the gas company. The gas company will then be able to write to the Department withdrawing its application for a necessary wayleave. The Department in turn, will confirm in writing, that no further action will be taken with the application.

3.14 It should be noted that before the gas company applies to the Department for the grant of a necessary wayleave to retain an existing gas pipeline it is not necessary for it to serve a notice on the owner and/or occupier in accordance with **paragraph 10(1)(b) of Schedule 3 to the 1996 Order** as this only applies to the installation of new gas pipelines.

**4.** **MAKING OF APPLICATIONS FOR NECESSARY WAYLEAVES**

4.1 To assist the Department to deal with cases efficiently and as quickly as possible, the following information should be provided by the gas company in its necessary wayleave applications:

 **For all necessary wayleave applications**

(a) (i) where the land is registered (1) a copy of the Land Registry folio (2) the name and address of the person(s) who is/are recorded in the Land Registry as the registered owner (s) and (3) a copy or reproduction map extracted from the Land Registry folio;

 (ii) where the land is unregistered, evidence satisfactory to the Department, to establish the ownership or occupancy of the land in question;

 (iii) where the owner is not also the occupier – the name of the occupier along with an explanation of the nature of his occupation of the land (if known after reasonable enquiry);

(iv) the location of the land by reference to townlands, etc;

1. details of the gas pipeline(s) and apparatus in question, including pipeline diameter, and normal and maximum operating pressures; and

(vi) a statement as to whether the application is for one or more necessary wayleaves and the number of pipelines covered by each application (see para 4.3 below); and

(b) a statement of whether the application is to install a new gas pipeline **under paragraph 10(1)(a) of Schedule 3 to the 1996 Order** or to retain an existing pipeline **under paragraph 10(2) of Schedule 3**; and

(c) a map/plan of 1:2500 scale, clearly detailing:

(i) where possible, the owner and/or occupier’s affected land boundaries;

(ii) the existing or proposed gas pipeline(s) and apparatus in question crossing the land ;

(iii) any other gas pipelines crossing the land which are not subject to the application; and

(iv) the grid reference for the installation or centre point of map

(d) where the new pipeline is needed to connect a supply, the name and address of person requesting that supply;

(e) the Planning Service’s reference for the planning application to construct the new gas pipeline;

(f) confirmation that:-

1. at least 21 days notice has been given to the owner/occupier in accordance with **paragraph 10(1)(b) of Schedule 3 to the 1996 Order** (a copy of the notice should be attached); and an explanation of by what means the notice was served on the landowner and/or occupier;
2. where applicable, a statement that personnel of the gas company have met person(s) who is identifying themselves as the owner(s)/occupier(s) of the land in question and informed them about the proposal to construct a new pipeline;

(iii) a statement that the land in question is not covered by a dwelling as defined in **paragraph 10(10)** **of Schedule 3**; and

(iv) a statement that planning permission is not in force for a ‘dwelling’ to be constructed on the land in question.

(g) a detailed statement of:-

(i) the company’s reasons for the proposed installation (or retention) of the gas pipeline along the route in question and why this route is preferred ;

(ii) any technically feasible alternative routes for the pipeline and associated estimated costs; and

(iii) any other relevant information; and

(h) copies of any documents (including maps, photographs and plans) the company intends to produce to the enquiry; and

(i) where it is impracticable to provide copies of any of the documents, a statement of the times and place at which the Department and the owner/occupier and/or his advisers may inspect the documents and where practicable, take copies of them.

(j) confirmation of which part of **paragraph 12(1) of Schedule 3** applies ie whether the existing wayleave:-

**12(1)(a)** - has been determined by the expiration of a period specified in the wayleave;

**12(1)(b)** - has been terminated by the owner/occupier in accordance with a term contained in the wayleave; or

**12(1)(c)** - has ceased to be binding on the owner/occupier by reason of a change in the ownership/occupation of the land after the granting of a wayleave; and

(k) a copy of any previous written notice from the owner/occupier to terminate the wayleave, in accordance with **paragraph 12(1)(b) of Schedule 3**, (if applicable); and

(l) a copy of the written notice from the owner/occupier to remove the gas pipeline from the land in accordance with **paragraph 12(2) of Schedule 3;**

(m) a copy of any relevant wayleave agreement(s) (to enable the Department to determine whether an application is in accordance with the requirements of either **paragraph 12(1)(a) or 12(1)(b) or 12(1)(c) of Schedule 3**);

(n) if unable to locate the previous wayleave agreement for the gas pipeline in question, confirmation of:-

(i) whether any record exists of wayleave payments having been made in the past for the gas pipeline;

(ii) whether any record exists of a wayleave being secured for the installation of the pipeline; and

(iii) how long the pipeline has been installed.

 4.2 The above list is not exhaustive. All necessary wayleave applications are different, and it is for the gas company to decide whether to include information that might be relevant. The Department will consider any request to relax the requirement for the gas company to submit all information and documents supporting the application together and at the same time.

 4.3 Where an application for a necessary wayleave contains more than one gas pipeline, each pipeline in the application will be considered separately in accordance with the provisions of Paragraph 10 Schedule 3 of the Gas (Northern Ireland) Order 1996. Accordingly the Department has the discretion to grant a necessary wayleave for one of the gas pipelines on the landowner/occupiers in a multiple application, whilst refusing others within the same application.

 4.4 The gas company should copy its application and all attachments to the owner/occupier and explain why the application has been made. **The letter of application to the Department should confirm that this has been done.**

 4.5 **The Department’s reference number which is allocated to a necessary wayleave application should be included in all subsequent correspondence on the application.**

**5.** **PROCEDURE TO ASSESS WHETHER TO APPOINT A PERSON TO UNDERTAKE A WAYLEAVE ENQUIRY.**

 5.1 The Department will afford the owner of the land, in respect of which an application for a necessary wayleave has been made, and if different, the occupier of the land, an opportunity of being heard by a person appointed by the Department.

* 1. If the landowner and if different, the occupier, both decline the opportunity of being heard and choose not to submit objections in writing, the Department may decide not to appoint a wayleave officer to undertake a wayleave enquiry.

 5.3 If, having declined the opportunity to be heard, either the landowner or the occupier submit written objections, the Department will consider those objections and if it has reason to believe it may not be necessary or expedient to install a gas pipeline or to keep a gas pipeline installed on, under or over the land in question, it will appoint a person to undertake a wayleave enquiry.

5.4 If the Department considers that it may be necessary or expedient to install a gas pipeline or to keep a gas pipeline installed on, under or over the land in question and that the nature of any of the objections is (i) within the scope of the wayleave enquiry and (ii) requires investigation to ascertain the effects on an individual landowner or occupier’s use and enjoyment of their land, it will appoint a wayleave officer to undertake a wayleave enquiry.

5.5 If the Department considers the objection(s) raised are either (i) not within the scope of the matters to be determined by a wayleave enquiry or (ii) insufficient to support a decision to refuse consent for a necessary wayleave, it shall notify the landowner/occupier that it is minded to grant the necessary wayleave.

5.6 If the landowner/occupier objects to the Department’s ‘minded to grant’ consent notice, the landowner/occupier will be invited to make further written representations in support of their original objections.

5.7 Having considered any further representations the Department will decide either to instigate a wayleave enquiry or to grant the necessary wayleave and will inform the landowner/occupier accordingly.

**6.** **PURPOSE AND SCOPE OF WAYLEAVE ENQUIRY**

 6.1 The purpose of a necessary wayleave enquiry is to hear representations as to:-

 (a) why it is necessary, or expedient, for the gas pipeline to cross the land in question; and

 (b) what the effects are of the gas pipeline on the use and enjoyment of the land.

 6.2 In scope, a necessary wayleave enquiry is focused more on establishing the effect on private land interests rather than matters of a more general nature. This means that there is no right for third parties to participate.

 6.3 Consequently, information that would be relevant at a wayleave enquiry is site specific, for example, the effect of the intended installation of the gas pipeline on farming (crops and animals), on the use of machinery, or on wild fauna and flora.

 6.4 As part of the enquiry the independent wayleave officer may also seek from any other relevant source, any further information he requires to assist him to reach firm conclusions and a reasoned recommendation as to whether a necessary wayleave should be granted by the Department.

## **7. HEARING THE REPRESENTATIONS OF THE LANDOWNER/OCCUPIER AND THE GAS COMPANY**

 7.1 Following receipt of an application from the gas company for a necessary wayleave to install or retain a gas pipeline, the Department will write to the owner/occupier asking them if they prefer to (a) speak to a wayleave officer in person or (b) only make written representations. They will also be asked to provide a short summary of their objections.

 7.2 If the Department decides to instigate a wayleave enquiry (see Section 6), the owner/occupier will be offered the chance of meeting and speaking to the wayleave officer.

 7.3 Based on the discussion with, and information supplied by the landowner/occupier, the wayleave officer will prepare a written statement of their case.

 7.4 The wayleave officer will ask the gas company to comment on the landowner/occupier’s statement of case and any other issue the wayleave officer considers should be addressed.

 7.5 The owner/occupier will be provided with the gas company’s response and invited to comment.

 7.6 If necessary the wayleave officer can ask the gas company to attend the site (which will require the prior permission of the owner/occupier) to further discuss the existing or proposed route of the gas pipeline.

* 1. The wayleave officer will afford both parties a reasonable opportunity to provide or respond to information or attend meetings and will consider any request to extend deadlines or re-schedule meetings, consulting where necessary, the other party.
	2. In conducting the enquiry and any meeting between the parties, the wayleave officer will operate the guidance procedures flexibly to ensure that all parties have a reasonable opportunity of presenting their case and replying to any point raised.

 7.9 If at any stage, but no later than the date set for any meeting, the wayleave officer believes there is a prospect the parties may be able to reach a voluntary agreement he can suspend the wayleave enquiry to allow the parties an opportunity to negotiate. If agreement is reached all parties must inform the wayleave officer in writing that they do not wish to proceed with the wayleave enquiry.

**8. CONVENING A MEETING BETWEEN THE GAS COMPANY AND THE LANDOWNER/OCCUPIER**

 8.1 Having considered the landowner/occupier statement of case, the response from the gas company, any further comment from the owner/occupier and any other relevant information received, the wayleave officer will consider whether or not a meeting between the parties would assist in elucidating or clarifying any issue in dispute relevant to the application and within the scope of a wayleave enquiry.

8.2 The wayleave officer will advise the landowner/occupier and the gas company of his opinion as to whether or not a meeting should be convened.

* 1. If the landowner/occupier believes a meeting should be held and the gas company agrees, the wayleave officer will arrange to convene a meeting.
	2. If the gas company believes a meeting should be held and the landowner and/or occupier agrees to attend, the wayleave officer will convene a meeting.

8.5 The wayleave officer should issue an agenda to the parties prior to the meeting detailing what, if any, issues he believes need to be discussed. He will include any other matters the landowner/occupier or the gas company wishes to raise.

8.6 Before any meeting commences the wayleave officer should briefly explain the background to the application; the role of the Department; the purpose and scope of a wayleave enquiry; the role of the wayleave officer; his assessment of the issues in dispute and the outstanding issues to be addressed or clarified.

8.7 Once the preliminaries have been completed the wayleave officer should then invite the gas company to address each of the issues/questions to be discussed.

8.8 This should be followed by an invitation to the owner/occupier to respond.

8.9 The wayleave officer may ask any relevant questions of either party aimed at helping to ensure that he is in possession of all the necessary information to enable him to make an informed and balanced recommendation as to whether or not a necessary wayleave should be granted by the Department.

8.10 The wayleave officer will chair the meeting and make a summary record of what is discussed and the final positions of the parties.

8.11 Before concluding the meeting the wayleave officer will give each party the opportunity to raise any other issue

8.12 In cases where the wayleave officer has been appointed to deal with a number of applications for necessary wayleaves relating to a pipeline that crosses land owned or occupied by different persons the wayleave officer may convene a meeting to consider one or more of those applications.

**9.** **WAYLEAVE OFFICER’S REPORT AND THE DEPARTMENT’S DECISION.**

9.1 After the wayleave enquiry is completed the wayleave officer will be expected to submit a written report to the Department within four weeks.

9.2 This report will record and analyse the respective representations and any other relevant information.

9.3 In reaching his conclusions and formulating recommendations, the wayleave officer will seek to strike a fair balance between an owner or occupier’s private property rights and the gas company’s duty under their licence to take such steps as are reasonably practicable to develop and operate a secure, efficient and economic gas transportation infrastructure. He should also take into account that an owner or occupier has a statutory right to compensation. The report should reach/provide firm conclusions and a reasoned recommendation as to whether the Department should grant a necessary wayleave for the installation, or retention, of the gas pipeline across the land in question.

9.4 The Department will then consider the report, along with any additional information it considers relevant, before reaching its decision on whether to grant a necessary wayleave.

9.5 The Department’s decision is legally binding on both parties and by virtue of **paragraph 10(8) of Schedule 3 to the 1996 Order**, a necessary wayleave which has been granted by the Department shall bind any person who is at any time the owner or occupier of the land.

9.6 The aim is that the parties will be notified by the Department of its decision within eight weeks of the wayleave officer completing his final report. This will be in the form of a letter accompanied by a copy of the wayleave officer’s report and, if the Department consents to granting a necessary wayleave, a copy of the consent.

9.7 The overall process from receipt of an application to notification of the Department’s decision will usually take between 7 to 8 months. However, it is inevitable that, for a variety of reasons, some cases may take longer.

**10. COMPENSATION**

10.1 Although issues raised by either party which relate to the impact on the use and enjoyment of the land, may subsequently be subject to a claim for compensation, the wayleave officer has no jurisdiction to address amounts of compensation payments in respect of a necessary wayleave.

10.2 In striking a balance between an owner or occupier’s private property rights and the gas company’s duty under their licence to take such steps as are reasonably practicable to develop and operate a secure, efficient and economic gas transportation infrastructure, a wayleave officer will take into account that a landowner or occupier has a statutory right to compensation.

10.3 The Department has no power under Schedule 3 to the 1996 Order to prescribe financial conditions in any wayleave it may grant or to resolve disputes on the level of compensation.

10.4 Any dispute about the amount of compensation is referable to and determinable by the Lands Tribunal of Northern Ireland.

**11.** **COSTS**

11.1 There is no provision under Schedule 3 to the 1996 Order for reimbursement of the costs of the parties associated with the processing by the Department of an application for a necessary wayleave.

11.2 Both the owner/occupier and the gas company must therefore bear their own costs.

**Department for the Economy**

**Energy Division**

XXXXXX 2017

**ANNEX B**

**Screening flowchart and template *(taken from Section 75 of the Northern Ireland Act 1998 – A Guide for public authorities April 2010 (Appendix 1)).***

**Introduction**

**Part 1. Policy scoping** – asks public authorities to provide details about the policy, procedure, practice and/or decision being screened and what available evidence you have gathered to help make an assessment of the likely impact on equality of opportunity and good relations.

**Part 2. Screening questions** – asks about the extent of the likely impact of the policy on groups of people within each of the Section 75 categories. Details of the groups consulted and the level of assessment of the likely impact. This includes consideration of multiple identity and good relations issues.

**Part 3. Screening decision** –guides the public authority to reach a screening decision as to whether or not there is a need to carry out an equality impact assessment (EQIA), or tointroducemeasures to mitigate the likely impact, or the introduction of an alternative policy to better promote equality of opportunity and/or good relations.

**Part 4. Monitoring** –provides guidance to public authorities on monitoring for adverse impact and broader monitoring.

**Part 5. Approval and authorisation** – verifies the public authority’s approval of a screening decision by a senior manager responsible for the policy.

 A screening flowchart is provided overleaf.

Policy Scoping

* + Policy
	+ Available data

Screening Questions

* Apply screening questions
* Consider multiple identities

Screening Decision None/Minor/Major

Mitigate

 Publish Template

Re-consider screening

Publish Template

for information

Publish Template

 EQIA

Monitor

**‘None’**

Screened out

**‘Major’**

Screened in for EQIA

**‘Minor’**

Screened out with mitigation

Concerns raised with evidence

Concerns raised with evidence re: screening decision

**Part 1. Policy scoping**

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.

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**

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| --- |
| **Name of the policy****“Applications by Gas Licence Holders for the Grant of Necessary Wayleaves: Guidance for Applicants and Landowners and/or Occupiers”** |
| **Is this an existing, revised or a new policy?****Provision for a gas company to apply for a necessary wayleave in order to install gas infrastructure on land along a proposed gas pipeline route is an existing policy which is provided for in the Gas (NI) Order 1996. These provision have been utilised in previous gas extension projects in Northern Ireland. However, the Department for the Economy (DfE) has made some revisions to the procedures to be followed by gas licence holders and landowners or occupiers when an application for a gas wayleave is made and will issue the revised guidance document for consultation.**  |
| **What is it trying to achieve? (intended aims/outcomes)****DfE supports extending the gas network in Northern Ireland where it is economic to do so. In taking forward extension projects, gas companies may need permission from landowners or occupiers to install and maintain new gas infrastructure on their land. This will include a compensation package for landowners and is usually secured voluntarily but, if agreement cannot be reached, a gas company may apply to DfE for a necessary wayleave under the Gas (NI) Order 1996 in order to access land along a proposed pipeline route.** **This legislative provision is not new but DfE has revised some of the procedures to be followed by gas licence holders and landowners or occupiers when a gas company wishes to apply for a necessary wayleave in order to bring them into line with existing procedures for electricity wayleaves.** **The revised guidance aims to provide clarity around the key processes and timescales involved in taking forward an application for a necessary gas wayleave and to ensure that landowners/occupiers have sufficient opportunity to contribute their views and relevant information. The guidance covers:*** **Circumstances in which a gas licence holder may apply to DfE for a necessary gas wayleave;**
* **Required notices before making a necessary wayleave application;**
* **Information which must be included in the application;**
* **Procedure to assess whether to appoint an independent Wayleave Officer to undertake a wayleave enquiry**
* **Purpose and scope of a wayleave enquiry;**
* **Provision to hear representations from the landowner/occupier and the gas company;**
* **Potential for convening a meeting of key interested parties;**
* **Wayleave Officer’s report and DfE’s decision; and**
* **Timelines.**

**The key changes in the revised guidance concern (i) the addition of a new section on procedures to be followed in the event that a landowner or occupier does not wish to participate in the wayleave process; and (ii) revised arrangements for the independent Wayleave Officer to hear representations from the landowner or occupier. With regard to the latter, previously, when a gas licence holder applied for a necessary wayleave, the Wayleave Officer would arrange a hearing, usually in Departmental headquarters, to which the key interested parties would be invited in order to make representations. The revised guidance outlines how the Wayleave Officer will instead arrange to visit the landowner or occupier to hear his or her views before separately asking the gas company for its response. These arrangements have been in place for several years in the case of electricity wayleaves and have proven a better way of collecting relevant information.** **The overall aim of the revised procedures is to ensure that all involved have an appropriate opportunity to contribute to the decision-making process and to assist the Department in reaching a fully informed, objective, transparent and equitable decision on each application for a necessary wayleave.**  |

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| **Are there any Section 75 categories which might be expected to benefit from the intended policy?****If so, explain how** **The proposed guidance on revised procedures has been written to provide clarity, and a degree of flexibility, for all persons involved in the necessary wayleave process. DfE will seek to ensure that it is made accessible to all interested parties as required.**   |
| **Who initiated or wrote the policy?** **Electricity Branch which forms part of the Energy, Telecoms, Minerals & Petroleum Division and which is also responsible for handling necessary wayleaves for electricity infrastructure.** |
| **Who owns and who implements the policy?****The guidance is owned by Electricity Branch, DfE.**  |

**Implementation factors**

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

**None identified but the Department acknowledges that the proposed guidance may be refined as required, in the light of experience, to improve the effectiveness and/or clarity of procedures for taking forward applications for gas wayleaves .**

If yes, are they:







|  |
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|  |

**Main stakeholders affected**

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











**Natural gas companies and owners or occupiers of land along a proposed gas pipeline route.**

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|  |

##### [**Other policies with a bearing on this policy**](#Onefour)

**Procedures for necessary gas wayleaves have been slightly revised to bring them into line with existing procedures for electricity wayleaves in respect of installation of new electricity infrastructure.**

who owns them?

**Electricity Branch, DfE is responsible for electricity wayleaves.**

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**Available evidence**

Evidence to help inform the screening process may take many forms. Public authorities should ensure that their screening decision is informed by relevant data.

What evidence/information (both qualitative and quantitative) have you gathered to inform this policy? Specify details for each of the Section 75 categories.

**The policy is a revision of existing guidance, which has been updated to reflect growing extension of the natural gas network across Northern Ireland.**

|  |  |
| --- | --- |
| **Section 75 category**  | **Details of evidence/ information** |
| Religious belief  | **Comment applicable to all Section 75 categories:****People likely to become involved in the necessary wayleave process may include individuals from any of the Section 75 categories, particularly anyone who owns or occupies land along a proposed gas pipeline route. The revised procedures and associated guidance build on experience gained from previous applications for gas and electricity wayleaves and seek to provide sufficient clarity on the process so that all involved understand their role and how they can contribute their views and relevant information.**  |
| Political opinion  |  |
| Racial group  |  |
| Age  |  |
| Marital status  |  |
| Sexual orientation |  |
| Men and women generally |  |
| Disability |  |
| Dependants |  |

**Needs, experiences and priorities**

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

|  |  |
| --- | --- |
| **Section 75 category**  | **Details of needs/experiences/priorities** |
| Religious belief  | **Comment applicable to all Section 75 categories below.****All parties will have access to the policy in accessible format if required, which has been written to provide guidance to gas companies, landowners and/or occupiers; assisting each group to understand what is involved in relation to the wayleave process.**  |
| Political opinion  |  |
| Racial group  |  |
| Age  |  |
| Marital status  |  |
| Sexual orientation |  |
| Men and women generally |  |
| Disability |  |
| Dependants |  |

**Part 2. Screening questions**

**Introduction**

In making a decision as to whether or not there is a need to carry out an equality impact assessment, the public authority should consider its answers to the questions 1-4 which are given on pages 10-12 of this Guide.

If the public authority’s conclusion is **none** in respect of all of the Section 75 equality of opportunity and/or good relations categories, then the public authority may decide to screen the policy out. If a policy is ‘screened out’ as having no relevance to equality of opportunity or good relations, a public authority should give details of the reasons for the decision taken.

If the public authority’s 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.

If the public authority’s 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**

1. The policy is significant in terms of its strategic importance;
2. 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;
3. 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;
4. 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;
5. The policy is likely to be challenged by way of judicial review;
6. The policy is significant in terms of expenditure.

**In favour of ‘minor’ impact**

1. The policy is not unlawfully discriminatory and any residual potential impacts on people are judged to be negligible;
2. 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;
3. 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;
4. By amending the policy there are better opportunities to better promote equality of opportunity and/or good relations.

**In favour of none**

1. The policy has no relevance to equality of opportunity or good relations.
2. 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.

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? minor/major/none |
| Section 75 category  | Details of policy impact  | Level of impact? minor/major/none |
| Religious belief | **Response for all Section 75 category groups:****Procedures to be followed in the event of an application for a necessary gas wayleave, and the associated guidance, have been slightly revised as a result of experience with the electricity wayleave process, in part to ensure that a landowner/occupier has a better opportunity to contribute his or her views on a wayleave application. The revised procedures seek to be sufficiently flexible so as not to have an adverse impact on any particular Section 75 category and to ensure that all parties are clear about the process to be followed, their role in it and their opportunity to contribute their views.** | **Response for all Section 75 category groups:****None as the guidance should assist all parties involved in the necessary wayleave application. Arrangements whereby an independent Wayleave Officer, if appointed, will offer to visit a landowner or occupier to hear their views on the application rather than require them to travel to a hearing may make it easier for some of the Section 75 categories to contribute to the process.** |
| Political opinion  |  |  |
| Racial group  |  |  |
| Age |  |  |
| Marital status  |  |  |
| Sexual orientation |  |  |
| Men and women generally  |  |  |
| Disability |  |  |
| Dependants  |  |  |
| **2** Are there opportunities to better promote equality of opportunity for people within the Section 75 equalities categories? |
| Section 75 category  | If **Yes**, provide details  | If **No**, provide reasons |
| Religious belief | **Response for all Section 75 category groups:****No.** | **Response for all Section 75 category groups:****The revised procedures and associated guidance seek to benefit all parties involved in an application for a necessary wayleave by offering greater clarity on the process and sufficient flexibility to allow all to contribute as wished. However, there is no particular opportunity to improve equality of opportunity for people in any of the Section 75 categories.** |
| Political opinion  |  |  |
| Racial group  |  |  |
| Age |  |  |
| Marital status |  |  |
| Sexual orientation |  |  |
| Men and women generally  |  |  |
| Disability |  |  |
| Dependants |  |  |

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| --- |
| **3** To what extent is the policy likely to impact on good relations between people of different religious belief, political opinion or racial group? minor/major/none |
| Good relations category  | Details of policy impact  | Level of impact minor/major/none  |
| Religious belief | **The proposed guidance is not likely to impact on good relations.** | **None** |
| Political opinion  | **(As above)** | **None** |
| Racial group | **(As above)** | **None** |

|  |
| --- |
| **4** Are there opportunities to better promote good relations between people of different religious belief, political opinion or racial group? |
| Good relations category | If **Yes**, provide details  | If **No**, provide reasons |
| Religious belief | **The proposed guidance does not offer any opportunities to improve good relations.** | **None** |
| Political opinion  | **(As above)** | **None** |
| Racial group  | **(As above)** | **None** |

**Additional considerations**

**Multiple identity**

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?

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

|  |
| --- |
| **No.** |

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

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| --- |
| **N/A** |

**Part 3. Screening decision**

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

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| --- |
| **A full Equality Impact Assessment is not deemed necessary. The guidance on procedures to be followed when a gas company wishes to apply for a necessary wayleave represents the outworking of existing legislative provision for necessary gas wayleaves and has been slightly revised to bring procedures for gas wayleaves into line with current procedures for electricity wayleaves. The Department does not anticipate an adverse impact on any of the Section 75 categories. However, revised arrangements whereby an independent Wayleave Officer, if appointed, will offer to visit a landowner or occupier to hear their views on the application, rather than require them to travel to a hearing, may make it easier for some of the Section 75 categories to contribute to the process. The overall aim of the guidance is to help ensure that the Department has access to all relevant information relating to an application for a necessary gas wayleave to enable it to come to a fully informed, objective, transparent and equitable decision on whether or not the wayleave should be granted.****DfE will seek to ensure that the revised guidance is accessible to all interested parties, and sufficiently flexible in terms of provision for landowners/ occupiers to input their views on an application.**  |

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

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| --- |
| **N/A** |

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

|  |
| --- |
| **N/A** |

All public authorities’ equality schemes must state the authority’s arrangements for assessing and consulting on the likely impact of policies adopted or proposed to be adopted by the authority on the promotion of equality of opportunity. The Commission recommends screening and equality impact assessment as the tools to be utilised for such assessments. Further advice on equality impact assessment may be found in a separate Commission publication: Practical Guidance on Equality Impact Assessment.

**Mitigation**

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.

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

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

|  |
| --- |
| **N/A** |

**Timetabling and prioritising**

Factors to be considered in timetabling and prioritising policies for equality impact assessment.

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.

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 |  |

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.

Is the policy affected by timetables established by other relevant public authorities?

If yes, please provide details

|  |
| --- |
|  |

**Part 4. Monitoring**

Public authorities should consider the guidance contained in the Commission’s Monitoring Guidance for Use by Public Authorities (July 2007).

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).

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.

|  |
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**Part 5 - Approval and authorisation**

|  |  |  |
| --- | --- | --- |
| **Screened by:**  | **Position/Job Title**  | **Date** |
| Bill Stevenson | **Energy, Telecoms, Minerals and Petroleum Division** | **10 Nov 2016** |
| **Approved by:** |  |  |
| June Ingram  | **Energy, Telecoms, Minerals and Petroleum Division** | **5 December 2016** |

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.

1. Gas (Northern Ireland) Order 1996 is available at <http://www.legislation.gov.uk/nisi/1996/275/contents> [↑](#footnote-ref-1)