

This template summarises the key decisions/actions taken in the EHRIA, and has been separated from the full EHRIA document for publication on the SPS external website in compliance with statutory requirements.

Background	
Title of the Policy	Non Harassment Orders for those in Custody
EHRIA Lead Person	Violence Against Women Policy Development Manager, Strategy and Innovation
Date EHRIA completed	02/08/2016
Review date and frequency	December 2016 Quarterly basis
Is this a new or revised policy/practice?	New <input checked="" type="checkbox"/> Revised <input type="checkbox"/>

Scoping	
What are the aims of this policy/practice?	Raise awareness of our SPS vision and values for equality and diversity. Challenge appropriately any behaviours or procedures which do not value diversity and advance equality of opportunity. Promote a safer working environment Remove or minimise disadvantage. Encourage participation in public life.
WHO did you consult with?	Scottish Courts Police Scotland Trade Union Side Scottish Government SPS Legal Services. Justice Expert Group with third party agencies; Assist Woman's Aid Barnardo's SPS Equality and Diversity Team
WHAT did you learn?	That there was a gap where information issued at court (NHO) was not following an individual into custody, thus allowing breaches of such orders to go unnoticed, when in fact a crime was being committed.
HOW will this shape your policy/practice?	The issue was raised by third party sector agencies, leading to consultation with SCS, Police Scotland and Scottish Government to identify the

Scoping	
	cause of the gap in communication and best practice of how to remedy this issue. It was therefore essential that all parties were in agreement to allow this policy to move forward.
What quantitative and/or qualitative evidence as well as case law relating to equality and human rights have you considered when deciding to develop new or revise current policy/practice?	Anecdotal evidence from victims of harassment during custody. No benchmark for the scale of the problem. Article 6 - Right to a fair trial (e.g. disciplinary procedures). Article 7 - No punishment without law (e.g. disciplinary procedures) Article 3 - Prohibition of torture (e.g. person unable to consent) Article 8 - Right to respect for private & family life (e.g. confidentiality and access to family)

Impact Will the impact and outcomes of the new/revised policy/practice:	
Contribute to eliminating discrimination, harassment and victimisation? E.g. <ul style="list-style-type: none"> Raise awareness of our SPS vision and values for equality and diversity Challenge appropriately any behaviours or procedures which do not value diversity and advance equality of opportunity 	POSITIVE: It will contribute to eliminating discrimination, harassment, victimisation <input checked="" type="checkbox"/>
	NO EFFECT: It will have no effect on discrimination, harassment and victimisation <input type="checkbox"/>
	NEGATIVE: It will make discrimination, harassment and victimisation worse <input type="checkbox"/>
Advance equality of opportunity between those who share a protected characteristic and those who do not? E.g. <ul style="list-style-type: none"> Remove or minimise disadvantage Meet the needs of equality groups that are different from the needs of others participation in public life 	POSITIVE: It will advance equality of opportunity <input type="checkbox"/>
	NO EFFECT: It will have no effect on equality of opportunity <input checked="" type="checkbox"/>
	NEGATIVE: It will reduce equality of opportunity <input type="checkbox"/>
Foster good relations between those who share a protected	POSITIVE: It will foster good relations <input type="checkbox"/>

Impact Will the impact and outcomes of the new/revised policy/practice:	
characteristic and those who do not? E.g. <ul style="list-style-type: none"> • Tackle prejudice • Promote understanding 	NO EFFECT: It will have no effect on good relations <input checked="" type="checkbox"/>
	NEGATIVE: It will cause good relations to deteriorate <input type="checkbox"/>
Ensure Human Rights Compliance?	It will uphold human rights articles. <input checked="" type="checkbox"/>
	It will breach human rights articles. <input checked="" type="checkbox"/>

Please summarise the results of the Equality & Human Rights Impact Assessment, including the likely impact of the proposed policy/practice advancing equality and human rights.

Positive Impacts Protected characteristics affected: Gender, Disability, Gender Identity, Religion or Belief, Maternity and Pregnancy, Marriage and Civil Partnership, Human Rights Compliance The EHRIA indicated that the majority of the non-harassment process will impact on people with convictions or charges of domestic violence. An NHO has the protection of the victim as paramount importance. There is no identified potential for unlawful discrimination and is unlikely to give rise to any issues that would adversely affect people in custody with protected characteristics. This process also supports the Scottish Government National Outcome 9, we live our lives safe from crime, disorder and danger and the SPS Equality Outcome 1 where SPS promotes positive behaviour with people in custody and challenges unacceptable behaviours and attitudes.

Negative Impacts Protected characteristics affected: Disability, Religion or Belief, Socio-economic groups, Human Rights	
Impact The impact assessment identified a potential interference with article 8 however other arrangements can clearly mitigate against any potential breach of the article.	Mitigation It advances equality and human rights as well as fostering and promoting good relations, by identifying behaviours that are not acceptable in today's society.

Recommended course of action	
Outcome 1: Proceed – no potential for unlawful discrimination or adverse impact or breach of human rights articles has been identified.	<input checked="" type="checkbox"/>
Outcome 2: Proceed with adjustments to remove barriers identified for discrimination, advancement of equality of opportunity and fostering good relations or breach of human rights articles.	<input type="checkbox"/>

Recommended course of action

Outcome 3: Continue despite having identified some potential for adverse impact or missed opportunity to advance equality and human rights (justification to be clearly set out).

Outcome 4: Stop and rethink as actual or potential unlawful discrimination or breach of human rights articles has been identified.

Summary of Outcome decision and Recommendations

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The impact assessment identified a potential interference with article 8 however other arrangements can clearly mitigate against any potential breach of the article. It advances equality and human rights as well as fostering and promoting good relations, by identifying behaviours that are not acceptable in today's society.

This process also supports the Scottish Government National Outcome 9, we live our lives safe from crime, disorder and danger and the SPS Equality Outcome 1 where SPS promotes positive behaviour with people in custody and challenges unacceptable behaviours and attitudes.

Next steps

Issue Governors and Managers Action Notice

Quarterly check on the numbers of people in custody with NHO's and the local impact.

Monitor any increase in intel/governor reports regarding individuals who are subject to NHO.

Collate any breaches of NHO and the amount of reportable incidents to police Scotland.

Review EHRIA on any change of legislation related to Non Harassment orders

If you require this document in an alternative format, please contact
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