



HM Government

# Business and Planning Bill 2020

## Public Sector Equality Duty Assessment and Family Test

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## Introduction

This evaluation sets out our assessment of the impact of this Bill on people with protected characteristics under the Equality Act 2010, and the impact of the Bill on families.

### *Public Sector Equality Duty*

Public bodies are obliged to consider the likely effects of their policy proposals on people with protected characteristics under the Public Sector Equality Duty (PSED) set out in the Equality Act 2010. This annex records the analysis undertaken to fulfil this requirement.

Under the Equality Act 2010, the policy proposal must be considered in relation to people with protected characteristics and in relation to three statutory equality goals or “pillars”, the need to:

eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act;

advance equality of opportunity between people who share a protected characteristic and those who do not; and

foster good relations between people who share a protected characteristic and those who do not.

The protected characteristics are: Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion and Belief, Sex, and Sexual Orientation.

Because this legislation has been developed at pace in response to the Covid-19 outbreak, it has not been possible to undertake widespread public consultation. However, where public consultation and similar analysis has been undertaken in the past, this has been drawn on for this analysis.

### *Families Test*

It is Government policy to carry out a “Families Test” on domestic Government policy proposals, as set out by the then-Prime Minister in 2014. The objective of the Test is to introduce an explicit family perspective to the policy making process, and to ensure that potential impacts on family relationships are made explicit and recognised in the process of developing new policy.

## Public Sector Equality Duty

The following section identifies how each protected characteristic is affected by the measures in this Bill. We have considered all measures of the Bill and applied them to the protected characteristics in the Equality Act 2010.

The protected characteristics are: Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion and Belief, Sex, and Sexual Orientation.

Where there is thought to be a substantial negative effect on one or more groups or protected characteristics, mitigations have been included in the Bill. Consequently we do not think there will be a large material impact on specific groups of people with protected characteristics as a result of this Bill.

All measures in this Bill are temporary or relate to temporary schemes, except the measures in Clause 13 (which permanently broadens an existing power to grant certificates of temporary exemption to public service and goods vehicles) and Clause 20 (which makes changes to provide for more flexible Planning Inspectorate appeals in line with changes already in place successfully in Wales). This means that any disadvantage will be temporary only.

### Age

The key measures that affect Age are: **Driver medicals; Construction site working hours; Inspection of documents; Pavement Licencing; and Alcohol Licencing.**

#### *Driver Medicals*

This measure will enable one-year licences to be issued rather than the usual five-year licences for drivers aged over 45 of Heavy Goods Vehicles or Passenger Carrying Vehicles. The policy use of this is that HGV and PCV drivers aged 45 years and over will receive licences lasting one year and the Secretary of State (GB) or Department for Infrastructure (NI) will waive the usual requirement for a medical check, which is a positive effect. This will enable those drivers to keep doing their jobs without having to wait for the medical checks which are delayed by the Covid-19 outbreak. This will ensure the transport sector continues to function.

However, there is no policy intention to waive medical reports for drivers aged over 70 years, and therefore the Bill does not include any provision to limit the length of their licences. This means the policy is that those drivers whose licences were issued before 1997, and therefore permit them to drive small lorries and minibuses, will not have their medical checks waived in the same way as HGV and PCV drivers aged over 45 years. However, many drivers aged over 70 years are not travelling or driving at all due to Covid-19 restrictions, meaning they will not be affected by this measure. Additionally, older drivers tend not to be driving those vehicles as part of the transport sector, and so are not within the measure's purposes.

#### *Construction site working hours*

Older people are more likely to be at home for longer periods of time, and so may be more affected by noise and dust from nearby construction sites. This will be mitigated by householder applications being excluded from this measure, meaning most smaller building works and residential areas should not be affected. Additionally, local planning authorities will

be guided to consider equalities and the effects on neighbouring properties, and may refuse applications.

### *Inspection of documents*

Older people tend to have less access to the internet and so may not be able to see the documents digitally. However, the Mayor of London will still be subject to the Equality Act 2010 and will be expected by the Secretary of State to facilitate maximum public access to the documents as far as possible. Additionally, the documents have been written using very diverse focus groups, meaning protected characteristics are reflected in the plans. The potential damage from delays caused by the documents not being published – which is likely if the obligation to provide hard copy versions is not temporarily lifted – is likely to be greater than the damage caused by only obliging the documents to be published digitally.

### *Pavement Licencing*

Older people may receive some disadvantage through increased noise levels if they live near properties that generate more outdoor noise as a result of these measures. However, there will be a public consultation period, meaning people will have an opportunity to object to new licences.

### *Alcohol Licencing*

Older people may receive some disadvantage if they live near licensed premises that generate more outdoor noise as a result of these measures. Conversely, younger people may be more at risk for behaviours and health risks associated with higher levels of alcohol consumption. Despite overall incidents of alcohol-related violence falling in recent years, alcohol remains a significant driver of disorder and crime, the likelihood of which may increase and affect both older and younger people.

These risks will be mitigated by provisions providing for an expedited review process. This process allows responsible authorities to alter the licensing conditions granted to premises or remove the permission for sales of alcohol for consumption off the premises on grounds relevant to the licensing objectives, including if necessary, taking interim steps pending a determination of a review. Existing powers enable the police or local authority to issue closure notices, including through the magistrates' court, to prevent nuisance to members of the public or disorder associated with the licenced premises.

## Disability

The key measures that affect Disability are: **Construction site working hours; Inspection of documents; Pavement Licencing; and Alcohol Licencing.**

### *Construction site working hours*

Disabled people, especially those with breathing conditions, skin conditions, or certain mental health conditions might be more susceptible to negative effects from exposure to noise or dust. This will be mitigated by householder applications being excluded from this measure, meaning most smaller building works and residential areas should not be affected. Additionally, local planning authorities will be guided to consider equalities and the effects on neighbouring properties, and may refuse applications.

### *Inspection of documents*

Disabled people are less likely to have easy access to the internet. Although there is no definitive data on this, and the effect would depend on the person's disability, it is likely that disabled people would have a higher rate of intention to inspect physical copies whether at the principal offices or by requesting a copy, rather than inspecting the documents digitally, compared with the general population.

### *Pavement Licencing*

People with visual, mobility, and/or hearing impairments may find pavement space reduced by this measure, and so it may be harder for them to get around. This will be particularly acute in places where there is limited pavement space, high levels of vehicular movement, and large amounts of permanent street furniture. As lockdown measures ease, there is likely to be increasing use of pavements by pedestrians and, in some cases, cyclists, making the problem more acute.

People with mental health conditions may be negatively affected by noise created by people using the pavement for eating and drinking.

Disabled people are less likely to see the notices for consultation about licence applications because the Bill reduces the consultation period to seven days (from 28 days). Disabled people may be less likely to be aware of the application and therefore be less able to object.

To mitigate this, MHCLG will publish statutory guidance to which local councils must have regard in exercising their functions under these provisions. The guidance will set out what is considered to be a safe clear distance to allow free movement along the pavement, taking into account the Government's Inclusive Mobility guidance. These measures should help to ensure that accessibility will be considered in the application process. The local authority will also have enforcement powers, including revoking the licence if necessary.

### *Alcohol Licencing*

People with mental health conditions may be negatively affected by noise associated with re-opening of licensed premises. However, there are existing measures that can be used to prevent disturbance (including closure notices).

## Race

None of the measures in this Bill have a specific equalities effect on Race.

## Religion or Belief

None of the measures in this Bill have a specific equalities effect on Religion or Belief.

## Sex

The key measure that affects Sex is: **Alcohol Licensing.**

Men, especially middle-aged men, consume higher levels of alcohol in comparison with women, and changed licencing hours may enable them to drink more. Consequently, this may mean that men are subject to disproportionate levels of harms related to alcohol such as Liver Cirrhosis and Cardiovascular Disease. Furthermore, despite overall incidents of alcohol-related violence falling in recent years, alcohol remains a significant driver of disorder and crime, and men are more likely to commit as well as be victims of violent crime than women. For example, according to the Crime Survey for England and Wales, in 2018/19, 2.1% of men reported that they were victims of violent crime compared to 1.4% of women.<sup>1</sup> Women, however, are disproportionately likely to be subjected to domestic or sexual violence; although alcohol cannot be identified as a root cause of domestic or sexual violence, it is widely recognised as a contributing factor.<sup>2</sup>

This is mitigated through provisions for an expedited review process which will allow responsible authorities to quickly alter the licensing conditions granted to premises or remove the permission for sales of alcohol for consumption off the premises.

## Sexual Orientation

None of the measures in this Bill have a specific equalities effect on Sexual Orientation.

## Pregnancy and Maternity

The key measure that affects Pregnancy and Maternity is: **Pavement Licencing**. People with children, especially using prams and pushchairs, may find pavement space reduced and so it may be harder to get around. This will be particularly acute in places where there is limited pavement space, high levels of vehicular movement, and large amounts of permanent street furniture. As lockdown measures ease, there is likely to be increasing use of pavements by pedestrians and, in some cases, cyclists, making the problem more acute.

To mitigate this, MHCLG will publish statutory guidance to which local councils must have regard in exercising their functions under these provisions. The guidance will set out what is considered to be a safe clear distance to allow free movement along the pavement, taking into account the Government's Inclusive Mobility guidance. These measures should help to ensure that accessibility will be considered in the application process. The local authority will also have enforcement powers, including revoking the licence if necessary.

Families with children may experience difficulties in organising their activities to minimise the disruption caused by noise generated by outdoor eating and drinking.

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<sup>1</sup> Table one:

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/thenatureofviolentcrimeappendixtables>

<sup>2</sup> Table six:

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/thenatureofviolentcrimeappendixtables>

## Gender Reassignment

None of the measures in this Bill have a specific equalities effect on Gender Reassignment.

## Marriage and Civil Partnership

None of the measures in this Bill have a specific equalities effect on Marriage and Civil Partnership.

## General equalities vulnerability impacts

Three of the measures in this Bill have been identified as effecting vulnerable people who may or may not have a protected characteristic. These measures are **Planning Inspectorate appeals procedure**, **Bounce Back Loans Scheme** and **Pavement Licencing**.

The Planning Inspectorate appeals procedure measure may result in more appeals using written procedures rather than other types of hearing, and this may disadvantage people with lower levels of literacy. However, all appeals currently require a considerable amount of written materials, meaning combining the types of appeal procedure is unlikely to make a great difference to equalities compared with having non-combined procedures. The combined appeals procedure is already operating well in Wales. New guidance will be issued to local planning authorities to ensure they have considered and mitigated against potential negative effects.

The Bounce Back Loans Scheme may affect sole proprietors and partnerships who are more at risk of experiencing financial hardship, and evidence suggests that they may be more likely to have a protected characteristic. Because the measure removes some protection afforded by the Consumer Credit Act 1974, it could be argued that this will disproportionately affect people with protected characteristics. However, the measure includes mitigations to allow a reasonable time to remedy defaults, ensuring that no one will lose their primary residence or primary vehicle, and the Government will pay fees and interest for the first twelve months. This will minimise any potential harm on borrowers and, as a result, on those with protected characteristics.

The Pavement Licencing changes are likely to have most effect in urban areas where residents live in close proximity to premises likely to apply for a temporary licence. This may have a greater impact on people who live in these locations, which in some cases may include those living in lower income households. Many groups protected by the Equality Act 2010 are concentrated among lower income households (e.g. disabled people, black and minority ethnic people, women, younger and older people), meaning they may be more likely to be affected by this measure than other groups of people. However, they will still be able to respond to applications, and their local authorities will have all necessary enforcement measures to ensure the health and wellbeing of the local population.

## Cumulative impact

The Bill affects various characteristics in several ways and is likely to affect some protected characteristics significantly more than others. However, the Bill provides for mitigations against negative effects.

Particular characteristics that may be affected are: **Age** and **Disability**.

The impacts on **Age** are largely focussed on older people's ability to move, interact, and their quality of life. These will be particularly affected considering physical obstructions (Pavement Licencing); their ability to renew van or minibus licences (Driver Medicals); their ability to inspect London's public planning documents (Inspection of Documents); noise or dust from nearby construction sites (Construction site working hours); and noise or disturbance from changed alcohol licences (Alcohol Licencing).

All these have been judged to have minimal effects, or to be unlikely to affect people for very long. Additionally, where local authorities have powers, they will be obliged to consider equalities duties when authorising related activity and enforce appropriately.

**People with disabilities** may have their quality of life affected negatively. People with visual, mobility, or hearing disabilities are likely to find it harder to move around areas that have a substantial amount of temporary street furniture (Pavement Licencing), and they are less likely to see the notices alerting them to the public consultation for a licence for establishments to have outdoor eating. This is mitigated by obligations on local authorities to consider and enforce public access, including refusing or revoking licences if necessary.

People with skin, breathing, or mental health conditions may be particularly affected by extended construction work near where they live or work through noise or dust pollution (Construction Site Working Hours) or noise generated from people drinking alcohol (Alcohol Licencing). This is mitigated by the construction hours extensions being unlikely to occur in residential areas as domestic applications will not be accepted. Additionally, local authorities will be encouraged to refuse applications for either construction hours extensions or alcohol licencing changes that are likely to have substantial negative effects on local communities.

All of these measures which pose the biggest effects for people with protected characteristics are temporary.

## Conclusion

Several measures in this Bill will affect people with protected characteristics. However, the negative effects have been mitigated against so that those people do not suffer from the measures. Additionally, there are several areas where people with protected characteristics will benefit from the measures in this Bill. The equality aspects of protected characteristics in this Bill have been considered and acted upon.

## Family Test

The measures in this Bill have been assessed to create more family benefit than harm.

In particular, the changes to the Consumer Credit Act will enable people to access loans through the **Bounce Back Loans Scheme** more quickly, which will help many sole traders and partnerships. Since these types of business are often the main source of income for their families, and the loans will keep the businesses viable during the pandemic, this measure will keep family finances out of debt. Although the BBLs has the potential to increase levels of indebtedness in the longer term, in the immediate term the BBLs has the ability to stabilise vulnerable household incomes and thus reduce the strain on family relationships and quality of life during the COVID-19 crisis. The protections under the scheme further reduces the potential of hardship for families.

The **Planning measures** may have some short term negative impacts on families, especially families with young children or disabled people, by exposing people to construction noise or dust. However, the longer-term benefits of new housing supply being generated are likely to help family formations and transitions to a greater extent than the short-term negative effects.

Therefore we do not see serious long-term negative impacts on families arising from these measures. Those elements that may be harmful have been mitigated against and are time-limited measures.

