

**Welfare and Wellbeing
Group**

Equality Impact Assessment

Change to the allocation of National Insurance Numbers

Equality impact assessment for change to the allocation of National Insurance Numbers

1. Introduction

1.1. The Department has carried out an equality impact assessment on the change to the allocation of National Insurance Numbers to meet the requirements of the:

- Race Equality Duty.
- Disability Equality Duty.
- Gender Equality Duty.

1.2. This process will help to make sure:

- the Department's strategies, policies and services are free from discrimination;
- due regard is given to equality (specifically disability, gender and race) in decision making and subsequent processes;
- opportunities for promoting equality are identified.

1.3. This equality impact assessment considers the impact of the changes in terms of age, disability, gender and race.

Background

1.4. Under current legislation a National Insurance Number (NINO) is required for both members of a couple¹ (i.e. the benefit claimant and his or her partner²) in order for a claim to certain DWP benefits to be made. This has resulted in situations where an individual with no leave to enter or remain in the UK but who is the partner of a legitimate benefit claimant has been allocated with a NINO (subject to having also proved their identity).

1.5. Currently Section 1(1A) and (1B) of the Social Security Administration Act 1992 requires both the person making the claim and any other person in respect of whom he / she is claiming benefit to either:

- provide their NINOs; or
- provide sufficient information for their NINOs to be traced; or
- to make an application for a NINO to be allocated which is accompanied by information or evidence enabling a NINO to be allocated.

1.6. Officials have reviewed the circumstances in which a NINO is issued to an individual who has no leave to enter or remain in the UK but who is the partner of a legitimate benefit claimant living in the UK. Ministers have accepted the recommendation that the policy

¹ As per the DWP Decision Makers Guide (DMG), the definition of a "couple" is:

- (a) a man and a woman who are married to each other and are members of the same household;
 - (b) a man and a woman who are not married to each other but are living together as husband and wife;
 - (c) two people of the same sex who are civil partners of each other and are members of the same household
- or**
- (d) two people of the same sex who are not civil partners of each other but are living together as if they were civil partners (for the purposes of (d) two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife if they were instead two people of the opposite sex).

² Definition of a "partner" as per the DMG – the other member of a "couple".

should be changed so that NINOs will no longer be allocated to such partners. The proposed regulation change strengthens our position on NINO allocation criteria so that there is no longer a requirement for a person who does not have the right to be in the UK, but who is the partner of a legitimate benefit claimant living in the UK, to be allocated a National Insurance Number (NINO). The change also aligns NINO allocation policy more closely to Home Office immigration policies.

1.7. The requirement for a NINO for both customer and partner was originally introduced as an anti-fraud measure in 1997. However, subsequent checks within the benefit process which confirm benefit entitlement by checking nationality and immigration status fulfil that purpose and safeguard the benefits gateway without the need for a NINO to be allocated in these partner cases.

2. Consultation and involvement

2.1. Consultation has taken place with the Home Office (HO) to ensure that the changes made are consistent with HO immigration policies. The change will also impact upon such NINOs allocated for Tax Credit purposes and DWP have worked closely with Her Majesty's Customs and Revenue (HMRC) to ensure that the regulation change is consistent for both departments and the change has a co-ordinated implementation date ensuring that there is no inequality for customers. The regulation change has also been impacted with Local Authorities (LAs) who administer Housing Benefit (HB) and Council Tax Benefit (CTB) on behalf of DWP, to ensure a consistent approach and that no legitimate benefit claimant will be disadvantaged by the regulation change.

2.2. Local Authorities have been consulted on the change. We have received positive feedback from them and are now working with them to introduce specific operational changes of a minor nature in order to facilitate the change. Guidance is being produced and this will be quality-assured extensively before being distributed.

3. Impact upon the individual

3.1. This decision has been made because people, who do not have the right to be in the UK are - under normal provision - not entitled to be allocated with a NINO in an individual capacity. It is consistent therefore that those who do not have a right to be in the UK should not be allocated with a NINO just because they happen to be a partner in a claim to benefit.

3.2. Social Security regulations are therefore to be introduced which will disapply S1(1A) of the Social Security Administration Act 1992 to an individual who has no leave to enter or remain in the UK where they are the partner of a legitimate DWP benefit claimant. There will still be a requirement to collect the partner's details in such cases – despite the fact that no NINO will be allocated – as those are required for the claim to benefit in order to determine the correct rate of entitlement.

3.3. The regulation change is not to be applied retrospectively. Therefore, whilst the intention of the change is to ensure in the future that where a partner has no right to be in the UK they are no longer allocated a NINO; where such a partner already has a (previously allocated) NINO, this should be provided to DWP and recorded appropriately with other relevant information.

3.4. Where there is a change in the immigration status of the partner who has no right to be in the UK and they subsequently become legally entitled to be in the UK then they will be

required to obtain a NINO. Following a change in their immigration status the individual will be able to apply for a NINO under normal provisions. For instance, if they have a right to work in the UK they can apply for a NINO in an individual capacity by contacting the Jobcentre Plus contact centre who will progress their employment inspired application. If they are a partner in a claim to benefit their change of immigration status will need to be notified to the office paying benefit, the claim to benefit will be re-assessed (benefit payment could be increased based upon their change in circumstances) and a benefit inspired NINO application will be initiated.

Benefits of the regulation change

3.5. This change will strengthen our position on NINO allocation so that only those who have a right to be in the UK will be given a NINO, and will align DWP policies more closely with Home Office immigration-related policies.

3.6. The Regulation change only applies to benefit related NINO applications, where the partner of a legitimate benefit claimant has no right to be in the UK. It therefore does not target any specific individual or group who has a legitimate entitlement to benefits.

3.7. It will improve the integrity of the NINO. The change removes the risk of a NINO granted under the benefit application route then being used inappropriately for work purposes by someone who does not have leave to enter or remain in the UK. It will ensure that the NINO is not used to legitimise an individual who has no right to be in the UK.

3.8. There will be no change to the existing provisions which provide for the allocation of employment-related NINOs.

3.9. The desired policy outcomes of the change will be achieved without changing the benefit entitlement conditions of legitimate benefit claimants.

Negative impacts

3.10. Legitimate benefit claimants will not be adversely affected by the change; their partner who has no right to remain in the UK currently derives no financial benefit from inclusion in the DWP benefit claim, and will continue not to do so. The only difference is that the partner will no longer be allocated with a NINO.

3.11. Throughout the consultation, consideration was given to the impact of the regulation change on gender, age and disability³ and it was concluded that as the regulation change will apply to all individuals who have no leave to enter or remain in the UK where they are the partner of a legitimate benefit claimant living in the UK, there is no direct impact against any individuals or groups.

3.12. There is no impact in terms of the age of an applicant or if applicants are disabled.

3.13. We have carefully considered whether or not there were any implications associated with gender. Our decision is that there are no adverse implications from the change associated with gender. The partner with no right to be or to enter the UK – or indeed, the

³ As per paragraphs 23 & 24, due regard – in respect of our duty to promote equality – has been paid to: (a) Section 71 of the Race Relations Act 1976; (b) The Disability Discrimination Act 1995 (as amended by Section 49A of the Disability Discrimination Act 2005); (c) Section 76A of the Sex Discrimination Act 1975 (as amended by the Equality Act 2006).

legitimate benefit claimant - can be of any gender. We have also considered whether there might be indirect discrimination against women (ie that more women are partners in a claim to benefit than men and that therefore the effect of the change might be disproportionate (numerically) to women). No figures are available which would either support or refute such a conclusion. However, the fundamental premise of the change is that it is applied equally to all foreign national partners – irrespective of their gender - who have no right to live, work or access benefits in the UK, and it is the very purpose of this regulation change to make sure that these individuals are not allocated a NINO.

3.14. It is recognised that this change will impact upon foreign nationals – specifically, Third Country nationals - as the majority of applicants to the adult NINO Allocation process administered by Jobcentre Plus are foreign nationals. By its very nature, the immigration status is pertinent to Third Country Nationals. However, the change will only apply to those foreign national partners who do not have a right to be in the UK and it is the very purpose of the regulation change to make sure that these individuals are not allocated a NINO.

3.15. Some individuals who have no right to be in the UK may still have an entitlement to benefit in their own right. For example an individual may have entitlement to benefit (such as Widows Benefit) based upon contributions paid by their dead spouse. These individuals will be unaffected by the regulation change and if entitled to benefit would be allocated a NINO providing they can prove their identity.

Monitoring and evaluation

3.16. Following the regulation change we will monitor and maintain compliance via the standard benefit compliance procedures and the Jobcentre plus NINO Delivery Centre processes.

Responsible officer:

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