

Impact Assessment - Summary: Intervention & Options

Department /Agency: HM Revenue and Customs	Title: Proposals to regularise controls on Marine Fuels	
Stage: Consultation	Version: 3	Date: June 2009
Related Publications:		

Available to view or download at:

<http://www.hmrc.gov.uk/consultations/index.htm>

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What is the problem under consideration? Why is government intervention necessary?

HMRC has found that there are differences in the way excise duty is accounted for on supplies of marine fuels. Following discussions with businesses supplying these fuels we found that they would benefit from a simplification of the rules. We would like to make changes to the law so that all businesses supplying marine fuels have the same rules which fit in with modern business practices and ensure the correct tax is paid. The aim is to make things clearer and treat all businesses fairly.

What are the policy objectives and the intended effects?

Our aim is to provide clear rules that will ensure fair treatment of businesses selling marine fuel. The changes should also assist business cash flow. The changes will:

- apply the 'netting' arrangements in the same way for all eligible suppliers;
- introduce other changes to better control marine fuels to ensure they are not misused; and
- increase the minimum claim value to £500 to make best use of HMRC resources.

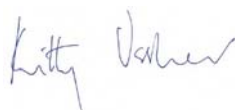
What policy options have been considered? Please justify any preferred option.

- 1) Remove the option for businesses to offset duty (the "netting" system). This would mean all marine fuel supplies would have to be duty paid. Duty would be recovered through repayment schemes.
- 2) Operate the current scheme strictly in line with current law. This would mean that fewer businesses would be able to supply fuel at duty exclusive prices, with negative cash-flow implications.
- 3) Make amendments to the current scheme to allow more businesses to supply fuel at duty exclusive prices. This is our preferred option, as it is fairer and provides cash-flow benefits to business.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? Post Implementation Review would take place around three years after the full implementation of any option.

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.



Signed by the responsible Minister:

.....Date: 16/06/09

Summary: Analysis & Evidence

Policy Option: 1	Description: Remove entire netting system
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups' Likely to be significant additional costs to business and HMRC as all end users of marine fuel would have to claim back duty from HMRC, instead of being supplied with fuel at a duty exclusive price, if netting system were revoked.		
	One-off (Transition) Yrs			
	£ Consulting			
	Average Annual Cost (excluding one-off)			
	£ Consulting		Total Cost (PV)	£ Ongoing
Other key non-monetised costs by 'main affected groups' There would be one-off familiarisation costs from any changes as well as the ongoing costs identified above.				

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups' There may be some benefits to HMRC in terms of better knowledge/control of marine fuel use, offset by the costs above.		
	One-off Yrs			
	£ Consulting			
	Average Annual Benefit (excluding one-off)			
	£ Consulting		Total Benefit (PV)	£ Ongoing
Other key non-monetised benefits by 'main affected groups' This option would level the playing field in the sense that all suppliers of marine fuel would be treated equally. At the moment intermediaries cannot supply fuel at a duty exclusive price whereas other suppliers can				

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	Net Benefit Range (NPV) £ Ongoing	NET BENEFIT (NPV Best estimate) £ Ongoing
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What is the geographic coverage of the policy/option?	United Kingdom				
On what date will the policy be implemented?	Policy not yet decided				
Which organisation(s) will enforce the policy?	HMRC				
What is the total annual cost of enforcement for these organisations?	£ n/a				
Does enforcement comply with Hampton principles?					
Will implementation go beyond minimum EU requirements?					
What is the value of the proposed offsetting measure per year?	£ Nil				
What is the value of changes in greenhouse gas emissions?	£ Negligible				
Will the proposal have a significant impact on competition?	Yes				
Annual cost (£-£) per organisation (excluding one-off)	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; background-color: #fff9c4;">Micro</td> <td style="width: 25%; background-color: #fff9c4;">Small</td> <td style="width: 25%; background-color: #fff9c4;">Medium</td> <td style="width: 25%; background-color: #fff9c4;">Large</td> </tr> </table>	Micro	Small	Medium	Large
Micro	Small	Medium	Large		
Are any of these organisations exempt?	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%; background-color: #fff9c4;">N/A</td> <td style="width: 25%; background-color: #fff9c4;">N/A</td> <td style="width: 25%; background-color: #fff9c4;">N/A</td> <td style="width: 25%; background-color: #fff9c4;">N/A</td> </tr> </table>	N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A		

Impact on Admin Burdens Baseline (2005 Prices)		(Increase – Decrease)		
Increase of £ Consulting	Decrease of £ Consulting	Net Impact £ Consulting		
Key:		<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 70%; background-color: #fff9c4;">Annual costs and benefits: Constant Prices</td> <td style="width: 30%; background-color: #e8f5e9;">(Net) Present Value</td> </tr> </table>	Annual costs and benefits: Constant Prices	(Net) Present Value
Annual costs and benefits: Constant Prices	(Net) Present Value			

Policy Option: 2	Description: Operate netting scheme strictly in line with current law and do not extend to intermediaries
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COSTS	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups' None identified.
	One-off (Transition) Yrs	
	£ Nil	
	Average Annual Cost (excluding one-off)	
	£ Nil	Total Cost (PV) £ Nil
Other key non-monetised costs by 'main affected groups' There would be an opportunity cost to HMRC and compliant businesses from not making changes to clarify the rules and enhance existing controls for marine fuels.		

BENEFITS	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups' Taking this approach would mean missing the opportunity to extend the benefits of netting to intermediaries, which should make the marine fuels system fairer and help promote competition in the supply of marine fuels.
	One-off Yrs	
	£ Nil	
	Average Annual Benefit (excluding one-off)	
	£ Nil	Total Benefit (PV) £ Nil
Other key non-monetised benefits by 'main affected groups' There would be no disruption or other costs for marine fuel suppliers and users who understand the current system and are happy with it. However, businesses not applying the current rules correctly would need to make appropriate changes		

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	Net Benefit Range (NPV) £ Nil	NET BENEFIT (NPV Best estimate) £ Nil
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What is the geographic coverage of the policy/option?		United Kingdom	
On what date will the policy be implemented?		Already in place	
Which organisation(s) will enforce the policy?		HMRC	
What is the total annual cost of enforcement for these organisations?		£ N/A	
Does enforcement comply with Hampton principles?			
Will implementation go beyond minimum EU requirements?			
What is the value of the proposed offsetting measure per year?		£ N/A	
What is the value of changes in greenhouse gas emissions?		£ N/A	
Will the proposal have a significant impact on competition?		Already in place	
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium Large
Are any of these organisations exempt?	N/A	N/A	N/A N/A

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)	
Increase of £ Nil	Decrease of £ Nil	Net Impact	£ Nil
Key:		Annual costs and benefits: Constant Prices	(Net) Present Value

Summary: Analysis & Evidence

Policy Option: 3

Description: Make changes to netting scheme via secondary legislation that would allow intermediaries to supply at a duty exclusive price

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' One-off costs to marine fuel suppliers and those engaged in marine voyages in terms of awareness of any new rules and possible systems changes. Administrative burden impact from approving shore tanks as excise warehouses and including marine fuel deliveries on RDCO returns, probably offset by fewer claimants (see below).	
	One-off (Transition) Yrs			
	£ Consulting			
	Average Annual Cost (excluding one-off)			
	£ Consulting		Total Cost (PV)	£ Ongoing
Other key non-monetised costs by 'main affected groups' Increasing the minimum value of claim for Oils Drawback and for claims under the Marine Voyages Relief regulations from £250 to £500 might have a small impact on cashflow for some businesses.				

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' Extending netting to intermediaries will benefit their customers (e.g. ship owners). They will no longer need to claim back duty from HMRC, as they can be supplied with fuel for marine voyages at duty exclusive prices. This could result in time, money and cashflow benefits as well as reducing some of HMRC's costs.	
	One-off Yrs			
	£ Consulting			
	Average Annual Benefit (excluding one-off)			
	£ Consulting		Total Benefit (PV)	£ Ongoing
Other key non-monetised benefits by 'main affected groups' Levelling the playing field between intermediaries and other fuel dealers should help encourage competition in the supply of marine fuels. The proposals around regularising and enhancing existing controls should reduce the scope for misunderstanding and ineligible fuel use, benefitting compliant businesses.				

Key Assumptions/Sensitivities/Risks These proposals are not designed to raise any more or less duty from the sector, but to protect current revenues by clarifying the rules and enhancing existing controls. HMRC would welcome views on the relative size and importance of the different costs and benefits identified in this impact assessment.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £ Ongoing	NET BENEFIT (NPV Best estimate) £ Ongoing
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What is the geographic coverage of the policy/option?	United Kingdom			
On what date will the policy be implemented?	Policy not yet decided			
Which organisation(s) will enforce the policy?	HMRC			
What is the total annual cost of enforcement for these organisations?	£ n/a			
Does enforcement comply with Hampton principles?	Yes			
Will implementation go beyond minimum EU requirements?	N/A			
What is the value of the proposed offsetting measure per year?	£ Nil			
What is the value of changes in greenhouse gas emissions?	£ Negligible			
Will the proposal have a significant impact on competition?	Yes			
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)				(Increase - Decrease)
Increase of	£ Consulting	Decrease of	£ Consulting	Net Impact £ Consulting

Key: Annual costs and benefits: (Net) Present

Evidence Base (for summary sheets)

HMRC has recently reviewed its treatment of marine fuels and the measures currently in place to control the use of these fuels. Our review has led to a number of proposals for change aimed at fairer treatment of all businesses involved in the supply and use of these products. We also hope to achieve cash-flow benefits for these businesses while maintaining HMRC's controls.

The purpose of this consultation is to seek views from businesses that may be affected by the proposals, including intermediaries and ship owners. We would like to know their views on the potential costs and benefits of the changes we are proposing. While the focus of the consultation is on the 'netting' arrangements (this term is used to describe the duty deferment offset arrangements that are available to certain businesses – further explanation is given in the following paragraph) there are other proposed changes to how we collect and manage excise duty on marine fuels. We have already carried out some informal discussions with affected businesses and their views have helped to form the basis of the proposals set out in this document.

The issues covered by the consultation are as follows:

- **Netting** – we propose to extend the duty deferment offset arrangements to allow intermediaries to supply marine fuels at a duty exclusive price. This arrangement is not allowed under existing law;
- **Minimum value of Drawback and Marine Voyages claims** – we propose an increase in the minimum value of claims from £250 to £500;
- **RDCO (Registered Dealers in Controlled Oils) scheme** – we propose that RDCO registered businesses should include deliveries of marine fuel (except heavy fuel oil) made directly to commercial ships on their RDCO returns;
- **Delivery to ship evidence** – we would like delivery documentation to be improved to reduce the likelihood of repayment claims being made on oil that was supplied duty free. Delivery documentation should also be marked by the supplier of the oil to show the duty status of the oil being delivered;
- **Metering of delivered product** – we propose that in order to make a marine voyages repayment claim the amount of duty claimed should be based on the amount of oil delivered to the vessel, not the amount released from the warehouse. These amounts are not necessarily the same and we believe that this requirement should encourage proper measurement by claimants;
- **Standard netting approvals** – to encourage fair treatment of all businesses, we propose a standard netting approval is set up, together with conditions; and
- **Delivery to shore tanks** – to improve our control of marine fuels we propose that deliveries of marine fuels can only be made to dedicated shore tanks, e.g. tanks for use by one user only. Tanks accessed by a number of users will not be approved as netting locations. Furthermore, the tanks will have to be approved as excise warehouses, which will mean that an accompanying document (form W8) will be required when marine fuel travels there under duty suspension.

What is netting?

Under the Hydrocarbon Oil Duties (Marine Voyages Reliefs) Regulations 1996 (the MVR Regulations), end users of marine fuel can reclaim excise duty from HMRC on fuel bought at a duty-inclusive price.

However, the netting arrangements allow some marine fuel suppliers and their agents (who do not take title to the goods) to supply duty-paid oil at a duty-exclusive price. Provided they supply the fuel directly to the ship from a warehouse or refinery, the principal supplier can reclaim the excise duty as an offset on their HO10 duty deferment return. No separate claim is necessary.

The issue

We are aware that there has been some misunderstanding of the netting rules and inconsistencies in how they are applied. We are aware, for example, that the arrangements have been incorrectly applied so that:

- duty-exclusive oil has been supplied to bunkering companies and barge operators, for example, who obtain oil in their own right but are not the company holding the duty deferment account and netting approval; and
- netting of duty on delivery of marine fuel into shore-side tanks rather than direct to ships.

We shall review our guidance following the completion of this consultation to ensure it is as clear as it can be. We believe though, that there is also scope for updating the procedures and now want views on a number of proposals aimed at treating all businesses equally while minimising revenue risks and compliance costs.

The Proposals for netting

1) **Netting** - Currently, the law prevents netting taking place when marine fuel is purchased by and delivered to an intermediary (a third party who takes title to the goods) where the oil is then delivered to a ship. In this situation the intermediary should buy the oil at a duty-inclusive price and sell it on at a duty-inclusive price. The ship owner then makes a separate repayment claim of duty from HMRC under the Marine Voyages Relief (MVR) Regulations.

However, we are aware of occasions where intermediaries have been allowed to benefit from the netting arrangements and this has led to complaints of unequal treatment.

In order to benefit businesses, we propose to extend the netting arrangement to allow an approved person (an approved duty deferment holder) to supply marine fuel at a duty-exclusive price to a third party. This person will also be able to supply at a duty-exclusive price, whether or not they take title to the oil. We would expect the intermediary to deliver the oil directly to a ship and provide the duty deferment holder with the necessary evidence of delivery to that ship. On receipt of signed delivery evidence (normally a delivery note), the deferment holder can offset the duty on his deferment account by "netting" against the excise duty due from him in that period.

This situation is not currently allowed because a condition of the relief is that the deferment holder retains ownership of the oil until it is delivered into the vessel's tanks. Any relaxation of these arrangements will require changes to the MVR Regulations and will therefore be subject to Parliamentary approval.

2) **Standard Netting Approvals** - At the same time as extending the netting arrangements as described above, we propose that a revised standard netting approval is devised. This will record all customers (and secondary customers) and locations. Relevant conditions could also be included if necessary.

Minimum Value of Claims

Claims under both the Marine Voyages Relief (MVR) scheme and Drawback must reach a certain level before claims can be made to HMRC. This limit currently stands at £250 and has been so for at least 12 years. Only around one-fifth of the MVR claims we receive are for less than £500.

The Proposal for Minimum Value of Claims

We propose setting the minimum value of claims both for Oils Drawback claims for hydrocarbon oil shipped as stores as well as claims under the MVR Regulations at £500. We think that this represents a more reasonable level given the number of claims and the need for HMRC to use our resources efficiently. Claims below £500 would still be allowed if they do not reach the £500 minimum within the 3 year time limit.

Registered Dealers in Controlled Oils (RDCO) Scheme

The RDCO scheme requires anyone intending to sell or deal in controlled oils (generally rebated oils) to be approved to do so. Businesses approved under the scheme are required to make regular returns to HMRC containing details of the controlled oils they have dealt in during the relevant period. Currently, supplies of controlled oils made directly to commercial ships do not have to be included on the RDCO return form.

The Proposal for the RDCO Scheme

We propose that RDCO registered traders should be required to include deliveries of marine fuel (except heavy fuel oil) made directly to the tanks of commercial ships on their RDCO returns. We feel that this is necessary to provide adequate risk assurance given the changes to the netting scheme outlined above. Businesses consulted informally have indicated that they see this additional requirement as a small cost compared to the benefits of netting.

Delivery to ship evidence

Currently, claims made under the Marine Voyages Regulations require evidence of delivery to ship in order to qualify for relief.

The Proposal for Delivery to Ship Evidence

We propose that delivery documentation should be improved to reduce the potential for claims being made on oil that was supplied duty free. We propose that to claim relief under the Marine Voyages Regulations all delivery documentation must be marked by the supplier of the oil to show the duty status of the oil being delivered. Failure to do so may result in the claim being refused.

Metering of delivered product

Under current MVR rules the amount of duty relief claimed should be based on the amount of oil delivered to the vessel, not the amount released from the warehouse. This requirement is designed to ensure proper measurement by claimants. We also intend to consider approval of storage barges as excise warehouses or disallowing netted product delivery to these intermediate supply points. Also, intermediate suppliers will need to be approved by the deferment account holder in order to receive netted supplies. Our revised guidance will better reflect what we consider should already be the case and treated as commercial best practice.

Delivery to shore tanks

As a result of our review and risk assessment, we are concerned about potential misuse of rebated oil stored in these tanks. It is our intention to improve our controls in this area.

The Proposal for Shore Tanks

We propose that deliveries of marine fuels can only be made to dedicated shore tanks, e.g. tanks for use by one user only. Tanks that are accessed by a number of users will not be approved as netting locations. Furthermore, the tanks will have to be approved as excise warehouses, therefore needing a W8 form when fuel travels there under duty-suspension.

Number of businesses affected

HMRC figures show that there are currently around 44 traders who are approved to supply marine fuel at a duty exclusive price (known as deferent traders). In addition, there are around 110 intermediaries. Under the preferred option, these intermediaries will be able to supply fuel at a duty exclusive price, whether or not they take title to the oil.

There are also around 1,900 marine voyages claimants made up of owners, charterers, hirers and masters of vessels engaged in marine voyages. This figure includes some of the 110 intermediaries as it is not possible to distinguish the different groups.

Under the netting proposals outlined above, the number of marine voyages claimants is likely to reduce because those purchasing fuel through intermediaries would be able to do so at a duty exclusive price (and therefore would no longer need to make separate claims of duty from HMRC).

Exchequer impact

These proposals are not designed to raise any more or less duty from the sector, but to protect current revenues by making the rules clearer and improving existing controls. The proposals for delivery to ship evidence and approvals of shore tanks will reduce the chances of claims being made on oil already supplied duty free and help ensure that duty free fuel is not diverted to other, non-qualifying, uses.

Compliance costs

Business

There would be one-off implementation costs under the lead option for marine fuel suppliers, their agents, intermediaries and those engaged in marine voyages. Businesses would need to learn about the new rules and ensure their systems could manage any new requirements (e.g. around enhanced delivery evidence). The total cost would depend on the time it took to undertake the necessary tasks.

There is also likely to be an impact on the 'administrative burden' which HMRC assesses using its Standard Cost Model. The model looks at the costs to business of complying with HMRC tax obligations, by considering which activities a business has to undertake to comply, how many businesses are affected and how often they must do so.

The proposals to improve delivery to ship evidence, approvals of shore tanks and requiring RDCOs to include deliveries of marine fuel made directly to ships on their returns, could increase the administrative burden for marine fuel suppliers. However, the total administrative burden is also affected by the number of marine voyages claimants and this would likely be lower under the lead option since intermediaries could supply marine fuel at a duty exclusive price. Businesses consulted so far have indicated that they see any additional costs arising from these proposals to be a small price to pay to enjoy the benefits of netting (and to have this extended to intermediaries).

HMRC

There would be one-off costs to train HMRC operational staff about any new rules and possibly some small systems changes, depending on the final option, but these costs would probably be minimal. Providing advice and guidance on changes to the tax system is a routine part of HMRC's business and does not represent an additional cost to HMRC.

Option 1 (removing or limiting netting) would impose higher costs on end users of marine fuels (e.g. ship owners and charterers) who would need to claim back duty on fuel used for marine voyages from HMRC. And option 2 (do nothing) would mean that those end users who purchase fuel through intermediaries would continue to incur costs in claiming back duty from HMRC. A greater number of marine voyages claimants would also increase HMRC's costs (e.g. processing and checking claims).

Benefits

As explained above, the lead option would allow intermediaries to supply fuel used for marine voyages at a duty exclusive price. This equalises the treatment with other fuel dealers and should make the marine fuels duty regime fairer, with less scope for misunderstanding and inconsistent treatment, helping to encourage competition (see specific assessment below). The netting proposal should reduce the number of marine voyages claimants, saving time and money, and helping business cashflow. The Standard Cost Model suggests that the average cost to businesses of submitting a claim under Marine Voyages Relief is about £50 once all information obligations and data requirements are taken into account. Any reduction in the number of claims could therefore lead to cost savings for business.

The lead option would also reduce some of HMRC's costs. Together with an increase in the minimum value of claims from £250 to £500, this will allow HMRC to better target its resources to the benefit of all compliant businesses. Increasing the minimum value of claims from £250 to £500 could save HMRC approximately £10,000 a year in processing costs and this figure could be increased when combined with fewer claims following any extension of the netting arrangements.

HMRC would be grateful for views on the likely magnitude of the costs and benefits identified in this impact assessment, across the different businesses involved in the supply and use of marine fuels.

Specific Impact Tests

Full details of the specific impact tests can be found at: <http://www.berr.gov.uk/whatwedo/bre/policy/scrutinising-new-regulations/preparing-impact-assessments/toolkit/page44263.html>. These have been applied to the proposals on marine fuels in this impact assessment.

Competition Assessment

Extending netting to intermediaries should help encourage competition in the supply of marine fuels. Some businesses have commented that the current system has led to cases of inconsistent treatment between different fuel suppliers and intermediaries, which they feel is anti-competitive. Clarifying the rules, and treating all businesses equally should enable a wider range of fuel suppliers to compete, ultimately benefiting end users in terms of lower prices. A suitable compliance regime, to prevent ineligible fuel use and claims on fuel already supplied duty free, would however be needed to ensure that these competition benefits were realised.

Small Firms Impact Test

Extending netting to intermediaries will benefit small as well as larger fuel suppliers and end users by allowing suppliers to compete more effectively with other fuel dealers and reducing compliance costs for end users. This could be of particular benefit to smaller shipping businesses who currently claim back duty from HMRC,

by saving them time and money as well as helping cashflow. Increasing the minimum value of claims from £250 to £500 might have a small impact on cashflow for businesses who continue to make claims. HMRC would be grateful for views on whether or not this would impact disproportionately on smaller fuel suppliers and/or end users.

Other impacts

These proposals are not expected to have any significant impacts on legal aid, sustainable development, carbon dioxide emissions or other environmental effects, health, race, disability, gender or human rights issues; nor will they have a significantly different effect in rural areas. HMRC would welcome views on this initial assessment of specific impacts.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	Yes	No
Sustainable Development	Yes	No
Carbon Assessment	Yes	No
Other Environment	Yes	No
Health Impact Assessment	Yes	No
Race Equality	Yes	No
Disability Equality	Yes	No
Gender Equality	Yes	No
Human Rights	Yes	No
Rural Proofing	Yes	No