

# **The Social Security Information-sharing (Scotland) Amendment Regulations 2024**

## **Equality Impact Assessment - Results**

# **Title of Regulations – The Social Security Information-sharing (Scotland) Amendment Regulations 2024**

## **Summary of aims and desired outcomes of Policy**

To provide Social Security Scotland with a bespoke and explicit legal gateway to make referrals relating to risk of harm to relevant Local Authorities, and (where a client has a Power of Attorney (POA) or a Guardian in place to act for them) to the Office of the Public Guardian.

**Directorate: Division: team** - Social Security Directorate: Social Security Policy  
Division: Cross Cutting Policy Unit

## **Executive summary**

The Social Security Information-sharing (Scotland) Amendment Regulations 2024 will provide Social Security Scotland with an explicit and bespoke legal gateway to make referrals relating to risk of harm to relevant local authority social services departments, and (where a client has a Power of Attorney (POA) or a Guardian in place to act for them) to the Office of the Public Guardian.

The public sector equality duty is a legislative requirement which states that the Scottish Government must assess the impact of applying a proposed new or revised policy or practice on groups with protected characteristics. This Equality Impact Assessment (EQIA) explores the impact of the Social Security Information-sharing (Scotland) Amendment Regulations 2024 against the protected characteristics of age, disability, sex, gender re-assignment, religion or belief, sexual orientation and race.

In summary, this proposal will have a positive impact and will not directly or indirectly discriminate against people, regardless of their protected characteristics. No specific areas of improvement have been identified during the EQIA process. However, the

process did re-confirm the importance of ensuring Social Security Scotland safeguarding officials understand the importance of only sharing data where it is proportionate to the level of risk identified.

This EQIA will continue to be monitored and updated when new data or information becomes available, particularly relating to the protected characteristics of gender re-assignment, religion or belief, sexual orientation and race. Additionally, further impact assessments will be created relating to the operational considerations of this proposal.

This impact assessment should be read in conjunction with the Business and Regulatory Impact Assessment (BRIA); partial Island Community Impact Assessment (ICIA); Children’s Rights and Wellbeing Impact Assessment (CRWIA); and the Data Protection Impact Assessment (DPIA).

## **Background**

The Scottish Government is very much aware that Social Security Scotland supports some of the most vulnerable people in society.

Social Security Scotland’s charter outlines our commitment to refer a client to other organisations, services or forms of help where we believe they could help improve a client's wellbeing or financial circumstances.<sup>1</sup> This is particularly important when we understand how some clients need extra support in order to safely and fairly access Social Security Scotland's services.

However, there may also be instances when Social Security Scotland's interaction with clients (or indeed other people that they come across in the course of dealing with a client) presents situations where it becomes apparent an individual may be at

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<sup>1</sup> [Social Security Scotland - Our Charter](#)

risk of harm. To adequately support people in this situation, Social Security Scotland must have clear and robust processes in place.

At this juncture it is important to make a distinction between cases where an individual may be at a non-emergency risk of harm and cases where there is an immediate risk to life. Where a situation is presented where a direct risk to life is identified, a clear course of action already exists - Social Security Scotland will make an immediate call to Police Scotland. The question arises therefore in relation to situations where Social Security Scotland believes an individual may be at risk of harm.

There are several bodies and organisations who can help with situations of perceived neglect or abuse. For example, in non-emergency situations, reporting someone who is believed to be at risk of domestic abuse to the relevant Local Authority is advised. For non-emergency situations where a child is believed to be at risk of harm it is recommended concerns be raised via contacting the appropriate Local Authority social work department. The mygov.scot website recommends immediate danger be reported to police, that 101 be called where it is believed a crime has been committed, and a report made to the Local Authority where there are suspicions of neglect or abuse.

Where a Local Authority has reason to believe someone may be at risk of harm, there are various potential duties to investigate. They can only do this if they are made aware of concerns.

The Adult Support and Protection (Scotland) Act 2007 is intended to protect adults who are unable to safeguard their own interests, placing a duty on councils to make investigations and enquiries when approached with details of an identified risk of harm.<sup>2</sup> In 2014, the Scottish Government published a Code of Practice which provided guidance to specific public bodies (such as health boards and the fire

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<sup>2</sup> [Adult Support and Protection \(Scotland\) Act 2007 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2007/16/section/1)

service) on processes to refer safeguarding concerns to the Local Authority.<sup>3</sup> As Social Security Scotland came into being as an executive agency of the Scottish Government on 1 September 2018, it was not covered by the 2007 Act or the 2014 Code of Practice for third parties.

To that end, the Scottish Government will make the Social Security Information-sharing (Scotland) Amendment Regulations 2024 which will provide Social Security Scotland with an explicit and bespoke legal gateway in Scottish social security legislation to make referrals relating to risk of harm to relevant local authority social services departments, and (where a client has a Power of Attorney or a Guardian in place to act for them) to the Office of the Public Guardian. Part of this work has involved engaging with policy and officials in the DG for Health and Social Care, the Mental Health and Social Care Directorate (now known as the Directorate for Social Care and National Care Service Development), and Directorate for Children and Families. As a result of this engagement, the then Directorate for Health and Social care, upon review of the Code of Practice for Adult Support and Protection in July 2022, added Social Security Scotland to the updated list of public services who may contribute to the protection of adults at risk, and who may have cause to refer concerns to the local authority.

A public consultation titled “Safeguarding Data Sharing” ran for 12 weeks between 25 March 2022 and 17 June 2022, and the analysis was published on 17 February 2023.<sup>4</sup>

Due to the impact of COVID-19, and the restrictions on face to face contact, stakeholder engagement events were not possible. Instead, the consultation sought the opinions of stakeholders, by promoting it throughout the Social Security Scotland and Scottish Government social media pages. The Social Security Scotland

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<sup>3</sup> [Adult Support and Protection \(Scotland\) Act 2007: Code of Practice - gov.scot \(www.gov.scot\)](http://www.gov.scot/resources/documents/2007/06/Adult_Support_and_Protection_Scotland_Act_2007_Code_of_Practice.pdf)

<sup>4</sup> [2. Overview of the Consultation - Safeguarding data sharing: consultation report and summary of responses - gov.scot \(www.gov.scot\)](http://www.gov.scot/resources/documents/2023/02/2.Overview_of_the_Consultation_-_Safeguarding_data_sharing_consultation_report_and_summary_of_responses.pdf)

Communications and National Engagement team promoted the consultation by referring to it in their regular newsletter, to which there are over 1,700 subscribers.

The purpose of the consultation was to gather views on the approach Social Security Scotland should take to report certain circumstances to a Local Authority where it becomes apparent that an individual may be at risk of harm.

The consultation asked 6 direct questions, in addition to open-ended questions which aimed to allow participants to provide in-depth answers, specific to their own circumstances.

Respondents were broadly supportive of the proposed measure, with no responses indicating that there would be any different impact on people below the age of 18. Where feedback did flag concerns, it was primarily because the individuals or organisations felt Social Security Scotland should be able to share data with a wider range of stakeholders, in addition to local authorities.

Feedback from the consultation also highlighted several important considerations, which influenced the design of the Social Security Information-sharing (Scotland) Amendment Regulations 2024. Some responses noted that data shared must be proportionate to the level of risk, and, the officials within Social Security Scotland must be adequately trained to achieve this crucial balance. This important point will be implemented, and further expanded upon in impact assessments relating to the operational practices.

The regulations will contribute positively to the General Equality Duty and to advancing various national outcomes as outlined in the National Performance Framework<sup>5</sup>:

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<sup>5</sup> [National Outcomes | National Performance Framework](#)

- **Children and Young People:** We grow up loved, safe and respected so that we realise our full potential
- **Communities:** We live in communities that are inclusive, empowered, resilient and safe
- **Health:** We are health and active
- **Human Rights:** We respect, protect and fulfil human rights and live free from discrimination

## **The Scope of the EQIA**

This EQIA considers and addresses the potential equality impacts of the Social Security Information-sharing (Scotland) Amendment Regulations 2024, as set out in the background section.

The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 places a duty on the Scottish Ministers to review policies and practices against the need to:

- (a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The Equality Act 2010 covers the protected characteristics of: age, disability, gender reassignment, pregnancy or maternity, race, sex, sexual orientation and religion and belief. The impacts of the Social Security Information-sharing (Scotland) Amendment Regulations 2024 have been assessed against the extent to which it fulfils these needs.

## Key Findings

This EQIA has found that the introduction of the Social Security Information-sharing (Scotland) Amendment Regulations 2024 will have a positive impact on the people of Scotland.

### Age

**Social Security Scotland offers a wide range of benefits and interacts with people from different age cohorts. Evidence suggests these regulations will have a direct cross cutting impact on this protected characteristic.**

The National Records of Scotland reported that Scotland's mid-2021 population was 5,479,900, and of which, 17% were aged 0-15; 64% were aged 16-64; and 20% were aged 65 or above.<sup>6</sup>

Social Security Scotland's Client Diversity and Equalities to May 2021 report, shows that 93% of clients applying for Best Start Grant and/or Best Start Foods, Funeral Support Payment, Young Carer Grant, Job Start Payment and Scottish Child Payment were between the ages of 16 and 44. The majority of clients applying for these types of benefits are likely to belong to younger age groups.<sup>7</sup>

Since May 2021, Social Security Scotland has expanded the types of assistance available, for example, Adult Disability Payment began rolling out nationally in August 2022.<sup>8</sup> Adult Disability Payment: high level statistics to 30 April 2023 report, shows that from 21 March 2022 to 30 April 2023, there were 95,555 part 1 applications registered for Adult Disability Payment. The most common age group for applicants submitting part 1 was 55 to 64, representing 25% of all applications

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<sup>6</sup> [Mid-2021 Population Estimates Scotland | National Records of Scotland \(nrscotland.gov.uk\)](https://www.nrscotland.gov.uk)

<sup>7</sup> [Social Security Scotland client diversity and equalities analysis to May 2021 - gov.scot \(www.gov.scot\)](https://www.gov.scot)

<sup>8</sup> [Adult Disability Payment opens for applications nationwide - gov.scot \(www.gov.scot\)](https://www.gov.scot)



registered. Those over the age of 65 made up a substantial minority of 4% of all applications registered.<sup>9</sup> Child Disability Payment, which began rolling out nationally in November 2021, published a high level statistics report, using data gained up until 31 March 2023. The report shows that out of a total 30,975 applications received, 8,160 were aged 0-4; 13,110 were aged 5-10; 9,620 were aged 11-15; and 55 were aged 16-18.<sup>10</sup>

**Evidence suggests that some forms of abuse are disproportionately experienced by older aged groups. This proposal may therefore be particularly positive for older aged individuals.**

A UK wide Financial Abuse Evidence Review published in 2015, estimated that since turning the age of 65, between 1 and 2% of all individuals have suffered or continue to suffer from financial abuse.<sup>11</sup> Another article, published by Citizens Advice found that a common type of financial abuse across Britain relates to perpetrators controlling or interfering with victim's benefits.<sup>12</sup>

According to data published by Adult Support and Protection Scotland, collected between 2021 and 2022, 37% of safeguarding investigations were for people aged 25-64 and about 18% of investigations were for people aged 85 and over, the population rates for those age groups were 0.7 and 7.5 per 1000 adults respectively.<sup>13</sup>

## **Disability**

**Evidence suggests that large proportions of Social Security Scotland recipients have this protected characteristic. These regulations are likely to**

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<sup>9</sup> [Social Security Scotland - Adult Disability Payment: high level statistics to 30 April 2023](#)

<sup>10</sup> [Child Disability Payment: high level statistics to 31 March 2023 - gov.scot \(www.gov.scot\)](#)

<sup>11</sup> [Financial Abuse Evidence Review \(ageuk.org.uk\)](#)

<sup>12</sup> [Microsoft Word - controlling-money-controlling-lives \(1\).doc \(citizensadvice.org.uk\)](#)

<sup>13</sup> [Supporting documents - Adult Support and Protection Scotland: April 2019 to March 2022 - gov.scot \(www.gov.scot\)](#)

**have a positive impact, particularly because people with this protected characteristic are more likely to experience some forms of abuse.**

According to the Scottish Health Survey 2021, 32% of adults had a long-term limiting mental or physical health condition or disability in 2017. The same survey reported that adults with a long-term limiting mental or physical health condition or disability is increasing as Scotland's population ages, for example, between 2008 and 2017, the proportion of women who were disabled increased from 28% to 34% and men increased from 23% to 29%. In terms of children, in 2017, 10% of girls and 11% of boys were disabled.<sup>14</sup>

Individuals with this protected characteristic and who interact with Social Security Scotland, are also highly represented. For example, Adult Disability Payment: high level statistics to 30 April 2023 report, shows that from 21 March 2022 to 30 April 2023, there were 95,555 part 1 applications registered for Adult Disability Payment.<sup>15</sup> Child Disability Payment, which began rolling out nationally in November 2021, published a high level statistics report, using data gained up until 31 March 2023. The report shows that a total of 30,975 applications were received.<sup>16</sup>

A report published by AGEUK noted that one of the greatest determinants of becoming a victim of financial abuse is dementia or other forms of reduced cognitive function. Also at increased risk, are people with poor physical or mental health. Social factors also increase the risk of financial abuse, for example needing help with daily living activities like bathing, feeding, or showering, managing money and shopping.<sup>17</sup> Similarly according to data published by Adult Support and Protection Scotland, adults at risk of harm experience a wide range of underlying conditions

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<sup>14</sup> [The Scottish Health Survey 2021 - volume 1: main report - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/scottish-health-survey-2021/volume-1-main-report/pages/100-to-109.aspx)

<sup>15</sup> [Social Security Scotland - Adult Disability Payment: high level statistics to 30 April 2023](https://www.gov.scot/publications/adult-disability-payment-high-level-statistics-to-30-april-2023/pages/100-to-109.aspx)

<sup>16</sup> [Child Disability Payment: high level statistics to 31 March 2023 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/child-disability-payment-high-level-statistics-to-31-march-2023/pages/100-to-109.aspx)

<sup>17</sup> [Financial Abuse Evidence Review \(ageuk.org.uk\)](https://ageuk.org.uk/financial-abuse-evidence-review/)

including mental health problems, learning disabilities, physical disabilities, and infirmity due to old age.<sup>18</sup>

## **Sex**

**Evidence suggests that females will be impacted positively slightly more than males, particularly when risks of harm relating to domestic abuse are present.**

According to the Scottish Health Survey 2021, 32% of adults had a long-term limiting mental or physical health condition or disability in 2017. When accounted for by sex it translated to 34% of women and 29% of men.<sup>19</sup>

According to an Office for National Statistics publication on disability and crime, 17.3% of disabled women had experienced domestic abuse in 2019 compared to 9% of disabled men.<sup>20</sup>

This general trend was also found in the Adult Support and Protection Scotland: April 2019 to March 2022 publication. It noted that in 2021/22, about 57% of safeguarding investigations commenced were for women and 43% were for men which equates to 1.4 per 1,000 adults and 1.1 per 1,000 adults respectively. These rates have been consistent over the last few years.<sup>21</sup>

## **Gender re-assignment**

There is not sufficient data available to assess the impact of the Social Security Information-sharing (Scotland) Amendment Regulations 2024 on people with this protected characteristic. Nothing has been identified which might suggest there would be any negative impact, nor was anything specific raised in the public

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<sup>18</sup> [Supporting documents - Adult Support and Protection Scotland: April 2019 to March 2022 - gov.scot \(www.gov.scot\)](https://www.gov.scot/supporting-documents/adult-support-and-protection-scotland-april-2019-to-march-2022)

<sup>19</sup> [The Scottish Health Survey 2021 - volume 1: main report - gov.scot \(www.gov.scot\)](https://www.gov.scot/the-scottish-health-survey-2021-volume-1-main-report)

<sup>20</sup> [Disability and crime, UK - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk/disability-and-crime)

<sup>21</sup> [Supporting documents - Adult Support and Protection Scotland: April 2019 to March 2022 - gov.scot \(www.gov.scot\)](https://www.gov.scot/supporting-documents/adult-support-and-protection-scotland-april-2019-to-march-2022)

consultation. This EQIA will continue to be updated, particularly when new data or information becomes available. Furthermore, additional impact assessments will be created relating to operational considerations.

## **Pregnancy and maternity**

**Evidence suggests that these regulations will have a positive impact, due to the increased probability of domestic abuse during pregnancy.**

The Best Start Grant consists of three different benefit payments, one of which relates to a Pregnancy and Baby Payment for parents and carers who are expecting or have a new child. According to the Best Start Grant and Best Start Foods: high level statistics to March 2023 report, there have been a total of 154,855 applications received.<sup>22</sup>

The NHS advise that domestic abuse or domestic violence can be triggered or exacerbated during pregnancy. This increases the chances of miscarriage, infection, premature birth, and injury or death to the baby.<sup>23</sup> Furthering this, an evidence review published by the Scottish Government in 2013 noted that research suggests domestic abuse can often start in pregnancy, and worsen when the first child is new-born.<sup>24</sup>

## **Race**

**Limited evidence suggests that these regulations will not have a differential impact on any specific group within this protected characteristic.**

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<sup>22</sup> [Social Security Scotland - Best Start Grant and Best Start Foods: high level statistics to 31 March 2023](#)

<sup>23</sup> [Domestic abuse in pregnancy - NHS \(www.nhs.uk\)](#)

<sup>24</sup> [Supporting documents - Scottish Government Equality Outcomes: Pregnancy and Maternity Evidence Review - gov.scot \(www.gov.scot\)](#)

According to data published by the Scottish Government titled Adult Support and Protection Scotland: April 2019 to March 2022, of those subject to a safeguarding investigation where the ethnicity was known, around 97% had an ethnic category of “White”, about 1% had an ethnic category of “Asian, Scottish Asian or British Asian” and the other 2% was a mixture of “African, Caribbean, Black, mixed or multiple ethnic groups or other ethnic groups” in 2021/22. The 2011 census results described the Scottish population as about 96% “White”; 3% “Asian, Scottish Asian or British Asian” and about 1% having a mixture of “African, Caribbean, Black, mixed or multiple ethnic groups or other ethnic groups”. 19% of those subject to an investigation had an ethnic category of “Not Known” so these percentages should be interpreted with caution.<sup>25</sup>

### **Religion or belief**

There is not sufficient data available to assess the impact of the Social Security Information-sharing (Scotland) Amendment Regulations 2024 on people with this protected characteristic. Nothing has been identified which might suggest there would be any negative impact, nor was anything specific raised in the public consultation. This EQIA will continue to be updated, particularly when new data or information becomes available. Furthermore, additional impact assessments will be created relating to operational considerations.

### **Sexual orientation**

There is not sufficient data available to assess the impact of the Social Security Information-sharing (Scotland) Amendment Regulations 2024 on people with this protected characteristic. Nothing has been identified which might suggest there would be any negative impact, nor was anything specific raised in the public consultation. This EQIA will continue to be updated, particularly when new data or

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<sup>25</sup> [Supporting documents - Adult Support and Protection Scotland: April 2019 to March 2022 - gov.scot \(www.gov.scot\)](https://www.gov.scot/supporting-documents/adult-support-and-protection-scotland-april-2019-to-march-2022)

information becomes available. Furthermore, additional impact assessments will be created relating to operational considerations.

## **Recommendations and Conclusion**

This EQIA process has identified that overall, the introduction of the Social Security Information-sharing (Scotland) Amendment Regulations 2024 has the potential to have a direct cross cutting positive impact on all people regardless of their protected characteristics. There may also be positive indirect impacts relating to the protected characteristics of age, disability and pregnancy and maternity. The regulations will create a more robust structure and clarity in process, to better safeguard people who interact with Social Security Scotland when a risk of harm is identified.

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