

EQUALITY IMPACT ASSESSMENT RECORD

Title of policy/ practice/ strategy/ legislation etc.	The Register of Scotland (Digital Registration, etc.) Regulations 2022	
Minister	Tom Arthur	
Lead official	Harry Murray	
Officials involved in the EQIA	name	team
	Harry Murray Jonathan Hodge Kaira Falconer Stephen Bennett	RoS Policy Unit RoS HR
Directorate: Division: Team	Registers of Scotland	
Is this new policy or revision to an existing policy?	Revision to an existing policy	

Screening

Registers of Scotland (RoS) is a Scottish public body and is categorised as a Non-Ministerial Office (NMO). RoS is headed by the Keeper, who is a non-ministerial office-holder in the Scottish Administration and the Chief Executive of RoS. RoS' function is to maintain the public registers for which the Keeper is statutorily responsible and make the information they contain publicly available. RoS also gives the Scottish Ministers policy advice.

Further information on how RoS operates is set out in its [framework document](#).

Policy Aim

Following closure of her offices on 24th March 2020, the Keeper of the Registers of Scotland (RoS) introduced a digital submission service in collaboration with customers to enable applications to the Land Register, Register of Sasines and Register of Inhibitions to be submitted electronically, allowing these registers (and the property market and court processes which they support) to remain operational during the period of public health restrictions. These applications comprised electronic copies of traditional (i.e. paper) documents.

The legislative basis for digital submission was introduced in paragraphs 11 to 14 of schedule 7 of the Coronavirus (Scotland) Act 2020 and paragraph 3 of schedule 4 of the Coronavirus (Scotland) (No. 2) Act 2020.

Following positive feedback from stakeholders and customers, RoS launched a public consultation on the future of digital submission on behalf of the Scottish Government, including whether it should become the default method of submission. Response to the consultation was overwhelmingly positive, with 97% of 223 respondents stating that they were in favour of placing digital submission on a permanent statutory footing as the default method of submission – benefits cited by respondents included greater speed and certainty of submission, reduced postage costs, and greater flexibility of work location. Similar benefits are also obtained by RoS, in addition to greater operational resilience in the case of future disruption, and as a useful stepping-stone on the road to a fully electronic conveyancing process.

Measures to place digital submission on a permanent statutory footing will be taken forward in a forthcoming bill related to recovery from the Covid pandemic. These regulations are designed to work in tandem with the permanent provisions (and the relevant provisions will commence at the same time), by making digital submission of applications in the Land Register and Register of Sasines compulsory subject to exceptions.

In addition, these Regulations will open up the Register of Deeds and Probative Writs in the Books of Council and Session (the RoD) to fully electronic documents i.e. electronic documents authenticated by way of electronic signature

Who will it affect?

This will affect all existing customers who submit applications to the three affected registers, and in particular the conveyancing profession. All of RoS's existing customers have successfully transitioned to the digital submission service, and its popularity is evidenced by the strong support received through the public consultation. Not only does the service provide operational resilience for RoS, but it allows the conveyancing profession flexibility in choosing where they work from.

Whilst the digital submission service will become the default method of submission to RoS, processes will be in place to support the very small number of applications that still require to be submitted on paper. Such applications may be required because the applicant has no access to RoS online services (for example, because they are a citizen carrying out their own conveyancing), or where the applicant is unable to use online services for accessibility reasons.

In order to partially address the need for paper applications in some situations, the DSS has already introduced 'non-digital document' functionality which allows DSS applications to be supplemented with physical documents where required, for example, where a deed plan is too large to be scanned, or where an acceptable quality of scan cannot be produced by the applicant.

What might prevent the desired outcomes being achieved?

The desired outcomes are:-

To make digital submission the default method of submitting applications to Registers of Scotland whilst maintaining some exceptions, preserving resilience, safeguarding welfare of staff and others, and reducing cost, time and risk for all involved.

If we are unable to obtain permanent legislation then the above outcomes may not be realised.

Stage 1: Framing

Results of framing exercise

As discussed above, solicitors wishing to submit applications for registration to RoS will continue to use our digital submission services.

The policies and practices underpinning registration of deeds will remain largely unchanged by making permanent the use of these services.

To better understand the views of users of the service and the impacts it may have on them, RoS carried out a public consultation on behalf of Ministers, published on Registers of Scotland's website and hosted on the Scottish Government website¹.

As part of the consultation launch, RoS contacted many stakeholders directly including Homes for Scotland and Citizens Advice Scotland to alert them to it and invite them to respond. None of the responses received as part of the public consultation indicate any direct or indirect impact on protected characteristics.

¹ <https://www.ros.gov.uk/about/publications/consultations-and-surveys/2020/digital-submissions-2020>

Notwithstanding that, RoS identified that the introduction of an online submission system may adversely impact upon those whose disability may prevent them from using an online system, or whose old age may make it more difficult to understand and navigate an online system. For those reasons RoS will continue to accept paper applications from anyone whose ability to use the online system is impacted due to old age or disability.

To understand better any potential discrimination on protected characteristic groups, RoS consulted directly the Glass Network (a LGBT+ group of solicitors), the Scottish Ethnic Minorities Lawyers Association, Women In Law Scotland, Scottish Young Lawyers' Association, Capability Scotland, Inclusion Scotland and Age Scotland. They also consulted the RoS Carers' Network, LGBT+ Network group, Modern Apprentices' group and RoS's Equality Diversity and Inclusion working group to take their views on the proposals.

RoS received one response from a disabled person who is also a carer for a disabled person who provided the following observations:-

1. Continuing with digital submission service is a positive step for both of these groups;
2. Generally, most disabled people and those with caring responsibilities for them find use of digital services to be more inclusive, particularly if they find leaving their home or meeting new people to be a challenge;
3. Software can be adapted to enable dictation and assist in the production of documents;
4. Many severely disabled people have assistance from someone who is not disabled to assist with applications where required;
5. Allowing paper applications where required to meet the needs of a protected characteristic would mean the total submissions service is inclusive of disabled people and their carers.

RoS are of the view, having regard to the above, the proposals meet the provisions of s149 of the Equality Act 2010 by eliminating discrimination, advancing equality of opportunity and fostering good relations.

Extent/Level of EQIA required

RoS is committed to promoting equality of opportunity. Following the screening exercise, they consider that a full Impact Assessment is required.

Stage 2: Data and evidence gathering, involvement and consultation

Include here the results of your evidence gathering (including framing exercise), including qualitative and quantitative data and the source of that information, whether national statistics, surveys or consultations with relevant equality groups.

Characteristic²	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
AGE	A public consultation was run between 22 December 2020 and 1 February 2021 inviting views on the proposals. Additionally, contact was made with Age Scotland, Scottish Young Lawyers' Association and RoS Modern Apprentices' group to invite their views.		No evidence received to suggest any adverse impact specifically on this protected characteristic. No action taken.
DISABILITY	A public consultation was run between 22 December 2020 and 1 February 2021 inviting views on the proposals. Additionally, contact was made with Capability Scotland, Inclusion Scotland and RoS Carers' Network to invite their views.		One response was received from a disabled person who also has caring responsibilities but was not speaking on behalf of any of the aforementioned groups. Details of this response can be found in the Framing Exercise portion above and we consider the response was positively disposed towards the proposals.
SEX	A public consultation was run between 22 December 2020 and 1 February 2021 inviting views on the proposals. Additionally, contact was made with Women In Law, a women's network of lawyers, inviting their views.		No evidence received to suggest any adverse impact specifically on this protected characteristic. No action taken.
PREGNANCY AND MATERNITY	A public consultation was run between 22 December 2020 and 1 February 2021 inviting views on the proposals.		No evidence received to suggest any adverse impact specifically on this protected characteristic. No action taken.
GENDER REASSIGNMENT	A public consultation was run between 22 December 2020 and 1 February 2021 inviting views on the proposals		No evidence received to suggest any adverse impact specifically on this protected characteristic. No action taken.
SEXUAL ORIENTATION	A public consultation was run between 22 December 2020 and 1 February 2021 inviting views on the proposals. Additionally, contact was made with the Glass Network, a group for LGBT+ lawyers, and RoS LGBT+ group to invite their views.		No evidence received to suggest any adverse impact specifically on this protected characteristic. No action taken.

² Refer to Definitions of Protected Characteristics document for information on the characteristics

RACE	A public consultation was run between 22 December 2020 and 1 February 2021 inviting views on the proposals. Additionally, contact was made with the Scottish Ethnic Minorities Lawyers' Association to invite their views.		No evidence received to suggest any adverse impact specifically on this protected characteristic. No action taken.
RELIGION OR BELIEF	A public consultation was run between 22 December 2020 and 1 February 2021 inviting views on the proposals.		No evidence received to suggest any adverse impact specifically on this protected characteristic. No action taken.
MARRIAGE AND CIVIL PARTNERSHIP (the Scottish Government does not require assessment against this protected characteristic unless the policy or practice relates to work, for example HR policies and practices - refer to Definitions of Protected Characteristics document for details)	A public consultation was run between 22 December 2020 and 1 February 2021 inviting views on the proposals.		No evidence received to suggest any adverse impact specifically on this protected characteristic. No action taken.

Stage 3: Assessing the impacts and identifying opportunities to promote equality

Having considered the data and evidence you have gathered, this section requires you to consider the potential impacts – negative and positive – that your policy might have on each of the protected characteristics. It is important to remember the duty is also a positive one – that we must explore whether the policy offers the opportunity to promote equality and/or foster good relations.

Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			x	Those who, due to older age, may find it difficult to use a computer system will be able to submit their application by post as present. RoS is therefore of the view that the proposals will not impact negatively in this manner and no evidence was received to suggest the proposals will make such an impact.
Advancing equality of opportunity			x	Those who, due to older age, may find it difficult to use a computer system will be able to submit their application by post as present. RoS is therefore of the view that the proposals will not impact negatively in this manner and no evidence was received to suggest the proposals will make such an impact.
Promoting good relations among and between different age groups			x	Those who, due to older age, may find it difficult to use a computer system will be able to submit their application by post as present. RoS is therefore of the view that the proposals will not impact negatively in this manner and no evidence was received to suggest the proposals will make such an impact.

Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			x	Feedback from one disabled person who is also a carer suggests that the proposals could have a positive impact. Those who, due to disability, may find it difficult to use a computer system will be able to submit their application by post as present. RoS is therefore of the view that the proposals will not impact negatively in this manner and no evidence was received to suggest the proposals will make such an impact.

Advancing equality of opportunity			x	Feedback from one disabled person who is also a carer suggests that the proposals could have a positive impact. Those who, due to disability, may find it difficult to use a computer system will be able to submit their application by post as present. RoS is therefore of the view that the proposals will not impact negatively in this manner and no evidence was received to suggest the proposals will make such an impact.
Promoting good relations among and between disabled and non-disabled people			x	Feedback from one disabled person who is also a carer suggests that the proposals could have a positive impact. Those who, due to older age, may find it difficult to use a computer system will be able to submit their application by post as present. RoS is therefore of the view that the proposals will not impact negatively in this manner and no evidence was received to suggest the proposals will make such an impact.

Do you think that the policy impacts on men and women in different ways?

Sex	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			x	RoS is of the view that the proposals will not impact in this manner and no evidence was received to suggest the proposals will make such an impact.
Advancing equality of opportunity			x	RoS is of the view that the proposals will not impact in this manner and no evidence was received to suggest the proposals will make such an impact.
Promoting good relations between men and women			x	RoS is of the view that the proposals will not impact in this manner and no evidence was received to suggest the proposals will make such an impact.

Do you think that the policy impacts on women because of pregnancy and maternity?

Pregnancy and Maternity	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			x	RoS is of the view that the proposals will not impact in this manner and no evidence was received to suggest the proposals will make such an impact.
Advancing equality of opportunity			x	RoS is of the view that the proposals will not impact in this manner and no evidence was received to suggest the proposals will make such an impact.

Promoting good relations			x		RoS is of the view that the proposals will not impact in this manner and no evidence was received to suggest the proposals will make such an impact.
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Do you think your policy impacts on people proposing to undergo, undergoing, or who have undergone a process for the purpose of reassigning their sex? (NB: the Equality Act 2010 uses the term 'transsexual people' but 'trans people' is more commonly used)

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			x	RoS is of the view that the proposals will not impact in this manner and no evidence was received to suggest the proposals will make such an impact.
Advancing equality of opportunity			x	RoS is of the view that the proposals will not impact in this manner and no evidence was received to suggest the proposals will make such an impact.
Promoting good relations			x	RoS is of the view that the proposals will not impact in this manner and no evidence was received to suggest the proposals will make such an impact.

Do you think that the policy impacts on people because of their sexual orientation?

Sexual orientation	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			x	RoS is of the view that the proposals will not impact in this manner and no evidence was received to suggest the proposals will make such an impact.
Advancing equality of opportunity			x	RoS is of the view that the proposals will not impact in this manner and no evidence was received to suggest the proposals will make such an impact.
Promoting good relations			x	RoS is of the view that the proposals will not impact in this manner and no evidence was received to suggest the proposals will make such an impact.

Do you think the policy impacts on people on the grounds of their race?

Race	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			x	RoS is of the view that the proposals will not impact in this manner and no evidence was received to suggest the proposals will make such an impact.
Advancing equality of opportunity			x	RoS is of the view that the proposals will not impact in this manner and no evidence was received to suggest the proposals will make such an impact.

Promoting good race relations			x		RoS is of the view that the proposals will not impact in this manner and no evidence was received to suggest the proposals will make such an impact.
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Do you think the policy impacts on people because of their religion or belief?

Religion or belief	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			x	RoS is of the view that the proposals will not impact in this manner and no evidence was received to suggest the proposals will make such an impact.
Advancing equality of opportunity			x	RoS is of the view that the proposals will not impact in this manner and no evidence was received to suggest the proposals will make such an impact.
Promoting good relations			x	RoS is of the view that the proposals will not impact in this manner and no evidence was received to suggest the proposals will make such an impact.

Do you think the policy impacts on people because of their marriage or civil partnership?

Marriage and Civil Partnership ³	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			x	RoS is of the view that the proposals will not impact in this manner and no evidence was received to suggest the proposals will make such an impact.

³ In respect of this protected characteristic, a body subject to the Public Sector Equality Duty (which includes Scottish Government) only needs to comply with the first need of the duty (to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010) and only in relation to work. This is because the parts of the Act covering services and public functions, premises, education etc. do not apply to that protected characteristic. Equality impact assessment within the Scottish Government does not require assessment against the protected characteristic of Marriage and Civil Partnership unless the policy or practice relates to work, for example HR policies and practices.

Stage 4: Decision making and monitoring

Identifying and establishing any required mitigating action

Have positive or negative impacts been identified for any of the equality groups?	The proposals may have a positive impact for those with disabilities and those who care for them. Those who, due to older age and/ or disability, may find it difficult to use a computer system will be able to submit their application by post as present. RoS is therefore of the view that the proposals will not impact negatively in this manner.
Is the policy directly or indirectly discriminatory under the Equality Act 2010 ⁴ ?	No.
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	N/A
If not justified, what mitigating action will be undertaken?	N/A

Describing how Equality Impact analysis has shaped the policy making process

The analysis has reinforced our view that for the majority of customers, including those with disabilities, the introduction of digital submission represents a positive step forward. For the small number of applications that still require to be submitted on paper (for example, where a citizen wants to submit their own application, or where there are accessibility issues with the digital submission service), RoS will have processes in place to allow this to continue.

Monitoring and Review

All RoS policies are subject to a review and evaluation process (annually or as otherwise specified) by the responsible senior governance group. Equalities considerations are amongst the factors considered as part of that process. Additionally, the RoS Equality, Diversity and Inclusion steering group meet monthly and report to the RoS Board bi-annually to inform them of the activities undertaken in relation to equality, diversity and inclusion decisions.

Stage 5 - Authorisation of EQIA

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes No

⁴ See EQIA – Setting the Scene for further information on the legislation.

- ◆ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:

- Eliminating unlawful discrimination, harassment, victimisation;
- Removing or minimising any barriers and/or disadvantages;
- Taking steps which assist with promoting equality and meeting people's different needs;
- Encouraging participation (e.g. in public life)
- Fostering good relations, tackling prejudice and promoting understanding.

Yes No

- ◆ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

Yes No Not applicable

Declaration

I am satisfied with the equality impact assessment that has been undertaken for The Register of Scotland (Digital Registration, Etc.) Regulations 2022 and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Jennifer Henderson

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Name: Jennifer Henderson

Position: Keeper and Chief Executive of the Registers of Scotland

Authorisation date: 13 December 2021