

Child Rights and Wellbeing Impact Assessment (CRWIA)

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

Disclaimer

This draft document is an initial assessment of the impact of The Social Security Information-sharing (Scotland) Amendment Regulations 2024. The Scottish Government will continue to review and update this document where required during the parliamentary and strategic decision making process. Any future iterations will reflect an increased understanding of these impacts as the amount of data and research available continues to grow.

This impact assessment should be read in conjunction with the Equality Impact Assessment.

CRWIA Stage 1 – Screening

Brief Summary

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 the 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.¹ 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 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](https://www.mygov.scot) website recommends

¹ <https://www.socialsecurity.gov.scot/about/our-charter>

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.² In 2014, the Scottish Government published a Code of Practice which provided guidance to specific public bodies (such as health boards and the fire service) on processes to refer safeguarding concerns to the Local Authority.³ 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.

² <https://www.legislation.gov.uk/asp/2007/10/contents>

³ <https://www.gov.scot/publications/adult-support-protection-scotland-act-2007-code-practice-3/>

The National Performance Framework measures and keeps track of how Scotland is performing. It aims to reduce inequalities and gives equal importance to economic, environmental and social progress. It sets out national outcomes, which describe the kind of country the Scottish Government aims to create. The Social Security Information-sharing (Scotland) Amendment Regulations 2024 will positively contribute to the following National Outcomes: ⁴

- **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 healthy and active
- **Poverty:** We tackle poverty by sharing opportunities, wealth and power more equally

This CRWIA will continue to be monitored and updated as necessary when new data or information becomes available. 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); Equality Impact Assessment (EQIA); and the Data Protection Impact Assessment (DPIA).

Start date of relevant proposal: November 2021

Start date of CRWIA process: March 2022 ⁵

Which aspects of the relevant proposal currently affects or will affect children and young people up to the age of 18?

Where a non-emergency risk of harm is identified by Social Security Scotland, and it is deemed necessary and proportionate in the interests of safeguarding, data will be shared to relevant Local Authority social services departments, or (where a person

⁴ <https://nationalperformance.gov.scot/>

⁵ While the drafting of the CRWIA started later than March 2022, the scoping process- including the public consultation- took place around March 2022.

has a Power of Attorney or a Guardian in place to act for them) to the Office of the Public Guardian. These regulations do not specify age, and therefore have scope to impact upon all children and young people who interact with Social Security Scotland in some capacity.

Which groups of children and young people are currently or will be affected by the relevant proposal?

This proposal has the potential to impact all children and young people who interact with Social Security Scotland in some capacity, whether directly or indirectly. For example, one benefit which is particularly relevant is Child Disability Payment. According to a high level statistics report, using data gained up until 31 March 2023, 30,975 Child Disability Payment applications were received, and of which 8,160 were aged 0-4; 13,110 were aged 5-10; 9,620 were aged 11-15; and 55 were aged 16-18.⁶ The Social Security Information-sharing (Scotland) Amendment Regulations 2024 therefore may have a significant positive impact on Children and young people who have a disability. However, in terms of direct impact, all children and young people will be safeguarded against risks of harm, regardless of their characteristics.

Declaration

Is a Stage 2 Children's Rights and Wellbeing Impact Assessment required?

A CRWIA is required.

⁶ <https://www.gov.scot/publications/child-disability-payment-high-level-statistics-to-31-march-2023/>

CRWIA Stage 2 – Assessment of Impact and Compatibility

What evidence have you used to inform your assessment? What does it tell you about the impact on children’s rights?

This CRWIA has been partly informed by desk based research. The following sources were used throughout the impact assessment process including:

- National Records of Scotland Population Estimates (2021) ⁷
- Social Security Scotland client diversity and equalities analysis (2021) ⁸
- Child Disability Payment: high level statistics (2023) ⁹
- Adult Support and Protection, Scotland Statistics (2019/20-2021/22) ¹⁰
- Scottish Health Survey (2021) ¹¹

This impact assessment should be read in conjunction with the Business and Regulatory Impact Assessment (BRIA); Partial Island Community Impact Assessment (ICIA); Equality Impact Assessment (EQIA); and the Data Protection Impact Assessment (DPIA).

Social Security Scotland engages both directly and indirectly with a wide range of children and young people. As highlighted in the EQIA, people within this age range may have additional characteristics which increase the probability of vulnerability (and consequently the potential increased need for safeguarding) such as disability. The Social Security Information-sharing (Scotland) Amendment Regulations 2024 will afford children and young people with a better opportunity to develop and grow, free from abuse or harm. The following sections will outline, in more detail, the specific positive impacts.

Evidence from stakeholders/Policy Colleagues

⁷ <https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/population/population-estimates/mid-year-population-estimates/mid-2021>

⁸ <https://www.gov.scot/publications/social-security-scotland-client-diversity-and-equalities-analysis-to-may-2021/>

⁹ <https://www.gov.scot/publications/child-disability-payment-high-level-statistics-to-31-march-2023/>

¹⁰ <https://www.gov.scot/publications/adult-support-and-protection-may-2023-release/documents/>

¹¹ <https://www.gov.scot/publications/scottish-health-survey-2021-volume-1-main-report/>

The Social Security Information-sharing (Scotland) Amendment Regulations 2024 have been developed in contact with a range of internal stakeholders such as the Social Security Policy Directorate; Scottish Government Legal Directorate; Social Security Scotland Agency; Social Security Programme; 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.

Evidence from children and young people

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 2023.¹²

Due to the impact of COVID-19, and the restrictions on face to face contact, stakeholder engagement events with children and young people 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 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

¹² <https://www.gov.scot/publications/safeguarding-data-sharing-consultation-2022-report-summary-responses/pages/2/>

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 has 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.

Analysis of the evidence

How have the findings outlined in questions 1-3 influenced the development of the relevant proposal?

The findings re-emphasised the importance of these regulations and the positive impact they will have. The consultation also highlighted the importance of data only being shared when it is proportionate to the level of risk.

Assessing for compatibility against the UNCRC requirements

Complete the below matrix, placing a tick against each article which is relevant to your existing legislation or decision or relevant proposal. Further on in the form you will be able to explain these answers in more detail.

UNCRC Articles

Please click on the triangle to expand and collapse the text for a full definition of each article.

What impact does/will your relevant proposal have on children's rights (Please tick positive, negative or neutral)

	Positive	Negative	Neutral
Article 1 Definition of the child	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 2 Non-discrimination	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Article 3 Best interests of the child	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Article 4 Implementation of the Convention	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 5 Parental guidance and a child's evolving capacities	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Article 6 Life, survival and development	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Article 7 Birth registration, name, nationality, care	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 8 Protection and preservation of identity	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 9 Separation from parents	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 10 Family reunification	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 11 Abduction and non-return of children	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 12 Respect for the views of the child	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 13 Freedom of expression	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 14 Freedom of thought, belief and religion	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 15 Freedom of association	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 16 Right to privacy	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 17 Access to information from the media	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 18 Parental responsibilities and state assistance	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 19 Protection from violence, abuse and neglect	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Article 20 Children unable to live with their family	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 21 Adoption	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 22 Refugee children	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 23 Children with a disability	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Article 24 Health and health services	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 25 Review of treatment in care	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 26 Social security	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Article 27 Adequate standard of living	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 28 Right to education	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 29 Goals of education	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 30 Children from minority or indigenous groups	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 31 Leisure, play and culture	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Article 32 Child labour	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 33 Drug abuse	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 34 Sexual exploitation	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 35 Abduction, sale and trafficking	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 36 Other forms of exploitation	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 37 Inhumane treatment and detention	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 38 War and armed conflicts	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 39 Recovery from trauma and reintegration	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 40 Juvenile justice	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 41 Respect for higher national standards	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 42 Knowledge of rights	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

First optional protocol

Positive | Negative | Neutral

Article 4	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 5	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Nothing in the present Protocol shall be construed as precluding provisions in the law of a State Party or in international instruments and international humanitarian law that are more conducive to the realization of the rights of the child.

Article 6	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 7	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Second Optional Protocol

Article 1	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 2	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 3	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 4	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 6	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 7	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Article 8	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 9	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 10	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Article 11	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Impact on children and young people

The impact of the Social Security Information-sharing (Scotland) Amendment Regulations 2024 are expected to be broadly positive particularly relating to Article 2,3,6,19,23 and 26. This is expanded upon in question 9.

Negative Impact/Incompatibility

The Scottish Government does not consider there to be any negative impact on the rights of children and young people. This will continue to be reviewed.

Options for modification or mitigation of negative impact or incompatibility

Not applicable.

Positive impact: Giving better or further effect to children's rights in Scotland

Article 2 - Non-discrimination

The Social Security Information-sharing (Scotland) Amendment Regulations 2024 will not discriminate against any child or young person. Where a risk of harm is identified, and the sharing of data is found to be proportionate and necessary, no protected characteristic will influence the decision in such a way which causes a discriminatory impact. As such, the Scottish Government expects this proposal to be positive in advancing this article of the UNCRC. Moreover, in arriving at this expectation a full EQIA was completed.

Article 3 - Best interests of the child

The introduction of the Social Security Information-sharing (Scotland) Amendment Regulations 2024 ensure that Social Security Scotland can further serve the best interests of children and young people. The proposal will ensure that data can be shared where a potential risk of abuse is identified. The Scottish Government therefore expects this proposal to be positive in advancing this article of the UNCRC.

Article 6 - Life, survival and development

The Scottish Government recognises that every child has the inherent right to life. In line with this, the proposal seeks to ensure that all children can flourish during their formative years, by raising potential concerns of harm to relevant authorities. The Scottish Government therefore expects this proposal to be positive in advancing Article 6 of the UNCRC.

Article 19 - Protection from all forms of violence

The Scottish Government has partly developed these regulations, to better “protect children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse”, as is quoted in this UNCRC article. Wherever a potential risk of harm is identified, which is not an immediate risk to life, Social Security Scotland will share data with relevant authorities for the purposes of safeguarding.

Article 23 – Children with a disability

Social Security Scotland interacts with people of all ages with disabilities. This is particularly the case since the introduction of Child Disability Payment for children under the age of 16, and Adult Disability Payment for young people over the age of 16. The Scottish Government recognises that all children should enjoy a full and decent life. This proposal introduces measures to better prevent potential harm. The Scottish Government therefore expects this proposal to be positive in advancing this article of the UNCRC.

Article 26 – Social security

The Scottish Government recognises that every child has the right to benefit from social security. This proposal seeks to ensure that this happens by safeguarding

them against harm, for example, financial harm, which if occurs may prevent children from the full realisation and benefit of social security. The Scottish Government therefore expects this proposal to be positive in advancing this article of the UNCRC.

Impact on Wellbeing: does or will the relevant proposal contribute to the wellbeing of children and young people in Scotland?

Please tick all of the wellbeing indicators that are relevant to your proposal.

Wellbeing Indicator	Will there be an improvement in wellbeing in relation to this indicator: yes/no
Safe - Growing up in an environment where a child or young person feels secure, nurtured, listened to and enabled to develop to their full potential. This includes freedom from abuse or neglect.	Yes
Healthy - Having the highest attainable standards of physical and mental health, access to suitable healthcare, and support in learning to make healthy and safe choices.	Yes
Achieving - Being supported and guided in learning and in the development of skills, confidence and self-esteem, at home, in school and in the community.	Yes
Nurtured - Growing, developing and being cared for in an environment which provides the physical and emotional security, compassion and warmth necessary for healthy growth and to develop resilience and a positive identity.	Yes
Active - Having opportunities to take part in activities such as play, recreation and sport, which contribute to healthy growth and development, at home, in school and in the community.	Yes
Respected - Being involved in and having their voices heard in decisions that affect their life, with support where appropriate.	Yes
Responsible - Having opportunities and encouragement to play active and responsible roles at home, in school and in the community, and where necessary, having appropriate guidance and supervision.	No

Included - Having help to overcome inequalities and being accepted as part of their family, school and community.	No
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Post Assessment Review and sign-off

Communicating impact to children and young people

Providing information to children and young people on how their rights will be impacted helps to ensure that policy making is transparent. An accessible version of this CRWIA will be published online.

Planning for the review of impact on child rights (Stage 3)

As part of the normal decision making process, the implementation of the policy will be monitored by Social Security Scotland and Scottish Government officials. In line with the review of the Social Security Information-sharing (Scotland) Amendment Regulations 2024, this CRWIA will continue to be revisited, and where changes are identified as a result of its implementation, this document will be updated.

Additionally, in relation to operational considerations relating to these regulations, further efforts will be made to capture the views of children and young people.

Compatibility sign off statement

This relevant proposal has been assessed against the UNCRC requirements and has been found to be compatible.

Policy Lead Signature & Date of Sign Off:

Mark McAdam, Cross Cutting Policy Team Coordinator, 26 October 2023

Deputy Director Signature & Date of Sign Off:

Ian Davidson, 30 October 2023

SGLD Sign Off: Yes No