

**CRWIA title: The Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No. 2) Regulations 2021: the introduction of the domestic Covid Vaccine Certification.**

**Publication date: 30/09/2021**

**Summary of policy aims and desired outcomes**

**Introduction**

This Children’s Rights and Wellbeing Impact Assessment (CRWIA) analyses the potential impact, both positive and negative, of the domestic use of Covid Vaccine Certification on the promotion of children’s rights and wellbeing. The [UN Convention on the Rights of the Child \(UNCRC\)](#) defines a child as anyone under the age of 18. The [child wellbeing indicators](#) under the Children and Young People (Scotland) Act 2014 reflect the principles within the UNCRC and also apply to all children up to the age of 18 and so all children are within the scope of this CRWIA.

While it is the view of the Scottish Government that any remaining impacts of Covid Vaccine Certification are currently justified and a proportionate means of helping to achieve the goals set out in the [Policy Objectives](#) section. We also recognise that these measures are only required to respond to the current set of circumstances, and only necessary as long as the potential public health benefits can justify any negative impacts caused.

International evidence suggests that crises responses often inadvertently discriminate. The Equality and Human Rights Commission, the Scottish Human Rights Commission and the Children's Commissioner for Scotland stated in April 2020 they had already found increasing evidence that some groups are experiencing disproportionately negative impacts from the virus and some of the responses to it.<sup>1</sup>

The Scottish Government are committed to ensuring that human rights, children's rights and equality are embedded in everything we do and are central to our response to the pandemic. The [Framework for Decision Making](#) recognises that harms caused by the pandemic do not impact everyone equally and that we must work to advance equality and protect human rights.

**Legislative Background**

*The Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No. 2) Regulations 2021* (the ‘Regulations’) are made under powers to make provision for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection, conferred on the Scottish Ministers by schedule 19 of the *Coronavirus Act 2020*. The Regulations amend the *Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021* (the ‘Principal Regulations’).

<sup>1</sup> [Joint letter: Equality and Human Rights and the Coronavirus in Scotland - The Children and Young People's Commissioner Scotland \(cypcs.org.uk\)](#)

## Policy proposal

Covid Vaccine Certification will require certain venues and settings to ensure that 'there is in operation a reasonable system' for establishing that all people in the venue can demonstrate that they are fully vaccinated (unless they fall into one of the exempt categories), and to refuse access to or remove anyone who is neither fully vaccinated or exempt. Fully vaccinated means that a person has completed a full course of an authorised vaccine, with the final dose having been received 14 days before the date on which they seek to enter the late night premise or relevant event.

Initially, the scheme will not include a negative test result as an alternative to proof of vaccination, but this will be kept under review. At this stage, we do not consider that including testing results would be appropriate and, indeed, it could undermine one of the policy aims of the scheme: to increase vaccine uptake. Also, it is important at this stage to prioritise PCR lab capacity for Test and Protect purposes. While promoting regular lateral flow tests (LFD) tests is an extremely important aspect of our overall approach, further work would be required on an optimal approach to incorporating testing into Certification, including consideration of the appropriateness of self-testing in this context.

The scheme will apply in the following higher risk settings.

- late night premises with music, which serve alcohol after midnight and have a designated place for dancing for customers
- indoor events (unseated) planned for 500 or more people at any one time
- outdoor events (unseated) planned for 4,000 or more people at any one time
- any event planned for more than 10,000 people at any one time

The following will not qualify as events for the purposes of the scheme:

- a funeral, marriage ceremony, civil partnership registration, or a reception or gathering which relates to a funeral, marriage ceremony or civil partnership registration
- a mass participation event such as a marathon, triathlon or charity walk
- an event designated by the Scottish Ministers as a flagship event according to criteria, and in a list, published by the Scottish Ministers
- showing in a cinema
- a drive-in event
- an organised picket
- a public or street market
- an illuminated trail
- a work or business conference (not including any peripheral reception or function outside the core hours of the conference, whether or not alcohol is served)
- a business or trade event which is not open to the public for leisure purposes
- communal religious worship
- an un-ticketed event held at an outdoor public place with no fixed entry points

Trade events attended by members of the public for leisure purposes, for example wedding fairs and craft fairs, will not be excepted. The people working at the event will be excepted (such as exhibitors and venue staff).

Ministers have been clear that Certification will not be a requirement for public services or other settings that many people have no option but to attend, such as retail, public transport, health services and education.

The following people will be exempt:

- Under 18s
- People who cannot be vaccinated for medical reasons
- People taking part (or who have taken part) in vaccine trials
- The person responsible for the premises
- Workers and volunteers at the venue or event
- Emergency services responders and regulators carrying out their work

The regulations will require the persons responsible for a late night premise or relevant event to ensure there is a reasonable system in operation for checking that people seeking to enter the premises are fully vaccinated or are exempt, and to have in place a compliance plan for this system.

The scheme will come into force on 1 October 2021 (from 5AM). The requirement on persons responsible for a late night venue or relevant event to ensure there is a reasonable system in operation for checking Certification will not be enforceable under Part 4 of Principal Regulations until 18 October 2021.

Ministers must review the Regulations at least every 3 weeks to assess whether any requirement in the regulations is still necessary to prevent, protect against or provide a public health response to the incidence or spread of infection in Scotland. We will continue to assess whether any less intrusive measures could be introduced to achieve the same combination of policy objectives in respect of the higher risk sectors concerned; if so, the policy will be immediately reviewed.

Sectoral Guidance is published on the Scottish Government website [here](#). Public Guidance will be published on the Scottish Government website.

### **Policy Objectives**

In line with our strategic intent to ‘suppress the virus to a level consistent with alleviating its harms while we recover and rebuild for a better future’, the policy objectives of Covid Vaccine Certification are to:

- Reduce the risk of transmission of Coronavirus
- Reduce the risk of serious illness and death thereby alleviating current and future pressure on the National Health Service
- Allow higher risk settings to continue to operate as an alternative to closure or more restrictive measures
- Increase vaccine uptake

An evidence paper summarising the range of evidence available on Vaccine Certification schemes has been published alongside the impact assessments,

which can be found [here](#). Consistent with our approach throughout the pandemic, the paper adopts a Four Harms approach covering the direct health harms of Covid-19, the indirect health harms, the social and the economic harms. Evidence is drawn from clinical and scientific literature, from public opinion and from international experience.

### **Public Health rationale**

Although daily Covid case numbers are dropping in Scotland, case numbers remain too high, and we still have a large susceptible population which could lead to cases rising again. In addition, the number of people in hospital and ICU continues to increase. The winter period ahead will pose significant challenges of increased transmission and related pressure on the National Health Service (this impact assessment should be considered alongside the latest [State of the Epidemic report](#)). We remain of the view that action is therefore needed across all sectors to ensure adherence to baseline measures. Drawing on the evidence so far available, we consider that Covid Vaccine Certification has a vital role to play as one such measure.

While no vaccine is 100% effective at preventing infection, disease and transmission, and they do not completely break the link between a high volume of positive cases and serious pressure on healthcare services, they are our best route out of the pandemic. Vaccines help prevent transmission of the virus as vaccinated people are less likely to become infected and ill than unvaccinated people (and only infected people can transmit the virus). The UK Vaccine Effectiveness Expert Panel (VEEP) is a group of scientific and analytical specialists from academia and government in the UK who provide a consensus view on vaccine effectiveness, split by variant, vaccine and dose. They have published estimates for vaccine effectiveness based on an assessment of the evidence at the time of writing and as new evidence or data emerges, SAGE will update its advice. A summary published on 27<sup>th</sup> August can be found [here](#). More analysis can be found in a number of large studies including EAVE-II (Early Pandemic Evaluation and Enhanced Surveillance of COVID-19) in Scotland<sup>2</sup>, Real-time Assessment of Community Transmission (REACT-1) in England<sup>3</sup> and the Office for National Statistics (ONS) COVID-19 Infection Survey ONS study.<sup>4</sup>

Therefore, we have strong evidence that vaccines are effective at preventing disease, hospitalisations and deaths: in the four weeks from 21 August 2021 to 17 September 2021, Covid-19 cases increased and surpassed the peak that was seen in early July. Although case rates are now declining, the rate of increase in cases then was less among fully vaccinated individuals. As of 29 September, 70.0% of the population were fully vaccinated, and in the week 18-24 September 46.9% of positive cases were in unvaccinated individuals. However, effectiveness decreases over time for both Pfizer-BioNTech and Oxford-AstraZeneca vaccines due to waning immunity.<sup>5</sup>

High-risk settings tend to have the following characteristics: close proximity with people from other households; settings where individuals stay for prolonged

<sup>2</sup> [EAVE II | The University of Edinburgh](#)

<sup>3</sup> [The REACT 1 programme | Faculty of Medicine | Imperial College London](#)

<sup>4</sup> Office for National Statistics (24 September 2021). [Coronavirus \(COVID-19\) Infection Survey, UK](#)

<sup>5</sup> Public Health England (9 September 2021). [Duration of protection of COVID-19 vaccines against clinical disease.](#)

	<p>periods of time; high frequency of contacts; confined shared environments, and poor ventilation.<sup>6 7</sup> Therefore, by restricting access in these settings to customers who are fully vaccinated, these are less likely to be settings of infection, and it is less likely that infections within them will lead to illness. Consequently, we can reduce the risk of transmission and help reduce pressure on health services while also allowing settings to operate as an alternative to closure or more restrictive measures. As such, we consider Certification, as part of a package of measures such as improved ventilation, to be a necessary and proportionate public health measure.</p> <p>For more information on the Covid Vaccine Certification scheme see the Scottish Government website <a href="#">here</a>.</p>
<p><b>Executive summary</b></p>	<p>The Scottish Government has introduced The Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No. 2) Regulations 2021 in order to reduce the risk of transmission of Coronavirus; reduce the risk of serious illness and death thereby alleviating current and future pressure on the National Health Service; allow higher risk settings to continue to operate as an alternative to closure or more restrictive measures; and increase vaccine uptake</p> <p>The scheme will come into force on 1 October 2021 (from 5AM). The requirement to ensure there is a reasonable system in operation for checking Certification will become enforceable on 18 October in the following settings:</p> <ul style="list-style-type: none"> <li>• late night premises with music, which serve alcohol after midnight and has a designated place for customers to dance</li> <li>• indoor events (unseated) planned for 500 or more people at any one time</li> <li>• outdoor events (unseated) planned for 4,000 or more people at any one time</li> <li>• any event planned for more than 10,000 people at any one time</li> </ul> <p>This requirement applies to customers only, so it does not apply to staff, contractors, performers or volunteers involved in the delivery of the event or working in the settings in scope, as we do not want to compromise people’s right to work (UNHR Article 23; UNCRC Article 6) or employment prospects. Emergency responders and regulators attending a relevant event or late night premises are also exempt from Certification.</p> <p>Exemptions exist within the regulations for under-18s; people who cannot be vaccinated for medical reasons; people taking part or who have taken part in vaccine trials; the person responsible for the premises; workers and volunteers at the venue or event and emergency services responders and regulators carrying out their work.</p> <p>This document builds upon previous work undertaken to ensure that children’s rights and wellbeing are at the centre of our response to the pandemic, and upon previously published <a href="#">CRWIA’s</a>. It sets out the potential impact of Covid Vaccine Certification, both positive and negative, on children’s rights and wellbeing, and the mitigations put in place to negate the wider harms.</p>

<sup>6</sup> WHO (13 December 2020). Coronavirus disease (COVID-19): How is it transmitted?

<sup>7</sup> SAGE. [Insights on transmission of COVID-19 with a focus on the hospitality, retail and leisure sector](#).

	<p>This is a global pandemic and these are highly uncertain times, which means our decision making process is continuous and multi-faceted. We will continue to make every effort to ensure that children’s rights and wellbeing are central to our response to the pandemic, and that CRWIAs are undertaken and published.</p>
<p><b>Background</b></p>	<p>It is too soon to declare freedom from the virus and as such since Spring 2021 the Scottish Government has been undertaking winter planning in the event of an increase in cases in autumn and winter.</p> <p>In February 2021 the <a href="#">Strategic Framework</a> was published. This set out a plan to return to greater normality and recognised the Four Harms that Covid has on society: directly to an individual’s health, to our health services, to the economy and to society. It also set out the role that Covid Vaccine Certification could play in managing transmission and allowing certain domestic settings to open or remain open:</p> <p><i>‘Going forward, a vaccine certificate programme may have the potential at the right time to support other non-pharmaceutical interventions in the opening up of international travel and the domestic economy in line with work being carried out as part of the WHO Safer Vaccinations Programme.</i></p> <p><i>However, more information is needed on vaccine efficacy and how long immunity lasts before it is possible to assess whether such a programme will be appropriate in Scotland. There are also a number of issues relating to data security and equality and ethical issues that need to be addressed.’</i></p> <p>On 22 June 2021 the Scottish Government published the <a href="#">updated Strategic Framework</a> which set out our updated strategic intent to “<i>suppress the virus to a level consistent with alleviating the various harms of Covid-19, while we enable to Scotland to recover and rebuild for a better future</i>”.</p> <p>It also set out the continued consideration of potentially using Covid Vaccine Certification domestically:</p> <p><i>‘We are assessing whether Covid-19 status certification would be appropriate in any domestic settings, to support the opening up of the domestic economy, taking account of ethical, equality, clinical and logistical issues and our broader strategy. We will not use certification in Scotland unless we can address the ethical and equality issues that have been raised by experts.’</i></p> <p>In a <a href="#">statement to Parliament on 3 August</a> the First Minister reiterated this position and stated that:</p> <p><i>‘we continue to consider very carefully the possible, albeit limited, use of Covid Status Certification for access to certain higher risk venues in future.’</i></p> <p>In a <a href="#">statement to Parliament on 1 September</a> the First Minister provided an update on the fragile and serious state of the pandemic and the immediate need to stem the rise in cases while avoiding re-imposing restrictions. As such, subject to a parliamentary debate, the Scottish Government proposed that Covid Vaccine Certification should be introduced in limited number of settings by the end of September:</p>

	<p>‘notwithstanding the understandable equity and ethical concerns - vaccine certification could in some settings help protect public health, reduce the necessity for any further restrictions, and also of course boost vaccine take up.</p> <p>We propose, subject to Parliamentary agreement, that vaccination certification should be introduced later this month – once all adults have had the opportunity to be fully vaccinated - for the following events and venues:</p> <ul style="list-style-type: none"> <li>• firstly, nightclubs and adult entertainment venues</li> <li>• second, unseated indoor live events, with more than 500 people in the audience</li> <li>• next, unseated outdoor live events, with more than 4,000 people in the audience</li> <li>• and, lastly, any event, of any nature, which has more than 10,000 people in attendance’</li> </ul> <p>A parliamentary debate on the potential introduction of Covid Vaccine Certification took place on Thursday 8 September. In advance of that debate a paper on the proposed scheme was published on the Scottish Government website <a href="#">here</a>. Parliament passed the motion to introduce Covid Vaccine Certification and a link to the transcript can be found <a href="#">here</a>.</p> <p>On Thursday 23 September the Scottish Government published a follow up paper which provides further details on the scheme, which can be found <a href="#">here</a>.</p>
<p><b>Scope of the CRWIA, identifying the children and young people affected by the policy, and summarising the evidence base</b></p>	<p><b>Scope and summary of impacts</b></p> <p>The UN Convention on the Rights of the Child (UNCRC) defines a child as anyone under the age of 18. The <a href="#">child wellbeing indicators</a> under the Children and Young People (Scotland) Act 2014 reflect the principles within the UNCRC and also apply to all children up to the age of 18 and so all children are within the scope of this CRWIA.</p> <p>All children would benefit from a reduction in the transmission of Covid-19. Children would also benefit from an increase in vaccination within the adult population, as this would increase overall community protection. As demonstrated in the <b>summary of evidence</b> below, disabled children and children from minority ethnic (ME) communities are most likely to positively benefit from a reduction in transmission and increased vaccine uptake, as evidence shows that these children have poorer health outcomes if they contract the virus.</p> <p>All children would positively benefit from allowing higher risk settings to continue to operate as an alternative to closure or more restrictive measures, as evidence shows that their mental health and wellbeing declined during lockdowns and gradually improved as restrictions eased. Evidence within <b>summary of evidence</b> shows that the mental health and wellbeing of disabled children, minority ethnic (ME) children, young carers, LGBT youth and those from lower socio-economic backgrounds are most negatively impacted by restrictions and lockdowns. Therefore, it is likely that they would benefit most if Certification allows higher risk settings to continue to operate as an alternative to closure or more restrictive measures.</p>

There could potentially be some unintended negative impacts on children and some groups of children may be impacted more than others, for example children who look 18 or older or those who do not have proof of age. Also, in the event that the policy exceeds the intention and children are denied access to spaces, services, products, employment or education because they do not have Certification. Finally, the impact on children of a parent, guardian or relevant adult who does not have certification.

While children are exempt from the requirement to prove vaccination status for domestic purposes, 12-17 year olds who have been vaccinated may choose to access their record of vaccination by downloading a PDF via NHS Inform or requesting a paper Certificate by calling the Covid-19 Status Helpline. The Privacy Notice is already online and can be found on NHS Inform: [Personal information we process](#), [How we use your data](#), [Your Rights](#). The Easy Read Version can be found [here](#).

More detail on each of the potential impacts can be found in the **key findings** section.

### **Summary of the evidence base**

The direct and indirect harms of Covid-19 have also affected children. The summary of evidence below sets out the ways in which Covid-19 has both direct and indirect negative impacts on their health and wellbeing.

#### *Direct harm from Covid*

Evidence on the original Covid-19 strain suggested that children are less susceptible and at a lower risk of severe illness compared to adults.<sup>8 9 10</sup> Children of all ages are susceptible and able to transmit the Delta strain (B.1.617) of Covid-19, with transmissibility in 5-11 year olds most noticeably increasing.<sup>11</sup> It is still suggested that younger children transmit Covid-19 at a lower rate.<sup>12</sup> Data has also shown children aged between 1-18 years have lower rates of hospitalisation, severe disease requiring intensive hospital care, and death than all other age groups.<sup>13</sup>

Since the emergence of the Delta strain, we have seen an increase in cases and hospital admissions of children. In July, 12,000 new infections were recorded in children in the US, increasing to 94,000 by the first week of August with a record

<sup>8</sup> Children's Task and Finish Group. Update to 17<sup>th</sup> December 2020 paper on children, schools and transmission. Paper agreed by SAGE 80 on 21 February 2021.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/963381/S1102\\_Children's\\_Task\\_and\\_Finish\\_Group\\_update\\_to\\_17th\\_December\\_2020\\_paper\\_on\\_children\\_schools\\_and\\_transmission.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/963381/S1102_Children's_Task_and_Finish_Group_update_to_17th_December_2020_paper_on_children_schools_and_transmission.pdf)

<sup>9</sup> Children's Task and Finish Group. Update to 17<sup>th</sup> December 2020 paper on children, schools and transmission. Paper agreed by SAGE 80 on 21 February 2021.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/963381/S1102\\_Children's\\_Task\\_and\\_Finish\\_Group\\_update\\_to\\_17th\\_December\\_2020\\_paper\\_on\\_children\\_schools\\_and\\_transmission.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/963381/S1102_Children's_Task_and_Finish_Group_update_to_17th_December_2020_paper_on_children_schools_and_transmission.pdf)

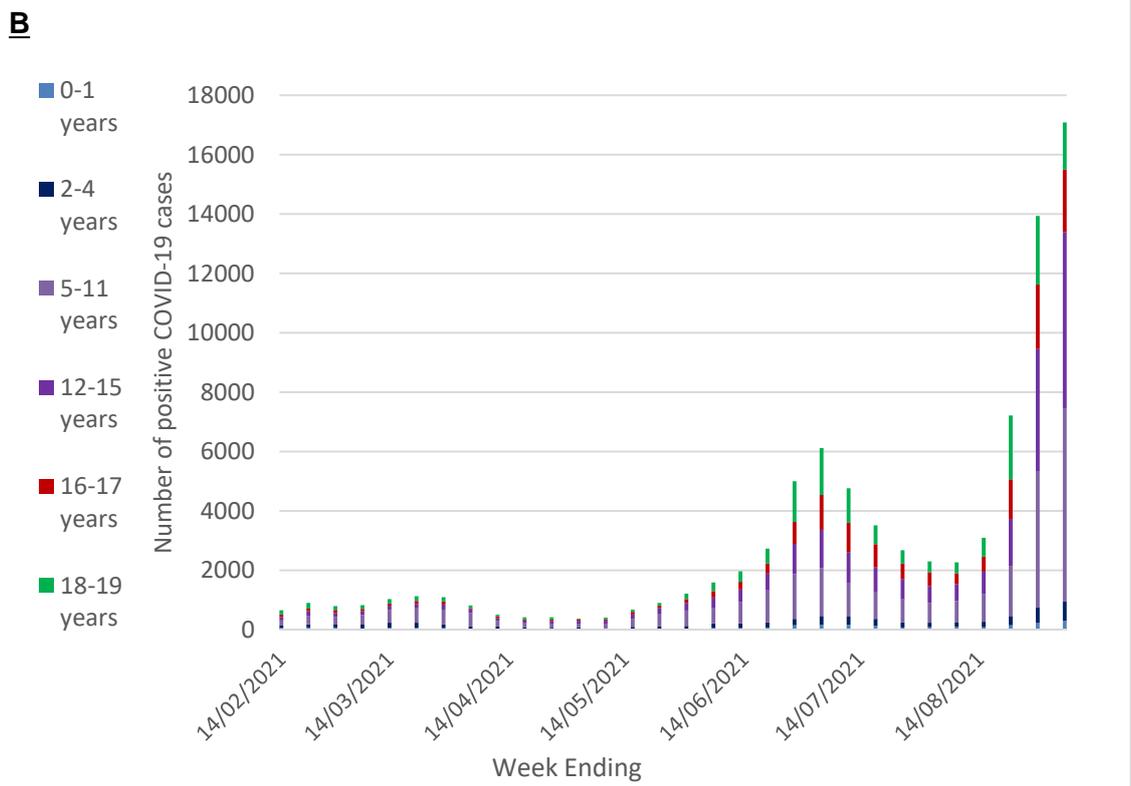
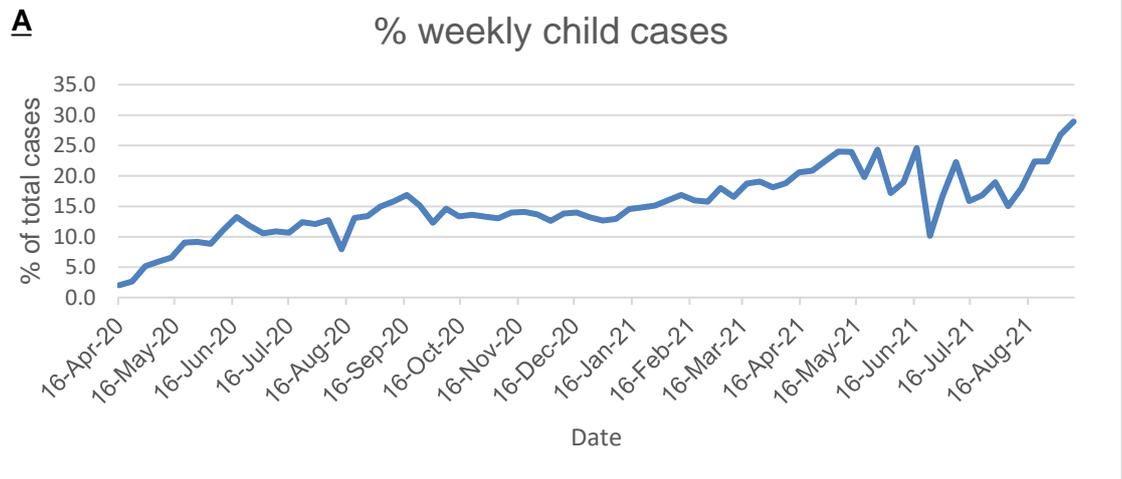
<sup>10</sup> [Deaths in Children and Young People in England following SARS-CoV-2 infection during the first pandemic year: a national study using linked mandatory child death reporting data | Research Square](#)

<sup>11</sup> [COVID-19 in children and the role of school settings in transmission - second update \(europa.eu\)](#)

<sup>12</sup> [COVID-19 in children and the role of school settings in transmission - second update \(europa.eu\)](#)

<sup>13</sup> [COVID-19 in children and the role of school settings in transmission - second update \(europa.eu\)](#)

number of 1,902 children being admitted to hospital as of 14 August.<sup>14</sup> Figure 1 shows the % of children for total cases of Covid-19, hospitalisations and mortality in the US.<sup>15</sup> A British Medical Journal paper suggests that the same has not been seen in the UK, with the majority of children in hospital who are positive for Covid-19 actually being sick from a different illness.<sup>16</sup> However, since this report was published on 16 August 2021, the number of cases in children in Scotland, particularly aged 5-11 and 12-15, has increased along with hospitalisations (see Figure 2).<sup>17</sup> For people under 20, the percentage of cases made up of children under 12 in the week ending 5 September was just over 43% (7,462 cases) compared to just over 38% (5,344 cases) in the previous week.<sup>18</sup>



<sup>14</sup> [Covid-19: Cases in children rise sharply in US as doctors call for vaccine approval | The BMJ](#)

<sup>15</sup> [COVID-19 and Age \(aap.org\)](#)

<sup>16</sup> [Covid-19: Cases in children rise sharply in US as doctors call for vaccine approval | The BMJ](#)

<sup>17</sup> [PHS COVID-19 Education report \(shinyapps.io\)](#)

<sup>18</sup> [Coronavirus \(COVID-19\): state of the epidemic - 10 September 2021 - gov.scot \(www.gov.scot\)](#)



from the ONS survey, dated April to December 2020, which revealed that 12.9% of UK children aged 2 to 11 and 14.5% of children aged 12 to 16 have symptoms five weeks after their first infection. Symptoms include fatigue, muscle and joint pain, headache, insomnia, respiratory problems and palpitations, severe enough to affect daily activities in a high proportion. Studies have also identified immunological differences between children that completely recovered from acute infection and those with long Covid. It is important to note that many of the symptoms of long Covid are also common in the adolescent population (e.g. fatigue, headache). The degree to which long Covid will have longer-term implications for children's health and wellbeing remains unclear.<sup>27</sup>

Data from another study conducted by University College London and Public Health England (PHE) in September 2021 found that 14% of children who caught Covid-19 had symptoms linked to the virus 15 weeks later (unusual tiredness, symptoms of ill health and headaches) while 7% had 5 or more symptoms.<sup>28</sup>

#### *Mental health and wellbeing*

At the UK level, a PHE evidence report on mental health and wellbeing, drawing on data from the beginning of the pandemic up to January 2021, found that Covid-19 and associated interventions have likely had an adverse effect on the mental health and wellbeing of children and young people.<sup>29</sup> There is also increasing evidence that many children and young people are coping well overall and some have reported improvements in their mental health following the reopening of schools. Experiences vary by children and young people's characteristics, with those from Black, Asian and Minority Ethnic backgrounds, those with existing mental health conditions, those with Special Educational Needs and Disabilities, and those from low-income families more likely to have been negatively affected.

In terms of differential impact by age, a survey of 11 – 25 year olds carried out between the end of March and beginning of June 2021 found that 40% of respondents agreed that they felt good about their mental health and wellbeing, while 35% disagreed.<sup>30</sup> In a later survey of the same age group carried out between September and November 2020 many young people discussed the mental wellbeing benefits of being able to meet up with their friends again and not being confined to their homes.<sup>31</sup>

Another survey and focus group with 14 – 20 year olds undertaken between August and September 2020 found that 9% of young people responding to the survey met clinical threshold levels for depression, 7% for anxiety, and 28% were categorised as having elevated avoidance and intrusive thoughts and behaviours in relation to the Covid-19 pandemic. The survey also found that while returning to school generally had a positive impact on wellbeing, this was also coupled with anxiety about Covid-19 related risks.<sup>32</sup>

<sup>27</sup> Academy of Medical Science, COVID-19 preparing for the future – Looking ahead to winter 2021, 2022 and beyond, 15 July 2021: [AMS: COVID-19 preparing for the future – Looking ahead to winter 2021, 2022 and beyond, 15 July 2021 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/ams-covid-19-preparing-for-the-future-2021)

<sup>28</sup> [First findings from world's largest study on long Covid in children | UCL News - UCL – University College London](https://www.ucl.ac.uk/news/2021/07/first-findings-worlds-largest-study-long-covid-children)

<sup>29</sup> [4. Children and young people - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/news/4-children-and-young-people)

<sup>30</sup> [july2021-lockdownlowdown-v3-survey-report.pdf \(syp.org.uk\)](https://www.syp.org.uk/july2021-lockdownlowdown-v3-survey-report.pdf)

<sup>31</sup> [Lockdown Lowdown \(Phase 2\)](https://www.lockdownlowdown.com/phase-2)

<sup>32</sup> [COVIDI2016-1.pdf \(scot.nhs.uk\)](https://www.scot.nhs.uk/COVIDI2016-1.pdf)

	<p>The Scottish Children’s Parliament survey of 8 - 14 year olds carried out in September 2020 found that respondents generally felt cheerful and in a good mood (64%); the largest increase in positive responses came from 12 to 14 year olds. There were significant improvements in children reporting that they often felt lonely (from 26% to 20%).<sup>33</sup> This was particularly so for the group of children who had reported highest levels of loneliness during lockdown 1, girls aged 12 to 14 (from 34% to 20%). Rates of worry across a range of topics including school work and ‘the future’ remained constant and worry about child and family health, money and exams increased post lockdown. Girls aged 12 to 14 were consistently most likely to agree that there were lots of things to worry about in their lives, whilst children aged 8 to 11 were more likely to report worrying about multiple areas than in previous surveys.</p> <p>The second Covid-19 Early Years Resilience and Impact Survey of parents of 2 – 7 year olds carried out in November and December 2020 found that almost half (39%) of 2-3 year olds and over a third (31%) of 4-7 year olds had a slightly raised, high, or very high Strength and Difficulty Score, indicating the presence of behavioural or emotional difficulties. Just under half (46%) of parents said that their child’s mood was the same as during the initial lockdown, just over a third (33%) felt that it had improved, while a fifth (21%) felt that it had got worse.<sup>34</sup></p>
<p><b>Children and young people’s views and experiences</b></p>	<p>While no children and young people have been directly consulted on the use of Covid Vaccine Certification domestically, we have engaged extensively with organisations representing their interests. The outputs of these engagements have fed into the development of the policy and mitigations and their input has been reflected in this CRWIA.</p> <p>Throughout Spring 2021 we undertook initial scoping work with more than 35 equality, human rights and children’s rights stakeholders on the potential impact of the domestic Covid Vaccine Certification on children and equality groups. The Children and Young People’s Commissioner Scotland, Young Scot, Youth Link, Children in Scotland and Intercultural Youth Scotland were involved in this engagement.</p> <p>On 2 June 2021 the Cabinet Secretary for Health and Social Care chaired an Equality and Human Rights Roundtable on Covid Vaccine Certification and children’s interests were represented by the Children and Young People’s Commissioner. A minute of the Roundtable is available on the Scottish Government website <a href="#">here</a>.</p> <p>Throughout August we undertook further engagement and met with a number of equality, human rights and children’s rights stakeholders to gain their insight on the potential impact of more detailed policy proposals.</p> <p>We also took forward workshops in July to seek stakeholder feedback on the design and user journey of Certification, and also to ensure that the paper alternative is as accessible as possible. The outcomes fed into the privacy notice which can be found on NHS Inform: <a href="#">Personal information we process</a>, <a href="#">How we use your data</a>, <a href="#">Your Rights</a>. The Easy Read Version can be found <a href="#">here</a>.</p> <p>A full list of stakeholders can be found at <b>Annex A</b>.</p>

<sup>33</sup> [How are you doing Survey Final \(childrensparliament.org.uk\)](https://childrensparliament.org.uk)

<sup>34</sup> [COVID-19 Early Years Resilience and Impact Survey \(CEYRIS\) \(publichealthscotland.scot\)](https://publichealthscotland.scot)

	<p>Evidence from a range of sources has been drawn upon to inform this CRWIA and references can be found throughout the document. This includes evidence from the Ada Lovelace Institute, who have undertaken deliberative engagement on the potential impacts of Covid Vaccine Certification.<sup>35</sup></p>
<p><b>Key Findings, including an assessment of the impact on children’s rights, and how the measure will contribute to children’s wellbeing</b></p>	<p>A summary of the key findings is set out below. This is followed by an assessment of children’s rights and the potential impact of Covid Vaccine Certification.</p> <ul style="list-style-type: none"> <li>• <b>Protecting public health:</b> this will positively impact all people, including children, and will particularly benefit disabled children and children from minority ethnic groups.</li> <li>• <b>Protecting and promoting the wellbeing of children and young people in Scotland:</b> during engagement, stakeholders recognised that Certification could be beneficial in enabling entertainment settings, which are particularly attractive to younger people, to remain open if the state of the pandemic changes. As evidence shows, the restrictions and lockdowns had a negative impact on children’s mental health, which gradually improved in line with the easing of restrictions.</li> <li>• <b>Proof of age:</b> while children are exempt from the requirement to prove Covid Vaccine Certification, a small proportion may be asked for proof of age. Some children, particularly LGBT or migrant children, may not have proof of age or others may be challenged on the validity of their ID.</li> <li>• <b>Digital exclusion:</b> all under-18s are exempt in the regulations from the domestic Certification scheme. However, some children may choose to access a record of their vaccination. We know that digital exclusion affects some children, particularly care experienced, young carers, migrant, and low income children, as well as children from minority ethnic groups. A paper Certificate can be requested by calling the Covid-19 Status Helpline on 0808 196 8565. This is free and open every day from 10:00-18:00.</li> <li>• <b>Vaccine hesitancy:</b> this could be exacerbated in some communities and demographics. If so, it would compromise the policy intention to increase vaccine uptake and protect public health, which could in turn negatively impact upon children.</li> <li>• <b>Exceeding the policy intention:</b> even though children are exempt, there is the possibility that they could be refused entrance to a regulated setting. There is also the possibility that businesses or third parties could use Certification voluntarily and deny access to children who do not have proof of vaccination. Furthermore, even though the policy does not apply to employment, private business or third parties could make Certification a requirement of employment, differentially impacting children who are less likely to be vaccinated.</li> <li>• <b>The Vaccination status of parents, guardians or relevant adults:</b> this could potentially impact on the enjoyment of a child’s rights if a child is denied access to a regulated setting as their parent, guardian or carer does not have Certification. Additionally, even though the policy does not apply to employment, private businesses or third parties could make Certification a requirement of employment. If a parent is unable to maintain or gain employment due to their Vaccination status, this could impact upon the household finances and compromise their housing status or quality of life, and in turn affect a child’s enjoyment of their rights.</li> <li>• <b>Potential for Covid Vaccine Certification to be used as a tool to exert control:</b> as Covid Vaccine Certification becomes required to access some</li> </ul>

<sup>35</sup> [What place should COVID-19 vaccine passports have in society? | Ada Lovelace Institute](#)

settings, it could potentially be used as a method of coercive control. This could be done by taking a phone or paper certificate from the victim. There is the potential that Certification could be used to exert control over the relevant adult who cares for the child, which could in turn impact upon the child's wellbeing.

The Scottish Government has found that a number of children's rights may be impacted by the introduction of Covid Vaccine Certification.

### **Right to non-discrimination (Article 2)**

While children are exempt from the requirement to prove vaccination status to access the regulated spaces, stakeholders have highlighted that some children who look 18 or older may be asked to provide proof of age to prove their exemption. While there are lots of pre-existing schemes which require proof of age for under-18s and there are schemes such as the [Young Scot National Entitlement card](#) which can act as proof of age, many children do not routinely possess or carry proof of identification (ID) and there is a risk that these children could be unfairly discriminated against.

Stakeholders have highlighted that some groups are more unlikely to have ID than others. Unpublished interim findings from a joint survey run by Stonewall and the LGBT Foundation found that nearly one in four respondents (23%) had experienced problems having ID accepted in the past; just under three quarters of respondents (73%) owned a 'usable'<sup>36</sup> UK passport, and just over two thirds of respondents (68%) owned a usable driving license. The top five most common barriers or concerns cited in relation to obtaining ID were: receiving intrusive questions from other people when applying for or presenting ID (38%); obtaining ID taking more energy (37%) or time (26%) than they have available; being unable to easily print documents (32%); and being 'outed' as trans when applying for or presenting ID (31%). While this data does not distinguish between children and adults, there may be higher rates of LGBT children than non-LGBT children who do not have ID and as a result higher percentages of LGBT young people may be denied access to the regulated settings.

There are also other considerations in relation to proof of age. There is the potential that unconscious bias could cause enforcement of Certification to be administered in a discriminatory manner. This is true for children as well as adults. While the possibility is low, a child could be refused access to a space where Certification is required as the enforcer's unconscious bias could lead them to assume that the child is not using valid ID because of a protected characteristic such as race. There are also more subtle ways that unconscious bias could be enacted. For example while operating a system to check Certification, employees may spot check children based on protected characteristics such as perceived race, gender, or disability. This is a concern that stakeholders have raised in relation to racial profiling and data shows that, across the UK, Black children were over four times more likely than white children to be arrested.<sup>37</sup> While children may ultimately gain access to the

<sup>36</sup> 'Usable' is defined as where the photo looks like them and it matches their name and gender. Out of date ID is still 'usable' for the purposes of the survey.

<sup>37</sup> [How systemic racism affects young people in the UK | Barnardo's \(barnardos.org.uk\)](#)

setting, the experience of feeling singled out could cause distress, a loss of time, distrust in the scheme, and anxiety about future use.<sup>3839</sup>

There is also the risk that Covid Vaccine Certification exceeds the policy intention and while children are exempt, they could be denied access to the regulated spaces. Disabled People's Organisations have raised this as a concern and cited face coverings as a prior example: people who are exempt and have a Scottish Government exemption card have been denied access to settings where face coverings are mandated. This has resulted in anxiety and distress for disabled people.

There is also the possibility that businesses or third parties could use Certification voluntarily and deny access to children who do not have proof of vaccination. Stakeholders explained that even as restrictions have eased, accessing community spaces for young people remains an issue, and they raised concerns that the work put into re-opening these spaces could be at risk if Certification creates a new barrier to accessing spaces and services.

Therefore, unless mitigations are put in place, Certification could potentially impact upon children's right to non-discrimination and exacerbate inequalities. Evidence suggests that those who face discrimination have poorer mental health and so if Certification was used, even in a limited way, to reinforce discrimination, then this would be contrary to the promotion of children's wellbeing.

As a mitigation, sectoral guidance has been developed to support effective implementation consistent with our policy aim. This provides more information to the sectors where Certification is mandated on the policy and regulations, and the reasonable implementation, enforcement and handling of exemptions. This guidance can be found on the Scottish Government website [here](#). We will also produce public guidance to provide information on what Certification is, the policy objectives, where it is regulated and why, and the steps to attain Certification. Our Guidance will be clear about the settings in which use of Certification is required to mitigate the risk that businesses and other entities consider using it also for activities and services which fall out of the scope under the Regulations.

More information on mitigations to prevent the potential engagement of Article 2 can be found in the **mitigations section** of this document.

### **The best interests of the child (Article 3)**

The best interests of children have been central in the policy development of Covid Vaccine Certification. If the policy objectives to reduce transmission and to increase vaccine uptake are achieved then this would positively impact children, as any reduction in transmission of the virus would positively impact on the protection of public health, including the protection of children's health. As laid out in the **summary of evidence**, disabled children and children from minority ethnic groups are most likely to benefit from a reduction in transmission due to their poorer health outcomes if the contract the virus.

<sup>38</sup> [The Impact of Racism on Child and Adolescent Health | American Academy of Pediatrics \(aappublications.org\)](#)

<sup>39</sup> [Racial/Ethnic Discrimination and Well-Being During Adolescence \(apa.org\)](#)

We also know that social interactions, both with friends and wider family, play a key role in optimising children’s development and their wider wellbeing. In answers to the Lockdown Lowdown 2 survey of 11 – 25 year olds (carried out in September to November 2020)<sup>40</sup> and in associated focus groups<sup>41</sup> carried out in October and November 2020, many young people discussed the benefits to their mental wellbeing of being able to meet up with their friends again and of not being confined to their homes. Therefore if the policy objective is achieved and the risk of transmission is reduced, allowing higher risk settings to continue to operate as an alternative to closure or more restrictive measures, Certification could positively impact on children’s wider development, promote their wellbeing and more generally be within their best interests.

Covid Vaccine Certification may be particularly beneficial to promoting the wellbeing of some children. Evidence suggests that girls and young women had worse wellbeing outcomes than boys and young men throughout the pandemic and gender differences were patterned by age and were generally more pronounced among the older age groups. The Lockdown Lowdown 2 survey cited above found that male respondents were substantially more likely to agree that they felt good about their mental health and wellbeing (59%) than female respondents (34%).<sup>40</sup> The Teen Covid Life 2 survey of 12 – 18 year olds found that a higher percentage of female participants (56% for those aged 12 - 14, 64% for those aged 15 - 18) reported low mood compared with male participants (33% for those aged 12 – 14, 46% for those aged 15 - 18).<sup>42</sup> Lastly, in the Children’s Parliament survey of 8 – 14 year olds girls were less likely to feel resilient at both ages 8 to 11 (58%) and 12 to 14 (54%) than boys (76% 8 to 11; 69% 12 to 14%).<sup>43</sup>

A survey by Family Fund carried out during March and April 2020 found that 94% of families said the health and wellbeing of their disabled or seriously ill children had been negatively affected.<sup>44</sup> A qualitative study of the experiences of 16 families in Scotland with children that have additional support needs and disabilities found that most families mentioned the negative impact of the pandemic on the mental health and wellbeing of their children, while some mentioned challenges with maintaining their children’s regular exercise.<sup>45</sup>

LGBT young people have been nearly twice as likely as their non-LGBT peers (52% vs 27%) to have felt lonely and separated from the people they are closest to on a daily basis during lockdown. 68% of LGBT+ young people surveyed also reported their mental health has worsened since the pandemic began, compared with 49% of non-LGBT+ young people.<sup>46</sup>

Findings from engagement with young care experienced people on the impacts of lockdown found that a large majority of participants said that their mental

<sup>40</sup> [dec2020-lockdownlowdown-v2-survey-final.pdf \(youthlinkscotland.org\)](#)

<sup>41</sup> [dec2020-lockdownlowdown-voice-seldom-heard-groups-covid19-pandemic-updated-december-2020.pdf \(youthlinkscotland.org\)](#)

<sup>42</sup> [2021-02-01\\_teencovidlife2\\_general\\_report\\_v1.pdf \(ed.ac.uk\)](#)

<sup>43</sup> [How are you doing Survey Final \(childrensparliament.org.uk\)](#)

<sup>44</sup> <https://www.familyfund.org.uk/Handlers/Download.ashx?IDMF=0dcfffe-f803-41de-9a4a-ccc8fef282d4>

<sup>45</sup> [The impact of COVID-19 on children with additional support needs and disabilities in Scotland — University of Edinburgh Research Explorer](#)

<sup>46</sup> [LGBT+ young people twice as likely to feel lonely and worry daily about mental health than peers.](#)

health had become worse during the pandemic, and that they often felt worried, anxious, depressed and lonely.<sup>47</sup>

Therefore, if the policy objective to allow higher risk settings to continue to operate as an alternative to closure or more restrictive measures is achieved, this is likely to particularly positively impact girls, disabled children, LGBT children and young care experienced children, whose mental health and wellbeing has been negatively impacted by the pandemic.

### **Life, survival and development (Article 6)**

The Scottish Government has been clear that Certification will only be required for customers and not staff and public guidance which is clear about the settings in which use of Certification is required to mitigate the risk that businesses and other entities consider using Certification in relation to activities and services which fall outside the regulations will be published on the Scottish Government website.

If Covid Vaccine Certification were used beyond the policy intention as a condition of employment, children's right to life, survival and development could be engaged if they are unable to gain or maintain employment due to their vaccine status. Equally, if a child's parent, guardian, carer or relevant adult's employment or financial status is impacted by their vaccination status, then this too has the potential to impact upon a child's right to life, survival and development.

More information on mitigations to prevent the potential engagement of Article 6 can be found in the **mitigations section** of this document.

### **Right to freedom of association (Article 15)**

The Scottish Government recognises the right to freedom of association and the democratic right to protest and its integral role in society. Therefore, there is an exception for premises being used for certain purposes, including worship and protest.

If Covid Vaccine Certification were used beyond the policy intention to deny children access to spaces, then there is the potential that their right to freedom of association could be engaged. Public guidance, which will be clear about the settings in which use of Certification is required to mitigate the risk that businesses and other entities consider using Certification in relation to activities and services which fall outside the regulations will be published on the Scottish Government website. More information on mitigations to prevent the potential engagement of Article 15 can be found in the **mitigations section** of this document.

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<sup>47</sup> [Summary-version-of-Covid-19-Recovery-Report-Feb-21.pdf \(whocaresscotland.org\)](#)

## Right to privacy (Article 16)

All under-18s are exempt from the domestic Certification scheme. However, 12-17 year olds who have been vaccinated may choose to access their record of vaccination by downloading a PDF via NHS Inform or requesting a paper Certificate by calling the Covid-19 Status Helpline. If children do choose to use the paper or PDF Certificate their right to privacy could be engaged. A privacy notice is available on NHS Inform: [Personal information we process](#), [How we use your data](#), [Your Rights](#). The Easy Read Version can be found [here](#). This provides information on the collating, sharing, storage, use and destruction of data. An overview of the key issues relating to children can be found below.

Stakeholders have highlighted that data matching may be an issue for some users if they choose to request a hard copy or download a PDF certificate. Some trans children may have different names on different documents and databases. While changing personal data with a GP is straightforward, stakeholders have highlighted potential issues with systems and data interoperability; data may be correct on one system but has not been updated on another and so could result in mismatches. This could create a more burdensome process for trans people and may mean they spend more time interacting with healthcare services and the helpline to ensure their data is consistent. Moreover, trans children may not want to call the helpline and explain their medical history to a call handler.

Once a child has managed to obtain a record of their vaccination, stakeholders have highlighted the risk of discrimination and distress if a user's name is displayed on the paper or PDF certificate. For example, if someone's name on their medical records – and therefore on their certificate – is different to the name that they use with their friends, family and others, this could lead to their transgender identity being unintentionally disclosed. LGBT young people are already fearful of disclosing their identity – 'coming out' – and 77% of young people believed their sexual/gender identity was a causal factor in their rejection from home.<sup>48</sup>

For some, there are real concerns regarding the right to privacy and the sharing of data. Stakeholders have informed us that migrants with secure, insecure and illegal immigration status have specific concerns that their data could be shared with the Home Office and impact their immigration status.<sup>49</sup> This is founded on historic experience of NHS data being shared with the Home Office which resulted in deportations.<sup>50</sup> Evidence shows that the majority of documented migrants that are recent entrants to the UK do not register with a GP, despite relatively easy access to primary healthcare.<sup>51</sup>

## Right of children with disabilities (Article 23)

As stated in the **summary of evidence**, disabled children are disproportionately impacted by Covid-19.

As of 13 September 2021 there are 1,431 under-16s on the clinically extremely vulnerable list (previously known as 'shielding'), although we do not have disaggregated data about the number of disabled children who are on it. While not all of those at highest risk are disabled, and not all disabled people are at highest risk, some disabled people are considered to be at high risk of health

harms if they contract Covid-19, such as children with learning disabilities.<sup>52</sup> While not all disabled children were asked to shield, and shielding ended on 1 August 2020, anecdotal evidence from stakeholders suggests that concerns about contracting the virus have remained and many individuals and families have continued to behave as if they are still shielding, which has had an adverse impact on their quality of life.

Disabled children's mental health and wellbeing has been impacted by restrictions and lockdowns. Survey data from families with disabled or seriously ill children found that 94% of respondents said that the health and wellbeing of their child had been negatively affected by restrictions and lockdowns.<sup>53</sup> Other evidence found that respondents reported negative effects of lockdown restrictions, with 61% reporting a reduction in physical activity levels and over 90% reporting a negative impact on mental health (including poorer behaviour, mood, fitness and social and learning regression).<sup>54</sup> The pandemic has also had an impact on the parents and carers of disabled children: survey results found that 86% of respondents had higher stress levels than expected population norms; 82% of parents felt the Covid-19 pandemic had also affected their other children; 67% of parents reported their child's sibling to be having issues with their sleep; and 59% reported feelings of anxiety. It also found that 4 in 10 parents reported that their quality of life, and that of their disabled child, was worse in the last month, with 5 in 10 parents reporting the same for their other children.<sup>55</sup>

Therefore, if the policy objectives of reducing transmission and increasing vaccine uptake are achieved, this would positively impact disabled children, as any reduction of the risk of transmission would improve public health, including that of disabled children.

Certification could also promote the mental health and wellbeing of disabled children and their families and carers, as it could add a layer of reassurance and support them to feel safer and more confident participating in society. Public insights polling has found that 53% of those surveyed agreed that the high level of people with two doses of the vaccine in Scotland gives them more confidence to go out and about<sup>56</sup> and 62% of respondents agreed that, if they wanted to go

<sup>48</sup> <https://www.akt.org.uk/Handlers/Download.ashx?IDMF=c0f29272-512a-45e8-9f9b-0b76e477baf1>

<sup>49</sup> Cooke, G. et al (2007). [Impact on and use of an inner-city London Infectious Diseases Department by international migrants: a questionnaire survey](#). BMC Health Serv Res 7, 113; Pew Research Center (November 2019). [Europe's Unauthorized Immigrant Population](#)

<sup>50</sup> Papageorgiou, V. et al (2020). [Patient data-sharing for immigration enforcement: a qualitative study of healthcare providers in England](#). BMJ Open 2020; 10:e033202.; Digital Health (14 November 2018). [NHS Digital confirms end of patient data sharing with Home Office](#)

<sup>51</sup> Stagg, HR et al (2012). BMJ Open 2012. [Poor uptake of primary healthcare registration among recent entrants to the UK: a retrospective cohort study](#).

<sup>52</sup> [Risks of covid-19 hospital admission and death for people with learning disability: population based cohort study using the OpenSAFELY platform | The BMJ](#) <https://www.bmj.com/content/374/bmj.n1592>

<sup>53</sup> <https://www.familyfund.org.uk/Handlers/Download.ashx?IDMF=0dcfffe-f803-41de-9a4a-ccc8fef282d4>

<sup>54</sup> [The effects of COVID-19 restrictions on physical activity and mental health of children and young adults with physical and/or intellectual disabilities - ScienceDirect](#)

<sup>55</sup> [How did the pandemic affect disabled children? \(learningdisabilitytoday.co.uk\)](#)

<sup>56</sup> Results are taken from questions run on behalf of Scottish Government on the YouGov online omnibus survey. The sample is demographically and geographically representative of adults 18+ across Scotland, with c.1000 responses each week. Fieldwork took place on 7-8 September among a sample size of 1021 adults. Respondents were asked the extent to which they agree or disagree with the following statement: "The high level of people with two doses of the vaccine in Scotland gives me more confidence to go out and about."

to a venue or event, having Covid Vaccine Certification in place would make them feel more comfortable doing this.<sup>57</sup> This was particularly true of women, who were 7% more likely to agree that it would make them feel more comfortable (women 65% vs men 58%).

Lastly, if the policy objective is achieved and allows higher risk settings to continue to operate as an alternative to closure or more restrictive measures, and disabled children are still able to attend the regulated settings with family, friends and support groups and services, this too could have positive impacts on disabled children as socialisation plays a key role in promoting wellbeing.

### **Right to health and health services (Article 24)**

If the policy objectives to reduce the risk of transmission, reduce the risk of serious illness and death thereby alleviating current and future pressure on the National Health Service and increase vaccine uptake are achieved, this would result in a higher level of community protection and would positively impact upon children's right to health and health care services.

Certification could provide reassurance to children, as those around them are vaccinated and so they are less likely to contract and spread the virus to family and friends, and could support them to feel safer and confident participating in society. Evidence has found that 45% of 11-25 year olds surveyed were concerned about catching coronavirus and 64% of respondents were concerned about transmitting coronavirus to others.<sup>58</sup> There is also evidence that young carers had higher levels of concern about catching and transmitting Covid-19.<sup>59</sup> Findings from Who Cares? Scotland<sup>60</sup> found similar results and focus groups<sup>61</sup> reported that young carers spoke about being particularly cautious going out and attending school in order to protect people they care for.

In terms of mental health and wellbeing during the pandemic, a PHE report found experiences vary by children and young people's characteristics, with those from Black, Asian and Minority Ethnic (BAME) backgrounds, those with existing mental health conditions, those with Special Educational Needs and Disabilities, and those living in low income families were more likely to have been negatively affected.<sup>62</sup> A different report found that LGBT+ respondents reported lower emotional wellbeing before and during lockdown compared with heterosexual

<sup>57</sup> Source: YouGov online survey. Fieldwork took place on 24-25 August among a sample size of 1007 adults, with results to this question re-based to exclude those who selected "Not applicable" (n=799). Respondents were shown the following statement: "One possible approach to allow entry to venues such as stadiums, arenas and nightclubs is to introduce a Covid certification scheme. The exact details of this would need to be confirmed but an example may involve showing a certificate that proves you have been fully vaccinated or tested negative in the last 48 hours." Then they were asked the extent to which they agree or disagree with the following statement: "If I wanted to go to a venue or event, having this scheme in place would make me feel more comfortable doing this."

<sup>58</sup> <https://www.youthlinkscotland.org/media/5678/dec2020-lockdownlowdown-v2-survey-final.pdf>

<sup>59</sup>

<https://static1.squarespace.com/static/5cee5bd0687a1500015b5a9f/t/60362d773fa8777030b0885c/1614163321822/Jan2021-LockdownLowdown-V2-Survey-Demographic-Breakdown+%281%29.pdf>

<sup>60</sup> <https://www.whocaresscotland.org/wp-content/uploads/2021/03/Summary-version-of-Covid-19-Recovery-Report-Feb-21.pdf>

<sup>61</sup> <https://www.youthlinkscotland.org/media/5679/dec2020-lockdownlowdown-voice-seldom-heard-groups-covid19-pandemic-updated-december-2020.pdf>

<sup>62</sup> <https://www.gov.uk/government/publications/covid-19-mental-health-and-wellbeing-surveillance-report/7-children-and-young-people>

respondents.<sup>63</sup> Who Cares? Scotland found that a large majority of participants said that their mental health had become worse during the pandemic, and that they often felt worried, anxious, depressed and lonely.<sup>64</sup> Lastly, consistent findings across a number of surveys and most questions found that girls and young women had worse wellbeing outcomes than boys and young men overall.<sup>65</sup>

Multiple surveys have found that children's mental health has gradually improved as restrictions eased. For example, in a survey of 11 – 25 year olds carried out between September and November 2020 many young people discussed the mental wellbeing benefits of being able to meet up with their friends again and not being confined to their homes<sup>66</sup>, and in survey a parents of 2 – 7 year olds carried out in November and December 2020, 79% of parents said that their child's mood was the same or had improved since the initial lockdown.<sup>67</sup>

As such, if the policy objective of allowing higher risk settings to continue to operate as an alternative to closure or more restrictive measures is achieved and children are still able to socialise and attend the regulated settings with family, friends and support groups and services, then this could positive promote their mental health and wellbeing. This could particularly positively impact girls, children from minority ethnic groups, LGBT, disabled and care experienced children whose mental health was more negatively impacted by lockdowns.

However, the policy may have unintended negative health impacts on some communities which are already less inclined to come forward for vaccination. Survey data from UK-wide research suggests that, in comparison to White British and White Irish participants, Black African and Mixed Black African health and social care workers were less likely to have been offered a vaccine and much more likely to have declined vaccination if offered. Reasons for doing so among Black African participants included distrust in Covid-19 vaccination, healthcare providers and policymakers.<sup>68</sup> Uptake by the White Polish community is also comparatively much lower.<sup>69</sup>

Stakeholders raised concerns that the introduction of Covid Vaccine Certification could exacerbate vaccine hesitancy in some communities, which could potentially undermine the policy objective to increase vaccine uptake. They felt that Certification is unlikely to incentivise asylum seekers, refugees or migrants to take up the vaccine as they do not often frequent the settings in scope.

<sup>63</sup> 26% of LGBT+ respondents rated their emotional wellbeing as negative before lockdown (compared with 14% of heterosexual respondents) and this rose to 69% during lockdown (compared to 40% with heterosexual respondents). TIE Online In Lockdown report, July 2020,

<https://static1.squarespace.com/static/60609ee47b1b6f5999103b43/t/606592177d934a712ba02200/1617269304488/TIE-ONLINE+IN+LOCKDOWN-REPORT.pdf>

<sup>64</sup> <https://www.whocarescotland.org/wp-content/uploads/2021/03/Summary-version-of-Covid-19-Recovery-Report-Feb-21.pdf>

<sup>65</sup>

<https://static1.squarespace.com/static/5cee5bd0687a1500015b5a9f/t/60362d773fa8777030b0885c/1614163321822/Jan2021-LockdownLowdown-V2-Survey-Demographic-Breakdown+%281%29.pdf>;

[https://www.ed.ac.uk/files/atoms/files/2021-02-01\\_teencovidlife2\\_general\\_report\\_v1.pdf](https://www.ed.ac.uk/files/atoms/files/2021-02-01_teencovidlife2_general_report_v1.pdf);

[https://www.childrensparliament.org.uk/wp-content/uploads/How-are-you-doing\\_Survey\\_Final.pdf](https://www.childrensparliament.org.uk/wp-content/uploads/How-are-you-doing_Survey_Final.pdf)

<sup>66</sup> [Lockdown Lowdown \(Phase 2\)](#)

<sup>67</sup> [COVID-19 Early Years Resilience and Impact Survey \(CEYRIS\) \(publichealthscotland.scot\)](#)

<sup>68</sup> Bell, S. et al (2021). [COVID-19 vaccination beliefs, attitudes, and behaviours among health and social care workers in the UK: a mixed-methods study](#). medRxiv 2021.04.23.21255971

<sup>69</sup> Public Health Scotland (1 September 2021). [Vaccine uptake equality report – Supplementary Tables](#)

Stakeholders also felt that as parents and guardians are influential figures in children's lives, children may hold the same sentiments as their parents and may also become less likely to take up the vaccine.

As stated throughout this document, even though they are exempt, children could be denied access to spaces and services as they are unable to provide proof of vaccination. The experience of being denied access to a space could negatively impact on a child's wellbeing. Additionally, if there is unconscious bias while enforcing Certification, as detailed under right to non-discrimination, then this too could negatively impact on a child's mental health and wellbeing if it results in them feeling ostracised from friends, peers and society more widely.

### **Right to an adequate standard of living (Article 27)**

The Scottish Government has been clear that Certification will only be required for customers and not staff, and public guidance will be published on the Scottish Government website, which will be clear about the settings in which use of Certification is required to mitigate the risk that businesses and other entities consider using Certification for activities and services that fall outside the Regulations.

If Covid Vaccine Certification were used beyond the policy intention as a condition of employment, children's right to an adequate standard living could be engaged if they are unable to gain or maintain employment due to their vaccine status. Equally, if a child's parent, guardian, carer or relevant adult's employment or financial status is impacted by their vaccination status then this too has the potential to impact upon a child's right to life, survival and development.

More information on mitigations to prevent the potential engagement of Article 27 can be found in the **mitigations section** of this document.

### **Right to education (Article 28)**

The First Minister has been clear that the education and wellbeing of our children are paramount and should be prioritised above all else during the pandemic. As such, education is out of scope and Ministers have been clear that vaccine status should not be a condition of accessing education.

We know that education occurs outside the classroom and other more formal teaching structures and can take place at societies and other social groups which are operated by or affiliated to students unions and colleges and universities. While student unions across the UK, including Scotland,<sup>70</sup> have expressed their opposition to Certification in educational spaces, individual students may choose to implement it at societies or social groups. If a student is unable to participate in societies or social activities due to their vaccination status this could potentially impact upon their right to education as well as their right to development (Article 6).

More information on mitigations to prevent the potential engagement of Article 28 can be found in the **mitigations section** of this document.

<sup>70</sup> [Covid vaccine will not be compulsory for university lectures - BBC News](#)

	<p><b>Right to leisure, play and culture (Article 31)</b></p> <p>There is a strong recognition that play and social interactions, with friends and wider family plays a key role in optimising children’s development and wider wellbeing. If the policy objective to allow higher risk settings to continue to operate as an alternative to closure or more restrictive measures is achieved, this could positively impact on a child’s right to leisure and to access cultural events if they are still able to attend the regulated settings with family, friends and support groups and services.</p> <p>As previously explained, the vaccination status of a parent, guardian or relevant adult could impact upon the child’s enjoyment of their rights in a number of ways. In terms of the right to leisure, play and culture, Certification could cause negative impacts if a parent is denied access to a regulated setting and as a result the child is denied access too as they cannot enter without an adult.</p> <p>As with many other rights assessed, even though they are exempt, there is the potential that private businesses and third parties could use Certification beyond the policy intention and deny access to children. Children could therefore be denied access to leisure, play and cultural spaces as they are not able to provide proof of vaccination. This could negatively impact on their enjoyment of Article 31.</p> <p>Sectoral guidance has been produced on the Scottish Government website <a href="#">here</a> to support effective implementation consistent with our policy aim. We will also publish public guidance to provide information on what Certification is, the policy objectives, where it is regulated and why, and the steps to attain Certification.</p> <p>Our Guidance will be clear about the settings in which use of Certification is required to mitigate the risk that businesses and other entities consider using Certification in relation to activities and services which fall outside the regulations.</p> <p>More information on mitigations to prevent the potential engagement of Article 31 can be found in the <b>mitigations section</b> of this document.</p>
<p><b>Mitigations</b></p>	<p>The Scottish Government consider that, subject to the below mitigations being implemented, where Certification does engage children’s rights, it does so in a proportionate way in order to protect public health.</p> <p><b>Recognising not everyone has been, or can be, vaccinated</b></p> <p><b>Inclusive vaccination programme:</b> to maximise uptake, there will be continued focus on the Inclusive Vaccine Programme, which includes targeted outreach and communications e.g. Public Health Scotland and third sector partners have ensured the provision of a range of translated materials, British Sign Language (BSL) versions and other resources, such as the <a href="#">Covid-19 vaccine NHS Scotland explainer video</a>, to ensure that everyone is able to access this information. More information on the Inclusive Vaccination Programme and the National Inclusive Steering Group for Covid-19 Vaccinations can be found <a href="#">here</a>.</p> <p><b>Under-18s exemptions:</b> all under-18s are exempt in the Regulations from the domestic Certification scheme.</p>

**Exemptions:** there are limited circumstances where a person may not yet have been vaccinated or may not be able to be vaccinated for legitimate reasons. For this reason, there are exemptions in the regulations for those with certain medical conditions, and those participating or having participated in vaccine trials.

**Testing:** initially, the scheme will not permit a negative test result to be offered as an alternative to evidence of vaccination, but this will be kept under review. At this stage, we do not consider that this would be appropriate and, indeed, could undermine one of the policy aims of the scheme, which is to increase vaccine uptake. Also, it is important at this stage to prioritise PCR lab capacity for Test and Protect purposes and while promoting regular LFD tests is an extremely important aspect of our overall approach, further work would be required on an optimal approach to incorporating testing, including consideration of the appropriateness of self-testing in this context.

### **Increasing accessibility**

**Paper Certification:** in order to ensure Certification is accessible to all and to mitigate against digital exclusion, which is higher among older people, disabled people and some minority ethnic groups. We are translating documents that explain what is shown on your Certificate into different languages and formats, including Easy Read, audio and Braille.

**Covid-19 Status Helpline:** to ensure that those who do not have digital access have a route to request their vaccination record. The Covid-19 Status Helpline is free and open every day from 10:00-18:00.

**Resolver Group:** has been established by NHS National Services Scotland (NSS) to resolve any reported inaccuracies in vaccination records and wider issues relating to acquiring a Covid Vaccine Certificate. Any requests for support can be escalated through the Covid-19 Status Helpline.

**Communications and marketing:** the implementation of Certification will be supported by a range of communications and marketing resources and activity to help people understand where the scheme has been introduced, for what purpose and how to gain Certification. This will provide information about identifying and avoiding scams and phishing attempts. It will also provide information on and raise awareness of schemes like the Proof of Age Standards Scheme (PASS) and the Young Scot National Entitlement card.

### **Data protection and privacy**

**Data Protection Impact Assessment (DPIA) and Privacy Notice (PN):** these are created to ensure that all data is managed, handled, processed and destroyed in line with UK GDPR legislation, data protection laws and data ethics best practice as well as human rights legislation. The PN will support users to understand how their data is being used throughout these processes, emphasising protection of their data and ensuring government is being open and transparent. The Privacy Notice is already online and can be found on NHS Inform: [Personal information we process](#), [How we use your data](#), [Your Rights](#). The Easy Read Version can be found [here](#).

	<p><b>Supporting implementation in line with our policy aims</b></p> <p><b>Sectoral guidance:</b> to support effective implementation consistent with our policy aim, we have provided information to the sectors where Certification is mandated on the policy and regulations, and the reasonable implementation, enforcement and handling of exemptions. This guidance can be found on the Scottish Government website <a href="#">here</a>.</p> <p>Ministers have been clear that Certification will not be a requirement for public services or other settings that many people have no option but to attend such as retail, public transport, health services and education. We recognise that some businesses, outside the regulated settings, are asking people for evidence they have been fully vaccinated as a condition of entry or as a condition of employment. We emphasised in our guidance that businesses which are not covered by the Government’s scheme would need to consider carefully their obligations under all relevant law including data protection, the Equality Act and Human rights. For more information see the Equality and Human Rights Commission Guidance for Employers <a href="#">here</a>.</p> <p><b>Enforcement of regulations from 18 October:</b> We have listened to businesses carefully and as such the scheme will go live at 5am on Friday 1 October. Businesses will have until 18 October before the requirements of the scheme are enforceable. This is to provide businesses with time to implement the scheme.</p> <p><b>Public guidance:</b> we will also produce public guidance to provide information on what Certification is, the policy objectives, where it is regulated and why, and the steps to attain Certification. Our Guidance will be clear about the settings in which use of Certification is required. It will explain that the scope of the Regulations has been carefully and deliberately limited to activities where the balance of public health risk clearly outweighs other rights considerations, and is designed to respect the rights of individuals. Specific protections have been put in place to ensure the scheme operates in a lawful manner.</p> <p><b>Ongoing stakeholder engagement:</b> We will continue to engage with stakeholders and gather intelligence on the impact of Certification. We will create feedback loops and build this evidence into the policy.</p> <p><b>Exceptions:</b> There will be exceptions for premises being used for certain purposes, including communal religious worship, un-ticketed events held at an outdoor public place with no fixed entry points and certain business events that individuals are required to attend for work purposes (not including any peripheral reception or function outside the core hours of the conference).</p>
<p><b>Monitoring and review</b></p>	<p>Any policy that engages human rights needs to meet the test of necessity and proportionality at any given time, and should be immediately removed if it is found to no longer meet that test.</p> <p>The Scottish Government will be responsible for monitoring and evaluating the policy. As the regulations have been laid under the Coronavirus Act 2020 there is a requirement to review the regulations every 21 days. The extent to which the policy is achieving the objectives will be monitored and evaluated in line with this requirement. Monitoring and evaluation will also provide us with further</p>

information about other positive and negative effects of the introduction of the policy. We will also continue to assess whether any less intrusive measures could be introduced to achieve the same combination of policy objectives in respect of the higher risk sectors concerned; if so, the policy will be immediately reviewed.

The Covid Vaccine Certification provisions will expire on 28 February 2022, as with all other Covid measures under the Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021. Parliamentary approval would be required to extend them further.

To that aim, we will continue to consider the impact of Covid Vaccine Certification on children's rights and wellbeing. This will include engaging with relevant stakeholders and we will publish further Children's Rights and Wellbeing Impact Assessments (CRWIA) if needed.

Bill - Clause	Aims of measure	Likely to impact on	Compliance with UNCRC requirements	Contribution to local duties to safeguard, support and promote child wellbeing
<p><i>The Health Protection (Coronavirus) (Requirements) (Scotland) Amendment (No. 2) Regulations 2021</i></p>	<ul style="list-style-type: none"> <li>• Reduce the risk of transmission of Coronavirus</li> <li>• Reduce the risk of serious illness and death thereby alleviating current and future pressure on the National Health Service</li> <li>• Allow higher risk settings to continue to operate as an alternative to closure or more restrictive measures</li> <li>• Increase vaccine uptake</li> </ul>	<p>All children</p> <ul style="list-style-type: none"> <li>• Care experienced children</li> <li>• Disabled children</li> <li>• LGBT children</li> <li>• ME children</li> <li>• Young carers</li> <li>• Children from low-income families</li> </ul>	<p>We have detailed where the provisions engage UNCRC Articles and are of the view that the mitigations we have proposed minimise any negative impacts.</p> <p><b>Article 3:</b> the best interests of the child</p> <p><b>Article 6:</b> the right of every child to life and develop to their full potential.</p> <p><b>Article 23:</b> the right of a child with a disability to live a full and decent life with dignity and, as far as possible.</p> <p><b>Article 24:</b> the right to health and health services</p> <p><b>Article 31:</b> the right of every child to relax, play and take part in a wide range of cultural and artistic events.</p>	<p>The following <a href="#">wellbeing</a> indicator is relevant:</p> <p><b>Healthy:</b> Having the highest attainable standards of physical and mental health, access to suitable healthcare, and support in learning to make healthy, safe choices.</p> <p><b>Achieving:</b> Being supported and guided in learning and in the development of skills, confidence and self-esteem, at home, in school and in the community.</p> <p><b>Active:</b> 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.</p>

<b>CRWIA Declaration</b>	
<b>Authorisation</b>	
<b>Policy lead</b> Katherine May Senior Policy Manager, Covid Ready Society, Covid-19 Public Health Directorate, Scottish Government	<b>Date</b> 30/09/2021
<b>Deputy Director or equivalent</b> Elizabeth Sadler and Marion McCormack Joint Deputy Directors, Covid Ready Society, Covid Public Health Directorate, Scottish Government	<b>Date</b> 30/09/2021

## Annex A

### Stakeholders

- Age Scotland
- Baptist Union of Scotland
- Black and Ethnic Minority Infrastructure in Scotland
- Children and Young People's Commissioner Scotland
- Children in Scotland
- Church of Scotland
- Close the Gap
- Coalition for Racial Equality and Rights
- Disability Equality Scotland
- Edinburgh Inter-faith Association
- Engender
- Equality and Human Rights Commission
- Evangelical Alliance
- Glasgow Disability Alliance
- Humanist Society Scotland
- Inclusion Scotland
- Information Commissioner's Office
- Intercultural Youth Scotland
- Interfaith Scotland
- Just Right Scotland
- LGBT Youth Scotland
- Minority Ethnic Carers of Older People Project
- Muslim Council of Scotland
- NHS Ayrshire and Arran
- NHS Education for Scotland
- NHS National Services Scotland
- NHS
- Open Rights Group Scotland
- Poverty and Inequality Commission
- Progress in Dialogue
- Roman Catholic Bishops' Conference
- Scottish Council of Jewish Communities
- Scottish Episcopal Church
- Scottish Human Rights Commission
- Scottish Information Commissioner
- Scottish Privacy Forum
- Scottish Refugee Council
- Scottish Trans Alliance
- Scottish Women's Aid
- Scottish Women's Convention
- Stonewall Scotland
- The Equality Network
- Young Scot
- Youth Link