

Child Rights and Wellbeing Impact Assessment (CRWIA) for Electronic Monitoring (Approved Devices) (Scotland) Amendment Regulations 2024 & Electronic Monitoring (Use of Devices And Information) (Scotland) Regulations 2025

Disclaimer

This document is a point in time assessment of the likely effects of the above-named proposal on the rights and wellbeing of children and young people. This impact assessment should be read in conjunction with other impact assessments prepared for this proposal.

Scottish Government acknowledge the importance of monitoring and evaluating the impact of strategic decisions and legislation on children's rights and wellbeing. Any information gathered during implementation of the legislation or strategic decision to which the impact assessment relates, will be used to inform future determinations of impact. Any new strategic decision or new legislation (including amending legislation) would be subject to a new CRWIA in line with the legislative requirements.

Child Rights and Wellbeing Impact Assessment Template

1. Brief Summary

Type of proposal (Please delete as necessary):

- Scottish Statutory Instrument

Name the proposal, and describe its overall aims and intended purpose.

Electronic monitoring was first piloted in Scotland in 1998, before being rolled-out nationally from 2002 onwards. It is now used to monitor an individual's compliance with conditions or requirements imposed as part of a number of different types of community justice disposal, as well compliance with licence conditions for some people on release from prison. Electronic monitoring is a system that uses technology to monitor curfews and conditions of an order from a court or a licence which a person released from prison is made subject to by the Scottish Prison Service. A Community justice disposal is a form of punishment where the individual is not imprisoned.

Scotland presently uses radio frequency technology for the electronic monitoring of compliance with a bail order (While accused are waiting for proceedings to be heard in court, they can either be held in custody (in prison, a young offenders' institution or police cell) or released on bail. 'Released on bail' means that they are free to leave the court but only under certain conditions.), with a court order following conviction, or with a condition of licence on release from prison. This technology is an effective way to monitor an individual's presence at a place for up to 12 hours a day, or their remaining away from a place for 24 hours a day. Radio frequency technology in standalone mode or used with an integrated package of support, remains a strong and suitable technology for electronic monitoring of these types of conditions, but we also see a role for the introduction of new technologies to operate alongside the existing technology.

GPS technology can enable the monitoring of movement over a wide area rather than the monitoring of presence at, or absence from a single location. GPS technology can allow for greater flexibility in the application of exclusion zones, tailored, if necessary, from a house, to specific street patterns or, to a neighbourhood . GPS can also allow more than one exclusion zone to be set for a person. Using GPS technology to set exclusion zones can help support safe spaces for victims of crime.

The current electronic monitoring service provider in Scotland (G4S) has a contract which covers the provision of both radio frequency monitoring and GPS monitoring once it is introduced. Only radio frequency monitoring is currently used and the Scottish Government intend to introduce GPS usage on a phased basis – the first phase of which will be to extend this to Home Detention Curfew (HDC).

HDC allows some individuals sentenced to imprisonment to serve part of their prison sentence in the community, under strict licence conditions. The main aim of HDC is to provide those leaving prison with a managed return to their communities, whilst subject to curfew conditions which can be electronically monitored. Decisions on whether to release a prisoner on an HDC licence are for the Scottish Prison Service (acting as the Scottish Ministers) and any decision to release on such a licence is subject to an individualised risk assessment. SPS must, when deciding whether to release a prisoner on an HDC licence, have regard to protecting the public at large (including children), preventing the offender reoffending and securing their successful reintegration into the community (including re-establishing links with family).

GPS will not be used for every HDC case – an individual will only be subject to a GPS tag when the Scottish Prison Service (SPS) consider that it is proportionate that an individual be excluded from certain areas upon release. Making that condition subject to GPS monitoring will also involve consideration of whether that would be proportionate in each case. In this first phase, the Scottish Government and SPS will examine how the availability and use of GPS tags affects the behaviour of offenders, defendants and decision-makers, to inform any further rollout of GPS location monitoring. Further roll out would require new Regulations to be laid before Parliament.

The types of electronic devices which are currently approved devices are prescribed in the Electronic Monitoring (Approved Devices) (Scotland) Regulations 2020 (308). Regulations are intended to be laid to amend the list of prescribed approved devices to add GPS technology and make provision about how GPS technology will be used with HDC. They will also make provision on how the information obtained through monitoring a person by means of both radio frequency and GPS technology can be used.

There are a range of aims for the initial roll out of GPS monitoring, but they are principally:

- improving learning about GPS and processes needed in support of a GPS service in Scotland,
- improving learning about how the GPS functionality might support the aims of certain policies, in this case HDC.

Start date of proposal's development: 2023

Start date of CRWIA process: July 2024

2. With reference given to the requirements of the UNCRC (Incorporation) (Scotland) Act 2024 ([Annex 1](#)), which aspects of the proposal are relevant to/impact upon children's rights?

Guidance: If there are no aspects of the proposed which are deemed relevant to the UNCRC requirements, please give a short explanation of that here and contact the CRWIA team to discuss your response to this question. See pages 13-16 in Internal CRWIA and SoC for more information.

Children are potentially affected by existing policy, law and practice on electronic monitoring of offenders. They may share a home with someone who is required to be electronically monitored in consequence of a court order or as a condition of release from custody on licence. Or they may have a significant adult in their life who is subject to geographic restrictions monitored electronically (most commonly a curfew requiring a person to remain at home overnight between specified times).

Children may experience either positive or negative consequences of electronic monitoring – potentially a mix of both. It may be positive for a child that a significant adult or family member is able to live at home rather than be detained in custody for a longer period. However, as is the case at the moment, a curfew requirement or other geographic restrictions could potentially also play out negatively for a child if it

causes the adults involved to feel confused, stressed or frustrated. It is important to note that this requirement would be on a case by case basis and is assessed to be a proportionate response to the level of threat that the individual may pose.

The proposal for a phase 1 rollout of GPS monitoring with HDC supported by these regulations may consequently affect children either positively or negatively. However, this is already the case under the current model of electronic monitoring using radio frequency devices, and the situation is therefore unchanged. The impacts on the child are already in effect and is not deemed to be enhanced or diminished as a result of this proposal.

Due to recent legislative changes a young person under 18 cannot be held in a Young Offenders Institution and as a result such individuals will not be eligible for HDC. Consequently, no young person under the age of 18 will be subject to GPS monitoring and, due to any impact on children already in effect, our assessment is that no aspects of this proposal will have any additional impact on the child.

3. Please provide a summary of the evidence gathered which will be used to inform your decision-making and the content of the proposal

Guidance: It might be that no aspects of the proposal are deemed relevant, and therefore, no evidence exists relevant to the assessment. If that is the case, questions 3, 4, 5 and 6 can be answered as 'not applicable' and question 7 can be answered as 'no impact'.

Where consultation and engagement was carried out please tell us what you did (survey, focus groups etc) and a summary of what was said. If relevant include any key direct quotes. See pages 16-19 in Internal CRWIA and SoC for more information.

Evidence from:

- existing research/reports/policy expertise

Insert response here

- consultation/feedback from stakeholders

Insert response here

- consultation/feedback directly from children and young people

Not applicable

4. Further to the evidence described at '3' have you identified any 'gaps' in evidence which may prevent determination of impact?

If yes, please provide an explanation of how they will be addressed

Guidance: See page 19 in Internal CRWIA and SoC for more information.

Not applicable

The number of individuals who will be released on GPS as part of phase 1 is not known. We will be carrying out a process-based evaluation of the expansion of GPS. This may consider potential in-direct impacts that may arise as part of the roll out.

5. Analysis of Evidence

Guidance: Please explain what the evidence told you about the impact of the proposal on the rights and wellbeing of children and young people. See pages 19-20 in Internal CRWIA and SoC for more information.

Not applicable

6. What changes (if any) have been made to the proposal as a result of this assessment?

Guidance: See page 20 in Internal CRWIA and SoC for more information.

Not applicable

Conclusion

7. As a result of the evidence gathered and analysed against all UNCRC requirements, what is the potential overall impact of this proposal on children's rights?

Guidance: Please choose from positive, negative, neutral or no impact, Please note you can have both a positive and negative impact on children's rights. See page 20 in Internal CRWIA and SoC for more information. UNCRC Requirements ([Annex 1](#))

No impact

Guidance: If you have answered no impact to question 7, please move onto question 10.

8. If you have identified a positive impact on children's rights, please describe below how the proposal will protect, respect, and fulfil children's rights in Scotland.

Guidance: See page 21 in Internal CRWIA and SoC for more information.

Insert response here

9. If a negative impact has been identified please describe it below. Is there a risk this could potentially amount to an incompatibility?

Guidance: Please contact your SGLD Adviser to discuss any negative impacts and risk of potential incompatibilities. See pages 21-22 in Internal CRWIA and SoC for more information.

Insert response here

Mitigation Record

What options have been considered to modify the proposal in order to mitigate a negative impact or potential incompatibility?

Please summarise mitigation actions taken below

Guidance: Please copy and paste the following three headings for as many risks or negative impacts which you have identified and explained in questions 7 and 9.

Issue or risk identified and relevant UNCRC requirement

Insert response here

Action Taken/ To Be Taken

Insert response here

Date action to be taken or was taken

Insert response here

10. As a result of the evidence gathered and analysed against all wellbeing indicators ([Annex 2](#)), will the proposal contribute to the wellbeing of children and young people in Scotland? (Guidance Section 2.3.2, pages 20-22).

Guidance: Please choose from yes, no or not applicable, delete responses as appropriate. See page 23 in Internal CRWIA and SoC for more information.

| | |
|--------------|----------------|
| Safe: | Not Applicable |
| Healthy: | Not Applicable |
| Achieving: | Not Applicable |
| Nurtured: | Not Applicable |
| Active: | Not Applicable |
| Respected: | Not Applicable |
| Responsible: | Not Applicable |
| Included: | Not Applicable |

If yes, please provide an explanation below:

11. How will you communicate to children and young people the impact that the proposal will have on their rights?

Guidance: Providing information to children and young people on how their rights are being or will be impacted helps to ensure that policy-development is transparent. Are you publishing a child-friendly or accessible CRWIA? See page 23 in Internal CRWIA and SoC for more information.

Not applicable. No aspects of this proposal will have any additional impact on children and young people. The CRWIA will be published on the legislation website alongside the SSI so those wishing to access it can do so. Additionally, in so far as is possible the CRWIA has been written in accessible language so children and young people wishing to read it can understand its content and the no impact assessment.

Post Assessment Review and sign-off

12. Planning for the review of impact on children's rights and wellbeing

Guidance: See page 23 in Internal CRWIA and SoC for more information.

- How will the impact of the proposal on children's rights and wellbeing be monitored?
- When will you review and update the CRWIA if required?

If new information comes to light throughout implementation, this will be assessed for any potential impact on children and young people and will be taken into account in future phases of this work if continued.

13. Sign off

Policy Lead Signature & Date of Sign Off: David Gallagher 18.11.24

Deputy Director Signature & Date of Sign Off: Alex Doig 18.11.24

Date CRWIA team first contacted: 7.11.24

Once signed off, please send to CRWIA@gov.scot and follow the relevant publication guidelines for your proposal, which can be found in the internal CRWIA and SoC guidance.

Additionally, if the proposal is a bill or SSI, please complete the Statement of Compatibility, the template for which can be found on [Saltire](#).