

EQUALITY IMPACT ASSESSMENT - RESULTS

Title of Policy	The Criminal Justice (Scotland) Act 2003 (Supplemental Provisions) (Scotland) Order 2021 (“the Supplemental Provisions Order”)
Summary of aims and desired outcomes of Policy	Section 14 of the 2003 Act provides that victims of prescribed offences are to be given the opportunity, in criminal proceedings in a prescribed court, to make a victim statement about how the offence has affected and, as the case may be, continues to affect them. The Scottish Ministers have a power to prescribe the courts in which statements can be made (section 14(1)) and a separate power to prescribe the offences in relation to which statements can be made (section 14(2)). Section 14(13) provides that the Scottish Ministers can prescribe the manner in which victim statements can be made. Section 14 does not provide that different provision can be made under these powers for different purposes. The Supplemental Provisions Order will allow the three powers relating to victim statements contained in Section 14 of the 2003 Act: the power to prescribe courts; the power to prescribe offences; and the power to prescribe the form and manner of victim statements, to be used flexibly to make different provisions for different purposes.
Directorate: Division: team	Justice Directorate: Criminal Justice Division: Victims and Witnesses Unit

1. Executive summary

Under section 14 of the 2003 Act, victims of certain serious crimes in Scotland are able to make a written Victim Statement which gives them the chance to tell the court how a crime has affected them physically, emotionally and financially.

The list of offences in relation to which a statement can be made was prescribed in 2009. Since then a number of new, serious offences have come into force in Scotland in relation to which a victim statement cannot be made, for example stalking and the domestic abuse aggravation. In addition, the courts in which a victim statement can be taken into account are limited to solemn proceedings.

At this time, the statement can only be presented in writing, however section 23 of the Victims & Witnesses (Scotland) Act 2014 (the 2014 Act) amends section 14 of the 2003 Act to provide powers to pilot (and extend more widely if appropriate) different ways for a victim statement to be made, for example by pre-recording it so it can be played in court.

Section 14 of the 2003 Act provides that victims of prescribed offences are to be given the opportunity, in criminal proceedings in a prescribed court, to make a victim statement about how the offence has affected and, as the case may be, continues to affect them. The Scottish Ministers have a power to prescribe the courts in which statements can be made (section 14(1)) and a separate power to prescribe the offences in relation to which statements can be made (section 14(2)). However, section 14 does not provide that different provision can be made under these powers for different purposes.

The Supplemental Provisions Order will allow the three powers relating to victim statements contained in section 14 of the 2003 Act: the power to prescribe courts; the power to prescribe offences; and the power to prescribe the form and manner of victim statements, to be used flexibly to make different provisions for different purposes.

In preparing the Supplemental Provisions Order, it was considered that preparing a limited EQIA and Child Rights and Wellbeing Impact Assessment (CRWIA) was sufficient.

The provisions in the Supplemental Provisions Order do not discriminate in any way on the basis of age, disability, sex including pregnancy and maternity, gender reassignment, sexual orientation, race or religion and belief. The opportunity to make a victim statement applies to any person regardless of their personal characteristics and the changes being made to section 14 do not change that position.

2. Background

The Supplemental Provisions Order is being made to allow the use of the three powers relating to victim statements contained in Section 14 of the 2003 Act: the power to prescribe courts; the power to prescribe offences; and the power to prescribe the form and manner of victim statements, to be used flexibly to make

different provisions for different purposes. This will enable Ministers to pilot changes to the current victim statement scheme to provide more victims with the opportunity to make a victim statement. It will also enable the Scottish Ministers to explore different ways for statements to be made (e.g. recorded) and thereafter bring more permanent changes into force following any pilot scheme introduced under these powers.

3. The Scope of the EQIA

This EQIA/CRWIA assesses the policy against the three needs of the public sector equality duty, namely to:

- eliminate discrimination, harassment and victimisation
- advance equality of opportunity; and
- foster good relations.

It does so in respect of the protected characteristics of age, disability, sex, pregnancy and maternity, gender reassignment, sexual orientation, race or religion and belief.

4. Consultation

A full 12 week public consultation on widening the scope of the current victim statement scheme, ran from 1 September 2019 until 29 November 2019.

A public consultation workshop on 1 November 2019 which had presentations from the Scottish Government, COPFS and Victim Support Scotland (VSS). The workshop was attended by representatives present from, amongst others, the Law Society, Police Scotland, Children 1st, Petal, The Manda Centre, Scottish Women's Aid as well as people with lived experience of the scheme. Individual meetings were also held with Victim Support Scotland staff and volunteers and Community Justice Scotland.

No specific consultation has taken place on this Supplemental Provisions Order but we will engage with key stakeholders and victims' organisations in advance of using the powers that they enable.

5. Key Findings

EQIA

We have found no significant adverse equalities impacts of this policy in respect of the protected characteristics. The provisions in the SSIs do not discriminate in any way on the basis of age, disability, sex including pregnancy and maternity, gender reassignment, sexual orientation, race or religion and belief.

We believe that none of the provisions in the legislation or the policy intent that supports it should imply any direct or indirect discrimination against any particular section of society. The Supplemental Provisions Order will make no substantive change to the law on victim statements – the list of prescribed courts in which a victim statement can be made will not change and the list of prescribed offences in

relation to which a victim statement can be made will not change. The Supplemental Provisions Order will simply ensure that the powers to prescribe courts, offences and the manner of victim statements can be used in conjunction, and can also be used to introduce pilot projects for victim statements.

6. Recommendations and Conclusion

The EQIA identified no significant negative impacts associated with this policy.

The Scottish Government has concluded that no changes to the policy or associated SSIs are necessary as a result of this joint EQIA/CRWIA. There appears to be no significant differential effect on the basis of the protected characteristics.

The Scottish Government will continue to work with key stakeholders and organisations with an interest in victim statements to ensure full account is taken of equality issues and children's rights and wellbeing.