

CRWIA – Stage 3

Publication Template

[CRWIA for legislation](#) (Scottish Government use only)

CRWIA title: The Social Security Information-sharing (Scotland) Regulations 2021 Date of publication: 20/11/2020	
Executive summary	<p>The aim of this Child Rights and Wellbeing Impact Assessment (CRWIA) is to identify, research, analyse and record the anticipated impact of the regulations for information sharing on children’s human rights and wellbeing in Scotland.</p> <p>The provisions in Social Security Act (Scotland) 2018 (‘the 2018 Act’) have been considered and assessed for compliance with/advancement of the articles of the UNCRC and how they will protect and promote the wellbeing of children and young people who may be affected by it, using the child wellbeing indicators.</p> <p>These Regulations seek to expand the list of persons Scottish Ministers may require information from, in order to discharge their social security functions. The impact on child rights and well-being was previously considered as part of the development of 2018 Act, and our approach is similarly proportionate, in going no further than is necessary in terms of the persons within the scope of section 85 of the Act.</p> <p>The Regulations specify a number of additional persons, for the purposes of section 85(2) of the Social Security (Scotland) Act 2018, who may be required to supply the Scottish Ministers with information for use by Scottish Ministers in carrying out their social security functions. These are functions conferred on Ministers by the Social Security (Scotland) Act 2018, or by regulations made under the Act.</p> <p>The Regulations further specify a number of functions of specified persons, in connection with the fulfilment of which the Scottish Ministers may share with those persons information they hold in connection with their (Ministers’) social security functions. The proposed regulations may indirectly affect children under the age of 16, as the information Scottish Ministers may require will be used to establish whether a child meets the eligibility criteria of a form of assistance under the Act, and to identify and prevent error.</p> <p>The regulations may impact upon young people aged 16 to 18 with existing entitlement to a form of assistance, as young people will generally be expected to manage their own application or entitlement paid by Social Security Scotland.</p> <p>The regulations may indirectly impact families who are acting on behalf of a child or young person in connection with their rights to devolved forms of assistance.</p>

	<p>Based on the evidence gathered, the Scottish Government considers that the regulations and Code of Practice do not infringe upon the rights of the child as set out in the Articles of the UNCRC, nor upon the indicators of wellbeing (SHANARRI).</p>
<p>Background</p>	<p>Social Security Scotland is an Executive Agency of the Scottish Government and will eventually be making payments to 1.4 million citizens in Scotland, with a value in excess of £3 billion per year. The Scottish Government will, in coming years, be responsible for delivering benefits for disabled people, to replace the current disability benefits delivered by the Department for Work and Pensions on behalf of the UK Government. The first such benefit, Child Disability Payment, will replace Disability Living Allowance for Children (DLAC) from summer 2021.</p> <p>The Scottish Government is committed to delivering a system of social security founded on core principles of fairness, dignity and respect. As part of that approach, this new social security system will rely upon the ability of Social Security Scotland to obtain information from others in order to make determinations of entitlement to benefits, and to make the application process for those benefits as simple as possible for individuals.</p> <p>Section 85 of the Social Security (Scotland) Act 2018 facilitates information sharing in connection with social security functions (as defined in subsection (10)). Subsection (5) allows the Scottish Ministers to give information which they hold for the purpose of a social security function to one of the persons listed in subsection (2), provided it is given for a purpose specified in regulations under subsection (5).</p> <p>The persons specified in the Regulations may be required to supply data to the Scottish Ministers: (i) in relation to an individual's application; (ii) to support individuals who apply for social security assistance and wish for the supporting information necessary for their application to be supplied by the person on their behalf, in an open, transparent and client-led way; and (iii) to verify information for the prevention or identification of error.</p> <p>In particular, the newly devolved disability benefits will rely upon information supplied by health, education and social care professionals, in order to obtain a more complete picture about an individual's disability. This will include, with the agreement of the individual, assisting individual applicants to obtain existing information from GP practices, NHS Health Boards, education authorities, local authority social work departments and others.</p> <p>Social Security Scotland will also require the ability to take a proportionate response to minimise the risk of error in accordance with the Scottish Public Finance Manual, by requiring certain persons to provide it with information about individuals who are entitled to or receiving a devolved social security benefit. This is particularly important when an individual may spend periods of time in hospital, which may affect eligibility for devolved disability benefits.</p>

	<p>There will also be a need for Social Security Scotland to share information with other persons in order to allow those persons to fulfil their legal duties, and to process information about individuals in order to determine their eligibility for services, concessions, grants or discounts administered by those persons.</p>
<p>Scope of the CRWIA,</p>	<p>Consideration has been given to the impact of the policy on the rights and wellbeing of children and young people in Scotland. This policy should have a direct, positive impact on disabled children and young people, and an indirect positive impact on their families and carers by:</p> <ul style="list-style-type: none"> • making provision for certain persons to supply the Scottish Ministers with information in connection with their functions under the Social Security (Scotland) Act 2018 and regulations made under it; and • making provision for the use of information held by the Scottish Ministers for specified purposes, for the benefit of the individual. <p>The Scottish Health Survey 2018 provides an accurate estimate of the number of disabled children and young people in Scotland. Within the 12-15 age group, 15% of children have a limiting longstanding illness¹. For young people aged 16-24, 19% of young people have a limiting longstanding illness.</p> <p>In 2019, there were 55,962 children aged 15 in Scotland², and 3,372 children in Scotland aged 15 who were entitled to DLAC³. This represents around 6% of the population.</p> <p>UK wide, disabled people have higher poverty rates than the general population. Disabled people make up 28% of people in poverty. A further 20% of people who are in poverty live in a household with a disabled child. In Scotland 410,000 households in poverty (42%) include a disabled person. Disabled young adults in the UK aged 16-24 years have a particularly high poverty rate of 44%.</p> <p>Scotland-wide, there are higher levels of child material deprivation in households containing a disabled person, at 20% compared to households without a disabled person (at 8%). There are higher rates of food insecurity among disabled people (18%) compared to non-disabled people (5%). There is a higher likelihood of living in relative poverty after housing costs with a disabled person in the household (24% of families with a disabled person compared to 17% of families with no disabled members).</p> <p>Disability and unemployment / under-employment are positively correlated. 14% of 'workless families' (defined as families where</p>

¹ Scottish Health Survey (2018) <https://www.gov.scot/publications/scottish-health-survey-2018-supplementary-tables/>

² NRS Scotland Mid-Year Population Estimates (2019) <https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/population/population-estimates/mid-year-population-estimates/mid-2019>

³ DWP Stat-Xplore (Accessed May 2020)

	<p>parents are predominately out of work or have little connection to the labour market; who live in social rented accommodation and are reliant on benefits for their income) have one or more children with a disability or long-term illness. A further 17% of ‘struggling to get by’ families (unemployed or working part-time, half of which are single-parent families) have one or more children with a disability or long-term illness⁴. Child material deprivation in households containing a disabled person reaches 20% compared to 8% of households without a disabled person.</p> <p>Even where one or more parent in the household is in employment, within families with a disabled child, the same level of income secures a lower standard of living than it would for a disabled person. Research conducted by the Papworth Trust⁵ showed that the annual cost of bringing up a disabled child is three times greater than for a non-disabled child. Disabled people face higher costs than non-disabled people, such as the cost of specialist equipment, therapies and home adaptations to manage a condition⁶. Travel costs too, may be higher as families have to afford the cost of taxis to and from hospital where it is not possible to use public transport (and/or public transport may not be available).</p> <p>The CRWIA should be read in conjunction with the other impact assessments conducted for the policy (namely, the Business and Regulatory Impact Assessment, The Island Communities Impact Assessment and Equality Impact Assessment), and for the Social Security (Scotland) Act 2018⁷ as a whole.</p> <p>The Equality Impact Assessment (EQIA) for these regulations considers the potential impact of the policy on each of the protected characteristics which are also applicable to children and young people (for example race, religion or beliefs). A Business and Regulatory Impact Assessment (BRIA) will analyse the cost and benefits of the policy to businesses and the third sector.</p>
<p>Children and young people’s views and experiences</p>	<p>Direct consultation with children and young people has not been possible due to time constraints and rapid re-planning as a result of the Covid-19 crisis. We have however incorporated research carried out with children and young people in the evidence we provided to support the policy development. Additionally, we have consulted widely with stakeholders who represent and engage with disabled children and we have engaged with families of disabled children. The Information Commissioner(s) Office (ICO) have also been formally consulted about the regulations. The ICO raised no concerns about the effects of the regulations on children and young people or otherwise.</p>

⁴ <https://www.gov.scot/publications/poverty-perspective-typology-poverty-scotland/pages/5/>

⁵ Papworth Trust, Disability in the United Kingdom 2010, in <https://www2.le.ac.uk/departments/law/research/cces/documents/the-energy-penalty-disability-and-fuel-poverty-pdf>

⁶ <https://www.jrf.org.uk/income-and-benefits/>

⁷ <http://www.legislation.gov.uk/asp/2018/9/contents/enacted>

Key Findings, including an assessment of the impact on children's rights, and how the measure will contribute to children's wellbeing

What aspects of the policy/measure will affect children and young people up to the age of 18?

The Articles of the UNCRC and the wellbeing indicators under the Children and Young People (Scotland) Act 2014 apply to all children and young people up to the age of 18 including non-citizen and undocumented children and young people.

As the regulations cover a range of areas, not all provisions relate to each United Nations Convention on the Rights of the Child (UNCRC) article, but cumulatively the Scottish Government has assessed that the Regulations will impact on the following UNCRC articles:

- Article 2 - Non-discrimination
- Article 3 - Best interests of the child
- Article 16 - Right to privacy
- Article 23 - Children with a disability
- Article 26 - Social Security
- Article 27 – Adequate standard of living

The key findings section explains what parts of the Regulations impact on each particular right, and explains whether the effect on the realisation of this right is positive, neutral or negative. The key finding section also details how each provision is considered to measure up against the wellbeing indicators listed in section 96(2) of the Children and Young People (Scotland) Act 2014.

Specification of persons who may be required to supply information

Section 85 of the Social Security (Scotland) Act 2018 facilitates information sharing in connection with social security functions (as defined in subsection (10)). Subsection (1) allows the Scottish Ministers to require the persons listed in subsection (2) to provide them with information for the purpose of a social security function.

The list of persons from whom the Scottish Ministers can require information, and to whom they can give information, in subsection (2) can be extended by regulations under paragraph (g) of that subsection.

The persons specified in regulation 2 may be required to supply data to the Scottish Ministers: (i) in relation to an individual's application; (ii) to support individuals who apply for social security assistance and wish for the supporting information necessary for their application to be supplied by the person on their behalf, in an open, transparent and client-led way; and (iii) to verify information for the prevention or identification of error.

The persons specified in regulation 2 are:

- a) any supplier of vehicles approved by the Scottish Ministers under an accreditation scheme run by Ministers to supply vehicles for the benefit of persons in respect of whom a relevant component of disability assistance is normally

payable, in accordance with regulations made under section 31 of the 2018 Act,

- b) GP practices,
- c) the Public Guardian.

With regard to section 96(2) of the Children and Young People (Scotland) Act 2014, this provision is considered to measure positively against the following wellbeing indicators:

- **nurtured** (having a nurturing place to live, in a family setting with additional help if needed or, where this is not possible, in a suitable care setting),
- **respected** (having the opportunity, along with carers, to be heard and involved in decisions which affect them), and
- **included** (having help to overcome social, educational, physical and economic inequalities and being accepted as part of the community in which they live and learn.)

The provision is considered to measure neutrally against the other wellbeing indicators:

- **safe** (protected from abuse, neglect and harm by others at home, at school and in the community),
- **healthy** (having the highest attainable standards of physical and mental health, access to suitable healthcare, and support in learning to make healthy and safe choices),
- **achieving** (being supported and guided in their learning and in the development of their skills, confidence and self-esteem at home, at school and in the community),
- **active** (having opportunities to take part in activities such as play, recreation and sport which contribute to healthy growth and development, both at home and in the community), and
- **responsible** (having opportunities and encouragement to play active and responsible roles in their schools and communities and, where necessary, having appropriate guidance and supervision and being involved in decisions that affect them).

Use of information supplied by the Scottish Ministers

Section 85 of the Social Security (Scotland) Act 2018 facilitates information sharing in connection with social security functions (as defined in subsection (10)). Subsection (5) allows the Scottish Ministers to give information which they hold for the purpose of a social security function to one of the persons listed in subsection (2), provided it is given for a purpose specified in regulations made under subsection (5).

Regulation 4 makes provisions for the use of information supplied by Scottish Ministers in connection with:

- **The supply of vehicles for the benefit of a disabled child who qualifies for the higher rate of the mobility component of Child Disability Payment under the Scottish Government's accessible vehicles and equipment scheme:** this will ensure that Social Security Scotland can make timely payments to an approved provider, and share information about

an eligible child's entitlement to Child Disability Payment with that provider to ensure the effective functioning of the scheme.

This provision is considered to have a positive impact on the realisation of Article 26 of the UNCRC (social security) by ensuring that accessible vehicles should, where appropriate, be provided,

- **The assessment of liability to pay local taxes used to fund local authority expenditure, such as council tax:** this will ensure that where a disabled child is resident in a household, information about their entitlement to a devolved form of assistance may be shared with a local authority to help that local authority make a decision about an application for a discount, reduction or rebate in respect of liability to pay a local tax.

This provision is considered to have a positive impact on the realisation of Article 26 of the UNCRC (social security) by ensuring that reduction etc in tax liability should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for assistance made by or on behalf of the child.

This provision is also considered to have a positive impact on the realisation of Article 27 (the right of the child to an adequate standard of living) and Article 2 (freedom from discrimination in relation to the enjoyment of the rights under the UNCRC), by ensuring that households with a disabled child have timely access to appropriate financial support.

- **The administration of housing benefit and discretionary housing payments, which may include specific disregards or additional amounts in respect of a disabled child who qualifies for a form of devolved assistance:** this will ensure that where a disabled child is resident in a household, information about their entitlement to a devolved form of assistance may be shared with a local authority to help that local authority make a decision about an application for housing benefit. Or about making a discretionary housing payment, and if so, the level of the payment.

This provision is considered to have a positive impact on the realisation of Article 26 of the UNCRC (the right of children to social security) by ensuring that benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

This provision is also considered to have a positive impact on the realisation of Article 27 (the right of the child to an adequate standard of living) and Article 2 (freedom from discrimination in relation to the enjoyment of the rights under the UNCRC), by ensuring that households with a disabled child have timely access to appropriate financial support.

- **The making of decisions on the provision of financial assistance from the Scottish Welfare Fund:** this will ensure that where an application is made for a grant from the Scottish Welfare Fund on account of having a child with a disability who is receiving a devolved benefit, the relevant local authority can make a full and accurate consideration about the level of income of that child's family and what level of funding to grant.

This provision is also considered to have a positive impact on the realisation of Article 27 (the right of the child to an adequate standard of living) and Article 2 (freedom from discrimination in relation to the enjoyment of the rights under the UNCRC), by ensuring that households with a disabled child have timely access to appropriate financial support.

- **The issue of a disabled person's parking badge (blue badge) for disabled children who are receiving a qualifying form of devolved assistance:** this will ensure that where an application is made for a blue badge, on account of having a child, who is receiving a qualifying form of devolved assistance, the relevant local authority can make an accurate decision as to entitlement to the blue badge scheme.

This provision is considered to have a positive impact on the realisation of Article 26 of the UNCRC (the right of the child to social security) by facilitating the gathering of information needed to enable the issue of a blue badge, in appropriate circumstances.

- **The administration of the national concessionary travel scheme and local travel concession schemes run by a local authority:** this will ensure that where an application is made for concessions, on behalf of a child, who is receiving a qualifying form of devolved assistance, the relevant authority can make an accurate decision as to entitlement to that concession.

With the regard to the right to protection against unlawful interference with privacy, arising from Article 16 of the UNCRC, safeguards are provided by regulations 3 and 5. Regulation 3(3) makes clear that information may only be shared with a local authority, Health Board or GP practice with the authorisation of the person to whom it relates. For Child Disability Payment applications, that person is likely to be the parent or appointee acting on behalf of the child in relation to the application for assistance. The need for authorisation reflects the substantive and

	<p>potentially sensitive nature of the information which may be shared, in order to receive information in return. For example, the views of a health or educational professional may be sought on a description given on an application form of the effect of a child's condition on their day-to-day life. Regulation 3(2) provides that no more information may be shared than is required to enable the person receiving it to supply the information which is required from them. The principle of sharing the minimum possible amount of information is reflected, too, in regulation 5. This will cover not only the situation where information is required <i>from</i> a person, but also where it is supplied to them to enable them to fulfil a particular function. This may include, for example, working out how receipt of Child Disability Payment affects the liability of a household to pay council tax.</p> <p>With regard to section 96(2) of the Children and Young People (Scotland) Act 2014, this provision is considered to measure positively against the following wellbeing indicators:</p> <ul style="list-style-type: none"> • nurtured (having a nurturing place to live, in a family setting with additional help if needed or, where this is not possible, in a suitable care setting), • respected (having the opportunity, along with carers, to be heard and involved in decisions which affect them), and • included (having help to overcome social, educational, physical and economic inequalities and being accepted as part of the community in which they live and learn.) • safe (protected from abuse, neglect and harm by others at home, at school and in the community), • healthy (having the highest attainable standards of physical and mental health, access to suitable healthcare, and support in learning to make healthy and safe choices), <p>The provision is considered to measure neutrally against the other wellbeing indicators:</p> <ul style="list-style-type: none"> • achieving (being supported and guided in their learning and in the development of their skills, confidence and self-esteem at home, at school and in the community), • active (having opportunities to take part in activities such as play, recreation and sport which contribute to healthy growth and development, both at home and in the community), and • responsible (having opportunities and encouragement to play active and responsible roles in their schools and communities and, where necessary, having appropriate guidance and supervision and being involved in decisions that affect them).
<p>Monitoring and review</p>	<p>The Act places a duty on Scottish Ministers to report annually to the Scottish Parliament on the performance of the Scottish social security system during the previous financial year.</p> <p>Scotland's Commissioner for Children and Young People also has a role to play. The Commissioner has a duty to review law, policy and practice to examine their effectiveness in respecting the rights</p>

	<p>of children and young people. The Commissioner can investigate on behalf of groups of children and young people.</p> <p>On-going stakeholder engagement with key organisations – such as the Child Poverty Action Group, Rights Advice Scotland, Young Scot, DACBEAG, and our Ill Health and Disability Benefit Stakeholder Reference Group – will provide the Scottish Government with an opportunity to monitor the impact of the changes made by these regulations.</p>
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Regulation/Clause	Aims of measure	Likely to impact on . . .	Compliance with UNCRC requirements	Contribution to local duties to safeguard, support and promote child wellbeing
Regulation 2: Specification of persons who may be required to supply information	The aims of the measure are detailed in the 'key findings section' above and summarised in the 'conclusions and recommendations' section of the assessment.	Children and young people in Scotland who apply for or are entitled to Child Disability Payment (CDP) paid by Social Security Scotland, their parents/guardians, or appointees.	The section's compliance with the UNCRC is detailed in the 'key findings section' above and summarised in the 'conclusions and recommendations' section of the assessment.	The section's contribution to children's wellbeing measured against the wellbeing indicators is detailed in the 'key findings section' above and summarised in the 'conclusions and recommendations' section of the assessment.
Regulation 4: Use of information supplied by the Scottish Ministers	The aims of the measure are detailed in the 'key findings section' above and summarised in the 'conclusions and recommendations' section of the assessment.	Children and young people in Scotland who apply for or are entitled to Child Disability Payment (CDP) paid by Social Security Scotland, their parents/guardians, or appointees.	The section's compliance with the UNCRC is detailed in the 'key findings section' above and summarised in the 'conclusions and recommendations' section of the assessment.	The section's contribution to children's wellbeing measured against the wellbeing indicators is detailed in the 'key findings section' above and summarised in the 'conclusions and recommendations' section of the assessment.

CRWIA Declaration

Authorisation

Policy lead Letitia Stevenson, Social Security Programme	Date 27 January 2021
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Deputy Director or equivalent Alison Byrne, Social Security Programme	Date 28 January 2021
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