

Title of Proposal: The Health Protection (Coronavirus) (Requirements) (Scotland) Regulations 2021

These provisions include the requirements for **face coverings** in Scotland as well as the exemptions and reasonable excuses for not wearing a face covering.

Legislative Background:

Amendments to the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 came into effect on 22 June and 10 July 2020 that made it mandatory for face coverings to be worn on public transport and in retail settings (respectively), with additional regulations from 9 October 2020 that made it mandatory for face coverings to be worn in storage and distribution facilities, and for face coverings to be worn in communal staff areas in both retail and storage and distribution facilities. Further amendments came into force on 2 November 2020 which made the use of face coverings mandatory in a large range of indoor public places, including indoor communal workplaces. The Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) (Scotland) Amendment (No.21) Regulations 2021 implemented the system of levels of protection which are set out in the "[Coronavirus \(COVID-19\): Scotland's Strategic Framework update](#)", published on 22 February 2021 within which the face covering requirements remained unaltered.

Policy Objectives:

We have made great progress in tackling the pandemic through our success in the vaccination rollout to date and as a result, we have seen relatively fewer hospital admissions, Intensive Care Unit (ICU) admissions and deaths. However, the virus is still out there. The spread of the Delta variant in Scotland is both a real threat and a reminder that variants of concern may continue to emerge going forward, while there are still high levels of transmission in the community. As the direct health harms caused by the virus have reduced (Harm 1), we can now begin to reduce the wider harms (Harms 2, 3 and 4) and as such the First Minister announced in the updated [Strategic Framework](#) on the 22 June 2021 that the Scottish Government's strategic intent is now to '*work to suppress the virus to a level consistent with alleviating its harms while we recover and rebuild for a better future.*' This has involved the gradual easing of restrictions with evidence based decision making.

Therefore, the policy objective is to reduce the threat to public health, which can now be done whilst also reducing the impact on wider society. The continued use of face coverings will continue to play a role in reducing transmission of the virus.

The legal responsibility to wear a face covering in the regulations is placed on the individual. The latest Scottish Government guidance on face coverings is available at: [Coronavirus \(COVID-19\): face coverings guidance - gov.scot \(www.gov.scot\)](#).

Public health rationale for Government intervention:

We know that no vaccine is 100% effective at preventing infection, disease and transmission. However, the latest analysis by Public Health England (PHE) indicates that vaccine effectiveness against hospitalisation after 2 doses of COVID-19 vaccine is high, with a 93% protective effect against the Alpha variant and 96% for the Delta variant.¹ From 26 June 2021 to 23 July 2021, 57.0% of COVID-19 positive polymerase chain reaction (PCR) cases were in unvaccinated individuals.² To maintain the progress we have made in returning to more normality, it will be important for individuals, businesses and other organisations to continue to follow a set of precautionary measures to stop the virus resurging and to protect those who do not have protection from vaccination.

Face coverings are a proven and simple way of reducing both transmission of, and infection by, coronavirus especially in crowded and less well ventilated spaces, and where physical distancing is not possible. Face coverings primarily protect other people from a person who is infected with Covid-19 as well as other respiratory diseases. They also provide some protection to the wearer. The retention of face coverings is therefore necessary to continue to reduce transmission while other non-pharmaceutical interventions (NPIs) are reduced in order to manage the wider harms of the virus.

¹ [COVID-19 vaccine surveillance report - week 30 \(publishing.service.gov.uk\)](#)

² [Public Health Scotland COVID-19 Statistical Report](#)

On 14 June 2021 the World Health Organisation (WHO) published updated guidance on the use of face coverings and advised that a risk-based approach should be taken with the continued use of face coverings in spaces and settings where transmission is known to be high, especially as physical distancing restrictions and other mitigations are removed.³

In line with the scientific evidence and the guidance from WHO, the Scottish Government deems it necessary and proportionate to maintain the mandatory use of face coverings in indoor settings in order to protect public health. The EQIA also covers the decision to increase the age of exemptions from 5 year olds to 12 year olds.

Background	Age: Children and Younger People	<p>The regulations and guidance set out that children who are under 12 years of age are exempt from the mandatory requirement to wear a face covering.⁴⁵ This has changed since the previous regulations where the exemption was for under 5s. This is in line with the World Health Organisation (WHO) guidance on the use of face coverings for children in the community, which advises decision-makers to apply a risk-based approach to determine if children between 6 and 11 years of age should be required to wear a face covering.⁶</p> <p>Evidence from the Scientific Advisory Group for Emergencies (SAGE) continues to demonstrate that secondary aged school children are more susceptible to the virus, as well as more likely to transmit it, than those of a younger age (11 and younger).⁷</p> <p>Exemptions for wearing a face covering for children has been raised from under 5 years of age to under 12 years of age. That means, children 11 and younger are no longer required to wear face coverings in indoor public spaces and on public transport. As for adults, exemptions apply for those children who are 12 years of age and older, where they are unable to put on, wear or remove a face covering because of any physical or mental illness or impairment or disability (within the meaning of section 6 of the Equality Act 2010(1)), or they cannot wear one without severe distress (for example, any children with breathing difficulties, disabled children or any children where the wearing of a face will cause distress or anxiety). The regulations also provides an exemption for school transport services. The requirement to wear face coverings in schools is not set in the regulations, however, this mitigation measure is covered in the relevant sector guidance.⁸</p>
	Differential impacts	<p>No evidence of a differential impact identified at this time.</p> <p>On 7 July 2021, the Scottish Government published the paper “Covid-19 Mitigation Measures Among Children and Young People – Summary of the Evidence Base”.⁹ This report presents the latest data (up to May 2021) on children’s and young people’s understanding of, and views on, COVID-19 mitigation measures, including face coverings restrictions. It also shows</p>

³ [Considerations for implementing and adjusting public health and social measures in the context of COVID-19: interim guidance, 14 June 2021 \(who.int\)](#)

⁴ [Coronavirus \(COVID-19\): face coverings guidance - gov.scot \(www.gov.scot\)](#)

⁵ [The Health Protection \(Coronavirus\) \(Restrictions and Requirements\) \(Local Levels\) \(Scotland\) Regulations 2020 \(legislation.gov.uk\)](#)

⁶ [Advice on the use of masks for children in the community in the context of COVID-19 \(who.int\)](#)

⁷ Weekly Scottish data on testing and positive COVID-19 cases among children and young people of educational age is available in the [COVID-19 Education Surveillance Report](#), published by Public Health Scotland

⁸ [Coronavirus \(COVID-19\): guidance on reducing the risks in schools - gov.scot \(www.gov.scot\)](#)

⁹ Scottish Government. Coronavirus (COVID-19) mitigation measures among children and young people: evidence base summary. 7 July 2021 <https://www.gov.scot/publications/covid-19-mitigation-measures-children-young-people-scotland-summary-evidence-base/pages/2/>

results on the impact of these measures on their wellbeing and mental health. The findings mostly focus on young people, as children are often exempt from many measures.¹⁰¹¹

In terms of impacts on young people's mental health and wellbeing, the report shows that 18% of participants feel anxious because of face coverings, with girls being more likely to feel this way than boys. Those with a physical or mental health condition and living in the most deprived areas of Scotland are also more likely to feel more anxious when wearing a face covering compared to those who do not have any health condition or that lived in less deprived areas.¹² Girls and respondents with a health condition were also more likely to agree that other people made them feel uncomfortable for wearing a face covering, compared to boys (14% compared with 8%) and those with no health condition (17% compared with 8%).¹³

Close to half of young people (44%) agreed that it is harder to connect with others while wearing face coverings, with girls being more likely than boys to agree with this statement. With regard to schools, 41% of pupils agreed that it is harder to understand teachers and 32% agreed that it is harder to follow lessons, with girls, non-white pupils, students living in urban areas and those with health conditions being more likely to agree with those statements than boys, white pupils, students in rural areas and those with no health conditions.¹⁴

The report also shows that most children and young people are happy with wearing face coverings where they were required, including in schools, as these protect them and others. However, some children and young people (11%) said that they find face coverings uncomfortable, as these make breathing difficult, with girls and those with a health condition being more prone to feel this way.¹⁵

A Disability Equality Scotland online poll (August 2020) asked respondents if they had any concerns about the use of face coverings in schools and on school transport. 343 individuals responded, of which 87% had no concerns. Concerns were reported around: stigma for those exempt; the impact of face coverings on pupils with hearing impairments and others who rely on lip reading and facial expressions for communications; affordability and availability of face coverings; and, the lack of use or enforcement of face coverings on school transport, particularly when school transport is shared with the general public, which increases transmission risks.¹⁶

¹⁰ The report is the final version of a the Scottish Government's Working Paper: Covid-19 Mitigation Measures Among Children and Young People. <https://www.gov.scot/publications/working-paper-covid-19-mitigation-measures-children-young-people/>

¹¹ Both the working paper (January 2021) and final paper (July 2021) were undertaken in response to the WHO advice that countries should monitor the impact of face coverings on young people, looking at their physical and mental health and transmission of COVID-19. The paper will be kept under regular review as new data emerges.

¹² [Coronavirus \(COVID-19\) mitigation measures among children and young people: evidence base summary - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/coronavirus-covid-19-mitigation-measures-among-children-and-young-people-evidence-base-summary-gov.scot/)

¹³ [Coronavirus \(COVID-19\) mitigation measures among children and young people: evidence base summary - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/coronavirus-covid-19-mitigation-measures-among-children-and-young-people-evidence-base-summary-gov.scot/)

¹⁴ [Coronavirus \(COVID-19\) mitigation measures among children and young people: evidence base summary - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/coronavirus-covid-19-mitigation-measures-among-children-and-young-people-evidence-base-summary-gov.scot/)

¹⁵ [Coronavirus \(COVID-19\) mitigation measures among children and young people: evidence base summary - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/coronavirus-covid-19-mitigation-measures-among-children-and-young-people-evidence-base-summary-gov.scot/)

¹⁶ [Weekly Poll – COVID-19: Face Coverings in Schools \(Week Beginning 31 August\) | Have Your Say... \(yoursayondisability.scot\)](https://www.yoursayondisability.scot/polls/weekly-poll-covid-19-face-coverings-in-schools-week-beginning-31-august-i-have-your-say...)

Background	<p>Age: Older People</p>	<p>Older people have been disproportionately impacted by the health impacts of the virus (Harm 1). Up to 16 May 2021, there were over 13% excess deaths in people aged 85 or older, with excess deaths in people aged 75-84 also around 13%. Most of these excess deaths occurred at the beginning of the pandemic in April 2020.¹⁷ Data from up to March 2021 shows that the death rate involving COVID-19 for people older than 70 was more than six times the death rate for those aged 40-65.¹⁸</p> <p>There have been significant wider impacts on older people. In March 2020, older people were disproportionately asked to ‘shield’ themselves from the virus due to the risk of serious health outcomes from COVID-19.¹⁹ A survey of the experience of those shielding found that 87% reported a negative impact to their quality of life.²⁰</p>
Differential impacts		<p>Some evidence of possible positive differential impact.</p> <p>Older people are at a higher risk of developing more severe symptoms when infected with the virus and have higher morbidity rates. Face coverings primarily provide protection to those around the wearer, should the wearer have the virus, and also provide limited protection to the wearer from those around them. The mandatory use of face coverings will therefore positively impact older people.</p> <p>We have previously consulted with Age Scotland on face coverings, the exemptions policy, the creation and service design of the face covering exemption card service, and the design of the physical and digital face covering exemption card. The input was critical and in part informed the decision to create a physical card and a free helpline due to high rates of digital exclusion and disposable income among older people.</p> <p>The card and service is distinct in the UK in that it is the only physical card that is delivered by a service provider and not simply downloaded from a website. This service remains in place and we continue to review in line with face covering requirements and any other emerging evidence.</p> <p>Older people with advancing dementia or Alzheimer’s may have additional challenges adhering to face covering requirements. We engaged with carers policy colleagues to develop face coverings exemptions and provided an exemption in circumstances where wearing a face covering would cause distress or anxiety, this includes those with Dementia or Alzheimer’s. For some people with Alzheimer’s or Dementia it can be distressing to see their carer wearing a face covering as they are unable to recognise them. Therefore a person is exempt from wearing a face covering if it causes severe distress to either the wearer or the person in the care of the wearer. The exemptions will remain in place.</p> <p>Throughout 2018, Age Scotland undertook a major process of consultation with Scotland’s older people on their transport needs where face coverings are required. Working in partnership with Transport Scotland, they led 21 workshops for older people around Scotland where they could share their thoughts on transport. They also collected older people’s views on transport</p>

¹⁷ National Records of Scotland (19 May 2021). [Deaths involving coronavirus \(COVID-19\) in Scotland Report](#)

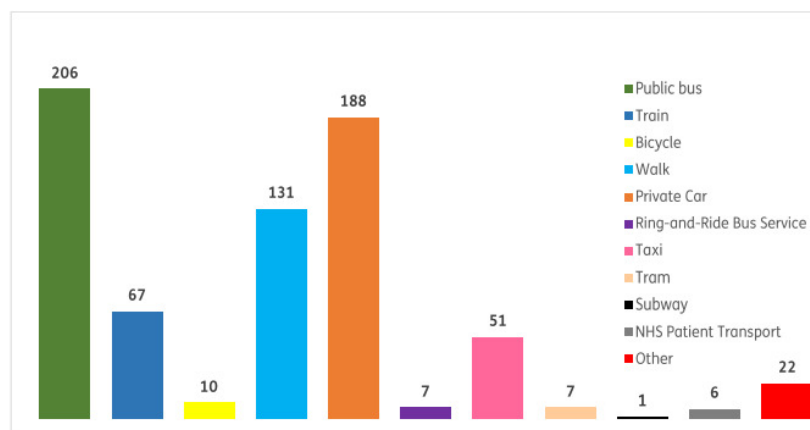
¹⁸ National Records of Scotland (April 2021). [Deaths involving coronavirus \(COVID-19\) in Scotland – Week 14](#)

¹⁹ Public Health Scotland (26 May 2021). [COVID-19 Statistical Report](#)

²⁰ Public Health Scotland (September 2020). [COVID-19 Shielding Programme \(Scotland\) Impact and Experience Survey](#)

in a questionnaire. They found that by far the most commonly used modes of transport by respondents were, public buses, private cars and walking. Responses given under 'other' included community transport and mobility scooter.²¹

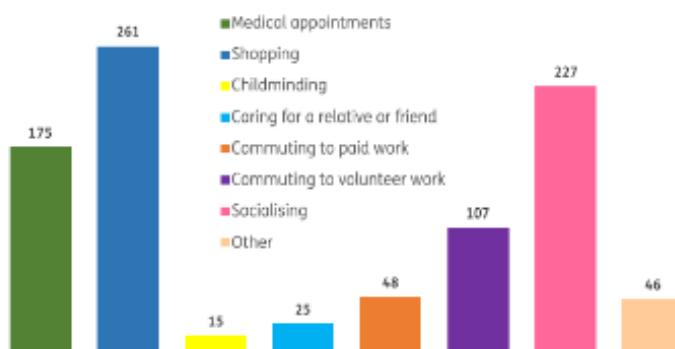
Question 1: What modes of transport do you frequently use?



Therefore as public transport is a primary mode of transport for older people, the regulatory requirement to maintain face coverings in this setting will positively impact people with this protected characteristic.

The same Age Scotland research also found that the most popular reason given by respondents for travelling was for shopping, closely followed by socialising. The requirement for face coverings to be worn in indoor places will therefore positively impact older people, as these are the spaces they visit most frequently.

Question 3: What is the reason for your journeys?



Background
Sex: Women

Women make up the majority of the of 85+ age group, and therefore they are more likely to live with a long-term condition (37% vs 32% of men, 2019).²² In 2019, women were less likely to be employed (72% of women employed v. 78% of men)²³, and earned on average 14.3% less than men.²⁴ The

²¹ [Final Report National Transport Strategy Review \(ageuk.org.uk\)](https://ageuk.org.uk)

²² Scottish Government (2019). Scottish Health Survey 2019

²³ Scottish Government (2019). Annual Population Survey 2019

²⁴ Scottish Government (2019). Annual Survey of Hours and Earnings 2019

Scottish Household Survey of 2018 also shows that women reported higher levels of loneliness (24%) than men (19%).**Error! Bookmark not defined.**

Throughout the pandemic, women have tested positive in larger proportion than men (figure 1 below).

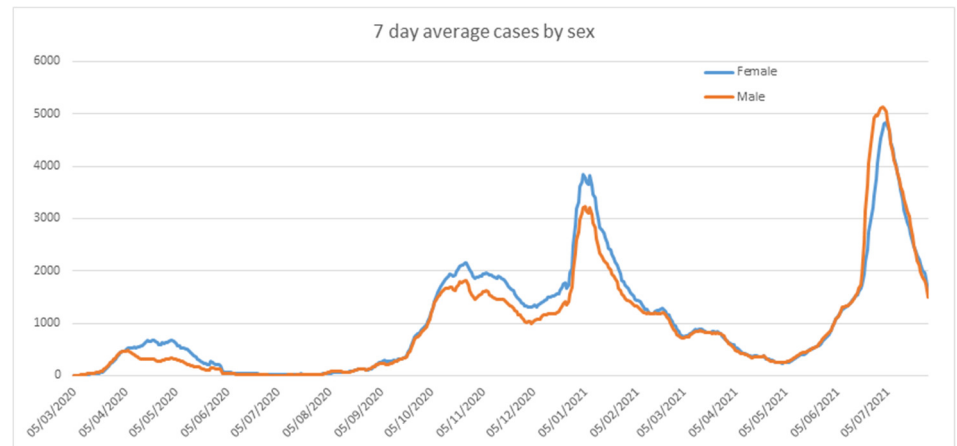


Figure 1. Source: Public Health Scotland (PHS)

Despite testing positive more often than men, women have not disproportionately suffered serious health outcomes from COVID-19: data from up to September 2020 showed that, after adjusting for age, males were 1.4 times more likely to die than females.²⁵ However, there is emerging evidence that women may be more affected by “long COVID” symptoms.²⁶

The direct harm of COVID-19 also extends to mental health. Scottish research into mental health impacts during the first wave of the pandemic shows that women reported higher levels of psychological distress than men across all ages, as well as depression and anxiety symptoms.²⁷

The pandemic has increased socioeconomic inequalities for women: they are the majority of those employed in many sectors which closed, such as retail, accommodation and food and beverage service activities.²⁴ Also, it is estimated that the number of unpaid carers has increased in the UK by 50% as a result of the pandemic.²⁸ Given that women are more likely to be an unpaid carer (16% of women vs 11% of men) and 27% of women who provide unpaid care reported in the period 2016-2019 that their caring duties have impacted on their employment, women’s career opportunities are likely to have been disproportionately affected.²⁹

Domestic abuse has increased during the pandemic. Abuse was already highly gendered: in the period 2018/20 16.5% of adults had experienced at least one incident of partner abuse since the age of 16; higher in women (21.2%) than men (11.2%).³⁰ Out of the 60,641 incidents police recorded in 2018-19, four of every five incidents where gender had been recorded had a female victim and a male accused.³¹ During the pandemic this has worsened:

²⁵ National Records of Scotland (6 October 2020). [The Registrar General's Annual Review of Demographic Trends](#)

²⁶ Torjesen, I. (2021). [Covid-19: Middle aged women face greater risk of debilitating long term symptoms](#). BMJ 2021;372:n829

²⁷ [Coronavirus Scotland - The divergence of mental health experiences \(Final\) 0.pdf](#)

²⁸ Carers UK (May 2020). [Carers Week 2020 Research Report: The rise in the number of unpaid carers during the coronavirus \(COVID-19\) outbreak](#)

²⁹ Scottish Government (24 April 2018). [Health and Care Experience Survey, 2017-18](#)

³⁰ Scottish Government (16 March 2021). [Scottish Crime and Justice Survey 2019/20: main findings](#)

³¹ Scottish Government (25 February 2021). [Domestic abuse: statistics 2018-2019](#)

		<p>Scotland's Domestic Abuse and Forced Marriage helpline received 95% more calls in the period April-June 2020 compared to the same period the previous year, and a 27% increase for the 2020-2021 year overall compared to the previous.</p>
<p>Differential impacts</p>		<p>Some evidence of possible positive differential impact on women.</p> <p>Face covering requirements provide some protection to women who are disproportionately represented in certain sectors and in their use of public transport. It is unlikely that these measures will have a specific differential impact for men.</p> <p>A study that uses the UK Household Longitudinal Study, a nationally representative panel, found that women in the UK are more likely to be vaccine hesitant: 21% of surveyed females indicated vaccine hesitancy compared to 14.7% of male participants, with women estimated to be around 1.55 times more likely to be vaccine hesitant than men.³² The study also highlights that women were more likely than men to state that their main reason for vaccine hesitancy was concern about side effects and that they do not trust vaccines. Therefore any intervention which aims to reduce transmission will positively impact women.</p> <p>We know that there is a higher ratio of women to men in older age groups, reflecting women's longer life expectancy and because older people are at higher risk of developing more severe symptoms when infected, the use of face coverings is likely to benefit to women.</p> <p>There is emerging evidence that women may be more affected by "long COVID" symptoms³³ and stakeholders (Close the Gap) have indicated that women are four times more likely to have long-COVID, with women aged 50-60 at greatest risk of developing long-term.³⁴</p> <p>Women are more likely to be employed in low-paid work and use of public transport directly correlates to household income. People from lower income households are more likely to walk or take the bus to work than those from higher income households. Driving is more common for people in higher income households.³⁵</p> <p>Women in general are less likely to drive and own cars than men,³⁶ and women are three times less likely to cycle than men (16% of men compared with 5% of women), in part due to concerns about safety and the need to travel with children and/or make multi-purpose journeys.³⁷</p>

³² [2021-03-vaccine-hesitancy-young-people-women.pdf](#)

³³ [Why are women more prone to long Covid? | Long Covid | The Guardian](#)

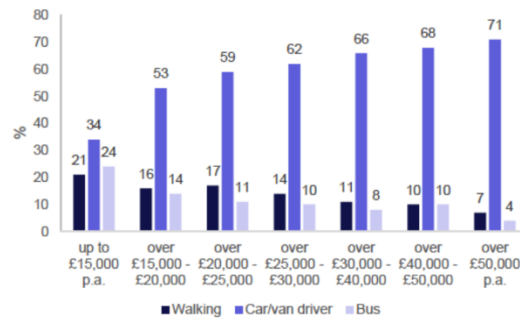
³⁴ [Close the Gap | Blog | COVID-19 has put health and safety at the heart of fair work, but women's needs remain under-researched, under-reported and under-compensated](#)

³⁵ [Personal Travel \(transport.gov.scot\)](#)

³⁶ Transport Scotland (2019) *Scottish Transport Statistics: 2018 edition*

³⁷ Engender (2019) Response to the Scottish Government's consultation on the National Transport Strategy

Figure 7: Percentage of people taking the three most common methods of travel to work by household income, 2019



Women are therefore more likely to travel on public transport and as such the mandatory requirement for face coverings will impact on people with this protected characteristic.

This will also address concerns from stakeholders, such as [Close The Gap](#) about adequate provision of protective measures on public transport so that women, and their ability to travel safely to and from work, are not adversely affected.

Women make up 56% of the hospitality workforce; 66% of sales assistants and retail cashiers and 76% of waiting staff.³⁸ Therefore the mandatory requirement for staff to wear face coverings in these indoor places will disproportionately impact women.

The mandatory requirement for staff to wear face coverings in close contact services will also disproportionately impact women, as women represent the majority of this sector.

There are now 1.1 million unpaid carers in Scotland, 61% of whom are women. This is an increase of 392,000 since the start of the crisis with 78% of carers having to provide more care than they were prior to the coronavirus outbreak.³⁹ Women therefore are more likely to be caring for those who find wearing face coverings uncomfortable, distressing or anxiety inducing, such as people with Dementia or Autism.

The direct harm of COVID-19 also extends to mental health. Scottish research into mental health impacts during the first wave of the pandemic reported more suicidal thoughts than men in the 18 – 29 age bracket.⁴⁰ This is consistent with UK-wide research on the mental health gender gap which, looking at data from the first wave, found that having a larger social network before the pandemic was strongly associated with larger well-being declines after the pandemic's onset.

³⁸ HSE RIDDOR disease reporting – 'Worker COVID-19 disease reports made by employers to HSE and local authorities'

³⁹ [unpaid work booklet \(engender.org.uk\)](#)

⁴⁰ [Scottish COVID-19 Mental Health Tracker Study: Wave 3 Report - gov.scot \(www.gov.scot\)](#)

Differential		It is unlikely that these measures will have a specific differential impact for men. Although morbidity rates in men are higher in men and so any measure which reduces transmission will have a positive impact on men.
Background	Race	<p>Minority ethnic people in Scotland face significant societal and health inequalities. In terms of health, mortality rates are lower than the general population, partly due to the fact that minority ethnic groups are younger. However, prevalence of some health conditions are higher for some ethnic groups, such as Type 2 diabetes and coronary heart/cardiovascular disease among people of South Asian and African descent. In 2011, despite having a much younger age profile, 37% of Gypsy/Travellers reported having long-term health conditions compared to 30% of the population as a whole.⁴¹</p> <p>Inequalities are also socioeconomic. In terms of the job market, a higher proportion of minority ethnic people work in the hospitality industry (31.7% vs 18.6% of the white population, 2019 data). According to the last census, Asian men and women were particularly likely to be working in wholesale and retail and accommodation and food services, and African women were by far the most likely to be working in either caring, leisure and other service occupations or sales and customer service occupations, where homeworking may be much less feasible.⁴²</p> <p>The pandemic has exacerbated existing health and wider inequalities. In terms of Harm 1, Scottish research has shown that South Asian groups were three times more likely to have died or been hospitalised from COVID-19 than the white population.⁴³ In terms of Harms 3 and 4, estimates show that low earners were 7 times more likely than high earners to have worked in a sector that has shut down as a result of the lockdown, and those with customer facing roles are likely to have seen reductions in earnings or face job losses as they are less able to work from home.⁴⁴</p> <p>The Public Health Scotland report of 3 March 2021 (which included data up to 15 February) showed that there is continued evidence of increased risks of hospitalisation or death due to COVID-19 in some ethnic groups, which have persisted during the second wave. It also noted that, while rates of hospitalisation or death were higher during the second wave across the population, those of South Asian ethnicity appear to have been at a proportionally greater risk. Compared to White Scottish, rates were estimated to be around 3 times higher in Pakistani and Mixed groups, and around 2 times higher in Indian and Other Asian Groups.</p> <p>In response to the disproportionate impacts, the Scottish Government set up an Expert Reference Group on Covid-19 & Ethnicity (ERG). The ERG recommendations are going to feature heavily in our soon to be launched Immediate Priorities Plan for race equality. There is no specific actions on face coverings however there is a strand relating to the importance of public health messaging which includes communicating changes to face coverings. This will be supported by face covering guidance including sector specific.</p>

⁴¹ Scottish Government (October 2020). [Impact of COVID-19 on Equality Groups – Ethnicity Analysis](#)

⁴² Scottish Government (24 June 2020). [Inequalities by ethnicity in the context of Covid-19 slide-pack](#)

⁴³ Public Health Scotland (2 March 2021). [COVID-19 Statistical Report](#).

⁴⁴ Institute for Fiscal Studies (April 2020). [Sector shutdowns during the coronavirus crisis: which workers are most exposed?](#)

Differential impacts		<p>Some evidence of possible positive differential impact.</p> <p>Face covering requirements provide some protection to ethnic minorities who are disproportionately represented in certain sectors and in their use of public transport.</p> <p>Scottish research has shown that South Asian groups were three times more likely to have died or been hospitalised from COVID-19 than the white population.⁴⁵ Retaining the mandatory requirement to wear face coverings, including on public transport, would positively impact this group, who are more at risk of poor outcomes if they contract COVID-19.</p> <p>There may be some benefits for these groups as a high adherence to the continued use of face coverings will help reduce the transmission of COVID-19 and, in particular, will protect those at a higher risk of severe health outcomes. Minority ethnic people are more likely to work in retail and hospitality as set out above, therefore, face covering requirements will provide some protection in these settings.</p>
Background	Religion & Faith	<p>The Covid-19 Health Protection restrictions have caused considerable challenges to faith and belief communities. Most notably, limitations on attendance in places of worship (including periods of full closure) have impacted on people's ability to practice certain aspects of their faith, such as to congregate for worship in line with their Article 9 rights under the European Convention on Human Rights (freedom of religion).</p>
Differential impacts		<p>It is unlikely that these measures will have a specific differential impact.</p> <p>It is unlikely that any one religion or faith group will be differentially impacted as face covering requirements apply to all individuals and places of worship equally. The Regulations apply across every place of worship equally. The regulations provide specific exemptions for the person leading the act of worship and exemptions for funerals, marriage ceremonies or civil partnership registrations.</p> <p>Faith leaders and those responsible for places of worship must take measures to adapt faith-specific rites and rituals in accordance with the Regulations to ensure the safety of those present.</p>
Background	Disability	<p>According to the 2019 Scottish Health Survey, 32% of men and 37% of women in Scotland reported living with a limiting long-term condition. For people aged 75 and over, 58% had a limiting long-term condition.⁴⁶ 1 in 5 Scots identify as disabled and more than a quarter of working age people have an acquired impairment.⁴⁷</p> <p>COVID has a disproportionate impact on the health of disabled people: 93% of people who died from COVID-19 up until June 2021 had at least one pre-existing condition.⁴⁸ Some evidence (although not peer-reviewed) also suggests that people with learning disabilities may be twice as likely to</p>

⁴⁵ Public Health Scotland (2 March 2021). [COVID-19 Statistical Report](#).

⁴⁶ Scottish Government (September 2020). [Scottish health survey 2019: volume one - main report](#)

⁴⁷ Scottish Government (December 2018). [A Fairer Scotland for Disabled People: employment action plan](#)

⁴⁸ [Deaths involving COVID-19 Week 27: 5 - 11 July 2021 | National Records of Scotland \(nrscotland.gov.uk\)](#)

	<p>become infected with COVID-19 and three times more likely to die than the general population.⁴⁹</p> <p>Disruption of routine health and social care has had a disproportionately negative impact on disabled people, who are more likely to require such services. Inclusion Scotland undertook an online survey of 800 disabled people and their carers. While not a representative sample, half of respondents surveyed said that the pandemic had had an impact on their social care, formal and informal, and 30% reported that their social care support had reduced or stopped completely.⁵⁰</p>
Differential impacts	<p>Some evidence of possible positive and negative differential impacts.</p> <p>Face covering requirements have been in place to reduce transmission of Covid-19 and protect some of the most at risk groups, including disabled people. Disabled people may be more likely to be immunocompromised, or otherwise suffer more intense/fatal symptoms from Covid, so the retaining of face covering requirements in high risk settings and maintaining exemptions in regulations, may further protect them, especially as other measures reduce or cease.</p> <p>We have consulted with a range of disabled peoples' organisations including Disability Equality Scotland and Glasgow Disability Alliance as well as Inclusion Scotland on face coverings policy throughout the course of the pandemic. This input has been critical in informing policy and service design, including the Face Covering Exemption Card Service.</p> <p>Most recently, we have sought feedback from a wide range of stakeholders to inform policy considerations and options for beyond level 0. Stakeholders have expressed support for keeping regulations in place especially in certain settings, such as public transport.</p> <p>Some stakeholders raised concerns that changes to face covering requirements could result in disabled people, who are at a higher risk of becoming seriously ill from the virus, with fears for their safety if there was a move to guidance and personal risk assessments on whether or not to wear a face covering, as there are some people who are currently not complying with the regulations. There are also some concerns that if face coverings remain mandatory in all current settings, even more discrimination will be felt towards those with exemptions, as there are instances of people being refused entry to spaces and deaf people facing communication challenges. Deaf or hard of hearing people may find the use of face coverings worn by other people could create communication barriers. There is a specific exemption for those communicating with a person who has difficulties communicating and relies on lip reading or facial expression to be able to communicate. Face coverings may also present challenges for people with a restricted field of vision, where any residual vision is at the lower edge of the usual field of view.</p>

⁴⁹ HENDERSON, A. et al (Pre-print). COVID-19 infection and outcomes in a population-based cohort of 17,173 adults with intellectual disabilities compared with the general population

⁵⁰ Inclusion Scotland (October 2020). [Covid-19, disabled people and emergency planning in Scotland – a baseline report from Inclusion Scotland](#)

		<p>Learning disabled or autistic adults and children may also struggle to understand and/or comply with face covering requirements. For this reason, we continue to engage with colleagues leading on disabled people, learning disability, autism and carers policy to in order to inform the exemptions policy.</p> <p>We have received reports of exempt people being denied access to spaces or services and discriminatory treated is not acceptable. As disabled people disproportionately represent those who are exempt, they are more likely than non-disabled people to be challenged for not wearing a face covering or have negative experiences and interactions. We are continuing to engage with Disability Equality Scotland on this issue and liaising with relevant policy teams across Scottish Government. There is also updated guidance and awareness raising campaigns which set out that there are people who are exempt from wearing a face covering and should not be denied access to any space.</p> <p>Although businesses have the right to formulate their own entry policies, before refusing entry to a person who is not required by law to wear a face covering, a business should consider carefully how that fits with its COVID-19 risk assessment, its general health and safety duties, and other legal obligations in relation to employment and the Equality Act 2010. We have provided guidance to workplaces on interacting with customers who are exempt and we will continue to encourage employers to ensure staff are aware of and considerate of the exemptions. The Equality and Human Rights Commission (ERC) have provided guidance to businesses on interacting with customers who are exempt from wearing face coverings and setting out their legal responsibilities under the Equality Act 2021.</p>
Background	<p>Sexual Orientation</p>	<p>In 2018, 2% of people in Scotland identified as lesbian, gay, or bisexual (LGB).⁵¹</p> <p>During the Covid-19 pandemic, loneliness and isolation have been an issue particularly for LGB people of all ages: a survey of 2,934 secondary school pupils (1,140 of whom identified as LGBT+) by Just Like Us found that LGBT+ young people are 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 survey also reported their mental health has worsened since the pandemic began, compared with half (49%) of non-LGBT+ young people.⁵² Age UK also reported that older LGBT people are especially vulnerable to loneliness as they are more likely to be single, live alone, and have less contact with relatives.⁵³</p> <p>While data from 2019 suggests that only 0.3% more men in the UK contracted HIV through sex with other men than with women⁵⁴, HIV still has a strong historical and cultural connection with the LGB community. A study from England in December 2020 showed that the risk of dying from COVID-19 for people with HIV was more than double that of the rest of the population,</p>

⁵¹ Office for National Statistics (6 March 2020). [Sexual Orientation, UK: 2018](#)

⁵² Just Like Us (18 February 2021). [LGBT+ young people twice as likely to feel lonely and worry daily about mental health than peers.](#)

⁵³ Age UK (February 2018). [Combating loneliness amongst older LGBT people](#)

⁵⁴ National AIDS Trust (2019). [HIV in the UK statistics](#)

		<p>even after adjusting for factors such as deprivation, ethnicity, smoking and obesity.⁵⁵</p>
Differential impacts		<p>It is unlikely that these measures will have a specific differential impact.</p> <p>Despite their higher risk of death from COVID-19, stakeholders advised that HIV positive people may feel hesitant about the vaccine due to fears about side effects and negative interactions between the vaccine interacts and HIV medication, despite guidance ruling out both concerns.⁵⁶⁵⁷ Any policy which reduces transmission of the virus will have a positive impact on people with HIV and therefore face covering regulations could positively impact people with this protected characteristic.</p> <p>UK research from 2015 consisting of a literature review and surveys suggested that young people who identify as LGBT are significantly over-represented within youth homeless populations: almost 20% of the young people surveyed disclosed that they were currently homeless or knew an LGBT young person who was currently homeless.</p> <p>Research conducted by the Albert Kennedy Trust found that LGBT young people are disproportionately represented in the young homeless population. As many as 24% of young homeless people are LGBT. 69% of homeless LGBT young people had experienced violence, abuse or rejection from the family home and 77% state that their LGBT identity was a causal factor in them becoming homeless.⁵⁸</p> <p>Therefore LGBT young people may face issues in relation to accessibility and affordability of face coverings. The Scottish Government endorse home-made coverings and have provided additional funding to support organisations, some of which has been used to provide face coverings.</p>
Background	<p>Marriage and Civil Partnership</p>	<p>The number of marriages in Scotland in 2019 was 26,007, the lowest number since 1881. This continues a long-term downward trend, marking a decrease of a third in the last 50 years. There were 83 civil partnerships registered in Scotland in 2019.⁵⁹</p> <p>During the pandemic there has been a reduction in the number of marriages and civil partnerships taking place: these were down by 14.3% in the first quarter of 2020 compared to the average over the past five years. This was mainly due to the fact that Registration Offices closed in mid-March and most marriages scheduled after the closure could not take place. From June 2020 onwards marriages and civil partnerships were resumed with limits on the number of attendees. Based on the provisional data for 2020, there has been around a 54% reduction in the number of marriages and a 13% reduction in the number of civil partnerships in 2020 compared to the previous year.⁶⁰</p>

⁵⁵ Bhaskaran, K. et al (2021). HIV infection and COVID-19 death: a population-based cohort analysis of UK primary care data and linked national death registrations within the OpenSAFELY platform. The Lancet. Vol. 8, Issue 1, E24-E32, 01 January 2021.

⁵⁶ Terrence Higgins Trust (4 February 2021). [Coronavirus vaccine guidance for people living with HIV](#)

⁵⁷ British HIV Association & Terrence Higgins Trust (11 January 2021). [SARS-CoV-2 vaccine advice for adults living with HIV](#)

⁵⁸ [Download.ashx \(akt.org.uk\)](#)

⁵⁹ National Records of Scotland (2019). [Scotland's population – The Registrar's General Annual Review of Demographic Trends](#)

⁶⁰ National Records of Scotland. [Births, Deaths and Other Vital Events - Quarterly Figures](#)

		<p>UK polling data gives us further indications of the extent to which couples who wanted to get married or registered as a civil partnership have been impacted by the pandemic. A poll of more than 400 couples with weddings planned between September 2020 and January 2021 revealed that, while 95% are not planning to cancel their wedding, 71% were choosing to postpone to later in the year or into 2022.⁶¹</p>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Differential impacts</p>		<p>It is unlikely that these measures will have a specific differential impact.</p> <p>During wedding ceremony in an indoor public place, face coverings must be worn by everyone (unless exempt) apart from:</p> <ul style="list-style-type: none"> • the wedding couple • the person carrying out the ceremony <p>The couple can only take off a face covering during the ceremony part of the wedding. They must still wear a face covering in any public areas before going into the room where the ceremony is taking place, and as soon as the ceremony is over.</p>
<p style="writing-mode: vertical-rl; transform: rotate(180deg);">Background</p>	<p>Pregnancy and Maternity</p>	<p>Pregnancy stakeholders⁶² have highlighted that during the pandemic they have received a high volume of calls from women experiencing discrimination because of pregnancy-related matters.</p> <p>In terms of direct harm to health from the virus (Harm 1), evidence suggests that pregnant women are no more likely to get COVID-19 than adults without health conditions, but that they may be at increased risk of becoming severely unwell compared to non-pregnant women, particularly in the third trimester.⁶³</p> <p>A rapid evidence review also indicated pregnant women have the same risk factors for COVID-19 infection as the general population, namely, age, pre-existing medical conditions, being overweight or obese or having an ethnic minority background.</p> <p>Studies have shown that there are higher rates of admission to intensive care units for pregnant women with COVID-19 compared to non-pregnant women with COVID-19. It is important to note that this may be because clinicians are more likely to take a more cautious approach when deciding whether to admit someone to the intensive care unit when a woman is pregnant.⁶⁴</p> <p>There is also evidence from the UK which indicates that babies from a Black, Asian or other ethnic minority group are more likely to be hospitalised with COVID-19 than babies from a white background. UKOSS studies and more recent publications have found that pregnant women from Black, Asian and minority ethnic backgrounds were more likely than other women to be admitted to hospital for COVID-19. Pregnant women over the age of 35, those who had a BMI of 25 or more, and those who had pre-existing medical problems, such as high blood pressure and diabetes, were also at higher risk of developing severe illness and requiring admission to hospital.⁶⁵</p>

⁶¹ Hitched (20 October 2020). [New Study: 71% of Couples Are Postponing Their Wedding Due to COVID-19](#)

⁶² Maternity Action (submission to UKG call for evidence). Please note this is unpublished.

⁶³ Royal College of Obstetricians & Gynaecologists (23 April 2021). [Coronavirus infection and pregnancy FAQs](#)

⁶⁴ [Coronavirus infection and pregnancy \(rcog.org.uk\)](#)

⁶⁵ [Coronavirus infection and pregnancy \(rcog.org.uk\)](#)

Differential impacts		<p>Some evidence of possible positive differential impact.</p> <p>Any policy which reduces transmission of the virus, including mandatory face coverings in indoor settings, will have a positive impact on people with this protected characteristic.</p> <p>Stakeholders raised concerns that any removal of mandatory requirement to wear face coverings in workplaces could impact pregnant women's safety at work, and restrict women's return to the workplace after maternity leave. Employers have obligations under health and safety regulations to protect the health of their staff and customers. Work place risk assessments should be undertaken and if an individual's safety or health is compromised then workplace adjustments should be made.</p>
Background	<p>Gender Reassignment</p>	<p>As of May 2018, around 0.5% of the population of Scotland (24,000 people) were estimated to be transgender.⁶⁶ Trans people suffer disproportionately from mental health conditions. A systematic review concluded that they were twice as likely as the general population to take their own lives, and that a lack of health care access adds particular pressure onto trans communities.⁶⁷</p> <p>Many trans people feel high levels of anxiety when interacting with healthcare services, as was highlighted to us by stakeholders. A survey conducted by Stonewall UK reporting in 2017 found that 51% of trans respondents have hidden their identity at work for fear of discrimination.⁶⁸</p> <p>COVID-19 has had a high impact on trans people. A 2020 review of literature on trans people and loneliness found that trans people often report higher levels of loneliness than the general population. It also found that belonging to communities of people who face similar challenges has a positive psychological impact on trans people's wellbeing.⁶⁹</p>
Differential		<p>It is unlikely that these measures will have a specific differential impact.</p>
Background	<p>Socio-economic disadvantage</p>	<p>The accessibility and affordability of face coverings has always been a key consideration of the Scottish Government. Our face coverings guidance recommends the use of re-usable face coverings that are two, preferably three, layers thick. We have produced a video on best practice and how to make your own face covering here. We have also provided guidance on how to clean a face covering if you do not have access to a washing machine.</p> <p>While we are not centrally providing face coverings to the general public, local authorities and schools consider how to address any equity concerns arising from the use of face coverings and we are aware that some schools have procured transparent face coverings through Scottish Excel to support deaf children and facilitate lip reading.</p> <p>Many supermarkets and other retailers also stock spare disposable face coverings for customer use. In terms of those who rough sleep and are at risk</p>

⁶⁶ Scottish Public Health Network (May 2018). [Health Care Needs Assessment of Gender Identity Services](#)

⁶⁷ Mcneil, J. et al (2017). [Suicide in trans populations: a systematic review of prevalence and correlates](#). Psychology of Sexual Orientation and Gender Diversity, Issue 3, Vol. 4 p. 341-353.

⁶⁸ Stonewall UK (2017). [LGBT In Britain – Trans Report](#)

⁶⁹ Wright, T. (28 July 2020). [Being trans and feeling lonely: a reflection on loneliness literature, community connectedness, and mental health in the transgender and gender diverse community](#). London School of Hygiene and Tropical Medicine.

		<p>of homelessness, many street outreach teams provide disposable face masks to those that need them.</p> <p>Some of the additional £1 billion of additional investment to help local communities and build resilience in public services has been used by local partners including third sector to provide face coverings free of charge.</p>
Different	ial	<p>It is unlikely that these measures will have a specific differential impact.</p>

Mitigating actions:

The face covering measures may disproportionately positively benefit the health of the people whom the disease affects more severely, such as older people, those with underlying health conditions (and some disabled people are more likely to experience severe ill-health from contracting Covid-19 than the general population), men and some minority ethnic communities. However, some potential indirect negative impacts on one or more of the protected characteristics have been identified. Whilst the view of the Scottish Government is that this regulation is justified and a proportionate means of reducing the public health risks posed by coronavirus, there is also a need to mitigate those negative impacts identified.

Individual discretion should be applied in considering the use of face coverings where the wearing of a face covering is difficult on grounds of any physical or mental illness or impairment or disability, for example for children with breathing difficulties and disabled children who would struggle to wear a face covering. Similarly, discretion is allowed for people who have a health condition, disabled people and those who need to communicate with a person who has difficulties communicating (in relation to speech, language or otherwise) where wearing a face covering would be inappropriate because it would cause difficulty, pain or severe distress or anxiety or because it cannot be worn in the proper manner safely. This is supported by our exemptions in the regulations and our Face Covering Exemption Card Service which provides people with an exemption card to support them to feel safe and confident participating in society. This is administered by Disability Equality Scotland and we continue to actively engage with them and other organisations on the effectiveness of policy.

For some disabled people with learning impairments, understanding of and actions required to comply with the regulation, may provide additional challenges. Provision of information and advice will continue to be made as accessible as possible and with relevant stakeholder organisations to mitigate this. [Ready Scotland's](#) additional support page also provides links to information for disabled people, linking people to Disability Information Scotland. The Scottish Government guidance and media campaigns will also continue to remind people that there are some important exemptions and that we should avoid judging people who appear not to be complying and that we should treat one another with kindness.

More generally, the exemptions in the face covering regulations accommodate for a wide range of circumstances and scenarios in which face coverings may not be worn.

We are also working across Scottish Government and with stakeholders to better understand and address any concerns in relation to face coverings in order to shape our approach where possible.

In relation to any concerns about accessibility and socio-economic factors, we endorse the use of home-made face coverings which are to-three layers thick in line with evidence. More generally, the Scottish Government is providing significant funding to address the impacts of the pandemic, some of which is being used by organisations to provide face coverings.

Insofar as these mitigating actions may not be able to mitigate all of the potential impacts, the Scottish Government currently considers the potential impacts justified, and a proportionate means of achieving the legitimate aim of reducing the public health risks posed by coronavirus, and the prevention of harm to individuals living in Scotland.

There is a commitment to review regulations and guidance regularly, we will continue to develop our evidence base in line with our obligations under the Public Sector Equality Duty and that any changes to the guidance meet the needs of people with one or more of the impacted protected characteristics. Protective measures, including the use of face coverings, will continue to be assessed in line with social and economic factors as well as evidence on the epidemiological impact on transmission.

Assessing the impacts and identifying opportunities to promote equality

Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.
Advancing equality of opportunity	X			Some evidence of possible positive differential impact. Face coverings could possibly positively impact older people.
Promoting good relations among and between different age groups			X	No evidence of a differential impact identified at this time.

Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation		X		Some evidence of negative differential impact. Stakeholders continue to report on discrimination towards groups which are exempt from wearing face coverings. Because face coverings will continue to be legally required in certain settings, this is likely to continue.
Advancing equality of opportunity	X			Some evidence of possible positive differential impact. This is due to disabled people disproportionately likely to be hospitalised or die than non-disabled people so this public health measure benefits them.
Promoting good relations among and between disabled and non-disabled people		X		Some evidence of negative differential impact. Stakeholders continue to report on discrimination towards groups which are exempt from wearing face coverings. Because face coverings will continue to be legally required in certain settings, this is likely to continue.

Do you think that the policy impacts on men and women in different ways?

Sex	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.
Advancing equality of opportunity	X			Some evidence of possible positive differential impacts. Face covering requirements provide some protection to women who are disproportionately represented in certain sectors and in their use of public transport.
Promoting good relations between men and women			X	No evidence of a differential impact identified at this time.

Do you think that the policy impacts on women because of pregnancy and maternity?

Pregnancy and Maternity	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.
Advancing equality of opportunity	X			Some evidence of possible positive differential impacts due to the possible protection face coverings provide.
Promoting good relations			X	No evidence of a differential impact identified at this time.

Do you think your policy impacts on people proposing to undergo, undergoing, or who have undergone a process for the purpose of reassigning their sex? (NB: the Equality Act 2010 uses the term 'transsexual people' but 'trans people' is more commonly used, although it may include a wide range of people not covered by the Act).

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.
Advancing equality of opportunity			X	No evidence of a differential impact identified at this time.

Promoting good relations			X	No evidence of a differential impact identified at this time.
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Do you think that the policy impacts on people because of their sexual orientation?

Sexual orientation	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.
Advancing equality of opportunity			X	No evidence of a differential impact identified at this time.
Promoting good relations			X	No evidence of a differential impact identified at this time.

Do you think the policy impacts on people on the grounds of their race?

Race	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.
Advancing equality of opportunity	X			Some evidence of possible positive differential impact. Face covering requirements provide some protection to those in this group who are disproportionately represented in certain sectors and in their use of public transport.
Promoting good race relations			X	No evidence of a differential impact identified at this time.

Do you think the policy impacts on people because of their religion or belief?

Religion or belief	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.
Advancing equality of opportunity			X	No evidence of a differential impact identified at this time.

Promoting good relations			X	No evidence of a differential impact identified at this time.
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Do you think the policy impacts on people because of their marriage or civil partnership?⁷⁰

Marriage and Civil Partnership	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	No evidence of a differential impact identified at this time.
Advancing equality of opportunity			X	No evidence of a differential impact identified at this time.
Promoting good relations			X	No evidence of a differential impact identified at this time.

⁷⁰ "The PSED only applies, under section 149(a) of the Equality Act 2010, to the protected characteristic of marriage and civil partnership in relation to eliminating discrimination etc. relating to work under Part 5 of that Act."