

EQUALITY IMPACT ASSESSMENT RECORD

Title of policy/ practice/ strategy/ legislation etc.	The Coronavirus Act 2020 (Suspension: Children and Young Persons Social Care) (Scotland) Regulations 2021	
Minister	Cabinet Secretary for Education and Skills	
Lead official		
Officials involved in the EQIA	name	team
	Susan Downes	OCSWA
Directorate: Division: Team	Office of the Chief Social Work Advisor	
Is this new policy or revision to an existing policy?	<p>Revision to an existing policy : Sections 16 of the Coronavirus Act 2020 allow Local Authorities to dispense with particular social care assessment duties where it would not be practical to comply with them, or to do so would cause unnecessary delay in providing associated support or services to any person. The provision covers social care for children and support for young carers. It is intended to allow Local Authorities to provide urgent care without delay.</p> <p>These Regulations partially suspend the operation of section 16 (duty of local authority to assess needs: Scotland) of the Coronavirus Act 2020 insofar as it relates to children and young carers – the provision as it relates to adult social care and adult carers having been already suspended in November 2020.</p>	

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Screening

Policy Aim

Section 16 of the Coronavirus Act 2020 temporarily removed the duty of local authorities to conduct a full needs assessment where it could be considered impractical or would delay the provision of community care for the person.

The core duty on Local Authorities to provide care and support for children in need under the Children (Scotland) Act 1995 remained in place.

Statutory guidance and communications from Ministers made clear that these section 16 powers in respect of assessment duties would remain in operation only while absolutely necessary to protect people. While challenges remain, significant progress has been made in tackling the virus and the Scottish Government wants to move as soon as possible to a position where all those in need of social care receive full assessments.

These revisions bring children's services in line with adult services by revoking the temporary suspension of the duty in the Children (Scotland) Act 1995, for a needs based assessment as they apply to children affected by disability, looked after by the authority or receiving aftercare from the authority.

The duty to conduct a needs based assessment under section 22, 23 and 29 of the Children (Scotland) Act 1995 will be fully reinstated.

Revisions to revoke the temporary suspension of the duty to conduct a needs assessment as they apply to adult social care services and adult carers have already been made. The duty to conduct a needs assessment under section 12A of the Social Work (Scotland) Act 1968 has been fully reinstated.

This policy supports children and families and therefore contributes to the National Outcome - "We grow up loved, safe and respected so that we realise our full potential."

Who will it affect?

The provisions will apply to all children and young carers irrespective of protected characteristic and will therefore not constitute direct discrimination on that basis.

These regulations will have a positive effect by ensuring that children and families are provided with full needs assessments under legislation as it applied before the emergency period. These regulations ensure that there will be no gap in the provision of support whilst local authorities work towards undertaking full assessments.

These regulations therefore have a positive effect on age, disability and gender.

What might prevent the desired outcomes being achieved?

The desired outcome of the regulation is that we return to a position where those children and young carers in need of social care receive full needs assessments. The provisions in the regulations will ensure this happens by restoring the previous legal framework.

Continued monitoring of service demand and capacity will allow preparation for a resurgence of Covid-19. There is potential to reintroduce the powers if this is considered necessary to combat the virus.

Stage 1: Framing

Results of framing exercise

Throughout our analysis, we have had due regard, in particular, to the need to:

- remove or minimise disadvantages suffered by people who share a protected characteristic;
- take steps to meet the needs of people who share a protected characteristic that are different to those who do not; and
- encourage people who share a protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Statutory guidance and communications from Ministers made clear that these section 16 powers in respect of assessment duties would remain in operation only while absolutely necessary to protect people. While challenges remain, significant progress has been made in tackling the virus and the Scottish Government wants to move as soon as possible to a position where all those in need of social care receive full assessments.

Once suspended, powers could be revived following a further outbreak or peak in demand; however, there would be a time lag to reintroduce them.

Extent/Level of EQIA required

There has been no public consultation in relation to this instrument. In reaching a decision to suspend the powers in relation to adult services, Scottish Ministers considered a range of evidence. This included the outcome of the surveys of Chief Social Work Officers on use of the powers, as outlined above; the views of Social Work Scotland; and the views of human rights and carers' organisations. Social Work Scotland were consulted on the regulations and the revised statutory guidance developed to reflect the suspension.

Stage 2: Data and evidence gathering, involvement and consultation

Include here the results of your evidence gathering (including framing exercise), including qualitative and quantitative data and the source of that information, whether national statistics, surveys or consultations with relevant equality groups.

Characteristic ¹	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
AGE	On 30 June 2018, Scotland's population was the highest ever at 5,438,100 . In the latest year to mid-2018, Scotland's population increased by 13,300 people (0.2%).	National Records Scotland: Mid-Year Population Estimates Scotland, Mid-2018	
DISABILITY	In 2011, the proportion of people in Scotland living with a long-term, activity-limiting health problem or disability was approximately 20% (1,040,371 people). Proportions were similar in 2001 (1,027,872).	Scotland's Population 2011	
SEX	Gender. Scotland had a relatively even split between sexes in 2017, with 51% females and 49% males, although this varied amongst age groups. Carers Scotland estimate that there are 759,000 adult carers in Scotland of whom 59% are women.	Demographics Scottish Government	
PREGNANCY AND MATERNITY	N/A		
GENDER REASSIGNMENT	N/A		
SEXUAL ORIENTATION	Statistics published in Scotland's People Annual Report, 2017 shows that the number of people who self-identified as lesbian, gay or bisexual in Scotland was around 2%. A comparison by gender showed	Scotland's People: Annual Report, 2017	

¹ Refer to Definitions of Protected Characteristics document for information on the characteristics

	that 97.8% of men and 98% of women identified themselves as heterosexual/straight.		
RACE	N/A		
RELIGION OR BELIEF	<p>In 2011 over half (54%) of the population of Scotland stated their religion as Christian - a decrease of 11 percentage points since 2001, whilst 37 per cent of people stated that they had no religion.</p> <p>After Christianity, Islam was the most common faith with 77,000 people in Scotland describing their religion as Muslim. This is followed by Hindus (16,000), people from Other religions (15,000), Buddhists (13,000), Sikhs (9,000) and Jews (6,000). Even with these groups added together, they still accounted for less than 3% of the overall population.</p>	Scotland's Population 2011	Data on religion/belief is limited
MARRIAGE AND CIVIL PARTNERSHIP (the Scottish Government does not require assessment against this protected characteristic unless the policy or practice relates to work, for example HR policies and practices - refer to Definitions of Protected Characteristics document for details)	N/A		

Stage 3: Assessing the impacts and identifying opportunities to promote equality

Having considered the data and evidence you have gathered, this section requires you to consider the potential impacts – negative and positive – that your policy might have on each of the protected characteristics. It is important to remember the duty is also a positive one – that we must explore whether the policy offers the opportunity to promote equality and/or foster good relations.

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	Provision will apply to all.
Advancing equality of opportunity			X	Provision will apply to all.
Promoting good relations among and between different age groups			X	Provision will apply to all.

Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	Provision will apply to all.
Advancing equality of opportunity	X			These regulations will have a positive effect in enabling the provision of a full needs

						assessments under legislation as it applied before the emergency period.
Promoting good relations among and between disabled and non-disabled people				X		Provision will apply to all.

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			X	Provision will apply to all.
Advancing equality of opportunity	X			The majority of carers are women.
Promoting good relations between men and women			X	Provision will apply to all.

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			X	Provision will apply to all.
Advancing equality of opportunity			X	Provision will apply to all.

Promoting good relations		X	Provision will apply to all.
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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)

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	Provision will apply to all.
Advancing equality of opportunity			X	Provision will apply to all.
Promoting good relations			X	Provision will apply to all.

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			X	Provision will apply to all.
Advancing equality of opportunity			X	Provision will apply to all.
Promoting good relations			X	Provision will apply to all.

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			X	Provision will apply to all.
Advancing equality of opportunity			X	Provision will apply to all.
Promoting good race relations			X	Provision will apply to all.

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			X	Provision will apply to all.
Advancing equality of opportunity			X	Provision will apply to all.
Promoting good relations			X	Provision will apply to all.

Do you think the policy impacts on people because of their marriage or civil partnership?

Marriage and Civil Partnership²	Positive	Negative	None	Reasons for your decision

² In respect of this protected characteristic, a body subject to the Public Sector Equality Duty (which includes Scottish Government) only needs to comply with the first need of the duty (to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010) and only in relation to work. This is because the parts of the Act covering services and public functions, premises, education etc. do not apply to that protected characteristic. Equality impact assessment within the Scottish Government does not require assessment against the protected characteristic of Marriage and Civil Partnership unless the policy or practice relates to work, for example HR policies and practices.

Eliminating unlawful discrimination			X	N/A
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Stage 4: Decision making and monitoring

Identifying and establishing any required mitigating action

Have positive or negative impacts been identified for any of the equality groups?	Yes
Is the policy directly or indirectly discriminatory under the Equality Act 2010 ³ ?	No
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	N/A
If not justified, what mitigating action will be undertaken?	N/A

Describing how Equality Impact analysis has shaped the policy making process

In reaching its decision to suspend the powers in respect of adult services, Scottish Ministers considered the respective issues for adults and children's services which are outlined in this EQIA.

Monitoring and Review

Scottish Government will continue to monitor the use of powers under section 16 and 17 of the Coronavirus Act, and will liaise with Social Work Scotland. This will inform the regular reporting to the Scottish Parliament on use of the powers under the Coronavirus Acts.

³ See EQIA – Setting the Scene for further information on the legislation.

Stage 5 - Authorisation of EQIA

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes No

- ◆ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:

- Eliminating unlawful discrimination, harassment, victimisation;
- Removing or minimising any barriers and/or disadvantages;
- Taking steps which assist with promoting equality and meeting people's different needs;
- Encouraging participation (e.g. in public life)
- Fostering good relations, tackling prejudice and promoting understanding.

Yes No

- ◆ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

Yes No Not applicable

Declaration

I am satisfied with the equality impact assessment that has been undertaken for the Coronavirus Act 2020 (Suspension : Adult Social Care) Regulations 2020 and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name: Iona Colvin
Position: Chief Social Work Adviser
Authorisation date: 7 September 2021