

EQUALITY IMPACT ASSESSMENT - RESULTS

Title of Policy	Restorative Justice Guidance
Summary of aims and desired outcomes of Policy	<p>The Victims and Witnesses (Scotland) Act 2014 ('the 2014 Act') included provisions in Section 5 relating to the publication of Restorative Justice Guidance by the Scottish Ministers.</p> <p>Scottish Ministers published Delivery of Restorative Justice in Scotland: Guidance¹ in October 2017. The Guidance is for service providers and facilitators. It outlines the key principles of restorative justice and aims to ensure that where restorative justice processes are available, these are delivered in a coherent, consistent, victim-focused manner across Scotland.</p> <p>The Commencement Order and the Restorative Justice Prescribed Persons Order (that prescribes persons who must have regard to any restorative justice) will provide statutory under-pinning to the Guidance.</p>
Directorate: Division: team	Justice Directorate: Criminal Justice Division: Victims and Witnesses Unit

¹ [Delivery of restorative justice in Scotland: guidance - gov.scot \(www.gov.scot\)](http://www.gov.scot)

1. Executive summary

Restorative justice is a process of independent, facilitated contact, which supports constructive dialogue between a victim and the person who has done the harm (whether this be an adult, a child, a young person or a representative of a corporate or other body). The process is entered into voluntarily by both the person harmed and the person who has done the harm.

Section 5(1) of the Victims and Witnesses (Scotland) Act 2014 enables the Scottish Ministers to issue guidance on the referral of persons to restorative justice and the provision of restorative justice. Section 5(2) enables the Scottish Ministers to prescribe the persons who must have regard to the guidance.

The Commencement Order is required in order to bring section 5 of the 2014 Act into force.

The Restorative Justice Prescribed Persons Order is made under section 5(2) of the 2014 Act. The Prescribed Persons Order prescribes persons who must have regard to any restorative justice guidance issued by the Scottish Ministers under section 5(1) of the 2014 Act.

These instruments will enable the Scottish Ministers to place this restorative justice guidance on a statutory footing by commencing Section 5 of the Victims and Witnesses (Scotland) Act 2014.

Delivery of Restorative Justice in Scotland: Guidance² is for service providers and facilitators. It outlines the key principles of restorative justice and aims to ensure that where restorative justice processes are available, these are delivered in a coherent, consistent, victim-focused manner across Scotland.

The Restorative Justice Prescribed Persons Order places no obligation on any of the persons or organisations listed to deliver, or be involved with, Restorative Justice. However when and if they become involved in the design or delivery of restorative justice services, it states that they should have regard to the Guidance. If prescribed persons become involved with the design and delivery of restorative justice services, having regard to the Guidance will aid the delivery of a consistent and quality restorative justice service across Scotland.

An Equality Impact Assessment (EQIA) was developed and published³ in relation to the Victims and Witnesses (Scotland) Bill in 2013.

In preparing these SSIs to implement this policy, it was considered that a limited EQIA and Child Rights and Wellbeing Impact Assessment (CRWIA) was sufficient.

The provisions in the SSIs set out above do not discriminate in any way on the basis of age, disability, sex including pregnancy and maternity, gender reassignment, sexual orientation, race or religion and belief. The requirement for prescribed

² [Delivery of restorative justice in Scotland: guidance - gov.scot \(www.gov.scot\)](http://www.gov.scot)

³ <https://www2.gov.scot/Publications/2013/02/3668>

persons to have regard to the Guidance applies to any persons or organisations listed involved in the design or delivery of restorative justice services.

2. Background

There are 2 SSIs which are being laid to place the Delivery of Restorative Justice in Scotland: Guidance on a statutory footing:

The Commencement Order for Section 5 of the Victims and Witnesses (Scotland) Act 2014 is required in order to bring section 5 of the 2014 Act into force.

The Restorative Justice Prescribed Persons Order is made under section 5(2) of the 2014 Act. The Prescribed Persons Order prescribes persons who must have regard to any restorative justice guidance issued by the Scottish Ministers under section 5(1) of the 2014 Act.

3. The Scope of the EQIA

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

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

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

4. Consultation

Restorative Justice stakeholders and victim organisations were consulted throughout the preparation of Delivering Restorative Justice in Scotland: Guidance. This included consultation with the Restorative Justice Forum, and with VSOs, including Victim Support Scotland and Scottish Women's Aid.

In addition a short questionnaire was issued to stakeholders in November 2020 seeking feedback on a draft proposed list of prescribed persons that should have regard to the Guidance. The list of prescribed persons identified in these instruments takes account of the feedback received from the 33 respondents to the survey.

5. Key Findings

EQIA

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

We believe that none of the provisions in the legislation or the policy intent that supports it should imply any direct or indirect discrimination against any particular section of society. The main beneficiaries of the policy will be those involved with the development and delivery of restorative justice services in Scotland, and anyone who accesses such services. By prescribing who should have regard to the Guidance we can ensure that where restorative justice processes are available, these are delivered in a coherent, consistent, victim-focused manner across Scotland.

6. Recommendations and Conclusion

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

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

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