

EQUALITY IMPACT ASSESSMENT

<p>Title of policy/ practice/ strategy/ legislation etc.</p>	<p>The Civil Protection Measures, European Protection Order and Victims' Rights (EU Exit) (Scotland) (Amendment Etc.) Regulations 2022</p>
<p>Minister</p>	<p>Ash Regan, Minister for Community Safety</p>
<p>Lead official</p>	<p>Simon Stockwell</p>
<p>Directorate: Division: Team</p>	<p>Civil Law Division, Justice Directorate</p>
<p>Is this new policy or revision to an existing policy?</p>	<p>It is a new policy. The Scottish Government believed that staying in the EU was the best option for the whole of the UK and Scotland. However, now that the UK has left the Scottish Government has no choice and needs to take appropriate action such as this SSI.</p>

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	This is not what this SSI is about.
Advancing equality of opportunity		X		There is information from Domestic abuse: statistics recorded by the Police in Scotland - 2020/21 on the age of victims of domestic abuse. Section 2.8 of this publication notes that female victims aged 31 to 35 had the highest rate (467) of incidents of domestic abuse recorded by the police per 10,000 population.
Promoting good relations among and between different age groups			X	Domestic abuse adversely impacts affected children. This is not what this SSI is about.

Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	There is no obvious impact on disabled people.
Advancing equality of opportunity			X	There is no obvious impact on disabled people.
Promoting good relations among and between disabled and non-disabled people			X	There is no obvious impact on disabled people.

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	X	This is not what this SSI is about.
Advancing equality of opportunity		X		There is a negative impact on women because the EU measures are designed to tackle domestic abuse which disproportionately affects women in society. Around 80% of domestic abuse incidents in Scotland are by men on women: see 2. Domestic abuse incidents in Scotland - Domestic abuse: statistics recorded by the Police in Scotland - 2020/21 (see section 2.6).
Promoting good relations between men and women			X	This is not what this SSI is about.

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	This is not what this SSI is about.
Advancing equality of opportunity		X		<p>As indicated above, there is a negative impact on women as the protection measures affected by this SSI relates to domestic abuse, which impacts disproportionately on women.</p> <p>There is evidence of increased incidence of domestic abuse during pregnancy (see, for example, 9 Victims of Crime - Scottish Government Equality Outcomes: Pregnancy and Maternity Evidence Review - gov.scot (www.gov.scot)).</p> <p>However, the negative impact of this SSI is limited as these protection measures were little used even before Brexit and in this SSI we have retained provisions (eg in relation to the recognition of incoming civil protection orders) where possible.</p>
Promoting good relations			X	This is not what this SSI is about.

Do you think your policy impacts on transsexual people?

Gender reassignment	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	This is not what this SSI is about.
Advancing equality of opportunity			X	This is not what this SSI is about.
Promoting good relations			X	This is not what this SSI is about.

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	This is not what this SSI is about.
Advancing equality of opportunity			X	This is not what this SSI is about.
Promoting good relations			X	This is not what this SSI is about.

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	This is not what this SSI is about.
Advancing equality of opportunity			X	This is not what this SSI is about.
Promoting good race relations			X	This is not what this SSI is about.

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	This is not what this SSI is about.
Advancing equality of opportunity			X	This is not what this SSI is about.
Promoting good relations			X	This is not what this SSI is about.

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

Marriage and Civil Partnership¹	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination			X	Not applicable.

¹ 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.

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, there is a negative impact for women.
Is the policy directly or indirectly discriminatory under the Equality Act 2010?	No
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	Not applicable
If not justified, what mitigating action will be undertaken?	Not applicable

Describing how Equality Impact analysis has shaped the policy making process

This EQIA notes that domestic abuse has a disproportionate impact on women.

As indicated elsewhere in the EQIA, the Scottish Government regrets the departure of the UK from the EU. Following this departure, the EU measures can no longer operate as they previously did.

In practice, the impact is relatively low as the measures were not often used even before Brexit. Statistics held by the Scottish Government suggest that there have been eight European Protection Measures for civil: seven in 2017-18 and one in 2019-20. The statistics do not show whether these were incoming or outgoing orders.

There has been one European Protection order for criminal, which was registered in 2017-18 financial year. This was outgoing.

Given that the EU measures are designed to combat domestic abuse, the Scottish Government has considered if any aspects of them can continue. The Scottish Government considers that civil protection measures granted in EU member states under the EU regulation can continue to be recognise and enforced, under the same procedure as they are now, in Scotland. This SSI makes appropriate provision accordingly.

In addition, section 3J of the Victims and Witnesses (Scotland) Act 2014 provides that if a complaint is made to a Police Officer in Scotland about an offence or alleged offence in the EU and criminal proceedings for that offence or alleged offence cannot be raised in Scotland, the Chief Constable has to send details of the complaint to the relevant EU Member State. In order that Victims' rights remain protected, the wording in section 3J of the 2014 Act has been amended slightly to reflect the UK is no longer an EU Member State while ensuring the substance of the provision remains in place.

Monitoring and Review

The Scottish Government will continue to closely monitor the impact of leaving the EU on women.

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

**Family Law Policy Unit
Scottish Government
August 2022**