

# **Coronavirus (Recovery and Reform) (Scotland) Bill**

## **Consultation Analysis**

**January 2022**

# Coronavirus (Recovery and Reform) (Scotland) Bill – Consultation Analysis

Prepared for the Scottish Government by  
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# Executive Summary

## Introduction

The Scottish Government has introduced a Covid Recovery Bill that will embed some of the reforms made in response to the pandemic, while considering what further provisions might enhance Scotland's ability to respond to any similar events in the future.

A consultation on 'Covid recovery: public health, public services and justice system reforms' opened on 17<sup>th</sup> August 2021 and closed on 9<sup>th</sup> November 2021. It contained 86 questions – 43 closed questions, each with an optional free text response box. In total, 2,905 valid consultation responses were received; 130 were organisational responses and the remainder were from individuals. Due to the nature of consultations, the views of consultation respondents do not necessarily represent of the views of the population. There was significant repetition of views within and across responses, particularly in comments expressing opposition to the proposals. Respondents consistently raised concerns about an undemocratic overreach of government power which many felt breached human rights. Others believed the pandemic was not a justifiable reason for introducing or prolonging emergency powers, with calls for Scotland to 'return to normal'.

## Public health resilience

Proposals enabling the Scottish Government to direct educational establishments to close, and to enact public health protection regulations such as lockdown measures, face coverings, and limiting the size of gatherings, elicited a range of views. Many doubted the effectiveness of these measures in controlling Covid and were concerned about the harm restrictions have caused to education, physical and mental health, and the economy. However, supporters suggested such measures would help the Scottish Government to act more quickly in response to future public health emergencies.

Supporters of the provision to allow health professionals other than doctors to administer vaccinations noted this would increase vaccination capacity. However, several felt that only doctors should be responsible, due to their greater level of training and competence. Specifically, their ability to answer questions would ensure informed consent, and their access to medical records would enable them to offer appropriate advice to patients.

Some supported allowing local authorities to hold public meetings in a virtual setting because it could make meetings more accessible. However, several respondents raised concerns about digital exclusion or felt virtual meetings were less transparent than face-to-face events. Several suggested a hybrid model, where meetings take place in-person along with an option to attend online, allowing as many people as possible to attend.

## Public services and justice system reform

Modernisation, efficiency, and flexibility were themes expressed by those who endorsed extending provisions for public services and justice proceedings to be carried out through remote, virtual, or electronic means. For example, proposals for remote registration of births and deaths were seen to offer a more streamlined process, particularly for those in remote, rural and island areas.

However, concerns about digital exclusion were raised consistently. Respondents feared remote or virtual services could exclude or disadvantage those with poor broadband access or low levels of digital literacy, such as elderly people, people with disabilities, low-income households and remote and rural communities. Concerns were also expressed around security and the potential for fraud, and restricted public access to hearings.

Many respondents supported provisions being made permanent under hybrid systems where the option to conduct proceedings in-person is retained. Another common theme was a desire for further review and greater understanding of the impact and risks of change before making the provisions permanent. Less commonly mentioned reasons for opposition to extending other public service and justice measures varied considerably given the wide range of provisions under consideration.

The provisions for tenancies and protection against eviction attracted many responses. Several welcomed the measures, noting they strengthen tenants' rights and offer a layer of protection against eviction and homelessness. However, others felt the provisions would have a negative impact on private landlords and could risk driving them out of the market, potentially resulting in a shortage of affordable accommodation for rent.

### **The impact of Covid in the justice system**

Many organisations supported conducting court business by electronic means and virtual attendance. Some felt greater use of technology would modernise and improve court processes and help reduce the Covid backlog. Cost and time savings for all parties were also envisaged. However, several questioned the effectiveness of virtual hearings and highlighted the potential for discrimination. Most desired a hybrid of face-to-face and online options to allow flexibility to adapt to different circumstances and the seriousness of each case. Most in the legal and justice sector called for default in-person attendance for civil proofs and jury trials, with less opposition to remote procedural hearings.

While some other justice measures were supported due to the practical value they offer if the pandemic continues, concerns over their appropriateness were evident. Respondents felt some provisions, in particular the early release of prisoners and expiry of undertaking provisions, could diminish the justice system. A small number opposed the proposal for a national court for cases beginning with an appearance from custody as they felt justice should remain local and that Sheriffs were best placed to understand their own jurisdiction.

Views on extending time limits were very mixed. Some supported an extension to improve flexibility and efficiency in the court system. Conversely, there was opposition to measures which could lengthen the judicial process. Respondents were particularly concerned about the potential negative impact on those who spend longer on remand as a result.

### **Conclusions**

The responses of the large number of individuals and informed stakeholders who took part in the consultation provide a useful evidence base of diverse perspectives for the Scottish Government to draw upon when developing the final Bill. Overall, the key message from respondents was that decisions to extend the temporary measures should be made with careful consideration. Doing so will ensure that Scotland moves towards a fair, safe and secure recovery from the pandemic.

# Introduction

## Background and policy context

In the Programme for Government for 2021-22, the First Minister announced a Covid Recovery Bill that will embed some of the reforms made in response to the pandemic while considering what further provisions might be made to enhance Scotland's ability to respond to any similar events in the future.

As one of the steps to harness lessons from the pandemic, the Government is committed to reviewing the impact of Covid on the Scottish statute book: removing measures no longer needed in order to be able to respond to the current pandemic; keeping those where there is demonstrable benefit to the people of Scotland; and considering what new provisions might be made.

A [consultation on 'Covid recovery: public health, public services and justice system reforms'](#) opened on 17<sup>th</sup> August 2021 and closed on 9<sup>th</sup> November 2021. It contained 86 questions covering issues including alcohol licensing, bankruptcy, education, criminal justice, legal aid and the registration of births and deaths. The majority of the 43 closed questions asked respondents whether a provision should be extended or made permanent; the Scottish Government's proposal for each provision (i.e. permanence or extension, or in two cases, develop) is shown in brackets in the question headings in this report. Respondents were given a full range of answer options at each question and optional free text boxes allowed respondents to express reasons for their views.

The consultation was supplemented by a workshop held on 26<sup>th</sup> October 2021 in conjunction with Disability Equality Scotland<sup>1</sup> - a summary of the views expressed in the workshop is included in Appendix A.

The consultation is an opportunity for the Scottish Government to understand the diverse perspectives, expertise and experience that individuals and stakeholders can contribute to the Bill, as Scotland moves towards a fair, safe and secure recovery from the pandemic.

## Profile of respondents

In total, 2,905 valid consultation responses<sup>2</sup> were received. Most were submitted via the online consultation platform, Citizen Space. Those received in an alternative format, for example, a PDF document, were entered into Citizen Space by the Scottish Government. [Full responses to the consultation, where permission for publication was granted, can be found on the Scottish Government's website.](#)

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<sup>1</sup> An easy read version of the consultation created for the workshop can be found at: [Covid recovery consultation: easy read version - gov.scot \(www.gov.scot\)](#)

<sup>2</sup> A total of 2,978 responses were received, but 73 were identified as duplicates (submitted by duplicate email addresses) and removed during data cleaning. The most recent version of each response was kept. No responses were excluded due to being out of the scope of the consultation.

The vast majority of responses – 2,775 or 96% - were from individuals. The remaining 4% comprised 130 organisational responses from 124 organisations<sup>3</sup>.

Appendix D details the profile of organisations that took part in the consultation. The largest share of these responses came from organisations in the Legal and Justice sector (27), followed by Local Authorities (17) and Health and Social Care organisations (13).

### **Analysis approach**

The Lines Between was commissioned to provide robust, independent analysis of the consultation responses. This report presents the range of views expressed by consultation respondents. A public consultation means anyone can express their views; individuals and organisations with an interest in the topic are more likely to respond than those without.

**This self-selection means the views of consultation respondents do not necessarily represent of the views of the population.**

### **Quantitative analysis approach**

The main purpose of consultation analysis is not to identify how many people held particular views, but to understand the full range of views expressed. For this reason the analysis is primarily qualitative.

However, the analysis of responses to each question begins with a summary of the quantitative closed question data. This shows the percentage who support the proposal (i.e. those who support either permanence or a longer extension<sup>4</sup>), and the percentage who are opposed, unsure, have no view or did not answer. These percentages have been included to illustrate the range of views submitted by consultation respondents. As this sample is self-selecting, no conclusions can be drawn about the level of support or opposition among the general public.

Not everyone who responded to the consultation answered every question. This means the base number varies by question, and that percentages cannot be compared across questions. Because of this, the quantitative results for questions related to the proposals are presented in tables with four rows which show percentages among different groups. The abbreviated row labels in each table correspond to the following four groups:

- i. *“All respondents”* - all 2,905 consultation respondents, both organisations and individuals, including those who did not answer or held no view;
- ii. *“All giving a view”* - all respondents, both organisations and individuals, who responded to the question, i.e. **excluding** those who did not answer or held no view. The base number for this group is also shown in each table;
- iii. *“All org responses”* - all 130 organisational consultation responses only<sup>5</sup>, including those who did not answer or held no view; and

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<sup>3</sup> Five organisations submitted a total of 11 responses. These were all included in the analysis as they were considered to represent different views across the organisations.

<sup>4</sup> For questions H4 and P17, support represents backing for the proposals to be developed.

<sup>5</sup> Data for individuals only has not been included as individuals represent 96% of the total sample.

- iv. “*All orgs giving a view*” - All organisations only who responded to the question, i.e. **excluding** those who did not answer or held no view. The base number for this group is also shown in each table.

For the final questions (Q34-Q43) the tables present the results among all 2,905 consultation respondents (both individuals and organisations), and among all 130 organisational responses only. The number of open comments given is also shown in all tables. A full breakdown of the quantitative results is provided in Appendix C.

### **Qualitative analysis approach**

The qualitative analysis outlines the key themes identified in responses to each question. The analyst team coded each response against a coding framework which was developed based on a review of the consultation questions and a sample of responses. In a small number of instances where alternative format responses contained information that did not align to specific questions, analysts exercised judgement about the most relevant place to include this material for analysis purposes.

Given the range of topics included in the consultation, responses spanned a huge variety of views and themes. Some responses did not engage with or link their responses directly to the proposals under discussion. This report focuses on analysis of comments which addressed the consultation questions. Brief summaries of views are provided where large numbers commented on issues beyond the scope of the consultation.

A few organisations provided very detailed responses relating to their particular expertise. There is not scope within this report to accurately summarise these responses; they have been referenced where possible. Where appropriate, quotes from both individuals and organisations have been included to illustrate key points and to provide useful examples, insights and contextual information. Full responses to the consultation, where permission for publication was granted, can be found on the Scottish Government’s website.

### **Consistent themes across consultation responses**

There was significant repetition of views within and across responses, particularly in comments which expressed opposition to the proposals. Several themes in comments were consistently evident, regardless of the consultation question. To avoid repetition these themes are summarised in Chapter 6. This allows for a fuller analysis at each question of specific reasons for support and opposition to a particular proposal.

### **Weight of opinion**

While qualitative analysis of open-ended questions does not permit the quantification of results, we signify the weight of a particular view using the following framework which indicates which are the most common or prevalent themes across responses:

- The most common theme / the most prevalent theme in responses (and second most common) i.e., the most frequently identified.
- ‘Many’ respondents (more than 50) another prevalent theme.
- ‘Several’ respondents (20-49) i.e., a recurring theme but not most common.
- ‘Some’ respondents (10-19) i.e., another theme.

- 'A few' or 'a small number' of respondents (fewer than 10); a less common theme.
- 'Two/One respondents'; a singular comment or view expressed by two respondents.

## **Report Structure**

This report is set out as follows:

- Chapter 2 covers Q1-Q4 which address public health resilience.
- Chapter 3 covers Q5-Q22 about public services and justice system reform.
- Chapter 4 addresses Q23-Q33 about the impact of Covid in the justice system.
- Chapter 5 focuses on Q34, covering other proposals for legislation.
- Chapter 6 summarises the consistent themes opposing the measures which are evident across the consultation.
- Conclusions are set out in Chapter 7.
- Appendix A addresses Q35-Q43, covering human rights and impact assessments.
- Additional information on a small number of questions can be found in Appendix B.
- A quantitative summary of the consultation questions is included as Appendix C.
- A profile of the organisational responses is included as Appendix D.

# Public health resilience

## H1 – Education: powers to make directions to close educational establishments, and to ensure the continuity of education (Permanence)

These figures are a non-representative sample	Permanent	Extend	Total Support	Oppose	Unsure	No view / answer	No. of comments
All respondents (2905)	2.9%	3.5%	<b>6.4%</b>	<b>85.4%</b>	0.3%	7.9%	833
All giving a view (2676)	3.1%	3.8%	<b>7.0%</b>	<b>92.7%</b>	0.4%	-	825
All org responses (130)	11.5%	6.9%	<b>18.5%</b>	<b>10.0%</b>	2.3%	69.2%	25
All orgs giving a view (40)	37.5%	22.5%	<b>60.0%</b>	<b>32.5%</b>	7.5%	-	22

Most respondents who supported permanence or extension did not provide any comments. Among those who commented, most expressed support for the provision but did not explain why they held this view. Organisations that supported permanence included Convention of Scottish Local Authorities (COSLA) and six local authorities, Public Health Scotland and the Scottish Childminding Association. Organisations that supported extension but not permanence included Aberdeenshire Council and the Scottish Law Agents' Society.

The most common theme among those supporting permanence was that the provision would help the Scottish Government respond quickly if the need to close educational establishments arose again in this or any future pandemic. A few respondents, including the NHS Lothian Directorate of Public Health, who supported permanence, held this view. A small number of respondents noted that this provision is important for safety and to reduce transmission of infection, including Argyll & Bute Council (supported extension) and the Health and Social Care Alliance Scotland (supported permanence).

“It seems sensible to extend these powers as we are still in the current pandemic and it is likely that there will be another in due course where these provisions deployed in a timely manner might be proportionate and appropriate.” (Extract from Directorate of Public Health, NHS Lothian)

Those opposing extension or permanence commonly explained this on the basis of the harm caused by closing educational establishments. Many respondents pointed to the disruption that school closures caused for children and young people’s learning, both in terms of curricular education and the wider social and life skills developed through face-to-face education. Several voiced concerns about remote and online learning, suggesting that it is not as effective as face-to-face learning. Inequalities in access to devices, internet and a quiet space to study were highlighted as having the potential to exacerbate the attainment gap between children and young people in affluent and less affluent areas.

The negative impact of closures on children and young people’s mental health was mentioned by many respondents who opposed permanence or extension. Examples of adverse mental health outcomes included anxiety, depression, self-harm, eating disorders,

panic attacks and suicidal thoughts. Some described the stress that closures caused parents and carers, particularly those who had to combine home schooling with their work. Another view expressed by many respondents who opposed the provision was that there is little or no evidence that closing educational establishments has any impact on the transmission of Covid. This view was held by NASUWT, among others.

“It is disproportionate to make such substantial alterations to the status quo ante without a more robust justification or evidence base.” (Extract from NASUWT)

Many respondents felt that closures are not justified because children and young people are at less risk of becoming seriously ill or dying from Covid than other members of the community. Some described this provision as unfair because it disadvantages children and young people in order to protect other members of the community.

Most arguments against extension or permanence focused on the disadvantages of closing educational establishments in general, rather than which organisation has the authority to direct these establishments to close. However, some respondents, including a few local authorities that supported extension but opposed permanence, felt that the decision to close an establishment should be made by the local authority and/or the establishment itself, rather than central government.

## H2 – Power to make public health protection regulations (Permanence)

These figures are a non-representative sample	Permanent	Extend	Total Support	Oppose	Unsure	No view / answer	No. of comments
All respondents (2905)	3.0%	3.4%	<b>6.4%</b>	<b>85.8%</b>	0.4%	7.4%	653
All giving a view (2691)	3.2%	3.7%	<b>6.9%</b>	<b>92.6%</b>	0.5%	-	649
All org responses (130)	15.4%	4.6%	<b>20.0%</b>	<b>9.2%</b>	3.8%	66.9%	26
All orgs giving a view (43)	46.5%	14.0%	<b>60.5%</b>	<b>27.9%</b>	11.6%	-	24

Organisations that supported permanence for this provision included COSLA and eight local authorities, the Police Service of Scotland<sup>6</sup>, Public Health Scotland, Families Outside, the Directorate of Public Health at NHS Lothian and the Health and Social Care Alliance.

Most respondents who supported permanence did not provide any comments to explain their position. Among those who provided a rationale, the prevalent theme was that the provision would help the Scottish Government to respond swiftly and effectively to any future public health emergencies. This view was reported by a few respondents including Public Health Scotland and the Police Scotland.

“We agree with the importance of ensuring the Scottish Ministers can respond effectively and rapidly to any future threats to public health in Scotland.” (Extract from Public Health Scotland)

<sup>6</sup> Hereafter referred to by its more commonly known name, Police Scotland.

Another argument made by a few respondents in favour of permanence was that the provision would align Scotland with other parts of the UK, which they felt would support the response to future pandemics.

The importance of checks and balances to ensure powers are used appropriately was emphasised by a small number of respondents who supported permanence. Examples of checks included basing decisions on the best available evidence and in consultation with experts, parliament and the public more widely as appropriate.

Among those who supported extension but not permanence, there was support for the provision as an emergency response. However, the consensus within these responses was that the powers should not be retained beyond the pandemic. Organisations supporting an extension included NASUWT and the Scottish Law Agents' Society.

The most common explanation for opposing permanence or an extension centred on doubt about the effectiveness of the public health regulations outlined in the consultation document. Many individuals felt that there was little or no evidence that the regulations had any impact on the spread of the virus.

“The scientific evidence underpinning these restrictions has been flimsy at best. There are now numerous studies showing that lockdowns did nothing to stop the spread of the SARS-CoV-2 virus.” (extract from individual)

In their comments, many suggested that the regulations have harmed individuals' health and said they opposed the provision for this reason. The negative impact on physical health conditions (caused by, for example, delays in diagnoses and treatments for other conditions as a result of restrictions on NHS services, as well as perceived increases in obesity and substance use) was mentioned by many respondents. Similarly, several respondents expressed concern about the adverse effects of restrictions on mental wellbeing as a result of reduced social contact, for example.

Another recurring theme mentioned by several respondents was the negative impact of restrictions on the economy in terms of business closures and job losses.

Personal responsibility and the importance of allowing individuals to make decisions about their own behaviour, without mandates from the government, was identified as another reason to oppose the provision by many respondents.

“People should be allowed to make their own risk assessment and do not need a nanny state to tell them how to manage their health or social wellbeing.” (Individual)

Some respondents commented on perceived inconsistencies in the regulations. This included frustration at apparent contradictions between the rules in place, such as the requirement to wear a mask in shops but not while standing and drinking in a bar, and the restrictions on parents and carers attending events at schools while large crowds of people are allowed at sporting events. It was claimed that differences in regulations between Scotland and other parts of the UK, and between areas within Scotland, caused confusion.

### H3 – Vaccinations and immunisations (Permanence)

These figures are a non-representative sample	Permanent	Extend	Total Support	Oppose	Unsure	No view / answer	No. of comments
All respondents (2905)	7.2%	6.4%	<b>13.6%</b>	<b>76.8%</b>	1.0%	8.6%	573
All giving a view (2655)	7.9%	7.0%	<b>14.9%</b>	<b>84.0%</b>	1.1%	-	560
All org responses (130)	16.9%	1.5%	<b>18.5%</b>	<b>6.9%</b>	1.5%	73.1%	21
All orgs giving a view (35)	62.9%	5.7%	<b>68.6%</b>	<b>25.7%</b>	5.7%	-	16

Many respondents' qualitative responses to this question focused on the vaccination programme in general, rather than the issue of which professionals should be authorised to deliver vaccinations. There was a strongly held view by many respondents that the decision to be vaccinated should be a matter of personal choice rather than government mandate, and several described vaccine passports as unfair and discriminatory. Concern about the safety of the vaccine was another theme among many respondents, as was doubt about the vaccine's effectiveness in reducing transmission of the virus.

The most common theme among respondents who supported permanence or extension of the provision in question was the increased capacity it offers to the health service to deliver the Covid vaccination programme. Several respondents - including some organisations that supported permanence such as Public Health Scotland, Pharmacy Public Health at NHS Greater Glasgow and Clyde, the Directorate of Public Health at NHS Lothian, the Royal Pharmaceutical Society, the Health and Social Care Alliance Scotland and COSLA – reported this view. Some respondents also noted that, if made permanent, the provision could support the delivery of vaccinations for other illnesses.

“We agree that the expanded seasonal influenza programme and the potential continued provision of Covid boosters will both require large vaccination workforces and flexibility within delivery models. We share the ambition to make it easier to quickly protect the population from infectious diseases. Therefore we support the proposal.” (Extract from Public Health Scotland)

Several of the respondents who opposed permanence and extension felt that doctors' level of training and competence meant that they should deliver vaccinations rather than other professionals. Some respondents felt that doctors should deliver vaccinations because they would be better able to answer patients' questions about the vaccine and its potential side effects, thereby enabling informed consent, while doctors' knowledge of their patients' medical history would allow them to identify any potential risks that the vaccine could pose to an individual.

“Vaccinations should always be conducted as part of an individualised health care plan and never dealt with as a matter for paramedical personnel who have limited understanding of what they are doing.” (Individual)

#### H4 - Virtual public meetings under the Schools (Consultation) (Scotland) Act 2010 (Develop)

These figures are a non-representative sample	Develop	Not develop	Unsure	No view / answer	No. of comments
All respondents (2905)	<b>9.5%</b>	<b>75.7%</b>	3.3%	11.5%	372
All giving a view (2570)	<b>10.7%</b>	<b>85.6%</b>	3.7%	-	365
All org responses (130)	<b>16.9%</b>	<b>6.9%</b>	0.8%	75.4%	18
All orgs giving a view (32)	<b>68.8%</b>	<b>28.1%</b>	3.1%	-	16

Organisations that supported this proposal being developed included COSLA and 11 local authorities, Public Health Scotland, the Scottish Out of School Care Network and the working group of the Centre for Scots Law at the University of Aberdeen. Organisations who felt the proposal should not be developed included the Scottish Law Agents' Society and NASUWT.

Some respondents explained that they supported this proposal because of the convenience of virtual meetings and their potential to allow more people to take part.

“Greater flexibility with regard to holding virtual public meetings during normal times would be welcome. In normal times we have found attendance at public consultation meetings to vary considerably. Low turnouts don't always reflect the level of interest but their ability to attend. Recent virtual consultations involving primary and ASN [Additional Special Needs] schools has often enabled both parents to attend without having to make child care and transport arrangements.” (West Lothian Council)

A common theme among both respondents who supported the proposal and those who opposed it related to digital exclusion. Several respondents noted that people who do not have access to internet-connected devices, who lack the skills to take part online, or who live in areas with poor internet connectivity could be excluded from virtual meetings.

Several respondents suggested there should be a hybrid model, where meetings take place in-person along with an option to attend online. A few also noted that documents related to the meeting should be made available both in paper and online to ensure they are accessible to those who cannot access them on the internet.

Another view expressed by several respondents who opposed the proposal was that face-to-face contact allows for more effective communication than virtual meetings. Some felt that virtual meetings are less transparent than face-to-face meetings and give public bodies the opportunity to avoid or limit public scrutiny.

“Nothing will ever beat face-to-face human contact.” (Individual)

# Public services and justice system reform

## P1 – Alcohol licensing remote hearings (Permanence)

These figures are a non-representative sample	Permanent	Extend	Total Support	Oppose	Unsure	No view / answer	No. of comments
All respondents (2905)	6.5%	5.3%	<b>11.9%</b>	<b>69.2%</b>	1.5%	17.5%	247
All giving a view (2397)	7.9%	6.5%	<b>14.4%</b>	<b>83.8%</b>	1.8%	-	241
All org responses (130)	18.5%	3.1%	<b>21.5%</b>	<b>6.9%</b>	0.0%	71.5%	18
All orgs giving a view (37)	64.9%	10.8%	<b>75.7%</b>	<b>24.3%</b>	0.0%	-	18

Respondents in favour of permanently extending the provision described remote hearings as an efficient, effective and flexible way to conduct alcohol licensing proceedings. They highlighted the cost, time, travel and resource savings stemming from remote hearings. A few respondents with direct experience of alcohol licensing procedures (including Police Scotland and local authority licensing boards) noted that remote hearings have worked successfully in the sector throughout the pandemic.

“Police officers and staff work in diverse communities across Scotland, many of which are remote and involve travelling large distances to be represented at the Board. Out with the pandemic, this can present challenges and can impact resourcing. Virtual Board meetings provide an alternative solution to ease these challenges whilst still allowing full participation and representation. Although initially and still from time to time, IT challenges arise, virtual meetings have proven largely successful with most difficulties overcome.”  
(Extract from Police Scotland)

Some respondents felt that face-to-face hearings are the most effective and appropriate way to conduct alcohol licensing proceedings, and should remain the default format. They argued that in-person hearings are fairer, more transparent and rigorous and allow for clearer communication between parties.

Several challenges and concerns related to remote hearings were raised, including concerns over digital exclusion and online security. A few respondents felt that remote hearings would not be taken as seriously as in-person hearings or would be more vulnerable to fraud and corruption.

Some raised concerns that remote hearings are less visible to the public than in-person hearings and stressed that public access to alcohol licensing hearings and decisions should not be diluted. However, one local authority noted that all of their virtual hearings are recorded, streamed live and available for up to 6 months following the hearing, meaning that the public can still access and view the meetings should they wish to.

Many respondents supported the idea of offering both in-person and remote options for hearings, noting that this should be decided on a case-by-case basis.

## P2 – Bankruptcy: debt level that enables creditors to pursue the bankruptcy of a debtor through the courts (Permanence)

These figures are a non-representative sample	All (2905)	All giving view (2386)	All orgs (130)	Org giving view (49)
Extend beyond March 2022 and made permanent (i.e. with a creditor petition debt level of £10,000 as per the current provisions)	4.1%	4.9%	6.2%	16.3%
Extend beyond March 2022 and made permanent with an amended creditor petition debt level of £5,000	3.1%	3.8%	13.1%	34.7%
Extend beyond March 2022 (i.e. with a creditor petition debt level of £10,000 as per the current provisions), but not made permanent	3.0%	3.7%	1.5%	4.1%
Extend beyond March 2022 with an amended creditor petition debt level of £5,000, but not made permanent	4.0%	4.8%	3.1%	8.2%
<b>Total Support</b>	<b>14.1%</b>	<b>17.2%</b>	<b>23.8%</b>	<b>63.3%</b>
<b>Oppose</b>	<b>64.0%</b>	<b>77.9%</b>	<b>12.3%</b>	<b>32.7%</b>
Unsure	4.0%	4.9%	1.5%	4.1%
I have no view / Not answered	17.9%	-	62.3%	-
No of open comments	222	216	36	31

The most prevalent theme among open-text responses to this question was support for permanently increasing the debt level that enables creditors to pursue the bankruptcy of a debtor to £5,000. Respondents felt this would represent a fair, equitable and appropriate balance between debtor and creditor interests.

Returning to the pre-Covid threshold of £3,000 was largely perceived to be unfair to debtors given current economic challenges, such as the end of the furlough scheme, an increase in the cost of living and changes to Universal Credit. Others felt that the £3,000 threshold had been in place for too long and was due to be increased.

However, proposals to maintain the current £10,000 threshold sparked concern among several respondents. Their arguments included that a debt level of £10,000 is too high and its permanence could have long term economic consequences, such as a lack of efficient recovery processes, loss of confidence from lending creditors and a disproportionate impact on the rights of smaller creditors. Respondents were also concerned that increasing the limit significantly could enable an individual's debts to accumulate to unmanageable levels and act as an obstacle to creditors recovering money.

“The £3,000 debt level has not been reviewed in many years and it now feels like £5,000 is likely more appropriate. However, £10,000 is significantly higher and could exclude many smaller creditors from pursuing sequestration, and leaving them with few other options. It would also mean that debtors could build up more significant debts before seeking to address any financial difficulties they may be having.” (Extract from CMS Cameron McKenna Nabarro Olswang LLP)

Some respondents (including three local authorities) raised concerns about maintaining the current debt level at £10,000 due to implications this would have on the recovery of Council Tax debts. It was deemed unfair to local authorities to set a threshold which allows an individual to accumulate £10,000 of Council Tax debts (which could be several years of non-payment) before sequestration proceedings can begin. A small number of respondents supported returning the debt level to its original pre-pandemic level. A few noted it is easier to settle debts of a lower value and therefore an increase in the threshold could result in more bankruptcies.

### P3 – Bankruptcy: electronic service of documents (Permanence)

These figures are a non-representative sample	Permanent	Extend	Total Support	Oppose	Unsure	No view / answer	No. of comments
All respondents (2905)	9.2%	4.3%	<b>13.5%</b>	<b>64.2%</b>	3.4%	18.9%	173
All giving a view (2357)	11.3%	5.3%	<b>16.6%</b>	<b>79.1%</b>	4.2%	-	165
All org responses (130)	26.2%	2.3%	<b>28.5%</b>	<b>6.2%</b>	1.5%	63.8%	28
All orgs giving a view (47)	72.3%	6.4%	<b>78.7%</b>	<b>17.0%</b>	4.3%	-	25

Those in favour of making the provision permanent described the benefits of the electronic service of bankruptcy documents. They felt an electronic system was more cost effective, less time consuming and would expedite the insolvency process. Others who supported the proposal observed it was a welcome modernisation of the insolvency process.

“Electronic transmission of documents became an essential part of working from home and removed many of the uncertainties regarding issue and delivery when offices were not generally open to the public. Even as workforces return to the office, this reform will still be beneficial and will make communication easier. Completing forms and transmitting them electronically will be less time consuming, more straightforward, and less costly for consumers and businesses alike.” (Extract from Association of Business Recovery Professionals)

Concerns and challenges with the electronic service of bankruptcy documents were raised by those who did not support the provision being extended or made permanent. They highlighted digital exclusion, with some arguing this would be particularly relevant to those facing bankruptcy proceedings who may not have adequate resources to pay for devices and internet access. Others noted an electronic system may be inaccessible to vulnerable or disabled individuals, or those without the required digital skills. However, Citizens Advice Scotland noted that moving to an electronic system would have no implications for digital exclusion as the system used, BASYS, is not available to the public.

Some respondents suggested that hard copies are a more secure way of delivering important documents, noting that electronic methods of communication are vulnerable to interception, fraud or data protection breaches.

Those who supported an extension to the provision beyond March 2022 without permanence did so because they felt there was need for further review and analysis of the benefits and risks of this approach before making it permanent.

A point raised by many respondents with differing views on whether the provision should be extended/made permanent or not was related to proof of receipt of documents. Several respondents noted that for this system to work, there would need to be robust mechanisms in place to prove the correct individual has received and read the electronic document.

#### P4 – Bankruptcy: moratoriums on diligence (Permanence)

These figures are a non-representative sample	All (2905)	All giving view (2327)	All orgs (130)	Org giving view (47)
Extend beyond March 2022 and made permanent (i.e. with a moratorium period of 6 months as per the current provisions)	3.5%	4.4%	5.4%	14.9%
Extend beyond March 2022 and made permanent with an amended moratorium period of 12 weeks	2.8%	3.5%	12.3%	34.0%
Extend beyond March 2022 (i.e. with a moratorium period of 6 months as per the current provisions), but not made permanent	2.8%	3.5%	2.3%	6.4%
Extend beyond March 2022 with an amended moratorium period of 12 weeks, but not made permanent	2.9%	3.7%	1.5%	4.3%
<b>Total Support</b>	<b>12.0%</b>	<b>15.0%</b>	<b>21.5%</b>	<b>59.6%</b>
<b>Oppose</b>	<b>64.1%</b>	<b>80.1%</b>	<b>13.1%</b>	<b>36.2%</b>
Unsure	3.9%	4.9%	1.5%	4.3%
I have no view / Not answered	19.9%	-	63.8%	-
No of open comments	154	147	33	29

There were mixed responses about the most appropriate moratorium length, but a common theme was the need to strike a fair balance between the rights of both the debtor and creditor. Respondents felt that the moratorium must reflect the importance of addressing problem debt swiftly and urgently, while also giving individuals appropriate time to seek advice and find solutions to their financial difficulties.

Some respondents felt that the 6-month moratorium was appropriate during the pandemic due to the financial uncertainty many individuals were experiencing, but now thought the moratorium should be reduced either to its original 6-week period or to the proposed 12-week period. Arguments against a moratorium period of 6 months included: debtors may perceive the situation as less urgent and disengage from efforts to repay the debt; debtors may use the additional time to dispose of assets; creditors may suffer as they are made to wait longer for resolution; and debtors may incur more charges and interest.

However, other respondents supported an extension of the 6-month moratorium, noting that there will be long-term economic consequences of the pandemic and those experiencing financial difficulty should be given as much time as possible to resolve their situation. A few mentioned that current financial circumstances such as the end of the furlough scheme, the energy price cap increase, an increase in the cost of living and

changes to Universal Credit may result in increased demand for debt advice services and the moratorium should reflect that it may take longer to receive support in the future.

Respondents who expressed support for a permanent 12-week moratorium period included 4 local authorities, the Association of Business Recovery Professionals, Christians Against Poverty and The Law Society of Scotland. They argued that a 6-week period is too short to allow meaningful actions to be agreed and taken, and described a 12-week period as more suitable, realistic and ‘a happy medium’. However, others disagreed and felt that returning to the 6-week moratorium was the best option to encourage individuals to swiftly resolve problem debt.

Some respondents proposed a new moratorium period of 60 days, in line with the ‘Breathing Space’ scheme in place in England and Wales. Others felt that a decision on the diligence moratorium should not be made until the ongoing stakeholder-led review of debt solutions in Scotland is complete.

### P5 – Bankruptcy: virtual meetings of creditors (Permanence)

These figures are a non-representative sample	Permanent	Extend	Total Support	Oppose	Unsure	No view / answer	No. of comments
All respondents (2905)	9.0%	4.6%	<b>13.6%</b>	<b>64.3%</b>	2.9%	19.2%	151
All giving a view (2348)	11.1%	5.7%	<b>16.8%</b>	<b>79.6%</b>	3.6%	-	146
All org responses (130)	25.4%	1.5%	<b>26.9%</b>	<b>6.9%</b>	0.0%	66.2%	23
All orgs giving a view (44)	75.0%	4.5%	<b>79.5%</b>	<b>20.5%</b>	0.0%	-	21

Those in favour of permanently extending the provision to allow virtual meetings of creditors included the Association of Business Recovery Professionals, Citizens Advice Scotland and six local authorities. In these responses, the proposals were described as reasonable, sensible and efficient, and the cost and time savings that could be achieved by allowing meetings of creditors to take place virtually were highlighted. Others embraced the introduction of virtual meetings as a step towards modernising insolvency processes.

“This change to the insolvency process would improve the efficiency of the process for those creditors that are able to attend virtual meetings and reduce costs.” (Extract from UK Finance)

“The changes made in response to the Covid-19 pandemic have brought welcome modernisation and improvements to the Scottish bankruptcy system. Putting the facility for creditors to meet virtually onto a permanent basis would be a sensible continuation of these improvements.” (Extract from Christians Against Poverty)

Two respondents who supported permanently extending the provision pointed out that enabling creditor meetings to take place virtually would bring personal insolvency procedures in line with corporate insolvency. One noted there would be benefits for the environment by reducing the amount of travel required to attend meetings.

Some respondents who supported extending the provision permanently did so on the condition that in-person meetings would still remain an option, and all parties were able to have a say in the preferred medium for the meeting.

Those who disagreed with the provisions being extended or made permanent expressed a preference for in-person meetings for a variety of reasons. They believed that face-to-face meetings are fairer, more transparent, more effective and taken more seriously than virtual meetings. Some also raised concerns about digital exclusion, fearing that those who do not have digital access or skills will be excluded if virtual meetings become the default in bankruptcy proceedings. Others described technical problems related to virtual meetings, and concerns over online security.

## P6 – Care services: giving of notices by the Care Inspectorate (Permanence)

These figures are a non-representative sample	Permanent	Extend	Total Support	Oppose	Unsure	No view / answer	No. of comments
All respondents (2905)	6.3%	4.2%	<b>10.6%</b>	<b>68.2%</b>	2.8%	18.5%	156
All giving a view (2368)	7.8%	5.2%	<b>13.0%</b>	<b>83.7%</b>	3.4%	-	152
All org responses (130)	18.5%	1.5%	<b>20.0%</b>	<b>6.2%</b>	0.8%	73.1%	15
All orgs giving a view (35)	68.6%	5.7%	<b>74.3%</b>	<b>22.9%</b>	2.9%	-	15

The Care Inspectorate, The Health and Social Care Alliance Scotland and 10 local authorities were among those who supported making permanent the provision to allow formal notices to care homes to be sent electronically. Those favouring permanence saw the proposal as a way to increase efficiency and modernise processes in the care system.

“Removing unnecessary delays from the process can only benefit all those who rely on our care services.” (Extract from Public Health Directorate, NHS Scotland)

A few respondents said their support for the proposal being made permanent was conditional, based on: an encrypted delivery and e-receipt system being established; data security risks being managed effectively; and the Care Inspectorate maintaining an up to date records system of key contacts at relevant regulated establishments.

Respondents who supported the provision being extended but not made permanent felt that it should not be made permanent until there is more evidence that the electronic delivery system is safe and effective.

Those who disagreed with the provision being extended or made permanent argued that formal care home improvement notices are too important to be delivered electronically and should be delivered by post or in-person. Respondents expressed concern that an electronic delivery system is vulnerable to interception and error and important notices may go undelivered or be sent to the wrong recipient.

“Formal paperwork such as this should not be electronic. There is no guarantee that electronic communication will be received, read or not intercepted.” (Individual)

Some respondents thought it would be sensible for all notices to be sent electronically in addition to, or as a back up to paper copies.

Several respondents did not directly address the proposal and instead used their response to criticise the Care Inspectorate and the wider care system in Scotland. Some specifically criticised decisions which allowed elderly care home residents to leave hospital care and return to residential care settings after being exposed to Covid.

### **P7 – Civic government licensing remote hearings (Permanence)**

These figures are a non-representative sample	Permanent	Extend	Total Support	Oppose	Unsure	No view / answer	No. of comments
All respondents (2905)	6.6%	4.8%	<b>11.3%</b>	<b>66.9%</b>	2.3%	19.5%	152
All giving a view (2338)	8.2%	5.9%	<b>14.1%</b>	<b>83.1%</b>	2.8%	-	151
All org responses (130)	14.6%	1.5%	<b>16.2%</b>	<b>6.2%</b>	2.3%	75.4%	14
All orgs giving a view (32)	59.4%	6.3%	<b>65.6%</b>	<b>25.0%</b>	9.4%	-	14

Seven local authorities, Police Scotland and COSLA were among those who supported making permanent the provision to allow civic government licensing hearings to take place remotely.

Respondents described the benefits of remote hearings, such as increased flexibility, efficiency and convenience. In their response, Aberdeenshire Council noted positive feedback about the provision from their Licensing Sub-Committee:

“ - Remote hearings have allowed for flexibility and have increased accessibility to parties participating

- Remote hearings have allowed Councillors and parties to reduce travel time which is welcome in a large, rural area like Aberdeenshire
- The option to hold remote hearings is likely to be beneficial if there are extreme weather conditions because it allows the Committee business to be carried on increasing efficiency and accessibility
- The Committee now has considerable experience of doing hearings in this way so are able to run them effectively without compromising on confidentiality and security.” (Extract from Aberdeenshire Council)

However, several respondents opposed making the provision permanent, raising concerns about digital exclusion, with some specifically highlighting connectivity issues faced by many people in rural, remote and island communities. Others questioned online security and expressed fears that public access to hearings could be diluted. Some respondents suggested that in-person hearings are fairer and allow for more effective communication between parties. One respondent felt that civic government licensing hearings should not be held on a platform which allows officials in charge of the meeting to mute or remove individuals during the meeting.

A few respondents suggested that online hearings should only be offered under specific circumstances, for example if: there is a significant backlog of cases and online hearings can help to expedite the process; all parties agree this is the most convenient medium; an applicant cannot appear in-person due to health reasons; it cuts down on lengthy travel; or it is a license renewal as opposed to a new application being approved.

## P8 – Courts: intimation, etc. of documents (Permanence)

These figures are a non-representative sample	Permanent	Extend	Total Support	Oppose	Unsure	No view / answer	No. of comments
All respondents (2905)	7.5%	4.2%	<b>11.7%</b>	<b>67.0%</b>	3.2%	18.1%	150
All giving a view (2378)	9.2%	5.1%	<b>14.3%</b>	<b>81.8%</b>	3.9%	-	148
All org responses (130)	29.2%	1.5%	<b>30.8%</b>	<b>6.2%</b>	0.0%	63.1%	24
All orgs giving a view (48)	79.2%	4.2%	<b>83.3%</b>	<b>16.7%</b>	0.0%	-	23

Those who supported a permanent extension to the provision described it as sensible, pragmatic and justified. They felt making documents publicly available through the Scottish Courts and Tribunal Service (SCTS) website instead of displaying them physically on court walls would be a welcome modernisation of the civil justice system. Others described the efficiencies and convenience associated with posting information online. Respondents noted this approach will improve transparency and public access to the justice system.

“The SCTS website should be made the permanent method of posting the relevant notices. This is a far more effective way of informing the wider public than posting physical notices on the court walls.” (Extract from Argyll & Bute Council)

“From our perspective as civil court practitioners, we are of the view that these provisions have improved transparency/ease of access to information and that they support the principle of open justice.” (Extract from CMS Cameron McKenna Nabarro Olswang LLP)

A few respondents highlighted the importance of SCTS maintaining a website that is easy to navigate with a functional system to search for specific documents and information.

Several respondents raised concerns about digital exclusion, fearing that moving to an online publication system will mean those without the skills or resources to access and search the SCTS website will be unable to view documents. In some cases, these respondents opposed moving to an online-only system and instead advocated for documents to be posted both online and physically on court walls. Two suggested implementing ‘virtual walls’ within courts where the public could view digital notices.

A few supported extension beyond March 2022 but felt the provision should not be made permanent until a further review establishes whether the approach is working effectively.

A small number of respondents drew attention to paragraph 88 in the consultation paper which suggests that part of the SCTS strategy is to ‘minimise physical appearance in court buildings’. They stressed that public access to courts is a fundamental principle of open justice and should only be restricted in exceptional circumstances.

## P9 – Criminal justice: arrangements for the custody of persons detained at police stations (Permanence)

These figures are a non-representative sample	Permanent	Extend	Total Support	Oppose	Unsure	No view / answer	No. of comments
All respondents (2905)	4.5%	3.7%	<b>8.2%</b>	<b>69.6%</b>	2.9%	19.3%	143
All giving a view (2344)	5.6%	4.6%	<b>10.2%</b>	<b>86.3%</b>	3.6%	-	135
All org responses (130)	6.9%	4.6%	<b>11.5%</b>	<b>10.0%</b>	2.3%	76.2%	17
All orgs giving a view (31)	29.0%	19.4%	<b>48.4%</b>	<b>41.9%</b>	9.7%	-	14

Very few respondents provided specific or detailed comments on the proposal to allow prison custody officers to carry out their functions of transfer or custody of prisoners within police stations. Several responded to the question with comments about the wider justice system in Scotland, and others expressed concerns about virtual court appearances (which are discussed later in this report). Some explained that they did not understand the question or felt that the consultation paper had not provided enough information to make an informed decision or comment.

Among those who directly addressed the proposal, some expressed concern that this provision may restrict or limit access to criminal justice social workers which could have negative consequences for vulnerable individuals held in custody.

“Should this provision be extended and/or made permanent, then there will be a need to ensure that Criminal Justice Social Work (CJSW) and other providers of support and services can have access to custodies in order to carry out assessments for Bail Supervision and Structured Deferred Sentences, welfare checks, etc. This is a barrier at present which is impacting on CJSW ability to provide the services to meet people’s needs.” (Extract from Aberdeenshire Council)

Some of those who disagreed with the proposal to extend or make the provision permanent voiced a fear that this approach could be open to abuse and allow the mistreatment of prisoners. A small number claimed that the process in place prior to the pandemic worked well and should be reinstated.

Calls for a more thorough review of the process and a greater understanding of the impact of this change on those in custody or working within the justice system were made by some respondents who did not agree with the provision being made permanent.

A few respondents highlighted potential benefits of allowing prison custody officials to carry out their functions within police station settings, such as efficiency, flexibility and a better use of resources which could free police officers for other duties. Others felt this that proposal is in line with the modernisation of the justice system. Some recognised that this provision is necessary to allow the continued facilitation of virtual custody appearances.

## P10 – Freedom of Information: giving notice electronically (Permanence)

These figures are a non-representative sample	Permanent	Extend	Total Support	Oppose	Unsure	No view / answer	No. of comments
All respondents (2905)	11.4%	4.8%	<b>16.1%</b>	<b>63.1%</b>	2.6%	18.1%	142
All giving a view (2379)	13.9%	5.8%	<b>19.7%</b>	<b>77.1%</b>	3.2%	-	139
All org responses (130)	20.0%	0.8%	<b>20.8%</b>	<b>5.4%</b>	0.0%	73.8%	14
All orgs giving a view (34)	76.5%	2.9%	<b>79.4%</b>	<b>20.6%</b>	0.0%	-	14

Those in favour of permanently extending the provision to allow formal notices under the Freedom of Information (Scotland) Act 2002 to be issued electronically included eight local authorities, the Scottish Information Commissioner and the Care Inspectorate.

Respondents observed that the electronic delivery of notices worked well during the pandemic and allowed authorities to be more efficient in responding to Freedom of Information requests. A few pointed out that the provision would allow the Scottish Information Commissioner to undertake investigations and make decisions more quickly.

"The provisions would enable the use of an efficient communication tool which is necessary in today's world. It would also cut down on cost, resource, time and carbon footprint." (Extract from North Ayrshire Council)

Some respondents supported the provision being made permanent on the condition that the option to request physical copies is retained.

A few respondents felt that moving to an electronic notification system could result in important notices going unread or being sent to the wrong recipient.

"Possible benefits from making this permanent in terms of speed and sustainability but there would have to be arrangements made to ensure receipt of information as well as accuracy of details." (Individual)

While this provision relates specifically to delivering notices to public bodies, some respondents thought that it was about issuing notices to members of the public and raised concerns about digital exclusion. They feared that moving to an electronic notification service could exclude or disadvantage those with poor broadband access or low levels of digital literacy. A few drew attention to groups who may not have ready access to devices and internet, such as elderly people, remote and rural communities and people serving prison sentences. Several respondents commented on the Freedom of Information process more generally without addressing the proposed changes, describing concerns over lengthy timescales, perceived loopholes and redactions in documents.

## P11 – Legal aid (Permanence)

These figures are a non-representative sample	Permanent	Extend	Total Support	Oppose	Unsure	No view / answer	No. of comments
All respondents (2905)	6.8%	4.5%	<b>11.3%</b>	<b>61.2%</b>	4.9%	22.5%	107
All giving a view (2250)	8.8%	5.8%	<b>14.6%</b>	<b>79.0%</b>	6.4%	-	96
All org responses (130)	9.2%	0.8%	<b>10.0%</b>	<b>6.2%</b>	0.0%	83.8%	10
All orgs giving a view (21)	57.1%	4.8%	<b>61.9%</b>	<b>38.1%</b>	0.0%	-	4

Very few respondents provided an open-text response which directly addressed the proposal to make permanent the provisions which allow for increased availability of interim payments to solicitors. Some explained they did not have enough expertise on the matter to comment, while others did not think the consultation provided them with enough information to give a detailed response. General opinions on legal aid were offered, with some highlighting the value of the legal aid system in Scotland, and others expressing more critical views.

Those who supported making the provision permanent included Money Advice and Rights East Renfrewshire Council, Shoosmiths LLP and Citizens Advice Scotland. Arguments in favour included a view that flexible interim payments could support the administration of legal aid and two respondents stated that the provision could encourage more firms to offer legal aid services.

“Increasing the availability of interim payments would be beneficial to the legal aid system as it will help to maintain, and potentially increase, the number of solicitors who will undertake legal aid work. Any increase in the number of legal aid solicitors would assist Citizens Advice Bureau clients in accessing justice, allowing them to progress their domestic affairs, and take forward consumer cases and rights enforcement. This is important as we hear evidence from across the Citizens Advice Network where clients have had difficulty accessing legal practitioners who will take on legal aid cases particularly in rural areas or in relation to certain legal issues.” (Extract from Citizens Advice Scotland)

Those who did not agree with a permanent provision felt that more review and analysis was necessary before making significant changes to the legal aid system. Two respondents did not see the need for interim payments to be made permanent as they felt that solicitors should have substantial resource in place to receive payment after services are undertaken.

Some respondents advocated for wider reform within the legal aid system, suggesting that simply extending this provision will not address underlying issues within the sector.

## P12 – Legal writings (Permanence)

These figures are a non-representative sample	Permanent	Extend	Total Support	Oppose	Unsure	No view / answer	No. of comments
All respondents (2905)	6.7%	4.0%	<b>10.7%</b>	<b>62.7%</b>	5.2%	21.4%	124
All giving a view (2284)	8.5%	5.1%	<b>13.6%</b>	<b>79.8%</b>	6.6%	-	122
All org responses (130)	20.8%	2.3%	<b>23.1%</b>	<b>6.2%</b>	1.5%	69.2%	21
All orgs giving a view (40)	67.5%	7.5%	<b>75.0%</b>	<b>20.0%</b>	5.0%	-	20

Respondents with experience of executing legal documents (including local authorities and organisations operating in the legal/justice sector) largely supported making permanent the provision to remove the requirement for the physical presence of certain parties during the execution of documents and administration of oaths, affirmations and declarations. They highlighted the efficiency, convenience and flexibility afforded by the ability to execute documents and administer oaths by alternative means and described the cost, time and travel savings achieved by this approach.

“There is an increased use of Affidavits in legal proceedings in which the Council is involved and it has proved particularly beneficial, both in terms of convenience, time and efficiency, to be able to finalise these through remote means.” (Extract from Argyll & Bute Council)

“This will create more flexibility in the way which documents are signed. It would also reduce unnecessary meetings and travel, freeing up officer time and reducing carbon emissions.” (Extract from North Ayrshire Council)

Some respondents were content for the remote execution of documents to remain an option, but did not want it to become the default or only means of executing documents. Others thought it should only be allowed during exceptional circumstances.

A few recognised that this practice was necessary during lockdown for health and safety reasons, but felt strongly that the provision should not be extended or made permanent and there should be a return to pre-Covid processes.

The most common concern raised by respondents was about how secure the process is and whether or not it could be vulnerable to fraud or abuse. Some of those in favour of making the provision permanent said their support was conditional on there being more consideration of the risks of this provision and appropriate safeguarding being put in place. A few respondents feared that the process of executing documents without all parties being physically present could lack credibility and may be vulnerable to legal challenge.

A small number expressed general apprehension at moving to a more digitalised justice system, with some respondents concerned about digital exclusion and one worried that this could result in job losses in the sector.

### P13 – Mental health: named person nomination (Permanence)

These figures are a non-representative sample	Permanent	Extend	Total Support	Oppose	Unsure	No view / answer	No. of comments
All respondents (2905)	5.3%	3.8%	<b>9.1%</b>	<b>68.8%</b>	3.6%	18.5%	157
All giving a view (2367)	6.5%	4.6%	<b>11.2%</b>	<b>84.4%</b>	4.4%	-	153
All org responses (130)	14.6%	1.5%	<b>16.2%</b>	<b>6.9%</b>	2.3%	74.6%	15
All orgs giving a view (33)	57.6%	6.1%	<b>63.6%</b>	<b>27.3%</b>	9.1%	-	14

Those who disagreed with extending or making permanent the provision to remove the need for an individual to have their signature witnessed when they agree to become a named person argued that having a witness present is an important safeguarding measure. They noted that this step is necessary to verify the identity of the named person and ensure they are competent and have a clear understanding of the role and responsibilities of a named person. Concerns were raised that removing this step could make the process less secure or open to abuse. A few added that they thought it was important for the signature to be witnessed in-person as opposed to electronically.

“The requirement for witnessed signatures is important in this type of situation to limit potential for fraud and to ensure that the signatory is competent.” (Individual)

A few respondents considered this proposal to be particularly sensitive as it is in relation to vulnerable people and advocated for it to be subject to further review and debate before being extended or made permanent.

Those who supported the provision being made permanent included the Scottish Independent Advocacy Alliance and the Law Society of Scotland. Respondents felt that the provision removes bureaucracy from the process and could help to streamline named person procedures. A few noted that the requirement to have a witness to the named person signature can act as a barrier in emergency situations and removing it could reduce potential delays in vulnerable people receiving mental health care and treatment.

“Making this measure permanent makes it much more straightforward to have a Named Person appointed, which benefits the wider process and the upholding of an individual’s rights, and our members have been unable to identify a downside to the proposal. From our members’ perspective, ensuring the process for acquiring a named person is more streamlined while not altering the level of safeguard available ensures the process is more timely and that such an individual is in place to help promote the patient’s rights.” (Extract from Royal College of Psychiatrists)

Many respondents used their response to express their general disapproval of the named person scheme and petition for its removal. A few responses were considered to be out of scope, as it was clear that respondents were referring to the named person scheme in relation to children and young people as opposed to mental health.

## P14 – Parole Board: delegation (Permanence)

These figures are a non-representative sample	Permanent	Extend	Total Support	Oppose	Unsure	No view / answer	No. of comments
All respondents (2905)	4.8%	3.7%	<b>8.5%</b>	<b>64.5%</b>	4.1%	23.0%	103
All giving a view (2238)	6.2%	4.8%	<b>11.0%</b>	<b>83.7%</b>	5.3%	-	96
All org responses (130)	10.0%	3.1%	<b>13.1%</b>	<b>6.9%</b>	0.0%	80.0%	11
All orgs giving a view (26)	50.0%	15.4%	<b>65.4%</b>	<b>34.6%</b>	0.0%	-	9

Very few respondents provided an open-text response which directly addressed the provision to allow the Parole Board Chairperson’s functions to be delegated to another member of the Parole Board should the Chairperson become incapacitated.

Those who supported making the provision permanent included six local authorities, The Senators of the College of Justice and Police Scotland. Respondents in favour argued this was a practical approach which would allow the Parole Board to continue functioning if the Chairperson was unable to perform their duties for any reason.

“We are broadly supportive of continued delegation of the chairpersons’ functions as this will allow a continuance of the Parole Board function. This will mitigate any backlog of requests to Police and of the prison system and the knock-on effect on the criminal justice system as a whole.” (Extract from Police Scotland)

“This would appear to be pragmatic and allow contingency for the Parole Board to continue to operate.” (Extract from West Lothian Council)

One respondent suggested that a list and order of precedence for delegates should be prepared and approved in advance by the entire Parole Board. Another supported the provision as long as the delegates had the appropriate skills and experience to perform the assigned tasks and responsibilities.

Those who disagreed with the provision being made permanent felt there was a need for further review and greater understanding of the impact and risks of this change before making the provision permanent.

“We believe that these measures are proportionate during the pandemic period, where there is a risk that Parole Board functions may be impaired in the absence of a chair. Whether there are benefits to wider delegation beyond this period, such as the sharing of functions amongst Parole Board members, may be more appropriate to consider separate to this legislation.” (Extract from Law Society of Scotland)

One respondent felt responsibility should remain with the Chairperson under all circumstances as they must be accountable for all of the Parole Board’s decisions.

Some respondents called for wider reform to the justice, prison and parole systems in Scotland in their response.

## P15 – Parole Board: live link (Permanence)

These figures are a non-representative sample	Permanent	Extend	Total Support	Oppose	Unsure	No view / answer	No. of comments
All respondents (2905)	5.6%	4.8%	<b>10.4%</b>	<b>63.2%</b>	3.9%	22.5%	125
All giving a view (2252)	7.2%	6.2%	<b>13.4%</b>	<b>81.6%</b>	5.0%	-	119
All org responses (130)	12.3%	3.8%	<b>16.2%</b>	<b>6.2%</b>	0.8%	76.9%	15
All orgs giving a view (30)	53.3%	16.7%	<b>70.0%</b>	<b>26.7%</b>	3.3%	-	14

Those who agreed with making permanent the provision to allow parole hearings to take place over live link described the benefits of virtual hearings, including travel and resource savings, more flexibility and increased accessibility.

“Allowing this remote appearance to continue is potentially more efficient, saves time travelling and increases opportunities for participants to engage with hearings.” (Extract from Justice Services, South Ayrshire Council HSCP)

Third sector organisations Victim Support Scotland and Families Outside (both of whom supported making the provision permanent) highlighted the benefits that remote parole hearings can have for victims, witnesses and families, such as opening up access to hearings and avoiding delays in the process, which in turn can reduce distress.

Some respondents who disagreed with making the provision permanent noted that it can be difficult to interpret a person’s body language and demeanour or detect nuance through their virtual presence.

“It is difficult enough to determine the correct course of action when able to see and "read" a person in front of you. Removing or downgrading the physical clues is not a good idea.” (Individual)

“Video parole board hearings leave no room for appreciation or interpretation of nuances of behaviour which are obvious in-person.” (Individual)

While some recognised the need for virtual hearings during the pandemic for health and safety reasons, they felt that in the interests of procedural fairness and recognition of the seriousness of parole matters, in-person hearings should be resumed when it is safe to do so. Others felt it is important to gather more evidence on the impact of live link hearings before making the provision permanent.

A few respondents suggested that virtual hearings should be considered on a case-by-case basis. For example, one thought they should be offered when the offence relates to white collar or non-violent crimes, but not more serious or violent crimes. A few argued that live link hearings should only be carried out under circumstances where all parties agree that a virtual meeting would be acceptable and fair. Others supported a hybrid approach where those who wish to appear at the hearing remotely can do so.

## P16 – Remote registration of deaths and still-births (Permanence)

These figures are a non-representative sample	Permanent	Extend	Total Support	Oppose	Unsure	No view / answer	No. of comments
All respondents (2905)	13.3%	6.0%	<b>19.3%</b>	<b>60.6%</b>	2.2%	17.8%	171
All giving a view (2387)	16.2%	7.3%	<b>23.5%</b>	<b>73.7%</b>	2.7%	-	169
All org responses (130)	23.8%	0.0%	<b>23.8%</b>	<b>4.6%</b>	0.0%	71.5%	18
All orgs giving a view (37)	83.8%	0.0%	<b>83.8%</b>	<b>16.2%</b>	0.0%	-	18

Many respondents, including 11 local authorities and eight funeral directors, welcomed the provision to allow remote registrations of deaths and still-births and advocated for its permanence. Some respondents highlighted the efficiency and flexibility offered by this approach, while others highlighted it made the process of registering a death more streamlined.

“This has made a huge improvement to families and the death registration process has become much simpler and quicker for all parties involved. We have had no problems or concerns over the last 21 months.” (Extract from Ian Bendall Funeral Directors)

Respondents felt that the remote registration process offers convenience and can be less distressing for bereaved families during upsetting and stressful times.

“This is likely welcomed as many people report distress of having to do this in person (particularly stillbirths when often waiting in lines of people celebrating registering births).” (Extract from COSLA)

Some respondents noted that it is especially helpful for those living in rural, remote and island communities who will no longer need to take long journeys to register deaths.

A number of respondents who supported making the provision permanent felt it was important to retain in-person means of registration.

Respondents who disagreed with the provision being made permanent raised concerns over the security of remote registration and worried it could be open to abuse and fraud. They thought that remote registration does not reflect the gravity of registering a death and seriousness of the consequences of erroneously registering the death of an individual who is still alive. They argued that in-person registration is a more secure and robust process and has more safeguards in place to ensure verification of the identity of the deceased.

Some respondents thought that a remote system for the registration of deaths and still-births is too impersonal, lacks humanity and compassion and takes away an important part of the grieving process.

Three respondents reported having had a poor experience of using the remote registration system, describing the process as lengthy and inconvenient.

## P17 – Remote registration of live births (Develop)

These figures are a non-representative sample	Develop	Not develop	Unsure	No view / answer	No. of comments
All respondents (2905)	<b>15.6%</b>	<b>61.9%</b>	3.2%	19.3%	133
All giving a view (2343)	<b>19.3%</b>	<b>76.7%</b>	4.0%	-	129
All org responses (130)	<b>16.2%</b>	<b>5.4%</b>	1.5%	76.9%	12
All orgs giving a view (30)	<b>70.0%</b>	<b>23.3%</b>	6.7%	-	12

Most local authorities and other public bodies supported developing the provision to allow the remote registration of births being developed, however many respondents raised concerns and challenges related to the hybrid remote/in-person process.

Respondents expressed concern that the provision could make the process of registering births vulnerable to fraud and stressed the importance of having stringent verification checks to prevent misuse of the system. Others described concerns about accessibility and digital exclusion. Some felt in-person birth registrations are an important celebratory moment for new parents and should not be replaced with a partially remote system.

Some respondents called for more protections to be put in place to ensure fathers/second mothers are included on the birth certificate in the event the partners are not married/in a civil partnership or are estranged. A few respondents did not see the need for the remote elements of the hybrid approach, given that the individual registering the birth is still required to attend in-person as part of the process.

In their response, Dundee City Council explained why they did not support the provision being developed. They described challenges in running a hybrid system, including it being a more time-consuming and resource intensive model and concerns that Registrars might not receive the correct parental information. They felt that the system in place prior to the pandemic worked efficiently with full registration appointments only taking approximately 30 minutes. Aberdeenshire Council shared similar views about the time-consuming nature of this model in their response, although they were supportive of the proposal being developed as they could see wider benefits to it.

Some respondents described the provision as a more flexible, efficient and modern approach to registering births.

“These proposals would create greater flexibility for both local authorities and individuals. Necessarily, there will be a period of transition to ensure that commitments to accessibility are met, but the default provision of these services online would deliver significant benefits.” (Extract from Glasgow City Council Labour Group)

**P18 – Tenancies: protection against eviction (discretionary grounds of eviction); and pre-action requirements for eviction proceedings on ground of rent arrears (Permanence)**

These figures are a non-representative sample	All (2905)	All giving view (2472)	All orgs (130)	Org giving view (50)
Extend beyond March 2022 and made permanent	5.7%	6.8%	13.1%	34.0%
Extend beyond March 2022 and made permanent, but only to the extent that rent arrears should continue to be a discretionary eviction ground – all other eviction grounds return to pre-pandemic status	3.6%	4.2%	2.3%	6.0%
Extend beyond March 2022 but not made permanent	3.1%	3.6%	1.5%	4.0%
Extend beyond March 2022 but not made permanent, but only to the extent that rent arrears should continue to be a discretionary eviction ground – all other eviction grounds return to pre-pandemic status	5.5%	6.4%	3.1%	8.0%
<b>Total support</b>	<b>17.9%</b>	<b>21.0%</b>	<b>20.0%</b>	<b>52.0%</b>
<b>Oppose</b>	<b>65.1%</b>	<b>76.5%</b>	<b>16.9%</b>	<b>44.0%</b>
Unsure	2.1%	2.5%	1.5%	4.0%
I have no view / Not answered	14.9%	-	61.5%	-
No of open comments	258	252	30	27

Those in support of permanence included Crisis, Police Scotland and Citizens Advice Scotland. Respondents felt the provision improves the rights and protections of tenants and should be welcomed as a way to prevent evictions and reduce homelessness. Some described the negative impact of evictions and homelessness on individuals’ health and wellbeing and urged the Scottish Government to embrace measures which could reduce the risk of homelessness.

“Good housing is protective of the population’s health. We therefore welcome all measures that can be taken to avoid evictions and subsequent homelessness, and to support tenants to remain in their homes for as long as possible while alternative solutions to eviction are explored.” (Extract from Public Health Scotland)

A prevalent theme in comments was that pre-action requirements in particular were viewed favourably. They were seen as an effective route to resolving issues between landlords and tenants and welcomed as a layer of protection against eviction.

However, many respondents strongly opposed the proposal to make all grounds for eviction discretionary. They felt the provision affords too much leniency to tenants and does not consider the potential financial consequences for private landlords, fearing that landlords may be unable to obtain an eviction, or may face lengthy delays in evicting tenants. Respondents suggested the provisions could be open to abuse and that tenants may take advantage of the provisions and choose to stop paying rent because they may think they are protected from eviction. Several respondents called for more provisions to

protect the interests of private landlords. Some drew attention to smaller landlords who cannot afford to accrue arrears and may struggle to pay mortgage payments, insurance and other costs if they do not receive rental income timeously.

Several respondents feared that making the provision permanent could create undesirable conditions for private landlords, noting that if they decide to withdraw from the rental market, it will reduce the number of affordable homes for rent. Some argued this could have serious implications for homelessness given existing pressures in the housing sector and high demand for social housing. A few were concerned that the provisions could lead to landlords being reluctant to let to tenants whose circumstances may influence the Tribunal exercising its discretion, suggesting that tenants who are elderly, disabled or have young children may be negatively affected.

# The impact of Covid in the justice system

## J1 – Courts and tribunals: conduct of business by electronic means (Extension)

These figures are a non-representative sample	Permanent	Extend	Total Support	Oppose	Unsure	No view / answer	No. of comments
All respondents (2905)	7.1%	5.7%	<b>12.8%</b>	<b>65.2%</b>	1.5%	20.4%	205
All giving a view (2312)	8.9%	7.2%	<b>16.1%</b>	<b>81.9%</b>	1.9%	-	198
All org responses (130)	29.2%	3.8%	<b>33.1%</b>	<b>7.7%</b>	0.0%	59.2%	39
All orgs giving a view (53)	71.7%	9.4%	<b>81.1%</b>	<b>18.9%</b>	0.0%	-	35

The most common reason for support among those in favour of continuing business by electronic means was increased efficiency and reduced delays in the court system. This reason was cited by those supporting permanence (e.g. Scottish Courts and Tribunals Service, The Senators of the College of Justice, Sheriffs Principal of Scotland, Police Scotland, Her Majesty's Inspectorate of Prisons for Scotland (HMIPS), Faculty of Advocates, Care Inspectorate, Victim Support Scotland, law practices, local authorities) and the small number supporting an extension (inc. Law Society of Scotland and Citizens Advice Scotland). Sheriffs Principal of Scotland and SCTS supported permanence and agreed the power of the Lord President/Lord Justice General to grant exemptions be retained. Scottish Social Services Council also supported permanence.

A few supporters cited other benefits which included reduced delays due to documents being sent to solicitors, and cost and environmental savings from reduced printing, postage and travel. Police Scotland noted the ability to be granted a search warrant without travel reduces travel time for officers and frees them for other duties.

“The facility to lodge court documents by electronic means and without the requirement for a wet signature is long overdue, and we strongly support this proposal – especially as a national body which may be required from time to time, to raise and conduct urgent legal proceedings in jurisdictions where it has no physical presence.” (Care Inspectorate)

“The provisions allowing electronic signature and transmission of court documents has been a welcome modernisation of court practice.” (Shoosmiths LLP)

“From our perspective as civil court practitioners, we support this approach... It has had the effect of streamlining court procedures, has assisted in reducing unnecessary delays and inefficiencies, and has, overall, improved communication between the courts and court users.” (extract from CMS Cameron McKenna Nabarro Olswang LLP)

Procedural concerns around electronic business were raised by some supporters. A few, including SCTS, a legal organisation and HM Revenue & Customs (HMRC) described inconsistency in how Sheriffs have interpreted electronic signatures and submissions and called for these to be clearly set out to ensure uniformity. That the additional work required to produce written submissions is not yet reflected in fees for solicitors' work or in the legal aid system was noted by a few respondents, including Law Society of Scotland. City of

Edinburgh Advice Shop noted that not all individuals are represented by a solicitor who can receive their communications, and Faculty of Advocates noted that solicitors need to keep all parties advised of any change of agency. One organisation noted that clarity is needed over whether the proposal relates only to service of documents in, and not outside, Scotland.

Other less common perspectives were identified in responses from those supporting and opposing the provisions. Some, mostly individuals, expressed concerns over security - that the processes for electronic signature may be open to fraud and that incorrect email addresses may lead to documents being sent to the wrong place. There were also concerns over digital exclusion. Respondents including Law Society of Scotland and Citizens Advice Scotland noted that some demographic groups or geographic areas will not have access to the necessary technology; others may have conditions or disabilities which prevent them doing business digitally.

Given the above, some respondents called for a hybrid model where the option for physical lodging of documents remains alongside electronic business. Some individuals opposed any extension and called for all processes to take place face-to-face. However, the majority of comments in both these cases suggest individuals were referring to virtual attendance rather than electronic submission of documents.

## J2 – Courts and tribunals: virtual attendance (Extension)

These figures are a non-representative sample	Permanent	Extend	Total Support	Oppose	Unsure	No view / answer	No. of comments
All respondents (2905)	7.0%	5.7%	<b>12.7%</b>	<b>65.9%</b>	1.5%	19.8%	184
All giving a view (2329)	8.7%	7.2%	<b>15.9%</b>	<b>82.2%</b>	1.9%	-	175
All org responses (130)	25.4%	6.2%	<b>31.5%</b>	<b>13.8%</b>	1.5%	53.1%	44
All orgs giving a view (61)	54.1%	13.1%	<b>67.2%</b>	<b>29.5%</b>	3.3%	-	40

In the closed question responses to J2, permanence was supported by SCTS, The Senators of the College of Justice, Society of Messengers-at-Arms and Sheriff Officers, Police Scotland, HMIPS, nine local authorities, Care Inspectorate, The Scottish Social Services Council, ICAS, Scottish Independent Advocacy Alliance, Scottish Women’s Aid, Victim Support Scotland, Scottish Association of Landlords. An extension was supported by Law Society of Scotland, The Sheriffs Principal of Scotland, The Scottish Law Agents Society, COSLA, HMRC and Citizens Advice Scotland, among others. The Forum of Insurance Lawyers (FOIL) and a few other legal organisations opposed an extension.

“These provisions have been essential in enabling court business to continue whilst minimising the number of people required to attend our buildings. For as long as public health measures restrict the number of people we can safely have within our buildings remain in place, these provisions are crucial to ensuring court and tribunal business can continue.” (Extract from SCTS)

“The senators support the extension of these provisions. They also support the proposal that the facility enabled by the provisions should be made permanent, but consider that the process is currently cumbersome and that a more agile solution is required.” (Extract from the Senators of the College of Justice)

“For as long as Covid-19 is considered a threat to public health and necessitates physical distancing in court buildings after March 2022, the Sheriffs Principal would broadly support the retention of the provisions for Topic J2.” (Extract from Sheriffs Principal of Scotland)

“We do not think that the provisions for virtual attendance should be made permanent nor do we consider that should be the default position. There are potential hearings which are truly procedural which will not impact upon the accused’s position. In such circumstances there can be virtual (or indeed no) attendance. However any hearing which has a bearing upon the accused’s trial ought to be conducted in circumstances where he/she has a right to attend in person.” (Extract from Faculty of Advocates)

However, this question received more open comments from organisations than any other in the consultation (44); they highlight that this is a complex issue. Many responses were detailed and considered the benefits and disadvantages of virtual attendance. The analysis below summarises these views, but we would encourage Scottish Government and the reader to review these detailed responses where permission to publish has been granted.

The most common theme in support of continuing the provisions linked to perceived benefits. Some felt greater use of technology would modernise and improve court processes and help reduce the Covid backlog. Other benefits were mentioned by small numbers including the time and costs savings for participants who do not need to travel; a few specifically noted positive impacts of reduced travel for police and expert witnesses e.g. doctors attending virtually. Other advantages included: creating a less stressful or intimidating experience for some witnesses, victims of crime, vulnerable individuals or people with disabilities; less movement of individuals from police custody and prisons to courts which reduces overcrowding in court custody units; and increasing the resilience of the court system e.g. allowing it to operate in severe weather or travel disruption.

While recognising these benefits, several respondents raised issues around virtual attendance. Concern over the effectiveness of virtual attendance was common. Respondents often noted the challenge of assessing the demeanour of an individual remotely; they felt the lack of ability to interpret non-verbal communication i.e. body language was detrimental to assessing the credibility of witnesses and decision-making. A few also commented on the negative impact to all parties of not being able to see each other, and the overall poorer quality of remote hearings and advocacy processes compared to in-person. A very small number noted security challenges around confirming the identities of attendees and verifying witnesses are alone when giving evidence.

Another common concern was that virtual attendance could create discrimination. This took two forms. Firstly, disadvantages for those without access to, or the skills to use, the necessary technology. Secondly, a few organisations noted that it is harder for parties to consult their representatives or get legal advice in a virtual setting than when physically in court. This was particularly true of unrepresented individuals (party litigants). In both cases, there were questions around whether this limited access to justice. Related to this, a small number noted concerns around the technology itself, and the resources required to ensure it is fit for purpose.

Some respondents expressed fears that virtual attendance could diminish the justice system. They felt that dialling in to a hearing did not convey the same gravitas or seriousness of proceedings as attending in-person and that this was sometimes evident in the poorer behaviour of some attendees. A small number were concerned about the lack of public access afforded by a virtual hearing and the threat this poses to open justice. A few simply stated that physical attendance was central to the system or that hearings should be in-person and in public so justice could be seen to be done. A less common concern, mentioned by a few organisations, was how the lack of physical access to court could be detrimental when training new lawyers, who need to observe proceedings.

A variety of views were evident on whether attendance should be face-to-face or virtual. Most desired a hybrid system with a range of options to create the flexibility to adapt to different circumstances and the seriousness of each case. Most in the legal and justice sector called for default in-person attendance, particularly for civil proofs and jury trials, given the importance placed on these by all parties and the concerns noted above.

However, it was acknowledged that there should be an option for some elements to take place virtually. Specifically, The Senators of the College of Justice called for a more agile process, suggesting in-person attendance should be the default in criminal cases except for some categories of professional witnesses, with it also being permitted to apply to the court for virtual attendance. Others echoed this stance, noting that the form of attendance should be at the court's discretion. A few – including Scottish Civil Justice Council, Sheriffs Principal of Scotland, and SCTS - called for future provisions to be enabling. Some noted the Scottish Civil Justice Council's separate consultation on the Mode of Attendance at Court Hearings to develop rules that propose default positions for different types of hearing, exceptions to these, and when the default can be over-ridden by the court.

There was generally less opposition to remote procedural hearings; Law Society of Scotland and the Senators of the College of Justice noted that virtual should remain the default for these. A few felt that minor civil or criminal cases could be heard virtually. Others were more open to virtual attendance, but often noted that it should be agreed by all parties, or with an option to request in-person attendance. A few noted that parties should also be represented if appearing virtually, and called for specialist support requirements to be considered.

### J3 – Criminal justice: early release of prisoners (Extension)

These figures are a non-representative sample	Permanent	Extend	Total Support	Oppose	Unsure	No view / answer	No. of comments
All respondents (2905)	2.2%	2.5%	<b>4.7%</b>	<b>73.0%</b>	1.8%	20.5%	241
All giving a view (2310)	2.8%	3.2%	<b>5.9%</b>	<b>91.8%</b>	2.3%	-	236
All org responses (130)	8.5%	8.5%	<b>16.9%</b>	<b>9.2%</b>	1.5%	72.3%	26
All orgs giving a view (36)	30.6%	30.6%	<b>61.1%</b>	<b>33.3%</b>	5.6%	-	22

Those who supported permanence or extension commonly explained this was due to the practical value of the early release provision. Its role in managing the pandemic in prisons was mentioned by Law Society of Scotland and NHS Lothian Directorate of Public Health among others. HMIPS also supported permanence for this reason, but argued those under the age of 18 should be included in the eligibility criteria. Similarly, South Lanarkshire Council called for young people aged under 21 to be added to the eligible categories.

Others, including Police Scotland and ARC Scotland, valued the provision in managing the size of Scotland’s prison population. Howard League Scotland supported the extension but argued against permanence until the provisions are amended to a human rights, vulnerability-based model. A few organisations noted the importance of communicating the provision to the public to avoid undermining the justice and sentencing system.

A need to ensure that sufficient assistance is in place for prisoners released early was the second most common theme in discussions of support for the provision. Given the impact this has on community services and housing provision, for example, there were calls from local authorities for greater planning and a multi-agency response to ensure support is in place if the provision is used again. The challenges around this were cited as the reasons for Justice Services, South Ayrshire Council HSCP’s opposition to the provision.

Resistance to early release of prisoners was the most common theme among those who opposed an extension of the provision. Many respondents felt prisoners should serve their full sentence regardless of circumstances. Several other less common views were shared by small numbers of respondents. The wider impact of early release and the dangers this posed to the public was cited by Victim Support Scotland as a reason for their opposition. Others felt that the Government should not be in charge of early release, that there needs to be wider reform, and that other steps should be considered to control the prison population e.g. building more prisons. A few described specific circumstances where early release might be acceptable.

“We believe that these provisions should be extended but not made permanent. Early release has been used on a limited basis through the pandemic period, and remains an important option for as long as a risk to public health is presented.” (Extract from Law Society of Scotland)

#### J4 – Criminal justice: expiry of undertaking (Extension)

These figures are a non-representative sample	Permanent	Extend	Total Support	Oppose	Unsure	No view / answer	No. of comments
All respondents (2905)	2.4%	3.5%	<b>5.9%</b>	<b>66.1%</b>	3.8%	24.2%	119
All giving a view (2201)	3.1%	4.7%	<b>7.8%</b>	<b>87.2%</b>	5.0%	-	116
All org responses (130)	7.7%	7.7%	<b>15.4%</b>	<b>8.5%</b>	3.1%	73.1%	20
All orgs giving a view (35)	28.6%	28.6%	<b>57.1%</b>	<b>31.4%</b>	11.4%	-	18

Only a limited number of open comments directly addressed the expiry of undertaking provisions. The most common theme, mentioned by a few of those in support, was agreement that the provision should be extended due to the ongoing pandemic and the need for individuals to self-isolate. This was cited by Sheriffs Principal of Scotland, Scottish Courts and Tribunals Service, Law Society of Scotland, The Faculty of Advocates, West Lothian Council and Angus Council, all of whom supported an extension.

Other organisations gave supportive comments. For example: Police Scotland supported permanence as a proportionate response when someone cannot attend court due to Covid; Aberdeen Council supported the extension with clarity on when the power could be used in the future; and Scottish Women’s Aid supported permanence noting that there should be a check that the accused has Covid. While not providing a response to the closed question, The Sheriff’s Association also expressed support in their comments.

Beyond the consistent themes of opposition covered later in this report, a less common theme was a call for further review or more information, raised by a few respondents who opposed the measure. A few also questioned whether it would undermine the justice system. Two individuals felt that the provisions would put extra pressure on the police.

Additional singular comments made by organisations included questions around how the risk posed by an individual would be assessed, and the challenges facing those with learning disabilities or Autism Spectrum Disorder who are on bail. The Law Society requested that any further extension should take into account how the provisions are explained to accused who are unrepresented.

“While coronavirus remains a threat to public health, the Sheriffs Principal would support the extension of these provisions beyond March 2022.” (Sheriffs Principal of Scotland)

“Retaining this meantime seems reasonable, but only for the purpose for which it was introduced, namely as statutory reasonable excuse and based on Covid reasons. For that reason we consider that it could be extended but for a fixed period, and, in the absence of further significant Covid outbreaks, no longer than autumn 2022.” (The Sheriff’s Association)

## J5 – Criminal justice: fiscal fines (Extension)

These figures are a non-representative sample	Permanent	Extend	Total Support	Oppose	Unsure	No view / answer	No. of comments
All respondents (2905)	2.9%	3.7%	<b>6.5%</b>	<b>66.6%</b>	3.3%	23.5%	125
All giving a view (2221)	3.7%	4.8%	<b>8.6%</b>	<b>87.1%</b>	4.4%	-	121
All org responses (130)	7.7%	7.7%	<b>15.4%</b>	<b>9.2%</b>	2.3%	73.1%	23
All orgs giving a view (35)	28.6%	28.6%	<b>57.1%</b>	<b>34.3%</b>	8.6%	-	20

Support for extending the provision for fiscal fines was primarily based on its value in helping to clear the court backlog created by Covid. A small number cited this benefit, including Angus Council and Dundee Council (who supported permanence) and Scottish Women’s Aid (who supported an extension). Others expressed their general agreement, for example Police Scotland, Stirling Council, and Faculty of Advocates. The Sheriffs Principal of Scotland expressed support for the measures to assist clear the backlog, but expressed no view on the maximum level of fiscal fines. While supportive of the proposals, three organisations commented on the need to consider an accused’s ability to pay fiscal fines. Howard League Scotland provided a detailed response which notes that fines are less meaningful to those in Court and that increasing the fine to £500 may worsen inequalities due to an accused being even less able to pay.

The ability to pay was highlighted by a small number of respondents who opposed or were unsure about an extension. For example, Law Society of Scotland (unsure) commented on fiscal fines not taking account of ability to pay and noted their used in deprived areas. Other individuals and organisations considered the potential for increased poverty and re-offending among those issued with fiscal fines. Another less common theme was overall disagreement with the use of fiscal fines. The Scottish Social Services Council argued against an extension on the basis that it undermines public protection. They explained that alternatives to prosecution have been used during the pandemic in relation to serious behaviour which would otherwise have been investigated. The Scottish Law Agents’ Society disagreed with the increase, feeling it diminishes the seriousness of an offence.

Some respondents shared general comments on the effectiveness of fiscal fines. A small number of individuals and organisations supported an extension, describing fiscal fines as useful tools to avoid unnecessary prosecutions and custodial sentences. Scottish Women’s Aid, while supportive, requested the provision should not apply to domestic abuse cases. ARC Scotland noted that fiscal fines could lead to an accused missing out on opportunities to address their offending behaviour. The Faculty of Advocates posited that the provision could result in people accepting fines without taking legal advice.

“Police Scotland consider the extension of fiscal fines as a non-court disposal as an effective means of reducing police witness commitments. Reducing this demand releases officers to perform other duties and keep the public safe. It also provides broader efficiencies to the criminal justice system and provides additional capacity within the physical court estate for evidence-led trials and other urgent procedural matters.” (Extract from Police Scotland)

## J6 – Criminal justice: national court for cases beginning with an appearance from custody (Extension)

These figures are a non-representative sample	Permanent	Extend	Total Support	Oppose	Unsure	No view / answer	No. of comments
All respondents (2905)	4.1%	3.5%	<b>7.6%</b>	<b>64.9%</b>	3.6%	23.9%	120
All giving a view (2211)	5.3%	4.7%	<b>10.0%</b>	<b>85.3%</b>	4.7%	-	116
All org responses (130)	11.5%	6.2%	<b>17.7%</b>	<b>6.2%</b>	2.3%	73.8%	23
All orgs giving a view (34)	44.1%	23.5%	<b>67.6%</b>	<b>23.5%</b>	8.8%	-	20

Flexibility and efficiency, allowing cases to be heard promptly and help clear any backlogs were the most common reasons for supporting the continuation of this measure.

Organisations supporting permanence elaborated on this theme. HMIPS, Howard League Scotland and Police Scotland noted efficiency savings from minimising unnecessary travel and reducing time in custody. Scottish Courts and Tribunals Service and the Senators of the College of Justice felt this would add flexibility in times of severe weather, transport disruption or public health emergencies.

A few of those supporting an extension, including Victim Support Scotland, also mentioned flexibility and efficiency. While supporting permanence, Howard League Scotland felt the measure should not apply to under 18s and that individuals should be given sufficient time to instruct their representatives. Scottish Women's Aid also supported permanence.

Sheriffs Principal of Scotland did not support permanence of the provisions in their current form, but noted they would support their use to process individuals arrested on warrants issued by different courts; processing them in one court would avoid moving them to different courts or remanded for further appearances. Similarly, Law Society of Scotland and The Sheriff's Association felt extending the national court was appropriate while Covid is still a public health risk, but did not support permanence. Law Society of Scotland expressed concerns about associated virtual custody appearances, calling for further work to ensure barriers to access and understanding of proceedings for people in custody are addressed. Other organisations called for consideration of an accused's support needs if they appear in a court in a different jurisdiction, as their 'home' area may struggle to support them from afar.

A small numbers of respondents shared their reasons for opposing the provision. Most common was that justice should remain local; a few elaborated that Sheriffs were best placed to understand their areas. A few highlighted the potential travel costs for both the accused and solicitors who appear in a court outside their area. Other opposing comments made by very small numbers of respondents included that: appearances should always be in-person; it is purely a cost-saving exercise; and that courts should return to normal. ARC Scotland highlighted a recent report by the Scottish Sentencing Council on the need for Justice Social Work, which they felt would be especially relevant to a national jurisdiction.

## J7 – Criminal justice: time limits (Extension)

These figures are a non-representative sample	Permanent	Extend	Total Support	Oppose	Unsure	No view / answer	No. of comments
<b>J7(i) - Time limit on summary-only cases at section 136 of the 1995 Act</b>							
All respondents (2905)	2.3%	4.3%	<b>6.6%</b>	<b>64.6%</b>	4.2%	24.6%	125
All giving a view (2189)	3.1%	5.7%	<b>8.7%</b>	<b>85.7%</b>	5.6%	-	120
All org responses (130)	2.3%	13.1%	<b>15.4%</b>	<b>10.0%</b>	3.1%	71.5%	26
All orgs giving a view (37)	8.1%	45.9%	<b>54.1%</b>	<b>35.1%</b>	10.8%	-	23
<b>J7(ii) - Remand time limits at section 65(4) and section 147(1)</b>							
All respondents (2905)	2.2%	3.7%	<b>6.0%</b>	<b>65.6%</b>	3.5%	25.0%	118
All giving a view (2180)	3.0%	5.0%	<b>7.9%</b>	<b>87.4%</b>	4.7%	-	112
All org responses (130)	2.3%	11.5%	<b>13.8%</b>	<b>11.5%</b>	1.5%	73.1%	27
All orgs giving a view (35)	8.6%	42.9%	<b>51.4%</b>	<b>42.9%</b>	5.7%	-	22
<b>J7(iii) - Extending time limits relating to the maximum time between first appearance on petition and the first diet/preliminary hearing and commencement of the trial at section 65(1)</b>							
All respondents (2905)	2.5%	4.1%	<b>6.6%</b>	<b>66.2%</b>	3.1%	24.1%	116
All giving a view (2204)	3.3%	5.4%	<b>8.7%</b>	<b>87.2%</b>	4.1%	-	112
All org responses (130)	0.8%	12.3%	<b>13.1%</b>	<b>11.5%</b>	1.5%	73.8%	21
All orgs giving a view (34)	2.9%	47.1%	<b>50.0%</b>	<b>44.1%</b>	5.9%	-	19
<b>J7(iv) - Removing time limits on the length of individual adjournments for inquiries</b>							
All respondents (2905)	2.1%	3.4%	<b>5.5%</b>	<b>66.8%</b>	3.5%	24.1%	112
All giving a view (2204)	2.8%	4.5%	<b>7.3%</b>	<b>88.1%</b>	4.6%	-	109
All org responses (130)	0.8%	11.5%	<b>12.3%</b>	<b>10.8%</b>	2.3%	74.6%	20
All orgs giving a view (33)	3.0%	45.5%	<b>48.5%</b>	<b>42.4%</b>	9.1%	-	18

### Organisational support and opposition (based on closed question responses)

Mixed support was evident among key organisations in the legal and justice sector. No organisations supported making the provisions permanent. Extending all four of the time limits was supported by The Senators of the College of Justice, Police Scotland and Victim Support Scotland. All four proposals were opposed by HIMPS.

Other organisations expressed a mix of opposition or support for extensions. For example, Sheriffs Principal of Scotland supported extending all time limits with the exception of the time limit on summary-only cases at section 136 of the 1995 Act (J7(i)); Scottish Courts and Tribunals Service supported extensions apart from removing time limits on the length of individual adjournments for inquiries (J7(iv)); Howard League Scotland supported

extensions, with caveats, for all except remand time limits at section 65(4) and section 147(1) (J7(ii)). Law Society of Scotland was opposed to any extensions with the exception of remand time limits at section 65(4) and section 147(1) (J7(ii)). The Sheriffs' Association did not provide a response to closed questions but expressed a mix of opposition and support for extensions in their open comments (see below).

Participating local authorities were more likely to express views on these provisions; around half did so. COSLA and three local authorities supported extending all measures; three other local authorities opposed extending all; except the time limit on summary-only cases (J7(i)), where views were mixed. Other local authorities indicated a mix of support for extension, opposition to any extension or did not give a view. The sole support for permanency was Dundee City Council's support for extending summary-only cases.

### **Improved efficiency and clearing the backlog**

Across all four proposals for time limits, some respondents expressed support for extension - but not permanence - to improve flexibility and efficiency in the court system and to clear Covid related backlogs. Within this, a small number felt that an extension was only appropriate as long as Covid remains a public health risk; a few argued the extension should be as short as possible or time limited.

"We recognise the constraints on the system and the backlog caused by Covid-19, as well as the undesirability of cases simply falling because time limits have not been met. However, we believe that any extension should be for the absolute minimum time possible." (Citizens Advice Scotland – J7(i))

"Given the backlog of cases within the Criminal justice system, Policing believes this provision is currently necessary. Given the length of time the backlog may take to resolve, this provision may be necessary for some time." (Police Scotland – J7(ii, iii, iv))

### **A need for prompt justice**

The most common rationale for opposition was that any extension to time limits could cause delays to the judicial process. Most of these comments came from individuals, who felt that justice should be served promptly. A small number also felt this would undermine the public's belief in the justice system. Some opposed extending each of the time limits because they felt a further delay in cases would have a negative impact on victims.

Sheriffs Principal of Scotland did not support extensions in summary only cases, stating they "require to be progressed expeditiously". Howard League Scotland, while supporting extensions, also felt Covid should not threaten speed and fairness in the system.

Law Society of Scotland cited recent court data showing court business is approaching pre-pandemic levels; on this basis, they felt current provisions should end. Similarly, the Sheriffs' Association asserted that as Scotland moves out of the pandemic and normal business resumes, "there is less justification for retaining extended time limits". Both organisations noted the importance of the existence of time limits to all parties.

HMIPS provided a detailed response outlining potential negative consequences of increased time limits. These included: courts not returning to normal business as quickly

as possible, a further increase in remand numbers and pressure on the prison system; limited ability to engage remand prisoners in rehabilitation; and the potential for false guilty pleas to be submitted to facilitate release. For these reasons they did not support an extension but recognised that one may be needed and should be time limited.

### **Negative impact of time spent on remand**

Another theme was the impact of the increased time limits on those on remand. This was more commonly mentioned at J7(i) and J7(ii). The potential for an accused to be on remand for long periods raised some general and specific concerns.

Some, including The Sheriffs' Association, Families Outside, and responses from a few local authorities and individuals, described the negative impact on families and communities of those on remand. They felt these impacts - including on finances and mental wellbeing - could be exacerbated with an extension of the time limits.

Howard League Scotland gave a detailed response and at J7(ii) referenced figures stating 57% of people in remand in Scotland do not go on to be given a prison sentence. They argue that many could have awaited trial in non-custodial settings such as community-based bail accommodation. As such, they opposed the further extension of the time an accused could potentially spend on remand. At J7(i) Citizens Advice Scotland also noted that significant numbers of pre-trial remand prisoners are subsequently found not guilty or given a community sentence. They felt an extension on summary-only time limits should be for the minimum time possible, because of this and the negative impact on families.

Specific points of opposition on extending limits for time on remand included:

- A few, including Law Society of Scotland, cited breach of human rights. At J7(iv), a small number of individuals felt an accused might stay on remand indefinitely.
- An organisation opposed extending time limits for children under the age of 18. Police Scotland and Angus Council noted the impact of delays on young people on remand in relation to summary-only cases at J7(i).
- Sheriffs Principal of Scotland noted at J7(ii) that while they supported an extension, "the length of time that an accused person might remain on a remand is a factor to which greater weight is now given when deciding whether to grant bail".
- The Sheriffs' Association in response to J7(ii) noted some on remand may have served the equivalent of their likely sentence by the time they come to trial. They felt this was unavoidable in the pandemic, but unacceptable in the medium term. Angus Council made this same point in relation to summary-only cases at J7(i).
- ARC Scotland highlighted at J7(i) the negative impact of increased time on remand for the accused and families of the accused with learning disabilities or autism.

"We do not support the proposals to extend or remove time limits for cases and extend the time a person can be subject to remand. There should be clear targets for the finalisation of all cases from arrest to sentence and people on remand should be amongst key priorities" (Dundee City Council – J7(ii, iii, iv))

## J8 – Proceeds of crime (Extension)

These figures are a non-representative sample	Permanent	Extend	Total Support	Oppose	Unsure	No view / answer	No. of comments
All respondents (2905)	4.2%	4.3%	<b>8.6%</b>	<b>63.0%</b>	3.9%	24.6%	112
All giving a view (2190)	5.6%	5.8%	<b>11.4%</b>	<b>83.5%</b>	5.1%	-	105
All org responses (130)	3.8%	10.8%	<b>14.6%</b>	<b>5.4%</b>	0.8%	79.2%	17
All orgs giving a view (27)	18.5%	51.9%	<b>70.4%</b>	<b>25.9%</b>	3.7%	-	12

Most comments on proceeds of crime linked to the wider themes in consultation responses, explained in Chapter 6. Only a small number directly addressed the proposals.

Support for an extension to the legislation, rather than permanence, was the preference for most organisations. Rationales for an extension included: that it is an appropriate step to take while Covid remains an issue (The Senators of the College of Justice, Law Society of Scotland, Sheriffs Principal of Scotland<sup>7</sup>, West Lothian Council, Dundee City Council); that it allows individuals more time to pay (Police Scotland, ARC Scotland and a local authority); and a few individuals felt it would help reduce court backlog. COSLA and Faculty of Advocates indicated support for an extension in their closed question response.

A working group of the Centre for Scots Law at the University of Aberdeen supported an extension. Their responses noted doubts about the appropriateness of the second point in the consultation document (paras 207-208) but did not elaborate.

Less common themes included a small number who felt Covid was not a valid reason to extend payment timescales; a few felt this sent the wrong message. A few called for and wider reform of the justice system and an end to the proceeds of crime. Singular comments from individuals included one who supported an extension but questioned whether interest would accrue during the delay, and another who was unsure and proposed making case by case decisions. One who opposed the proposal felt a delay was illogical if it allowed the convicted party to use or remove assets.

“It seems reasonable that individuals subject to confiscation orders have more time to pay but this should be limited to a time where Covid-19 is impacting.” (West Lothian Council)

“Police Scotland considers that the provisions to allow the Covid pandemic to be included as “exceptional circumstances” when considering a postponement or extension to be a reasonable and proportionate response to the pandemic.” (Extract from Police Scotland)

<sup>7</sup> These first three organisations supported an extension in relation to the provisions of section 99(4) of the Proceeds of Crime Act 2002.

# Other proposals for legislation

The final 11 consultation questions covered other proposals for legislation, the human rights and financial implications of the proposals and a range of impact assessments. Analysis of Q34 is presented below; analysis of Q35 to Q43 can be found in Appendix A.

**Q34: To support the key three themes for Covid recovery as described, do you have any proposals for legislation which goes beyond or is different to the consultation proposals?**

These figures are a non-representative sample	Yes	No	Unsure	No view / answer	No. of comments
All respondents (2905)	19.4%	54.2%	6.8%	19.6%	641
All org responses (130)	21.5%	14.6%	2.3%	61.5%	34

Q34 received a large number of open comments. The analysis below focuses firstly on where additional legislation was proposed. A summary of other prevalent themes is also provided. Less commonly mentioned themes and singular, detailed points of relevance are available in Appendix B.

Several respondents focused on the consultation proposals. Most reiterated points already described in the analysis of specific provisions, especially concerns over excluding vulnerable groups from online participation. A local authority suggested a ‘right to digital connectivity/online services’ might be needed. A few repeated their calls to allow landlords to evict non-paying tenants. Three explicitly called for the introduction of “Anne’s Law”, to strengthen residents’ rights in adult residential settings. A variety of singular suggestions were made, particularly on the justice proposals; these are listed in Appendix B.

Another recurring theme was for legislation to curtail or prevent future use of emergency powers. Several respondents suggested it should be illegal to introduce or extend emergency powers, particularly those restricting businesses or freedom of movement. A few suggested they be limited to shorter time frames. A few called for legislation to prevent perceived propaganda i.e. public information campaigns communicating the Government’s messages. One called for legislation to increase parliamentary scrutiny in an emergency.

Many used Q34 to make a straightforward call for all emergency or Covid legislation to be ended and repealed from the statute book immediately. Some disagreed with any further extension (without making reference to the powers being temporary).

Beyond these points on legislation, most prevalent at Q34 were the views described in Chapter 6 which focus on broad opposition to the consultation proposals which were consistently raised. In particular, many respondents commented that the proposals were undemocratic, that temporary measures should not be extended, and that things should be allowed to return to as they were pre-pandemic.

Two broad topics were raised by many respondents. One was a call for restrictions to end (covering lockdowns, social distancing, mask wearing and testing), and the other was

opposition to vaccine passports. In addition, several commented on health. These points varied but focused on a few common areas such as: prioritising the treatment of other health conditions where Covid has created a backlog; the need for better support for health services; calls for people to be able to see GPs face-to-face; and a range of suggestions for how the health of people in Scotland could be improved – for example encouraging exercise and healthy eating and offering free vitamin supplements.

Comments on children and young people were prevalent. Several called for schools to remain open in the future and highlighted the detrimental impact that closures had on pupils. Only a few called specifically for legislation to prevent future closures. Other comments around children and young people included: the need to review and support young people's mental health, particularly in relation to mental distress experienced during the pandemic; calls for parents and teachers to meet face-to-face; adherence to the United Nations Convention on the Rights of the Child (UNCRC); and support for wraparound school age childcare.

Other themes, mentioned by some respondents, included:

- A few calls for a public inquiry into the response to Covid.
- That the UK Government should control the Covid response, that there should be a four-nation approach, or that Scotland should be aligned with the UK response.
- Calls for transparency and for an open debate on the pandemic where all views are heard and considered.
- Critical comments on the consultation process and paper, suggesting that more people should be consulted and that the paper was too long and inaccessible.
- Broad comments on other priorities for the Scottish Government e.g. recovery plans, transport, health and education, and calls to not focus on Independence.

Less common themes, identified in small number of responses, included:

- A few called for a focus on economic recovery; few gave details and suggested more support for businesses, less regulation and more incentives.
- Overall support for the proposals was expressed by a few individuals.

# Consistent themes of opposition to proposals put forward in the consultation document

The consultation proposals generated opposition for a variety of reasons. During the analysis it became evident that a significant proportion of the opposition centred on a small number of themes which were seen consistently in responses across the questions.

In this analysis, it emerged that 71 individual respondents repeated their response regardless of the question; they gave the same or a very similar open comment in more than 20 of the 43 consultation questions, often using consistent reasons for opposition; 12 gave the same response 40 times or more. These 71 respondents left 2,454 open comments – i.e. 3% of respondents contributed 22% of comments.

These responses all represent a valid view; no responses were excluded because they were outwith the scope of the consultation. However, because of the more general nature of the opposition, and to avoid repetition in the report, these themes are summarised below. Themes are presented in descending order, from most to least prevalent. Any general comments which expressed views linked to the consultation proposals were coded and included in the analysis of responses which aligned with these issues.

## Abuse of power

Respondents widely criticised the use of, and desire to extend, emergency powers, and argued the process was undemocratic. Phrases such as ‘power grab’, ‘over-reach’ and ‘abuse of power’ were widely used, and the Scottish Government was described as authoritarian or dictatorial in its control of the population.

“I believe this is a blatant abuse of power and must be resisted at every level of society.” (Individual)

“This has nothing to do with public health. It is about control, avoiding scrutiny in parliament and ruling by decree. It is authoritarian.” (Individual)

“Enacting a law of this kind is a step toward or actual confirmation of totalitarian dictatorship ruling by decree.” (Individual)

## Emergency powers should not be made permanent

Respondents reiterated that the original legislation and the powers it conferred were only temporary to deal with the challenges created by the pandemic. As such, there were calls for the temporary powers to end and not be extended or made permanent.

“We were promised that these temporary powers would be removed when this emergency was over. To make these powers permanent is a total betrayal of the promise.” (Individual)

“The pandemic was an emergency situation and should be treated as such. These powers are not required on a permanent basis.” (Individual)

### **Should be voted on**

Another theme was that the temporary powers should not simply be extended without some form of scrutiny. The discussion of options for scrutiny varied, but typically included a vote in the Scottish Parliament, by consultation, or a vote among the general public.

### **Return to normal**

Calls for Scotland to return to normal was a consistent theme. Most of these statements asked for a return to life as it was before the pandemic; people felt they should be able to move on and make their own decisions. A few respondents gave more detail, for example suggesting the end to restrictions. A very small number noted that there was value in continuing to protect vulnerable groups.

“We need to move on in life and return to a normal way of life before even that is forgotten.” (Individual)

“The country needs to get back to normal and not have the threat of more control hanging over us.” (Individual)

### **Covid is not a valid justification**

A variety of comments questioned whether Covid should be used as a reason to extend the provisions. Some respondents either queried the existence of Covid, calling it a fraud and a hoax, or likened it to flu or other respiratory viruses. Others felt the pandemic was either over a long time ago, was becoming endemic, or was no longer a public health emergency due to the vaccination programme. In all cases, respondents felt that there was no reason for the provisions to continue.

“You have to treat this like any seasonal issues we need to move on and get back to normal you can’t go on destroying people’s lives and businesses like you have done the past 18 months.” (Individual)

“It really is quite simple: we are already transitioning from the pandemic phase to an endemic phase with a level of risk and health service burden similar to that of all other respiratory viruses.” (Individual)

### **Breaches of human rights**

Across responses to the consultation questions, there were broad comments about how Covid restrictions had eroded freedoms and civil liberties; that the Government has too much control over the rights of the population; and that body autonomy and the Nuremberg Code were being breached by the vaccination programme. Many called for these rights and freedoms to be restored.

“Let public get full freedoms back and stop the government ever controlling us like this again. We are free people in a free country.” (Individual)

“The whole process is an impingement on human rights and has removed individual choice.” (Individual)

### **Opportunities to enact again**

Respondents highlighted that the emergency provisions had been created and legislated quickly when needed for the pandemic. They argued there was no need to extend the provisions because, should a similar need arise in the future, relevant temporary powers could be reinstated or created again using the same processes.

### **General criticism of Scottish Government**

These comments questioned the competency or trustworthiness of The Scottish Government, or the SNP.

### **Use separate legislation**

Respondents who raised this issue felt that if there was a genuine need to make the changes under consideration, they should be addressed by introducing legislation specifically for each topic. They believed it was inappropriate to make the proposed changes under the scope of Covid legislation. This would also mean the usual level of legislative scrutiny would be applied.

### **Calls for further review and consideration**

Comments under this theme varied. Most called for further investigation of the impact of the provisions to date, so that these could be fully assessed before any extension. There were also a small number of calls for a review or public enquiry into the pandemic response.

### **General criticism of response to Covid**

In a small number of general comments, respondents expressed a view that the national response to the pandemic had been wrong, contradictory or unsuccessful. A few also gave examples of other countries where restrictions had or had not been imposed.

### **Not required**

Under this theme, respondents argued that legislation was not required. In these comments, respondents described how existing legislation could manage public health, or that the public does not need legislation to guide their daily lives.

### **Don't interfere**

A relatively small proportion of respondents called for the public, individuals, young people and businesses to be left alone and to end Government interference.

# Conclusions

A large number of individuals and informed stakeholders with expert knowledge took part in the consultation. Together, these responses provided a useful evidence base of diverse perspectives for the Scottish Government to draw upon when developing the final Bill.

While there was support for the proposals, a significant proportion of respondents, particularly individuals, opposed any extension of temporary powers. Consistent reasons for this were raised across consultation questions. Respondents raised concerns about an undemocratic overreach of government power which many felt breached human rights. Others believed the pandemic was not a justifiable reason for either introducing or prolonging emergency powers, with calls for Scotland to 'return to normal'.

Proposals on closing educational establishments and enacting public health protection regulations elicited a range of views. Many doubted the effectiveness of these measures in controlling Covid and were concerned about the harm that restrictions have caused to education, physical and mental health, and the economy. However, those who supported extension or permanence of the measures felt they would help the Scottish Government act more quickly in response to any future public health emergencies. While some respondents favoured virtual public meetings because they could widen access, several raised concerns about digital exclusion, whereby individuals lacking the necessary technology, skills or internet connectivity would be unable to attend or contribute.

Modernisation, efficiency and flexibility were themes expressed by those who endorsed extending provisions for public services and justice proceedings to be carried out through remote, virtual or electronic means. For example, proposals for remote registration of births and deaths were seen to offer a more streamlined process, particularly for those in remote, rural and island areas. However, concerns about digital exclusion, security and restricted public access to hearings were raised consistently. Many respondents supported provisions being made permanent under hybrid systems where the option to conduct proceedings in-person is retained.

The provision for tenancies and protection against eviction attracted many responses. Several welcomed the measures, noting they strengthen tenants' rights and offer a layer of protection against eviction and homelessness. However, others felt the provisions would have a negative impact on private landlords and could risk driving them out of the market, potentially resulting in a shortage of affordable accommodation for rent.

Views on virtual court attendance were mixed; while noting benefits, several questioned the effectiveness of virtual hearings and highlighted the potential for discrimination. While some other justice measures were supported due to the practical value they offer if the pandemic continues, concerns over their appropriateness were evident. Respondents felt some provisions, in particular the early release of prisoners and expiry of undertaking provisions, could diminish the justice system.

Overall, the key message from consultation respondents was that decisions to extend the temporary measures should be made with careful consideration. Doing so will ensure that Scotland moves towards a fair, safe and secure recovery from the pandemic.

## Appendix A: Analysis of Q35 to Q43

The final questions in the consultation covered a range of areas which could be impacted by the proposals. Only a very small proportion of respondents directly addressed these questions. The vast majority used the questions as an opportunity to describe their views on Covid regulations, the overall pandemic response, and the Scottish Government. The analysis in this chapter therefore focuses on themes and responses of direct relevance to the questions; other prevalent themes are summarised briefly.

### Q35: Business and regulatory impact assessment

These figures are a non-representative sample	Yes, have comments	No	Unsure	No view / answer	No. of comments
All respondents (2905)	12.6%	53.1%	7.4%	27.0%	370
All org responses (130)	4.6%	18.5%	2.3%	74.6%	6

Most comments at Q35 were of a general nature, however several respondents gave comments on an impact assessment or in relation to specific consultation proposals.

A prevalent theme in discussion of the proposals' impacts was that the extension of powers, particularly public health protection regulations in H2, could damage businesses. Respondents feared they would exacerbate the challenges created by restrictions, cause further damage to the economy due to uncertainty, business closures and job losses.

Some highlighted how the provisions on evictions, debt and justice has impacted landlords' businesses and reduced rental income. A few reflected that online or remote processes can only be effective if everyone has connectivity and access to the equipment needed. One expressed concern around accessibility for people with disabilities. An individual noted the time and cost savings from remote processes.

On judicial proposals, Justice Services South Ayrshire Council HSCP noted the challenges of managing staff who feel 'short-changed' from additional pandemic responsibilities without these being resourced. An individual felt the legal profession could be de-skilled as solicitors would not learn from observing in-person hearings.

Comments about impact assessments varied. They included support for assessments, questions about whether they had been done, and concerns that impacts may not have been assessed properly. One called for an assessment of the impact on childcare settings.

Other comments, each from a few respondents, included calls for more consultation with businesses and professional bodies, for the UK to work together to support and regulate businesses, and that businesses do not need or want more regulation.

Outwith the specific comments on impact, most comments concerned the overall impact of Covid restrictions. Many respondents were vocal about how lockdowns have damaged small businesses; some felt big businesses were not treated as unfairly. The next most prevalent theme was calls to allow all business to re-open with no restrictions. A recurring

theme was the negative impact of mask wearing and vaccine passports on businesses, especially travel and hospitality. Other views identified in some respondents were that government should not have the power to close or interfere with businesses, general criticism of the Scottish Government’s policies towards businesses, and comments and suggestions about the economic recovery, including support for small businesses.

“The impact on landlords who are not receiving rent and are not being allowed to evict the tenants is huge. These landlords like myself have only 1 or 2 properties and this is a huge impact on their ability to pay their mortgages. Not all landlords are millionaires!” (Individual)

**Q36: Child rights and wellbeing impact assessment**

These figures are a non-representative sample	Yes, have comments	No	Unsure	No view / answer	No. of comments
All respondents (2905)	20.1%	47.2%	7.5%	25.2%	591
All org responses (130)	9.2%	15.4%	1.5%	73.8%	13

Several issues were raised in responses to this question. Most frequently mentioned was the negative impact of Covid mitigation measures, including the closure of educational establishments and other wider lockdown restrictions, on children and young people’s mental health, wellbeing, education and development.

“The detrimental effects on the health, wellbeing and education of our young people of the measures taken to ‘combat coronavirus’ have been horrific and will continue for many years.” (Individual)

Several noted that Covid poses a low risk of serious illness for children and young people and suggested that these measures were disproportionate. Some felt it was unfair to disadvantage children to protect older adults who are more at risk of serious illness. Many also opposed the use of face coverings, social distancing and testing in schools. They described these mitigations as unnecessary and possibly harmful to children’s wellbeing.

Another common theme related to governmental overreach. It was not always clear whether these comments related specifically to measures outlined in the consultation document or other Scottish Government policies, but many perceived that the government’s actions represent interference in family life that could diminish the role of parents in their children’s upbringing.

“Government must stop interfering in the primary rights of parents to raise their children according to their own values, morals, personal and/or religious beliefs. The provisions in the proposals give government far too much control over family life.” (Individual)

Many respondents mentioned the importance of collecting more data about the impact of the measures on children and young people. The Children and Young People’s Commissioner Scotland, Children in Scotland and Public Health Scotland, for example, highlighted the need to carry out robust impact assessments to identify the full impact of these measures on children and young people.

“There must be comprehensive impact assessments on these proposals, to ensure that all measures are compatible with children and young people’s legal and human rights.”  
(Extract from Children and Young People’s Commissioner Scotland)

Although the issue of vaccinations for children and young people was not covered by the consultation document, many respondents made comments related to this. There were concerns around perceived attempts to coerce children and young people to take the vaccine, and about the safety of the vaccine.

Several respondents made comments in opposition to Scottish Government policies not directly covered by the consultation document, including named person legislation, GIRFEC and education about sexual orientation and transgender issues.

While the closure of educational establishments and other lockdown restrictions were the main focus of the comments in response to this question, some made comments related to other proposed measures because of their indirect impact on children’s rights. For example, Families Outside supports the retention of the early release scheme.

“Families Outside works with children affected by imprisonment. A number of the proposals covering the criminal justice system will indirectly affected children. The consultation proposes retaining the Early Release Scheme (Topic J3); if this is used, parents in prison could be released earlier than anticipated. If this were to happen, it would support a number of children's rights including UNCRC Article 9 (right to contact with parents), as the Scottish Government will be taking action to reduce the time parents are away from the family home. However, it is important that robust multi-agency support is put in place to meet the needs of all family members, both to provide support and information to the family but also to ensure reoffending is reduced which in turn positively support children's rights.” (Families Outside)

### Q37: Equality impact assessment

These figures are a non-representative sample	Yes, have comments	No	Unsure	No view / answer	No. of comments
All respondents (2905)	11.2%	51.6%	8.9%	28.2%	337
All org responses (130)	12.3%	13.8%	4.6%	69.2%	17

Most common in discussion about equality impacts, including the stakeholder workshop, was the focus by some on digital exclusion which could limit participation in proposals involving remote processes. This was felt to be particularly challenging for older people, and people with disabilities, lower incomes, or from an ethnic minority background.

Some respondents gave varied comments on specific proposals. These included: the limited availability of specialist family sheriffs in Scotland; the impact on victims of crime, especially women, of the justice proposals; COSLA called for more detailed assessments around access to virtual public meetings (H4) and remote registration (P16/P17). Aberdeenshire Council, while supportive of the eviction proposals (P18), expressed

concern that tenants could continue to build up rent arrears. A few commented that people should not be prevented from gathering to worship or to support loved ones (H2).

The equality impact assessment process was a recurring theme. Some felt there had been no assessment of the existing provisions or criticised the assessment carried out for the extension. This included questions around whether those with lived experience had been consulted. A small number questioned the value of equality impact assessments, but there was also support for assessing the impact of further extensions from, for example, the Health and Social Care Alliance Scotland, Law Society of Scotland and Citizens Advice Scotland. The latter two highlighted the need for new assessments to include evidence of the impact of the measures since they were introduced in 2020.

Some focused on the impact of the proposals for vulnerable groups. Specifically it was noted that: the provisions around eviction would benefit ethnic minority households who it was suggested are more likely to be in the private rented sector; that the proposals were bad for people with disabilities, additional needs or poor mental health and that their needs should be considered; and that the measures will disproportionately affect the poorest in society.

More generally, several respondents commented on the negative impact of Covid restrictions for different groups. Most commonly mentioned were people with disabilities, who experienced reduced care and support services, poor mental health and abuse for not wearing a mask due to hidden disabilities. Some reflected that women have taken on disproportionate childcare and home-schooling duties which has damaged their ability to work. Small numbers mentioned impacts on ethnic minority groups, care home residents, young people, and people with poor mental health or low incomes.

The most prevalent focus of comments at Q37 was vaccine passports. Many felt these created a two-tier society, with unvaccinated people unfairly discriminated against. Some felt everyone in society should be treated equally; conversely a few criticised the views of minority groups being given too much attention. A small number criticised the Scottish Government's approach to equality, including a few comments about the Gender Recognition Act.

## Summary of Consultation Workshop

In October 2021, the Scottish Government co-hosted an online consultation workshop with Disability Equality Scotland. There were 23 attendees, including people with lived experience of disabilities and representatives from organisations such as Ideas for Ears, Deafblind Scotland and several regional disability access panels.

Attendees discussed Covid recovery and the proposed legislative changes. Themes which emerged at the workshop aligned very closely with those identified during the analysis of comments provided in consultation responses, and are summarised below.

Attendees generally agreed with the necessity of the proposals related to public health and support was expressed for the provisions to be made permanent. It was suggested that certain public health measures have protected clinically vulnerable members of society during the pandemic. However, discussions also highlighted the negative impact of various Covid response measures. For example, while masks were seen as an effective mitigation strategy, it was noted that they also caused communication difficulties. In addition, attendees felt that access to support services during the pandemic was insufficient.

Support in principle was expressed for proposals related to online meetings and hearings. They were seen as useful during lockdown and reduced the need to travel long distances. However, some challenges related to virtual meetings were discussed, including difficulties when lip reading and setting audio levels correctly. While support for permanence was expressed, the majority of attendees commented that a choice should be available between in person and virtual meetings. It was also commented that there is a need for improved guidance and training to ensure meetings are as accessible as possible.

Workshop attendees generally agreed with proposals about communicating by phone or online and some highlighted the benefits of this approach, noting efficiency and less stress for vulnerable groups accessing public services. However, it was noted that online/phone services should be person-centred and that service providers should offer a range of access options and access to support throughout the user journey. Concerns were also raised regarding security and data protection.

Multiple attendees at the workshop agreed with the proposals related to protection from eviction, highlighting the importance of these safeguards. It was suggested that there should be clear limits for both landlords and tenants to ensure that neither party takes advantage of the other. In addition to support for the proposals, concerns were raised regarding the quality and accessibility of housing. Attendees commented that legislation should go further to ensure greater protection for tenants.

### Q38: Socio-economic equality impact assessment (the Fairer Scotland Duty)

These figures are a non-representative sample	Yes, have comments	No	Unsure	No view / answer	No. of comments
All respondents (2905)	11.0%	52.0%	9.0%	27.9%	322
All org responses (130)	6.9%	13.8%	3.8%	75.4%	8

Many respondents commented on the socio-economic impact of consultation proposals. Some argued that extending the proposals may exacerbate socio-economic inequalities.

Digital exclusion was a common theme in comments. Respondents such as COSLA and Citizens Advice Scotland noted that low-income or vulnerable groups are less likely to have access to, or skills with, the technology which is used under some of the provisions and could therefore become further isolated. Argyll and Bute Council, however, described the benefits of online processes to those in island and remote mainland communities.

Beyond these, a few individuals were critical of measures to help debtors (P2). There were mixed opinions about P18, with a few believing this would improve the rights of private tenants and one person critical of the proposal, citing the impact on landlords.

On the impact assessment, there were questions about whether these had been carried out and their thoroughness, and agreement that impacts should be assessed. Specifically, there were singular calls to review the impact of school closures, business closures and the transfer of wealth to large corporations during the pandemic.

Covid's impact on vulnerable groups was mentioned repeatedly. Some respondents focused on the effects for low-income and vulnerable groups, and on children and families. Most frequent were broad comments that the pandemic and the response to it hit the poorest in society hardest and exacerbated poverty. Other points included the disproportionate impact of school closures in more deprived areas and the long-term impact on the attainment gap; that closing businesses has diminished the right to work or led to job losses; and one individual commented that unpaid carers have been more affected than usual due to cuts in care packages and loss of support. A very small number noted the impact on the middle class and argued against tax rises.

The most prevalent theme in response to Q38 was criticism of the Scottish Government's approach to socio-economic equality; these comments varied considerably. Some reflected on socio-economic equality in Scotland more generally, without referencing the Government, describing the challenges around drug and alcohol deaths, food banks and an overall lack of fairness. Perceptions of inequality arising from vaccine passports was mentioned by some respondents. The damage Covid caused to businesses was also mentioned by some. A small number called for a consistent approach across the UK; an individual suggested greater devolution to local or community level. A small number were also dismissive of the Fairer Scotland Duty.

"If governments were given powers to impose further lockdowns the impact on society would be catastrophic, and it would be the poorest and weakest in society who would suffer the most." (Extract from Individual)

### Q39: Human rights

These figures are a non-representative sample	Yes, have comments	No	Unsure	No view / answer	No. of comments
All respondents (2905)	28.6%	41.4%	6.6%	23.4%	817
All org responses (130)	11.5%	15.4%	1.5%	71.5%	14

This question recorded the second highest number of open comments in the consultation. Respondents put forward a range of views, which are summarised below, with a focus on comments which relate directly to the proposals in the consultation.

Several respondents made specific comments on human rights aspects of the proposals, with each point mentioned by a few respondents. These included: the rights of victims who may be affected by the early release of prisoners; in relation to freedom of assembly and association (covered in Chapter 2/H2); the impact of time limits in J7 on those on remand and victims of crime; concern around the dilution of safeguards for a named person; lack of public access to remote court hearings; and positive comments that strengthening the housing rights of tenants supports the right to adequate housing. While a few expressed concern that the focus on digital options in some proposals could cause discrimination – for example, the Equality and Human Rights Commission considered these in their response – others expressed support for the modernisation of processes.

The most common theme was the erosion of rights which respondents felt had resulted from the pandemic and associated restrictions. Comments focused primarily on the impact of lockdowns, with the lack of freedom to leave home, socialise, travel and worship mentioned by many; and masks were raised by some. Direct comments on the extension of the powers centred on views that extending the provisions or the public health regulations would further erode human rights.

More broadly, the second most prevalent theme in relation to human rights was calls for individuals to have the right to decide whether they have a Covid vaccine. Respondents noted their dislike of vaccine mandates and passports and felt they should have body autonomy and make their own medical choices. Many made general statements about the importance of human rights. Conversely, many took the opportunity to question the Scottish Government's record on human rights specifically, while others commented about a lack of rights, rights being gradually diminished, or asking to be left alone.

Some respondents highlighted the right to education; others noted the rights of hospital patients and care home residents which they felt had been violated by visiting restrictions. Small numbers of respondents each: called for a consistent UK-wide approach; supported human rights impact assessments being carried out; suggested other areas for government focus; and highlighted women's rights.

The two prevalent themes in discussion of government overreach and calls for temporary powers to not made permanent were also evident in many and several responses, respectively.

## Q40: Data protection impact assessment

These figures are a non-representative sample	Yes, have comments	No	Unsure	No view / answer	No. of comments
All respondents (2905)	12.8%	50.9%	8.6%	27.6%	362
All org responses (130)	3.8%	15.4%	3.8%	76.9%	4

Several respondents noted their concerns around data protection and security in relation to the proposals. Most of these comments were broad and centred on the challenges of using online and digital systems. Points raised included: concern over confidentiality of documents sent by email i.e. if documents are received by the wrong person due to incorrect or out of date email addresses being used; ensuring secure access to online meetings; the secure storage of recordings of meetings and copies of documents which are being stored electronically; and concern over the increased risk of data breaches, theft or hacking. Three individuals commented that the UK's data protection laws are already strong. One individual asked if public bodies would comply with GDPR if updated IT systems are needed for the proposals.

On specific proposals, one individual noted the potential for malicious hacking of birth and death registration if these are online. COSLA and a local authority commented on P6 and the need to consider privacy and the potential loss of personal information if a care home manager's email address is out of date.

A small number, including Police Scotland and Public Health Scotland, agreed a data protection impact assessment should be undertaken; the latter noted they had not identified any data protection impacts. Two questioned if assessments had been done.

A number of general strands of discussion about data protection were also evident in responses to Q40. The most prevalent theme, mentioned by many respondents, was that an individual's medical history or vaccination status should not be shared. Respondents felt they should not be required to prove their vaccination status to access businesses and services, and that medical records should only be held by GPs and not shared with other third parties. Related to this, several respondents raised concerns about the security of personal data held in the vaccine passport app and similar forms of digital ID.

Many shared general comments around the importance of data protection, noting that privacy should be respected and data should not be shared or sold without consent. Several expressed a view that the Scottish Government could not be trusted with data protection, raised concerns about breaches in data security and personal information being shared or sold to third parties without consent, or observed an increasing lack of data protection, particularly during the pandemic. Some respondents criticised the security of the Track and Trace process, with a similar number noting their belief that there is too much control and surveillance of society.

“Many of the measures proposed in Chapter 3 would digitise the way that public services and the justice system are handled. While there may be some benefits to this, it would also potentially make people's personal data available to be sold and profited from.” (Extract from Individual)

## Q41: Island communities impact assessment

These figures are a non-representative sample	Yes, have comments	No	Unsure	No view / answer	No. of comments
All respondents (2905)	6.0%	52.3%	8.4%	33.2%	173
All org responses (130)	5.4%	12.3%	2.3%	80.0%	6

Some respondents shared comments which directly addressed the consultation proposals. Proposals to continue using online or digital platforms were often welcomed on the basis of making services more accessible and inclusive, and significantly reducing the need to travel. However, a few felt that internet connectivity and access to technology in the islands are barriers to virtual engagement which could increase feelings of isolation.

In relation to specific proposals, one respondent felt remote registration of deaths allows speedier registration compared to local offices, which only open part time. Conversely, another argued that registration offices needed to remain open to the public and resisted moves to a solely remote registration process. One respondent noted the potential convenience of appearing in court virtually from an island but felt there would be little difference for islanders in relation to the other proposals.

Three respondents commented on the impact assessment process itself. One agreed it should take place, another questioned whether it had, and one called for remote rural areas to be considered in an impact assessment.

More broadly, the most common theme in responses was a call to improve the transport links, particularly ferries, to the islands. The second most prevalent theme was the impact of the pandemic on the islands; respondents described the isolation resulting from travel restrictions and how reduced tourism affected businesses.

Other less common themes were: that island communities should make their own decisions free of Government interference; the poor treatment of island communities by Scottish Government; calls for more support and respect for island communities; and comments describing challenges of island life such as housing provision, infrastructure and cost of living. There were mixed views on whether the islands should be treated differently; a few called for all of Scotland to be treated in the same way while others highlighted the need for different approaches. Two respondents called for consistent approaches across the UK.

“Argyll and Bute Council would highlight positive impacts of remote/online meetings, registration, electronic signatures, etc. which have been experienced to date by those living in our island communities, where many of the individuals living in these communities are generally older and/or have a lower than average income. Factors such as these in many cases can impact on ability to travel to carry out the aforementioned business in person.” (Argyll and Bute Council)

“The proposals broadly support rural and island communities by proposing continued remote hearings and other digitally enabled justice options.” (Police Scotland)

## Q42: Strategic environmental assessment

These figures are a non-representative sample	Yes, have comments	No	Unsure	No view / answer	No. of comments
All respondents (2905)	7.2%	53.3%	8.5%	31.0%	204
All org responses (130)	3.1%	16.2%	2.3%	78.5%	2

Only a very small number of comments at Q42 directly addressed the proposals' environmental impact. These highlighted how the increased use of remote hearings and digital options create less need to travel and therefore reduce carbon emissions.

A few also addressed the impact assessment process. These comments varied and included agreement that impacts should be assessed, questions whether an assessment had been carried out, and concerns over whether the Scottish Government would undertake an assessment effectively or in a way that involved the public or stakeholders.

The remaining open comments covered a range of environmental issues which did not relate directly to the consultation proposals. The most prevalent theme, raised by several respondents, was the environmental damage caused by discarded masks and PPE. Two other common themes in responses included criticism of the Scottish Government's environmental policies; or expressing anti-environmental views and questioning the existence of the climate emergency.

Less common themes included: a small number who highlighted the importance of taking action on environmental issues; that Scotland's policies should be aligned with the UK; general comments on a range of issues relating to the environment, for example recycling and cycling infrastructure in cities; and two respondents who called for more consultation on environmental issues. One individual requested that businesses who already try to look after the environment should not be overburdened by legislation.

"The proposals broadly reduce environmental impact by extending options for remote and digitally enabled justice options." (Police Scotland)

**Q43: Do you have comments on the financial implications of the proposals in Chapters 2 to 4 of this consultation for public bodies, individuals and businesses, having regard to the Financial Memorandum for the Extension and Expiry Bill?**

These figures are a non-representative sample	Yes, have comments	No	Unsure	No view / answer	No. of comments
All respondents (2905)	11.5%	50.5%	8.9%	29.1%	324
All org responses (130)	7.7%	13.8%	1.5%	76.9%	12

Several respondents commented on the financial implications of the specific consultation proposals. COSLA highlighted the ongoing cost of the provisions on local authorities, echoed by a few local authorities. On the digitisation of services, there were singular calls to reduce the budgets of public bodies due to remote working, for increased use of virtual meetings to reduce costs and one noted the cost-saving of online registration of deaths. More generally, a small number commented on the investment required to ensure equitable access to digital services and for IT to run these effectively.

A few individuals described how continuing the provisions around protection from eviction could result in financial hardship for landlords. Another felt that extending the measures could negatively impact the available rental stock.

Several respondents expressed concern about the wider economic impact of the proposals, commenting that they have the potential to damage Scotland's economy and Covid recovery, lead to tax increases or job losses, and increase poverty. A few felt they would exacerbate uncertainty and unnecessarily punish businesses. A small number expressed an opinion that the proposals were a waste of money, with some noting other priorities for spending e.g. health, education and economic recovery. Some questioned how the proposals would be paid for. There were singular calls for financial help for nurseries if they are to provide emergency childcare, and from the Scottish Council of Independent Schools for support if future measures prevent their operation.

The most common theme in response to Q43 was the financial impact of Covid generally. Several highlighted the impact to businesses; some described the impact on individuals and families. The long-term financial impact was also mentioned by several who questioned when the true cost of the restrictions and furlough scheme would be known.

Another recurring theme was the perceived mismanagement of Scotland's economy by the Scottish Government; a few made general comments on the state of Scotland's economy. Related to this were some calls for increased transparency over funding allocation, including how existing Covid support funds have been spent. There were a small number of calls for impact assessments and alignment with the UK.

“COSLA would note that a number of the provisions may have (and have had) financial implications for Local Government. These would include H1, H2 and J3. It is possible that the provisions relating to digitisation of services, such as registration services or virtual meetings, may require IT systems to be changed or upgraded which would also have financial implications.” (COSLA)

## Appendix B: Additional information

A small number of questions - H1, J7 and Q34 - received either a very large number of responses or included detailed technical information in responses. It has not been possible to include the full analysis of these questions within the main report. This appendix therefore summarises the less commonly mentioned themes and specific technical evidence identified at these questions.

### **H1 – Education: powers to close educational establishments, and to ensure the continuity of education**

Some respondents, including a few local authorities that supported extension but opposed permanence, emphasised the importance of local authorities input into decisions about closures, rather than central government making the decision without local stakeholders.

“Education is a local matter and decisions around school matters should be taken whenever possible by councils.” (Extract from Dundee City Council)

The Scottish Council of Independent Schools opposed extension or permanence, noting the particular challenges that face independent schools including a mix of day and residential students, and where there are a large number of international students. The University & College Union Scotland felt the provision should be extended but, as it had not been necessary to date to use the power to close universities and colleges, there was no need for permanence. Universities Scotland gave a similar view, but opposed extension and permanence. In response to another question, the Children and Young People’s Commissioner Scotland opposed this measure for the same reason.

“It is not appropriate for emergency powers such as these to remain ‘on the books’ for use by any future government without prior reference to Parliament. It is particularly concerning that in at least one case (educational closure direction) these proposals include powers that were not used during the current pandemic. Unused (and therefore unnecessary) provisions cannot justifiably be extended.” (Extract from Children and Young People’s Commissioner Scotland)

“A number of families we work with were supported by a number of the measures introduced under these directions. This power was key to ensuring mitigations were put in place when schools were closed nationally or were forced to close due to Covid outbreaks.” (Extract from Families Outside)

In response to another question, the Equality and Human Rights Commission emphasised the need to ensure measures are taken to ensure disabled people are able to access the remote technology used to deliver public services virtually. Enquire made a similar point.

“It should make clear on the face of the Bill that use of video or remote technology – by any public body, in any setting – must be accompanied by proactive efforts to understand individuals’ needs, reasonable adjustments where these are required, and alternative means of conducting business where video or remote technology makes effective participation unlikely.” (Extract from Equality and Human Rights Commission)

“We understand the reasons behind these closures but feel it is vitally important that, if the powers to make directions to close educational establishments and the associated continuity directions around suspending the duties of the Additional Support for Learning Act are made permanent, serious consideration must be given to the impact these directions have on children with additional support for learning needs.” (Extract from Enquire)

## **J7 – Criminal justice: time limits**

### **Less commonly mentioned themes**

A small number felt increasing time limits was or could be used to excuse deficiencies in the capacity or funding of the court system. Similarly, a few felt the provisions should not be used to save court time. In their response to J7(i), HMIPS described their experiences and provided alternative suggestions for how court activity could be increased to reduce the backlog – for example better utilisation of court space, and using Saturday courts.

A few called for wider justice reform, arguing for example, that time spent on remand is too long and should be addressed separately rather than because of Covid, or that alternatives to custody should be considered. A few requested further review of the impact of increased time limits before decisions are taken to extend the provision.

### **Comments about specific time limits**

#### *J7(i) - Time limit on summary-only cases at section 136 of the 1995 Act*

- SCTS noted that, without an extension, pressure on courts may increase as proceedings may need to start to preserve a case without it being ready to be heard.
- A few respondents noted the potential for summary-only cases to expire without an extension. A small number linked this to support for a longer extension, as they felt it was important that victims of crime are able to see justice done and move on.

“Given the extent of the backlog and the length of delays, Victim Support Scotland is keen to ensure that victims are not penalised for the delays caused by the pandemic. Extending this provision until the backlog is dealt with will ensure that cases are not ‘timed out’ and that victims will still see justice done.” (Victim Support Scotland – J7(i))

*J7(ii) - Remand time limits at section 65(4) and section 147(1)*

- The Sheriffs' Association stated that a hard deadline may encourage prosecuting authorities to make progress in preparing solemn cases for trial.
- The Senators of the College of Justice, Sheriffs Principal of Scotland and SCTS supported an extension at J7(ii), as they felt that without this a significant amount of court time would be needed to process case-by-case applications for extensions.

“Without an extension, the courts will face a very large number of applications for extension of remand time limits at a time when the resources of the criminal justice system are better directed at tackling the backlog.” (Extract from Sheriffs Principal of Scotland – J7(ii))

*J7(iii) - Extending time limits relating to the maximum time between first appearance on petition and the first diet/preliminary hearing and commencement of the trial at section 65(1)*

- The Sheriffs' Association stated that: “...the extension of the periods in section 65 Criminal Procedure (Scotland) Act 1995, should not be indefinite, and should have a hard deadline no later than early-2023”.

*J7(iv) - Removing time limits on the length of individual adjournments for inquiries*

- A few noted at J7(iv) that the provisions could allow a case to roll on indefinitely or encourage unnecessary delay.
- The Sheriffs' Association used their comment to oppose an extension, as they felt services across Scotland are generally able to respond within original time limits. Any case-by-case issues could be managed with the pre-pandemic powers.
- The Senators of the College of Justice supported an extension as “it may help to avoid fruitless hearings and/or unnecessary administrative adjournments when reports cannot be completed in time as a result of the pandemic”.
- Aberdeenshire Council offered support as “An extension of this provision would be helpful at the current time, to allow time to respond, with more flexibility – for example where there are requests for additional information that may take longer to gather than normal, due to Covid.”
- SCTS felt extensions of individual adjournments would be unnecessary if the other time limit provisions are extended until the court backlog is cleared.

**Q34: To support the key three themes for Covid recovery as described, do you have any proposals for legislation which goes beyond or is different to the consultation proposals?**

The following pages summarise more specific comments given in response to Q34, in addition to the common themes described in the main report.

**Singular comments related to the consultation proposals**

Comments on the justice system included:

- Victim Support Scotland called for judge only trials for sexual offence cases and for the video recording of statements to be introduced across Scotland.
- Scottish Women's Aid recommended that legislation should make domestic abuse trials virtual by default, with exceptions as needed.
- Families Outside called for The Scottish Prison Rules to be reviewed to ensure human and children's rights are embedded and that changes following the pandemic can be taken into account.
- The Senators of the College of Justice called for it to be clear that the provision at J1 applies to joint minutes of agreement under section 256 of the Criminal Procedure (Scotland) Act 1995; that at J2 remote balloting of jurors should remain available on a permanent basis; and commented that: "It seems needlessly cumbersome to use letter of request procedure under section 272 and 273 of the Criminal Procedure (Scotland) 1995 Act to take evidence by television link from England, Wales and Northern Ireland. The senators consider that reform of the Letters of Request process to make it more streamlined would be beneficial."
- A call from an individual for SCTS to follow a uniform process in all courts to avoid a strain on court users operating to different procedures depending on the court.
- Justice Services, South Ayrshire Council HSCP suggested: "Multi-agency communication systems must be considered to ensure end to end process from every perspective."

Comments in relation to tenants and landlords included:

- Aberdeenshire Council stated in relation to P18: "rather than instructing landlords to carry out pre-action requirements, funding should be provided to Local Authorities to enable them to support private sector tenants when faced with eviction."

Other singular points included:

- Legislation or stricter requirements on circumstances when schools can be closed.
- Law Society of Scotland recommended a review of the law relating to health emergencies. They questioned whether: "The preference of Government to employ either the Coronavirus specific legislation or Public Health Acts rather than [pre-existing] Civil Contingencies legislation raises questions about the legislative framework which applies across the UK and its fitness to deal with future public health crises." They also suggested the creation of a Standing Advisory Committee on Pandemics, a quadripartite parliamentary group, bringing together all the UK

legislatures to share experience, best practice and knowledge about legislating in the pandemic, and the regular consolidation of Coronavirus subordinate legislation across the UK.

- Law Society of Scotland also suggested changes to the Requirements of Writing (Scotland) Act 1995 and the Legal Writings (Counterparts and Delivery) (Scotland) Act 2015 in connection with the challenges of generating both traditional and electronic documents for proceedings.
- North Ayrshire Council called for safeguards on how long the public health regulations can be imposed, similar to those for school closures.
- For all local government committees to be held virtually, to improve access to decision making and be more environmentally friendly.
- That the current debt relief solutions (PTD, DAS and Bankruptcy) not be amended until 2025 at least.
- A call for an amendment to the process for submission of Marriage and Civil Partnership Notices to enable remote submission of notices to marry / civilly partner.
- Crisis highlighted the opportunity for the Rented Sector Strategy and subsequent Housing Bill to consider introducing other changes to support tenants to sustain their tenancies and keep their homes.
- An organisation representing planning officers outlined their thoughts on how various elements of the planning process could be digitised and suggested an overarching Digital Bill that could have positive change to planning and other areas of work without the need to change individual legislation. They also asked for clarity on whether Local Review Body meetings could continue to be held virtually or hybrid.
- Angus Council requested that any extension or new legislation should ensure local democracy is not eroded.
- Glasgow City Council Labour Group urged ministers to “consider what further powers, resources and clarity can be given to Local Government to ensure that recovery is broad-based and inclusive”.

Comments related to the consultation proposals already covered in the analysis:

- Concerns over digital exclusion resulting from the provisions for remote services.
- The potential for fraud in relation to the remote registration of births and deaths.
- That face-to-face court / licence hearings should be allowed if any party objects to a remote hearing.

## Comments not directly related to consultation proposals

Other suggestions for legislation were typically mentioned by one or two respondents. Not all were directly related to Covid recovery. These included legislation to:

- Support digital wills and their storage and retention which may reduce the number of citizens who die intestate.
- Ensure food security for vulnerable people.
- Establish a core social care entitlement.
- Enable disqualification of elected Councillors.

The Health and Social Care Alliance Scotland (the ALLIANCE) provided a detailed response which outlined legislation and specific actions which they believe are key to a sustainable and just recovery from the pandemic. These included the establishment of a National Care Service and support for the Scottish Government's intention to consult on a new Human Rights Bill and the incorporation of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) into Scots law.

Other singular suggestions not directly linked to the proposals or legislation included:

- Law Society of Scotland called for urgent action "to ensure the legal aid system is adequately funded and attracts sufficient members of the profession to represent the most vulnerable in society."
- Dundee City Council stated that resilience officers felt that the spend and structures on resilience preparedness would benefit from review. Similarly, an individual called for public bodies to have better preparedness to provide continuity of service.
- That the environmental health profession was used in the pandemic, principally because of local relationships, and that this should be built upon.
- Allow for changes to taxation: lowering or reforming income tax and generally reducing the tax burden, introducing a Covid recovery tax.
- Extend licensing hours to allow hospitality to recover.
- Councils being able to place planning notices online rather than on-site.
- Greater use of means testing.
- Encouraging immigration from Europe.
- Extending dental exemptions for pregnant women and new mothers.
- Trial periods of Traffic Regulation Orders.
- Encouraging public projects to be undertaken by Scottish companies (another respondent specifically mentioned ferry building procurement).
- Scrapping free prescriptions, free tuition fees, baby boxes and Gaelic language support.
- Abolishing minimum alcohol pricing.
- Using private sector rent caps.

- Protecting museums and culturally significant institutions.
- Increasing Council Tax on under-inhabited homes.
- Introducing a public transport pass.

#### **Comments on the three themes outlined at Q34**

- In relation to **sustainable green jobs**, all but two comments were dismissive of the green agenda; one individual, however, called for more home grown produce, and an organisation detailed how they would attempt to sustain the environmentally friendly changes that had resulted from the pandemic.
- Singular comments on **financial security for low-income households** varied. These included: a suggestion for investment in affordable Wi-Fi and available technology for all children who need it to access education; a call for recognition of the impact of lengthy justice proceedings on families of the accused and victims of crime; a request to not withdraw extra Covid benefits; a call for employers to offer job security; and a suggestion that “the enactment of the draft Moveable Transactions Bill produced by the Scottish Law Commission (along with their Report on Moveable Transactions (2017)), would support access to finance for individuals and businesses across Scotland.”
- Public Health Scotland’s response detailed proposals for marginalised and disadvantaged groups, for example, legislation to avoid destitution for those with no recourse to public funds, particularly those in the immigration and asylum system and ethnic minority groups.
- Additional comments on **young people’s wellbeing** included: Scottish Council of Independent Schools calling for “the upcoming re-framing of Getting It Right for Every Child, including the Children and Young People Act, should be revisited to include genuine equity of access to all necessary health and related support provisions for all children and young people in Scotland”; and another organisation describing how the pandemic has influenced the way they work with children and young people.

## Appendix C: Quantitative summary

A public consultation means anyone can express their views; individuals and organisations with an interest in the topic are more likely to respond than those who do not. This self-selection means the views of consultation respondents do not necessarily represent of the views of the population or of society as a whole.

The main purpose of consultation analysis is not to identify how many people held particular views, but to understand the full range of views expressed. For this reason the analysis is primarily qualitative.

However, this section provides additional quantitative data summarising responses to the closed questions. Percentages in the following tables and figures have been included to illustrate the range of views submitted by consultation respondents. As this sample is self-selecting, no conclusions can be drawn about the level of support or opposition to proposals among the general public.

## Topic questions

**Table 1: Summary results – Topic questions – Levels of Support<sup>8</sup>**

(Results among those giving a view includes those who answered 'Unsure', but excludes those who answered 'I have no view' or did not answer)

These figures are a non-representative sample		All respondents (2,905)		Organisations (130)	
Topic	Topic	% support among all	% support among those giving view	% support among all organisations	% support among organisations giving view
H1	Education: powers to make directions to close educational establishments in order to reduce the spread of infection within and to ensure the continuity of education during pandemics	6.4%	7.0%	18.5%	60.0%
H2	Power to make public health protection regulations	6.4%	6.9%	20.0%	60.5%
H3	Vaccinations and immunisations	13.6%	14.9%	18.5%	68.6%
H4	Virtual public meetings under the Schools (Consultation) (Scotland) Act 2010	9.5%	10.7%	16.9%	68.8%
P1	Alcohol licensing remote hearings	11.9%	14.4%	21.5%	75.7%
P2	Bankruptcy: debt level that enables creditors to pursue the bankruptcy of a debtor through the courts	14.1%	17.2%	23.8%	63.3%
P3	Bankruptcy: electronic service of documents	13.5%	16.6%	28.5%	78.7%
P4	Bankruptcy: moratoriums on diligence	12.0%	15.0%	21.5%	59.6%

<sup>8</sup> Topics P2, P4 and P18 had two options for permanence and two options for support. These have all been combined into % support in Table 1; full details are available in the main report.

These figures are a non-representative sample		All respondents (2,905)		Organisations (130)	
Topic	Topic	% support among all	% support among those giving view	% support among all organisations	% support among organisations giving view
P5	Bankruptcy: virtual meetings of creditors	13.6%	16.8%	26.9%	79.5%
P6	Care services: giving of notices by the Care Inspectorate	10.6%	13.0%	20.0%	74.3%
P7	Civic government licensing remote hearings	11.3%	14.1%	16.2%	65.6%
P8	Courts: intimation, etc. of documents	11.7%	14.3%	30.8%	83.3%
P9	Criminal justice: arrangements for the custody of persons detained at police stations	8.2%	10.2%	11.5%	48.4%
P10	Freedom of Information: giving notice electronically	16.1%	19.7%	20.8%	79.4%
P11	Legal aid	11.3%	14.6%	10.0%	61.9%
P12	Legal writings etc	10.7%	13.6%	23.1%	75.0%
P13	Mental health: named person nomination	9.1%	11.2%	16.2%	63.6%
P14	Parole Board: delegation	8.5%	11.0%	13.1%	65.4%
P15	Parole Board: live link	10.4%	13.4%	16.2%	70.0%
P16	Remote registration of deaths and still-births	19.3%	23.5%	23.8%	83.8%
P17	Remote registration of live births	15.6%	19.3%	16.2%	70.0%
P18	Tenancies: protection against eviction (discretionary grounds of eviction); and pre-action requirements for eviction proceedings on ground of rent arrears	17.9%	21.0%	20.0%	52.0%

These figures are a non-representative sample		All respondents (2,905)		Organisations (130)	
Topic	Topic	% support among all	% support among those giving view	% support among all organisations	% support among organisations giving view
J1	Courts and tribunals: conduct of business by electronic means	12.8%	16.1%	33.1%	81.1%
J2	Courts and tribunals: virtual attendance	12.7%	15.9%	31.5%	67.2%
J3	Criminal justice: early release of prisoners	4.7%	5.9%	16.9%	61.1%
J4	Criminal justice: expiry of undertaking	5.9%	7.8%	15.4%	57.1%
J5	Criminal justice: fiscal fines	6.5%	8.6%	15.4%	57.1%
J6	Criminal justice: national court for cases beginning with an appearance from custody	7.6%	10.0%	17.7%	67.6%
J7(i)	Criminal justice: time limits - relating to the time limit on summary-only cases at section 136 of the 1995 Act	6.6%	8.7%	15.4%	54.1%
J7(ii)	Criminal justice: time limits - remand time limits at section 65(4) and section 147(1)	6.0%	7.9%	13.8%	51.4%
J7(iii)	Criminal justice: time limits - extending time limits relating to the maximum time between first appearance on petition and the first diet/preliminary hearing and commencement of the trial at section 65(1)	6.6%	8.7%	13.1%	50.0%
J7(iv)	Criminal Justice: time limits - removing time limits on the length of individual adjournments for inquiries	5.5%	7.3%	12.3%	48.5%
J8	Proceeds of Crime	8.6%	11.4%	14.6%	70.4%

**Table 2: Summary results – Topic questions<sup>9 10</sup>**

These figures are a non-representative sample		% of all respondents (n=2,905) (% do not add to 100% as 'I have no view' and 'Not answered' not shown)					% of all respondent giving view	% of all giving view (excl. I have no view, Not Answered) (n=varies by topic)				
Topic	Topic	Permanence	Extend	TOTAL support	Oppose	Unsure		Permanence	Extend	TOTAL support	Oppose	Unsure
H1	Education: powers to make directions to close educational establishments in order to reduce the spread of infection within and to ensure the continuity of education during pandemics	2.9%	3.5%	6.4%	85.4%	0.3%	92.1%	3.1%	3.8%	7.0%	92.7%	0.4%
H2	Power to make public health protection regulations	3.0%	3.4%	6.4%	85.8%	0.4%	92.6%	3.2%	3.7%	6.9%	92.6%	0.5%
H3	Vaccinations and immunisations	7.2%	6.4%	13.6%	76.8%	1.0%	91.4%	7.9%	7.0%	14.9%	84.0%	1.1%
H4	Virtual public meetings under the Schools (Consultation) (Scotland) Act 2010	-	-	9.5%	75.7%	3.3%	88.5%	10.7%	0.0%	10.7%	85.6%	3.7%
P1	Alcohol licensing remote hearings	6.5%	5.3%	11.9%	69.2%	1.5%	82.5%	7.9%	6.5%	14.4%	83.8%	1.8%
P2	Bankruptcy: debt level that enables creditors to pursue the bankruptcy of a debtor through the courts	7.2%	7.0%	14.1%	64.0%	4.0%	82.1%	8.7%	8.5%	17.2%	77.9%	4.9%

<sup>9</sup> Topics H4 and P17 asked respondents if proposals should be developed or not. The figure for support in Table 2 represents those who supported developing the policy; oppose represents those who thought it should not be developed.

<sup>10</sup> Topics P2, P4 and P18 had two options for permanence and two options for support. These have been combined into Permanence and Extension respectively in Table 2. Full details are in the main report.

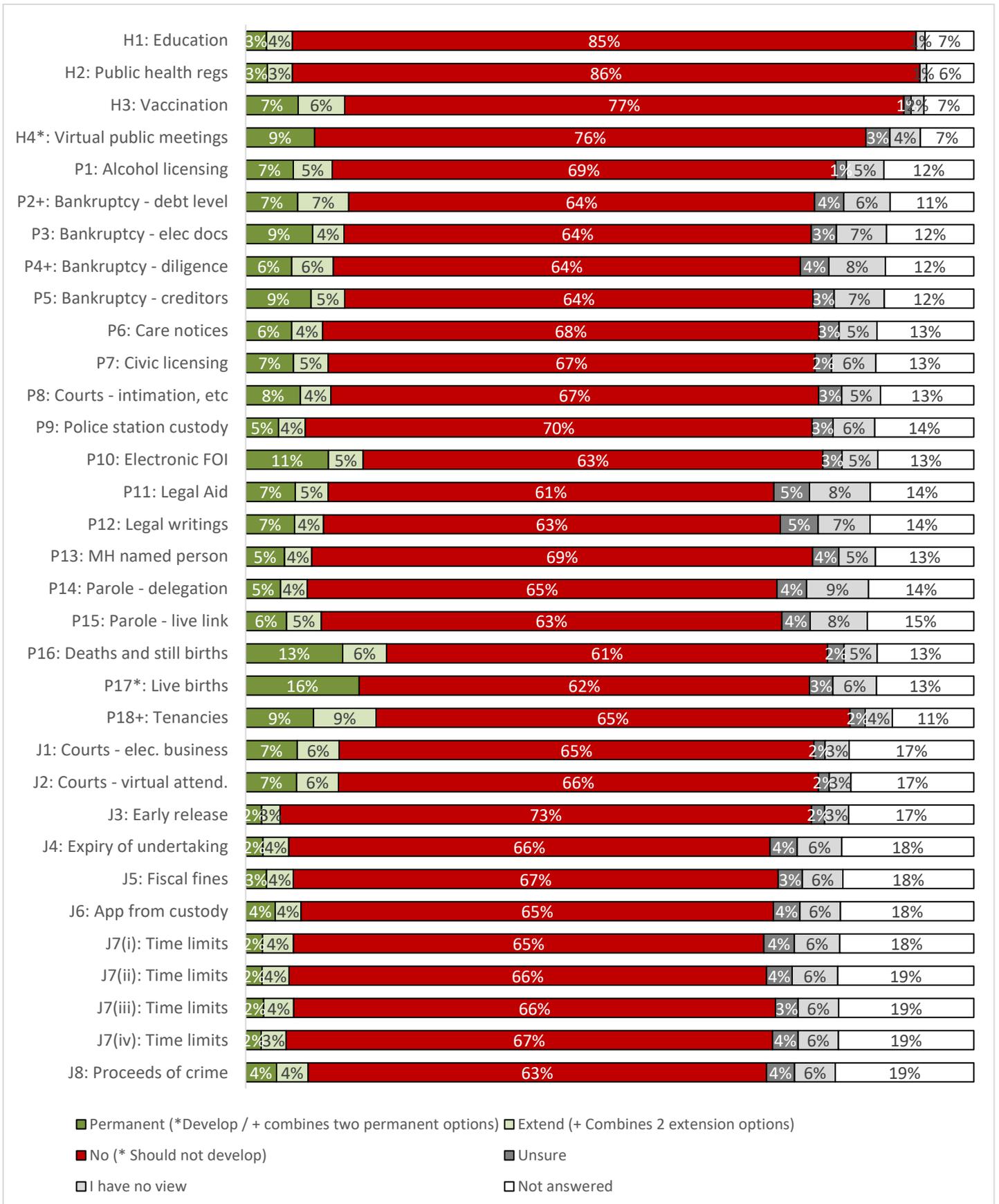
These figures are a non-representative sample		% of all respondents (n=2,905) (% do not add to 100% as 'I have no view' and 'Not answered' not shown)					% of all respondent giving view	% of all giving view (excl. I have no view, Not Answered) (n=varies by topic)				
Topic	Topic	Perma nence	Extend	TOTAL support	Oppose	Unsure		Perma nence	Extend	TOTAL support	Oppose	Unsure
P3	Bankruptcy: electronic service of documents	9.2%	4.3%	13.5%	64.2%	3.4%	81.1%	11.3%	5.3%	16.6%	79.1%	4.2%
P4	Bankruptcy: moratoriums on diligence	6.3%	5.7%	12.0%	64.1%	3.9%	80.1%	7.9%	7.1%	15.0%	80.1%	4.9%
P5	Bankruptcy: virtual meetings of creditors	9.0%	4.6%	13.6%	64.3%	2.9%	80.8%	11.1%	5.7%	16.8%	79.6%	3.6%
P6	Care services: giving of notices by the Care Inspectorate	6.3%	4.2%	10.6%	68.2%	2.8%	81.5%	7.8%	5.2%	13.0%	83.7%	3.4%
P7	Civic government licensing remote hearings	6.6%	4.8%	11.3%	66.9%	2.3%	80.5%	8.2%	5.9%	14.1%	83.1%	2.8%
P8	Courts: intimation, etc. of documents	7.5%	4.2%	11.7%	67.0%	3.2%	81.9%	9.2%	5.1%	14.3%	81.8%	3.9%
P9	Criminal justice: arrangements for the custody of persons detained at police stations	4.5%	3.7%	8.2%	69.6%	2.9%	80.7%	5.6%	4.6%	10.2%	86.3%	3.6%
P10	Freedom of Information: giving notice electronically	11.4%	4.8%	16.1%	63.1%	2.6%	81.9%	13.9%	5.8%	19.7%	77.1%	3.2%
P11	Legal aid	6.8%	4.5%	11.3%	61.2%	4.9%	77.5%	8.8%	5.8%	14.6%	79.0%	6.4%
P12	Legal writings etc	6.7%	4.0%	10.7%	62.7%	5.2%	78.6%	8.5%	5.1%	13.6%	79.8%	6.6%

These figures are a non-representative sample		% of all respondents (n=2,905) (% do not add to 100% as 'I have no view' and 'Not answered' not shown)					% of all respondent giving view	% of all giving view (excl. I have no view, Not Answered) (n=varies by topic)				
Topic	Topic	Permanence	Extend	TOTAL support	Oppose	Unsure		Permanence	Extend	TOTAL support	Oppose	Unsure
P13	Mental health: named person nomination	5.3%	3.8%	9.1%	68.8%	3.6%	81.5%	6.5%	4.6%	11.2%	84.4%	4.4%
P14	Parole Board: delegation	4.8%	3.7%	8.5%	64.5%	4.1%	77.0%	6.2%	4.8%	11.0%	83.7%	5.3%
P15	Parole Board: live link	5.6%	4.8%	10.4%	63.2%	3.9%	77.5%	7.2%	6.2%	13.4%	81.6%	5.0%
P16	Remote registration of deaths and still-births	13.3%	6.0%	19.3%	60.6%	2.2%	82.2%	16.2%	7.3%	23.5%	73.7%	2.7%
P17	Remote registration of live births	-	-	15.6%	61.9%	3.2%	80.7%	19.3%	0.0%	19.3%	76.7%	4.0%
P18	Tenancies: protection against eviction (discretionary grounds of eviction); and pre-action requirements for eviction proceedings on ground of rent arrears	9.3%	8.6%	17.9%	65.1%	2.1%	85.1%	11.0%	10.1%	21.0%	76.5%	2.5%
J1	Courts and tribunals: conduct of business by electronic means	7.1%	5.7%	12.8%	65.2%	1.5%	79.6%	8.9%	7.2%	16.1%	81.9%	1.9%
J2	Courts and tribunals: virtual attendance	7.0%	5.7%	12.7%	65.9%	1.5%	80.2%	8.7%	7.2%	15.9%	82.2%	1.9%
J3	Criminal justice: early release of prisoners	2.2%	2.5%	4.7%	73.0%	1.8%	79.5%	2.8%	3.2%	5.9%	91.8%	2.3%
J4	Criminal justice: expiry of undertaking	2.4%	3.5%	5.9%	66.1%	3.8%	75.8%	3.1%	4.7%	7.8%	87.2%	5.0%

These figures are a non-representative sample		% of all respondents (n=2,905) (% do not add to 100% as 'I have no view' and 'Not answered' not shown)					% of all respondent giving view	% of all giving view (excl. I have no view, Not Answered) (n=varies by topic)				
Topic	Topic	Permanence	Extend	TOTAL support	Oppose	Unsure		Permanence	Extend	TOTAL support	Oppose	Unsure
J5	Criminal justice: fiscal fines	2.9%	3.7%	6.5%	66.6%	3.3%	76.5%	3.7%	4.8%	8.6%	87.1%	4.4%
J6	Criminal justice: national court for cases beginning with an appearance from custody	4.1%	3.5%	7.6%	64.9%	3.6%	76.1%	5.3%	4.7%	10.0%	85.3%	4.7%
J7(i)	Criminal justice: time limits - relating to the time limit on summary-only cases at section 136 of the 1995 Act	2.3%	4.3%	6.6%	64.6%	4.2%	75.4%	3.1%	5.7%	8.7%	85.7%	5.6%
J7(ii)	Criminal justice: time limits - remand time limits at section 65(4) and section 147(1)	2.2%	3.7%	6.0%	65.6%	3.5%	75.0%	3.0%	5.0%	7.9%	87.4%	4.7%
J7(iii)	Criminal justice: time limits - extending time limits relating to the maximum time between first appearance on petition and the first diet/preliminary hearing and commencement of the trial at section 65(1)	2.5%	4.1%	6.6%	66.2%	3.1%	75.9%	3.3%	5.4%	8.7%	87.2%	4.1%
J7(iv)	Criminal Justice: time limits - removing time limits on the length of individual adjournments for inquiries	2.1%	3.4%	5.5%	66.8%	3.5%	75.9%	2.8%	4.5%	7.3%	88.1%	4.6%
J8	Proceeds of Crime	4.2%	4.3%	8.6%	63.0%	3.9%	75.4%	5.6%	5.8%	11.4%	83.5%	5.1%

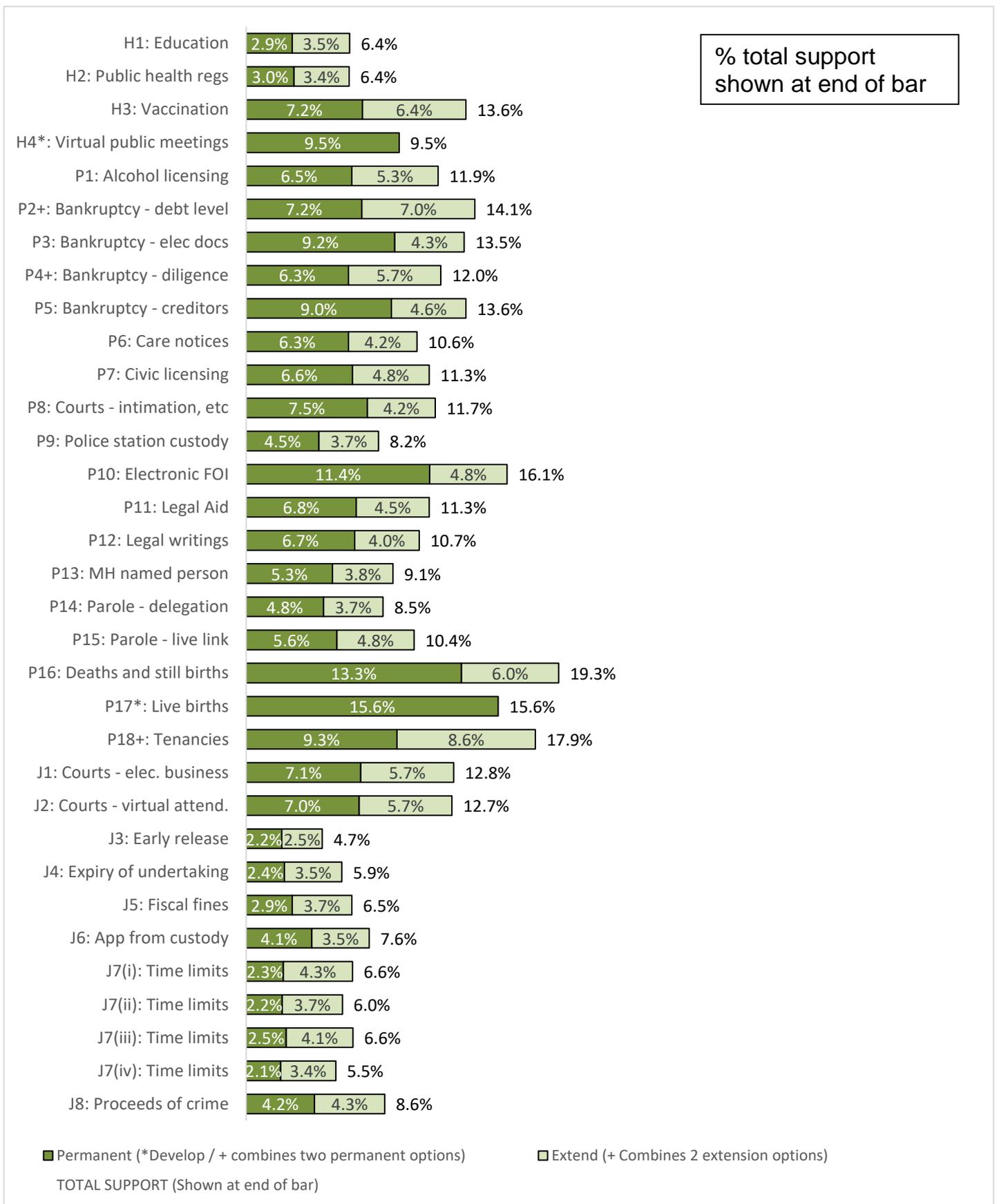
### Figure 1: Topic Questions – Full results, % of all respondents

(Base: all respondents, n=2,905) NB: These figures are a non-representative sample.



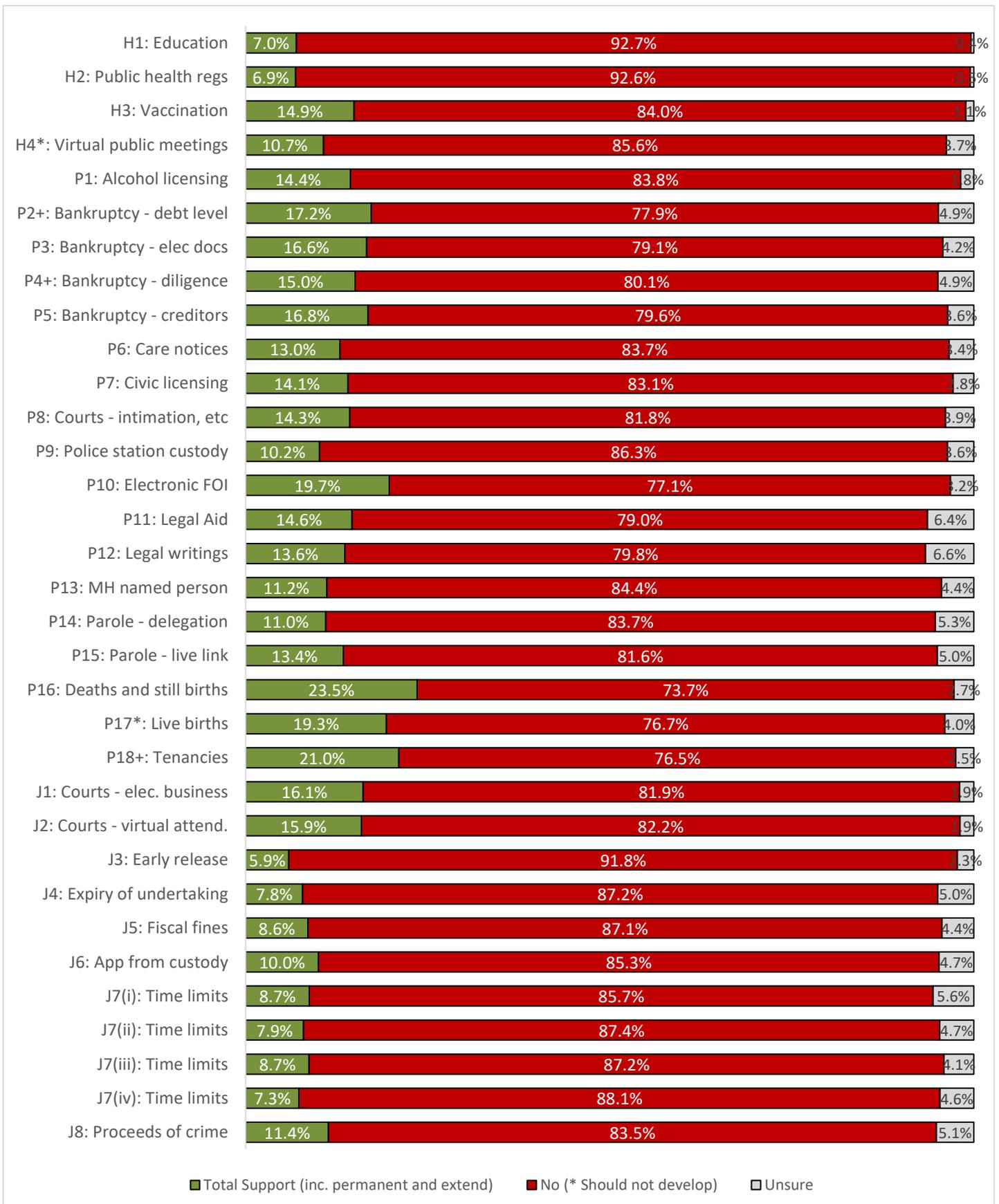
## Figure 2: Topic Questions - % Total support

(Base: all respondents, n=2,905) NB: These figures are a non-representative sample.



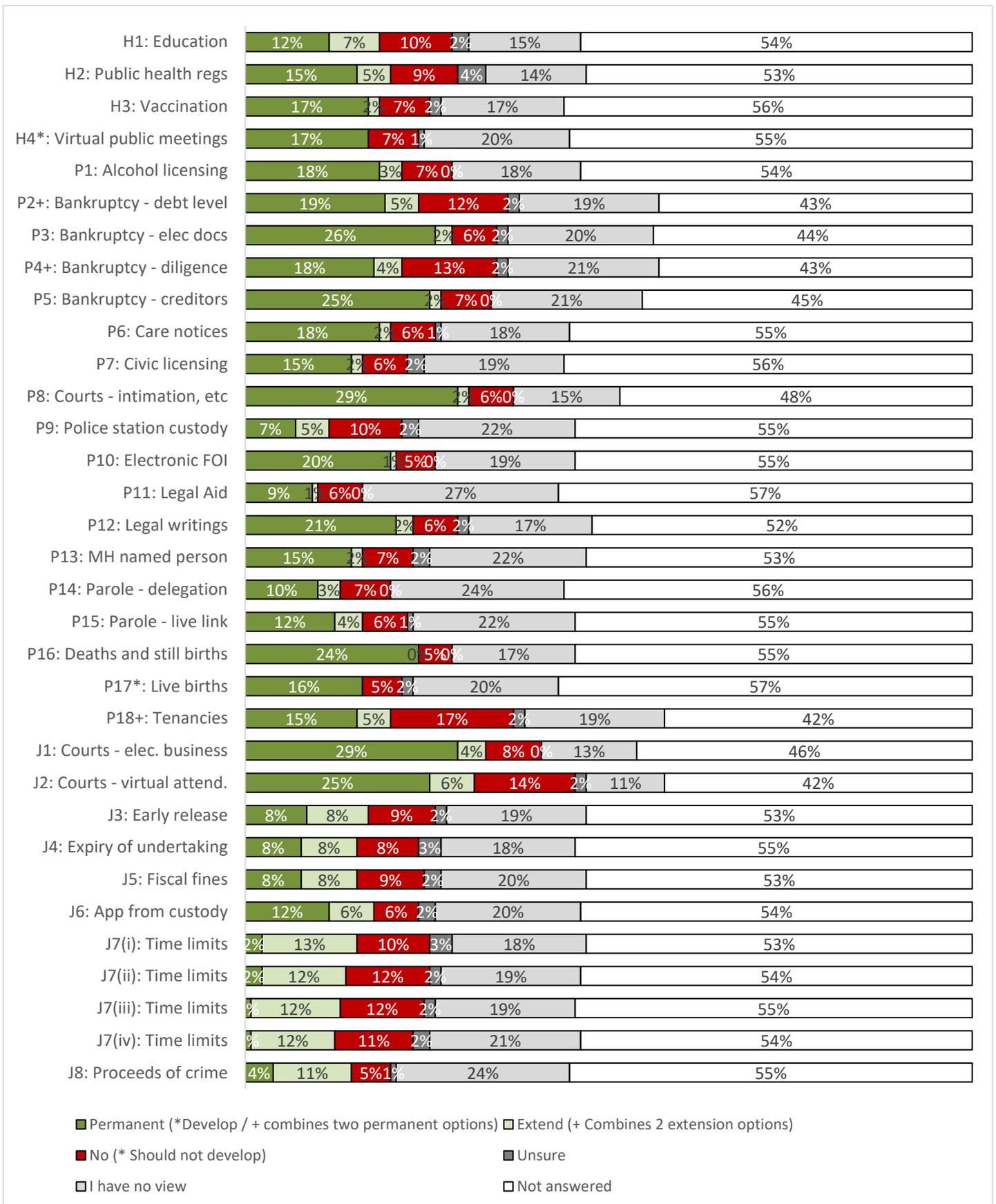
**Figure 3: Topic Questions – % support / opposed among those giving a view (i.e. excluding ‘I have no view’ and ‘Not answered’)**

(Base: all giving a view; n=varies per topic) NB: These figures are a non-representative sample.



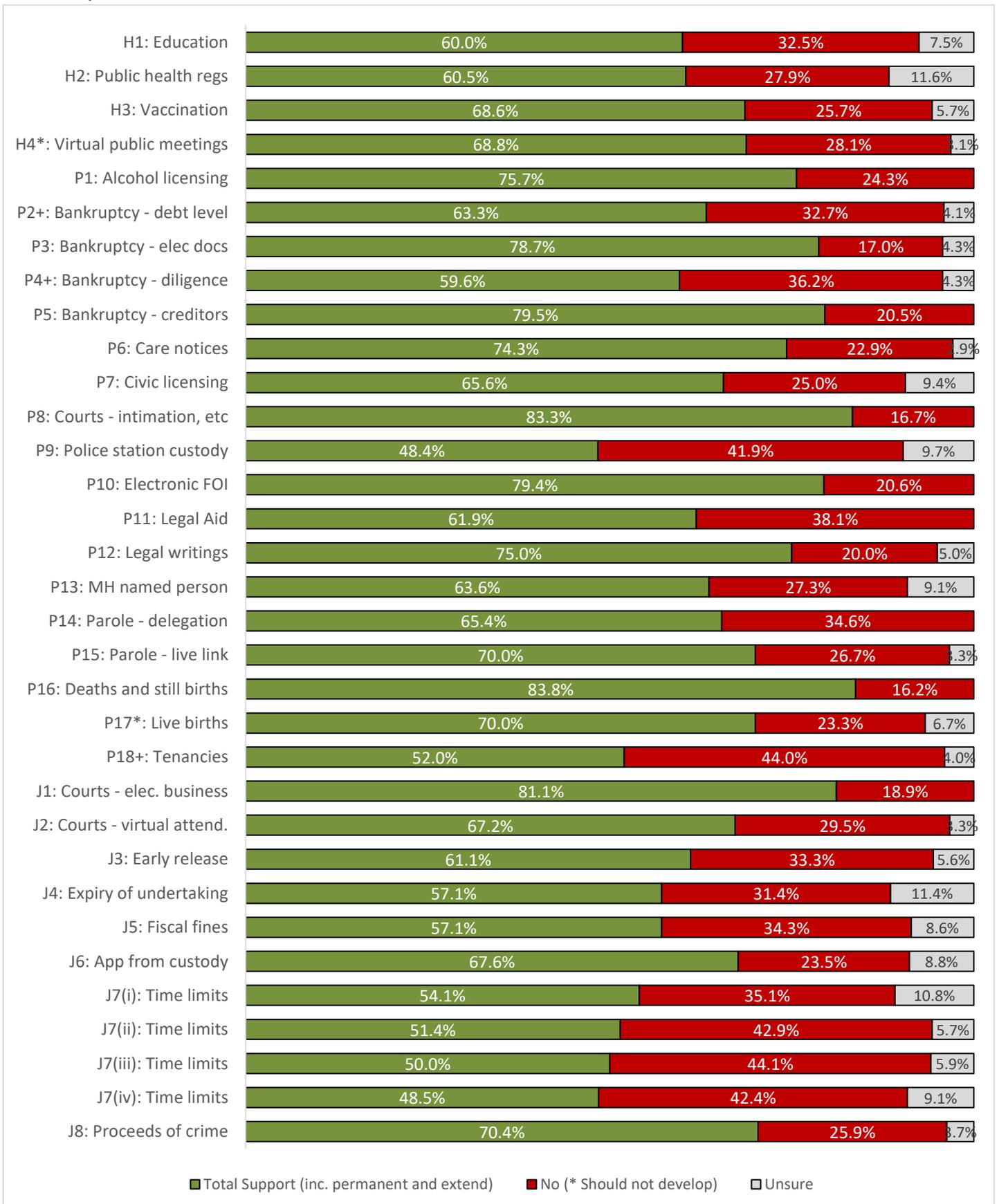
### Figure 4: Topic Questions – Full results, % of all organisations

(Base: all organisations, n=130) NB: These figures are a non-representative sample.



**Figure 5: Topic Questions – % support / opposition among organisations giving a view (i.e. excl ‘I have no view’ and ‘Not answered’)**

(Base: all giving a view; n=varies per topic) NB: These figures are a non-representative sample.



## General and impact questions

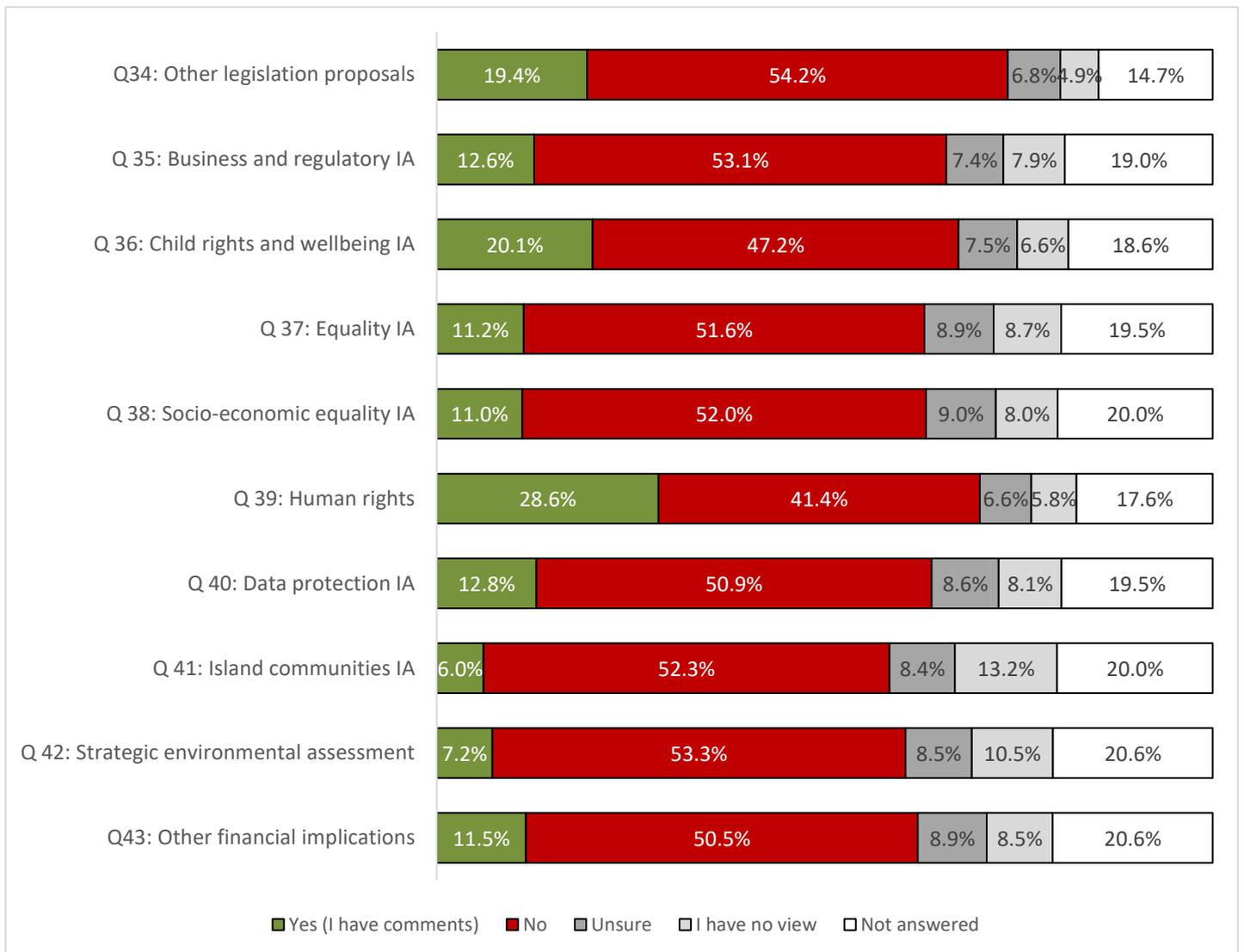
**Table 3: Summary results – General and Impact Questions**

(All respondents, n=2,905) NB: These figures are a non-representative sample.

Topic	Topic	% of all respondents				
		Yes (I have comments)	No	Unsure	I have no view	Not answered
Q34	General Covid recovery question	19.4%	54.2%	6.8%	4.9%	14.7%
Q35	Business and regulatory impact assessment	12.6%	53.1%	7.4%	7.9%	19.0%
Q36	Child rights and wellbeing impact assessment	20.1%	47.2%	7.5%	6.6%	18.6%
Q37	Equality impact assessment	11.2%	51.6%	8.9%	8.7%	19.5%
Q38	Socio-economic equality impact assessment (the Fairer Scotland Duty)	11.0%	52.0%	9.0%	8.0%	20.0%
Q39	Human rights	28.6%	41.4%	6.6%	5.8%	17.6%
Q40	Data protection impact assessment	12.8%	50.9%	8.6%	8.1%	19.5%
Q41	Island communities impact assessment	6.0%	52.3%	8.4%	13.2%	20.0%
Q42	Strategic environmental assessment	7.2%	53.3%	8.5%	10.5%	20.6%
Q43	Financial implications	11.5%	50.5%	8.9%	8.5%	20.6%

**Figure 6: General and Impact Questions – Full results, % of all respondents**

(Base: all respondents, n=2,905) NB: These figures are a non-representative sample.



# Appendix D: Profile of organisational responses

A total of 130 organisational responses were received from 124 organisations. Five organisations submitted a total of 11 responses. These were all included in the analysis as they were felt to represent different views across the organisations. The profile of 130 organisational responses received is shown below.

Sector	Number of responses
Legal/Justice	27
Local Authority	17
Health/Social Care	13
Representative/membership organisation	10
Advice service	9
Funeral Director	8
Insolvency/debt recovery	8
Third sector	8
Property Management/Real Estate	6
Private business	5
Education/Academia	4
Local Authority/Licensing Board	4
Chartered Accountants	3
Housing	3
Public body	3
Equality/Advocacy group	2



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