

Safeguarding data sharing

Consultation 2022

Report and Summary of Responses

February 2023

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1. Introduction

The Scottish Government is very much aware that Social Security Scotland supports some of the most vulnerable people in society.

Page 18 of Our Charter¹ outlines the commitment of Social Security Scotland to refer a client to other organisations, services or forms of help where we believe they could help improve a client's wellbeing or financial circumstances. This is particularly important when we understand how some clients need extra support in order to safely and fairly access Social Security Scotland's services.

However, there may also be instances when Social Security Scotland's interaction with clients presents situations where it becomes apparent an individual may be at risk of harm. To adequately support people in this situation, Social Security Scotland must have clear and robust processes in place.

At this juncture it is important to make a distinction between cases where an individual may be at a non-emergency risk of harm and cases where there is an immediate risk to life. Where a situation is presented where a direct risk to life is identified, a clear course of action already exists - Social Security Scotland will make an immediate call to Police Scotland. The question arises therefore in relation to situations where Social Security Scotland believes an individual may be at risk of harm.

There are several organisations who can help with situations of perceived neglect or abuse. For example, in non-emergency situations, reporting someone who is believed to be at risk of domestic abuse to the relevant Local Authority is advised. For non-emergency situations where a child is believed to be at risk of harm it is recommended concerns be raised via contacting the appropriate Local Authority social work department. The [mygov.scot](https://www.mygov.scot) website recommends immediate danger be reported to police, that 101 be called where it is believed a crime has been committed, and a report made to the Local Authority where there are suspicions of neglect or abuse.

Where a Local Authority has reason to believe someone may be at risk of harm, there are various potential duties to investigate. They can only do this if they are made aware of concerns.

[The Adult Support and Protection Act 2007](#) is intended to protect adults who are unable to safeguard their own interests, placing a duty on councils to make investigations and enquiries when approached with details of an identified risk of harm. In 2014, the Scottish Government published a [Code of Practice](#) which provided guidance to specific public bodies (such as health boards and the fire service) on processes to refer safeguarding concerns to the Local Authority. As Social Security Scotland came into being as an executive agency of the Scottish Government on 1 September 2018, it is not covered by the 2007 Act or the 2014 Code of Practice for third parties.

¹ [Social Security Scotland - Our Charter](#)

To that end, in addition to working with the Health and Social Care directorate in relation to updating the Code of Practice, Scottish Government launched a public consultation on 25 March 2022² to seek views to inform a formalised approach for Social Security Scotland to align its processes with other Government departments and report concerns of potential harm to Local Authority. This will allow the Local Authority to exercise any duties to investigate that they are under.

² [Safeguarding data sharing: consultation - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/documents/2022/03/Safeguarding_data_sharing_consultation.pdf)

2. Overview of the Consultation

The public consultation on safeguarding and data sharing ran for 12 weeks between 25 March 2022 and 17 June 2022.

The purpose of the consultation was to gather views on the approach Social Security Scotland should take to report certain circumstances to a Local Authority where it becomes apparent that an individual may be at risk of harm.

The consultation asked 6 substantive questions as well as open-ended components inviting respondents to explain their answer in more detail.

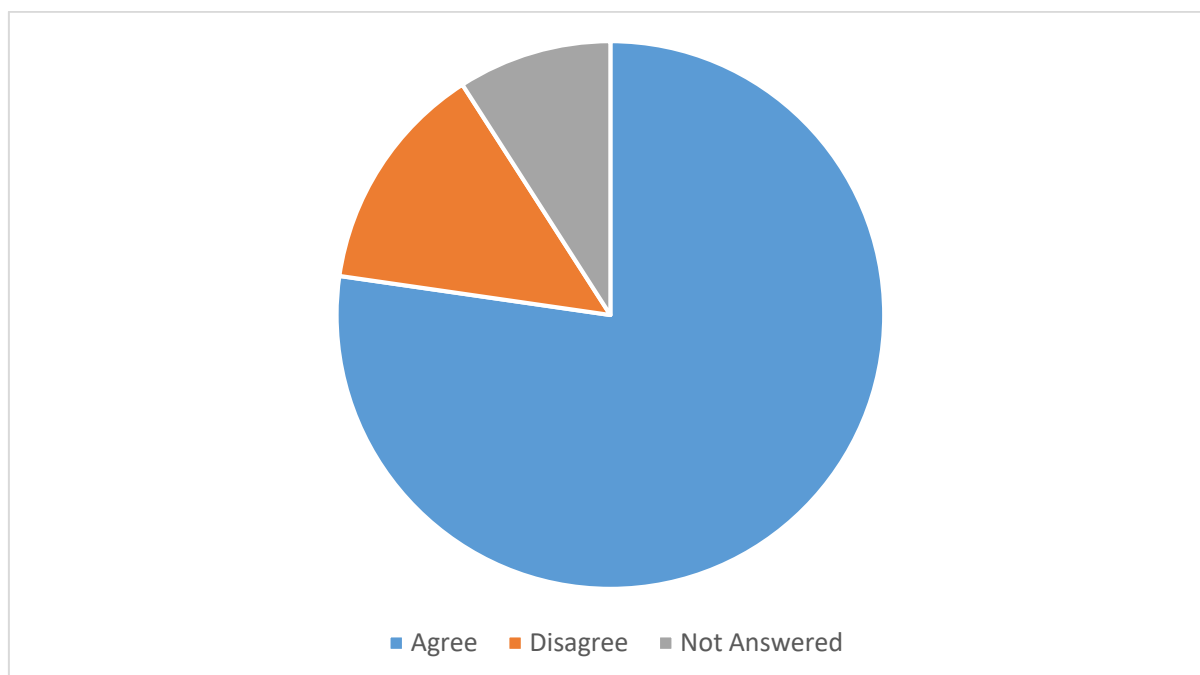
Due to limitations for face to face contact due to the ongoing effects of Covid-19 the Scottish Government were unable to run any stakeholder engagement events. The Scottish Government did, however, promote the consultation through the Social Security Scotland Stakeholder newsletter which has over 12,000 subscribers, and was promoted via the Social Security Scotland and Scottish Government Twitter pages.

3. Summary of responses

The following is a summary of the responses to the consultation.

Q1. Do you agree or disagree Social Security Scotland should be obliged to share information with the relevant Local Authority if during the course of their interactions with clients, it is expected the client is at risk of harm?

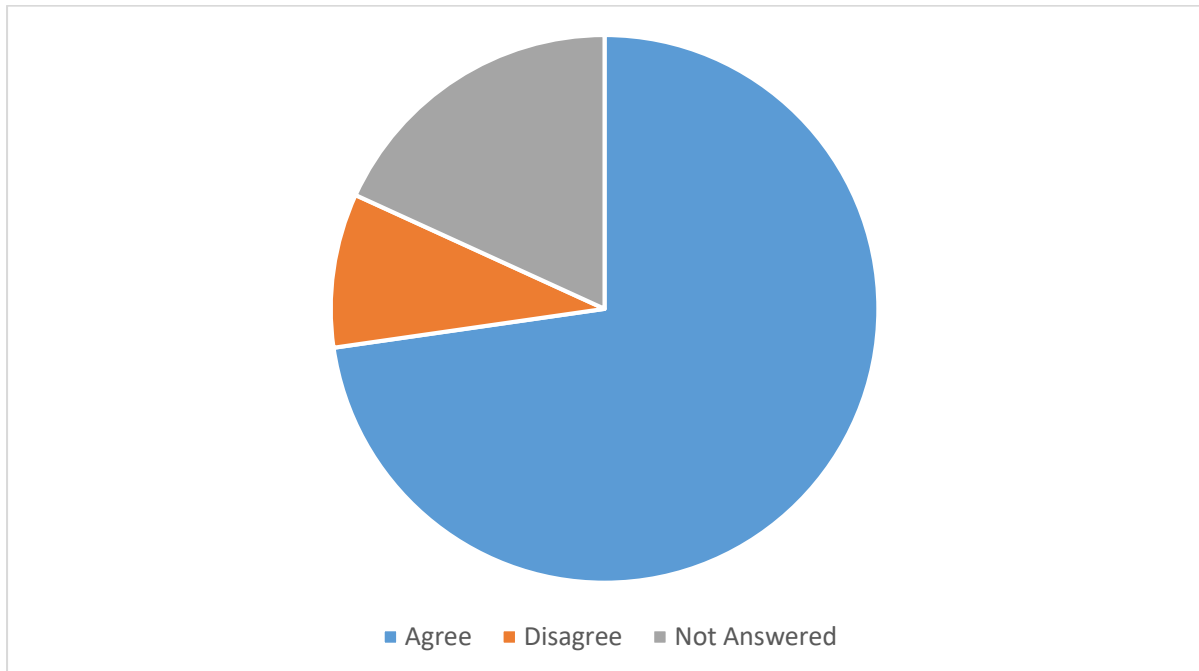
Q1 summary:



- Seventeen of the twenty respondents who answered this question agreed Social Security Scotland should be obliged to share information with the relevant Local Authority where there is a suspected risk of harm to a client of Social Security Scotland.
- Many respondents noted this to be an irrelevant question as they believe Social Security Scotland has authority to refer concerns under s10 of the Adult Support and Protection Act 2007. As noted in part 1 above, this is incorrect.
- One respondent who disagreed raised a concern that assessing whether an individual is at risk of harm is open to interpretation. In addition, they questioned what and how information would be shared by Social Security Scotland.
- In their response, the Law Society of Scotland also felt it would be helpful to more fully describe the scope of circumstances under which adult support and protection procedures can be engaged but agreed with the general principle of Social Security Scotland sharing information relating to safeguarding.

Q1a. If you answered 'agree' to Question 1. Do you agree or disagree, that such information sharing should also happen when suspecting a risk of harm to others associated with the client who are not themselves clients of Social Security Scotland e.g. children/others in the household?

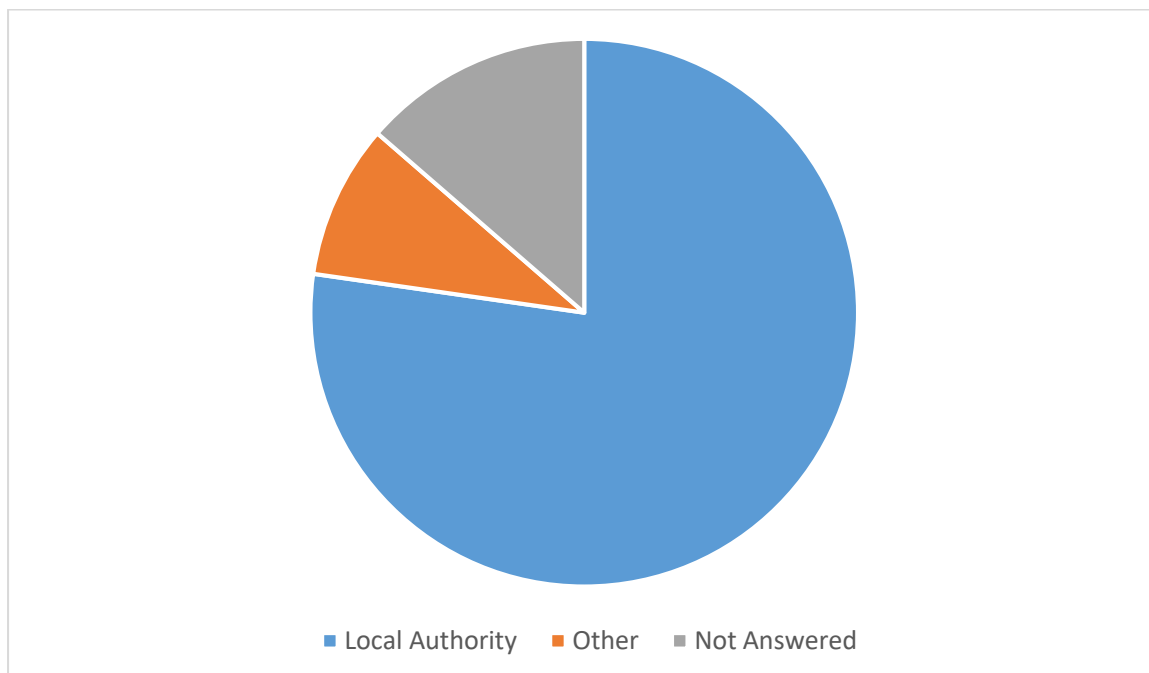
Q1a summary:



- Sixteen of the eighteen respondents who answered this question agreed Social Security Scotland should be obliged to share information with the relevant Local Authority where there is a suspected risk of harm to others associated with the client, and who are not themselves clients of Social Security Scotland.
- Some respondents specifically mentioned children and reiterated a view that Social Security Scotland already have this duty, regardless of whether the person is a direct client.
- Two respondents disagreed with this question. One respondent who disagreed raised a concern about safeguarding information being shared and provided a view that information shouldn't be shared outside of agencies who can provide the relevant support.

Q2. Who are the appropriate authorities/recipients for receiving the information so that action can be taken to safeguard the individual who may be at risk?

Q2 summary:



- Nineteen responses were received for this question.
- Seventeen of the respondents stated the Local Authority is the appropriate authority for receiving the information relating to the safeguarding concern. This included direct reports to Social Work and Health and Social Care Partnerships within local authorities
- A few respondents noted how relevant local contacts are already listed on the 'Act against Harm' website³.
- Six responses stated Police Scotland as the preferred destination for Social Security Scotland to report concerns, however, some qualifying that this depended on the immediacy of the situation.
- A few respondents suggested family members as the appropriate recipients to share the information with.
- Two respondents mentioned GPs and one respondent health visitors. One respondent suggested Social Security Scotland could have similar processes to DWP where safeguarding teams work alongside the Local Authority.

Q3. What information do you consider is required to be shared with the appropriate authority in order for them to be able to act on the concern raised appropriately?

Q3 summary:

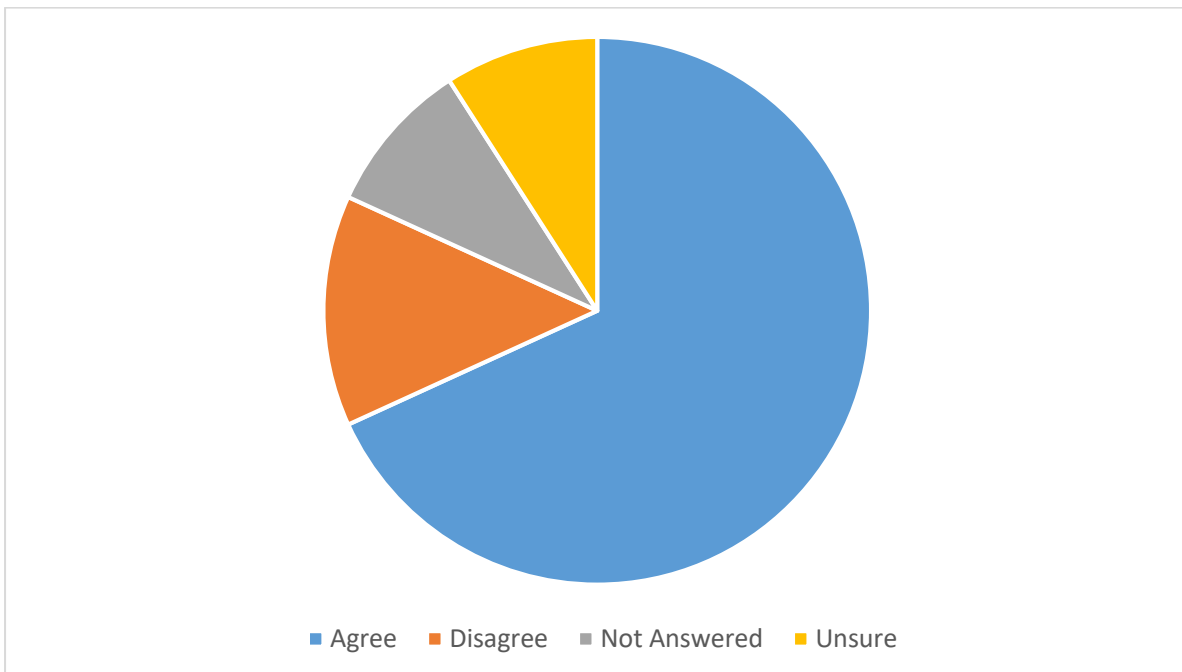
- The majority of respondents who answered this question referred to sharing a minimum level of data noting that this would often include

³ [Home - Act Against Harm](#)

- name and contact details of person at risk of harm
 - details on the nature of suspected harm or risk, and
 - contact details of the referrer.
- Two respondents also mentioned the information shared needed to be proportionate and lawful.
 - One individual raised a concern that information on protected characteristics should not be shared in case this impacted on how the case was handled.
 - A further two responses were unclear but seemed to reflect on individuals' unique circumstances requiring a degree of flexibility.
 - One response indicated that they may need benefit case load information in order to reduce the risk to the individual.
 - One response noted "as much information" as possible should be shared, including the composition of the at-risk person's family circumstances (i.e. if we knew the person lived alone or lived with family) in order for an expedient risk assessment to be done after referral
 - Some (mainly Local Authority) responses pointed to existing processes in place for referrals and that many have their own templates needing completed by the referring party.

Q4. Should records of any referrals to Local Authorities by Social Security Scotland be retained on the client's case file?

Q4 summary:

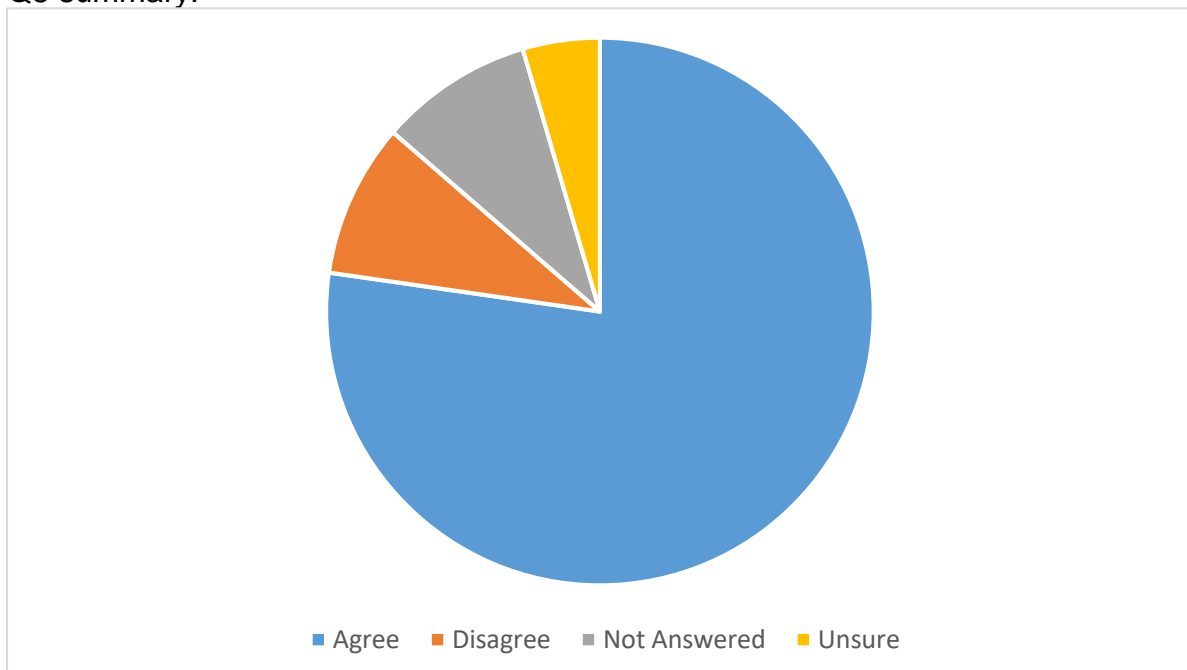


- Twenty responses were received to this question.

- Six respondents acknowledged Social Security Scotland requiring to work within the requirements of the Data Protection Act and the Information Commissioners Office.
- Fifteen respondents supported retaining details of a referral on the client's casefile.
- Two respondents were unsure.
- Three respondents did not agree records of any referrals to Local Authorities by Social Security Scotland should be retained on the client's case file.
- Two respondents did not answer this question.
- Many respondents noted a need for the detail to be available on the casefile in the event of being able to identify patterns of risk or vulnerability, avoiding duplication of work, further action taking place (such as a police referral) and for completeness, if the client moves into another local authority area.
- A few respondents also explained there are timescales for retaining this information within Health and Social Care Partnerships.
- However, some noted that the detail on the casefile should either have restricted access to ensure those seeing it have authorisation to do so or that Social Security Scotland should only retain minimal information e.g. basic details around the referral.
- A few respondents also pointed to lessons learned from other cases where insufficient information was held on record. They commented that the information shared with other agencies should be recorded alongside the justification of doing so.

Q5. Do you agree or disagree that the member of staff escalating their concerns that an individual may be at risk of harm with a suitable trained manager in Social Security Scotland is an appropriate and sufficient escalation before a referral is made?

Q5 summary:



- Twenty respondents provided a reply to this question.
- Of those who agreed (17), most felt this was sensible and reasonable.
- However, some respondents stated escalating with a suitably trained manager should not cause any undue delays in the referral process whilst noting the legal responsibility to report the risk of harm lies with the individual who first identified the concern.
- Five respondents noted the need to have a process in place for any disagreements between Social Security Scotland decision makers on the referral being made or not.
- Other responses included the need to ensure staff have appropriate adult protection and support training, and issues around the practice of sharing the relevant information.
- Two respondents disagreed that escalation to a suitably trained manager before referral was appropriate or sufficient and asked for clarification around the terms “may be at risk of harm” and “suitable trained manager”.
- Two respondents did not answer this question.

Q5a. If you answered “disagree” to Q5, explain

This is a free text box for those who did not agree that a line manager should be used to escalate/report concerns.

Q5a summary:

- Two respondents provided a response; one who had disagreed with question 5 and one who had agreed.
- The respondents who disagreed and provided an answer reflected on the balance between making a referral quickly whilst ensuring sufficient evidence has been gathered. They also mentioned the importance of ensuring the same procedures and guidance are followed for consistency and fairness to the client or person being accused.

Q6. Any other information

This is a free text box for respondents to note observations

Q6 summary:

- Nine respondents contributed additional comments/observations.
- Five of the nine respondents stated the importance of reflecting the Adult Support and Protection legislation in any policy developments and also engaging with the Adult Support and Protection community.
- A few respondents explained that terminology used in the consultation (e.g. around safeguarding) was not in line with Scottish practice.

- One respondent noted the importance of ensuring the staff making the referral would receive appropriate support given the potential emotional impact of the concern.
- Another reflected on the delays and associated frustration with Adult protection more generally.
- One respondent also indicated it would be helpful to have in place mechanisms for sharing information in the opposite direction i.e. where the local authority investigating issues around suspected risk of harm need to request information from Social Security Scotland.
- Finally, the Royal College of General Practitioners Scotland reflected on the improved process of sharing information between Social Security Scotland and GPs.

Evaluation

A total of 22 responses were submitted to Scottish Government. A list of the organisations who responded (and who gave their permission for the details to be disclosed) can be found in Annex A of this document.

13 of the 22 respondents were replying on behalf of their organisation. These respondents were broken down as follows:

8 in Local Authority

5 from 'Other Organisations' – NHS24, Healthcare Improvement Scotland, Royal College of GP's Scotland, The Law Society Scotland and the charity Veterans Contact Hub.

In addition, 9 people responded as individuals. Of these individuals, 1 identified themselves as being from the Local Authority.

	As Organisation	As Individual	Total Number
Local Authority	8	1	9
Other Organisations	5	0	5
Individuals	1	8	9

4. Next Steps

We have carefully considered all points made by stakeholders in their responses to the consultation on safeguarding data sharing, particularly in those areas where there was no clear majority or consensus, and this will be reflected in the proposals put forward to the Minister.

The Scottish Government is committed to ensuring that our safeguarding policies are as robust and effective as possible.

The Scottish Government will now consider the foregoing analysis and all points raised with a view to informing a decision around the need to lay regulations before Parliament, as well as ongoing policy development related to safeguarding.

Annex A

As part of the consultation, all respondents were asked to indicate using the appropriate tick box whether they wished their full or partial details to be made available to the public. Respondents who either chose for their details to remain private or whether no tick box was marked to indicate choice of disclosure have been recorded as either 'Private Individual' or Private Organisation'. Below is a list of all respondents to the consultation who have given their permission for their names to be shown.

No	Respondent Name
1	South Ayrshire Adult Protection Committee
2	North Ayrshire Health and Social Care Partnership
3	Mark Hodgkinson
4	Private Organisation
5	Private Individual
6	Michelle Frampton
7	Veterans Contact Hub
8	Private Individual
9	Private Organisation
10	Argyll & Bute Health and Social Care Partnership
11	Private Individual
12	Private Organisation
13	Private Individual
14	Private Individual
15	Dumfries and Galloway Council
16	Private Organisation
17	Stirling Council
18	Private Individual
19	Private Organisation
20	Private Organisation
21	Private Organisation
22	Law Society of Scotland



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