

# **Consultation: Safeguarding clients who may be at risk of harm and related information sharing requirements**

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**Scottish Government**  
Riaghaltas na h-Alba  
gov.scot

# Consultation: Safeguarding clients who may be at risk of harm and related information sharing requirements.

## Ministerial Foreword



Social Security Scotland supports some of the most vulnerable people in society. It is important that it has clear and robust safeguarding processes in place which can give us all confidence that people are being properly supported.

I am pleased therefore to be launching this consultation on safeguarding, which will provide important evidence to help us ensure arrangements of the highest standards are put in place.

The consultation seeks views on proposals which will support Social Security Scotland to meet the highest standards and align processes with other public agencies. This should include appropriately reporting certain facts and circumstances to a Local Authority where it becomes apparent that an individual may be at risk of harm. This approach will in turn help Local Authorities exercise their safeguarding responsibilities.

In line with our Social Security Charter we put people first, creating “a people’s service” and adapting our communication styles and processes to meet their needs. Working with individuals and organisations with experience is central to our approach. We look forward to receiving your views on this consultation and I thank you for taking the time to contribute.

Ben Macpherson MSP, Minister for Social Security and Local Government

## Introduction

1. Social Security Scotland is a public body which has daily interaction with the public and, where appropriate, their representatives. In line with our Charter, which can be found [here](#), we endeavour to put the client first, creating “a people’s service” adapting our communication styles and processes to meet our clients’ needs. This means our interaction and communications take place through various channels including telephone calls, face-to-face services in local communities and home visits.
2. The Scottish Government is very much aware that Social Security Scotland supports some of the most vulnerable people in society. To adequately support these clients the Scottish Government must have clear and robust processes in place. In relation to this consultation, that includes where information is presented leading Social Security Scotland to conclude during undertaking their duties that an individual may be at risk of harm.
3. Page 18 of Our Charter 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 so they can safely and fairly access Social Security Scotland’s services.
4. However, there may also be instances when Social Security Scotland interaction with clients presents situations where it becomes apparent an individual may be at risk of harm.
5. 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. These cases are not the subject of this consultation, which relates only to instances identified where it is apparent individuals may be at risk of harm.
6. 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 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](http://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.

7. Where a Local Authority have reason to believe that an adult or child may be at risk of harm, they have a duty to investigate. They can only do this if they are made aware of concerns.
8. This consultation will inform a formalised approach for Social Security Scotland to align its processes with other Government departments and report certain facts and circumstances to a Local Authority. Only where it becomes apparent that an individual may be at risk of harm. This will allow the Local Authority to exercise their duty to investigate.

## Legislative requirements

9. Section 85 of the [Social Security \(Scotland\) Act 2018](#) outlines principles for the sharing of information for the purpose of a social security function. It does not provide for information sharing for the purposes of safeguarding individuals who may be at risk of harm. To clarify the legislative position and provide an explicit gateway for information sharing for the purposes of safeguarding individuals, an amendment to the [Social Security Information-sharing \(Scotland\) Regulations 2021](#) will be necessary.

## Why are we consulting?

10. The Scottish Government is consulting to gather views which will inform the policies underpinning a formalised approach to Social Security Scotland sharing information with Local Authorities when circumstances are presented which raise concerns that an individual may be at risk of harm.
11. Co-operation around the sharing of certain information will be necessary before a Local Authority can undertake the required investigation.
12. Given the sensitivities around information sharing, there is a clear public interest in the processes Social Security Scotland employ. The Scottish Government remains committed to listening to the views of stakeholders at every stage in our processes. This public consultation is intended to communicate a clear message across all stakeholder groups, and invites feedback and comment on how we can improve how we deliver and support the people of Scotland.

## Who do we want to hear from?

13. The Scottish Government is keen to gather views from people with a working knowledge of social security. For example solicitors, welfare rights officers and Local Authorities.
14. Importantly, the Scottish Government is also keen to hear from individuals, organisations and groups with an interest or experience in this particular area. For example organisations who are already asked routinely to provide information

to Police, DWP or Local Authorities in relation to safeguarding risk, and from Local Authorities themselves.

15. The Scottish Government would also welcome the views of people who may have experience of reporting a safeguarding concern, or indeed having been the subject of such a concern being raised. The potential sensitivity around sharing experiences of this nature is recognised and information provided will be anonymised and treated with the utmost discretion. Respondents do not need to provide their name unless they want to and may request that their response is not published.

## The consultation process

16. Responses are required by 17<sup>th</sup> June 2022. More information on how to respond can be found at Annex A.
17. All responses to the consultation will be analysed and fully considered, informing decisions on the final policy position. Regulations will then be drafted, which will follow due Parliamentary scrutiny process before formal procedures are implemented.
18. Views and suggestions will also be used to inform amendments to draft regulations as they are developed, as part of the decision-making process, in order to best meet the policy intention of safeguarding individuals. Feedback from this consultation will then be used to inform operational guidance underpinned by the regulations.

## Key principles proposed for data sharing

1. The key objective is to safeguard and protect individuals who interact with Social Security Scotland where it becomes apparent they may be at risk of harm.
2. All information used will be treated confidentially.
3. Information will only be shared when it will provide support to the individual which could not reasonably be provided without such an intervention, and the amount of information shared will be only that required and proportionate to addressing the concerns relating to protecting the adult or child from harm.
4. Minimise any detail held relating to a referral in the client's individual case file with Social Security Scotland. Access will be restricted to senior manager level in line with The UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018 requirements.
5. Alternatively, if supporting documentation relating to a referral is **not** to be retained in the client's individual case file with Social Security Scotland, it will be destroyed, or retained in a separate, secure space, separate from the benefit administration system, in line with The UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018 and document retention/destruction policies.

6. A referral to a Local Authority will be only be made after the member of staff has had approval to do so by a suitably trained manager within Social Security Scotland.
7. Social Security Scotland will not be provided with information relating to the outcome of their referral, unless for example where a criminal charge is brought forward and the Social Security Scotland staff member is called as a witness in Court or asked to provide a statement to Police Scotland.

## Questions

**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 the client, it is expected the client is at risk of harm?**

Agree/Disagree

Please explain your reasons:

**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?**

Agree/Disagree

Please explain your reasons:

**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?**

**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?**

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

Note: These records would be minimised as required by the UK GDPR and securely stored with only limited senior staff having access to that particular file on the client record.

If records are not retained in the client's case file, they would be retained separately as appropriate, in accordance with point 5 of the key principles outlined earlier in the document

Yes/No

Please explain your reasons:

**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 suitably trained manager in Social Security Scotland is an appropriate and sufficient escalation before a referral is made?**

Agree/Disagree

Please explain your reasons:

**Q5a. If you answered 'disagree' to question 5, please elaborate on what you believe to be a sufficient measure to be taken before Social Security Scotland make a referral. In this response, please bear in mind that in terms of harm, time is of essence and staff will often be required to act quickly.**

**Q6. Please share any other information or views you wish us to consider in relation to this issue.**



## Annex A

### Responding to this Consultation

We are inviting responses to this consultation by 17<sup>th</sup> June 2022.

Please respond to this consultation using the Scottish Government's consultation hub, Citizen Space (<http://consult.gov.scot>). Access and respond to this consultation online at <https://consult.gov.scot/social-security/safeguarding-data-sharing-2/>. You can save and return to your responses while the consultation is still open. Please ensure that consultation responses are submitted before the closing date of 17<sup>th</sup> June 2022.

If you are unable to respond using our consultation hub, please complete the Respondent Information Form to:

Social Security Policy Division  
Scottish Government  
4 Atlantic Quay  
Glasgow, G2 8LU

### Handling your response

If you respond using the consultation hub, you will be directed to the About You page before submitting your response. Please indicate how you wish your response to be handled and, in particular, whether you are content for your response to be published. If you ask for your response not to be published, we will regard it as confidential, and we will treat it accordingly.

All respondents should be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and would therefore have to consider any request made to it under the Act for information relating to responses made to this consultation exercise.

If you are unable to respond via Citizen Space, please complete and return the Respondent Information Form included in this document.

To find out how we handle your personal data, please see our privacy policy: <https://www.gov.scot/privacy/>

### Next steps in the process

Where respondents have given permission for their response to be made public, and after we have checked that they contain no potentially defamatory material, responses will be made available to the public at <http://consult.gov.scot>. If you use the consultation hub to respond, you will receive a copy of your response via email.

Following the closing date, all responses will be analysed and considered along with any other available evidence to help us. Responses will be published where we have been given permission to do so. An analysis report will also be made available.

## **Comments and complaints**

If you have any comments about how this consultation exercise has been conducted, please send them to the contact address above or at [Safeguardingpolicy@gov.scot](mailto:Safeguardingpolicy@gov.scot)

## **Scottish Government consultation process**

Consultation is an essential part of the policymaking process. It gives us the opportunity to consider your opinion and expertise on a proposed area of work.

You can find all our consultations online: <http://consult.gov.scot>. Each consultation details the issues under consideration, as well as a way for you to give us your views, either online, by email or by post.

Responses will be analysed and used as part of the decision making process, along with a range of other available information and evidence. We will publish a report of this analysis for every consultation. Depending on the nature of the consultation exercise the responses received may:

- indicate the need for policy development or review
- inform the development of a particular policy
- help decisions to be made between alternative policy proposals
- be used to finalise legislation before it is implemented

While details of particular circumstances described in a response to a consultation exercise may usefully inform the policy process, consultation exercises cannot address individual concerns and comments, which should be directed to the relevant public body.



## Safeguarding data sharing consultation

### RESPONDENT INFORMATION FORM

**Please Note** this form **must** be completed and returned with your response.

To find out how we handle your personal data, please see our privacy policy:  
<https://www.gov.scot/privacy/>

Are you responding as an individual or an organisation?

- Individual  
 Organisation

Full name or organisation's name

Phone number

Address

Postcode

Email

The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:

- Publish response with name  
 Publish response only (without name)  
 Do not publish response

#### Information for organisations:

The option 'Publish response only (without name)' is available for individual respondents only. If this option is selected, the organisation name will still be published.

If you choose the option 'Do not publish response', your organisation name may still be listed as having responded to the consultation in, for example, the analysis report.

We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

- Yes
- No



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