

Scottish General Election (Coronavirus) Bill – Equality Impact Assessment – Results

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EQUALITY IMPACT ASSESSMENT – RESULTS

Title of Policy	SCOTTISH GENERAL ELECTION (CORONAVIRUS) BILL
Summary of aims and desired outcomes of Policy	<p>The Bill's purpose is to make arrangements for the Scottish Parliament election scheduled for 6 May 2021 considered necessary, or that may subsequently become necessary, to mitigate the public health effects of the coronavirus pandemic.</p> <p>The Scottish Government's intention is that the election will proceed on 6 May with enhanced hygiene and physical distancing measures for in-person voting, higher levels of postal voting, with emergency proxies available for those who may be asked to isolate in the days before the election.</p> <p>The provisions in the Bill are a dedicated response to the coronavirus pandemic and do not seek to make any permanent changes to electoral law.</p> <p>The desired outcomes are: that individuals, including those with protected characteristics, are not put at any additional risk of COVID-19 infection through the act of voting in or administering the Scottish Parliament election; and, that nobody is discouraged or prevented from voting due to concerns about safety or compliance with coronavirus-related public health advice.</p>
Directorate: Division: team	Directorate for Cabinet and Constitution: Elections and Freedom of Information Division: Elections policy team

EXECUTIVE SUMMARY

The Scottish General Election (Coronavirus) Bill will introduce a number of non-permanent electoral administration contingency measures in case necessary to mitigate the public health effects of the coronavirus pandemic.

The measures contained in the Bill are, in themselves, mitigation measures designed to reduce risks for all voters including those with protected characteristics, and prevent barriers to voting on this basis. The key aim of the Bill is to ensure that individuals, including those with protected characteristics, are not put at any additional risk of COVID-19 infection through the act of voting in the election. Alongside this, is work with electoral professionals and stakeholders to seek to ensure that individuals, including those with protected characteristics, do not feel that they are at any additional risk of COVID-19 infection through the act of voting in the election, i.e. so that no group is discouraged from participating in the election as a result of a perceived lack of safety.

The main recommendations set out in this assessment concern timely and effective communication in a range of accessible formats about the measures being taken to ensure voting in person will be safe, and on postal vote application deadlines. Tailored information materials are also planned for those in shielding and/or at risk groups, and communication of information on options and support available via a variety of channels.

BACKGROUND

The Scottish General Election (Coronavirus) Bill seeks to make arrangements for the Scottish Parliament election scheduled for 6 May 2021 that are considered necessary, or that may subsequently become necessary, to mitigate the public health effects of the coronavirus pandemic. The provisions in the Bill are a dedicated response to the coronavirus pandemic and do not seek to make any permanent changes to electoral law. The Bill and its Accompanying Documents, including the Policy Memorandum, setting out the key objectives of the Bill, are available on the Scottish Parliament website¹.

The main measures of the Bill will:

- bring forward the deadline for postal vote applications from 20 April to 6 April 2021;
- give a power to the Scottish Ministers so that they may provide, by regulations, for an all-postal election to be held;
- make the pre-election period for dissolution of the Parliament last only one day (5 May 2021, if there is no delay to the election), in case the Parliament needs to meet to pass emergency legislation to delay the election;
- allow the Scottish Ministers to make regulations to hold polling over multiple days. Ministers may also specify particular days or times when certain descriptions or categories of persons eligible to vote in person may do so;
- make arrangements for the first meeting of the new Scottish Parliament and the election of a new Presiding Officer;
- give a reserve power to the Presiding Officer of the Scottish Parliament to postpone the 2021 election by up to 6 months in certain circumstances; and allow for the same measures as set out above to apply if the election is postponed.

The Bill makes no changes to the voter registration process² or range of voting methods available to registered voters, who can vote in person, by post or by proxy at elections in Scotland (unless the provision in the Bill for an all-postal ballot is required). The Bill does, however, bring forward the deadline for postal vote applications, which has the effect of also bringing forward the deadline for registering to vote, for those who would like to apply for a postal vote.

The Scottish Government's intention is that the election will proceed on 6 May with enhanced hygiene and physical distancing measures for in-person voting, higher levels of postal voting, with emergency proxies available for those who may be asked to isolate in the days before the election.

¹ <https://beta.parliament.scot/bills-and-laws/bills/scottish-general-election-coronavirus-bill>

² Individuals can register to vote by: completing the annual canvas sent to their place of residence (after which they'll be sent registration form); by registering online, downloading a paper form, or by calling their local Electoral Registration Officer (ERO).

The Electoral Management Board (EMB) for Scotland, Electoral Commission and Public Health Scotland are developing guidance on enhanced hygiene and physical distancing to ensure in-person voting is safe³.

People who would like to vote by post will need to register (if they are not already on the electoral register) and apply for a postal vote by 6 April 2021 (10 working days earlier than usual).

The Conduct Order for the Scottish Parliament election in 2021 includes provisions for emergency proxies for those who are following Government guidelines and therefore will not be able to vote in person. They will not be required to provide attestation as is the case for other types of proxy⁴.

In developing this Bill the Scottish Government is mindful of the three needs of the Public Sector Equality Duty (PSED) - eliminate unlawful discrimination, harassment and victimisation, advance equality of opportunity between people who share a protected characteristic and those who do not, and foster good relations between people who share a protected characteristic and those who do not - and recognises, while the measures may positively impact on one or more of the protected characteristics⁵, the introduction of the measures may also have a disproportionate negative impact on one or more of the protected characteristics. Where any negative impacts have been identified, we have sought to mitigate/eliminate these. We are also mindful that the equality duty is not just about negating or mitigating negative impacts, as we also have a positive duty to promote equality. We have sought to do this through provisions contained in the Bill, or by support and guidance.

While it is the view of the Scottish Government that the measures in this Bill are justified and a proportionate means of helping to achieve the legitimate aim of reducing the public health risks posed by coronavirus, the Scottish Government also recognises that these measures are only required to respond to the current set of circumstances, and are only necessary as long as the potential public health benefits can justify any negative impacts caused.

THE SCOPE OF THE EQIA

The EqIA has assessed the potential impact of the Bill by considering whether the equality evidence indicates potential differential impacts on persons with protected characteristics or provides an opportunity to improve equality in an area. In line with the requirements of the general equality duty, it considers the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct that is prohibited by the Equality Act 2010;

³ See for example, EMB guidance for local authority by-elections:

<https://www.emb.scot/downloads/download/147/supplementary-guidance-delivering-local-authority-by-elections-in-a-covid-19-context--2020> and Electoral Commission guidance for the Scottish Parliament elections: <https://www.electoralcommission.org.uk/i-am-a/electoral-administrator/scottish-parliamentary-elections>.

⁴ <https://www.legislation.gov.uk/ssi/2020/426/made>

⁵ Section 4 of the Equality Act 2010

- advance equality of opportunity between people who share a relevant protected characteristic and those who don't; and
- foster good relations between people who share a relevant protected characteristic and those who don't.

The measures outlined in the Bill include some that are administrative in nature and which the Scottish Government does not consider to have an equality impact (including the dates of dissolution of the Parliament and first meeting of the new Parliament, and the timescales for election of the new Presiding Officer). The EqIA has focussed on the following measures in the Bill, that could have differential impacts on protected characteristic groups:

- bringing forward the deadline for postal vote applications to allow election administrators sufficient time to process the expected larger volume of applications in time for the election;
- allowing the Scottish Ministers to make regulations to hold polling over multiple days in order to reduce footfall, aid physical distancing, and reduce the potential for queues. Thursday 6 May would always be the first day of voting in this scenario;
- giving a power to the Scottish Ministers so that they may provide, by regulations, for an all-postal election to be held. This power is not intended to be used if the election proceeds on 6 May. It could, however, be exercised if the election is postponed and it is considered that voting in person is not possible as a result of virus conditions.

The EqIA has also considered equality issues relating to emergency proxy arrangements, which are not set out in the Bill, but are included in the Conduct Order for the election.

The following protected characteristics have been considered in the EqIA⁶:

- age
- disability
- gender reassignment
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

In addition, the EqIA separately considers those who fall into COVID-19 shielding and/or at risk groups, which intersect with some protected characteristics. Older people, disabled people, people from certain minority ethnic groups and those who are pregnant are more likely to be on the shielding list and/or may be at higher risk from the virus.

Consultation

The Bill is a contingency response to the extraordinary challenges posed by the coronavirus and as a result scope for traditional consultation was limited. The Bill's provisions have however been developed in close consultation with EMB, the Electoral Commission, Scottish Parliament officials and representatives of each political party

⁶ The Scottish Government does not require assessment against the 'marriage or civil partnership' protected characteristic unless the policy or practice relates to work, for example HR policies and practices.

represented in the Parliament. Scottish Government officials have also discussed plans for elections to be held in 2021 in England and Wales with their counterparts in the UK and Welsh Government (no major elections are planned in Northern Ireland in 2021). The Government has also taken into account international responses to the challenge of holding elections in the time of coronavirus.

Equality stakeholders were also consulted as part of the development process for the Bill and the evidence gathering for the accompanying EqIA. Disability Equality Scotland, CEMVO and Engender provided submissions to inform the evidence base for this EQIA.

KEY FINDINGS

Overall, the Bill promotes equality by seeking to ensure that every eligible person who wishes to vote is able to do so safely. Evidence gathered as part of the EqIA, including in responses received from equality stakeholder groups, suggests the following areas where the measures in the Bill, if enacted, may have a positive or negative differential impact on some protected characteristics, or where the implementation of the measures would provide opportunities to advance equality of opportunity between people who share a relevant protected characteristic and those who don't:

- **Bringing forward the deadline for postal vote applications**

Around 18% of the electorate are currently registered for a postal vote. The Government is planning to successfully accommodate an estimated increase in postal voting to around 30 to 50% of the electorate. Increasing postal voting to around 40% will involve processing around 900,000 postal vote applications. Electoral professionals have indicated that it will not be possible to process an increase of this magnitude if the majority of applications are received just before the application deadline, currently set for 20 April. If it is not possible to process the applications in time to issue the postal vote packs people could lose their vote.

It is considered that this measure does not impact negatively on any protected characteristic group, provided that the deadline and application process are clearly communicated - involving accessible and inclusive communications - to those who may prefer to, or be advised to, apply for a postal vote well in advance of the deadline.

As set out in subsequent sections, older people, disabled people, pregnant women and minority ethnic groups may all be more likely than usual to seek to apply for a postal vote for the 2021 Scottish Parliament election. Older people and some disabled people are less likely to be internet users⁷, so may be more likely to have difficulty downloading postal vote application forms, and therefore need to allow time in advance of the application deadline to call their local Electoral Registration Office to ask for forms to be sent to them and returned. Some disabled people may need support to complete application forms. And some people in ethnic minorities may need information provided in different languages. Young people overall are less likely than older people to already have a postal vote, and this may equally apply to young people on the shielding list.

⁷ <https://www.gov.scot/publications/scottish-household-survey-2019-annual-report/>

- **Allowing the Scottish Ministers to make regulations to hold polling over multiple days**

This measure would impact positively on all voters in terms of reducing footfall and aiding physical distancing, conferring additional protection from catching COVID-19 that is particularly important for those who may be at higher risk, including older people, disabled people, pregnant women and some minority ethnic communities.

If voting was held over two or more days, under the Bill, these days would not need to run concurrently but the first day of voting would always be Thursday 6 May. Depending on which day(s) voting was extended to, some religious groups may prefer not to vote on their days of worship.

The Bill will allow provision to be made specifying particular days or times at which specified descriptions or categories of persons may vote. There are no plans at present for this to take place⁸, but the power provides this flexibility if it were thought to be required. For example a ‘golden hour’ for at risk voters was employed in elections in Singapore in 2021 and was also a recommendation made by Democracy Volunteers in their report ‘Protecting Democracy: How to run an election during the pandemic in the UK’.⁹

The Minister for Parliamentary Business and Veterans explained in his Stage 1 evidence on the Bill on 19 November 2020 that “we do not envisage dictating who or what group would turn up when”¹⁰. It is considered that, if expert advice next year shifted in favour of a division of voting times (for example, similar to the ‘golden hour’ approaches of some supermarkets), that this would only be advisory in nature, meaning that at risk voters would not be prevented from voting at other times.

- **Giving a power to the Scottish Ministers so that they may provide, by regulations, for an all-postal election to be held**

Provision of an all-postal election is not the Scottish Government’s policy or preference, but it might nevertheless be required by virus conditions, for example if two or more attempts to hold the election with in-person voting have to be cancelled. Participation in an all-postal ballot depends upon members of the public being willing and able to apply for a postal vote.

In public attitudes surveys undertaken by the Electoral Commission in August and November 2020¹¹, a quarter of respondents said they would not apply for a postal vote, even if encouraged to do so in the context of COVID-19 impacting on the election, and a further 8% said they did not know if they would (percentages were the same in both August and November). There is, therefore, concern that a substantial number of people would not engage in that process or may face additional difficulties to meet the requirements for postal voting, leading to the potential for disenfranchisement. Some

⁸ And the Convener of the Electoral Management Board for Scotland recommended on 10 December 2020 that polling occur on a single day: <https://www.emb.scot/news/article/3/assessment-of-the-need-to-hold-polling-over-multiple-days-at-the-scottish-parliament-election-scheduled-for-6-may-2021>

⁹ <https://democracyvolunteers.org/covid-19/>

¹⁰ <https://www.parliament.scot/parliamentarybusiness/report.aspx?r=12952> at column 50

¹¹ <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/public-attitudes-towards-voting-scotland-context-covid-19>

voters may also struggle to complete a postal vote application form despite being able to vote in person, though existing legislation contains provisions to assist disabled voters, for example where a voter cannot provide a signature. Removing the option of voting in person could risk creating a potential barrier to democratic engagement.

An all-postal election would reduce risk to polling staff, who would not have to operate in person voting at polling stations. A proportion of electoral workers fall within an older age range. The risk to electoral workers has been assessed in the light of eight local government by-elections that have taken place in Scotland over October-November 2020. Polling staff were drawn from a range of age groups as usual. Staff were given full training on Covid-safe practices and appropriate PPE. Polling staff were either seated behind Perspex screens or wore visors. Voters were required to wear face coverings and sanitise their hands on entry and exit, every effort was made to ensure that there was a one way flow of traffic, additional ventilation, regular cleaning of surfaces and each voter was issued with their own pencil. Staff managed the flow of voters to ensure that capacity of the room was never exceeded. The same approach will be taken in preparation for the Scottish Parliament Election to provide additional protection to polling staff including those in an at risk group..

The EMB is revising its guidance on the conduct of elections in virus conditions in light of experience at the by-elections. That guidance already requires a risk assessment to be conducted in relation to at risk staff, including specific consideration of the needs of staff in at risk age groups.¹²

- **Removing the need for attestation for emergency proxies, where an individual has been asked to self-isolate**¹³

Revised regulations for emergency proxy provisions extend the categories of people who can apply for proxy voting, to include individuals who cannot vote in person because they are following Scottish Government advice or the advice of a registered medical practitioner in relation to coronavirus, and only became aware of the need to self-isolate less than 6 days before polling day (i.e. after the application deadline for an ordinary proxy vote). These regulations do not place an attestation requirement on individuals who cannot vote in person because they are following Scottish Government or medical advice in relation to coronavirus. This reflects the difficulty that someone self-isolating may have in getting an attestation from a suitable independent person.

Applying for an emergency proxy vote may still require access to the internet to be able to download the application form, if the person's need to apply for an emergency proxy arises too late to be able to request application forms by telephone from the local Electoral Registration Office. As noted above, older people and disabled people are less likely to be internet users. Some voters may also struggle to complete a proxy vote application form despite being able to vote in person.

In addition, an individual applying to vote by emergency proxy also needs to know someone willing and able to be their proxy and to vote on their behalf at their

¹² <https://www.emb.scot/downloads/download/147/supplementary-guidance-delivering-local-authority-by-elections-in-a-covid-19-context>

¹³ As noted in previous sections, this measure is not in the Bill, but will be provided for in the Conduct Order for the Scottish Parliament election.

designated polling station. There is no data available on people in Scotland's views on whether they have someone they could ask to vote on their behalf at short notice. We do know that older people are more likely to live alone and may be more likely to be reliant on members of their community for proxy voting, but that young people (including those who live on their own) are less likely than older people (including those who live on their own) to agree that, if they were alone and needed help, they could rely on someone in their neighbourhood to help them¹⁴.

Based on the above, the following sections set out the evidence gathered as part of this EqIA including (where available) information provided by equality stakeholder organisations, and data for each protected characteristic group on:

- Likelihood of being on the shielding list / in an at risk category
- Access to the internet (may affect ability to apply for a postal or emergency proxy vote in a scenario where there is insufficient time left to phone their Electoral Registration Office and ask for application papers to be sent out)
- Likelihood of being able to rely on someone locally (may affect ability to find someone they trust to vote by emergency proxy on their behalf at their polling place)
- Attitudes to postal voting (may impact on participation if an all postal vote was required).

Age

Around one in seven (14%) people in Scotland are aged 70 and over, two-fifths of people (40%) are aged 50+, and 11% are aged 16-24¹⁵.

People aged 55 and over are more likely to have a long-term health condition than not to have one; and those aged 75 and over are more likely to be disabled (have a limiting long-term health condition) than not to be. Older people are more likely to be on the shielding list, and are experiencing a far higher rate of deaths involving COVID-19¹⁶.

Older people are less likely to have internet access, and even if they do they are less likely to use it. A third (33%) of households where all adults are over 65 do not have home internet access. This rises to just under three fifths (59%) of households where all adults are over 80¹⁷.

Two-thirds (66%) of adults aged 60+ used the internet in 2019. However, this usage varies significantly based on where a person lives. Only half (49%) of those over 60 in the most deprived areas used the internet, while 83% of those over 60 in the least deprived areas did¹⁸.

Across Scotland as a whole, older people are more likely than younger people to live alone. Of 969,245 single adult households in Scotland, 44% are occupied by adults aged 60 and over, while 28% are occupied by adults aged 16-39, and 28% by those aged 40-

¹⁴ Bespoke analysis based on Scottish Household Survey 2019 data (Annual report:

<https://www.gov.scot/publications/scottish-household-survey-2019-annual-report/>)

¹⁵ <https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/population/population-estimates/mid-year-population-estimates/mid-2019>

¹⁶ <https://www.gov.scot/publications/inequalities-by-age-in-the-context-of-covid-19-slide-pack/>

¹⁷ <https://www.gov.scot/publications/inequalities-by-age-in-the-context-of-covid-19-slide-pack/>

¹⁸ <https://www.gov.scot/publications/scottish-household-survey-2019-key-findings/pages/9/>

59. In urban areas, however, younger people are more likely to live alone than older people¹⁹.

Younger people are less likely than older people to agree with the statement “if I was alone and needed help, I could rely on someone in this neighbourhood to help me” (81% of those aged 16-24 agreed with this compared to 90% of those aged 60-74 and 92% of those aged over 75)²⁰. Among those who live alone, 15% of those aged 16-24 do not agree that they could rely on someone in their neighbourhood to help them, compared to 7% of those aged 60-74 and 4% of those aged 75 and over²¹.

Older people are more likely than younger people to already have a postal vote. In public opinion surveys undertaken by the Electoral Commission to inform contingency planning for the 2021 Scottish Parliament election, three in ten of those aged 65 and over said they already had a postal vote (31% in August, 30% in November), compared to 1 in 20 of those aged 16-24 (6% in August, 5% in November)²². Three in five (59%) of those in the youngest age category did, however, indicate that they would apply for a postal vote if encouraged to for the 2021 Scottish Parliament election in the context of COVID-19 (figure was 65% in the August survey). Adding together those who said they would apply for a postal vote, and those who said they already had one, the November survey found that 64% of those aged 16-24 either already had a postal vote, or would apply for one, compared to 75% of those aged 65 and over (figures were 71% and 74% respectively in the August survey).

Summary: Measures that help limit the spread of coronavirus are expected to particularly positively affect older people, protecting their health and helping to advance equality of opportunity. Communications will not be “digital by default”, to avoid missing older voters, and will incorporate awareness of the application deadline implications for those who do not have internet access (or a printer) and may need extra time to receive and send application forms by post and/or seek help to complete forms.

Disability

Over a third (35%) of adults in Scotland live with limiting long-term conditions with women more likely than men to do so (37% compared to 32% respectively)²³. The proportion of adults living with limiting long-term conditions increases with age. Just over a fifth (22%) of those aged 16-24 live with limiting long-term conditions, compared with almost three-fifths (58%) of those aged 75 and over (see Figure 1).

¹⁹ <https://www.gov.scot/publications/scottish-household-survey-2019-annual-report/>

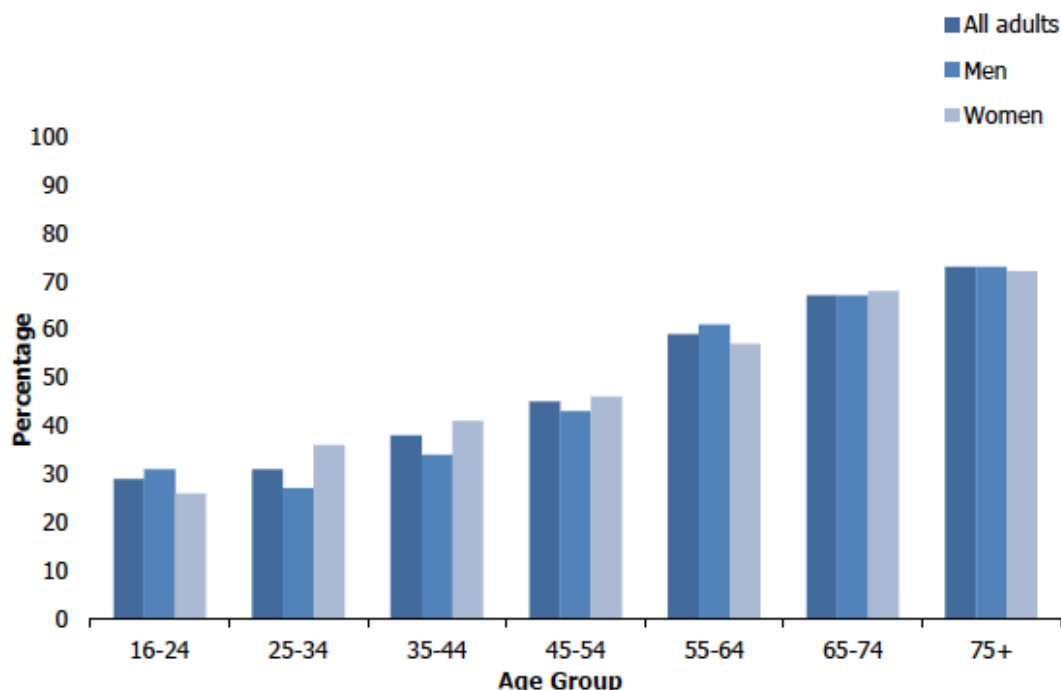
²⁰ <https://www.gov.scot/publications/scottish-household-survey-2019-annual-report/>

²¹ Bespoke analysis based on Scottish Household Survey 2019 data (Annual report: <https://www.gov.scot/publications/scottish-household-survey-2019-annual-report/>)

²² <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/public-attitudes-towards-voting-scotland-context-covid-19>

²³ Scottish Health Survey 2019: <https://www.gov.scot/publications/scottish-health-survey-2019-volume-1-main-report/pages/4/>

Figure 1: Percentage of adults (aged 16 and over) with long-term conditions, 2019, by age and sex²⁴



Disabled people are more likely to experience ill-health from contracting COVID-19 than the general population, due to pre-existing health conditions and poorer overall health²⁵.

The most recent available data on the number of people registered as blind or partially sighted in Scotland is from 2010, when the number was estimated to be 34,492. The majority, 55 per cent, of those on the register were blind, 45 per cent were partially sighted. Three in five (61%) were female, two in five (39%) were male, and three-quarters (75 per cent) of those registered were over the age of 65. A third of those registered as visually impaired had additional disabilities (32%, 11,158 people)²⁶.

In addition to drawing on the 2010 data above, the RNIB Sight Loss Data Tool²⁷ estimates the number of people whose vision is better than the levels that qualify for registration, but still has a significant impact on their daily life (for example, not being able to drive) (178,000 total, including the 34,492 registered).

Adults with limiting long-term physical/mental health condition are less likely to be internet users than those with no long-term physical/mental health conditions (71% compared with 94%)²⁸(See table 1).

²⁴ Scottish Health Survey 2019: <https://www.gov.scot/publications/scottish-health-survey-2019-volume-1-main-report/pages/4/>

²⁵ <https://www.gov.scot/publications/inequalities-by-disability-in-the-context-of-covid-19-slide-pack/>

²⁶ <https://www.gov.scot/publications/registered-blind-partially-sighted-persons-scotland-2010/>

²⁷ <https://www.mib.org.uk/professionals/knowledge-and-research-hub/key-information-and-statistics/sight-loss-data-tool>

²⁸ Scottish household Survey 2019: <https://www.gov.scot/publications/scottish-household-survey-2019-annual-report/>

Table 1: Use of the internet by long-term physical/mental health condition and age²⁹

Internet user	Yes, limiting	Yes, but not limiting	None	All
Aged 16-24	*	*	100	99
Base - 16-24	50	10	250	310
Aged 25-34	92	*	99	98
Base - 25-34	80	20	520	620
Aged 35-44	91	*	99	98
Base - 35-44	120	20	520	660
Aged 45-59	87	98	97	94
Base - 45-59	290	60	700	1,060
Aged 60-74	64	85	85	78
Base - 60-74	440	120	620	1,170
Aged 75+	34	*	51	43
Base - 75+	360	40	260	660
All adults	71	90	94	88
Base - All adults	1,330	270	2,870	4,470

Excludes Don't know and Refused statements

Disabled people are more likely to live on their own than non-disabled people. Over one third (37%) of disabled people live on their own, compared to 1 in 5 non-disabled people (20%). Slightly fewer disabled people agree with the statement “If I was alone and needed help, I could rely on someone in this neighbourhood to help me”, than non-disabled people (83% compared to 86%. 11% and 7% disagree respectively) ³⁰.

In the Electoral Commission’s November public opinion survey³¹ disabled people were almost twice as likely as non-disabled people to say that they would feel unsafe voting in person at a polling station if an election took place now (24% of those with a long term condition that affected their day to day activities a lot said this, versus 13% of non-disabled people)(in the August survey, these figures were 34% and 15% respectively).

In the November survey, disabled people were more likely to say they were already registered to vote by post than non-disabled people (28% were, compared to 13% of non-disabled people). Almost 3 in 5 disabled people (57%) said they would prefer to vote by post if an election was held now, compared to 35% of non-disabled people. However, only just over 1 in 10 disabled people (12%) would prefer the election to be held as an all-postal vote, compared to just under 1 in 10 non-disabled people (8%).

A submission to the Scottish Government from Disability Equality Scotland noted concerns raised by their members around the accessibility of voting in general including:

- “access to polling stations can be challenging for disabled people with reduced mobility due to physical barriers”.
- “concerns about the lack of communication support on polling day. These concerns related to the limited information available in BSL and other alternative formats such as Easy Read. There were also concerns about the lack of staff awareness of disabilities and subsequent communication support needs”.

²⁹ Scottish household Survey 2019: <https://www.gov.scot/publications/scottish-household-survey-2019-annual-report/>

³⁰ Bespoke analysis based on Scottish Household Survey 2019 data (Annual report: <https://www.gov.scot/publications/scottish-household-survey-2019-annual-report/>)

³¹ <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/public-attitudes-towards-voting-scotland-context-covid-19>

In addition, Disability Equality Scotland noted specifically in relation to elections in the context of COVID-19 that, “The majority of our members were concerned about being judged or feared being the victim of hate crime for not wearing a face covering”.

Summary: Communications around the measures will meet the tests of the need to eliminate discrimination, advance equality, and foster good relations with respect to disability.

For some disabled people with learning impairments, understanding of and actions required to register to and to vote, may provide additional challenges. Provision of information and advice will be made as accessible as possible and with relevant stakeholder organisations to mitigate this. Translating the guidance into Easy Read is designed to eliminate discrimination, but is also designed to promote equality of opportunity and to foster good relations between people by ensuring access to information for people who have a distinct communication need and those who do not.

Gender reassignment

The EqIA has not found evidence to suggest that the Bill will have a differential impact on people proposing to undergo, undergoing, or who have undergone a process for the purpose of reassigning their sex. Many surveys and data sources do not include questions on a person's trans status or provide a non-binary response to the sex/gender question.

Summary: There is no evidence available at this time to suggest that these proposals will have a disproportionate impact on the basis of gender reassignment. The need to eliminate discrimination, advance equality and foster good relation has however been fully considered.

Pregnancy and maternity

There is no evidence that pregnant women are more likely to get seriously ill from coronavirus but pregnant women have been included in the list of people at moderate risk (clinically vulnerable) as a precaution^{32, 33}.

Pregnant women have not currently been advised to follow guidance developed for those on the shielding list. We do not know of evidence at this stage regarding whether pregnant women might seek to avoid in-person voting. However, there is potential for a higher level of anxiety among pregnant women regarding in-person voting.

Summary: There is no evidence available at this time to suggest that these proposals will have a disproportionate impact on the basis of pregnancy and maternity status. The need to eliminate discrimination, advance equality and foster good relation has however been fully considered.

³² <https://www.nhs.uk/conditions/coronavirus-covid-19/people-at-higher-risk/whos-at-higher-risk-from-coronavirus/>

³³ <https://www.rcog.org.uk/en/guidelines-research-services/guidelines/coronavirus-pregnancy/covid-19-virus-infection-and-pregnancy/>

Race

Around 5%, or one in twenty, of Scotland's population self-identified as a non-white minority ethnic group in 2018. The remaining 95% of the population identified as white with over three quarters (77%) identifying as 'White: Scottish', 12% identifying as 'White: Other British', 2% identifying as 'White: Polish' and 5% as 'White: Other'.

A growing evidence base across the UK suggests that minority ethnic people are at heightened risk from COVID-19. The reasons for this are complex, with the interplay between socioeconomic disadvantage, high prevalence of chronic diseases and the impact of long-standing racial inequalities being key explanations³⁴. NRS analysis of death certificates suggests that COVID-19 mortality rates have been higher amongst people in the South Asian ethnic group³⁵.

Available data suggests minority ethnic people are equally likely to have access to the internet, and to be internet users, as non-minority ethnic communities. Over 90% of both minority ethnic people and those who identify as White Scottish/Other British have home internet access. And over 90% of minority ethnic people reported being internet users, compared to 87% of those who identify as White Scottish/Other British³⁶.

While almost 9 in 10 (87%) of those who identify as 'white Scottish/other British' agree with the statement "If I was alone and needed help, I could rely on someone in this neighbourhood to help me", the proportion is lower among those who identify as 'Asian, Asian Scottish or Asian British' (72%), 'White: other' (70%) and other minority ethnic people (68%)³⁷.

The protected characteristic of race includes nationality³⁸. The Scottish Elections (Franchise and Representation) Act 2020 extended the franchise in Scotland to all foreign nationals who are legally resident in Scotland. The proportion of minority ethnic people and foreign nationals who may have difficulty understanding election communications or completing English language forms is not known. Data on English language skills is available from the 2011 Census, but will be 10 years old by the time of the 2021 Scottish Parliament election. That data showed that, in 2011: 2% of adults aged 16 and over in Scotland could understand but does not speak, read or write English; 1% could speak but not read or write English; and 1% could speak and read but not write English.

It is not possible to breakdown the Electoral Commission's public opinion survey data by ethnicity due to the sample size, so it is not known whether attitudes to voting in the context of COVID-19 vary by ethnicity. However, a submission to the Scottish Government from CEMVO Scotland³⁹ noted that all the proposed measures in the Bill were welcomed, in particular the possibility of holding polling over multiple days in order to reduce footfall,

³⁴ <https://www.gov.scot/publications/covid-19-scotlands-strategic-framework/pages/2/>

³⁵ <https://www.gov.scot/publications/coronavirus-covid-19-at-risk-groups-slide-pack/> - [National Records of Scotland](#) – analysis of death certificates which mention COVID-19, accounting for age, gender, area-based deprivation and urban-rural classification. The South Asian ethnic group includes Bangladeshi, Bangladeshi Scottish or Bangladeshi British; Indian, Indian Scottish or Indian British; Pakistani, Pakistani Scottish or Pakistani British.

³⁶ Bespoke analysis based on Scottish Household Survey 2019 data (Annual report: <https://www.gov.scot/publications/scottish-household-survey-2019-annual-report/>)

³⁷ Bespoke analysis based on Scottish Household Survey 2019 data (Annual report: <https://www.gov.scot/publications/scottish-household-survey-2019-annual-report/>)

³⁸ Section 9 of the [Equality Act 2010](#)

³⁹ Correspondence received 13 November 2020 from Colin Lee, Chief Executive, CEMVO Scotland

special hygiene measures and an increase in postal and proxy voting. CEMVO's response also requested that, in developing communication strategies "focus should be given to ensuring that there is a parallel communications campaign targeted at EM communities to ensure that all the finalised measures are communicated effectively and filtered through to diverse EM communities" and that "although not all EM people / communities have language barriers there should be some thought given to contingencies for overcoming any language barriers in the voting process – whether postal or in person at polling stations".

Summary: Measures that may help limit the spread of coronavirus are designed to positively affect the entire population, but may particularly benefit people in the South Asian ethnic group. The need to eliminate discrimination on the basis of race has been fully considered. The need to ensure effective and inclusive communications around the proposals will be fully explored to ensure that the measures meet the tests of advancing equality and fostering good relations with respect to race.

Religion or belief

In 2018, 46% of the adult population in Scotland reported belonging to a Christian (Church of Scotland, Roman Catholic and Other Christian) religion, 1.6% Muslim, and 1.9% another religion. Just over half of adults in Scotland (50.1%) reported not belonging to a religion.

Analysis of mortality data in England and Wales by the Office for National Statistics⁴⁰ found that the risk of death involving COVID-19 did vary across religious groups during the period March-May 2020, with those identifying as Muslims, Jewish, Hindu and Sikh showing a higher rate of death than other groups. However, the ONS found that when their findings are adjusted for geographical, socio economic and demographic factors and increased risks associated with ethnicity, religion does not appear to be a factor in increased risk for any religious group, other than for the Jewish community.

The ONS analysis found that, once socio-economic factors were adjusted for, those who identified as Jewish at the time of the 2011 Census had the highest risk of a death involving COVID-19 compared to the Christian population; Jewish males showed twice the risk compared to Christian males, with females at 1.2 times greater risk. The reasons for this were not known in the INS analysis.

Data on access to the internet, likelihood of being able to rely on someone locally, and attitudes to voting in the context of COVID-19 are not available broken down by religion due to small sample sizes for religious minority groups.

Summary: The measure in Bill to allow the Scottish Ministers to make regulations to hold polling over multiple days may, if enacted, mean that additional day(s) voting could fall on days of worship for some religious groups (Friday prayers for Muslim groups, and worship on a Saturday for Jewish people, and a Sunday for Christian worshippers).

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<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/articles/coronaviruscovid19relateddeathsbyreligiousgroupenglandandwales/2marchto15may2020>

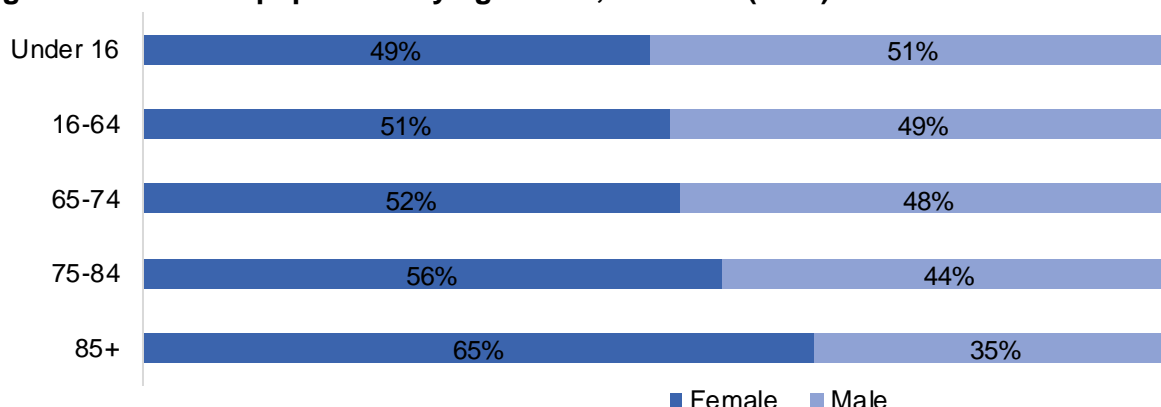
If voting was extended over more than one day for the 2021 Scottish Parliament election, the first day of voting would still always be Thursday 6 May, which is the customary day for elections in the UK. The Scottish Government has engaged with religious representatives and no concerns have been raised over this provision at the time of writing.

The need to eliminate discrimination on the basis of religion or belief has been fully considered and any required mitigations will be put in place as required.

Sex

Just over half (51%) of Scotland's population are women. The ratio of women to men is higher in older age groups, reflecting women's longer life expectancy.

Figure 2: Estimated population by age & sex, mid-2019 (NRS)



However, death rates from COVID-19 are similar for men and women, and much higher for men when age differences are taken into account⁴¹.

Men and women are equally likely to agree with the statement "If I was alone and needed help, I could rely on someone in this neighbourhood to help me" (84% of men and 86% of women said this)⁴².

According to the Electoral Commission November public opinion survey⁴³, men and women were equally likely to say that they always vote in Scottish Parliament elections (69% of men and 68% of women said this), and almost equally likely to say that they would vote if an election were held now (83% of men, and 84% of women said they would), but the findings suggest that increased or all postal voting may impact the participation of men in the election more than it would do for women.

The November survey found that the same proportion of men and women said that they usually vote by post (20% of men said that this was their usual method of voting, compared to 21% of women), but the proportion of women who would like to vote by post if an election was held now was higher than for men (44% compared to 32%). The survey also asked whether, if everyone was encouraged to apply for a postal vote for the 2021 Scottish Parliament election (in the context of COVID-19), they would do so. Adding

⁴¹ <https://www.gov.scot/publications/covid-19-health-and-social-impact-assessment/>

⁴² <https://www.gov.scot/publications/scottish-household-survey-2019-annual-report/>

⁴³ <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/public-attitudes-towards-voting-scotland-context-covid-19>

together those who said they would apply for a postal vote, and those who said they already had one, the survey found that three quarters of women (75%) either already had a postal vote, or would apply for one; but this was true of less than three in five men (57%)(this replicated findings from the August survey, which were 75% and 58% respectively). Just over one third of men (34%) said they would not apply for a postal vote if encouraged to do so, compared to less than 1 in 5 women (18%). Nine percent of men and 7% of women said they did not know whether they would apply for a postal vote or not.

Asked to say why they would not apply for a postal vote, the concerns expressed by both men and women were similar in the November survey: the most frequently cited reason was a preference for voting in person (67% of men selected this option, 71% of women), followed by concern about fraud (43% of men, 25% of women) and concern that postal voting is not private or secure enough (31% of men, 28% of women).

In response to a request for views on the Bill, Engender noted that “extended in-person voting may advance women’s opportunities to vote by offering more flexibility in terms of when in the day or week women who provide intensive levels of care can visit a polling station. It may also enable women who prefer to vote secretly or in privacy in person, for example where there is an abusive partner or parent / carer in the home who may demand to see a completed postal ballot”.

Engender also queried whether women who do not have a postal vote or proxy will be able to bring children with them to vote if they have to, and noted a potential risk of women who have no choice but to bring their children feeling pressured not to go to the polling place and therefore not voting. The highlighted that women have reported issues during lockdown when they had had to bring children to the supermarket in contravention of guidance to shop alone.

It should be noted that children are allowed to accompany adults to polling places and this will not change.

Summary: Measures that may help reduce the spread of coronavirus are designed to positively affect the entire population regardless of sex by reducing the risk of infection, in respect of reducing instances of hospital and ICU admissions, for example. The need to eliminate discrimination on the basis of sex, advance equality and foster good relations has been fully considered and any required mitigations will be put in place as required.

Sexual orientation

The EqIA has not found evidence to suggest that the Bill will have a differential impact on people because of their sexual orientation.

Summary: There is no evidence available at this time to suggest that these proposals will have a disproportionate impact on the basis of sexual orientation. The need to eliminate discrimination, advance equality and foster good relation has however been fully considered.

COVID-19 shielding and at risk groups

Around 180,000 adults in Scotland have been defined on medical grounds as clinically extremely at risk and were advised to Shield in the context of the pandemic. An additional group of people are advised to follow enhanced physical distancing, because pre-existing health conditions or circumstances mean they are at increased risk of severe illness from COVID-19⁴⁴. The latter group comprises around 1.8 million people who are eligible for the seasonal flu jab due to health reasons and/or are over 70⁴⁵. The number of people eligible for the seasonal flu jab who are aged 16-69 is 1.06 million.

The profile of the COVID-19 at-risk group⁴⁶ includes factors that could impact on individuals' ability to access different voting methods in some circumstances, and which intersect with some other protected characteristics, including:

- 94,000 self-identify as usually only having one person or no-one they can rely on, including 4% of those aged 70 and over, and 6% of those aged 16-69 and eligible for the flu jab.
- An estimated 41% of those aged over 70 live alone, and 19% of those aged 16-69 and eligible for the flu jab.
- Those aged over 70 make up a greater share of the population in rural areas.
- Over half (57%) of those aged 75+ are not internet users. It is not known what proportion of those aged 16-69 and eligible for the flu jab have access to the internet, however, 23% live in the most deprived quintile⁴⁷ where 18% do not have home access to the internet⁴⁸.

The Scottish Government has introduced levels of advice to protect people with the highest clinical risk⁴⁹. This includes the advice that, from level 2, those shielding should avoid 1 metre zones.

RECOMMENDATION AND CONCLUSION

The measures contained in the Bill are, in themselves, mitigation measures designed to reduce risks for all voters including those with protected characteristics, and prevent barriers to voting on this basis. The key aim of the Bill is to ensure that individuals, including those with protected characteristics, are not put at any additional risk of COVID-19 infection through the act of voting in the election. Alongside this, is work with electoral professionals and stakeholders to seek to ensure that individuals, including those with protected characteristics, do not feel that they are at any additional risk of COVID-19 infection through the act of voting in the election, i.e. so that no group is discouraged from participating in the election as a result of a perceived lack of safety.

The main recommendations that emerge from the equality evidence presented above, relate to providing opportunities to advance equality of opportunity between people who share a relevant protected characteristic and those who do not, and include:

⁴⁴ <https://www.gov.scot/publications/coronavirus-covid-19-at-risk-groups-slide-pack/>

⁴⁵ <https://www.gov.scot/publications/coronavirus-covid-19-at-risk-groups-slide-pack/>

⁴⁶ <https://www.gov.scot/publications/coronavirus-covid-19-at-risk-groups-slide-pack/>

⁴⁷ <https://www.gov.scot/publications/coronavirus-covid-19-at-risk-groups-slide-pack/>

⁴⁸ <https://www.gov.scot/publications/scottish-household-survey-2019-annual-report/>

⁴⁹ <https://www.gov.scot/publications/covid-19-scotlands-strategic-framework/pages/2/>

- Effective communication to all voters about the measures taken to ensure voting in person will be safe, so that voters with protected characteristics are well informed, reassured and are not discouraged from voting.
- Early communication of postal vote application deadlines in a variety of accessible media formats (see below). This communication activity will also incorporate awareness of the application deadline implications for those who do not have internet access (or a printer) and may need extra time to receive and send application forms by post and/or seek help to complete forms.
- Accessible communication formats will include Easyread and BSL versions of information and guidance, will not be "digital by default" (to avoid missing older voters), and will include translated versions of materials (in addition to planned translations into Polish and Arabic, the Electoral Commission is working with Cosla and equality stakeholders including the Scottish Refugee Council on planning for any further proactive or on demand translation into other languages).
- Development of tailored information materials for those in shielding and/or at risk groups, and communication of information on options and support available via a variety of channels.
- Shielders and those in at risk groups will be encouraged to consider applying for a postal vote so that they have this option available. Shielders / at risk groups' will also be able to vote in person if this is their preference. (except in the case of an all-postal election). Polling places will be set up with appropriate hygiene measures.
- The Scottish Government will work with the Electoral Commission and others to ensure that Test and Protect contact tracers have access to the correct local information and guidance so that, if advice is requested, they can signpost any individuals they ask to isolate in advance of the election, to official sources of information on voting options for those isolating and/or in quarantine.
- If the measure to conduct voting over more than one day is pursued, we will engage further with the representative organisations for any affected religious groups.
- Children will continue to be allowed to accompany adults to polling places to vote, so that will enable anyone looking over children to vote in person if they wish to do so. This will be communicated to voters.
- Tactile voting devices are required by law to be available at all polling places for those with sight loss.
- Anyone experiencing any issue with voting can request assistance from the staff within polling places. Staff will be given full training on Covid-safe practices and appropriate PPE.
- If additional measures such as 'golden hours' for older voters are considered, they will be advisory only and we will ensure that communications on this reassure those older voters who vote with the assistance of a carer, that they will be able to do so as normal and their carer will be able to vote at the same time.

In addition to the measures outlined in the Bill, the Scottish Government will also continue to work with the Electoral Commission, Electoral Management Board for Scotland, representative groups for those with protected characteristics, and political parties to ensure the safe running of all elements of the election.



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