

# **The Social Security Information-sharing (Scotland) Amendment Regulations 2024**

**Child Rights and Wellbeing Impact  
Assessment (CRWIA)**

**December 2023**

# Child Rights and Wellbeing Impact Assessment (CRWIA) for **The Social Security Information- sharing (Scotland) Amendment Regulations 2024**

## **Disclaimer**

This draft document is an initial assessment of the impact of The Social Security Information-sharing (Scotland) Amendment Regulations 2024. The Scottish Government will continue to review and update this document where required during the parliamentary and strategic decision making process. Any future iterations will reflect an increased understanding of these impacts as the amount of data and research available continues to grow.

This impact assessment should be read in conjunction with the Equality Impact Assessment.

# CRWIA Stage 1 – Screening

## Brief Summary

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

Social Security Scotland's charter outlines the commitment 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.<sup>1</sup> 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 (or indeed other people that they come across in the course of dealing with a client) 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 bodies and 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://mygov.scot) website recommends

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<sup>1</sup> [Social Security Scotland - Our Charter](#)

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 (Scotland) 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.<sup>2</sup> 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.<sup>3</sup> As Social Security Scotland came into being as an executive agency of the Scottish Government on 1 September 2018, it was not covered by the 2007 Act or the 2014 Code of Practice for third parties.

To that end, the Scottish Government will make the Social Security Information-sharing (Scotland) Amendment Regulations 2024 which will provide Social Security Scotland with an explicit and bespoke legal gateway in Scottish social security legislation to make referrals relating to risk of harm to relevant Local Authority social services departments, and (where a client has a Power of Attorney or a Guardian in place to act for them) to the Office of the Public Guardian. Part of this work has involved engaging with policy and officials in the DG for Health and Social Care, the Mental Health and Social Care Directorate (now known as the Directorate for Social Care and National Care Service Development), and Directorate for Children and Families. As a result of this engagement, the then Directorate for Health and Social care, upon review of the Code of Practice for Adult Support and Protection in July 2022, added Social Security Scotland to the updated list of public services who may contribute to the protection of adults at risk, and who may have cause to refer concerns to the Local Authority.

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<sup>2</sup> [Adult Support and Protection \(Scotland\) Act 2007 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2007/16/section/1)

<sup>3</sup> [Adult Support and Protection \(Scotland\) Act 2007: Code of Practice - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/code-of-practice-2014/pages/110.aspx)

The National Performance Framework measures and keeps track of how Scotland is performing. It aims to reduce inequalities and gives equal importance to economic, environmental and social progress. It sets out national outcomes, which describe the kind of country the Scottish Government aims to create. The Social Security Information-sharing (Scotland) Amendment Regulations 2024 will positively contribute to the following National Outcomes: <sup>4</sup>

- **Children and Young People:** We grow up loved, safe and respected so that we realise our full potential
- **Communities:** We live in communities that are inclusive, empowered, resilient and safe
- **Health:** We are healthy and active
- **Poverty:** We tackle poverty by sharing opportunities, wealth and power more equally

This CRWIA will continue to be monitored and updated as necessary when new data or information becomes available. Additionally, further impact assessments will be created relating to the operational considerations of this proposal. This impact assessment should be read in conjunction with the Business and Regulatory Impact Assessment (BRIA); Partial Island Community Impact Assessment (ICIA); Equality Impact Assessment (EQIA); and the Data Protection Impact Assessment (DPIA).

Start date of relevant proposal: November 2021

Start date of CRWIA process: March 2022 <sup>5</sup>

### Which aspects of the relevant proposal currently affects or will affect children and young people up to the age of 18?

Where a non-emergency risk of harm is identified by Social Security Scotland, and it is deemed necessary and proportionate in the interests of safeguarding, data will be shared to relevant Local Authority social services departments, or (where a person

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<sup>4</sup> [National Performance Framework | National Performance Framework](#)

<sup>5</sup> While the drafting of the CRWIA started later than March 2022, the scoping process- including the public consultation- took place around March 2022.

has a Power of Attorney or a Guardian in place to act for them) to the Office of the Public Guardian. These regulations do not specify age, and therefore have scope to impact upon all children and young people who interact with Social Security Scotland in some capacity.

### Which groups of children and young people are currently or will be affected by the relevant proposal?

This proposal has the potential to impact all children and young people who interact with Social Security Scotland in some capacity, whether directly or indirectly. For example, one benefit which is particularly relevant is Child Disability Payment. According to a high level statistics report, using data gained up until 31 March 2023, 30,975 Child Disability Payment applications were received, and of which 8,160 were aged 0-4; 13,110 were aged 5-10; 9,620 were aged 11-15; and 55 were aged 16-18.<sup>6</sup> The Social Security Information-sharing (Scotland) Amendment Regulations 2024 therefore may have a significant positive impact on Children and young people who have a disability. However, in terms of direct impact, all children and young people will be safeguarded against risks of harm, regardless of their characteristics.

### Declaration

#### Is a Stage 2 Children's Rights and Wellbeing Impact Assessment required?

A CRWIA is required.

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<sup>6</sup> [Child Disability Payment: high level statistics to 31 March 2023 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/high-level-statistics-to-31-march-2023/pages/child-disability-payment)

## CRWIA Stage 2 – Assessment of Impact and Compatibility

What evidence have you used to inform your assessment? What does it tell you about the impact on children’s rights?

This CRWIA has been partly informed by desk based research. The following sources were used throughout the impact assessment process including:

- National Records of Scotland Population Estimates (2021) <sup>7</sup>
- Social Security Scotland client diversity and equalities analysis (2021) <sup>8</sup>
- Child Disability Payment: high level statistics (2023) <sup>9</sup>
- Adult Support and Protection, Scotland Statistics (2019/20-2021/22) <sup>10</sup>
- Scottish Health Survey (2021) <sup>11</sup>

This impact assessment should be read in conjunction with the Business and Regulatory Impact Assessment (BRIA); Partial Island Community Impact Assessment (ICIA); Equality Impact Assessment (EQIA); and the Data Protection Impact Assessment (DPIA).

Social Security Scotland engages both directly and indirectly with a wide range of children and young people. As highlighted in the EQIA, people within this age range may have additional characteristics which increase the probability of vulnerability (and consequently the potential increased need for safeguarding) such as disability. The Social Security Information-sharing (Scotland) Amendment Regulations 2024 will afford children and young people with a better opportunity to develop and grow, free from abuse or harm. The following sections will outline, in more detail, the specific positive impacts.

### Evidence from stakeholders/Policy Colleagues

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<sup>7</sup> [Mid-2021 Population Estimates Scotland | National Records of Scotland \(nrscotland.gov.uk\)](https://www.nrscotland.gov.uk)

<sup>8</sup> [Social Security Scotland client diversity and equalities analysis to May 2021 - gov.scot \(www.gov.scot\)](https://www.gov.scot)

<sup>9</sup> [Child Disability Payment: high level statistics to 31 March 2023 - gov.scot \(www.gov.scot\)](https://www.gov.scot)

<sup>10</sup> [Supporting documents - Adult Support and Protection Scotland: April 2019 to March 2022 - gov.scot \(www.gov.scot\)](https://www.gov.scot)

<sup>11</sup> [The Scottish Health Survey 2021 - volume 1: main report - gov.scot \(www.gov.scot\)](https://www.gov.scot)

The Social Security Information-sharing (Scotland) Amendment Regulations 2024 have been developed in contact with a range of internal stakeholders such as the Social Security Policy Directorate; Scottish Government Legal Directorate; Social Security Scotland Agency; Social Security Programme; DG for Health and Social Care, the Mental Health and Social Care Directorate (now known as the Directorate for Social Care and National Care Service Development), and Directorate for Children and Families.

## Evidence from children and young people

A public consultation titled “Safeguarding Data Sharing” ran for 12 weeks between 25 March 2022 and 17 June 2022, and the analysis was published on 17 February 2023.<sup>12</sup>

Due to the impact of COVID-19, and the restrictions on face to face contact, stakeholder engagement events with children and young people were not possible. Instead, the consultation sought the opinions of stakeholders, by promoting it throughout the Social Security Scotland and Scottish Government social media pages. The Social Security Scotland Communications and National Engagement team promoted the consultation by referring to it in their regular newsletter, to which there are over 1,700 subscribers.

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 direct questions, in addition to open-ended questions which aimed to allow participants to provide in-depth answers, specific to their own circumstances.

Respondents were broadly supportive of the proposed measure, with no responses indicating that there would be any different impact on people below the age of 18. Where feedback did flag concerns, it was primarily because the individuals or

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<sup>12</sup> [2. Overview of the Consultation - Safeguarding data sharing: consultation report and summary of responses - gov.scot \(www.gov.scot\)](#)



organisations felt Social Security Scotland should be able to share data with a wider range of stakeholders, in addition to Local Authorities.

Feedback from the consultation also highlighted several important considerations, which has influenced the design of the Social Security Information-sharing (Scotland) Amendment Regulations 2024. Some responses noted that data shared must be proportionate to the level of risk, and, the officials within Social Security Scotland must be adequately trained to achieve this crucial balance. This important point will be implemented, and further expanded upon in impact assessments relating to the operational practices.

## Analysis of the evidence

### How have the findings outlined in questions 1-3 influenced the development of the relevant proposal?

The findings re-emphasised the importance of these regulations and the positive impact they will have. The consultation also highlighted the importance of data only being shared when it is proportionate to the level of risk.

### Assessing for compatibility against the UNCRC requirements

Complete the below matrix, placing a tick against each article which is relevant to your existing legislation or decision or relevant proposal. Further on in the form you will be able to explain these answers in more detail.

#### UNCRC Articles

#### What impact does/will your relevant proposal have on children's rights

Positive:

- Article 2 – Non discrimination
- Article 3 – Best interests of the child
- Article 6 – Life, survival and development
- Article 19 – Protection from abuse, violence and neglect
- Article 23 – Children with a disability
- Article 26 – Social security

Negative: not applicable

Neutral:

- Article 1 – Definition of the child

- Article 4 – Implementation of the Convention
- Article 5 – Parental guidance and a child’s evolving capacities
- Article 7 – Birth registration, name, nationality, care
- Article 8 – Protection and preservation of identity
- Article 9 – Separation from parents
- Article 10 – Family reunification
- Article 11 – Abduction and non-return of children
- Article 12 – Respect for the views of the child
- Article 13 – Freedom of expression
- Article 14 – Freedom of thought, belief and religion
- Article 15 – Freedom of association
- Article 16 – Right to privacy
- Article 17 – Access to information from the media
- Article 18 – Parental responsibilities and state assistance
- Article 20 – Children unable to live with their family
- Article 21 – Adoption
- Article 22 – Refugee children
- Article 24 – Health and health services
- Article 25 – Review of treatment in care
- Article 27 – Adequate standard of living
- Article 28 – Right to education
- Article 29 – Goals of education
- Article 30 – Children from minority or indigenous groups
- Article 31 – Leisure, play and culture
- Article 32 – Child labour
- Article 33 – Drug abuse
- Article 34 – Sexual exploitation
- Article 35 – Abduction, sale and trafficking
- Article 36 – Other forms of exploitation
- Article 37 – Inhumane treatment and detention
- Article 38 – War and armed conflicts
- Article 39 – Recovery from trauma and reintegration
- Article 40 – Juvenile justice
- Article 41 – Respect for higher national standards
- Article 42 – Knowledge of rights

### **First optional protocol**

Positive: not applicable

Negative: not applicable

Neutral:

- Article 4
- Article 5
- Article 6
- Article 7

## **Second optional protocol**

Positive: not applicable

Negative: not applicable

Neutral:

- Article 1
- Article 2
- Article 3
- Article 4
- Article 6
- Article 7
- Article 8
- Article 9
- Article 10
- Article 11

### **Impact on children and young people**

The impact of the Social Security Information-sharing (Scotland) Amendment Regulations 2024 are expected to be broadly positive particularly relating to Article 2,3,6,19,23 and 26. This is expanded upon in question 9.

### **Negative Impact/Incompatibility**

The Scottish Government does not consider there to be any negative impact on the rights of children and young people. This will continue to be reviewed.

### **Options for modification or mitigation of negative impact or incompatibility**

Not applicable.

### **Positive impact: Giving better or further effect to children's rights in Scotland**

#### **Article 2 - Non-discrimination**

The Social Security Information-sharing (Scotland) Amendment Regulations 2024 will not discriminate against any child or young person. Where a risk of harm is identified, and the sharing of data is found to be proportionate and necessary, no protected characteristic will influence the decision in such a way which causes a discriminatory impact. As such, the Scottish Government expects this proposal to be

positive in advancing this article of the UNCRC. Moreover, in arriving at this expectation a full EQIA was completed.

### **Article 3 - Best interests of the child**

The introduction of the Social Security Information-sharing (Scotland) Amendment Regulations 2024 ensure that Social Security Scotland can further serve the best interests of children and young people. The proposal will ensure that data can be shared where a potential risk of abuse is identified. The Scottish Government therefore expects this proposal to be positive in advancing this article of the UNCRC.

### **Article 6 - Life, survival and development**

The Scottish Government recognises that every child has the inherent right to life. In line with this, the proposal seeks to ensure that all children can flourish during their formative years, by raising potential concerns of harm to relevant authorities. The Scottish Government therefore expects this proposal to be positive in advancing Article 6 of the UNCRC.

### **Article 19 - Protection from all forms of violence**

The Scottish Government has partly developed these regulations, to better “protect children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse”, as is quoted in this UNCRC article. Wherever a potential risk of harm is identified, which is not an immediate risk to life, Social Security Scotland will share data with relevant authorities for the purposes of safeguarding.

### **Article 23 – Children with a disability**

Social Security Scotland interacts with people of all ages with disabilities. This is particularly the case since the introduction of Child Disability Payment for children under the age of 16, and Adult Disability Payment for young people over the age of 16. The Scottish Government recognises that all children should enjoy a full and decent life. This proposal introduces measures to better prevent potential harm. The Scottish Government therefore expects this proposal to be positive in advancing this article of the UNCRC.

## Article 26 – Social security

The Scottish Government recognises that every child has the right to benefit from social security. This proposal seeks to ensure that this happens by safeguarding them against harm, for example, financial harm, which if occurs may prevent children from the full realisation and benefit of social security. The Scottish Government therefore expects this proposal to be positive in advancing this article of the UNCRC.

### Impact on Wellbeing: does or will the relevant proposal contribute to the wellbeing of children and young people in Scotland?

Please answer yes or no to all of the wellbeing indicators that are relevant to your proposal.

**Safe** - Growing up in an environment where a child or young person feels secure, nurtured, listened to and enabled to develop to their full potential. This includes freedom from abuse or neglect. **Yes**

**Healthy** - Having the highest attainable standards of physical and mental health, access to suitable healthcare, and support in learning to make healthy and safe choices. **Yes**

**Achieving** - Being supported and guided in learning and in the development of skills, confidence and self-esteem, at home, in school and in the community. **Yes**

**Nurtured** - Growing, developing and being cared for in an environment which provides the physical and emotional security, compassion and warmth necessary for healthy growth and to develop resilience and a positive identity. **Yes**

**Active** - Having opportunities to take part in activities such as play, recreation and sport, which contribute to healthy growth and development, at home, in school and in the community. **Yes**

**Respected** - Being involved in and having their voices heard in decisions that affect their life, with support where appropriate. **Yes**

**Responsible** - Having opportunities and encouragement to play active and responsible roles at home, in school and in the community, and where necessary, having appropriate guidance and supervision. **No**

**Included** - Having help to overcome inequalities and being accepted as part of their family, school and community. **No**

## Post Assessment Review and sign-off

### Communicating impact to children and young people

Providing information to children and young people on how their rights will be impacted helps to ensure that policy making is transparent. An accessible version of this CRWIA will be published online.

### Planning for the review of impact on child rights (Stage 3)

As part of the normal decision making process, the implementation of the policy will be monitored by Social Security Scotland and Scottish Government officials. In line with the review of the Social Security Information-sharing (Scotland) Amendment Regulations 2024, this CRWIA will continue to be revisited, and where changes are identified as a result of its implementation, this document will be updated.

Additionally, in relation to operational considerations relating to these regulations, further efforts will be made to capture the views of children and young people.

### Compatibility sign off statement

This relevant proposal has been assessed against the UNCRC requirements and has been found to be compatible.

#### **Policy Lead Signature & Date of Sign Off:**

Mark McAdam, Cross Cutting Policy Team Coordinator, 26 October 2023

#### **Deputy Director Signature & Date of Sign Off:**

Ian Davidson, 30 October 2023

SGLD Sign Off: Yes  No



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