

# **The Management of Offenders (Scotland) Bill - Equality Impact Assessment Record (including Children's Rights and Wellbeing Impact Assessment).**

**February 2018**



**Scottish Government**  
Riaghaltas na h-Alba  
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## Equality Impact Assessment Record (including Children’s Rights and Wellbeing Impact Assessment).

<b>Title of policy/ practice/ strategy/ legislation etc.</b>	<b>Management of Offenders Bill Electronic Monitoring Provisions</b>	
<b>Minister</b>	<b>Michael Matheson, Cabinet Secretary for Justice</b>	
<b>Lead official</b>	<b>Neil Robertson</b>	
<b>Officials involved in the EQIA</b>	<b>Name</b>	<b>Team</b>
	<b>Jamie Begbie</b>	<b>Management of Offenders Bill Team</b>
	<b>Gill Scott Karen Lyon</b>	<b>Community Justice Division</b>
	<b>Catherine Bisset</b>	<b>Justice Analytical Services</b>
<b>Directorate: Division: Team</b>	<b>Learning and Justice/Justice/Community Justice</b>	
<b>Is this new policy or revision to an existing policy?</b>	<b>Development of existing policy</b>	

### Screening

#### ***Policy Aim***

The Scottish Government is committed to strengthening the delivery of community justice, ensuring we continue to focus on public safety, and breaking the cycle of reoffending. We believe that electronic monitoring has a role to play in supporting our vision for a safer, fairer and more inclusive nation, in which those who have been victims of crime can feel safer and more reassured, and those with a history of offending can be supported to be active and responsible contributors to their communities.

Electronic monitoring was first piloted in Scotland in 1998, before being rolled out nationally in 2002 as a Restriction of Liberty Order (RLO), which is imposed only by courts. Since then, confidence has grown in the technology involved, and understanding has developed as to how electronic monitoring could be used more widely.

At present legislation allows for electronic monitoring to be used in Scotland to monitor an individual’s compliance with a curfew set by either the Scottish Courts and Tribunal Service, the Scottish Prison Service or the Parole Board for Scotland. At present, a person can be curfewed to an address for up to 12 hours a day or - more rarely - ‘away from’ an address for up to 24 hours a day. In Scotland in December 2017 there were approximately 1267 people being monitored for this purpose at any given time.

Following a Scottish Government consultation on the development of electronic monitoring in Scotland in 2013<sup>1</sup>, an Expert Working Group was established to consider how electronic monitoring could be better used within the criminal justice system in Scotland.

The report of that Group was published in September 2016 and concluded that they wished to see a more extensive, more consistent and more strategic use of electronic monitoring. The more strategic use envisaged by the Group has three aspects:

- to use electronic monitoring in more integrated ways, alongside a range of supportive measures, to help prevent and reduce further offending and promote desistance among people with convictions;
- to enhance the protection and security of victims of crime in ways that other community interventions are unable to do; and
- to make the use of electronic monitoring more appealing to sheriffs as an alternative to custody, by offering a greater degree of control in the community.

The Group published a report in October 2016<sup>2</sup> which set out a number of key recommendations arising from its deliberations. These recommendations were informed by international evidence, partner and stakeholder engagement at a national and local level and the knowledge and expertise of the Working Group members.

In March 2017 on the back of the Working Group report the Scottish Government published a further consultation seeking views in relation to potential legislative changes to extend the use of electronic monitoring in Scotland, including the introduction of new technologies<sup>3</sup>. The consultation closed on 13 May 2017 with 63 responses received. Analysis of the responses received to the consultation were published on the Scottish Government website on 12 September 2017<sup>4</sup>.

The expansion of electronic monitoring, including the introduction of new technologies, will increase the options available to manage and monitor offenders in the community and further protect public safety. This contributes to the Scottish Government National outcome that 'we live our lives safe from crime, disorder and danger'.

We have worked with partners in the development of the new electronic monitoring legislation taking into account the recommendations of the Working Group and the responses to the consultation.

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<sup>1</sup> <http://www.gov.scot/Publications/2014/10/7132>

<sup>2</sup> <http://www.gov.scot/Publications/2016/10/8620>

<sup>3</sup> <http://www.gov.scot/Publications/2017/03/6021>

<sup>4</sup> <http://www.gov.scot/Publications/2017/09/2305>

The expansion of electronic monitoring supports the broader community justice policies of preventing and reducing reoffending by increasing the options available to manage and monitor offenders in the community, and to further protect public safety. The introduction of new technologies, such as Global Positioning System technology, presents opportunities to improve the effectiveness of electronic monitoring, for example through the use of exclusion zones that can offer victims significant reassurance and respite.

This Equality Impact Assessment relates only to the electronic monitoring provisions set out in part 1 of the Management of Offenders (Scotland) Bill.

### ***Who will it affect?***

The new legislation for electronic monitoring will affect;

- monitored persons,
- families of monitored persons,
- victims of crime,
- the criminal justice system i.e. the Scottish Court and Tribunal Service, Scottish Prison Service.
- organisations that plan and deliver community justice services,
- the contracted electronic monitoring service provider
- other Community Justice partners i.e. Community Justice Social Work, third sector organisations

### ***What might prevent the desired outcomes being achieved?***

To assist in the drafting of this EQIA our consultation '*Electronic Monitoring in Scotland – A consultation on proposals for legislation*' included a chapter on Impact Assessment.

The desired outcomes of the electronic monitoring provisions of the Bill are the expansion of electronic monitoring to support the broader community justice policies of preventing and reducing reoffending by increasing the options available to manage and monitor offenders in the community, and to further protect public safety. The introduction of new technologies, such as Global Positioning System technology, presents opportunities to improve the effectiveness of electronic monitoring, for example through the use of exclusion zones that can offer victims significant reassurance and respite.

Under Equality we said that '*The Scottish Government is committed to promoting equality and removing or minimising disadvantage which may be experienced by different groups of people. We have a legal duty to consider the impact of policies on people who may be differently affected in relation to the "protected characteristics" under the Equality Act 2010. The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.*' Question 15 of the consultation asked respondents '*Please tell us about any potential equality impacts, either positive or negative, that you consider the proposals in this consultation may have.*

42 respondents (67%) to the consultation answered this question. Independent analysis of the consultation carried out by the Research Shop showed a recurring view that a suitability impact should be deployed each time electronic monitoring is being considered in particular with regard to children and young people living in the home. This is current practice within the Scottish justice system. Electronic monitoring is only considered as a disposal once suitability assessments have been carried out by Criminal Justice Social Work.

Where there were potential negative impacts identified in particular the potential of those found guilty of domestic violence being curfew at home with family members. Issues were also raised around disabled people with certain physical disabilities which might exclude them from the scope of electronic monitoring i.e. amputees.

Other specific negative impacts were related to;

- people in rural areas who may not have the consistent, reliable signal coverage required to access the technology therefore excluding them from electronic monitoring;
- women may feel disproportionately embarrassed by being subjected to what they could perceive is "male punishment";
- women may have restricted clothing options due to the placement of the tag; curfew restrictions may prevent some people attending religious events and worship at set times;
- people with learning disabilities may require particular support to ensure their informed consent can be given for electronic monitoring;
- people who work irregular hours may not be able to adhere to curfew requirements and homeless people may not be able to provide a suitable home address for monitoring to take place.

The majority of the negative impacts are situations that are relevant to the current electronic monitoring regime and are dealt with in the current suitability assessments carried out by Criminal Justice Social Work colleagues. This will continue to be the case.

Other issues that could prevent the desired outcomes of the Bill being achieved are;

- If any of the legislative changes are not passed by Parliament the expansion of electronic monitoring to increase the options available to manage and monitor offenders in the community and further protect public safety will not be enacted.
- If Criminal Justice colleagues are not appropriately trained or resources are not sufficient to support electronic monitoring for monitored persons with individual needs and the services tailored to meet those needs.

- A lack of sharing best practice amongst Criminal Justice colleagues could lead to the expansion of electronic monitoring not meeting its aim of increasing the options available to manage and monitor offenders in the community and further protect public safety.

Many respondents interpreted the question as relating to general positive impacts of electronic monitoring, and reiterated their support for its potential in terms of providing an alternative to custody; enhancing desistance; protecting victims; maintaining the individual's social networks; and so on.

Where specific positive equality impacts were identified these related largely to benefits to women, with electronic monitoring perceived as providing a robust approach to safeguarding them in domestic violence and other cases; and benefits to health in terms of people with physical or mental health difficulties, or complex needs being more likely to be able to continue with care if they are "tagged" rather than receiving an alternative intervention.

## **Stage 1: Framing**

### ***Results of framing exercise***

A framing exercise was held on 14 November 2017 and the process which includes consideration of the outputs from the consultation exercise involved Scottish Government colleagues from;

Electronic Monitoring Policy Team,  
Electronic Monitoring Bill Team,  
Electronic Monitoring Contract Management Team  
Diversion and Community Sentences Team  
Justice Analytical Services.

The framework of the EQIA was discussed with particular focus on what impact the expansion of electronic monitoring would have on each of the protected characteristics groups. Consideration was given to data available to help frame any potential impact on each group.

The proposed legislation will enable an expansion of the current electronic monitoring regime and introduce new technologies. This will allow the policy aim of increasing the options available to manage and monitor offenders in the community and further protect public safety. It was considered that the main impact of the expansion will be on monitored persons and their families, victims of crime, the electronic monitoring service provider, the Scottish Justice system including the Scottish Court and Tribunals Service (SCTS) and Scottish Prison Service (SPS) along with Community Justice Social Work (CJSW) colleagues.

The Framing exercise considered the impact on each of the protected characteristics groups and the conclusions were in the main positive or

neutral. A lot of the positive aspects for the expansion of the electronic monitoring were around keeping monitored persons within the community with a support system in place. Remaining in the community provides the opportunity for the monitored person to remain in the family unit, retain employment, retain housing and support.

### ***Extent/Level of EQIA required***

The Scottish Government has found that none of the proposals are discriminatory and that there are no significant issues that we consider would impact negatively upon the various groups.

Throughout the term of the Working Group and the consultation periods consideration has been given to the potential impact that the expansion of electronic monitoring in Scotland could have on the protected equality groups. This was also considered when developing the proposals for legislation.

The potential impact was first considered in the public consultation and Equality Impact Assessment which led to the setting up of the Electronic Monitoring Expert Working Group in 2013.

The consultation paper *‘Electronic monitoring in Scotland - A Consultation on Proposals for Legislation’* published in March 2016 asked a specific question on the impact of the proposals on the people who may be differently affected in relation to the “protected characteristics” under the Equality Act 2010.

The analysis of the consultation responses showed where specific positive equality impacts were identified they were largely related to benefits to women, with electronic monitoring perceived as providing a robust approach to safeguarding them in domestic violence and other cases; and benefits to health in terms of people with physical or mental health, or complex needs being more likely to be able to continue with care if they are “tagged” rather than receiving an alternative intervention.

It is our consideration that the new legislation will not disproportionately impact in relation to the “protected characteristics” under the Equality Act 2010. The EQIA will continue to be reviewed as the Bill progresses through the legislative process.

The expansion of electronic monitoring, including the introduction of new technologies, will introduce more flexibility to court disposals. However, the Scottish Government is not responsible for the decision to who should be made subject to electronic monitoring as part of their disposal. That decision is the responsibility of the court, assisted by a Criminal Justice Social Work report.

## **Children's Rights and Wellbeing Impact Assessment (CRWIA)**

The Children's Rights and Wellbeing Impact Assessment (CRWIA) was carried out alongside the EQIA. The Framing exercise also considered the impact on children and young people and the conclusions were in the main positive or neutral.

The United Nations Convention on the Rights of the Child (UNCRC) defines a 'child' as a person below the age of 18 therefore electronic monitoring is relevant for monitored persons and the children of those being monitored. As above the main positives identified were around keeping monitored persons within the community with a support system in place. Remaining in the community provides the opportunity for the monitored person to remain in the family unit, retain employment, retain housing and support. From the viewpoint of the child of a monitored person there was the positive impact of a parent remaining within the family unit. There were some negatives around the stigma of a parent being electronically monitored or the potential of a violent parent remaining in the household during curfew periods.

Our consideration is that the new legislation will not have a significant negative impact in relation to Children and young people. The CRWIA will continue to be reviewed as the Bill progresses through the legislative process.



**Stage 2: Data and evidence gathering, involvement and consultation**

Include here the results of your evidence gathering (including framing exercise), including qualitative and quantitative data and the source of that information, whether national statistics, surveys or consultations with relevant equality groups.

Characteristic <sup>5</sup>	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
<b>AGE</b>	<p>Over the past 10 years the gap between the number of convictions per 1,000 population for younger people compared to older people has become smaller. This has been driven by a fall in the number of convictions per 1,000 population for younger people, whilst the rate for older people (aged 31 or above) has remained relatively stable.</p> <p>In 2006-07 the age with the highest conviction rate was for those aged 18-20 at 100 convictions per 1,000 population. Since 2006-07 the age with the highest conviction rate has shifted upwards. The highest conviction rate was for those aged 21-30 in 2015-16 and stood at 45 convictions per 1,000 population. Conviction rates by age follow similar trends for both males and females.</p> <ul style="list-style-type: none"> <li>• Financial penalties are the only disposal types where the trend is in decline for all age-gender groups, with the largest decreases being for the under 21 year olds for both genders;</li> <li>• With respect to custodial and community sentences there have been decreases in numbers for those aged "under 21" and "21-30" for both genders with the exception of community sentences for those aged 21-30. These have increased by 14 per cent for males and 4 per cent for females over the ten year period;</li> <li>• The largest increases have been for those aged over 40, particularly those receiving community sentences. The number of community sentences for</li> </ul>	<p>Criminal Proceedings in Scotland 2015 - 16</p> <p>Scottish Government Justice Analytical Services</p> <p>G4S</p>	

<sup>5</sup> Refer to Definitions of Protected Characteristics document for information on the characteristics

	<p>females over 40 has increased by 150 per cent since 2006-07 whilst for males the rise has been 114 per cent; and</p> <ul style="list-style-type: none"> <li>• There have also been considerable rises in the number of females aged 31-40 and over 40 receiving custodial sentences, up 78 per cent and 103 per cent respectively.</li> </ul> <p>Restriction of Liberty Order (RLO's)*      Home Detention Curfew (HDC)*</p> <table border="0"> <tr> <td><b>Under 18</b></td> <td>3%</td> <td><b>26 – 30</b></td> <td>17%</td> <td><b>Under 18</b></td> <td>0%</td> <td><b>26 – 30</b></td> <td>20%</td> </tr> <tr> <td><b>18 – 20</b></td> <td>11%</td> <td><b>31 – 40</b></td> <td>28%</td> <td><b>18 – 20</b></td> <td>4%</td> <td><b>31 – 40</b></td> <td>33%</td> </tr> <tr> <td><b>21 - 25</b></td> <td>17%</td> <td><b>Over 40</b></td> <td>24%</td> <td><b>21 - 25</b></td> <td>15%</td> <td><b>Over 40</b></td> <td>28%</td> </tr> </table> <p>*Taken from Electronic Monitoring to the Criminal and Youth Justice systems in Scotland - Statistical Bulletin, 1<sup>st</sup> January 2017– 31 December 2017</p> <p>Research suggests that electronic monitoring might not be as suitable for younger people with more chaotic lifestyles.</p> <p>It should be noted that the Scottish Government is not responsible for the decision as to who should be made subject to electronic monitoring as part of their disposal. That decision is the responsibility of the court assisted by a Criminal Justice Social Work report.</p>	<b>Under 18</b>	3%	<b>26 – 30</b>	17%	<b>Under 18</b>	0%	<b>26 – 30</b>	20%	<b>18 – 20</b>	11%	<b>31 – 40</b>	28%	<b>18 – 20</b>	4%	<b>31 – 40</b>	33%	<b>21 - 25</b>	17%	<b>Over 40</b>	24%	<b>21 - 25</b>	15%	<b>Over 40</b>	28%		
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<b>DISABILITY</b>	<p>Electronic monitoring is currently in use throughout Scotland and most disabilities do not prevent the use of its technology. The proposed new legislation does not introduce anything new with regard to an individual wearing the electronic monitoring equipment. There is no data available on this group and we have no reason to believe that the new legislation will have any impact in this respect. There were no comments received in the consultation or the framing exercise to suggest differently.</p>		<p>It would be useful to have data around the number of monitored persons with a disability Stage 4 of this paper sets out how we will address this issue.</p>																								

**SEX**

Males accounted for 83 per cent of all convictions in 2015-16 (where the gender was known), unchanged from 2014-15. More males than females were convicted in all crime/offence categories except for offences associated with prostitution (63% of all convictions were for females).

Males are more likely to receive a custodial sentence than females. This is illustrated by males accounting for 83 per cent of all people convicted in 2015-16 but representing a higher proportion of all **custodial sentences** (91 per cent).

By contrast females accounted for 17 per cent of people convicted compared to a lower proportion for custodial sentences (9 per cent of custodial sentences). Females were more likely to be issued with an "**Other sentence**" with 28 per cent of these types of punishments been given to females compared to the 17 per cent of all convictions that females represent. "Other sentences" are mostly admonishments i.e. a verbal warning from the sheriff.

Please note that sentencing decisions are reflective of a number of factors such as the severity of the crime and whether the individual has offended in the past. In addition, the decision on what type of punishment is reasonable will be based on the personal circumstances of the offender. These statistics do not take account of these factors.

**Total Convictions and Disposal Type by gender, 2015-16**

	Percentage Male	Percentage Female
All convictions	83%	17%
Custody	91%	9%
Community Sentence	84%	16%
Financial Penalty	84%	16%
Other disposal	72%	28%

Criminal Proceedings in Scotland 2015-16

Scottish Government Analytical Services

G4S

Scottish Prison Service

	<p><b>RLO's and HDC's by gender, 2017</b></p> <table border="1" data-bbox="436 248 1402 365"> <thead> <tr> <th></th> <th>Percentage Male</th> <th>Percentage Female</th> </tr> </thead> <tbody> <tr> <td>RLO</td> <td>85%</td> <td>15%</td> </tr> <tr> <td>HDC</td> <td>90%</td> <td>10%</td> </tr> </tbody> </table> <p>It is clear from the statistics that males are more likely to offend and receive a custodial sentence. The expansion of electronic monitoring may have a positive impact on male offenders by offering them the opportunity to remain in the family unit, and retain employment, housing and support.</p> <p>It should be noted however that the Scottish Government is not responsible for the decision as to who should be made subject to electronic monitoring as part of their disposal. That decision is the responsibility of the court assisted by a Criminal Justice Social Work report.</p>		Percentage Male	Percentage Female	RLO	85%	15%	HDC	90%	10%		
	Percentage Male	Percentage Female										
RLO	85%	15%										
HDC	90%	10%										
<b>PREGNANCY AND MATERNITY</b>	There is no data available on this group. There is no reason to believe that the new legislation will have any impact in this area. We received no comments to the consultation/framing exercise to suggest differently.	None	Data around the number of monitored persons who are pregnant would be very useful									
<b>GENDER REASSIGNMENT</b>	There is no data available on this group. There is no reason to believe that the new legislation will have any impact in this area. We received no comments to the consultation/framing exercise to suggest differently.	None	Data around the number of gender reassignment monitored persons would be very useful.									
<b>SEXUAL ORIENTATION</b>	There is no data available on this group. There is no reason to believe that the new legislation will have any impact in this area. We received no comments to the consultation/framing exercise to suggest differently.	None	It is not anticipated that the new legislation will have any impact in this area. We received no comments to the									

			consultation/framing exercise to suggest differently.
<b>RACE</b>	There is no data available on this group. There is no reason to believe that the new legislation will have any impact in this area. We received no comments to the consultation/framing exercise to suggest differently.	None	Data around the particular race group of monitored persons would be very useful.
<b>RELIGION OR BELIEF</b>	There is no data available on this group. There is no reason to believe that the new legislation will have any impact in this area. We received no comments to the consultation/framing exercise to suggest differently.	None	Data around the religion or belief of monitored persons would be very useful.
<b>MARRIAGE AND CIVIL PARTNERSHIP</b> (the Scottish Government does not require assessment against this protected characteristic unless the policy or practice relates to work, for example HR policies and practices - refer to Definitions of Protected Characteristics document for details)	There is no data available on this group. There is no reason to believe that the new legislation will have any impact in this area. We received no comments to the consultation/framing exercise to suggest differently.	None	

### Stage 3: Assessing the impacts and identifying opportunities to promote equality

Having considered the data and evidence you have gathered, this section requires you to consider the potential impacts – negative and positive – that your policy might have on each of the protected characteristics. It is important to remember the duty is also a positive one – that we must explore whether the policy offers the opportunity to promote equality and/or foster good relations.

#### Do you think that the policy impacts on people because of their age?

Age	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	We anticipate that the proposed legislation will have no impact. There were no comments received from either the consultation responses or the framing exercise to suggest differently.
Advancing equality of opportunity	X			We anticipate that the new legislation will advance equality of opportunity on a number of levels including helping the monitored person to remain in employment, keep their house, and be supported to reintegrate into the community. There may also be benefits with regard to the aging prison population.
Promoting good relations among and between different age groups			X	We consider that the new legislation will have no impact in this area. We received no comments from the consultation or the framing exercise to suggest differently.

#### Do you think that the policy impacts disabled people?

Disability	Positive	Negative	None	Reasons for your decision
Eliminating unlawful discrimination, harassment and victimisation			X	We do not anticipate that the new legislation will have any impact in this respect. There were no comments received in the consultation or the framing exercise to suggest differently.
Advancing equality of opportunity	X			We anticipate that the new legislation will help to advance equality of opportunity as it will allow monitored persons to remain within the community and family unit, providing

				continuity with regard to care and medical appointments/support. It will also help the monitored person to retain employment and housing etc. Criminal Justice Social Work carry out suitability assessments on all referrals for electronic monitoring these assessments factor in disability issues that the monitored person may have.
Promoting good relations among and between disabled and non-disabled people			X	We do not anticipate that that the new legislation will have any impact on the relations in this area. We received no comments from the consultation or the framing exercise to suggest differently.

**Do you think that the policy impacts on men and women in different ways?**

<b>Sex</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	We do not anticipate that the new legislation will have any impact in this area. There were no comments received in the consultation or the framing exercise to suggest differently.
Advancing equality of opportunity			X	We do not anticipate that the new legislation will help to advance equality of opportunity as electronic monitoring is specific to the offence and not the gender of the monitored person. There are some positive impacts in allowing the monitored person to remain within the family unit. It may also be appropriate for some offenders within the female prison estate. With regard to Domestic Abuse/violence against women, the introduction of GPS exclusion zones might provide security to victims of these type of offences.
Promoting good relations between men and women			X	We do not anticipate that that the new legislation will have any impact on the relations in this area. We received no comments from the consultation or the framing exercise to suggest differently.

**Do you think that the policy impacts on women because of pregnancy and maternity?**

<b>Pregnancy and Maternity</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	We do not anticipate that the new legislation will have any impact in this area. There were no comments received in the consultation or the framing exercise to suggest differently.
Advancing equality of opportunity	X			We anticipate that the new legislation might help to advance equality of opportunity for pregnancy and maternity. It will allow monitored persons to remain within the family unit, provide continuity with regard to pre and post natal care, medical appointments and support. It may be appropriate for some offenders within the female prison estate.
Promoting good relations			X	We do not anticipate that that the new legislation will have any impact on the relations in this area. We received no comments from the consultation or the framing exercise to suggest differently.

**Do you think your policy impacts on transsexual people?**

<b>Gender reassignment</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	We do not anticipate that the new legislation will have any impact in this area. There were no comments received in the consultation or the framing exercise to suggest differently.
Advancing equality of opportunity			X	We do not anticipate that the new legislation will help to advance equality of opportunity transsexual people. There are generic positives that whilst not specific to this group may have some positive impact such as allowing monitored persons to remain within the family unit and community, provide continuity with regard to support systems, and continue with routine.



Promoting good relations			X	We do not anticipate that that the new legislation will have any impact on the relations in this area. We received no comments from the consultation or the framing exercise to suggest differently.
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**Do you think that the policy impacts on people because of their sexual orientation?**

<b>Sexual orientation</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	We do not anticipate that the new legislation will have any impact in this area. There were no comments received in the consultation or the framing exercise to suggest differently.
Advancing equality of opportunity			X	We do not anticipate that the new legislation will help to advance equality of opportunity for sexual orientation. There are generic positives that whilst not specific to this group may have some positive impact such as supporting the monitored person to reintegrate into the community and help them retain employment and housing.
Promoting good relations			X	We do not anticipate that that the new legislation will have any impact on the relations in this area. We received no comments from the consultation or the framing exercise to suggest differently.

**Do you think the policy impacts on people on the grounds of their race?**

<b>Race</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	We do not anticipate that the new legislation will have any impact in this area. There were no comments received in the consultation or the framing exercise to suggest differently.
Advancing equality of opportunity			X	We do not anticipate that the new legislation will help to advance equality of opportunity for people on grounds of race. There are generic positives that whilst not specific to

				this group may have some positive impact such as supporting the monitored person to reintegrate into the community and help them retain employment and housing.
Promoting good race relations			X	We do not anticipate that that the new legislation will have any impact on the relations in this area. We received no comments from the consultation or the framing exercise to suggest differently.

**Do you think the policy impacts on people because of their religion or belief?**

<b>Religion or belief</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	We do not anticipate that the new legislation will have any impact in this area. There were no comments received in the consultation or the framing exercise to suggest differently.
Advancing equality of opportunity	X			We do not anticipate that the new legislation will help to advance equality of opportunity people on behalf of religion or belief. There are generic positives that whilst not specific to this group may have some positive impact such as supporting the monitored person to reintegrate into the community and help them retain employment and housing. We do not anticipate that there will be an impact on the ability to attend religious services or events.
Promoting good relations			X	We do not anticipate that that the new legislation will have any impact on the relations in this area. We received no comments from the consultation or the framing exercise to suggest differently.

**Do you think the policy impacts on people because of their marriage or civil partnership?**

<b>Marriage and Civil Partnership<sup>6</sup></b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	We do not anticipate that the new legislation will have any impact in this area. There were no comments received in the consultation or the framing exercise to suggest differently.

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<sup>6</sup> In respect of this protected characteristic, a body subject to the Public Sector Equality Duty (which includes Scottish Government) only needs to comply with the first need of the duty (to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010) and only in relation to work. This is because the parts of the Act covering services and public functions, premises, education etc. do not apply to that protected characteristic. Equality impact assessment within the Scottish Government does not require assessment against the protected characteristic of Marriage and Civil Partnership unless the policy or practice relates to work, for example HR policies and practices.

## Stage 4: Decision making and monitoring

### *Identifying and establishing any required mitigating action*

Have positive or negative impacts been identified for any of the equality groups?	Yes. There are a number of positive impacts identified through the responses to the consultation and the framing exercise for the EQIA.
Is the policy directly or indirectly discriminatory under the Equality Act 2010 <sup>7</sup> ?	No
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	Not applicable
If not justified, what mitigating action will be undertaken?	Not applicable

### *Describing how Equality Impact analysis has shaped the policy making process*

In shaping policy and developing new legislation for the further use of electronic monitoring in Scotland including the introduction of new technologies, we are confident that there will be not be an adverse impact on any of the protected characteristic groups.

To make sure that we are content regarding potential adverse impact we sought input from our stakeholders and the public through a consultation exercise as well as a framing exercise with colleagues for the EQIA process. We did not receive any responses which identified adverse impact on any of the protected characteristics groups. The framing exercise did not highlight any negative impact.

Both exercises identified a number of positive impacts which provided reassurance that the new legislation will not impact adversely or be discriminatory toward any particular group.

In developing the policy and legislation we have not made any changes as a result of either the responses to the consultation or the EQIA process. This is due to the absence of any significant negative impact being identified.

We do not consider any cost or resource issues arising from the EQIA analysis.

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<sup>7</sup> See EQIA – Setting the Scene for further information on the legislation.

## **Monitoring and Review**

We will discuss with the Scottish Court and Tribunal Service, the Scottish Prison Service, G4S and Scottish Government analytical colleagues whether it is possible to produce statistical data on monitored persons which can identify whether they are from any of the protected characteristic groups.

It should be noted that the bill will be scrutinised by the Scottish Parliament at each of its stages in the process. Therefore it will be necessary to review the EQIA at each stage and take account of any changes.

We will continue to speak to stakeholders about the bill to ensure that we remain content that there will be no adverse impact by the bill on any of the protected characteristics groups.

## **Stage 5 - Authorisation of EQIA**

Please confirm that:

- ◆ This Equality Impact Assessment has informed the development of this policy:

Yes  No

- ◆ Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, i.e.:

- Eliminating unlawful discrimination, harassment, victimisation;
- Removing or minimising any barriers and/or disadvantages;
- Taking steps which assist with promoting equality and meeting people's different needs;
- Encouraging participation (e.g. in public life)
- Fostering good relations, tackling prejudice and promoting understanding.

Yes  No

- ◆ If the Marriage and Civil Partnership protected characteristic applies to this policy, the Equality Impact Assessment has also assessed against the duty to eliminate unlawful discrimination, harassment and victimisation in respect of this protected characteristic:

Yes  No  Not applicable

## **Declaration**

**I am satisfied with the equality impact assessment that has been undertaken for the electronic monitoring provisions of the management of Offenders (Scotland) Bill and give my authorisation for the results of this assessment to be published on the Scottish Government's website.**

**Name: Linda Pollock**

**Position: Deputy Director**

**Authorisation date: 9 February 2018**



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