

Social Security (Amendment) (Scotland) Bill

Equality Impact Assessment – Results

Title of Policy - Social Security (Amendment) (Scotland) Bill

Summary of aims and desired outcomes of Policy

The Social Security (Amendment) (Scotland) Bill (“the Bill”) includes a number of provisions intended to improve the experience of people using the services provided by Social Security Scotland and a number of provisions intended to deliver increased efficiency and value for money.

The Bill takes a regulation-making power for Scottish Ministers to create assistance to help towards the costs of having a child in the family, and to create one or more schemes to provide financial assistance for people with care experience.

The Bill will allow the Scottish Government to recover relevant forms of Scottish assistance from awards of compensation, avoiding the risk of a person being ‘doubly compensated’ for the same incident.

The Bill also seeks to implement the findings of an independent review into the remit and operation of the Scottish Commission on Social Security, and to revoke emergency provision inserted into the Social Security (Scotland) Act 2018 (“the 2018 Act”) in 2020 at the height of the Coronavirus (COVID-19) pandemic.

Some provisions of the Bill seek to amend or repeal sections of the 2018 Act, and others seek to create new provisions in that Act

Directorate: Division: Team - Directorate for Social Security: Social Security Policy: Cross-Cutting Unit

Executive summary

An equality impact assessment (“EQIA”) was undertaken for the Bill to consider the potential impacts of the provisions in the Bill on people with protected characteristics as defined in the Equality Act 2010. This document summarises the results of the EQIA.

Background

The Social Security (Scotland) Act 2018¹ (“the 2018 Act”) set out the overarching legislative framework for the administration of social security in Scotland, took powers for Scottish Ministers to deliver social security assistance and made provisions for operational functions such as managing overpayments, error and appeals.

The Scottish Parliament subsequently passed the Social Security Administration and Tribunal Membership (Scotland) Act 2020², which included provision for appointees, provisions for suspension of entitlement, and extended the provisions for offences in the 2018 Act to forms of top-up assistance under section 79 of the 2018 Act.

EQIAs for the 2018³ and 2020⁴ acts have been published.

This Bill introduces provisions aimed at effecting the continuous improvement of the social security system across a range of topics, in line with the Scottish social security principles laid out in Part 1 of the 2018 Act.⁵ These core principles, endorsed unanimously by the Scottish Parliament, deliberately correspond to some of the fundamental aspects of the right to social security, as set out in key human rights instruments such as the International Covenant on Economic, Social and Cultural Rights,⁶ the Universal Declaration of Human Rights,⁷ and the European Social Charter.⁸

In particular, the principles which connect most closely to the provisions included within the Bill state that –

“opportunities are to be sought to continuously improve the Scottish social security system in ways which –

(i) put the needs of those who require assistance first, and

(ii) advance equality and non-discrimination”

and

¹ [Social Security \(Scotland\) Act 2018 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2018/11/section-1)

² [Social Security Administration and Tribunal Membership \(Scotland\) Act 2020 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2020/11/section-1)

³ [Social Security \(Scotland\) Bill: equality impact assessment - gov.scot \(www.gov.scot\)](https://www.gov.scot/Information/Equity/Equality%20Impact%20Assessment/Social%20Security%20(Scotland)%20Bill%202018%20-%20EQIA)

⁴ [Social Security Administration and Tribunals \(Scotland\) Bill 2020: EQIA - gov.scot \(www.gov.scot\)](https://www.gov.scot/Information/Equity/Equality%20Impact%20Assessment/Social%20Security%20Administration%20and%20Tribunals%20(Scotland)%20Bill%202020%20-%20EQIA)

⁵ [s1, Social Security \(Scotland\) Act 2018 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2018/11/section-1)

⁶ Article 9, [International Covenant on Economic, Social and Cultural Rights](https://www.unhcr.org/refugees/article-9-international-covenant-economic-social-cultural-rights)

⁷ Article 22, [Universal Declaration of Human Rights](https://www.unhcr.org/refugees/universal-declaration-human-rights)

⁸ Article 12, [European Treaty Series no. 163 – European Social Charter \(Revised\)](https://www.unhcr.org/refugees/european-social-charter)

“the Scottish social security system is to be efficient and deliver value for money”

The majority of provisions included within the Bill are designed to create efficiencies and enhance the administration of the Scottish social security system, with a focus on measures to improve client experience and to deliver value for money.

The Scottish Government believes that social security is a human right⁹, as set out in the 2018 Act, and a shared investment to help tackle poverty and build a fairer, more equal society. The National Performance Framework¹⁰ was created to explain the Scottish Government’s aims for Scotland, the values that guide our approach and the national outcomes it is committed to achieving.

The majority of the proposals in the Bill are cross-cutting in nature and promote a person-centred, human rights-based approach to social security. The policy intention is to create efficiencies, remove barriers and empower people interacting with Social Security Scotland.

The Bill will contribute positively to advance the national outcomes of:

- **Communities:** We live in communities that are inclusive, empowered, resilient and safe.
- **Human Rights:** We respect, protect and fulfil human rights and live free from discrimination.
- **Poverty:** We tackle poverty by sharing opportunities, wealth and power more equally.

The Scottish Government published a strategy document titled “Equality, opportunity, community: New leadership – A fresh start” on 18 April 2023 which set out the First Minister’s vision for Scotland and the outcomes the government aims to achieve by 2026.¹¹

The Bill will contribute positively to two of the three indicators set out: Equality and Community. Firstly, Equality, through tackling poverty. Social Security Scotland makes payments which contribute to reducing inequality and which help protect people from the harms which flow from living in poverty.

The second objective, Community, will be advanced through this Bill by prioritising public services in a way which is person-centred, with a focus on tackling inequalities

⁹ [s1\(b\), Social Security \(Scotland\) Act 2018](#)

¹⁰ [National Performance Framework | National Performance Framework](#)

¹¹ [Equality, opportunity, community: New leadership - A fresh start - gov.scot \(www.gov.scot\)](#)

and ensuring that people are empowered to access and challenge their social security entitlement.

Further information about the background and the policy intention of the Bill is set out in the Policy Memorandum which accompanies the Bill. An overview of the provisions included in the Bill and their specific policy aims are set out below.

The scope of this EQIA is focused on the possible equality impacts that may occur from implementing the provisions in the Bill. If passed, the Scottish Government intends to make regulations and to provide statutory guidance following consultation with stakeholders, to support the implementation of the Bill. This and further ongoing research and stakeholder engagement will contribute to further EQIAs for each set of substantive regulations.

Taking a regulation-making power for childhood assistance

New enabling powers are provided within the Bill, allowing the Scottish Ministers to make regulations for childhood assistance, which will help towards meeting some of the costs associated with having a child in the family. Scottish Ministers intend to use the new powers for childhood assistance in due course as a new legislative footing for Scottish Child Payment (SCP) to allow better alignment of Social Security Scotland benefits.

SCP is currently delivered under s79 of the 2018 Act¹² as a ‘top-up’ where an individual is receiving a qualifying UK Government benefit.¹³ Placing the payment on a new legislative footing will offer the opportunity for greater alignment across the five family payments (including the Best Start Grants and Best Start Foods) and will afford flexibility in the way the payment is delivered in the future.

Financial support for people with care experience

A provision will be included in the Bill allowing Scottish Ministers to create, by way of regulations, financial support for people with care experience. The current intention is that these powers will be used initially for a payment called the Care Leaver Payment (CLP).

The CLP will fulfil the commitment made in the Promise Implementation Plan published in March 2022 to ‘provide some additional financial security for young people with care experience and will help reduce some of the financial barriers that

¹² [s79, Social Security \(Scotland\) Act 2018](#)

¹³ [Who should apply - mygov.scot](#)

young people face whilst moving on from care and into adulthood and more independent living’.

Amendments to Coronavirus (COVID-19) measures introduced in 2020

In 2020, due to the coronavirus (COVID-19) pandemic, sections 52A and 52B were amended into the 2018 Act by the Coronavirus (Scotland) Act 2020.

Section 52A means requests for re-determinations must be considered valid beyond the maximum period of one year prescribed by the 2018 Act, where the reason for delay was related to COVID-19. Section 52A also allows for appeals to be brought beyond the maximum prescribed period of one year, where the Tribunal gives permission on the basis of being satisfied that the reason for the delay was related to COVID-19. Section 52B allows a late application to be treated as being made within the prescribed period for a given benefit under Chapter 2 of the 2018 Act, where the reason for delay was related to COVID-19.

The provisions in the Bill will give Social Security Scotland discretion to accept late requests for re-determination beyond the one-year prescribed period on the basis of ‘exceptional circumstances’, rather than only COVID-19. The provisions in the Bill will repeal section 52A of the 2018 Act and allow appeals to be brought, with the permission of the Tribunal, beyond the one-year prescribed period on the basis of ‘exceptional circumstances’, rather than only COVID-19. Provisions in the Bill will remove section 52B from the 2018 Act and revert application periods to existing pre-COVID deadlines.

Withdrawing a request for re-determination

Under the 2018 Act, where a determination of entitlement to assistance is made, an individual has a right to a re-determination. If a client asks for a re-determination, the Scottish Ministers are under a statutory duty to make a new determination. A client cannot subsequently withdraw their request for re-determination, even if their circumstances have changed since making their request, or if they have otherwise changed their mind.

The Bill includes provision enabling clients to withdraw a re-determination request if they no longer wish to challenge the decision. This policy builds on the person-centred, rights-based approach already adopted for challenge rights in line with the Scottish social security principles and the Social Security Charter (‘the Charter’).¹⁴

¹⁴ [Social Security Scotland - Our Charter](#)

Completing re-determinations beyond the period allowed

Where a re-determination is not completed by the Scottish Ministers in the timescales set out in the relevant regulations, the re-determination becomes out-of-time and the client is notified that they have a right to appeal to the First-tier Tribunal (Social Security Chamber) without waiting for the re-determination to be made. The Scottish Ministers are, at that point, no longer under a duty to make the re-determination. However, in practice, they continue to consider the re-determination request.

Provisions are included in the Bill so that the Scottish Ministers remain under the duty to make the re-determination beyond the period allowed, unless the client opts to exercise their right to appeal. This will offer legal clarity in terms of what happens in practice when a re-determination runs late.

Making a new determination of entitlement whilst there is an ongoing appeal

Under the 2018 Act, Scottish Ministers cannot make a new determination after a valid appeal has been brought, even if an error has been identified, or new evidence received, which shows that a client has been underpaid, or not received an award that they were entitled to. The appeal must continue unless it is withdrawn by the client.

In instances where the Scottish Ministers recognise that an individual should have received a higher, or more advantageous, award, the provisions in the Bill allow a new determination to be made after an appeal has been lodged and the appeal to stop as a result. The new determination can only be made if the client agreed, and will come with challenge rights.

Appeals to First-tier Tribunal against process decisions

The 2018 Act provides at section 61 that individuals can appeal to the First-tier Tribunal for Scotland against certain decisions made by the Scottish Ministers on the process of applying for benefits, or the process of challenging determinations.

The provisions in the Bill set out the powers of the Tribunal to uphold or set aside decisions in process appeals, and the effect of a Tribunal decision in a process appeal. The Bill also sets out further circumstances in which a process appeal may be raised, to include the new types of process introduced by the Bill.

Overpayment liability and challenge rights

Under the 2018 Act, a client has a statutory liability to repay any overpayment made in error, except where they did not cause or contribute to that error, and if it was the sort of error a person could not reasonably be expected to have noticed.

The provisions in the Bill set out that liability extends to clients who have a representative acting on their behalf, except where the representative uses the assistance for a purpose which is a breach of their duties or responsibilities, in which case the representative will be personally liable.

Currently, where Social Security Scotland determines that an overpayment has occurred, it makes a new determination on a client's entitlement to benefit. Although this new determination will bring re-determination and appeal rights if the client wants to challenge the decision, there is not any formal right to challenge the decision that an individual is liable to repay the overpayment.

The provisions in the Bill also introduce a right to a review (followed by a right to appeal to the First-tier Tribunal for Scotland (Social Security Chamber)) against a finding of liability for an overpayment. The further review and appeal provisions in part 6 of the Tribunals (Scotland) Act 2014 will also be available.

Recognising Appointments made by a Minister of the Crown

Where a person lacks capacity to manage their own financial affairs, the Department for Work and Pensions (DWP) and Scottish Ministers both have provisions that allow them to appoint a person or organisation, known as an appointee, to act on that person's behalf.

Due to differences in the law and the processes that govern appointments in Scotland and the rest of the United Kingdom, a DWP appointee – which is an appointment made by a Minister of the Crown – cannot automatically be treated as equivalent to an appointee under the 2018 Act.

The Bill will introduce powers for Scottish Ministers to make provision in regulations prescribing circumstances in which a DWP appointee may be treated as though they had been appointed by Scottish Ministers to act on a client's behalf, pending an assessment by Social Security Scotland.

Liability of appointees

Currently, there is no provision within the 2018 Act with the effect that an appointee will be liable to account to the individual for any mismanagement of the individual's property (either in relation to children or adults). There are provisions respectively, in terms of the Children (Scotland) Act 1995 and the Adults with Incapacity (Scotland) Act 2000, which make other types of representatives liable to the individual for mismanagement of their property.

The Bill provides that an appointee will be liable to account to the individual for whom they were appointed, for their use of the individual's funds outwith their authority or power, or after having received intimation of the termination or suspension of their

authority or power to intervene. They are to be liable to repay the funds to the account of the individual. No liability will be incurred where the appointee acted reasonably and in good faith in their use of the individual's funds.

Information for audit of the social security system

Social Security Scotland need to produce effective measurements and estimates of the extent of client error, official error, and fraud as assurance that the social security system is efficient and delivering value for money in line with the Scottish social security principles.¹⁵

Currently Scottish Ministers can only request that people provide information for the specific purpose of determining an individual's entitlement to social security assistance. Provisions in the Bill will give Scottish Ministers powers to require individuals to provide information when reasonably requested to do so, in order to review their entitlement for the purposes of audit. Safeguards will be built in to ensure that where a person has good reason they might be exempted from the process.

Recovering Scottish social security assistance from awards of compensation

A person affected by accident, injury, or disease due to the fault of a third party may be entitled to compensation. Depending on the nature of their accident, injury, or disease they may also be entitled to social security assistance. The Scottish Government believes that a third party's legal obligation to fully compensate those they have harmed should not be subsidised by Scotland's social security system.

The provisions in the Bill allow the Scottish Government to recover relevant forms of Scottish assistance from awards of compensation, avoiding the risk of a person being 'doubly compensated' for the same incident. The policy on compensation recovery is consistent with the responsibilities in the Scottish Public Finance Manual¹⁶, and aligns with the Scottish social security principle that the Scottish social security system is to be efficient and deliver value for money.¹⁷

Changes to the remit and status of the Scottish Commission on Social Security

The Scottish Commission on Social Security (SCoSS) reviews certain social security policies, by way of consideration of draft regulations, and provides the Government

¹⁵ [s1\(h\), Social Security \(Scotland\) Act 2018](#)

¹⁶ [Scottish Public Finance Manual - gov.scot \(www.gov.scot\)](#)

¹⁷ [s1\(h\), Social Security \(Scotland\) Act 2018](#)

and the Scottish Parliament with scrutiny reports on each piece of legislation it reviews.

The provisions in the Bill expand the types of regulations that SCoSS is able to review, and replace the requirement for SCoSS to prepare accounts for external audit, with a requirement to submit an annual report on their work to Scottish Ministers. The Scottish Ministers will then share this report with the Scottish Parliament.

The Bill also removes the status of SCoSS as a body corporate. SCoSS will continue to be recognised as an advisory non-departmental public body which better reflects how it operates in practice.

The Scope of the EQIA

In developing the Bill, the Scottish Government has been mindful of its duty under the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012¹⁸ to assess the impact of the policies and practices within the bill in terms of the the Public Sector Equality Duty (PSED)¹⁹ and the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Part 2 of the Equality Act 2010²⁰ identifies nine protected characteristics of: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation. The provisions in the Bill have been assessed against the extent to which they address the three PSED needs for each protected characteristic group.

In addition, particular consideration has been given to the Scottish social security principle which states that –

¹⁸ SSI 2012/162

¹⁹ [s149, Equality Act 2010](#)

²⁰ [Equality Act 2010 \(legislation.gov.uk\)](#)

“opportunities are to be sought to continuously improve the Scottish social security system in ways which –

(i) put the needs of those who require assistance first, and

(ii) advance equality and non-discrimination”²¹

This EQIA uses multiple sources and evidence gathered from stakeholders to inform the potential impacts the Bill may have on people who possess one or more protected characteristics. A public consultation ‘Scotland’s social security system – enhanced administration and compensation recovery’²², which informed the Bill ran from 4 August to 27 October 2022 and sought views on any potential equality impacts that the proposals may have.

A range of associated public engagement events took place during the same period and an online workshop was co-facilitated with Disability Equality Scotland to gather the views of their members. An independent analysis of consultation responses was undertaken by external consultants EKOS²³ and published by the Scottish Government on 31 March 2023.²⁴

The feedback from the public engagement events was supplemented by further research undertaken by the Social Security Experience Panels and Client Panels teams with their members. This research took the form of focus groups, interviews and a survey to explore members’ views on topics included within the consultation.²⁵

Feedback on equality impacts provided in consultation responses, during engagement events and research undertaken has been considered by officials throughout policy development.

Officials undertook framing sessions at which policy aims, potential barriers to achieving desired outcomes and supporting evidence were discussed and used to inform the EQIA process.

During the framing phase it was recognised that there are provisions in the Bill which will not have any immediate impact on individuals. An EQIA record was completed

²¹ [Social Security \(Scotland\) Act 2018 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

²² [Scotland’s social security system: enhanced administration and compensation recovery - consultation - gov.scot \(www.gov.scot\)](https://www.gov.scot)

²³ [Home - EKOS \(ekos-consultants.co.uk\)](https://www.ekos-consultants.co.uk)

²⁴ [Social security system - enhanced administration and compensation recovery: consultation analysis - gov.scot \(www.gov.scot\)](https://www.gov.scot)

²⁵ [Social Security Experience Panels - re-determinations and appeals, fraud and special measures for COVID-19: main report - gov.scot \(www.gov.scot\)](https://www.gov.scot)

for these provisions to provide assurance but no impacts, positive or negative, were identified for individuals or groups of people who share protected characteristics.

The Bill makes provision to take a regulation-making power for childhood assistance to allow closer alignment of Social Security Scotland benefits. The framing exercise showed that there were no specific equalities impacts arising directly from this provision in the Bill. The intention is for the new powers to be used in future to change the legislative footing of SCP. There will be no specific changes affecting people in receipt of or eligible for SCP until future regulations are developed using this power. A further EQIA will be carried out in future for any subsequent regulations developed using the powers in this Bill.

The Bill also takes a regulation-making power to enable Scottish Ministers to create one or more schemes to provide care experience assistance. An initial framing exercise has been completed for this proposal considering the current initial intention that this power will be used to deliver a Care Leaver Payment, which will provide a payment to care leavers aged 16-25. Details on the eligibility criteria, processes and delivery model of the Care Leaver Payment are still to be determined. This will be developed through engagement and consultation with care experienced people and those with experience of delivering similar support.

Further impact assessments will also be undertaken on any scheme established by way of regulations. Details of any assistance will be set out in regulations, which will be subject to further parliamentary scrutiny.

The provisions about SCoSS intend to make technical changes to the current governance arrangements for SCoSS and extend their scope to ensure that SCoSS are able to scrutinise administrative regulations. These reforms will not have any direct impact on individuals.

The Bill also makes provision about appealing to the First-tier Tribunal against process decisions. This provision clarifies the powers of the Tribunal in a process appeal, along with the duties of the Scottish Ministers where the Tribunal sets aside the Scottish Ministers' previous decision. An EQIA record was not considered necessary for this provision as it only serves to clarify existing policy intent in legislation.

Officials will continue to engage with stakeholders and will regularly review the EQIA record and results following any additional data, analysis or amendments to the Bill.

Key Findings

Age

Social Security Scotland's client diversity and equalities analysis for the most recent period from May 2021 to March 2023²⁶ shows that 78% of clients are under the age of 45 with 33% of clients aged 25 to 34 and only 2% of clients aged 65 or over. This high proportion of younger people does not reflect the population of Scotland as a whole²⁷, but is probably due to the type of support provided by Social Security Scotland to that date.

The majority of equalities forms analysed were for benefits for young people, children or families with children. Since the previous reporting period there has been an increase in the proportion of clients in all age groups from 35 to 44 upwards. This change is partly due to the introduction and roll out of Adult Disability Payment (ADP) as two thirds of ADP applications were received from those 35 or over, with 43% within the 45 to 64 age band.

The age distribution of Social Security Scotland applicants is likely to change in coming years as Social Security Scotland continues to introduce and deliver a wider range of assistance. The introduction of Carer Support Payment in late 2023 and the Pension Age Winter Heating Payment in Autumn 2024 are likely to lead to Social Security Scotland receiving more applications from older people.

The provisions for Scottish Ministers to make regulations for Childhood Assistance are likely to have a positive impact on children and young people when those regulations are made, given their focus on help towards meeting some of the costs associated with having a child in the family. A full suite of impact assessments, including an EQIA, will be carried out in the course of developing regulations to be made using the power in the Bill.

The Bill makes provision for Scottish Ministers to create, by way of regulations, financial assistance for people with care experience. The current intention is that these powers will be used initially for a payment to provide financial support for care leavers as they leave their care setting. A care leaver is a young person who ceased to be looked after on, or at any time after, their sixteenth birthday. Details on the payment's eligibility criteria, processes and delivery model are still to be determined but it is anticipated that the payment will provide support primarily to those who are 16-25 years old.

This financial assistance is likely to have a positive impact and advance equality of opportunity for this group of care experienced people. The payment aims to provide more stable and positive transitions towards adulthood and more independent living for care leavers who often do not have the same support network as their non-care

²⁶ [Social Security Scotland client diversity and equalities analysis to March 2023 - gov.scot \(www.gov.scot\)](https://www.gov.scot)

²⁷ [Mid-2021 Population Estimates Scotland](#) (Last Updated: July 2022, National Records of Scotland)

experienced peers. During policy development the age of potential recipients of this payment will be a factor when designing communications and considering how best to promote uptake.

Further consultation and impact assessments, including an EQIA, will be undertaken during policy development for any subsequent regulations including for a payment to support care leavers.

The proposal for Scottish Ministers to make provision in regulations prescribing circumstances in which DWP appointees will be recognised pending an assessment by Social Security Scotland, will have a positive impact on older people through eliminating discrimination and advancing equality of opportunity. There is a relationship between incapacity and age with evidence suggesting that the older the person the higher the probability of incapacity. People over the age of 65 make up 20% of the population of Scotland²⁸ however those over 65 account for 46% of people who are subject to a welfare guardianship order.²⁹

The Scottish Government approach to making an appointment involves a comprehensive assessment of the appropriateness of an appointment, taking into account the views of the client, the potential appointee and any other relevant individuals, and for Adults with Incapacity, will often involve a face-to-face visit from Social Security Scotland. While this provides assurance of the appropriateness of an appointment, there is concern that an unintended consequence of this process could be that clients face a delay in accessing their social security entitlement.

The provisions in the Bill take a regulation-making power allowing Scottish Ministers to prescribe in secondary legislation circumstances where a DWP appointee may be treated as though they had been appointed by Scottish Ministers to act on a client's behalf. Once developed, these regulations will ensure that there will be no delay in payments being made due to the appointee process. Further consideration will be given to equality impacts during the development of the secondary legislation.

The provisions which make an appointee liable to the client for any mismanagement of their social security assistance, will have a similar positive impact for older people. Existing legislation makes other types of representatives liable to the individual for mismanagement of their property. The provisions in the Bill will ensure that people represented by an appointee will be offered the same protections and also have a route to recover funds from an appointee who has acted in bad faith and mismanaged their money.

²⁸ [Mid-2021 Population Estimates Scotland | National Records of Scotland \(nrsotland.gov.uk\)](https://nrs.scot.nhs.uk/nrs-scotland/mid-2021-population-estimates-scotland/)

²⁹ [AWI Monitoring-Report 2021-22.pdf \(mwscot.org.uk\)](https://www.mwscot.org.uk/monitoring-report-2021-22/)

While Social Security Scotland benefits all include age within their eligibility criteria this not expected be a direct factor in whether an award is selected for audit, rather it will depend on the sampling methodologies deployed by Social Security Scotland. It is expected that, like other government agencies such as HMRC and DWP, this will be randomised with the aim of minimising selection bias and ensuring samples are representative of the entire benefit case population for each form of assistance. After the Bill has been passed and prior to the operational implementation of this proposal the processes and methodologies will be subject to their own EQIA which will identify any direct or indirect impacts and necessary mitigations.

Stakeholder engagement will inform the processes used to capture information for audit to ensure that they are clear, user-friendly and accessible.

It is anticipated that auditing the accuracy of decisions by Social Security Scotland will help to identify areas for improvement to processes for assessing entitlement more generally, which will positively impact all its clients, but may also identify patterns or trends, bias, prejudice or training needs in determinations which relate to those with specific characteristics. It could for example identify under or overpayments among older people which could drive improvements to processing or communications.

Disability

The proportion of Social Security Scotland applicants in the period to March 2023 who self-identified as having a physical or mental health condition or illness lasting or expected to last 12 months or more was 32%.³⁰ Comparable nationwide data does not exist for Scotland as a whole but 34% of adults reported that they lived with a limiting long-term condition in 2021.³¹

There has been a significant increase in the proportion of clients who self-identified as having a health condition lasting or expected to last 12 months or more from 17% in 2021³² to 32% in 2023. It is likely that this increase is due to the launch and roll out of ADP during this time period. The proportion of Social Security Scotland clients living with long term health issues is likely to change over coming years with the introduction of other forms of assistance, particularly those aimed at older cohorts.

³⁰ [Social Security Scotland client diversity and equalities analysis to March 2023 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/social-security-scotland-client-diversity-and-equalities-analysis-to-march-2023/pages/10-to-12.aspx)

³¹ [The Scottish Health Survey 2021: summary report - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/scottish-health-survey-2021-summary-report/pages/10-to-12.aspx)

³² [Social Security Scotland client diversity and equalities analysis to May 2021 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/social-security-scotland-client-diversity-and-equalities-analysis-to-may-2021/pages/10-to-12.aspx)

Poverty rates remain higher for households in which somebody is disabled compared to those where no-one is disabled. 29% of children in households with a disabled member live in relative poverty, compared to 24% of all children.³³

Households with a disabled family member are therefore more likely to qualify for SCP. The provisions in the Bill taking a regulation-making power for childhood assistance will not alter the current operation of SCP but will offer Scottish Ministers greater flexibility to make changes to SCP in future via secondary legislation. Equality impacts will be considered further in future when regulations are developed.

The representation of disability within the care experienced cohort is slightly above that of the overall population. In 2021, 10% of looked after children had a disability, although disability status was not known / recorded for a quarter of children.³⁴

The proposal to use the regulation-making powers included in the Bill to create financial support for people with experience of care is likely to have a positive impact on this cohort of people who also have a disability by promoting equality of opportunity. Care-experienced people are less likely to have any financial support from friends and family and a lack of financial support is understood to be a significant stressor for those after they leave care.³⁵

The Bill makes provision to repeal section 52B which allows a late application to be treated as being made within the required period where the reason for delay was related to COVID-19. During policy development consideration was given to the impact on disabled people of repealing this section. Disabled people may be more likely to experience delays in making their application due to health problems or due to the availability of services offering support to make their application.

Removing this provision introduced during the COVID-19 pandemic will not have a negative impact on people with a disability as forms of assistance delivered by Social Security Scotland have existing flexibilities built in. For example, the regulations for ADP³⁶ and Child Disability Payment (CDP)³⁷ both stipulate that where a person has a good reason for not completing their application within 8 weeks (for ADP) or 6 weeks (for CDP), Scottish Ministers can treat their application as though it was made within those time periods, thereby preserving an earlier start date for any assistance.

³³ [Child Poverty Rates in Families with a Disabled Adult or Child - Tackling child poverty - third year progress report : annex B - child poverty in families with a disabled adult or child - gov.scot \(www.gov.scot\)](#)

³⁴ [Looked after children - National Care Service - children's social services: overview - gov.scot \(www.gov.scot\)](#)

³⁵ [Survival is not easy - National Leaving Care Benchmarking Forum - Cost of living report 2022 \(leavingcare.org\)](#)

³⁶ [s35\(6\), The Disability Assistance for Working Age People \(Scotland\) Regulations 2022](#)

³⁷ [s24\(6\), The Disability Assistance for Children and Young People \(Scotland\) Regulations 2021](#)

It should be noted that despite the repeal of section 52B, COVID-19 can still be a good reason for delay under these regulations.

This proposal was discussed during an engagement session co-facilitated by Disability Equality Scotland with their members, many of whom have experience interacting with Social Security Scotland. Participants mentioned the existing flexibilities in application windows and it was clear that there is already a general awareness that where there is a good reason for the delay in completing an application then the application can be treated as being made on time.

In addition, section 52B was in practice relied upon very rarely by people making applications for assistance. Social Security Scotland internal management information suggests that fewer than 0.1 per cent of applications for Best Start Grant, Funeral Support Payment, Young Carers Grant and Job Start Payment between 7 April 2020 and 31 December 2022 relied on section 52B.

The provisions in the Bill which intend to give Social Security Scotland discretion to accept requests for re-determinations, and the Tribunal discretion to give permission for appeals to be brought, beyond the one-year prescribed period on the basis of 'exceptional circumstances', are likely to have a positive impact on people with a disability.

This proposal will allow clients who have experienced a period of prolonged physical or mental illness to request a re-determination beyond a year, thereby increasing access to the challenge process for people with a disability. During stakeholder engagement sessions, advice and advocacy services suggested that some of the barriers to clients bringing a challenge timeously could include a period of acute mental illness or aggravation of a physical condition. Pressures on healthcare services and delays to treatment were cited, alongside long-term hospitalisation, as potential reasons for clients being unable to request a re-determination within a year.

The policy to allow late appeals after a year in exceptional circumstances will be applied equally to people in receipt of Social Security Scotland assistance that attract a right of appeal. However the policy may have a greater positive impact on people with a disability who are in receipt of ADP as it is likely that ADP will make up the majority of appeals against Social Security Scotland decisions on entitlement. ADP is a benefit for disabled people or those with long term ill health conditions and so this policy will have a direct and positive impact on disabled people. The majority of people in receipt of ADP are likely to be covered by the definition of "disability" in the Equality Act 2010.

The published statistics of the reserved Social Security and Child Support (SSCS) Tribunal³⁸ show that in each of the last three years Personal Independence Payment has been responsible for over 60% of the total number of appeals received by the Tribunal. The SSCS hears appeals on over 20 reserved benefits, including Universal Credit³⁹, whereas the First-tier Tribunal for Scotland (Social Security Chamber) will hear appeals for fewer benefits. It is therefore likely that ADP will make up the vast majority of appeals to the devolved Tribunal.

These provisions embed a flexible, person-centred approach to the challenge process and remove current time limits which could be a potential barrier particularly for those people with a disability.

The proposal to enable clients to withdraw a re-determination request if they no longer wish to challenge the decision is likely to have a positive impact on people who have a disability. For people with a physical or mental health condition, increased flexibility when accessing the challenge process could be beneficial, as they will be able to change their minds and will not have to continue the process if they no longer consent. As reflected in supportive responses in the consultation, allowing people to withdraw requests will make them feel more in control of their finances, thereby increasing their confidence when challenging decisions.

In particular, One Parent Families Scotland emphasised this new policy could offer significant benefits for people with anxiety and other mental health conditions, as they will have increased autonomy over their re-determination process. The process of withdrawing a re-determination should be entirely client-led, so that disabled clients and their appointees do not feel any pressure to withdraw a re-determination request. To ensure client empowerment, the process must promote informed decision-making and access to local delivery support and advisory services. Information relating to withdrawing a re-determination request will also need to be accessible to guarantee ease of comprehension for people with sensory, learning or cognitive disabilities, otherwise this could lead to exclusion.

The proposal to allow Scottish Ministers to make a new determination after an appeal has been lodged in certain circumstances, and bringing the appeal to an end as a result, is also likely to have a positive impact on people who have a disability. The proposal will offer people more flexibility and choice about how they challenge decisions about their entitlement. The provisions require an individual's consent to end their appeal, and any new determination comes with fresh challenge rights.

³⁸ [Tribunal Statistics Quarterly: January to March 2023 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/tribunal-statistics-quarterly-january-to-march-2023)

³⁹ [First-tier Tribunal \(Social Security and Child Support\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/first-tier-tribunal-social-security-and-child-support)

It is anticipated that appeals about ADP will make up the majority of appeals against Social Security Scotland decisions on entitlement. There is evidence from the reserved UK social security system that challenging decisions can be a lengthy, daunting, stressful process and difficult to navigate.⁴⁰ There is evidence that disabled people who have lived experience of the UK welfare system have experienced significant stress and anxiety during the tribunal process and that appeals demanded great energy and resilience.⁴¹ Stopping the appeal process, where the client consents to a new determination being made and the new determination is more advantageous, could benefit some clients who may find the experience of participating in an appeal stressful.

The provision to set out that liability extends to clients who has someone acting on their behalf (except where the person acting uses the assistance for a purpose which is a breach of their duties or responsibilities, in which case they will be personally liable), is the formalisation in legislation of an existing process achieved by way of written declarations.

The Scottish Government recognises that people who lack capacity due to disability are likely to have someone acting on their behalf. This proposal is not expected to have a negative impact on disabled people as any liability (or recovery) of overpayments is not related to a person's disability and safeguards are in place through the representative process to provide support. The provision only extends liability to a person who lacks capacity where they have benefited from the overpayment, and that finding of liability also comes with full challenge rights.

The provisions in the Bill also make appointees who act in breach of their duties liable to the person who they act for. These provisions will have a disproportionate positive impact on disabled people, given that disabled people are more likely to have an appointee.

The proposal to take a power for Scottish Ministers to make provision in regulations prescribing circumstances in which DWP appointees will be recognised pending an assessment by Social Security Scotland, is likely to have a positive impact on people with a disability who have an appointee acting on their behalf. Once developed, these regulations will ensure that there will be no delay in payments being made due to the appointee process. Further consideration will be given to equality impacts during the development of the secondary regulations

⁴⁰ [Reforming Benefits Decision-Making: A Report by JUSTICE and the Administrative Justice Council, 2021](#)

⁴¹ Has Welfare Become Unfair: The impact of welfare changes on disabled people. A report by the Disability Benefits Consortium, July 2019 [has-welfare-become-unfair-full-report.pdf \(rethink.org\)](#)

The policy to recover Scottish social security assistance from compensation awards is likely to have an impact on people who have a disability or- receive a form of disability or other assistance due to a serious disease, accident or injury.

The intention is to recover amounts of social security assistance from compensation payments made by liable third parties in relation to accidents, injuries or disease. The forms of Scottish social security assistance set out in the Bill that will be recovered are Adult Disability Payment (ADP), Child Disability Payment (CDP), and Scottish Child Payment (SCP). SCP has been included under the loss of earnings compensation head as it is considered to be an income supplement and in order to qualify for SCP people must be in receipt of an earning replacement benefit such as Universal Credit (UC).

People who are in receipt of disability related assistance are likely to be impacted by this policy. This impact has not been assessed as a disproportionately negative impact on people who have a disability. This is because the purpose of social security assistance in these circumstances is to support people with disabilities until settlement is reached with liable third parties. It is not considered disproportionately disadvantageous to people with disabilities as the amounts of assistance have already been received and this policy is designed to avoid the injured person receiving payment twice for the same accident, injury or disease following settlement of a compensation claim. In the consultation, more respondents agreed than disagreed with the proposal. The main reason given for supporting the proposal was that people should not be compensated twice for the same injury or disease.

The injured persons impacted by this policy will already have received social security payments from Scottish Ministers. If they are to then receive compensation as well, for the same accident, injury or disease, the compensator (usually an insurance company) will then be required to repay to Scottish Ministers any assistance received by those disabled or injured people. The compensation payment to be made to the injured person will be offset against this sum, reduced by the amount owed to Scottish Ministers. Following settlement of the compensation claim, disabled or injured people will continue to receive those forms of Scottish social security assistance without any further amounts received applicable for recovery.

The provisions in the Bill giving Scottish Ministers powers to require people to provide information for the purpose of audit will not have a direct impact on disabled people but there may be an impact depending on operational processes. While some Social Security Scotland benefits include care and mobility needs resulting from disability within their eligibility criteria this not expected be a direct factor in whether their award is selected for audit, rather it will depend on the sampling methodologies deployed by Social Security Scotland. It is expected that, like other government agencies such as HMRC and DWP, this will be randomised with the aim of minimising selection bias and ensuring samples are representative of the entire

benefit case population for each form of assistance. After the Bill has been passed and prior to the operational implementation of this proposal the processes and methodologies will be subject to their own EQIA which will identify any direct or indirect impacts and necessary mitigations.

Stakeholder engagement will inform the processes used to capture information for audit to ensure that they are clear, user-friendly and accessible.

It is anticipated that auditing the accuracy of decisions by Social Security Scotland will help to identify areas for improvement to processes for assessing entitlement more generally, which will positively impact all its clients but may also identify patterns or trends, bias, prejudice or training needs in determinations which relate to those with specific characteristics. It could for example identify under or overpayments among clients with a particular disabling condition which could drive improvements to decision making, processing or communications.

Gender Reassignment

There is no robust recent data relating to the proportion of people in Scotland to whom the gender reassignment protected characteristic applies. One percent of the clients who responded to the Social Security Scotland client diversity and equalities analysis self-identified as transgender and 4% chose 'prefer not to say'.⁴²

Officials have not identified any direct impacts from the provisions in this Bill on people to whom the gender reassignment protected characteristic applies.

However, research indicates that transgender people are subject to higher levels of prejudice and discrimination.⁴³ The proposals in the Bill that promote a client-centred approach to accessing social security and challenging decisions, could have a positive impact on transgender people by offering increased choice, flexibility and empowerment. It will be important to consider any barriers transgender people may face in terms of accessing social security and support with making a challenge. Informed decision-making must be promoted by Social Security Scotland and people signposted to advice and advocacy services available where appropriate.

Marriage and Civil Partnership

The protected characteristic of marriage and civil partnership does not require assessment in this EQIA as the provisions in the Bill do not relate to work or human

⁴² [Social Security Scotland client diversity and equalities analysis to March 2023 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/social-security-scotland-client-diversity-and-equalities-analysis-to-march-2023/pages/10-to-14.aspx)

⁴³ [Stonewall | LGBT in Britain - Trans Report \(2017\)](https://www.stonewall.org.uk/resources/reports/stonewall-lgbt-in-britain-trans-report-2017)

resource policies or practices. Officials have not identified any impacts on people to whom the marriage and civil partnership applies.

Pregnancy or Maternity

People with the protected characteristic of maternity will be more likely to apply for childhood assistance than other people as by definition it is assistance for people with children. The regulation-making powers taken for Scottish Ministers by the Bill are intended to be used in due course to change the legislative footing of SCP. Any changes made to the delivery of SCP in future will have an impact on people with this protected characteristic. The provisions in the Bill will not alter the current operation of SCP but will offer Scottish Ministers greater flexibility to make changes to SCP in future via secondary legislation. Equality impacts will be considered in future when regulations are developed.

It is acknowledged that people who have experience of being in care often require additional support and assistance through pregnancy.⁴⁴ The provision included in the Bill allowing Scottish Ministers to create, by way of regulations, financial support for people with care experience will have no specific impact on people with the protected characteristic of pregnancy and maternity. It is anticipated that people will be able to benefit from the financial support of care experience assistance if they meet the eligibility criteria. The eligibility criteria, processes and delivery model will be developed through engagement and consultation with care experienced people and those with experience of delivering similar payments and support. Following development these details will be set out in regulations and further equalities analysis undertaken.

Race

In 2017-22, people from non-white minority ethnic groups were more likely to be in relative poverty after housing costs. The poverty rate was 49% for the 'Asian or Asian British' ethnic groups, and 48% for 'Mixed, Black or Black British and Other' ethnic groups, compared with 23% for 'White - Other' and 18% for 'White - British'.⁴⁵

The proportion of Social Security Scotland clients self-identifying as belonging to a minority ethnic group is slightly higher, at 6%⁴⁶, than in the wider Scottish population at just under 5%.⁴⁷ 7% preferred not to say. This suggests that the cross-cutting

⁴⁴ [Care-experienced Parents Unite for Change | Barnardo's \(barnardos.org.uk\)](https://www.barnardos.org.uk/care-experienced-parents-unite-for-change)

⁴⁵ [Poverty and Income Inequality in Scotland 2019-22 - gov.scot \(www.gov.scot\)](https://www.gov.scot/poverty-and-income-inequality-in-scotland-2019-22)

⁴⁶ [Social Security Scotland client diversity and equalities analysis to March 2023 - gov.scot \(www.gov.scot\)](https://www.gov.scot/social-security-scotland-client-diversity-and-equalities-analysis-to-march-2023)

⁴⁷ [Scottish Surveys Core Questions 2019 - Supplementary Tables](https://www.gov.scot/scottish-surveys-core-questions-2019-supplementary-tables) (Last updated: January 2021)

changes made to the Scottish social security system by the provisions in this Bill are likely to have an impact on people to whom the race protected characteristic applies.

The Scottish Government recognises that there are a higher proportion of children from an ethnic minority household living in relative poverty, at 39% compared to 24% of all children.⁴⁸ As a result certain minority ethnic groups are more likely to be eligible for childhood assistance and therefore more likely to be impacted by any changes made in future. There will be no specific changes affecting those in receipt of or eligible for SCP until future regulations are developed using this power. A further EQIA will be carried out in future for any subsequent regulations developed using the powers in this Bill.

The ethnic background of looked after children and young people mirrors the wider Scottish population. The majority of looked after children are of white ethnicity (84.1%) with 4.8% of looked after children belonging to other ethnic groups while there are 11% of looked after children whose ethnicity is unknown.⁴⁹ There will however be no specific impact from the care experience assistance provisions on people who share the race protected characteristic as people will be able to benefit from the financial support created if they meet the eligibility criteria as set out in due course in regulations.

Research conducted by the Scottish Government suggests that some people from minority ethnic groups may be concerned about the stigma associated with accessing social security.⁵⁰ As a result social security processes, particularly challenge rights processes, must be client-led and should be designed to ensure that clients do not feel pressured in any way.

The provisions intended to allow withdrawal of re-determinations should have the benefit of offering greater choice and increased flexibility, but it will be important to consider any barriers to accessing social security experienced by people from minority ethnic backgrounds and design an inclusive process for withdrawal, which is solely led by the client and free of external pressures and prejudice.

To ensure that the benefits of the changes made by the Bill to the re-determinations and appeals processes are felt by people belonging to minority ethnic groups, client-facing communications must be accessible and inclusive with signposting to relevant advice and advocacy services. Local delivery, including language services, should also be prepared to provide support where necessary to enable clients to access services and progress challenges against Social Security Scotland.

⁴⁸ [Additional child poverty analysis 2023 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/additional-child-poverty-analysis-2023/pages/10-12.aspx)

⁴⁹ [Children's social work statistics: 2019 to 2020 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/childrens-social-work-statistics-2019-to-2020/pages/10-12.aspx)

⁵⁰ [Social Security Experience Panels - ethnic minorities: report, 2020](https://www.gov.scot/publications/social-security-experience-panels-ethnic-minorities-report-2020/pages/10-12.aspx)

Information about a person's race is not part of the eligibility criteria for Scottish Benefits although nationality and immigration status are. Race is not expected to be a factor in whether a person's award is selected for audit, rather it will depend on the sampling methodologies deployed by Social Security Scotland. It is expected that, like other government agencies such as HMRC and DWP, this will be randomised with the aim of minimising selection bias and ensuring samples are representative of the entire benefit case population for each form of assistance. After the Bill has been passed and prior to the operational implementation of this proposal the processes and methodologies will be subject to their own EQIA which will identify any direct or indirect impacts and necessary mitigations.

Stakeholder engagement will inform the processes used to capture information for audit to ensure that they are clear, user-friendly and accessible.

It is anticipated that auditing the accuracy of decisions by Social Security Scotland will help to identify areas for improvement to processes for assessing entitlement more generally, which will positively impact all its clients but may also identify patterns or trends, bias, prejudice or training needs in determinations which relate to those with specific characteristics. It could for example identify under or overpayments among people of particular minority ethnic groups which could drive improvements to processing or communications.

Religion or Belief

The Scottish Government is aware that when adults in relative poverty are considered by religion, statistics show that poverty impacts some religious groups more than others. Data shows that in 2017-22 63% of Muslim adults were living in relative poverty compared to 19% of adults overall.⁵¹ People living on low incomes are more likely to interact with Social Security Scotland. This suggests that the cross-cutting changes made to the Scottish social security system by this Bill are likely to have a disproportionate positive impact on members of this religious group. The provisions in the Bill intend to empower people to challenge decisions, create efficiencies and streamline processes all of which should result in an improved experience of interacting with Social Security Scotland.

Sex

The latest mid-year estimates for Scotland published by National Records of Scotland show that 51% of the population were female, and 49% were male.⁵²

⁵¹ [Poverty & Income Inequality in Scotland: 2019-22 \(www.gov.scot\)](http://www.gov.scot)

⁵² [Mid-2021 Population Estimates Scotland | National Records of Scotland \(nrscotland.gov.uk\)](https://www.nrscotland.gov.uk)

However, the proportion of Social Security Scotland applicants to March 2023 who self-identified as 'Man' (16%) were significantly lower than those who self-identified as 'Woman' (77%). A small proportion of applicants (less than 1%) self-identified 'in another way' and 6% of applicants selected 'prefer not to say'⁵³. The majority of equalities data for this period were from applicants for benefits relating to children. The high proportion of women applying for these benefits – Scottish Child Payment (85%), Best Start Grant and Best Start Foods (86%) and Child Disability Payment (84%) – has an impact on the gender breakdown for clients as a whole.

In society, caring roles most typically fall to women⁵⁴. In addition to the figures above for Scottish Child Payment and Best Start assistance, 69% of people who receive Carers Allowance Supplement are women.⁵⁵ Currently, of the thirteen benefits that Social Security Scotland deliver, seven relate to dependent children and two relate to caring responsibilities. As Social Security Scotland delivers a wider range of assistance, it is likely the gender distribution of all applicants will change over the medium-long term, though it is still expected that there will continue to be a difference between the gender breakdown of Social Security Scotland clients and the gender breakdown of the Scottish population.

Research conducted by Poverty Alliance and Scottish Women's Budget Group shows that women are being disproportionately impacted by the cost-of-living crisis due to existing inequalities across all areas of life.⁵⁶ Women are more likely to be living in poverty, have lower levels of savings and wealth and are less able to increase paid work than men due to caring responsibilities. Lone parent families are also particularly at risk of poverty as the least wealthy type of household in Scotland⁵⁷, and of the 142,000 lone parents with dependent children in Scotland in 2021, 89% were women⁵⁸.

The vast majority of people who apply for SCP self-identify as women (85% of applicants).⁵⁹ There will be no specific changes affecting those in receipt of, or eligible for, SCP until future regulations are developed using this power. A further EQIA will be carried out in future for any subsequent regulations developed using the

⁵³ [Social Security Scotland client diversity and equalities analysis to March 2023 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/social-security-scotland-client-diversity-and-equalities-analysis-to-march-2023/pages/10-to-12.aspx)

⁵⁴ [Scotland's Carers](https://www.gov.scot/publications/scotland-s-carers/pages/1.aspx)

⁵⁵ [Carer's Allowance Supplement, October eligibility date 2022 and Carer's Allowance, Disability Living Allowance, Attendance Allowance and Severe Disablement Allowance at August 2022: statistics - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/carer-s-allowance-supplement-october-eligibility-date-2022-and-carer-s-allowance-disability-living-allowance-attendance-allowance-and-severe-disablement-allowance-at-august-2022/pages/1.aspx)

⁵⁶ [It's hard work being poor - Women's experiences of the cost-of-living crisis in Scotland - November 2022 \(povertyalliance.org\)](https://www.povertyalliance.org/2022/11/09/its-hard-work-being-poor-women-s-experiences-of-the-cost-of-living-crisis-in-scotland/)

⁵⁷ [Lone parent families - Tackling child poverty priority families overview - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/lone-parent-families-tackling-child-poverty-priority-families-overview/pages/1.aspx)

⁵⁸ [Families by family type, regions of England and UK constituent countries - Office for National Statistics](https://www.gov.uk/government/statistics/families-by-family-type-regions-of-england-and-uk-constituent-countries)

⁵⁹ [Social Security Scotland client diversity and equalities analysis to March 2023 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/social-security-scotland-client-diversity-and-equalities-analysis-to-march-2023/pages/10-to-12.aspx)

powers in this Bill and consideration will be given to the significant gender split in SCP applicants.

The provisions in this Bill aimed at improving client experience are intended to have a positive impact across Social Security Scotland clients. These proposals are likely to have a disproportionate impact on women due to the gender breakdown of Social Security Scotland clients.

The gender breakdown for looked after children does not reflect the wider Scottish population. Statistics show that in 2020 there was a larger proportion of male (55%) young people who were looked after than female (45%).⁶⁰ Financial support created in future using the powers taken in the Bill will not have an impact on people as a result of their sex. The intention is for assistance to be available to people with experience of being in care, regardless of their sex, if they meet the eligibility criteria set out in regulations in future.

The provisions in the Bill which intend to give Social Security Scotland discretion to accept late requests for re-determinations, and the Tribunal discretion to give permission for appeals to be brought, beyond the one-year prescribed period on the basis of 'exceptional circumstances', are likely to have a positive impact on women.

It has been highlighted during engagement with stakeholders that housing issues and domestic abuse can be significant barriers impacting women's ability to timeously request a re-determination or appeal. By allowing late requests for re-determinations and appeals to be brought this policy offers flexibility to people experiencing exceptional challenges and ensures that they can challenge decisions about their entitlement.

Scottish Women's Convention provided a specific example of women living in a refuge, who may have no proof of address and therefore not be able to request a re-determination for a prolonged period of time. This proposal would enable them to bring a challenge once their situation has stabilised.

The policy to allow appeals after a year in exceptional circumstances will be applied equally to people in receipt of benefits that attract a right of appeal rather than on the basis of their sex. It is anticipated that people of all sexes will be positively impacted by the added flexibility and choice about how they challenge decisions about their entitlement.

However, given the expectation that the majority of appeals will be against Adult Disability Payment determinations, and that females are more likely to be in receipt

⁶⁰ [Children's social work statistics: 2019 to 2020 - gov.scot \(www.gov.scot\)](https://www.gov.scot/resources/documents/2021/04/Childrens-social-work-statistics-2019-to-2020.pdf)

of disability benefits than males, the policy may impact more on females. Data from the Papworth Trust found that women make up a small majority of disabled people in the United Kingdom (23% of females have a disability compared to 19% of males)⁶¹. A report by the Women's Budget Group has also found that overall, women are more likely to rely on social security than men.⁶² Equalities data from Social Security Scotland confirms that 56% of ADP applicants self-identify as a 'woman', compared to 41% self-identifying as a 'man'. There was also 1% of applicants who identify 'in another way' and 2% who 'prefer not to say'.⁶³

The proposal to allow the withdrawal of re-determinations will offer people increased flexibility and control when challenging decisions made by Social Security Scotland. The Scottish Government recognises that women may be more likely than men to face external pressures which could make them more likely to withdraw challenges. These pressures could include but are not limited to: stress caused by caring responsibilities, health impacts related to pregnancy or maternity, or pressures caused by domestic or financial abuse.

To ensure that the benefits of this policy are felt by women it will be important for Social Security Scotland to consider these pressures prior to the implementation of operational processes. The service design for these policies should promote safeguarding, referral to support services and informed decision-making by providing guidance and information, which considers caring responsibilities, abuse and pregnancy and maternity.

Sexual Orientation

The latest published results from Scottish Surveys Core Questions show that around 3% of adults in Scotland self-identified as 'Lesbian, Gay, Bisexual or Other' in 2019.⁶⁴ Recent Social Security Scotland equalities data shows that a similar proportion of applicants identify as lesbian, gay, bisexual or other with 2% identifying as 'Bisexual' and 1% as 'Gay and Lesbian' and 'In another way'. 'Prefer not to say' was chosen by 10% of clients.⁶⁵

⁶¹ [papworth-trust-disability-facts-and-figures-2018.pdf \(papworthtrust.org.uk\)](https://www.papworthtrust.org.uk/papworth-trust-disability-facts-and-figures-2018.pdf)

⁶² [Social-security-gender-and-Covid-19.pdf \(wbg.org.uk\)](https://www.wbg.org.uk/social-security-gender-and-covid-19.pdf)

⁶³ [Social Security Scotland client diversity and equalities analysis to March 2023 - gov.scot \(www.gov.scot\)](https://www.gov.scot/social-security-scotland-client-diversity-and-equalities-analysis-to-march-2023)

⁶⁴ [Scottish Surveys Core Questions 2019 - Supplementary Tables](https://www.gov.scot/scottish-surveys-core-questions-2019-supplementary-tables) (Last updated: January 2021)

⁶⁵ [Social Security Scotland client diversity and equalities analysis to March 2023 - gov.scot \(www.gov.scot\)](https://www.gov.scot/social-security-scotland-client-diversity-and-equalities-analysis-to-march-2023)

The Scottish Government has not identified any impacts from the provisions in the Bill on people to whom this protected characteristic applies.

Conclusion

The EQIA has found that the Bill will have a positive impact on people who use the services provided by Social Security Scotland, regardless of protected characteristics. The Bill has been considered in the context of the public sector equality duty and it has been assessed that the Bill will not discriminate against people because of any protected characteristics they have.

Provisions in the Bill intend to empower people to challenge decisions, create efficiencies and streamline processes all of which should result in an improved experience of interacting with Social Security Scotland. Evidence has shown that the proportion of Social Security Scotland clients who identify as women is much higher than the general Scottish population. In that respect women may particularly benefit from the Bill.

There will be operational considerations when measures included in the Bill are implemented to ensure that the benefits are realised and there are no unintended negative consequences in terms of discrimination. Social Security Scotland must ensure that processes introduced as a result of the Bill are person-centred and any related communications are accessible and inclusive.

Overall the EQIA has identified no significant negative impacts associated with the policy content of the Bill and the Scottish Government has concluded that no changes to the policies included in the Bill are necessary as a result.

The Scottish Government will continue to work with stakeholders and organisations with an interest in the Bill to ensure full account is taken of equality issues as the Bill progresses through Parliament.



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