

**Equality Impact Assessment**

# **Coronavirus (Scotland) Bill**

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

## Equality Impact Assessment: Coronavirus (Scotland) Bill

<b>Title of Policy</b>	<b>Coronavirus (Scotland) Bill</b>
<b>Summary of aims and desired outcomes of Policy</b>	The purpose of introducing the Bill is to put in place necessary and urgent measures in order to address the threats posed by the outbreak of the Coronavirus pandemic in Scotland. The coronavirus outbreak is a severe and sustained threat to human life in Scotland. The Scottish Government is committed to taking all steps necessary to address that threat. A severe pandemic could infect a large proportion of the population leading to a potential workforce absence of 21% in peak weeks, as well as increased pressure on public services. The measures taken in this Bill are essential to mitigate these impacts, including the spread of infection, and increase the capacity of the public service.
<b>Directorate: Division: team</b>	Constitution and Cabinet Directorate

### Executive Summary

The Scottish Government is committed to putting in place all necessary measures to address the outbreak of the Coronavirus pandemic (Covid-19). However, it is the Scottish Government's view that while these measures are essential, they are only required to respond to the current set of specific circumstances and therefore the powers under the Bill will expire six months after the Bill receives Royal Assent, except where explicit provision is made in the Bill. It will be possible for the Parliament to choose to extend the availability of these powers if the circumstances at the end of six months require it.

### Background

The purpose of introducing the Bill is to put in place necessary and urgent measures in order to respond to the threats posed by the outbreak of Covid-19 in Scotland. These temporary measures are deemed essential to respond to this current emergency as no other legislative powers are available to the Scottish Parliament or Scottish Government.

The Bill complements and supplements the Coronavirus Act 2020, passed by the UK Parliament on 25 March 2020, and which the Scottish Parliament gave its consent to on 24 March 2020.

The Bill is part of a concerted and coordinated effort within Scotland, and across the UK, to tackle the Covid-19 outbreak and takes the following measures:

- it makes adjustments to the law on evictions to protect those renting their homes during the coronavirus outbreak;
- it makes adjustments to criminal procedure, and to other aspects of the justice system, to ensure that essential justice business can continue to be disposed of throughout the coronavirus outbreak;
- it makes a range of provision designed to ensure that business and public services can continue to operate effectively during a period where controls on movements have been imposed, and when pressures on public services are acute.

The Bill contains extraordinary measures required to respond to an emergency situation. The Scottish Government is satisfied that all of the measures contained in the Bill are appropriate and proportionate, but it recognises that many are far-reaching and unprecedented. The Bill therefore contains the following safeguards:

- the measures in the Bill will automatically expire six months after they come into force. The Scottish Parliament may extend these measures for two further periods of six months, giving the measures in the Bill a maximum duration of 18 months;
- where a measure is no longer considered necessary, Scottish Ministers can bring it to an end earlier than on this six-monthly schedule;
- Scottish Ministers are required by the Bill to report on the continued need for the measures, and on the use of powers in the Bill, every two months.

This impact assessment, recognises the need to keep in sight the changing nature of the current unprecedented situation. It will therefore be subject to regular review to ensure that the effect of this legislation on people with one or more of the protected characteristics is kept in view.

### **The Scope of the EQIA**

As the measures within the Bill cover a broad range of topics, many people in Scotland including children and young people, incapacitated adults, renters, business and those involved in the justice system might be impacted.

The Scottish Government has considered whether the provisions could constitute conduct prohibited by the Equality Act. In many cases, the provisions will apply to all persons irrespective of protected characteristic and will therefore not constitute direct discrimination on that basis by allowing the existing legal protections to remain in place to safeguard their welfare and ensuring that their access to justice is maintained.

The Scottish Government has also considered whether the provisions could constitute indirect discrimination. It is not anticipated that the provisions could give rise to more significant impacts on certain protected groups. Where some possible impact has been identified, the Scottish Government considers the impacts are justified and a proportionate means of achieving the legitimate aim of protecting the general public from a Coronavirus pandemic by increasing the capacity of public service systems and mitigating the spread of infection.

During the EQIA process, the potential impact on each of the protected characteristics was considered. Our assessment identified that the Bill is likely to have a direct positive impact on all children and young people with protected characteristics – age; sex; disability; race; gender reassignment; sexual orientation; religion or belief; maternity and pregnancy; and marriage and civil partnership does not have a direct bearing on the conduct of Children’s Hearings proceedings.

The Scottish Government has no evidence to suggest that children and young people in any of these groups would be disproportionately adversely affected by the introduction of the Bill.

Most impacts will be temporary, spanning the duration of the Covid-19 pandemic and emergency situation, and many of the provisions where possible contain safeguards and mitigation measures to lessen the extent of any negative actual or perceived impacts.

### **Bill provisions relating to the justice system**

#### **Reformed Regulation-making power to Amend functions of National Convener (CHS) and Principal Reporter (SCRA): no direct likely impact on children**

Under the Children’s Hearings (Scotland) Act 2011(‘the 2011 Act’), various functions are conferred on the National Convener or the Principal Reporter in relation to, for example, the convening of children’s hearings, procedure in relation to hearings, notifications of hearings and outcomes and the composition of children’s panels. Sections 10 and 18 of the 2011 Act confer regulation-making powers on the Scottish Ministers to adjust – be that limiting, extending or varying - the functions of the National Convener and Principal Reporter. The exercise of these powers would usually be subject to super-affirmative procedure (as set out in section 198 of the 2011).

There may be circumstances where it becomes necessary in light of the coronavirus outbreak period to quickly adjust the functions of either office-holder e.g. to deal with any incapacity in relation to either office holder or deputies, or both, and the need to transfer or delegate the exercise of functions to another person. In those circumstances, Ministers wish to exercise those powers swiftly rather than requiring prior approval by Parliament under a lengthy and onerous super-affirmative procedure that could take a number of months.

**Permit electronic authentication of children's hearing decisions:** limited positive impact on children – swifter notification of hearing outcomes

The decision and reasons of the hearing, as well as other reports, orders or warrants which the hearing issues must be signed by the chairing member of the hearing. The children's reporter must send notification of the decision and reasons, copies of orders issued etc. to the affected child and their relevant persons. The chairing member of a hearing must currently add a wet signature to any decision made or order issued. This is because a number of Rules in the Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013 ("the 2013 Rules") refer to the duty on the chairing member to "sign" the record, and there is no provision which allows this to be done electronically.

Covid-19 means that it will not be possible for children's hearings to be carried out in the usual format. The decisions will be made remotely with the panel member in a different place from the children's reporter and the paperwork will not be able to be signed by hand.

Provisions are required which allow decisions or orders to be authenticated electronically. Also, the Bill enables the chairing member of a children's hearing **or** the children's reporter to be able to do so. The chairing member may not have the technological capacity to remotely record and authenticate documents. Therefore, we require the children's reporter to be able to do that. This will ensure maximum flexibility so that the reporter can still notify decisions, reasons and orders as promptly as possible to those who are affected.

**Increase timescales for children's hearings to consider post-emergency transfers–** limited adverse impact on children – independent legal decisions will take place - but in a maximum of 7 days rather than 3 days

When a child is required to stay in a specified place as a condition of their compulsory supervision order or interim compulsory supervision order, section 143 of the 2011 Act provides the chief social work officer with the power to transfer the child from that accommodation where such a transfer is required in the interests of the child or another child in that accommodation as a matter of urgent necessity.

This would apply where there is an immediate necessity that cannot wait until a children's hearing has been arranged. Section 137(3) of the 2011 Act requires that a hearing to review the compulsory supervision order must be held within 3 days.

There are concerns that due to the Covid-19 outbreak, there may be a high proportion children subject such orders who have to urgently be moved out of the place they are residing - in an unplanned way. The Bill therefore makes provision for a review to take place within 7 days beginning with the day on which the child is transferred. This would provide appropriate flexibility for local authorities to manage resources during this critical time, whilst still providing the certainty of independent oversight within a short time.

**Extend timescales for review of emergency secure placement** – limited adverse impact on children – independent oversight and legal authority will take place within an aggregate maximum of 96 hours rather than 72 hours.

Due to Covid-19 there may be many good reasons why there cannot be a review hearing lawfully constituted within 72 hours, even remotely. The secure accommodation may become affected by the virus in that period, preventing the child being able to be involved in a hearing even remotely in an emergency. There will also be significant challenges with convening a lawful children's hearing – with the participation of children, families, multiple professionals and legal representatives, within existing timescales in the peak Covid-19 period.

This Bill allows the 72 hour period to be extended by up to 24 hours if the children's reporter considers it is not practicable to arrange a hearing within 72 hours. To also extend the maximum period during which a child may be kept in secure accommodation without the authority of the children's hearing or the sheriff is an aggregate of 72 hours (whether or not consecutive) in any period of 28 consecutive days to 96 hours.

**Extend timescales for appeals and court applications** – positive impact on children's rights – relaxed timescales to lodge and consider appeals will maximise children's access to justice in the context of constrained court capacity during the period covered by the Bill

There is risk of reduced accessibility to courts due to illness or self-isolation and also of social distancing for children, relevant persons, or legal representatives. These factors will impact on their ability to meet existing appeal timescales or to challenge decisions effectively.

In addition, the capacity of SCRA to meet a 7 day deadline to lodge an application for proof could be impossible. If the application is not lodged timeously it will become incompetent and the child will not be protected.

Courts may also not be able to arrange an application or dispose of an appeal in short timescales, due to the lack of available judiciary or court staff. This could mean that an authorisation or order will expire and place a child at risk.

We are extending the time limits for the making of appeals, for the making of court applications and the disposal of appeals.

### **Allow more flexibility for children's panel composition**

To allow for more flexibility for children's panel composition we require amendment of section 5 of Children's Hearings (Scotland) Act 2011, to enable a children's hearing to consist of less than three members of the Children's Panel where it would not be practical to comply with that provision because of the coronavirus outbreak. In certain circumstances, this could even enable consideration of matters by a panel of one member.

We require amendment to section 6, to disapply the requirement for men and women panel members where it would not be practical to comply with it.

In consequence, this will also require similar amendment of provisions in the Children's Hearings (Scotland) Act 2011 (Rules of Procedure in Children's Hearings) Rules 2013 ("the 2013 Rules")<sup>1</sup> which contain references to 3 panel members or to requirements for male and female members.

**Increase timescales for child assessment orders** – Positive impact on children's rights since the introduction of school closures makes the children affected by this less visible and relaxing timescales enables local authorities to ensure that they have sufficient capacity to execute the order and arrange and conduct the relevant assessments.

Child assessment orders allow a local authority to make an assessment of a child's health or development, or of the way in which the child has been or is being treated or neglected. They can contain specific requirements such as requiring the taking of a child to any place within 24 hours of the order being granted, and keeping them in that place for a specified period, but for no more than 3 days from the issuing of the order.

We propose an extension to the time periods specified in section 35(5) of the 2011 Act to enable local authorities to ensure that they have sufficient capacity to execute the order and arrange and conduct the relevant assessments. This amends the period of effect of a Child Assessment Order from 24 to 48 hours (in relation to when that period begins) and its maximum duration (from 3 to 5 days).

**Suspend 2nd day hearing in child protection order proceedings** - limited adverse impact on children's rights – independent oversight of execution of Child Protection Orders preserved, but will be discharged in 7 working days rather than 2 working days. Intervening right of recall of a CPO is preserved.

The provisions in relation to CPOs are contained in Part 5 of the Children's Hearings (Scotland) Act 2011. Sections 45 and 46 provide that where a CPO has been granted by the Sheriff, a children's hearing (referred to as a "2<sup>nd</sup> working day hearing") must be held on the second working day after the day on which the child is taken to the place of safety or the second working day after the day on which the CPO is made, as the case may be. There is a concern that the CPO will fall if the second working day hearing is not held. This could place a child at immediate risk. In any event, due to shortages of SCRA staff, social workers and children's panel members, it is likely to be logistically very difficult to arrange 2<sup>nd</sup> working day hearings, and the requirement to do so will, at best, strain an already stretched children's hearings system.

**Dispense with the need for personal appearance at children's hearings;** -Impact on children and families to be monitored, Electronically-enabled rights to participation and to give views preserved both before, and at, children's hearings

There are various provisions of the 2011 Act which require the personal attendance of persons at a children's hearing or pre-hearing panel with limited scope to be excused. This affects vulnerable children and families most acutely. A strict

insistence on personal attendance may not be practical and, indeed, may give rise to adverse health risks both for families and children's hearings personnel as well as those who would otherwise be required to attend.

Although statute already recognises a risk to the child's welfare, in the current situation there are obviously wider risks to all personnel involved in the children's hearing. More generally, a whole range of persons have attendance rights, with scope for the hearing to grant permission for the attendance of others.

We need to enable agencies to consider any potential health risks arising from the outbreak or even the practicalities of personal attendance (e.g. if a person may be self-isolating) for all attendees including children and young people.

**Prevent 2011 Act Orders from lapsing;** positive impact on children's wellbeing – orders designed to protect their best interests will not fall due to calendar or capacity concerns. Rights to call for review of orders preserved.

A compulsory supervision order made under s. 83 of the 2011 Act by a children's hearing in relation to a child lasts for a maximum period of 1 year unless it is reviewed within that period and continued for a further period of up to 1 year. In the year to 31 March 2019, over 9,000 children were the subject of a compulsory supervision order.

If during the current Covid-19 pandemic an order has not been reviewed before the expiry period due to expected staff shortages or illness, the order will lapse. The child will no longer be subject to the order, and any measures which applied (such as residence with foster care) will cease to apply or be enforceable, leaving the child legally unprotected.

This Bill ensure that, if an order has not been reviewed and continued by its end date, the order will not lapse. We wish to extend the period by which the order can still be legally valid, by up to 3 months if it has not been possible to review the order on time.

**Extend maximum periods of interim orders in respect of children** – balanced impact on children - while orders made because of urgent necessity will keep children safe pending a substantive hearing. Some potential for children's rights to be interfered with for a longer period prior to substantive hearings.

Children may require to be subject to a 22 day interim order specifying measures for their protection pending either a children's referral proof hearing, or as a result of an urgent change to their circumstances which requires further assessment.

In the exceptional circumstances of Covid-19 the existing time limits for relevant interim orders may limit the ability of those affected to contribute to decisions about their welfare, or for suitable assessments to be made for supporting the child and flexibility is therefore required to ensure that there are not unnecessary hearings due to the restriction of these time limits.



The court in determining a proof application may also be impacted by Covid 19 and be unable to deal with cases expeditiously due to lack of court capacity. This may increase the need for short term orders which would not necessarily be in the interest of a child every 22 days.

**Remove limit on number of children placed with a specific foster carer –** positive impact on children – maximising likelihood that siblings stay together wherever possible

There is a maximum limit on the number of children who may be placed with a particular foster carer under Regulation 27A of the Looked After Children (Scotland) Regulations 2009.( 2009 Regulations)

Due to the Covid-19 emergency, there is likely be pressure on foster placements should fosters need to self- isolate or seek medical intervention. There is currently insufficient flexibility in the care system to allow other foster carers to care for additional children if required.

The result of this will mean children and young people who need foster placement will not be inhibited by a maximum number cap placed on available foster carers.

**Relax timescales for kinship placement assessments** – limited negative impact on children – independent assessment of their circumstances in kinship care may be delayed. However, authorities will take a needs-and risk-led to prioritising these assessments

Where a local authority has placed the child in the care of a kinship carer, there are a number of statutory requirements to review that placement, with various compulsory time scales attached.

Due to the Covid-19 outbreak, social workers and local authorities will be under increasing pressure and may need to prioritise their resources to help the most vulnerable children in Scotland. This means that there will be an increased risk that they will not be able to comply with these time limits.

**Provisions which will result in changes to the court and tribunal procedures, prisons and community justice**

As the provisions form part of emergency legislation and are on a temporary basis it has not been possible to undertake an extensive EQIA, but the impact on the protected characteristic groups has been taken into consideration for all of the measures.

We anticipate that the legislative measures will have minimal impact in respect of the protected characteristics. The measures are necessary to support the high volume and wide range of individuals who come into contact with the justice system and to respond appropriately to the impact of coronavirus, divert resources to high priority areas and mitigate against an unmanageable accumulation of cases which would put the justice system at risk of breaking down.

The EQIA process did not identify any direct discrimination through the policy intention for any of the provisions. The EQIA analysis will, however, be kept under regular review, with any new data or evidence analysed as it becomes available to monitor the ongoing impact of the legislation on the protected characteristic groups.

### ***Provisions relating to procedural matters in the justice system***

These provisions aim to ensure the Rule of Law and Access to Justice are maintained throughout this pandemic and into recovery, whilst adhering to the relevant public health guidance. This is considered to be of universal benefit in terms of maintaining public confidence and ensuring communities are safe from crime. None of these are anticipated to have a significant impact on any person within the protected characteristics.

There may be differential impacts, particularly in relation to sex and race, but these are predominantly due to the demographic make-up of those coming into contact with the justice system rather than the provisions themselves. It is highlighted that current operational decisions by the Scottish Courts and Tribunal Service to avoid, where possible, deprioritising of cases involving domestic abuse, sexual offences and violence, combined with those provisions which suspend impediments to social distancing, will help to ensure that the particular impacts of gender based violence on women and children will continue to be addressed.

It is acknowledged that provisions relating to the conduct of solemn trials may be viewed as potentially having an impact as they introduce a move from a 15-person jury – which is intended to be representative of a cross-sector of society – to a single Judge. It is highlighted, however, that Judges already possess the skills to deal objectively with evidence and assess the credibility of witnesses and in Scotland they already undertake this role in summary business.

It is also acknowledged that the provisions expanding remote attendance for court and tribunal procedures may have more of an impact on some of the protected characteristic groups, in particular older persons and those with physical and mental disabilities. However, the court and tribunal in every case retains the power to make directions which take account of the specific circumstances affecting parties to the proceedings and the ability to adjourn where representations are made on this. Conversely, whilst they are not designed for this purpose, provisions relating to attendance by electronic means may be particularly beneficial to those with physical disabilities.

With regard to the specific provision relating to legal aid, a slowdown in income for those who deliver legal aid services could have a significant impact on their ability to continue practising. This will directly impact on the criminal justice system with implications on an accused' right to a fair trial and legal counsel, with vulnerable individuals more likely to be at risk in this regard. Similarly, in civil law a reduction in legal aid practitioners will impact on a person's ability to protect and defend their rights including areas of discrimination, housing and employment. It is expected once the emergency period has ended there may be an increase in those seeking advice in these areas.

## ***Emergency Release of prisoners***

The release arrangements allow Scottish Ministers to specify a class of prisoner for release. Those making release decisions will be aware of the particular vulnerability of groups in relation to coronavirus, for example older people or those with certain disabilities may be more vulnerable in this respect. Governors have a duty of care for those in custody so will be able to consider the circumstance of any proposed release and can compare that to the conditions in custody with a view to mitigating those vulnerabilities.

In relation to disability, the availability of any specialist services in the community may be a factor in release and those with disabilities where a specialist need cannot immediately be met in the limited time available may not be able to be considered for release.

Public health guidance states that those who are pregnant should self-isolate and consideration will need to be given as to whether custody or community best supports pregnant women to protect themselves as a potentially vulnerable group.

The vast majority of the prison population is male, so most of those released are likely to be male. The prison estate itself is configured to hold men and women separately so depending on the nature of any release, it may mean that the class of prisoner specified for release may be led by the capacity sought. This might therefore have a disproportionate effect on either group in terms of being released in higher numbers, depending on where the space is needed. These decisions would be led by wider considerations around the need to maintain safe operation of prisons across the estate and it may not be easy initially to mitigate any disproportionate impact on either sex.

There may also be a disproportionate impact on female partners and family members in the community who are affected by the release and return to the household. While the time to prepare for release will be constrained compared to usual processes, Governors will be able to take decisions to prevent release where there is a risk to a specific individual. This can help reduce the risk of domestic violence. For some households it may mean someone returning to the household provides a benefit in terms of capacity for assistance with childcare and caring responsibilities, which can often fall disproportionately on women and which may be increasingly challenging while social distancing / lockdown measures as in place.

The release process should be largely blind to the protected characteristics of gender reassignment, marriage/civil partnership, race religion or belief and sexual orientation. As such it is not anticipated there is likely to be a disproportionate impact of emergency release on people with these characteristics.

Overall, we anticipate that the legislative measures will have some but largely minimal impact in respect of those with the listed protected characteristics. There is no identifiable impact on staff groups but some potential impact on prisoners. The impact of release is deemed likely to be proportionate to the current population make-up, and so reflect any imbalances already reflected in the population (for example the population is predominantly male). Where there is an impact such

impact has been considered and addressed as far as possible within associated procedures for release.

### ***Provisions relating to community sentences***

As this policy is not targeted at a specific age group, rather all those subject to community sentences, it is not expected to impact those individuals adversely in terms of the protected characteristic of age. The specific risks and needs of people age 16-25 subject to supervision will be continue to be taken into account by justice social work (JSW) services and partner agencies.

JSW will continue to prioritise cases where any risk to children is present, and will work in close collaboration with child and adult protection and domestic abuse services to ensure the safety and wellbeing of children. JSW are also making decisions on approaches to supervision based on risk of harm, and guidance has been issued by the Caledonian Service – a behaviour programme for men convicted of domestic abuse offences - in relation to continuing to manage people subject to the programme requirements.

Additionally, the Chief Social Work Advisor for the Scottish Government has written to all local authority areas to remind them to ensure records of children residing in clients' households are kept updated and that communication/joint working with child protection services is robustly maintained.

According to JSW statistics for 2018-19, the proportion of orders issued to males was 85 per cent and women are proportionally less likely than men to receive a community sentence, meaning that these provisions will have a differential impact on men. Any specific welfare needs facing women will, however, be taken into account when considering any changes to Community Payback Orders (CPOs).

These provisions are intended to ensure that community sentences do not adversely affect individuals in relation to the current coronavirus outbreak, and in particular this will impact on people with certain disabilities who may be more at risk. Whilst people with certain conditions, such as mental health issues, may be impacted negatively in terms of a reduction in contact and opportunities for change and rehabilitation that CPOs may bring, assurances that JSW – along with partner agencies – will work to mitigate such an impact is balanced with the overall public health risk.

It is unlikely that suspending or postponing unpaid work would have an adverse impact in relation to any of the other protected characteristics, but it is acknowledged that people may be subject to CPOs in relation to hate crime and Police Scotland will continue to act on any new offences and JSW will prioritise cases based on risk of harm.

### ***Provisions relating to parole***

It is not anticipated that this will have a significant impact on any person within the protected characteristics. Issues relating to individuals who may have difficulty communicating via video or phone links for parole hearings will be taken into account on a case-by-case basis.

## Bill provisions relating to public services, business and consumers

The removal of requirements for certain documents to be made available for physical inspection, allowing local authorities and public bodies instead to make them available online, may have an impact on those who have less access to online technologies. Older people, disabled people and those with long-term health conditions have been identified particularly as using these technologies less than other groups. However, older people and those with long-term health conditions are also identified as being at greater risk from the virus. The aim of the policy is to allow local authority business and other public services to continue while offices and libraries are closed to prevent spread of the virus; without such a change authorities and public bodies would be unable to comply with statutory duties.

### *Extending the moratorium on diligence*

Age: the Money Advice Service estimates that 1% of the over indebted population is aged over 65. The Wyman Review suggests that 7% of debt advice clients are aged over 65. This suggests that people in problem debt who are aged over-65 will benefit disproportionately from an extension of the moratorium. However, income shocks arising from Covid-19, and thus undermining people's ability to meet their debts as they fall due, are more likely to affect the working age population.

Gender: the Money Advice Service estimates that 64% of over indebted people are female, whilst the Wyman Review suggests that 59% of debt advice clients are female. This suggests that extending the moratorium is more likely to benefit females than males, both because females are more likely to be over indebted but also because they are more likely to take-up debt advice.

Disability: the Wyman Review estimates that 40% of debt advice clients suffer from a disability or long-term health condition. Disability may restrict the channels through which debtors may seek advice. For example, the Money and Mental Health Policy Institute suggests that those with mental health problems are 22 percentage points more likely than the population in general to have serious difficulty carrying out essential administration over the phone. Likewise, difficulties of physical access may make seeking face-to-face debt advice problematic for those with physical health problems. Scotland's debt advice sector is very used to ensuring these concerns can be addressed.

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## **Social Security**

As the effects of Covid-19 continue to escalate, Social Security Scotland is not able to maintain services at their 'Pre-Covid-19' levels due to the reduction in available staff. This has had a material impact on existing services and will impact on the times taken to process applications and redeterminations. It will also impact social security clients, and the time taken to gather evidence for, or complete applications for assistances, re-determinations or appeals.

The social security provisions require the Agency to complete a redetermination as soon as reasonably practicable whilst providing an additional 9 weeks, on top of the original 16 working days, to do so. This may have an impact on some pregnant women, lower-income families and young carers under the age of 18 who could face longer waiting periods before a re-determination is made in regard to their application and potential right of appeal.

We have also included provision to extend the timescales for an individual to request a re-determination beyond the year time limit set out in statutory legislation, where this additional time is needed as a direct result of coronavirus. Social Security Scotland intends to carry out re-determinations as quickly as possible, even within the extended time frame.

There are also provisions to allow for late applications across all forms of assistance where the lateness is due to Covid-19. This ensures that Social Security Scotland clients are not disadvantaged and are able to claim assistance to which they are entitled to and which they may have missed out on if late applications were not allowed. These provisions should help mitigate the potential impact of Covid-19 on social security clients including those from vulnerable and disadvantaged groups, such as young carers.

The aim of our policy is to ensure that the rights of individuals to challenge social security decisions and access administrative justice will not be affected by Covid-19 related disruption. The provisions will allow more time for applications, re-determination and appeal requests to be made and considered.

## **Provision relating to the functions of the Keeper of the Registers of Scotland**

These measures will extend the protected period offered by advance notices to allow property transactions already in progress to proceed to settlement. These measures will also allow people, in practice through their solicitors, to continue to submit applications for registration to the Registers of Scotland property registers digitally while the Registers of Scotland are temporarily unable to receive applications by post.

These measures do not raise any issues in respect of equal opportunities. The Bill's provisions do not discriminate on the protected characteristics of age, sex, sexual orientation, disability, gender reassignment, race, religion or belief and socio economic status.

This policy has no discernible relevance to the protected characteristics: marriage and civil partnership and maternity and pregnancy.

Registers of Scotland will provide guidance on the new measures and a customer services telephone line for those seeking further support in accessing the Registers and submitting applications.

### **Bill provisions relating to renters**

More tenants in both the private and social rented sectors are finding themselves in financial difficulty due to the current outbreak and finding themselves unable to meet their obligations under their tenancy agreement. Under current housing legislation, this places them at risk of having their home repossessed by their landlord at a time when housing, health and other public services are under acute and ongoing pressure. More broadly, there is also a need to prevent the unnecessary movement of tenants during this unprecedented situation to support measures to inhibit the progress of the virus.

To protect tenants from being evicted from their homes during the current outbreak, we are taking forward provisions within the Coronavirus (Scotland) Bill to:

- temporarily extend (till 30 September 2020) the notice to leave period for private rented sector landlords and the notice for recovery of possession for social landlords that must apply for up to 6 months when beginning the process for ending a tenancy across all grounds – except in relation to the tenant abandonment ground and, in relation to assured tenancies, the suitable alternative accommodation ground;
- temporarily make all grounds for repossession discretionary so that the Tribunal, once operational again, can consider the full facts of the case when deciding whether to grant an eviction; and

The aim of our policy is to protect tenants from being evicted from their homes during the current Covid-19 crisis. The provisions relating to this will temporarily extend the notice periods for all evictions, except where a landlord is looking to regain possession of a property where it has been abandoned by a tenant or where there is suitable alternative accommodation (in relation to an assured tenancy).

The extended notice periods are either for 6 months (in most cases) or 3 months for certain tenant conduct grounds relating to antisocial or criminal behaviour and where a landlord or their family member need to move into the property. These extended notice periods will apply to notices which are issued after the commencement of the Bill and will apply across the board, for all statutory tenancies currently in existence in the private and social rented sectors until 30 September 2020.

Furthermore changes are also being made to enable all private rented cases going before the First-Tier Tribunal (Housing and Property Chamber) will be considered on a discretionary basis. This ensures the Tribunal is able to take all circumstances of a case into account when determining whether to grant an eviction order.



This policy is purely concerned with implementing temporary measures to help protect tenants from eviction during the Covid-19 crisis, reflecting the significant impact it is likely to have on a large number of tenants financial circumstances. It is not intended to impact, directly or indirectly, on any group of people with protected characteristics, or on the wider equality duties.

However, women are the majority of renters in the social rented sector. People from non-white backgrounds are more likely than people from white backgrounds to live in the private rented sector. Women and people with disabilities are more likely to rely on social security as part or all of their income, and to live on low incomes. Women are more likely to have caring responsibilities and therefore be impacted more significantly – socially and financially - by the consequences of the outbreak. Action to protect people who rent from eviction during the outbreak should have a positive impact on outcomes for these groups.

The Scottish Government considers that the temporary legislative changes are likely to positively impact across those with protected characteristics, as the legislative measures will prevent them from being evicted during the current crisis.

### **Planning & Architecture**

No impacts are expected from extending duration of planning permission on equality groups.

### **Adults with Incapacity**

Any intervention under the Adults with Incapacity Act has to comply with the section 1 principles which apply equally to anyone coming under the provisions of this legislation. We consider there may be a positive impact for elderly or disabled people who may be more disproportionately affected by the amendments to the provisions in relation to adults with incapacity . The amendments to;- ensure guardianship appointments remain in place during the pandemic period ; that the authorisation of medical treatment by a s.47 certificate continues and the amendments to s.13za of the Social Work (Scotland) Act 1968 which will allow local authorities to provide services more quickly to incapacitated persons , we think will benefit incapacitated adults with the protected characteristics of age and disability .

### **Bill provisions relating to freedom of information**

The aim of the policy is to extend temporarily the statutory timescales that apply to responding to requests for information and requirements for review under the Freedom of Information (Scotland) Act 2002 ("FOISA"). The provisions relating to this temporarily extend the maximum period for responding from 20 working days to 60 working days, enable authorities to further extend this period in certain circumstances, and enable the Scottish Information Commissioner to take the impact of the coronavirus outbreak into account where authorities fail to comply with these timescales.



The policy does not restrict or suspend the public's right to request information. It is intended to support authorities in responding to requests while ensuring that compliance with this statutory duty does not impact negatively on their ability to respond to the coronavirus outbreak.

We have not identified any positive or negative impact on any of the protected characteristics that may arise as a result of this policy.

## **Recommendations and Conclusions**

The purpose of the Coronavirus (Scotland) Bill ("the Bill") is to respond to the emergency situation caused by the Covid-19 pandemic. The Bill complements and supplements the Coronavirus Act 2020 ("the 2020 Act"), passed by the UK Parliament on 25 March 2020, and which the Scottish Parliament gave its consent to on 24 March 2020.

The coronavirus outbreak is a severe and sustained threat to human life in Scotland. The Scottish Government is committed to taking all steps necessary to address that threat.

Current public health guidance requires business and public authorities to operate very differently to the way they have done until now by implementing, for example, social distancing policies, or by requiring their workforce to work from home, where possible. In addition the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020 (S.S.I. 2020/103) ("the 2020 Regulations") have required the closure of businesses selling food or drink for consumption on the premises, and of a wide range of other business set out in the regulations to protect against risks to public health. The 2020 Regulations also prohibit those living in Scotland from leaving the place where they live without reasonable excuse, and ban public gatherings of more than two people.

Public health guidance is likely to require some adjustment to normal life for some time, as the effort to limit and control the coronavirus outbreak continues. The requirements and restrictions in the 2020 Regulations will continue until they are terminated by the Scottish Ministers by direction, or until they expire under regulation 11 of the 2020 Regulations.

The Bill is part of a concerted and coordinated effort within Scotland, and across the UK, to tackle the Covid-19 outbreak. It has been developed taking into account the effects of the 2020 Act, the 2020 Regulations and the other legislative and administrative aspects of the governments of the United Kingdom's collective effort to combat the coronavirus outbreak.

The Bill contains extraordinary measures required to respond to an emergency situation. The Scottish Government is satisfied that all of the measures contained in the Bill are appropriate and proportionate, but it recognises that many are far-reaching and unprecedented. The Bill therefore contains the following safeguards:

- the measures in the Bill will automatically expire six months after they come into force. The Scottish Parliament may extend these measures for two further periods of six months, giving the measures in the Bill a maximum duration of 18 months;
- where a measure is no longer considered necessary, Scottish Ministers can bring it to an end earlier than on this six-monthly schedule;
- Scottish Ministers are required by the Bill to report on the continued need for the measures, and on the use of powers in the Bill, every two months.

The Scottish Government has assessed the potential impact of the proposed Bill on equal opportunities and has determined it does not unlawfully directly discriminate in any way with respect to any of the protected characteristics (including age, disability, sex, pregnancy and maternity, gender reassignment, sexual orientation, race, religion or belief, marriage or civil partnership). Where provision might potentially indirectly impact on equal opportunities, the Scottish Government considers the impacts are justified and a proportionate means of achieving the legitimate aim of protecting the general public from a Coronavirus pandemic by increasing the capacity of public service systems and mitigating the spread of infection.

The Scottish Government is committed to keeping the provisions of this Bill under review at all times, under the scheme set out above.

### **Declaration and Publication**

I have read the Equality Impact Assessment and I am satisfied that it represents a fair and reasonable view of the expected equality impact of the Bill.

Signed: James Hynd

Date: 30 March 2020



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