

# Equality Impact Assessment Record

September 2019

## EQUALITY IMPACT ASSESSMENT RECORD

<b>Title of policy/ practice/ strategy/ legislation etc.</b>	<b>Children (Scotland) Bill</b>	
<b>Minister</b>	<b>Minister for Community Safety</b>	
<b>Lead official</b>	<b>Hannah Frodsham</b>	
<b>Officials involved in the EQIA</b>	<b>name</b>	<b>team</b>
		<b>Looked after Children unit;</b>  <b>Justice Analytical Services;</b>  <b>Children &amp; Families Analytical Services;</b>  <b>Family Law Unit;</b>
<b>Directorate: Division: Team</b>	<b>Family Law Unit</b> <b>Civil Law &amp; Legal System Division</b> <b>Justice Directorate</b>	
<b>Is this new policy or revision to an existing policy?</b>	<b>New legislation</b>	

### Screening

#### *Policy Aim*

The overarching policy objectives of the Children (Scotland) Bill are to:

- ensure the views of the child are heard in contact and residence cases;
- further protect victims of domestic abuse and their children;
- ensure the best interests of the child are at the centre of contact and residence cases and Children’s Hearings; and
- ensure further compliance with the United Nations Convention on the Rights of the Child (UNCRC) in family court cases.

The most relevant National Outcome is:

- We grow up loved, safe and respected so that we realise our full potential.

The effect of the Children (Scotland) Bill will be to further protect children and young people who are the subject of a contact or residence dispute or Children’s Hearing. The Bill aims to help meet this National Outcome by ensuring our children grow up in an atmosphere of happiness, love and

understanding and that children are not left worried or isolated. In addition, the Bill includes provisions ensuring the views of children are heard in contact and residence cases.

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

The Bill will affect a wide range of people including:

- children or young people involved in the life of the young person at the centre of a case under section 11 of the Children (Scotland) Act 1995 or Children's Hearing;
- the child or young person at the centre of the court case or Children's Hearing;
- Child Welfare Reporters and curators ad litem;
- child contact centres in Scotland;
- the courts;
- family members of the individual attending court;
- individuals who are attending court to apply for an order under section 11 of the 1995 Act;
- lawyers who are acting for parties in family cases;
- local authorities who are ordered to produce a child welfare report by the court;
- parents, family members or other adults who are involved in a court case or Children's Hearing;
- Principal Reporter;
- Scottish Children's Reporter Administration;
- Scottish Legal Aid Board (SLAB); and
- siblings of a child looked after away from home.

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

The cost implications of some options considered, when identifying the best ways to meet the aims of the Bill, lead to them not being considered viable.

A number of the provisions in the Bill require amendments to court rules. Rules of court are made by Act of Sederunt and are a matter for the Lord President on behalf of the Court of Session and the Scottish Civil Justice Council. If the Lord President and the Scottish Civil Justice Council do not make the required amendments to the rules of court this may affect some of the provisions in the Bill.

## **Stage 1: Framing**

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

The Family Law Unit met with colleagues from the Directorate for Children and Families for the purpose of the framing exercise of the consultation of the Review of the Children (Scotland) Act 1995. The consultation led to the Bill.

The Family Law Unit also spoke separately to Justice Analytical Services and Education Analytical Services.

The framing exercise suggested that the following groups of people might be affected positively by areas in the Children (Scotland) Bill.

#### Age

- Legislative proposals in this area will affect children.
- Removing the presumption that only children aged 12 or above are mature enough to be able to form a view, which is aimed at ensuring that the views of younger children are heard, would affect children under 12.
- Evidence shows that contact centres are used primarily for facilitating contact with children under the age of 8. Therefore, any regulation of contact centres will directly affect more children under the age of eight.
- Provisions in Bill are also more likely to impact on adults of parenting age.

#### Disability

- The Scottish Government has received anecdotal evidence that children with disabilities are less well heard by the court than children without disabilities.
- Stress can have a negative impact on a person's mental health. There is evidence that parties find family cases in court stressful<sup>1</sup>. Options to ensure the views of the child are heard, improve court procedure, protect children and victims of domestic abuse and improve the Children's Hearings System may help reduce the stress of court cases.

#### Sex

---

<sup>1</sup> Laing, K & Wilson G. 2010 Understanding child contact cases in Scottish sheriff courts Newcastle University. <https://www2.gov.scot/resource/doc/334161/0109246.pdf>

- Domestic abuse, which disproportionately affects women, is a significant issue in family cases. Understanding of domestic abuse is developing, with coercive control now recognised as a significant issue.
- The pursuers in family cases are more often men than women. A point regularly suggested to us in correspondence is that court decisions in family cases are made in favour of women. Although the court must make decisions based on the welfare of the child, some stakeholders would like to see courts starting from a shared parenting perspective.

### Pregnancy and Maternity

- The Scottish Government are not aware of any particular issues in relation to pregnancy and maternity.

### Gender reassignment

- The Scottish Government are not aware of any particular issues in relation to transgender children and transgender parents in contact and residence cases.

### Sexual orientation

- Lesbian, gay or bisexual children are more likely to experience bullying and mental health issues and that stress may be a particular issue for them in the court process.
- The Scottish Government has received no information to suggest that same sex couples are disadvantaged in the court process.

### Race

- People who have English as a second language may be at a disadvantage in understanding the court procedure and proceedings.

### Religion or belief

- Some faiths may have different approaches to equality of the sexes and to family matters in general.
- A child's beliefs may be different from the child's parents (or the parents may hold different beliefs) and this may be a source of conflict.

### Marriage and Civil Partnership

- This protected characteristic only needs to be considered in relation to policies about work, such as HR policies.

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

Following the framing exercise, the Scottish Government believes that the extent of the EQIA required was high. A draft EQIA was included in the consultation on the review of the Children (Scotland) Act 1995.

A Child Rights and Wellbeing Impact Assessment (CRWIA) has been prepared separately and will be cross-referred to in this EQIA.

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

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

Characteristic <sup>2</sup>	Evidence gathered and Strength/quality of evidence	Source	Data gaps identified and action taken
<b>AGE</b>	<p>1. The Child Rights and Wellbeing Impact Assessment (CRWIA) sets out the evidence gathered in relation to children and young people under 18 of age.</p> <p>2. Unpublished data from the Scottish Legal Aid Board (SLAB) suggests that between April 2017 and April 2019 24% of granted legal aid applications were to parties between the ages of 25 to 29. This figure drops to 20% for 30 to 34 year olds and 15% for 35 to 39 year olds. Therefore, the Bill will affect individuals between 25 to 29 year olds more as a number of the provisions in the Bill will affect court procedure in cases under section 11 of the 1995 Act.</p> <p>3. In 2018/2019 the ratios for children being placed on a new supervision order by a children's hearing were:</p> <p>42% under 5</p> <p>28% 6-11</p> <p>30% 12 and above</p>	<p>2. SLAB data</p> <p>3. SCRA statistics<sup>3</sup></p>	<p>2. There is no data available from the Scottish Courts and Tribunals Service (SCTS) on age of pursuers and defenders. Therefore, the Scottish Government has relied on data from SLAB which only covers cases where individuals are granted legal aid.</p>

<sup>2</sup> Refer to Definitions of Protected Characteristics document for information on the characteristics

<sup>3</sup> <https://www.scra.gov.uk/wp-content/uploads/2019/07/SCRA-full-statistical-analysis-2018-19.pdf>

	<p>For adoptions the data shows us that the proceedings breakdown in ages is:</p> <p>49% under 5</p> <p>31% 5- 9</p> <p>20% over 14</p> <p>4. At 31 July 2018, there were an estimated 14,738 looked after children in Scotland.</p> <p>5. In 2018/19, 31,653 Children’s Hearings were held for 13,667 children and young people.</p> <p><b>Ensuring the views of the child are heard</b></p> <p>6. More younger children are likely to be affected by the provisions in the Bill which remove the legal presumption that a child aged 12 or over is considered mature enough to give their views. The Bill amends sections 6, 11 and 16 of the Children (Scotland) Act 1995 (the 1995 Act), as well as sections 14 and 84 of the Adoption and Children (Scotland) Act 2007 and section 27 of the Children’s Hearings (Scotland) Act 2011.</p>	<p>4. Data from Scottish Government<sup>4</sup></p> <p>5. SCRA statistics<sup>5</sup></p> <p>7. SLAB data</p>	
--	--	---	--

<sup>4</sup> <https://www.gov.scot/publications/childrens-social-work-statistics-2017-2018/>

<sup>5</sup> <https://www.scra.gov.uk/wp-content/uploads/2019/07/SCRA-full-statistical-analysis-2018-19.pdf>



7. Unpublished SLAB data shows that between 2015 and 2017 they funded 32 applications from children for legal aid to appear directly before the judge or sheriff. 30 out of the 32 applications came from children aged 12 or over.

8. Prior to a child or young person attending a Children’s Hearing, they are able to express their views either through SCRA’s All About Me form or through social work’s child views form. In 2018/19 SCRA recorded receipt of 2,735 of these forms for 1,998 children and young people. This was a 4.8% increase from 2017/18 (126 more forms).

**Protecting victims of domestic abuse**

9. Provisions in the Bill that restrict personal conduct of cases in proceedings involving vulnerable witnesses and protect vulnerable parties through special measures will positively affect victims of domestic abuse. Scottish Government statistics on domestic abuse suggest that in 2017/18:

Age	% of victims of domestic abuse
16-18	4
19-21	7
22-25	12
26-30	17
31-35	15
36-40	12

8. SCRA statistics<sup>6</sup>

9. Data from Scottish Government<sup>7</sup>

7. There is no data available from SCTS on the age of the child when court processes are initiated.

<sup>6</sup> <https://www.scra.gov.uk/wp-content/uploads/2019/07/SCRA-full-statistical-analysis-2018-19.pdf>

<sup>7</sup> <https://www.gov.scot/publications/domestic-abuse-recorded-police-scotland-2017-18/pages/14/>

	<table border="1"> <tr> <td>41-50</td> <td>15</td> </tr> <tr> <td>51-60</td> <td>6</td> </tr> <tr> <td>61 and over</td> <td>2</td> </tr> <tr> <td>Not Recorded</td> <td>10</td> </tr> </table>	41-50	15	51-60	6	61 and over	2	Not Recorded	10	<p>10. Data from Scottish Government<sup>8</sup></p> <p>11. Relationships Scotland and Promoting Positive Contact.</p>	<p>10. There is no data on the age of the person convicted of an offence based on who the victim of the offence was.</p> <p>There is no known data gathered on how many children (or adult vulnerable witnesses) are required to give evidence in Children’s Hearing cases so we cannot give figures of how many children may be protected by the new provisions</p> <p>11. There is no information from the independent contact centres in Inverclyde and in Aberdeen.</p> <p>12. No data from Promoting Positive Contact.</p>
41-50	15										
51-60	6										
61 and over	2										
Not Recorded	10										
	<p>10. The provision prohibiting personal conduct of a case if an individual has committed a serious criminal offence is likely to affect more people over the age of 21. Scottish Government statistics on criminal proceedings for 2017/18 suggest that 11% of convictions for homicide, attempted murder, other non-sexual crimes of violence, sexual crimes, rape and attempted rape, sexual assault, other sexual crimes, common assault and breach of the peace were committed by under 21s.</p> <p><b>Regulation of child contact centres</b></p> <p>11. Younger parents may be affected by the provisions regulating child contact centres. Unpublished data from Relationships Scotland suggests that in 2017/18 58% of individuals using child contact centres were aged 20-29 and 26% were aged 30-39. At the independent contact centre in Glasgow 38% of individuals who gave their age were between 20 and 29.</p>										

<sup>8</sup> <https://www.gov.scot/publications/criminal-proceedings-scotland-2017-18/pages/14/>

	<p>12. Regulation of contact centres will affect children. In 2018/19, 2,572 children were able to maintain contact with a non-resident parent by using Relationships Scotland contact centres. The independent contact centre in Aberdeen says that it provides support for up to 12 families per year at their contact centre The Inverclyde contact centre dealt with 60 children from 53 families in 2016 and 76 children from 58 families in 2017. 25 of these children were aged 3 and under, 20 were 4-6, 17 were 7-10 and 6 were aged 11 and over.</p>	<p>12. Relationships Scotland, Independent contact centres in Aberdeen and Inverclyde.</p>	
<b>DISABILITY</b>	<p>1. More than half of pursuers reported that they have experienced moderate or severe stress during court action. The provisions in the Bill allowing the courts to authorise the use of special measures to protect vulnerable parties and also prohibiting the personal conduct of case in proceedings involving vulnerable witnesses is likely to reduce levels of stress.</p> <p><b>Ensuring the views of the child are heard</b></p> <p>2. Research has shown that uncertainty and distress of family breakdown was compounded for children by the lack of involvement in the process. Rates of satisfaction with current arrangements were conversely higher for those who have been consulted. The provisions removing the presumption that a child aged 12 or over is considered mature enough to give their views, aimed at ensuring that the</p>	<p>1. Study on Understanding Child Contact Cases in Scottish Sheriff courts<sup>9</sup></p> <p>2. Holt, S 2016. The voice of the child in family law: A discussion paper <i>Children &amp; Youth Services Review</i> 6</p>	

<sup>9</sup> Laing, K & Wilson G. 2010 Understanding child contact cases in Scottish sheriff courts Newcastle University.  
<http://www.gov.scot/Resource/Doc/334161/0109246.pdf>

	views of younger children are heard, will encourage courts to consult children more widely.		
<b>SEX</b>	<p>1. Unpublished statistics from SLAB suggest that 82% of defenders in cases under section 11 of the 1995 Act are female compared to 18% of men. In comparison SLAB statistics suggest that 32% of pursuers are female compared to 68% of men. Therefore, the Bill will affect more women acting as defenders in cases under section 11 of the 1995 and more men acting as pursuers in these cases.</p> <p>2. 56% of children and young people referred to the Children's Panel are male and 44% are female. Therefore, the provisions in the Bill in relation to Children's Hearings may affect slightly more males than females.</p> <p><b>Regulation of child contact centres.</b></p> <p>3. 76% of individuals using a child contact centre within the Relationships Scotland network are male. 53 families used the Inverclyde Child Contact Centre in 2016, of which three were to facilitate contact with the mother. In 2017 58 families used the centre, of which nine were to facilitate contact with the mother.</p> <p><b>Protecting victims of domestic abuse</b></p> <p>4. Research shows that domestic abuse is alleged in half of all court actions over contact raised by a parent in Scotland. Research undertaken by the Ministry of Justice in 2009 showed that 53% of</p>	<p>1. SLAB statistics</p> <p>2. Data from SCRA</p> <p>3. Data from Relationships Scotland member services and Inverclyde Child Contact centre.</p> <p>4. Mackay K. 2013. The treatment of the views of children in private law child</p>	<p>1. There is no data available from SCTS on the sex of defenders and pursuers.</p> <p>3. No data is available from the two other independent contact centres.</p>

	<p>contact and residence cases in England and Wales involved allegations of domestic abuse or concerns about abduction or harm to children.</p> <p>5. Provisions in the Bill restricting personal conduct of cases in proceedings involving vulnerable witnesses and protecting vulnerable parties through special measures will affect more women than men. Statistics show that in 2017/18 81% of incidents of domestic abuse involved a female victim and male perpetrator compared to 16% of incidents where the victim is male and the perpetrator is female.</p> <p>6. In addition, research by CAFCASS and Women's Aid in 2017 shows that in England and Wales domestic abuse was alleged in 62% of child contact cases with fathers more likely to be subject of allegations than mothers.</p> <p><b>Factors for the court to consider</b></p> <p>7. The Bill introduces factors for the court to consider when making an order under section 11 of the 1995 Act. One of the factors is the effect that the order the court is considering to make might have on the involvement of the child's parents in the child's upbringing. This is likely to have a greater impact on men rather than women as statistics from 2010</p>	<p>contact disputes where there is a history of domestic abuse<sup>10</sup></p> <p>5. Scottish Government statistics on Domestic Abuse in Scotland<sup>11</sup></p> <p>6. CAFCASS and Women's Aid research<sup>12</sup></p> <p>7. Equality impact assessment. Strengthening families, promoting parental</p>	
--	---	--	--

<sup>10</sup> <https://www.cypcs.org.uk/ufiles/views-of-children-and-domestic-abuse.pdf>

<sup>11</sup> <https://www.gov.scot/publications/domestic-abuse-recorded-police-scotland-2017-18/pages/1/>

<sup>12</sup> <https://www.cafcass.gov.uk/download/2124>

	<p>suggest that 95% of non-resident parents in the UK are men.</p> <p><b>Conferral of Parental Responsibilities and Rights</b></p> <p>8. The Bill includes provisions giving the Scottish Ministers the power to make regulations in relation to the conferral of parental responsibilities and rights (PRRs) on unmarried fathers where a child's birth is registered overseas and the parent has obtained overseas parental duties, rights or responsibilities in a similar way to obtaining PRRs in Scotland. This provision would specifically affect men as unmarried fathers.</p>	<p>responsibility: the future of child maintenance<sup>13</sup>.</p>	<p>8. There are no figures on the number of unmarried fathers coming from overseas jurisdictions.</p>
<b>PREGNANCY AND MATERNITY</b>	<p>1. Cases under section 11 of the 1995 Act are only likely to be initiated once a child has been born.</p>		<p>1. There is no information on the age of a child when an order under section 11 of the 1995 Act is sought.</p>
<b>GENDER REASSIGNMENT</b>			<p>1. There is no information on the number of people who have undergone gender reassignment who are applying for an order under section 11 of the 1995 Act.</p>
<b>SEXUAL ORIENTATION</b>	<p>1. Scottish Government statistics show that in 2017/18 2% of domestic abuse incidents recorded by the police involved two men and 1% involved two women.</p>	<p>1. Scottish Government statistics on Domestic Abuse in Scotland<sup>14</sup></p>	

<sup>13</sup> [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/220425/eia-strengthening-families.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/220425/eia-strengthening-families.pdf)

<sup>14</sup> <https://www.gov.scot/publications/domestic-abuse-recorded-police-scotland-2017-18/pages/1/>

	<p><b>Conferral of PRRs</b></p> <p>2. The provisions in the Bill giving the Scottish Ministers the power to make regulations in relation to the conferral of PRRs on second female parents where the child's birth is registered overseas is likely to have an impact on second female parents.</p> <p>This provision covers second female parents who have obtained overseas parental duties, rights or responsibilities in a similar way to how second female parents can obtain parental responsibilities and rights in Scotland. This would mean that in these situations a second female parent will have their parental responsibilities and rights recognised without having to either seek a court order or complete a Parental Responsibilities and Rights Agreement with the mother of the child.</p>		<p>2. There is no information available on the number of contact and residence cases involving same sex couples as SCTS and SLAB do not record this data. No further information was forthcoming during the consultation process.</p>
<p><b>RACE</b></p>	<p><b>Conferral of PRRs</b></p> <p>1. The provisions in the Bill giving the Scottish Ministers the power to make regulations in relation to the conferral of PRRs on second female parents and unmarried fathers where a child's birth is registered overseas may have an impact on different races.</p> <p>2. NRS statistics suggest that in 2017 the highest EU countries for non-Scottish born residents were: Poland – 74,000</p>		<p>SCTS and SLAB do not hold information on use of interpreters or the race of parties applying to court.</p>

	<p>Republic of Ireland – 24,000  Germany – 23,000  France – 13,000  Latvia – 12,000</p> <p>3. NRS statistics suggest that in 2017 the highest non-EU countries for non-Scottish born residents were:  India – 27,000  Pakistan – 22,000  Nigeria – 15,000  China – 14,000  USA – 14,000</p>	2. & 3. Population by country of birth and nationality <sup>15</sup>	
<b>RELIGION OR BELIEF</b>	<p>1. Four contact centres that are members of the Relationships Scotland network use religious establishments as a venue for facilitating contact.</p> <p>2. There is occasional use of church facilities to host Children’s Hearings in remote islands.</p>		
<b>MARRIAGE AND CIVIL PARTNERSHIP</b> (the Scottish Government does not require assessment against this protected characteristic unless the policy or practice relates to work, for example HR policies and practices)	N/A		

<sup>15</sup> <https://www.nrscotland.gov.uk/statistics-and-data/statistics/statistics-by-theme/population/population-estimates/population-by-country-of-birth-and-nationality/jul-17-jun-18>



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

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

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

<b>Age</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination, harassment and victimisation			X	Bill is not designed for this.
Advancing equality of opportunity	X			The provision in the Bill removing the presumption that a child aged 12 or over is considered mature enough to give their views is aimed at ensuring that the views of younger children are heard.
Promoting good relations among and between different age groups	X			<p>The Bill introduces factors that the court must consider when making an order under section 11 of the 1995 Act. One of the factors to be considered is the likely effect of the proposed order on the child’s relationships with other people important to the child. This is likely to include grandparents. In addition, another factor to be considered is the effect the order might have on the involvement of the child’s parents in the child’s upbringing. This is likely to have an effect on encouraging good relations between children and adults.</p> <p>The Bill regulates child contact centres. This will have an impact on promoting relations between different age groups as contact centres are used by adults and children to maintain contact. Ensuring contact takes place in a safe and secure environment could help promote relations.</p>

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

<b>Disability</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination, harassment and victimisation			X	Bill is not designed for this.
Advancing equality of opportunity			X	Bill is not designed for this.
Promoting good relations among and between disabled and non-disabled people	x			Local authorities must promote personal relations between a child and their siblings. This could have a positive effect on the relations between a child and their disabled sibling.

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

<b>Sex</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	Bill is not designed for this.
Advancing equality of opportunity	X			Provisions in the Bill restricting personal conduct of cases in proceedings involving vulnerable witnesses and protecting vulnerable parties through special measures will ensure that victims of domestic abuse have a greater opportunity to participate in court proceedings without fear of continued abuse. The majority of victims of domestic abuse are women.
Promoting good relations between men and women	X			The Bill introduces factors for the court to consider when making an order under section 11 of the 1995 Act. The factors include the effect the order might have on the involvement of the child's parents in the child's upbringing.

				This is likely to encourage good relations between men and women with PRRs.
--	--	--	--	---

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

<b>Pregnancy and Maternity</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	Bill is not designed for this.
Advancing equality of opportunity			X	Bill is not designed for this.
Promoting good relations			X	Bill is not designed for this.

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

<b>Gender reassignment</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	Bill is not designed for this.
Advancing equality of opportunity			X	Bill is not designed for this.
Promoting good relations			X	Bill is not designed for this.

**Do you think that the policy impacts on people because of their sexual orientation?**

<b>Sexual orientation</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	Bill is not designed for this.
Advancing equality of opportunity	X			The provision in the Bill giving the Scottish Ministers the power to make regulations in relation to the conferral of PRRs where a child's birth is registered overseas is likely to have an impact on second female parents. This provision covers second female parents who have

				parental duties, rights or responsibilities in a similar way to how second female parents can obtain parental responsibilities and rights in Scotland. This would mean that in these situations a second female parent will be able to have their parental responsibilities and rights recognised without having to either seek a court order or complete a Parental Responsibilities and Rights Agreement with the mother of the child.
Promoting good relations			X	Bill is not designed for this.

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

<b>Race</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			x	Bill is not designed for this.
Advancing equality of opportunity	X			The provision in the Bill giving the Scottish Ministers the power to make regulations in relation to the conferral of PRRs where a child's birth is registered overseas may have an impact on different races. This provision covers second female parents and unmarried fathers who have obtained overseas parental duties, rights or responsibilities in a similar way to how parents can obtain parental responsibilities and rights in Scotland. This would mean that in these situations a second female parent or unmarried father would be able to have their parental responsibilities and rights recognised without having to either seek a court order or complete a Parental Responsibilities and Rights Agreement with the mother of the child.
Promoting good race relations			X	Bill is not designed for this.

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

<b>Religion or belief</b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			X	Bill is not designed for this.
Advancing equality of opportunity			X	Bill is not designed for this.
Promoting good relations			X	Bill is not designed for this.

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

<b>Marriage and Civil Partnership<sup>16</sup></b>	<b>Positive</b>	<b>Negative</b>	<b>None</b>	<b>Reasons for your decision</b>
Eliminating unlawful discrimination			N/A	

---

<sup>16</sup> In respect of this protected characteristic, a body subject to the Public Sector Equality Duty (which includes Scottish Government) only needs to comply with the first need of the duty (to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010) and only in relation to work. This is because the parts of the Act covering services and public functions, premises, education etc. do not apply to that protected characteristic. Equality impact assessment within the Scottish Government does not require assessment against the protected characteristic of Marriage and Civil Partnership unless the policy or practice relates to work, for example HR policies and practices.

## Stage 4: Decision making and monitoring

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

Have positive or negative impacts been identified for any of the equality groups?	Yes positive impacts in relation to age, sex and race.  No negative impacts have been identified.
Is the policy directly or indirectly discriminatory under the Equality Act 2010 <sup>17</sup> ?	No.
If the policy is indirectly discriminatory, how is it justified under the relevant legislation?	N/A
If not justified, what mitigating action will be undertaken?	N/A

### *Describing how Equality Impact analysis has shaped the policymaking process*

The partial EQIA which was included in the consultation on the Review of the Children (Scotland) Act 1995 helped to inform the final policies which have been taken forward in the Children (Scotland) Bill.

The EQIA has helped identify areas where further data would be useful from SCTS. This has been included in work being undertaken by Justice Analytical Services to improve the SCTS data on family court cases.

The costs of the Bill are estimated in the Financial Memorandum which accompanies the Bill. These have not required to be changed as a result of the EQIA.

The EQIA has helped to ensure that the Bill meets two of its main aims of:

- Ensuring the views of children are heard in decisions and court cases which affect them; and
- Protecting victims of domestic abuse (who are more likely to be women).

### *Monitoring and Review*

---

<sup>17</sup> See EQIA – Setting the Scene for further information on the legislation.

The Scottish Government will continue to meet with SLAB, SCTS, SCRA and key external stakeholders, both during and after the implementation of the legislation, to monitor its progress and, if necessary, to identify any areas requiring additional work.

## Stage 5 - Authorisation of EQIA

Please confirm that:

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

Yes  No

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

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

Yes  No

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

Yes  No  Not applicable

## Declaration

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

**Name: Gavin Henderson**

**Position: Deputy Director, Civil Law & Legal System**

**Authorisation date: 23 August 2019**





© Crown copyright 2019

**OGL**

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://nationalarchives.gov.uk/doc/open-government-licence/version/3) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at [www.gov.scot](http://www.gov.scot)

Any enquiries regarding this publication should be sent to us at  
The Scottish Government  
St Andrew's House  
Edinburgh  
EH1 3DG

ISBN: 978-1-83960-117-0 (web only)

Published by The Scottish Government, September 2019

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA  
PPDAS619490 (09/19)

W W W . G O V . S C O T