POLICY NOTE

THE HUMAN TRAFFICKING AND EXPLOITATION (DUTY TO NOTIFY) (SCOTLAND) REGULATIONS 2026

SSI 2026/60

The above instrument was made in exercise of the powers conferred on them by section 38(3), (4) and (6) of the Human Trafficking and Exploitation (Scotland) Act 2015 (the '2015 Act'). The instrument is subject to a negative procedure.

Summary Box

The purpose of the instrument is to specify the public authorities who will be required to notify the Chief Constable of the Police Service of Scotland of a person who is or appears to be a victim of human trafficking, slavery, servitude and forced or compulsory labour; make provisions about information to be included in these notifications; specify the bodies or organisations whom the chief constable must then notify and the information to be contained in that notification.

Policy Objectives

The statistics from the National Referral Mechanism (NRM), published by the Home Office on quarterly and annual bases, serve as the primary source of data on slavery, human trafficking and exploitation in the UK and in Scotland. The NRM is the UK's framework for identifying and supporting potential victims of human trafficking and exploitation. Only designated "First Responders" (such as Police, Local Authorities, and certain Non-Governmental Organisations) can refer individuals into the NRM in Scotland. Adults must give consent before referral, while children are referred automatically. These statistics serve as the main source of data that informs and assists with human trafficking and exploitation strategies across all administrations in the UK.

Section 38 of the 2015 Act makes it a duty for specified Scottish public authorities to notify the Chief Constable of the Police Service of Scotland, and for the Chief Constable to thereafter notify other specified bodies about a person who is or appears to be a victim of human trafficking or slavery, servitude, or forced/compulsory labour. Section 38 allows Scottish Ministers to specify by regulations which Scottish public authorities must notify the Chief Constable and which specified bodies the Chief Constable must notify upon receiving information. Additionally, Section 38 allows Scottish Ministers to specify what information should be contained in both types of notifications. These regulations specifying who must make and receive notifications, and specifying the information contained within these notifications, are referred to as the 'Duty to Notify Regulations'.

The purpose of these notifications is to capture information about potential victims of human trafficking. By collating this data, a more accurate picture of trafficking trends can be provided and this will support the early identification of emerging trends and patterns and strengthen Scotland's ability to develop evidence-based policies on human trafficking. The

duty to notify therefore does not have any impact on individual cases where the victim is referred into the NRM.

Regulation 3 of the Duty to Notify Regulations provides for specified bodies who must notify the Chief Constable that a person is a victim, beyond traditional First Responders. This reflects a strategic aim to capture a fuller picture of human trafficking and exploitation in Scotland. Placing the duty on those specified Scottish public authorities captures information and data about potential victims in diverse settings, such as health services, local authorities, and other agencies.

Regulation 4 of the Duty to Notify Regulations ensures a standardised approach in notifications sent to the Chief Constable, with Schedule 1 identifying what information held by the specified public authority should be part of the notification. The information to be included in a notification was determined during consultation on the Duty to Notify Regulations, and is designed to provide consistent high-level information to support analysis regarding the forms of exploitation being encountered, shifts in trafficking routes or methods, geographical hotspots, and changes in the demographic profile of victims.

Regulation 5 specify those persons the Chief Constable must notify about the information. These are organisations who can play a role in Scotland's wider strategic and operational response to human trafficking. Schedule 2 provides for the information to be included in the notifications by the Chief Constable. This will ensure the information received by third parties is consistent, anonymised, and provide high-level indicators. Sharing this information supports robust trend analysis, identification of emerging risks, and strengthens Scotland's capacity for informed decision-making regarding human trafficking.

Regulation 7 ensures the confidentiality of victims so they cannot be identified in any information included in either of the notifications. The Duty to Notify Regulations do not have an impact on any individual case where the victim has been referred to the NRM, whether it is a child who is automatically referred or an adult who has consented to being referred into the NRM.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility Statement

The Scottish Ministers have made the following statement regarding children's rights:

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 the Scottish Ministers certify that, in their view, the Human Trafficking and Exploitation (Scotland) Act 2015 (Duty to Notify) Regulations is compatible with the UNCRC requirements as defined by section 1(2).

Section 11 of the Human Trafficking and Exploitation (Scotland) Act requires Scottish Ministers to appoint an independent child trafficking guardian for any child who is believed to be a victim (or potential victim) of trafficking and has no parent or guardian in the UK. Once a local authority makes that determination, they must quickly refer the child so a guardian can be appointed. The guardian must be completely independent, act in the child's best interests, and public bodies must cooperate and share relevant information with them. Section 12 requires authorities to treat a person as a child if they may be a victim of

trafficking and there are reasonable grounds to believe they might be under 18, until a formal age assessment is completed. This ensures immediate access to child-specific protections and support. It applies to local authorities and Health Boards, and covers duties under key child-welfare legislation. Ministers can update which authorities and laws are included through regulations.

The Duty to Notify Regulations does not amend, replace, or otherwise impact these arrangements, nor does it introduce, remove, or modify any rights, entitlements, or services relating to children. On this basis, the proposal does not constitute a "decision of a strategic nature relating to the rights and wellbeing of children" within the meaning of the UNCRC (Incorporation) (Scotland) Act 2024.

EU Alignment Consideration

Directive 2011/36/EU on preventing and combating trafficking in human beings established the standards expected for EU Member States on prosecution, victim protection, and data collection. Article 19a was inserted into Directive (by Directive 2024/1712/EU) with a provision relating to data collection and statistics:

> "Member States shall ensure that a system is in place for the recording, production and provision of anonymised statistical data to monitor the effectiveness of their systems to combat offences referred to in this Directive".

The 2015 Act is the primary legislation through which Scotland maintains its alignment with Directive 2011/36/EU as amended. The Duty to Notify Regulations will deliver ongoing alignment with Article 19a in this specific area, by ensuring a robust and EU-consistent approach to the collection of statistical data, leading to delivery of a broader strategic understanding of trafficking and exploitation in Scotland.

Consultation

The content of these Duty to Notify Regulations has been subject to consultation and engagement with stakeholders. A public consultation was launched on 16 June 2019 and closed on 6 September 2019, supported by a range of engagement activities including consultation events, letters, online surveys, a trial implementation of the duty, and a victim and survivor questionnaire.

A further targeted consultation was undertaken in 2025 with the public bodies most directly affected, and partners in the trafficking sector. This exercise focused on confirming which bodies should be named in the regulations, the information to be recorded, onward sharing arrangements, and the content of onward notifications. Views were also sought on guidance and training requirements to ensure implementation would be proportionate, practical, and effective. The regulations were informed by feedback from respondents during the consultation.

The Duty to Notify Regulations will initially be commenced to apply to those adults who have not consented to being referred to the NRM. This will ensure that data about them is obtained which is not currently obtained and it will complement the statistics already produced by the Home Office on the victims who have entered the NRM.

Impact Assessments

For the laying of the Duty to Notify Regulations, the following impact assessments have been undertaken.

- Equalities Impact Assessment (EQIA)
- Legislation Data Protection Impact Assessment (DPIA)
- Children's Rights and Wellbeing Impact Assessment (CRWIA) and

Financial Effects

The commencement of the Duty to Notify Regulations is not expected to generate significant additional costs. As an administrative information-sharing requirement, it will be delivered through existing platforms and established operational processes. The Duty to Notify Regulations do not introduce new statutory obligations around workforce training or service delivery. Current training materials and operational guidance already support the relevant functions across public bodies and can be updated as required to reflect the new duty. Any further guidance needed to ensure consistent implementation will be developed collaboratively between the Scottish Government and affected public bodies, making use of existing resources and established channels.

The Minister for Victims and Community Safety has confirmed that no Business and regulatory impacts assessment is necessary as the Duty to Notify Regulations has no financial effects on the Scottish Government, local government or on business.

Scottish Government

Justice Directorate
February 2026