



Law Society
of Scotland

Consultation Response

Social Security: safeguarding data sharing
consultation

June 2022



Introduction

The Law Society of Scotland is the professional body for over 12,000 Scottish solicitors.

We are a regulator that sets and enforces standards for the solicitor profession which helps people in need and supports business in Scotland, the UK and overseas. We support solicitors and drive change to ensure Scotland has a strong, successful and diverse legal profession. We represent our members and wider society when speaking out on human rights and the rule of law. We also seek to influence changes to legislation and the operation of our justice system as part of our work towards a fairer and more just society.

Our Mental Health and Disability sub-committee welcomes the opportunity to consider and respond to the Scottish Government consultation: *Social Security: safeguarding data sharing consultation*.¹ The sub-committee has the following comments to put forward for consideration.

General Comments

We support the objective of formalising arrangements to align processes for data sharing, and thus to address the underlying challenge of providing clear and unobstructed routes for legitimate data sharing but at the same time safeguarding the confidentiality of data. Rather than answering specific consultation questions, we have the following suggestions for matters to be taken into account as work is carried forward following the consultation period:

1. It would be relevant to describe more fully the scope of circumstances in which adult support and protection procedures can be engaged, and the powers available under those procedures.
2. The roles of appointees such as attorneys or guardians, with relevant powers, should be addressed and taken into account.
3. Having regard to the provisions of Article 12 of the UN Convention on the Rights of Persons with Disabilities, there should be clarity as to the status of any competent request by the adult in question that particular data (or all data) should be shared with a person identified by the adult, and appropriate provision of support to adults to enable them to do this in accordance with Article 12.3.
4. With reference to paragraph 9 of the consultation document, it should be acknowledged that this points to the possibility of law reform that would require further and separate consultation with all those normally included in consultation for such purposes.
5. With reference to paragraph 13, the views in items 1 – 3 are drawn from the experience of legal practice as to matters that can and do cause difficulties.

¹ [Social Security: safeguarding data sharing consultation - Scottish Government - Citizen Space](#)



For further information, please contact:

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