



Equality and
Human Rights
Commission

Scotland

Equality
and Human
Rights
Monitor:
Is Scotland Fairer?

November 2023


equalityhumanrights.com





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Acknowledgements

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We are also indebted to data providers for their cooperation and support, and to analytical colleagues across all three nations for their assistance in peer reviewing our work in a challenging timeframe.

Foreword

Background

The Equality and Human Rights Monitor: 'Is Scotland Fairer? 2023' is our state of the nation report on equality and human rights in Scotland. Our last report was published in 2018.

It focuses on equality and human rights in Scotland over the last five years for the nine characteristics that are protected in law under the Equality Act 2010:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Aim of our report

We drew on all available data and evidence to measure progress on equality and human rights in Scotland over the past five years. The delay to the Scottish census meant that we were not able to use census data to inform our analysis, but we aim to provide updates when this becomes available.

This review is intended to support evidence-based debate and decisions to drive action and meaningful change that will make life fairer for everyone in Scotland.

A mixed picture

Since our last review, published in 2018, Scotland has seen several challenges and unforeseen events, including:

- the UK's departure from the European Union
- the profound impact of the COVID-19 pandemic, and
- increases in the cost of living, partly because of the war in Ukraine.

These events have contributed to a mixed picture of progress for equality and human rights.

There is evidence of progress. Young people aged 16–19 were more likely to be in education, employment or training in 2022 than in 2016. Ethnic minority representation in the Scottish Parliament has improved and the proportion of women on public boards met the Scottish Government’s 50% target in 2019/20, 2020/21 and 2021/22.

For many people progress has been inconsistent.

- Educational attainment has improved since our last review, but there is still a large attainment gap between the most and least deprived pupils.
- Despite most ethnic minority groups outperforming White Scottish pupils at school leaving age, our evidence shows these groups experience a lower quantity and quality of work and worse living standards than White British people.
- While a greater proportion of disabled people are employed, they are more likely to earn less and experience worse living standards than non-disabled people.

In some cases, inequalities have persisted or worsened over the past five years.

- The educational attainment gap between looked after children and all pupils has not reduced, nor has their higher likelihood of exclusion from school.
- Adult and child poverty has increased, while relative poverty rates are higher and increasing more rapidly for lesbian, gay and bisexual adults than heterosexual adults.
- The numbers of police-recorded hate crimes aggravated by transgender identity, sexual orientation and disability have all increased.
- People living in the most deprived areas continue to have a lower healthy life expectancy, poorer mental health and are more likely to attempt or die by suicide.

Data and evidence gaps

In our last review, we acknowledged a lack of equality data on some critical issues. Despite improvements, significant gaps in equality data remain. In some areas, data and evidence gaps were exacerbated by the pandemic. Addressing these evidence gaps must continue to be a significant priority so that we can collect and analyse data about protected characteristics.

We welcome action by the Scottish Government and others to address evidence gaps and improve the equality evidence base in Scotland. This is necessary to identify the scale and nature of inequalities and take steps to ensure that everyone in Scotland can reach their true potential.

Recommendations

We acknowledge that the Scottish Government has taken action to address a range of issues, but more must be done. Our report includes a series of recommendations based on our findings to address gaps in data and improve public services.

Dr Lesley Sawers, Scotland Committee





Introduction

The Equality and Human Rights Commission (EHRC) is Britain's equality body and an 'A' status National Human Rights Institution (NHRI). We share the mandate to protect and promote human rights in Scotland with the Scottish Human Rights Commission (SHRC). We thank the SHRC for agreeing to our covering human rights issues in Scotland in this report.

We have a unique role in ensuring equality and human rights are protected and promoted. We make proportionate use of our enforcement powers to challenge policies and practices that are discriminatory. We also provide expertise and evidence-based insights to governments in all three nations of Britain.

The Equality Act 2006 gave us the statutory duty to report regularly to the UK Parliament on the extent to which equality and human rights are improving in Britain. Our first report in 2010, 'How fair is Britain?' (EHRC, 2010), was accompanied by a Scotland supplement, 'How fair is Scotland? 2010'. Since then, we have published two reports, 'Is Scotland Fairer? 2015' (EHRC, 2016) and 'Is Scotland Fairer? 2018' (EHRC, 2018a), as supplements to our state-of-the-nation 'Is Britain Fairer?' statutory report (EHRC, 2015; 2018b).

This is our latest statutory review, and the first to take place following the UK's departure from the European Union (EU) and the COVID-19 pandemic. The review is organised by the nine protected characteristics established by the Equality Act 2010 and provides an evidence-based overview of progress on equality and human rights in Scotland.

Context

The five years since our last statutory review have seen significant changes. This context is important to help understand the changes that have taken place to equality and human rights outcomes in Britain since 2018.

Membership of the European Union

On 23 June 2016, a referendum was held on the UK's membership of the EU. Of the people who voted in the UK, 52% voted in favour of leaving the EU.



In Scotland, 38% of votes were in favour of leaving, while the majority (62%) of voters in Scotland voted to remain.

The UK left the EU on 31 January 2020, followed by a transition period until 31 December 2020. The rules governing the new relationship between the EU and the UK took effect on 1 January 2021.

The Scottish Government has maintained that Scotland is worse off outside the EU, which informed the Scottish Government's campaign for Scotland to become independent. The Scottish Government has pledged that, following a vote in favour of independence, Scotland would apply to re-join the EU.

Scottish and British political context

Since our last statutory review, the Scottish Government has been led by the Scottish National Party (SNP). The SNP retained power in a minority administration following Scottish Parliament elections in May 2021, forming a power-sharing agreement with the Scottish Greens. On 28 March 2023, Nicola Sturgeon MSP stood down as First Minister of Scotland after being in post since 20 November 2014. She was replaced by Humza Yousaf MSP (29 March 2023 – present).

The UK government has been led by the same party, the Conservative and Unionist Party (commonly known as the Conservative Party), since our last review. The party had governed since the 2017 general election with no overall parliamentary majority but received a large majority at the 2019 general election. The SNP won 48 of the 59 Scottish seats in the House of Commons in the 2019 general election, a gain of 13 seats over those won in the 2017 general election.

Since 2018, the UK has had four prime ministers: Theresa May MP (13 July 2016 – 24 July 2019); Boris Johnson MP (24 July 2019 – 6 September 2022); Liz Truss MP (6 September 2022 – 25 October 2022); and Rishi Sunak MP (25 October 2022 – present).

The COVID-19 pandemic

COVID-19 was first identified in Wuhan, China in December 2019. It spread quickly worldwide, and the World Health Organization (WHO) declared a COVID-19 pandemic on 11 March 2020. As a result, temporary legislation was introduced to allow essential public services to continue to be delivered, to support businesses and to protect the health of people living and working in Scotland.

An initial national lockdown in Scotland between March 2020 and August 2020 restricted movement, gatherings and retail, leisure and hospitality operations. This was followed by a phased approach to restrictions, with large regional variations. In January 2021, mainland Scotland entered a second lockdown until 26 April. On 9 August 2021, Scotland moved 'beyond level zero', allowing most of the remaining legally imposed restrictions to be lifted, particularly rules on physical distancing and limits on the size of social gatherings.

The range of pandemic laws and interventions represented an unprecedented restriction by the three national governments on the rights of people in Britain. There was high public compliance notwithstanding debate about the need for different interventions.

Introduction

Due to an unprecedented contraction in the UK's economy during the first national lockdown, the UK government and the Bank of England introduced various policies to support businesses and workers during lockdowns, such as the Coronavirus Job Retention Scheme (known as the 'furlough scheme').

Cost of living

The cost of living in all three of Britain's nations has been increasing sharply since 2021. Food and energy (particularly gas) prices have risen markedly, largely in response to the conflict in Ukraine. Global recovery from COVID-19 is putting further pressure on prices. In the UK, the rate of inflation reached a 41-year high of 11.1% in October 2022. Inflation dropped a little in subsequent months but started rising again at the start of 2023, reaching 10.1% in January 2023 and 10.4% in February 2023 (Harari et al., 2023).

Debate and scrutiny

Specific events have prompted debate on several protected characteristics since our last statutory review.

Intense debates about race in the UK were triggered by the murder of George Floyd by police officers in the United States, and the revival of the Black Lives Matter movement. This coincided with a higher death rate among ethnic minorities in the UK during the COVID-19 pandemic.

The Commission on Race and Ethnic Disparities (CRED) was set up to explore these issues and published its report and recommendations in 2021 (CRED, 2021). The UK government responded in March 2022 with the Inclusive Britain action plan and policy commitments (DLUHC and Race Disparity Unit, 2022).

The Scottish Government also took steps to address longstanding structural and institutional racial inequalities in Scotland. Its actions included:

- convening an expert reference group on COVID-19 ethnicity, and
- publishing an immediate priorities plan for an equal and anti-racist recovery from the pandemic based on the group's recommendations (Scottish Government, 2021).



There has been increased attention on violence against women in response to several high-profile incidents, including murders, and ongoing low conviction rates for sexual offences.

New policies and strategies have been introduced in Scotland as a result, including the Victims, Witnesses, and Justice Reform (Scotland) Bill. If passed, the Bill would grant Scottish Ministers the power to establish a pilot of rape and attempted rape trials (if these meet specified criteria) to be conducted by a single judge and without a jury. The Bill would also abolish the controversial 'not proven' verdict in Scots Law and reduce the size of criminal juries from 15 to 12, though retaining the need for a majority of eight to reach a guilty verdict.

There has been much debate and legal action to clarify the definition of sex in law and to amend gender recognition legislation, with some arguing that a chosen gender identity should take precedence over the sex a person is recorded to have at birth. In response to a request from the UK government, we recommended in April 2023 that the UK government consider a biological definition of sex in the Equality Act to improve legal clarity.

In December 2022, the Scottish Parliament passed the Gender Recognition Reform (Scotland) Bill to make it easier for trans people to obtain a gender recognition certificate (GRC) by removing existing evidence requirements established by the Gender Recognition Act 2004. This would also reduce the age when someone can obtain a GRC from 18 to 16 years old.

Introduction

The proposed legislation was blocked by the UK government (using section 35 of the Scotland Act 1998) on the grounds that it could affect the operation of reserved legislation (the Equality Act 2010) outside Scotland. In April 2023, the Scottish Government lodged a petition with the Scottish Court of Session, seeking a judicial review of the UK government's use of section 35. The petition is scheduled to be heard by Lady Haldane at the Court of Session in September 2023.

Legal cases have clarified the scope of a protected belief under the Equality Act since our last statutory review. These have extended protections for beliefs to include ethical veganism, stoicism and those who believe that sex is biological and not a matter of gender identity.

The people of Scotland

On the recommendation of National Records of Scotland (NRS), Scottish Government ministers decided to delay Scotland's census date from 2021 to 2022. This was due to COVID-19 preventing its logistical planning and the testing of census systems and processes. As a result of this delay, no findings from the 2022 Scotland census were available at the time of our review.

However, NRS publishes mid-year population estimates annually and Scotland's population was estimated at 5,479,900 in mid-2021. This is an increase of around 184,900 since the 2011 census. International migration and migration from elsewhere in the UK were the main drivers of population growth in the year ending June 2021. In contrast, deaths outnumbered births by the largest amount on record (-14,500 natural change) (NRS, 2022).

How we reviewed the evidence

The evidence in this report has been assessed using our measurement framework (EHRC, 2017). This measures progress on equality and human rights across Scotland in a systematic and consistent way.

We report on six major areas of life for each protected characteristic, using a variety of indicators. The six areas of life, or 'domains,' are:

- education
- work
- living standards
- health
- justice and personal security, and
- participation.

Evidence collection involved desk-based research into existing published sources and our own secondary statistical analysis of datasets such as household surveys and administrative data (gathered by government agencies including schools and hospitals). Between 30 January and 1 March 2023, we called for evidence to fill identified gaps. We have not included evidence published after April 2023.

Our statistical analysis examined data since 2018 (the year of the last statutory review) and, where possible, across the past decade to examine longer term trends. COVID-19 affected data collection by many surveys, leading to some missing data or data not comparable with pre-pandemic years due to changes in methodology.

We conducted bespoke analysis of a range of data from different surveys and administrative sources. These are available within our data tables and referred to in the text as 'Our analysis of [data set]'. Due to small differences in geographies, breakdowns of characteristics and definitions, our figures in this report may sometimes differ from published figures from the same source. Details of sources used and our analysis is available in the separate technical guidance.

We have only reported on statistically significant differences for every measure. For some measures, sample-size breakdowns relating to certain protected characteristics can be low, or data is not available. This has limited what we have been able to comment on. The full data tables of our own analyses are on our website.

When referring to protected characteristics, we recognise that source data and research may use terms in different ways. Protected characteristics are described consistently unless a source uses a different term, in which case we have replicated the term used in the source to avoid misrepresenting the findings.

The term 'intersectionality' acknowledges and examines how a combination of more than one protected characteristic can lead to or perpetuate distinct forms of discrimination or disadvantage. Though our report identifies some intersectional issues, the broad range of evidence and issues our report covers means we have not been able to examine intersectionality in depth and across all subjects.

A full explanation of our methodology is on our website.

Developments affecting multiple groups

In this chapter we identify, for each of the six areas of life examined in this report, the key legal and policy developments over the period of the report that have had an impact on population groups not defined by protected characteristics, or across several protected characteristics. It also reports on relevant outcomes. Where a legal or policy development or outcome relates predominantly to an individual protected characteristic, it is addressed in the relevant protected characteristic chapter.

Definitions

Looked after children: Under the Children (Scotland) Act 1995, 'looked after children' (LAC) are defined as those in the care of their local authority. In the data presented, looked after children includes those who were under the care of their local authority for both the full year and part of the year. The term 'children looked after' (CLA) is also used.

Special school: Special schools were created to address the educational needs of pupils with severe learning difficulties, for whom regular classroom education is not possible.

SIMD levels: The Scottish Index of Multiple Deprivation (SIMD) is a relative measure of deprivation based on the extent to which an area of Scotland is deprived across seven domains: income, employment, education, health, access to services, crime and housing. The most deprived areas are ranked SIMD 1. SIMD levels are calculated by quintile (SIMD 1 being the most deprived areas, SIMD 5 being the least deprived areas), or decile (SIMD 1 being the most deprived areas, SIMD 10 being the least deprived areas).

Key findings

- Educational attainment has improved since our last review in 2018, but there is still a large attainment gap between the most and least deprived pupils. In 2021/22, the attainment gap at SCQF Level 5 or better was 19.1 percentage points.
- The attainment gap between looked after children (LAC) under the care of local authorities and all other pupils has not reduced. In 2020/21, the attainment gap between LAC and all pupils at SCQF Level 5 or better was 50 percentage points. LAC are also much more likely to be excluded from education, with the exclusion rate for LAC more than six times higher than for all pupils in 2020/21. Despite improvements since our last review, LAC are still less likely to go on to further or higher education, employment or training when they leave compulsory secondary education.
- Employment in Scotland rose and unemployment fell between 2011/12 and 2019/20. Employment declined significantly between 2019/20 and 2020/21. Unemployment increased in 2020/21 before dropping the following year.
- Adult and child poverty rates increased between 2010/11 and 2019/20. Adult severe material deprivation rates fell during this period.
- Socio-economic deprivation has far-reaching effects on health outcomes. People living in the most deprived areas of Scotland have lower healthy life expectancy, poorer mental health and well-being and are more likely to attempt or die by suicide than people living in the least deprived areas.
- The likelihood of dying in prison (including by suicide and from drug-related deaths) in 2022 was double what it was in 2008. The suicide rate in prisons has increased since our last review.

Policy and legal developments

Equality and human rights

The Programme for Government 2019–20 set out its commitment to incorporate the United Nations Convention on the Rights of the Child (UNCRC) into Scots Law (Scottish Government, 2019). In March 2021, the Scottish Parliament unanimously passed the UNCRC (Incorporation) (Scotland) Bill. However, the Bill was challenged by the UK government at the Supreme Court and is currently being rewritten in line with the ruling that it was not within the legislative competence of the Scottish Parliament.

The Scottish Government has now committed to introducing a new human rights Bill for Scotland. This will incorporate four further United Nations (UN) human rights treaties. These are the:

- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- International Convention on the Elimination of All Forms of Racial Discrimination (CERD), and
- Convention on the Rights of Persons with Disabilities (CRPD).

The new Bill will also include the right to a healthy environment, as well as rights for older people and lesbian, gay, bisexual and trans (LGBT) people. This is in line with recommendations from the National Taskforce for Human Rights Leadership that the Scottish Government set up in 2019 (Scottish Government, 2021a). A consultation on the Bill was expected to begin in the first half of 2023 and the Bill to be introduced in the current parliamentary session running to 2026 (Scottish Government, 2023a).

The 2020–21 Programme for Government included a commitment to develop a mainstreaming strategy to embed equality and human rights through all Scottish Government policy (Scottish Government, 2020a).

Developments affecting multiple groups

The 'Equality Outcomes and Mainstreaming Report 2021' provided an update on the Scottish Government's progress in incorporating equality across its activities, both as a policymaker and an employer (Scottish Government, 2021b). These included creating an Equality, Inclusion and Human Rights Directorate and improving data collation and analysis.

The 2021 report also reiterated the Scottish Government's ongoing commitment to review the effectiveness of the Public Sector Equality Duty (PSED) in Scotland, including the effectiveness of the Scottish Specific Duties (SSDs), for which Scottish Ministers have legislative competence under the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 (Scottish Government, 2021b).

Stage one of the PSED review focused on engagement between the Scottish Government, equality stakeholders and listed authorities and concluded in early 2021. Stage two involved a public consultation to explore issues and themes identified during stage one and build further evidence (Scottish Government, 2021c; 2021d).

The Scottish Government is expected to legislate for changes to the SSDs as allowed within its existing legislative powers. The aim is for any regulatory changes to come into force in 2025.

Scotland's Equality Evidence Strategy 2017–2021 focused on developing a more wide-ranging and robust evidence base for the Government's policy and other work. It was followed by the 2021 Equality Data Improvement Programme (EDIP) to lay the groundwork for a data improvement plan and address significant gaps in Scotland's equality evidence. We were represented on the EDIP project board, alongside other key stakeholders with an interest in mainstreaming equality.

EDIP's first phase ended in publication of Scotland's Equality Evidence Strategy 2023–2025, following public consultation (Scottish Government, 2023b). The second phase is a three-year programme to implement the actions in the strategy.

Economic policy

The 2022 Delivering for Prosperity National Strategy for Economic Transformation (NSET) clarified the Scottish Government's priorities and what was needed to achieve its vision of a 'well-being economy' for the country (Scottish Government, 2022a). Central to this was creating 'a fairer and more equal society', with actions to reduce poverty and improve health, cultural and social outcomes.

The Scottish Government's commitments included:

- ensuring it pays the real Living Wage as an employer
- making the real Living Wage a condition of grants it awards, and
- establishing a Centre of Expertise in Equality and Human Rights to embed equality and human rights in its economic policymaking.

This was followed by NSET delivery plans explaining how the Scottish Government would work with external partners – including other public bodies, charities, voluntary organisations and businesses – to implement the strategy (Scottish Government, 2022b).

Education

There has been a continuing focus on closing the poverty-related attainment gap in Scottish education in successive Programmes for Government since our last review in 2018.

Closing the poverty-related attainment gap (Scottish Government, 2021e) reported on progress made between 2016 and 2021. It noted that changes in the attainment gap varied across local authority areas and on some measures the gap had widened.

The Scottish Attainment Challenge (SAC) was refreshed in November 2021 to support recovery from COVID-19 and accelerate progress in closing the gap. The SAC for 2022/23 to 2025/26 includes continued Scottish Government investment in Pupil Equity Funding for schools and funding to support care experienced children and young people. It also introduces Strategic Equity Funding for local authorities to invest in approaches to meet the SAC. This will be distributed annually to every local authority based on data about children in low-income families (Scottish Government, n.d.).

Health

Health and social care

In 2016, the Scottish Government announced plans for ‘an independent, root and branch review of the care system’ to look at its ‘underpinning legislation, practices, culture and ethos’ (Scottish Government, n.d., a). In 2017, The Independent Care Review began work, and published seven reports in 2020.

The main report was ‘The Promise’. It set out actions to improve children’s, young people’s and families’ experiences of the care system, which can be traumatic, including to:

- provide better early parenting support
- give children a voice in decisions about them
- ensure better mental health support, and
- improve the quality of data in terms of outcomes (Independent Care Review, 2020).

The Scottish Government signed up to the actions in ‘The Promise’ and published an implementation plan in 2022 (Scottish Government, 2022d). The Promise Oversight Board was established to monitor progress. To date, only one report has been published so far. The board said that the current systems and structures do not make it possible to effectively monitor progress. The board raised concerns that, while progress has been made, there is a need for greater urgency in the pace and scale of improvements being made if ‘The Promise’ is to be kept by 2030 (The Promise Oversight Board, 2022).

Justice

The Hate Crime and Public Order (Scotland) Act 2021 was passed by the Scottish Parliament in response to Lord Bracadale's 2018 independent review of existing hate crime laws. This recommended consolidating the laws in a single piece of legislation (Scottish Government, 2018).

The Scottish Government committed to develop a new hate crime strategy to support the Act's implementation, informed by a ministerial-led Hate Crime Strategic Partnership Group of experts in equality, inclusion and human rights. The strategy was published in March 2023 and set out key priorities for tackling hate crime and prejudice in Scotland (Scottish Government, 2023c).

Participation

In 2021, the Scottish Government convened the Institutionalising Participatory and Deliberative Democracy (IPDD) Working Group to explore ways to make democracy in Scotland more participatory and inclusive.

Its 2022 final report made recommendations, such as establishing:

- a Scottish Government unit responsible for participation, including creating a Citizens' Assembly infrastructure, and
- a children and young people's democracy symposium to co-develop a Citizens' Assembly for under-16s (Scottish Government, 2022c).

The IPDD report called for intersectional 'empowering approaches' to embed equality and human rights, favouring co-design and co-production where possible.

The Scottish Government's 2023 response to the IPDD Working Group recommendations sets out next steps to implement those recommendations it accepted (Scottish Government, 2023d).

Legal developments

Several pieces of legislation have come into force in Scotland since our last review in 2018.

The Good Food Nation (Scotland) Act 2022 requires Scottish Ministers and certain public bodies to create Good Food Nation plans outlining their intended food-related outcomes and policies to achieve them. The bodies the Act identifies as 'relevant authorities' are health boards and local authorities.

The Fuel Poverty (Targets, Definition and Strategy) (Scotland) Act 2019 sets a new target for reducing fuel poverty in Scotland. The Scottish Government should report on progress every five years. The Act also provides a new definition of poverty aligned to income.

The Hate Crime and Public Order (Scotland) Act 2021 is a response to the independent review of hate crime laws recommendations. The Act consolidates existing hate crime legislation and updates the list of characteristics protected under the Act to now include age, disability, race, religion, sexual orientation, transgender identity and variations in sex characteristics.

The Scottish Elections (Franchise and Representation) Act 2020 changes who is allowed to vote in, and who can stand for, Scottish Parliament and local council elections. The Act allows anyone who has a legal right to live in Scotland to vote, such as people who have been granted refugee status or the right to asylum. It also allows prisoners serving sentences of 12 months or less to vote. The Act permits all foreign nationals with permanent residency to stand for election. Previously, only British, Commonwealth and EU citizens could stand as candidates.

Outcomes

Education

Educational attainment and socio-economic deprivation

Over the longer term there has been a positive trend of improvement in educational attainment levels for all socio-economic groups. Between 2010/11 and 2020/21, pupils in the most deprived areas (SIMD 1 quintile) experienced the greatest increase in the proportion achieving one or more qualifications at SCQF level 5 or better, an increase of 15.3 percentage points.¹ However, since our last review, the rate of progress has slowed. Between 2017/18 and 2020/21, there was no statistically significant difference in the improvement of pupils from SIMD 1, SIMD 2 and SIMD 3. The proportion of pupils from SIMD 1 achieving SCQF level 5 or above increased by 2.9 percentage points between 2017/18 and 2020/21 (from 75.0% to 77.9%).

In 2021/22, of those achieving SCQF Level 5 or better, the attainment gap increased between those in the most deprived and least deprived areas. Between 2020/21 and 2021/22 the proportion of school leavers achieving one pass or more decreased among school leavers from both the most and least deprived areas. However, it decreased more for those from the most deprived areas. This led to a widening of the gap between the two groups from 18.2 percentage points in 2020/21 to 19.1 percentage points in 2021/22 (Scottish Government, 2023e).



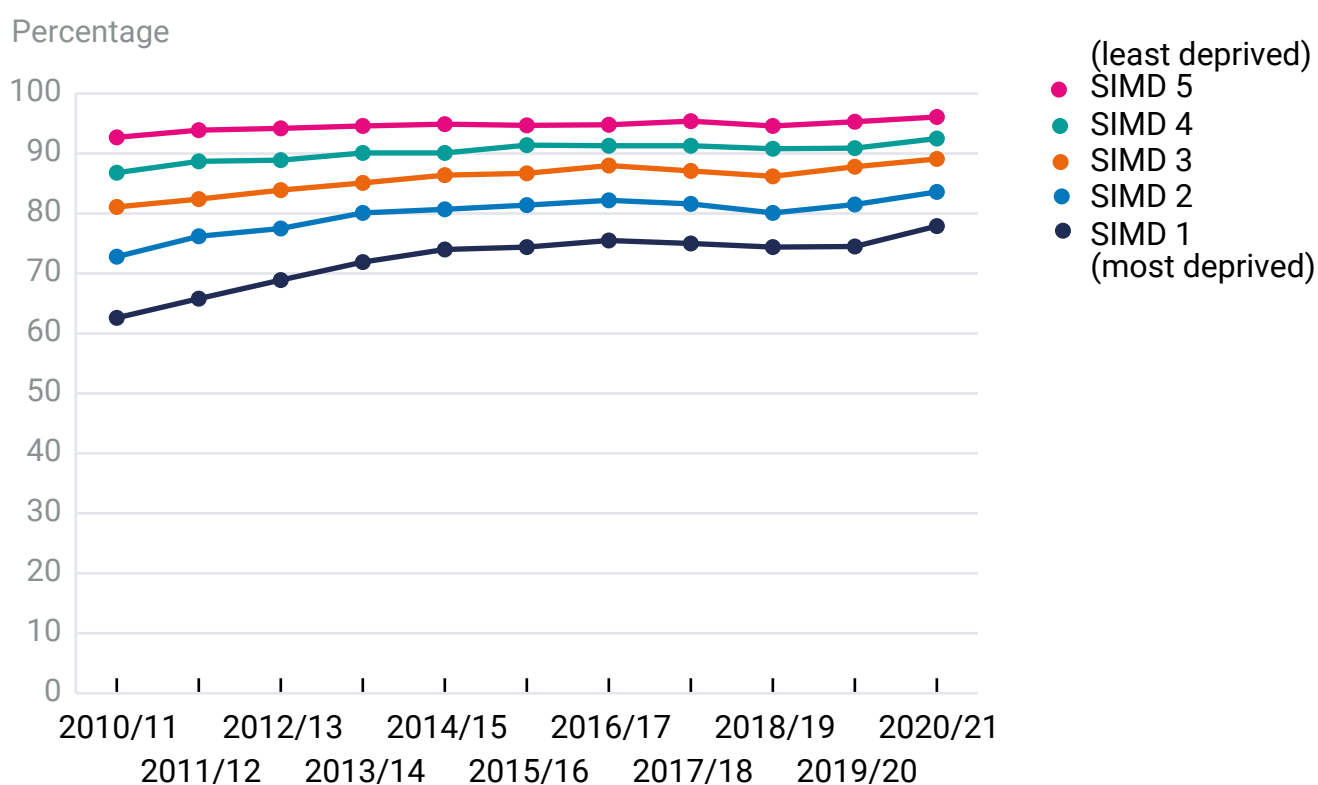
Our data analysis suggests that the greater the level of a pupil's deprivation, the less likely they are to achieve one or more qualifications at SCQF level 5.

1 The Scottish Index of Multiple Deprivation (SIMD) is a relative measure of deprivation based on the extent to which an area of Scotland is deprived across seven domains: income, employment, education, health, access to services, crime and housing. The most deprived areas are ranked SIMD 1.

Developments affecting multiple groups

In 2020/21, the attainment gap between pupils from the most and least deprived areas was 18.2 percentage points. However, this attainment gap has reduced over time, falling from a gap of 30.1 percentage points in 2010/11.

Figure 1: Proportion of pupils achieving one or more qualifications at SCQF level 5 and better, by socio-economic group (SIMD), 2010/11 to 2020/21



(Source: EHRC analysis of Scottish Government data)

COVID-19 resulted in significant disruption to education, with schools in Scotland closed for most pupils from 20 March to 11 August 2020. There are concerns that this disruption is likely to have exacerbated existing inequalities in educational outcomes. Scottish Government analysis of the pandemic's impact on education found that children from poorer backgrounds had less active involvement with teachers or school services (Scottish Government, 2020b).

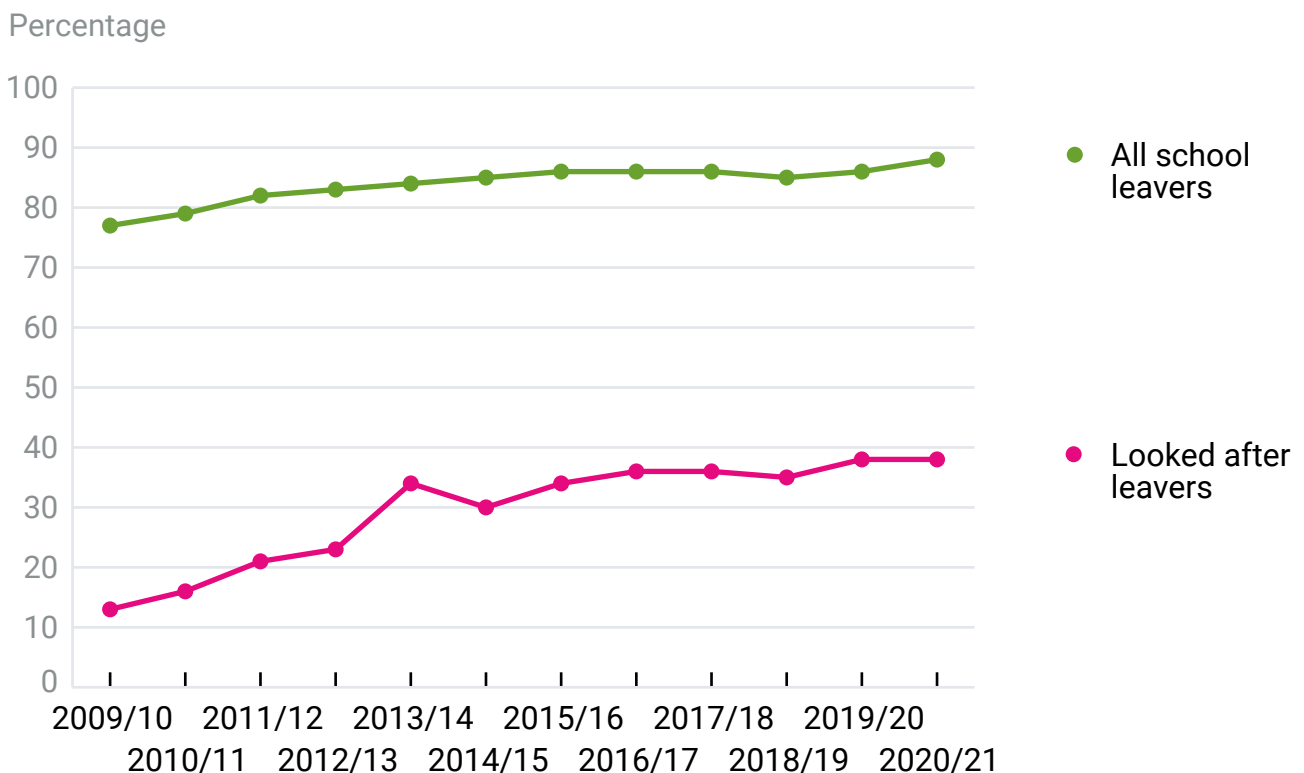
Developments affecting multiple groups

The attainment gap in literacy between primary school pupils² living in the most and least deprived areas in 2021/22 (21.3 percentage points) was slightly higher than in 2018/19 (20.7 percentage points), though this has dropped from 24.7 percentage points in 2020/21. The attainment gap in numeracy in 2021/22 (17.8 percentage points) was slightly higher than in 2018/19 (16.8 to 24.7), though this had declined from 21.4 percentage points in 2020/21 (Scottish Government, 2022e).

Looked after children (LAC)³

LAC's educational attainment has improved over the past decade but there is still a large attainment gap between them and other pupils. In 2020/21, the difference in the proportion of all pupils achieving at least one qualification at SCQF level 5, compared with looked after school-leavers, was 50 percentage points (Scottish Government, 2022f).

Figure 2: Proportion of looked after school leavers and all school leavers achieving one or more qualification at SCQF level 5 or better



(Source: Scottish Government)

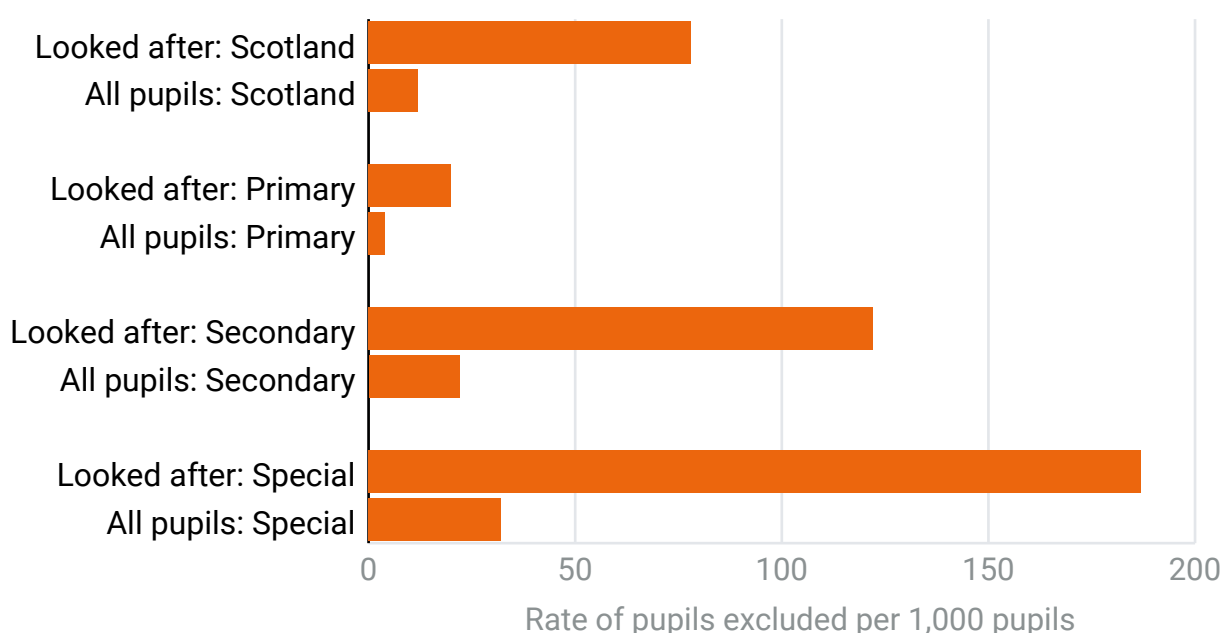
² Calculated as the percentage of P1, P4 and P7 pupils combined achieving expected Levels.

³ Also known as 'children looked after (CLA) by local authorities'.

Developments affecting multiple groups

LAC are also more likely than other pupils to be excluded from education. Though the gap has reduced since 2012/13, the exclusion rate for looked after pupils (78 per 1,000 pupils) was more than six times the rate for all pupils (12 per 1,000 pupils) in 2020/21. The exclusion rate in 2020/21 was highest for LAC at special schools at a rate of 187 per 1,000 (Scottish Government, 2022f).

Figure 3: Exclusion rate per 1,000 pupils by all pupils, looked after pupils and sector, 2020/21



(Source: Scottish Government)

Looked after young people are also less likely than school leavers in general to leave education for initial positive destinations⁴ but the situation has improved. In 2020/21, the proportion of looked after young people going on to a positive destination in the first three months after the end of the school year (86%) was 28 percentage points higher than in 2009/10 (58%). However, there are variations in the type of initial destination that looked after school-leavers and all school-leavers were in in 2020/21.⁵ Far fewer looked after leavers (8%) were engaged in higher education compared with all leavers (45%) and the proportion of looked after leavers who were unemployed (13%) was more than double

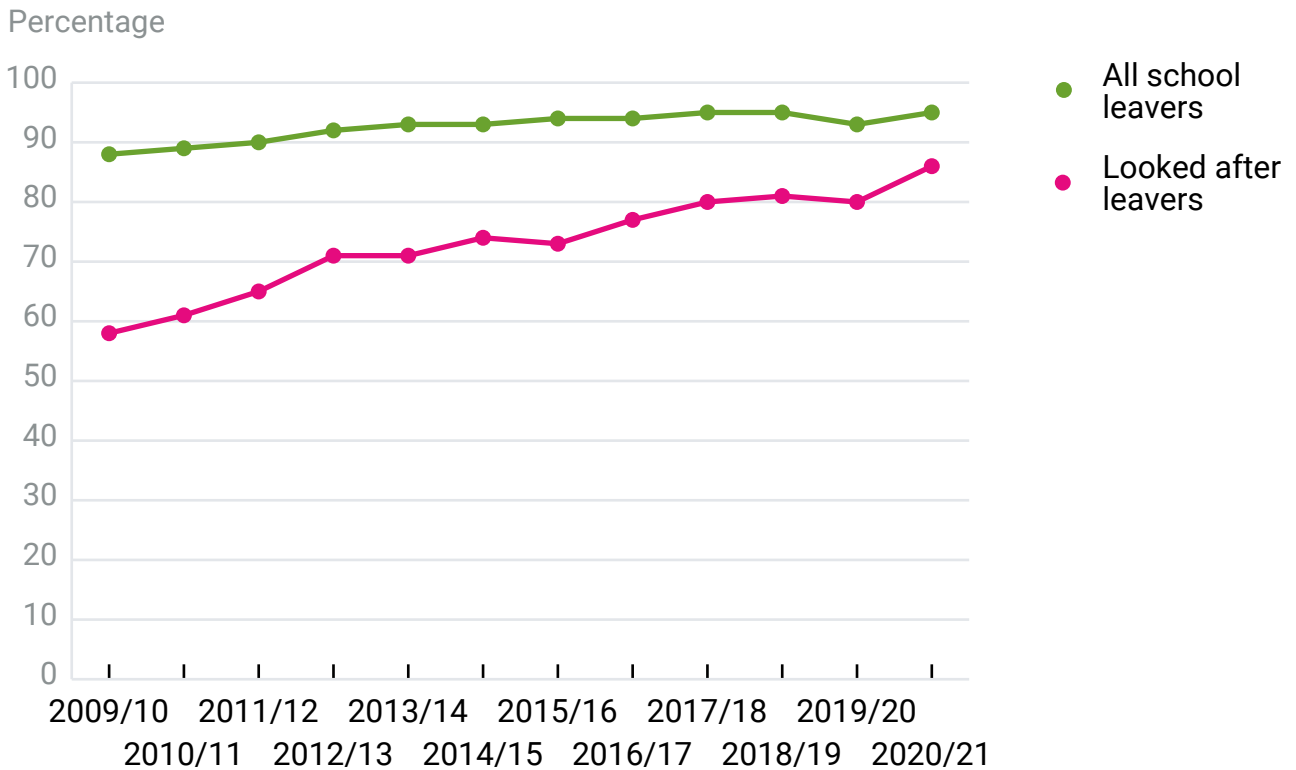
⁴ Positive destinations after leaving compulsory education include higher education, further education, training, employment, voluntary work, activity agreement and personal skills development.

⁵ Initial destinations refer to destinations of school leavers three months after leaving compulsory education.

Developments affecting multiple groups

than that for all school leavers (5%) (Scottish Government, 2022g).

Figure 4: Proportion of looked after leavers and all school-leavers going on to a positive destination, 2009/10 to 2020/21

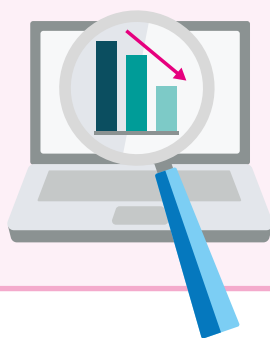


(Source: Scottish Government)

Work

Employment and unemployment

Our analysis of Annual Population Survey (APS) data from before the pandemic found a statistically significant increase in employment in Scotland, from 57.3% in 2011/12 to 59.4% in 2019/20.



There was a significant decrease in employment between 2019/20 and 2020/21 (57.9%). The employment rate in 2021/22 was 58.5%, though this is not significantly different from employment in 2019/20 and 2020/21.

We found unemployment in Scotland fell from 8.1% in 2011/12 to 3.3% in 2019/20. It rose during the COVID-19 pandemic to 4.7% in 2020/21 before dropping to 3.4% in 2021/22.

Average earnings and pay

Between 2011/12 and 2019/20, real median hourly earnings in Scotland increased from £12.57 to £13.61.

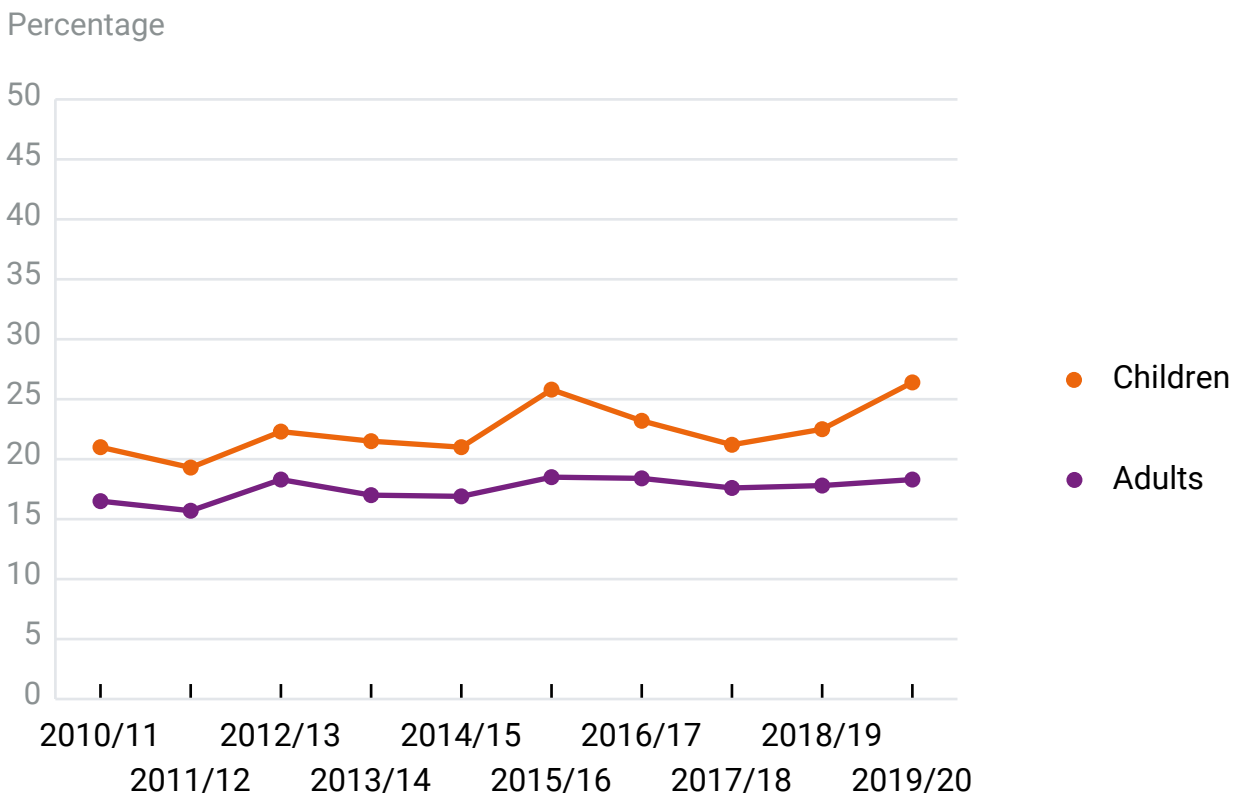
Our APS analysis found the proportion of the Scottish workforce who were in high-paid occupations rose during the same period, from 26.8% in 2011/12 to 31.0% in 2019/20, while the proportion in low-paid occupations fell from 30.9% to 29.1%.

Living standards

Adult and child poverty

Our analysis of the Family Resources Survey (FRS) found that the adult poverty rate increased from 16.5% in 2010/11 to 18.3% in 2019/20 but has remained relatively stable since 2015/16. Analysis of poverty data in 2020/21 was not undertaken due to a combination of smaller sample sizes and additional bias introduced during the pandemic. The Scottish Government has since produced a rolling average that omits the 2020/21 data. This shows that the three-year average poverty rate (relative, after housing costs) for 2019–2022 was 21% for all people in Scotland, 21% for working-age adults, and 15% for pensioners (Scottish Government, 2023f).

Figure 5: Adult and child poverty in Scotland, 2010/11 to 2019/20



(Source: EHRC analysis of Family Resources Survey)

Our analysis of the FRS found that the child poverty rate increased from 21.0% in 2010/11 to 26.4% in 2019/20. It remained relatively stable from 2015/16 with no significant year-on-year changes until 2019/20.

Developments affecting multiple groups

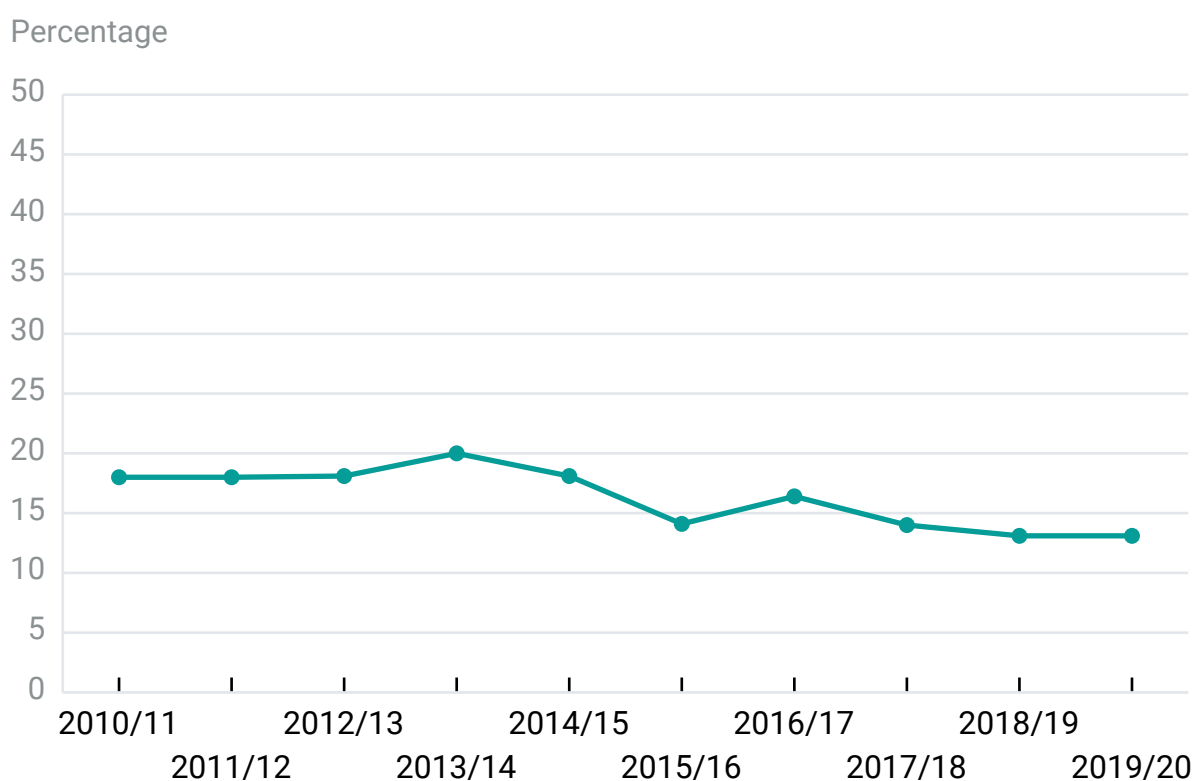
Scottish Government analysis of the FRS shows an estimated 24% of children were living in relative poverty after housing costs in 2019–2022 and more than two-thirds of children in poverty (69%) lived in working households (Scottish Government, 2023f).⁶

Severe material deprivation

Our analysis of the FRS indicates that the proportion of adults experiencing severe material deprivation fell from 18.0% in 2010/11 to 13.1% in 2019/20. However, this is not significantly different from 2015/16 (14.1%), our last period of analysis in 2018. This is measured in adults aged 16–59, excluding dependent children aged 16–19.

Analysis of data in 2020/21 was not undertaken because of small sample sizes and additional bias introduced during the pandemic. Several questions asked as part of the measure were also affected by legal restrictions.

Figure 6: Proportion of working-age adults experiencing severe material deprivation in Scotland, 2010/11 to 2019/20



(Source: EHRC analysis of Family Resources Survey)

⁶ This three-year average excludes data collected during 2020/21.

Developments affecting multiple groups

It is likely that increases in the cost of living will affect forthcoming data on severe material deprivation. Between September 2022 and January 2023, 92% of people in Scotland said their cost of living had increased in the past year (ONS, 2023). The data suggests that people experienced financial problems in several areas related to severe material deprivation:

- 26% found it difficult to pay their rent or mortgage
- 46% found it difficult to pay their energy bills, and
- 44% thought they would not be able to save any money in the next 12 months.

Homelessness

Homeless applications rose by 2.8% in 2021/22 from the previous year. Scottish Government data reveals there were 35,230 homelessness applications and 28,882 households assessed as homeless or threatened with homelessness in 2021/22. Though these figures are higher than in 2020/21, overall homeless applications and assessments are still lower than levels before the pandemic (Scottish Government, 2022h).

Social care

The number of people supported by social care services fell from 45.3 to 43.1 per 1,000 population between 2018/19 and 2021/22 (Public Health Scotland, 2022).⁷

⁷ Our last period of analysis for this was March 2016, but the current data set does not include 2016 for direct comparison.

Health

Healthy life expectancy

Both male and female healthy life expectancy has decreased over time. In 2019–2021, healthy life expectancy was 61.1 years for women and 60.4 years for men. Healthy life expectancy has been decreasing since 2015–2017 for men and since 2014–2016 for women. Between 2009–2011 and 2019–2021, female healthy life expectancy significantly declined by 2.0 years and male healthy life expectancy significantly declined by 0.7 years (National Records of Scotland, 2022a).

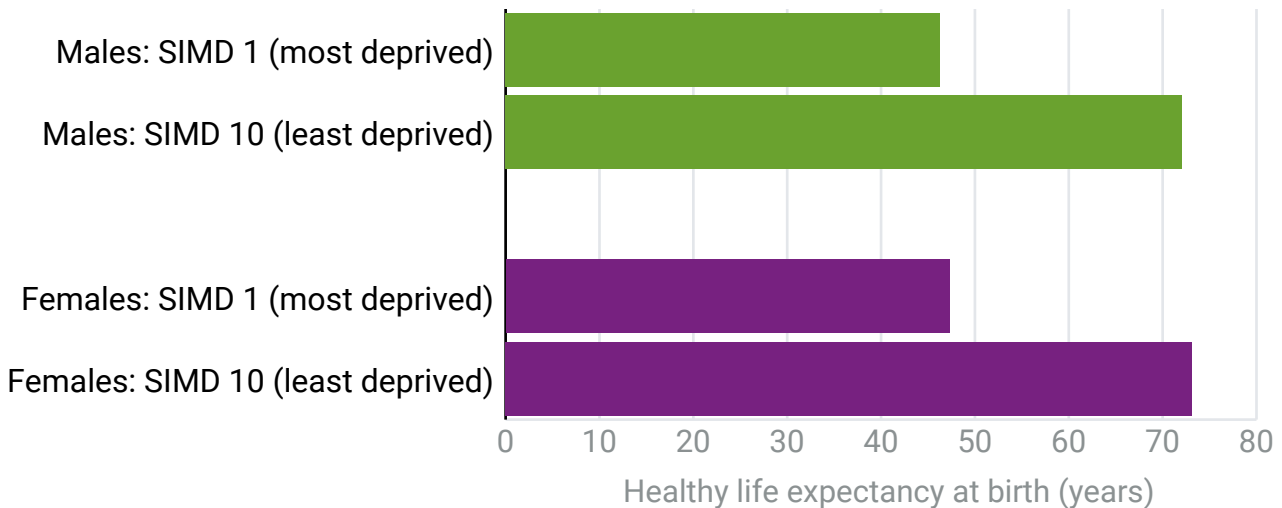
Socio-economic deprivation has a big impact on healthy life expectancy. There are large differences in healthy life expectancy between the most and least deprived deciles for both men and women born in 2019–21.

Healthy life expectancy was 25.7 years⁸ more for women born in the least deprived areas (73.1 years) than the most deprived areas (47.3 years). For men, the difference was 25.8 years (72.1 years compared with 46.3 years) (Scottish Government, 2023g).

Men living in the most deprived areas have seen a sharp decline in healthy life expectancy, from 49.2 years in 2015–2017 to 46.3 years in 2019–2021 (Scottish Government, 2023g).

8 Due to rounding.

Figure 7: Healthy life expectancy at birth by deprivation (SIMD decile), in years, 2019–2021 (Scottish Government, 2023g)



(Source: National Records Scotland)

Mental health and well-being

Our analysis of Scottish Health Survey data shows that the proportion of adults reporting symptoms of poor mental health in Scotland increased between 2010 (15.5%) and 2018 (19.4%).⁹ This trend of worsening mental health is supported by evidence of falling mental well-being between 2019 and 2021. During this period, mean Warwick-Edinburgh Mental Well-being Scale (WEMWBS) scores dropped from 49.8 to 48.6, indicating a decline in mental well-being after a decade in which levels had remained consistent, ranging from 49.4 to 50.0.¹⁰

Scottish Health Survey data suggests living in a deprived area can have a significant impact on people’s mental wellbeing scores. Adult mean WEMWBS scores were lower in the most deprived areas (46.8 in SIMD 1) indicating poorer mental wellbeing compared with the least deprived areas (50.5 in SIMD 5). This represents the continuation of a longstanding pattern where deprivation is consistently linked to a higher likelihood of experiencing poorer mental wellbeing (Scottish Government, 2022i).

⁹ As measured by the General Health Questionnaire (GHQ-12).

¹⁰ WEMWBS is the Warwick-Edinburgh Mental Well-being Scale. Higher WEMWBS scores indicate greater mental wellbeing.



In 2021/22, people living in the most deprived areas were around three times more likely to experience inpatient mental health care than people living in the least deprived areas (Public Health Scotland, 2023).

Suicide

Deprivation is a significant factor in whether someone has attempted suicide. In 2021, adults from the most deprived quintile were four times more likely (12%) to have attempted suicide than those living in the least deprived quintile (3%) (Scottish Government, 2022i).

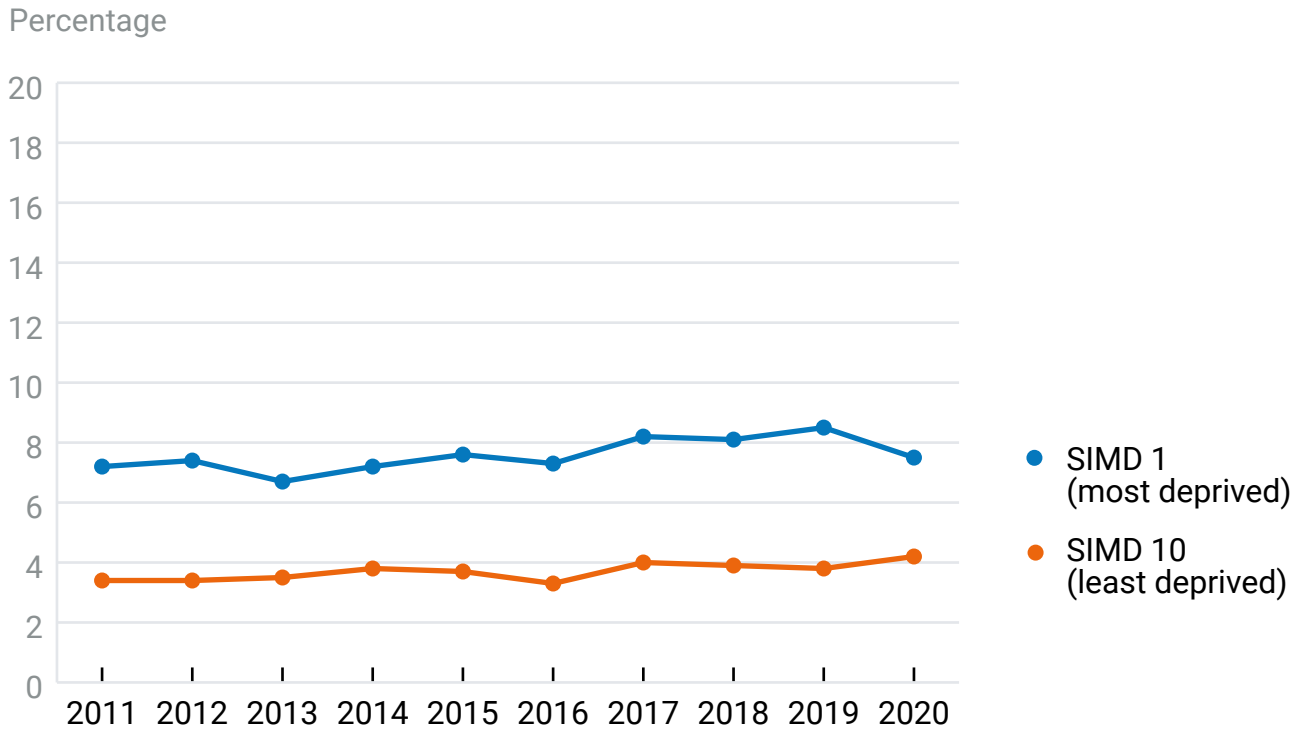
The age-standardised rate of deaths from suicide in the most deprived areas in 2021 was 2.9 times as high (21.4 per 100,000 people) as in the least deprived areas (7.5 per 100,000 people) (National Records of Scotland, 2022b).

Low birthweight babies

Over 2,350 low birthweight babies were born in Scotland in 2021. In the most deprived areas 7.8% of live singleton births were recorded as low birthweight, compared with 3.2% of babies born in the least deprived areas. There is a long-term trend in absolute inequalities in low birth weight between those living in the most and least deprived areas (Scottish Government, 2023g).¹¹

11 Absolute inequalities are measured by looking at changes in the gap between those living in the most and least deprived areas. Relative inequalities are measured using the relative index of inequality (RII), which indicates the extent to which health outcomes are worse in the most deprived areas compared with the average across Scotland.

Figure 8: Low birth weight babies as a proportion of live single births, by deprivation, 2011–2020



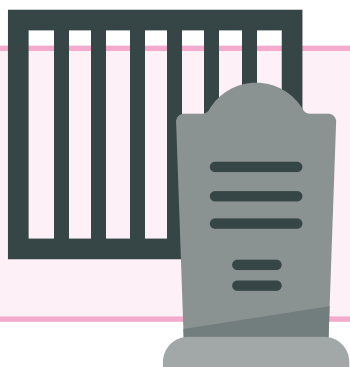
(Source: Scottish Government)

Justice

Research into Scottish prisoners' experiences of COVID-19 restrictions showed that most participants felt that lockdown had severely affected their mental health (Armstrong et al., 2022a). This is corroborated by findings from HM Inspectorate of Prisons for Scotland (HMIPS). In some prisons, HMIPS inspectors found evidence of sizeable increases in the number of prisoners being managed on suicide prevention strategies during the first few months of lockdown.

This varied from prison to prison. In HMP Perth, there was a 200% increase in the number of people being managed on the Scottish Prison Service suicide prevention strategy, 'Talk To Me' (TTM), in 2020/21. However, HMP Inverness reported there were fewer prisoners on TTM during the pandemic than in 2019 (HMIPS, 2021).

Research exploring prison deaths found that efforts to tackle growing levels of suicide have been ineffectual since the TTM suicide prevention strategy was introduced in prisons in December 2016. There has been a large rise in the suicide rate in prisons not explained by increases in the prison population. In 2011–2016, the suicide rate was 572 per 100,000 prisoners. By 2017–2022, this had risen to 841 per 100,000. Therefore, there have been 42% more suicides since the TTM suicide prevention strategy was introduced compared with before it came into effect (Armstrong et al., 2022b).



Overall, the chance of dying in prison in Scotland (including from suicide and drug deaths) in 2022 was double what it had been in 2008.

In the three years between 2020 and 2022, there were 121 deaths in prison, more than during any other three-year period in Scottish prison records (Armstrong et al., 2022b; Scottish Prison Service, 2023). Deaths from COVID-19 were not the main cause of the increase in the period 2020–2022. The death rate in prisons increased by 44% in the 15-year period from 2005 to 2019 (Armstrong et al., 2021).

Recommendations

The Scottish Government is in the process of reviewing the PSED in Scotland. As part of this process, in 2021, we argued that Scottish Ministers should ‘identify national outcomes relevant across sectors, which seek to address the most significant inequalities, are clearly linked to the National Performance Framework (NPF), and to which other public bodies would contribute. In this way, equality outcomes should be seen as a means of contributing to the achievement of outcomes in the NPF.’

The Scottish Government agreed, proposing that the Scottish Government ‘take on more of a leadership role in setting national equality outcomes, which listed authorities could then adopt to meet their own equality outcome setting duty.’ It added that this would require the Scottish Government to ‘ensure the national equality outcomes are measurable and link to the National Performance Framework’ (Scottish Government, 2021d).

We welcome the Scottish Government’s agreement that linking equality outcomes to the National Performance Framework is desirable. Equality outcomes under the Scotland specific duties and national outcomes in the NPF need to be closely linked for consistency and coherence.

Our recommendations below are therefore designed to help the Scottish Government to play a national convening role in setting equality outcomes for all Scottish public bodies to use.

Our view is that Scottish Ministers should set themselves an overarching equality outcome to maintain oversight of progress on the National Equality Outcomes (NEOs). We recommend that Scottish Ministers align this approach with the requirements of Regulation 12 of the Scottish Specific Duties (SSD), which requires them to ‘publish proposals for activity to enable a listed authority to better perform the equality duty’ and to ‘publish a report on progress in relation to the activity’.

Scottish Ministers should commit to developing a NEO Framework, which defines how the NEOs link to the NPF, set out which listed authorities should consider adopting each NEO, and set out core measurement criteria for each NEO.

Recommendations continued

1. The Scottish Government should set a NEO to reduce the education attainment gap between the most deprived and least deprived pupils at school leaving age.
2. The Scottish Government should set a NEO to reduce the education attainment gap between looked after pupils and all pupils at school leaving age, and to
 - a. Address the causes of looked after pupils being more likely to be excluded from education, and less likely to go on to positive destinations after compulsory education, compared to all pupils.
3. The Scottish Government should set a NEO to improve health outcomes among people living in the most deprived areas compared with the least deprived areas. This includes addressing the higher rates of suicide, higher rates of poor mental health and wellbeing, and falling healthy life expectancy of those in the most deprived compared with the least deprived areas.
4. The Scottish Government should set a NEO to reduce the increasing likelihood of people dying in prison, including deaths by suicide, compared to those in the general population.

Age

The Equality Act protected characteristic of age refers to people of different ages and age groups, who face a range of opportunities and challenges at various stages of life. Recent events and developments, including COVID-19, economic challenges, and legal and policy developments, have affected age groups in different ways. These are examined in this chapter.

Definitions

Adult – the legal age of an adult is 18 years old. In some datasets, the youngest respondents will be 16, for example in labour market data because people can join the labour market at 16. Within those datasets, adults will include 16– and 17–year-olds.

Young adults – we use the term young adult to identify those age groups who are adults within the data but are in the lowest age groups among adults. This is 16–24 in most datasets but can differ depending on the source.

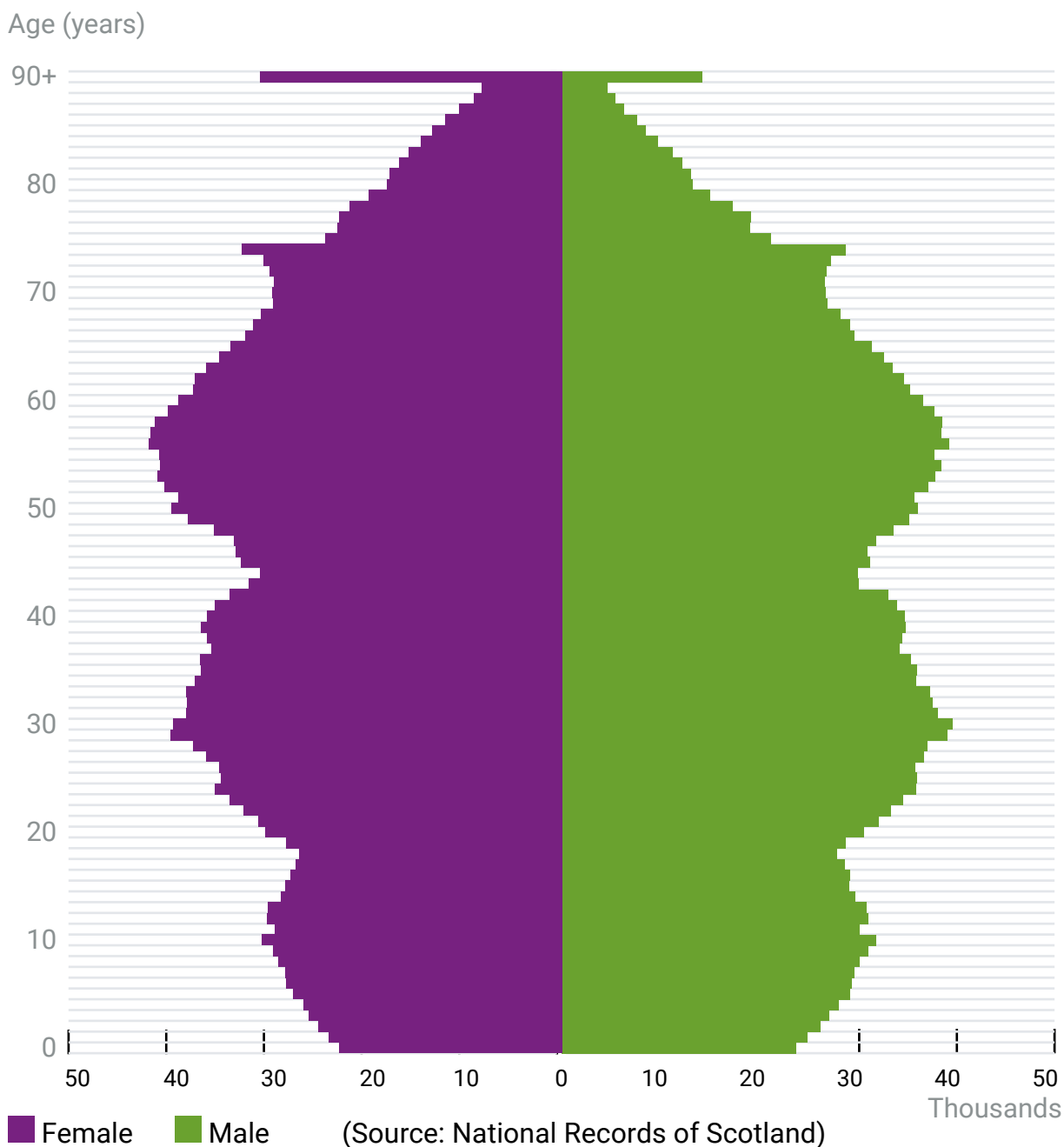
Key findings

- Young people aged 16–19 were more likely to be in education, employment or training in 2022 than they were in 2016. The proportion of 16–19-year-olds in education, employment or training increased from 90.4% to 92.4% over this period.
- The pandemic coincided with (and potentially contributed to) changes in older men’s labour market participation. Trends of decreasing economic inactivity reversed and unemployment rose by 2.3 percentage points between 2019/20 and 2021/22 for men aged 55–64.
- Progress in reducing child poverty has been limited. Among children aged 5–10, poverty increased from 18.4% in 2010/11 to 26.1% in 2019/20.
- The number of people experiencing poor mental health has grown since our last review in 2018. The proportion of children and young people who receive mental health treatment within 18 weeks of referral has not met Scottish Government targets since the target was set in December 2014.
- Youth custody levels continue to fall, though a growing proportion of young people in custody are being held on remand. Before the pandemic, around 30% of people aged under 21 in custody were being held on remand. In 2021/22, this had risen to 47.9%.
- The prison population in Scotland is ageing and there are concerns that the Scottish prison infrastructure is not equipped to meet these changing needs.
- The number of people experiencing poor mental health has grown since our last review. The proportion of children and young people who receive mental health treatment within 18 weeks from referral has not met Scottish Government targets since the target was implemented in December 2014.
- Older adults (aged 60 years and over) are still less likely to use the internet and online security measures than other age groups. In 2019, 43% of people aged 75 and over used the internet, compared with 99% of 16–24-year-olds.

Demographics

Scotland has an ageing population, caused by people born in the post-war 'baby boom' years from 1946 to 1964 getting older, the number of births dropping since the 1960s, and generally higher life expectancy (National Records of Scotland, 2022a). Women outnumber men in the older age groups, reflecting longer female life expectancy.

Figure 9: Population of Scotland, by age and sex, 2021 mid-year estimates



Policy and legal developments

Older people

The Scottish Government's 2019 framework for action aims to challenge the inequalities faced by older people (Scottish Government, 2019). Its priorities include addressing negative perceptions about older people and ageism, and the need for housing adaptations, mental health services and digital inclusion. The Older People's Strategic Action Forum supports the framework's development and published an update on actions in 2021 (Scottish Government, 2021a).

In 2018, the Scottish Government published 'A Connected Scotland', its first strategy for tackling social isolation and loneliness and building stronger social connections (Scottish Government, 2018a). In 2023, the Government announced £1 million funding for projects supporting those most at risk from social isolation and loneliness, including older people (Scottish Government, 2023a).

Justice

The Hate Crime and Public Order (Scotland) Act 2021 consolidates existing hate crime legislation and updates the list of characteristics protected under the Act to now include: age, disability, race, religion, sexual orientation, transgender identity and variations in sex characteristics.

Younger people

Education

Research we commissioned into prejudice-based bullying in Scottish schools found that teachers identified race as the most common factor (Dennell and Logan, 2015). The Scottish Parliament's Equalities and Human Rights Committee expressed concerns about teachers' responses to reports of bullying and harassment (Equalities and Human Rights Committee, 2017).

The Scottish Government's 'Respect for All: national approach to anti-bullying' guidance (Scottish Government, 2017) and Scotland's anti-bullying service respectme have both drawn specific attention to prejudice-based bullying.

Additional 'Respect for All' guidance was introduced in 2018 to encourage local authorities and schools to adopt a 'consistent and uniform approach to recording and monitoring of bullying incidents' in schools, though it is only voluntary (Scottish Government, 2018b). Approaches are still inconsistent and produce incomplete data, according to the Coalition for Racial Equality and Rights (CRER) and schools' inspectors (CRER, 2022; Education Scotland, 2023). We continue to recommend a mandatory national system.

Living standards

The Scottish Government started the Baby Box initiative in 2017 to provide parents of every new baby in Scotland with essentials, including clothes, bibs, nursing pads, toys, a blanket and thermometer. In its first five years, the initiative delivered 222,450 boxes to parents and carers.

Ipsos MORI Scotland was commissioned by the Scottish Government to evaluate Baby Box in 2021.¹² The evaluation found that the scheme had a high take-up and that parents were positive about how it had helped their family. Parents and carers on lower incomes

12 The evaluation included online and telephone surveys of 2,236 parents, an online survey of 870 health visitors, midwives and family nurses, and in-depth interviews with 36 parents, 24 midwives, 20 health visitors and 4 family nurses.

were more likely to report financial benefits and, along with younger and first-time parents, to say that the box had been useful in giving them, or reinforcing, key child health and development messages (Scottish Government, 2021b).

The Child Poverty (Scotland) Act 2017 set the Scottish Government targets to tackle child poverty by 2030. The initial 'Every Child, Every Chance' delivery plan set out actions for 2018–2022 to help families reduce the impacts of poverty and improve children's quality of life (Scottish Government, 2018c). The 'Best Start, Bright Futures' follow-up delivery plan prioritised financial support, including broadening eligibility for 'Best Start Foods' payments and awarding some grants automatically (Scottish Government, 2022a).

The Scottish Child Payment, to tackle child poverty among low-income families with young children, was launched in February 2021. It was extended to 16-year-olds in November 2022 and payments increased from £20 to £25 per week per eligible child.¹³ The Scottish Government estimates that 184,000 children were in receipt of Scottish Child Payment on 31 December 2022 (Scottish Government, 2023b).

'Getting it right for every child' (GIRFEC) is the Scottish Government's longstanding commitment to provide the right support at the right time so every child and young person in Scotland can reach their full potential (Scottish Government, n.d., b). Refreshed GIRFEC guidance was drawn up by working groups in 2022. The new guidance covers the National Practice Model, which aims to help practitioners and service leads to improve children's and young people's wellbeing, as well as statutory guidance on the assessment of wellbeing required by the Children and Young People (Scotland) Act 2014 (Scottish Government, 2022b; 2022c).

The Care Inspectorate carried out a series of inspections of children's services between 2016 and 2017, with the results published since our last report in 2018. They found that children's and young people's wellbeing needs were being identified and addressed at an earlier stage, due to GIRFEC. Staff also reported that GIRFEC processes had improved ways in which they planned for and assessed children's needs (Care Inspectorate, 2019). Qualitative research carried out for an assessment of integrated children's services in Scotland revealed similar praise for GIRFEC, with participants reporting that it provided a unifying practice framework, shared language, and a shared approach to managing risk and addressing prevention and early intervention (Brock and Everingham, 2018).

¹³ Between February 2021 to April 2022, the rate was £10 per child, per week.

Justice

The past five years have seen several legislative developments regarding youth justice.



The age of criminal responsibility was raised from eight to 12 years through the Age of Criminal Responsibility (Scotland) Act 2019, meaning that children under 12 can no longer be charged or arrested.

This is older than the age of criminal responsibility in England, Wales and Northern Ireland, which is 10 years old, but children's rights organisations, including the Children and Young People's Commissioner Scotland (CYPCS), have said it should be raised to 14 in line with the requirement in the UN Convention on the Rights of the Child (UNCRC) (CYPCS, n.d.).

The defence of 'reasonable chastisement' was removed by the Children (Equal Protection from Assault) (Scotland) Act 2019 to further protect children from assault by their parents. Procedural improvements were made through the Vulnerable Witnesses (Criminal Evidence) (Scotland) Act 2019 and Children (Scotland) Act 2020, designed to give children a greater voice in the Scottish justice system.

Outcomes

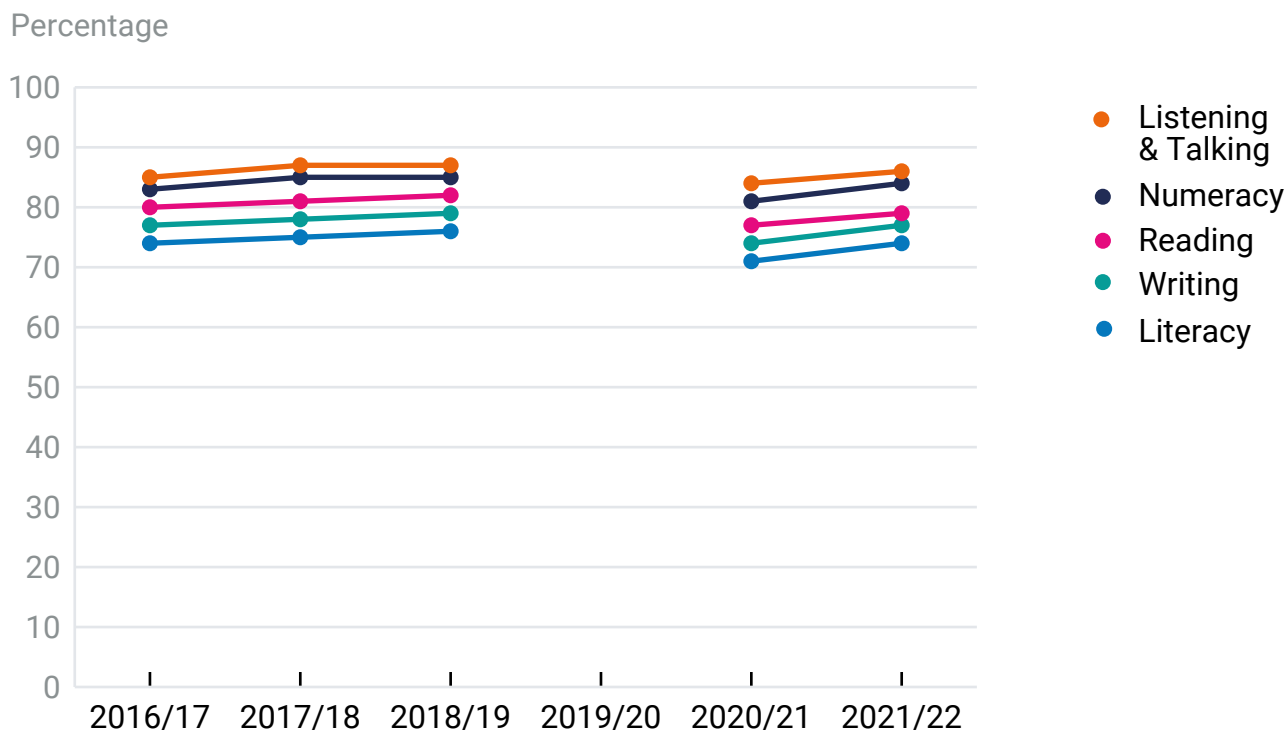
Education

COVID-19 affected the educational experience and outcomes of students of all ages. Due to school closures, Curriculum for Excellence (CfE) data was not collected in 2019/20. Data collected during the pandemic for 2020/21 showed that the proportion of pupils achieving the expected CfE had fallen, suggesting results were affected by lockdowns and school closures (Scottish Government, 2022d). This should be considered when interpreting results below.

The use of teacher estimates in 2020 and the Scottish Qualifications Authority (SQA) National Qualifications Alternative Certification Model in 2021 (for National 5, Higher and Advanced Higher course assessments) have led to different attainment patterns for older students than in previous years.

In early years' educational attainment, there has been a drop in the percentage of pupils achieving CfE measures since our last review in 2018.

Figure 10: Percentage of Primary 1 pupils achieving expected CfE levels, 2016/17 to 2021/22



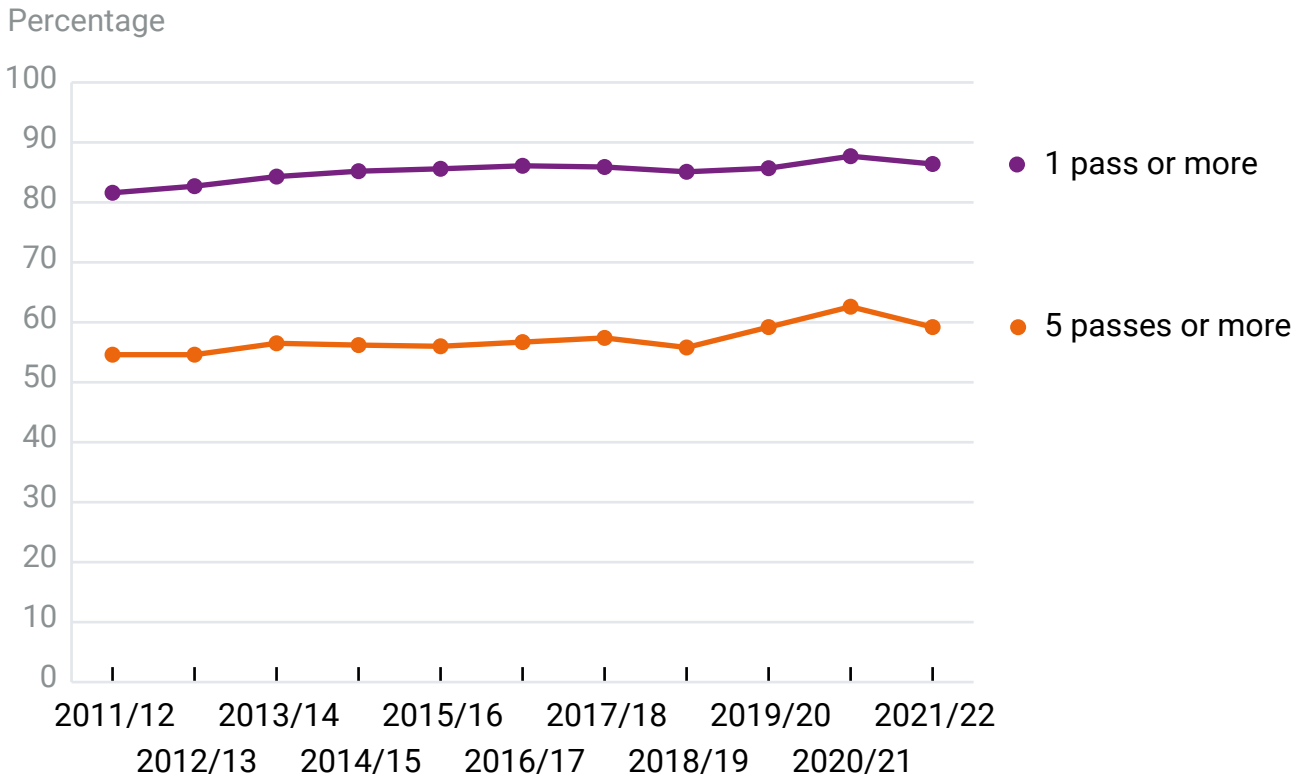
(Source: Scottish Government)

Attainment at school-leaving age

The proportion of young people who left school with one pass or more at SCQF Level 5 or better in 2021/22 was 86.4%, lower than the previous year (87.7%) but higher than in 2018/19 (85.1%) (Scottish Government, 2023c).

The proportion of school-leavers with five or more qualifications at SCQF Level 5 or better had stayed stable in the years preceding the pandemic, though dipped in 2018/19 to 55.8%. In 2021/22, 59.2% left with five or more qualifications at SCQF Level 5 or better.

Figure 11: Mainstream secondary school-leaver attainment of SCQF Level 5 or better, by one or more pass achieved and five or more passes achieved, 2011/12 to 2021/22



(Source: Scottish Government)

Education, employment and training

The proportion of young people aged 16–19 in Scotland in employment, education or training has increased over time, from 90.4% in 2016 to 92.4% in 2022 (Skills Development Scotland, 2022).

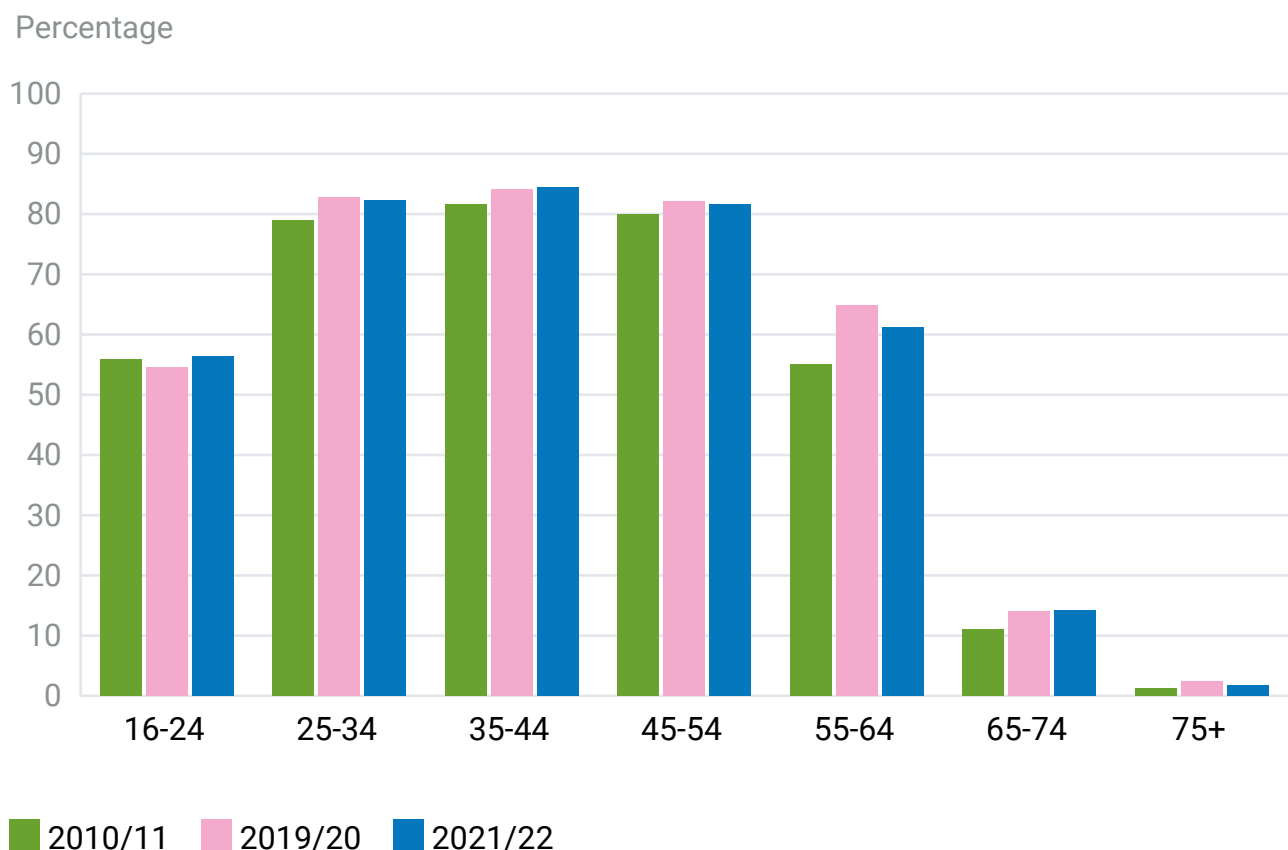
There are variations within this age group. For example, a smaller proportion of young men and young people who identify as disabled are in education, employment or training.

Work

Younger workers

Our analysis of APS data found employment rates are lowest for young people aged 16–24 out of all under-65 age groups. Only 54.6% of people aged 16–24 years old were employed in 2019/20, compared with 82.2% of the 45–54 age group. Between 2018/19 and 2019/20, this younger group experienced a sharp drop in employment.

Figure 12: Percentage of adults in employment, by age, Scotland, 2010/11 to 2021/22




(Source: EHRC analysis of Annual Population Survey)

This particularly low rate of employment for young people is partially a result of those aged 16–24 being most likely to be in full-time education.¹⁴ In 2019/20, when students in full-time education are excluded, adults aged 55–64 had the lowest employment rate (60.0%) while 16–25-year-olds had the second lowest employment rate (70.5%).

Unemployment and economic inactivity among younger workers

The unemployment rate has consistently been higher for people aged 16–24 than for any other age group. After peaking in 2011/12, unemployment rates for those aged 16–24 have declined, and the unemployment rate gap (with the 45–54 age group) has narrowed up to 2019/20 (6.6 percentage points). In 2020/21 the gap widened significantly. By 2021/22, the gap returned to a similar size to that of 2019/20.

Further evidence shows that a greater proportion of unemployed young people aged 16–19 live in deprived areas.¹⁵



Around two-fifths of both those who are unemployed and those seeking work or training (42.0%) live in the 20% most deprived areas in Scotland (Skills Development Scotland, 2022).

Economic inactivity rates for people aged 16–24 increased from 32.3% in 2010/11 to 40.1% in 2019/20. When people in full-time education are excluded from the analysis, economic inactivity rates in 2019/20 were stagnant for those aged 16–24 and were not significantly different from the 45–54 age group.

14 Someone who is economically inactive means they are not in work and either have not been looking for work in the previous four weeks and / or are unable to start work in the next two weeks.

15 An area is identified as 'deprived' if the people living there have fewer resources and opportunities. The Scottish Index of Multiple Deprivation (SIMD) looks at the extent to which an area is deprived across seven domains: income, employment, education, health, access to services, crime and housing. The SIMD is a relative measure of deprivation across 6,976 areas (called 'data zones'), ranked from most deprived to least deprived.

Earnings among younger workers

In 2019/20, workers aged 16–24 were more likely (55.8%) than those from other age groups to be in a low-paid occupation. This compares with 22.5% of all workers aged 45–54. The younger group remains a significant outlier even after students are excluded from this analysis.

Workers aged 16–24 are more likely to earn lower median hourly wages than all other age groups aged under 65, as may be expected for younger entrants into the labour market. Workers aged 16–24 are also more likely than all age groups aged under 65 to be in insecure employment.

It may be expected that workers aged 16–24 earn less and are in lower paying, more insecure jobs.

However, gaps¹⁶ in wages and low-paid occupation did not narrow between 2010/11 and 2019/20 for workers aged 16–24.

Furthermore, the proportion of young people in insecure employment significantly increased from 6.0% in 2010/11 to 8.5% in 2019/20.

Older workers

Economic inactivity rates among people aged 55–64 declined between 2010/11 and 2019/20, meaning economic activity levels increased for this group. Analysis at a UK level suggests that this trend has been caused by rises in the state pension age since 2010, growing female participation in the labour market, and by wider health improvements (Banks et al., 2019; Banks et al., 2018). However, ONS analysis shows that the number of working-age adults who are economically inactive because of long-term sickness has been rising since about 2019 (ONS, 2022).

¹⁶ This gap refers to the gap between workers aged 16–24 and workers aged 45–54.

The trend of declining economic inactivity rates changed during the pandemic, as there was a 2.3 percentage point increase in economic inactivity among adults aged 55–64 between 2019/20 and 2021/22. When split by sex, economic inactivity rates increased among men in this age group over this period, whereas women saw no significant change.

UK analysis suggests that the increased economic inactivity during the pandemic can be largely attributed to people choosing to move directly from employment to retirement (Boileau and Cribb, 2022). An increase in redundancies and dismissals may also have had an impact (albeit more limited) on changes in economic inactivity levels among older workers (Boileau and Cribb, 2022).

Adults aged 55–64 also experienced a significant rise in unemployment between 2019/20 and 2021/22, which may be due to increases in redundancies and dismissals which happened during the pandemic.

Workplace discrimination



The Age Scotland Big Survey found 12% of the 3,562 adults aged 50 or took part had experienced discrimination in the workplace because of their age.

Only 13% of respondents said their workplace offered skills development aimed specifically at older workers to help them make positive plans about their future work opportunities (Age Scotland, 2021).

Living standards

Child poverty

Progress in reducing child poverty by age has been limited. Our analysis of the Family Resources Survey (FRS) shows that poverty increased among children aged 5–10 from 18.4% in 2010/11 to 26.1% in 2019/20.¹⁷

There were no significant changes in the child poverty of other age groups in this period.

Adult poverty

Poverty has been increasing for older age groups, but people aged 16–24 years still have the highest poverty rate.

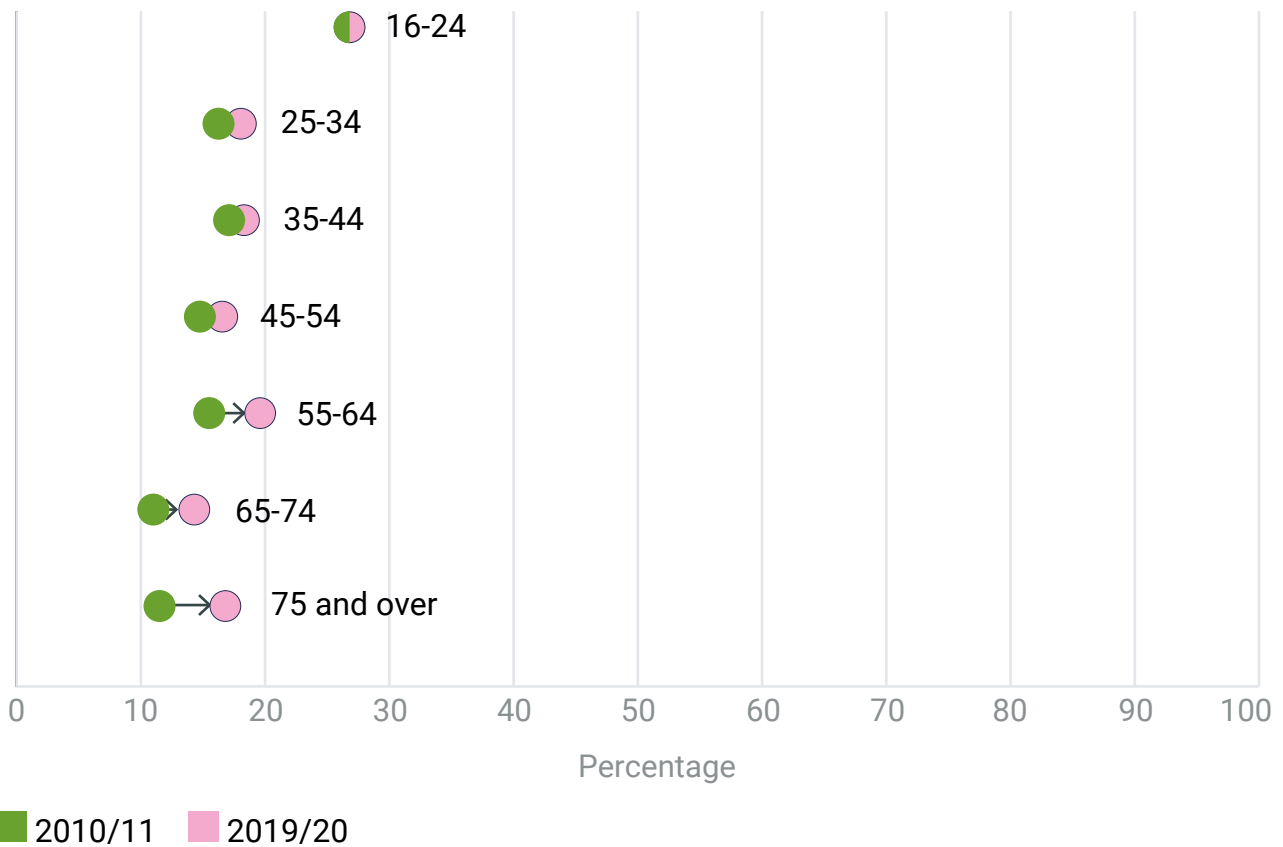
Our analysis of the FRS shows that, between 2010/11 and 2019/20, the proportion of those in poverty increased among those aged 55–64 (from 15.5% to 19.6%), 65–74 (from 11.0% to 14.3%) and 75 and over (from 11.5% to 16.8%). Poverty levels did not significantly decline for any age group between 2010/11 and 2019/20.¹⁸

Between 2015/16 and 2019/20, levels of poverty fell among people aged 25–34 (from 23.5% to 17.6%) and grew among those aged 65–74 (from 11.0% to 14.3%).

17 Analysis of the FRS ends at 2019/20 as data for 2020/21 are subject to additional uncertainty at this level.

18 Analysis of the FRS ends at 2019/20 as data for 2020/21 are subject to additional uncertainty at this level.

Figure 13: Percentage of adults in Scotland living in poverty, by age group, 2010/11 and 2019/20¹⁹



(Source: EHRC analysis of Family Resources Survey)

Levels of severe material deprivation fell among people aged 16–24 (from 16.7% to 12.2%), 25–34 (from 19.0% to 13.3%), 35–44 (from 19.6% to 15.3%) and 45–54 years (from 17.3% to 11.5%) between 2010/11 and 2019/20.²⁰ This is measured in adults aged 16–59, excluding dependent children aged 16–19.

Over a quarter (26%) of respondents to the Age Scotland Big Survey, a self-selecting survey of 3,564 adults aged 50 and over, said they felt financially squeezed by their bills (Age Scotland, 2021). When asked about getting social security support, 19% of those who answered said they found the application process ‘very easy’ or ‘easy’ but 28% found it ‘not easy’ or ‘not easy at all’. Views on how simple the process was varied across different benefits.

¹⁹ The data point for adults aged 16–24 is the same in both years.

²⁰ Analysis of the FRS ends at 2019/20 as data for 2020/21 are subject to additional uncertainty at this level. Several questions asked as part of the measure were also affected by legal restrictions.

Homelessness

Statutory homelessness data (Scottish Government, 2022j) shows that the homeless population is younger than the overall adult Scottish population. In 2021/22, 85.7% of main applicants for support who were assessed as homeless or threatened with homelessness were aged 16–49. At the time, these age groups accounted for 51.3% of the adult Scottish population (aged 16 and over).

Main applicants for support who were aged 16–17 and 18–24 in 2021/22 were more likely to be women, but the main applicants for support from all other age groups were more likely to be men.

In the same year, 14,370 (30.6%) of all those associated with a homelessness application and assessed as homeless or threatened with homelessness were children aged 18 or under, down from 16,005 (31.7%) in 2018/19.

Home ownership and housing

Between 2010 and 2019, home ownership fell by 3 percentage points among those aged 16–34 (down from 41% to 38%) and by 7 percentage points for people aged 35–59 (from 70% to 63%). The proportion of adults aged 16–34 renting privately rose from 33% to 38% in this period.

At the same time, there was a growth among people aged 35–59 renting social housing (up from 21% to 25%) and renting privately (from 8% to 11%). Rates by tenure stayed relatively stable for people aged 60 and over (Scottish Government, 2020a).

Our analysis of Scottish Government data shows that, between 2015 and 2018, the percentage of adults who were fairly or very satisfied with their accommodation fell significantly among those aged 45–54 (from 93.3% to 89.1%) and 65–74 (from 98.4% to 96.0%). In 2018, adults aged 65–74 (96.0%) and 75 and over (96.4%) were significantly more likely to be fairly / very satisfied with their accommodation than those aged 45–54 years (89.1%).

Social care

Social care data (Public Health Scotland, 2022a) shows 78.3% of adults receiving adult social care in 2018/19 were aged 65 and over falling to 75.7% in 2021/22. This figure is based on records giving people's age and sex and does not include younger people under 18 or people whose age was unknown.

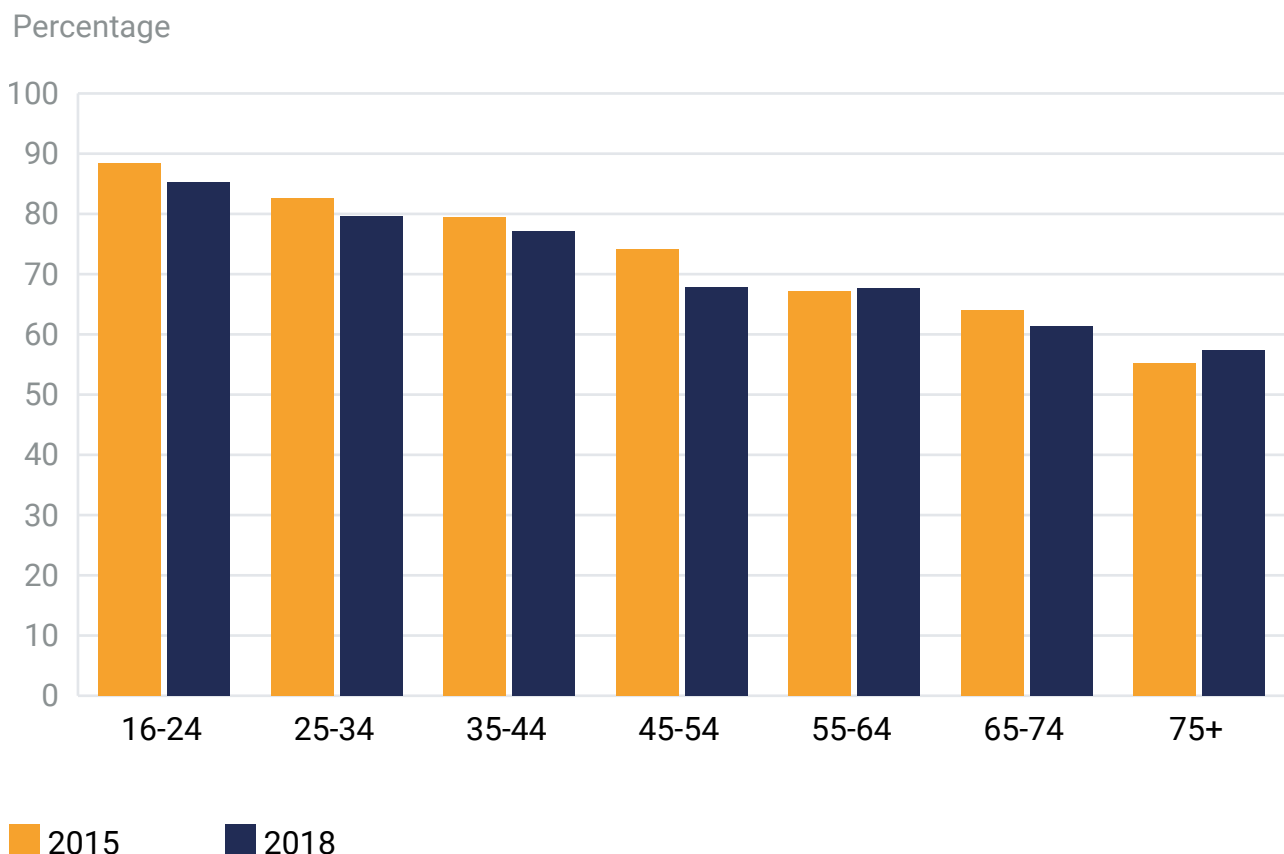
In 2021/22, 68% of those aged 65 years and older rated their care as good or excellent, compared with 54–59% of other age groups. This level of satisfaction with social care is lower than in 2019/20 but the pattern remains the same (Scottish Government, 2022e). Our analysis of the Health and Care Experience Survey found that, in 2019/20, older people aged 65 and over were more likely (89.1%) to agree they were treated with compassion and understanding than adults aged 45–54 (84.2%). There was no significant change in agreement for any age group from 2017/18 to 2019/20.

Findings from the Health and Care Experience Survey (Scottish Government, 2022e) show that, between 2019/20 and 2021/22, fewer people of all ages felt they had a choice in how their social care was arranged, and more of them said they were not offered any choices. The biggest rise in people agreeing with the statement 'I was not offered any choices' was among those aged 35–44 (up from 17% to 28%). This was the highest proportion of any age group in 2021/22.

Health

Our data analysis shows that the proportion of people aged 45–54 who reported being in good or very good health fell between 2015 and 2018. The proportion among this age group reporting good or very good health dropped from 74.1% to 67.9% over this period (down 6.2 percentage points). In 2018, the proportion of adults aged 25–34 and 35–44 reporting good or very good health in Scotland (79.6%) was significantly lower than among people of the same age in England. In 2015, no age groups were significantly different to England.

Figure 14: Proportion of adults reporting good health, by age group, 2015 and 2018



(Source: EHRC analysis of Scottish Health Survey)

The proportion of adults who self-assessed their general health as 'very good' or 'good' decreased with age in 2021. The Scottish Health Survey found that 90% of respondents aged 16–24 rated their general health positively, compared with 60% of respondents aged 75 or more (Scottish Government, 2022g).

The proportion of adults living with a limiting long-term condition in 2021 increased with age. Six in 10 (60%) survey respondents aged 75 or more said that they had a limiting long-term condition compared with an average of 47% of all adults. 18% of those aged 16–24 reported living with a limiting long-term condition (Scottish Government, 2022g).

Mental health



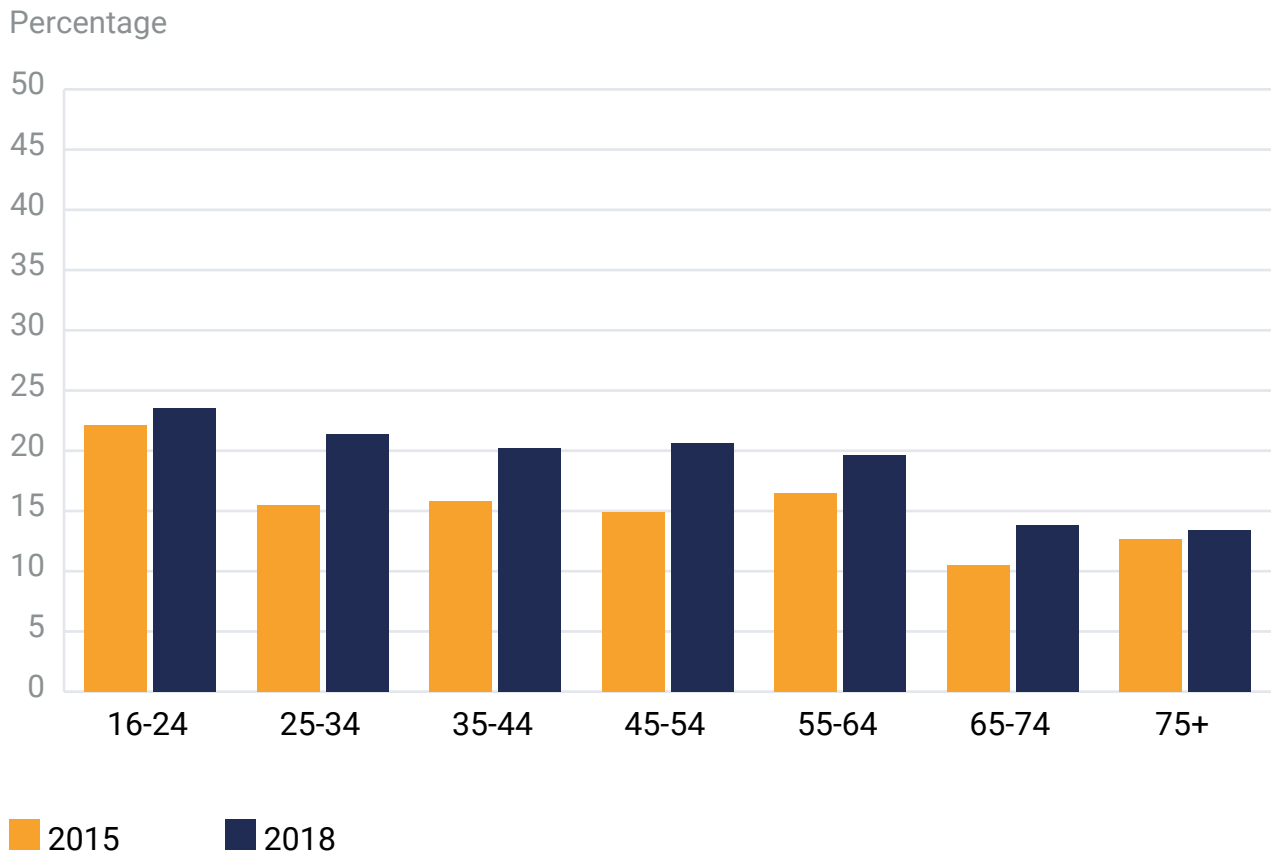
Analysis indicates that younger people aged 16–24 report the highest levels of symptoms of poor mental health.²¹

In 2015, the proportion of this age group who reported symptoms of poor mental health (22.1%) was 5.6 percentage points higher than adults aged 55–64, the group with the second greatest levels of symptoms of poor mental health. In 2018, symptoms of poor mental health had increased among age groups aged 25–34, 45–54 and 65–74, though levels remained highest for those aged 16–24.

Age Scotland's Big Survey looked at the mental health of people aged 50 and over. It found that 39% of respondents considered their mental health was good and 21% said it was very good (Age Scotland, 2021). However, over a third (34%) of survey respondents felt their mental health had got worse in the past five years, particularly people in their 50s and 60s. They were also more likely to assess their mental health as poor or very poor than those aged 70 and over.

²¹ Measured using GHQ-12 scores of four or more.

Figure 15: Proportion of adults reporting symptoms of poor mental health measured by GHQ-12, by age group, in 2015 and 2018

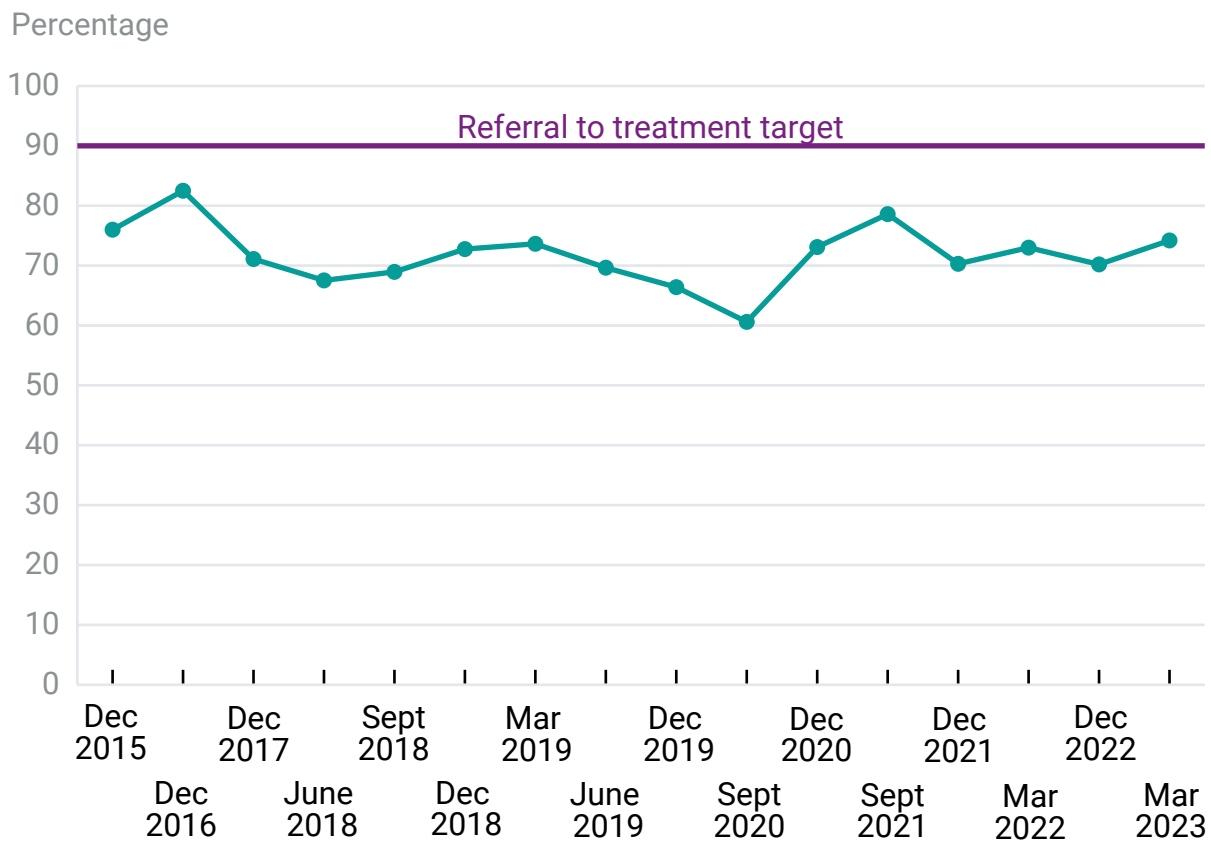


(Source: EHRC analysis of Scottish Health Survey)

The proportion of children and young people starting treatment at child and adolescent mental health services (CAMHS) within 18 weeks of referral has consistently failed to hit the Scottish Government's 90% target since the 18-week target was set in December 2014 (Scottish Government, 2022i; ISD Scotland, 2013).

Analysis of Public Health Scotland data shows that, in the quarter ending December 2022, only 70.1% of children and young people started treatment with specialised CAMHS fewer than 18 weeks after they were referred (Public Health Scotland, 2023a). This represents an increase from 67.9% in the previous quarter and similar to the 70.5% for the same quarter ending December 2021.

Figure 16: Proportion of children and young people starting CAMHS treatment within 18 weeks of referral, 2015–2022



(Source: ISD Scotland/ Public Health Scotland)

Similarly, the proportion of adults aged over 65 starting psychological therapies within 18 weeks of referral is not meeting Scottish Government targets of 90% (Public Health Scotland, 2023b).

Suicide



Between 2011 and 2020, suicide was the leading cause of death among children and young people aged five to 24 and suicides in this age group made up a larger percentage share of total suicides in 2020 compared with 2011.

The suicide rate for boys and young men aged 5–24 is over two times higher than that for girls and young women in the same age group (Public Health Scotland, 2022b).

Age is a significant factor in whether someone has ever attempted suicide. The average age for deaths by suicide has risen by 3.4 years since 1994. There was a sharp 5% increase between 2018 and 2021 (National Records of Scotland, 2022b).

In 2020, the highest suicide rate per 100,000 of the population for men was in the 35–44 age group, and for women was in the 45–54 age group, while in 2021 the highest rates for both men and women were among the 45–54 age group (Public Health Scotland, 2021; Public Health Scotland, 2022c). In 2021, adults aged 25–34 were more likely to report having ever attempted suicide (11%) and those aged 75 and over the least likely (1%) to do so.

Age is also a significant factor in the likelihood of self-harm. In 2021, younger people aged 16–24 (25%) and 25–34 (20%) were much more likely than those aged 65 and over (1%) to report having self-harmed (Scottish Government, 2022h).

Justice

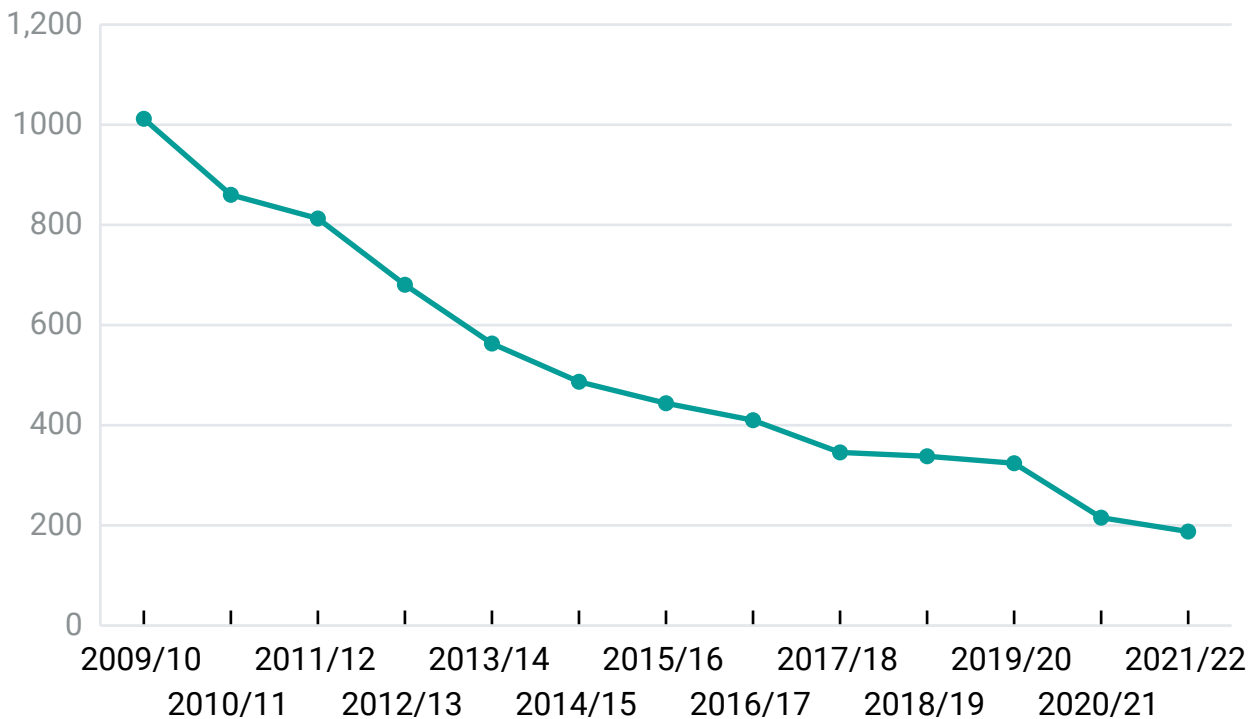
Youth custody

Youth custody figures have fallen sharply over the past decade. The average number of young people aged 16–17 in custody fell from 22 in 2020/21 to 14 in 2021/22, while the number of those in custody aged 18–20 dropped from 194 to 174.

A growing proportion of young people in custody in Scotland are being held on remand. Typically, around 30% of people aged under 21 in custody before the pandemic were on remand on the average day. This rose to 44.4% in 2020/21 and then to 47.9% in 2021/22 (Scottish Government, 2022f).

Figure 17: Youth custody population in Scotland, ages 16–20, 2009/10 to 2021/22

Average number of young people in custody



(Source: Scottish Government)

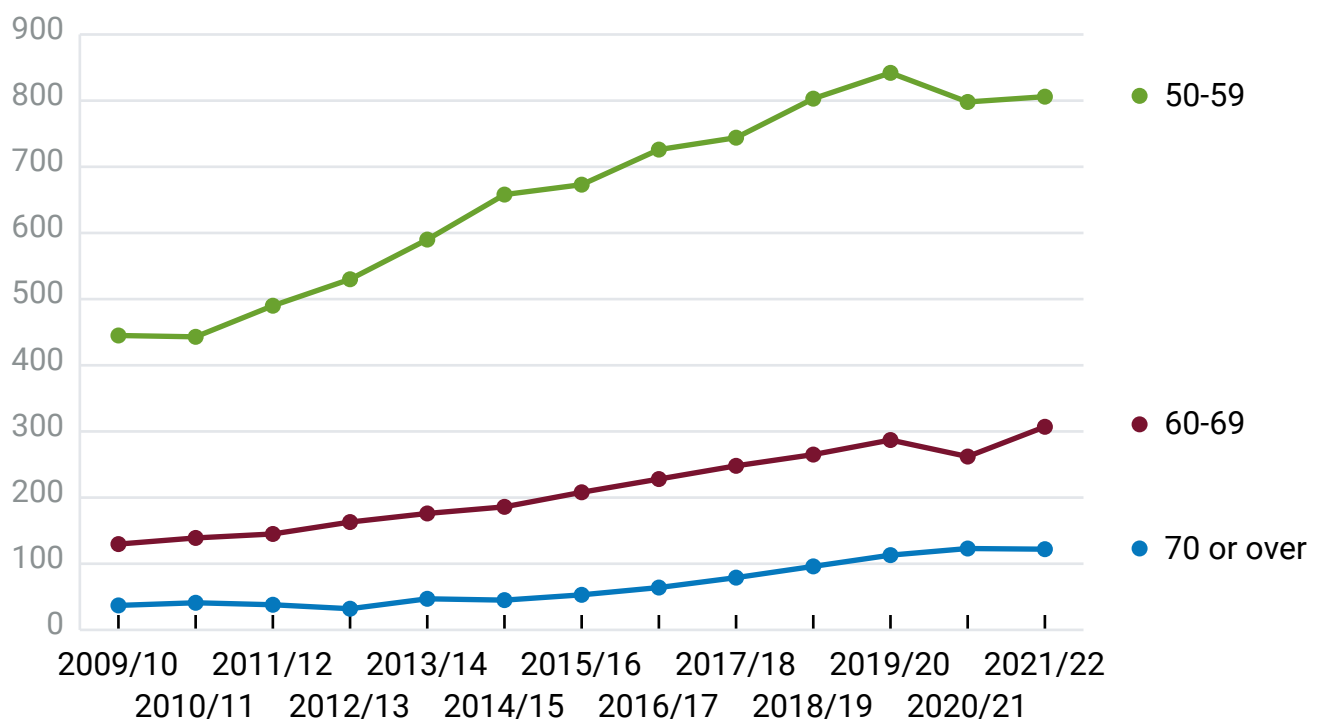
Older prisoners

Scotland's prison population is ageing and HM Inspectorate of Prisons for Scotland (HMIPS) has raised concerns about whether the prison system is meeting older prisoners' needs (HMIPS, 2021).

The average daily prison population in Scotland in 2021/22 was 7,505. This represents a small increase from 2020/21 but a decrease of 8.4% from 2019/20 when the average daily population was at its highest recorded level (8,197).²² In the period 2009/10 to 2021/22, the average prison population in Scotland has fluctuated. However, the number of older prisoners has consistently increased, as has the proportion of prisoners in Scotland aged 50 and over, from 7.7% in 2009/10 to 16.4% in 2021/22 (Scottish Government, 2022f).

Figure 18: Custody population in Scotland, ages 50+, 2009/10 to 2021/22

Average daily prison population



(Source: Scottish Government)

²² Data available from 2000/01.

Age

A review of the experiences of older prisoners in Scotland's prisons identified issues affecting them, including:

- poor accessibility, particularly in much older buildings
- difficulty getting appropriate health and social care
- not enough ground-floor accommodation to meet prisoners' needs, and
- a lack of age-appropriate recreation (HMIPS, 2021).



A Scottish Centre for Crime and Justice Research study found that there were more deaths in prisons in Scotland in 2020–2022 than in any other three-year period on record.

Suicide and drugs are particularly increasing the number of deaths in Scottish prisons. Older prisoners are particularly affected. Those aged 45 and over accounted for 22% of suicides between 2009 and 2019. During the period 2020–2022, over 40% of those dying by suicide were aged 45 and over (Armstrong et al., 2022).

Participation

Public appointments continue to lean towards older demographics, and this has not improved since our last review in 2018. Only 18.3% of people in public appointments were aged 49 or under at the end of 2021, the same proportion as the end of 2018 (Ethical Standards Commissioner, 2022; Ethical Standards Commissioner, 2019).

The Scottish Elections (Reduction of Voting Age) Act 2015 enabled young people aged 16 and 17 to vote in Scottish Parliament and local elections. Opinion polling by the Electoral Commission suggested that 80% of those aged 16–17 found it easy to participate in the 2021 Scottish Parliament. However, only 68% of those aged 18–24 reported finding participation easy (Electoral Commission, 2021).

There is so far limited evidence on the impact of reducing the voting age in Scotland. Initial research indicates it had a positive effect on voter turnout among young people who were eligible and did vote at 16 or 17, but there has been limited impact on broader political engagement and it has not overcome historical inequalities in political participation (Eichhorn and Hübner, 2023).

Digital access



Older adults in Scotland continue to use the internet less and adopt fewer online security measures than other age groups.

Analysis of the 2019 Scottish Household Survey found almost all (99%) younger people aged 16–24 and over 90% of adults aged 16–59 reported using the internet, compared with 78% of the 60–74 age group and 43% of people of 75 and over.

In 2019, 94% of adults aged 45–59 reported using the internet, decreasing to 43% of adults aged 75 and over. Across all online security measures, there was no other age that reported they were less likely to implement them than the over 75 age group (Scottish Government, 2020b).

Volunteering

Older people are less likely to engage in volunteering. Data from the 2019 Scottish Household Survey shows that those aged over 75 are least likely (20%) to volunteer, while people aged 35–44 are most likely (30%) of all age groups to do so. Among women, those aged 35–44 are most likely to volunteer (36%) and women over 75 the least likely (19%). Among men, those aged 16–24 were most likely (26%) to volunteer and men over 75 least likely (21%) in 2019. Those aged 75 and over who had volunteered were much more likely (34%) to do voluntary work relating to religion and belief than all volunteers on average (15%) (Scottish Government, 2020c).

Sport

A 2019 report commissioned by the Observatory Sport in Scotland examined trends and prospects in sports' participation in Scotland. It raised concerns about the drop-off in participation routinely experienced by girls aged 8–10 years. A decline in boys' participation was also noted, though this occurred later than for girls and was not as substantial. These declines led to the proportion of 13–15-year-olds meeting physical activity guidelines dropping to 11% for girls and 24% for boys (Rowe, 2019). The timing of this reduction in girls' participation in sport aligns with the move from primary to secondary education and there is debate about how much the secondary school environment causes or supports it.

A small-scale survey produced by Young Women Lead in 2019 found that 83% of young women agreed or strongly agreed with the statement 'at primary school I enjoyed Physical Education lessons', but only 54% agreed or strongly agreed with the statement 'at secondary school I enjoy Physical Education lessons' (Young Women Lead, 2019).

There are recommended guidelines for moderate and vigorous physical activity (MVPA) by adults and children. The 2021 Scottish Health Survey found 76.2% of boys and 66.6% of girls aged 5–15 met the guideline that they should have done at least 60 minutes of physical activity on average per day in the previous week, including school-based activities. The survey identified significant differences in MVPA guideline adherence by sex among older groups. Of those aged 75 and over, 51.3% of men met the guideline compared with 38.7% of women (Scottish Government, 2022h).

Age Scotland's Big Survey showed 48% of older people were exercising regularly, but 64% of older people became less active due to COVID-19 restrictions (Age Scotland, 2021).

Transport

Data from the Transport Scotland's Young Persons' Free Bus Travel Scheme Baseline Report found that 48% of the 16,601 survey participants aged 5 to 21 (with parents responding on younger children's behalf) said that travel and transport were generally unaffordable compared with 26% who thought they were generally affordable (Transport Scotland, 2022). The contention that travel and transport were unaffordable was more common among young people if they were:

- from lower income groups
- limited in their activities due to health reasons, or
- living in towns or rural areas, compared with those living in cities or on islands.



The same survey found that 29% of children and young people missed out on social leisure activities or education and work opportunities because of access or travel restrictions.

Recommendations

As noted above, the Scottish Government is in the process of reviewing the PSED in Scotland. As part of this process, in 2021, we argued that Scottish ministers should identify national equality outcomes that address inequalities. The Scottish Government committed to doing so.

It added that this would require the Scottish Government to 'ensure the national equality outcomes are measurable and link to the National Performance Framework (NPF)' (Scottish Government, 2021c).

We welcome the Scottish Government's agreement to link equality outcomes to the National Performance Framework for consistency and coherence.

Our recommendations are designed to help the Scottish Government to set equality outcomes for all Scottish public bodies to use.

Our view is that Scottish Ministers should set themselves an overarching equality outcome to maintain oversight of progress on the National Equality Outcomes (NEO). Ministers should commit to developing a NEO Framework, which defines how the NEOs link to the NPF, set out which listed authorities should consider adopting each NEO, and set out core measurement criteria for each NEO.

5. The Scottish Government should set a NEO to address the learning loss experienced by children during the pandemic, particularly those who are disadvantaged.
6. The Scottish Government should set a NEO to address the lack of significant reduction in the rates of poverty for children aged 5 and over.
7. The Scottish Government should set a NEO to reduce the incidence of poor mental health in younger people, including by
 - a. increasing the proportion of children and young people starting treatment with CAMHS within 18 weeks and ensuring this meets the Government target of 90%.

Recommendations continued

8. The Scottish Government should set a NEO to reduce the rate of suicides among 5–24-year-olds, particularly among males in this age group.
9. The Scottish Government should set a NEO to provide appropriate services to meet the needs of an increased proportion of older prisoners in the prison estate.
10. The Scottish Government should set a NEO to ensure offline services meet the needs of older people who are digitally excluded.



Disability

The Equality Act protected characteristic of disability refers to people who face different opportunities and challenges because they have a physical or mental condition which has a substantial or long-term impact on their ability to do normal day-to-day activities. Recent events and developments, including COVID-19, economic challenges, and legal and policy developments have affected outcomes experienced by disabled people. These are examined in this chapter.

Definitions

Additional support needs: In Scotland, the term additional support needs (ASN) is sometimes used as a proxy for disability in education. A child is said to have ASN if they need more or different support to what is generally provided in educational establishments to children of the same age. It is important to note that ASN does not only apply to children who have long-term learning difficulties or disabilities.

Special schools: Special schools were created to address the educational needs of pupils with severe learning difficulties, for whom regular classroom education is not possible.

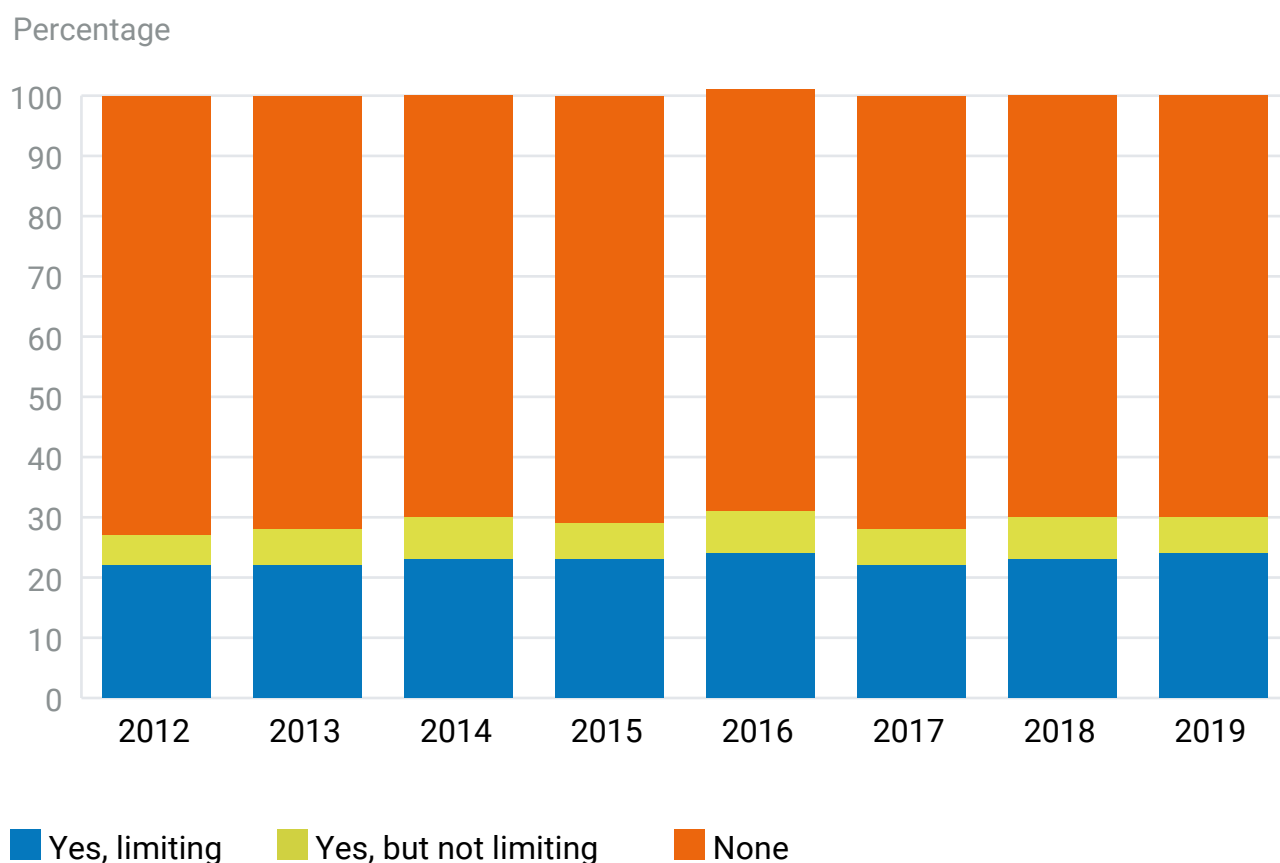
Key findings

- Despite overall exclusion rates declining across Scotland, having additional support needs (ASN), or being assessed or declared as having a disability continues to be associated with an increased likelihood of exclusion. Attainment of pupils with ASN is lower than of pupils without ASN. In 2020/21, 73.0% of pupils with ASN achieved one or more qualification at SCQF Level 5 or higher, compared with 94.8% of pupils without ASN.
- There has been a rise in the proportion of disabled 16–19-year-olds moving to positive destinations after compulsory secondary education. The participation rate increased from 86.3% in 2018 to 88.7% in 2022.
- Despite increasing levels of employment, disabled people in Scotland are more likely to earn a lower hourly wage and / or be in low-paid employment than are non-disabled people, with the gap widening.
- Disabled people are more likely to experience worse living standards than are non-disabled people in Scotland. Between 2012/13 and 2019/20, the proportion of disabled adults in poverty increased from 21.5% to 25.4%.
- There has been a notable increase in both disabled and non-disabled people reporting poor mental health in Scotland from 2015, but the increase has been much larger for disabled people (7.4 percentage points) than for non-disabled people (1.5 percentage points).
- Disabled people report comparatively poorer experiences of and less confidence in the criminal justice system, both as victims and perpetrators.

Demographics

In 2021, 47% of adults reported living with a long-term health condition. 34% of adults reported living with a limiting long-term condition and 13% reported living with a non-limiting long-term condition. The proportion of adults living with a long-term health condition and a limiting condition increased with age. In 2021, 26% of 16–24-year-olds reported living with a long-term condition compared with 74% of those aged over 75. 18% of 16–24-year-olds reported living with a limiting condition compared with 60% of those aged over 75. Women were more likely than men to report having a long-term health condition (52% compared with 43%) and to have a limiting condition (39% compared with 30% (Scottish Government, 2022)).

Figure 19: Adults with a long-term physical or mental health condition 2012–2019²³



(Source: Scottish Government)

²³ Due to rounding, columns may not add up to 100%.

Policy and legal developments

A Fairer Scotland for Disabled People: delivery plan

A Fairer Scotland for Disabled People was the Scottish Government's delivery plan from 2016 to 2021 for the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD), recommending 93 actions (Scottish Government, 2016). A progress report concluded that, while A Fairer Scotland for Disabled People laid the groundwork for further protection and promotion of disabled people's rights, inequalities persist (Scottish Government, 2021h). The progress report points to the work of the Social Renewal Advisory Board and the ongoing process of incorporating human rights treaties in Scotland to address outstanding actions.

The Scottish Government's Programme for Government 2021–2022 committed to a new disability equality plan, but no publication date has yet been announced (Scottish Government, 2021i).

Pandemic

In March 2020, the UK entered a national lockdown. As well as the direct health effects of COVID-19, disabled people experienced other distinct harms because of controls and exceptions to limit virus transmission, including:

- disruption of routine health and social care services
- increased mental ill health
- accessibility issues concerning transport and social distancing
- increased isolation, and
- economic difficulties.

In December 2020, we published briefings for care homes, the Scottish Government and public authorities. These outlined the main equality issues in care homes in Scotland that we had identified during the pandemic and an explanation of the equality framework needed to address these problems and stop them recurring (EHRC, 2020b).

Many healthcare services relied on digital connection during the COVID-19 pandemic. Online appointments can have a positive impact for disabled people but also be a potential barrier, with digital exclusion a real concern. Connecting Scotland was set up in 2020 to tackle this by supporting highly vulnerable people at most risk of isolation due to COVID-19.

New health and social care standards aimed to give care home residents the right to see friends and family even during a COVID-19 outbreak (Scottish Government, 2022c). The standards enable residents to name one or more individuals who can directly help meet their care needs. The National Care Service (Scotland) Bill gives ministers the power to compel care homes to comply with visiting directions that they set out. At this point, the Bill stops short of enshrining the right to visit in law.

Mental Health Act safeguards reduced during the pandemic (Mental Welfare Commission for Scotland, 2021). The Scottish Mental Health Law Review considered these issues in their work, which has not yet been completed.

The Social Renewal Advisory Board was set up in June 2020 to look at how Scotland could emerge from the pandemic while still focusing on reducing poverty and disadvantage, embedding a human rights approach and advancing equality. It is not clear what actions have been taken on the Board's recommendations which were published in January 2021 (Scottish Government, 2021j).

Education

There is a presumptive duty on local authorities under the Standards in Scotland's Schools etc. Act 2000 to provide education in a mainstream school or early learning and childcare setting, unless specified exceptions apply.

Scottish Government guidance on this in 2019 aimed to bridge the gap between legislation, policy and day-to-day experience, ensuring that children and young people have equitable access to a quality education (Scottish Government, 2019b).

A Scottish Government review of the implementation of additional support for learning legislation looked at why children and young people were prevented from getting the support they need (Scottish Government, 2020b). This resulted in a joint action plan with the Convention of Scottish Local Authorities (COSLA) and the Association of Directors of Education in Scotland (ADES). It included actions under four main themes: children and young people's engagement, participation and rights; parent and carer engagement, participation and rights; teacher and practitioner professionalism; and leadership and improvement. A 2022 updated version outlined its progress and work to deliver the original actions (Scottish Government, 2022d).

In 2019, we worked with the Children and Young People's Commissioner Scotland (CYPCS) after its No Safe Place investigation found use of restraint and seclusion on school pupils was inconsistent and largely unmonitored (CYPCS, 2018).

We used our legal powers to take court action against the Scottish Government, resulting in commitments to:

- produce effective and human rights-compliant national guidance to direct local authorities, schools and staff in the lawful use of restraint and seclusion
- involve children, young people and their families in developing the guidance
- consider statutory action if the guidance proves ineffective, and
- develop and introduce a standard data set across Scotland.

Disability

The Scottish Government has published draft guidance on physical intervention in schools and a report following consultation on this is awaited (Scottish Government, 2022e).

The Disabled Children and Young People (Transitions to Adulthood) (Scotland) Bill was introduced to the Scottish Parliament in September 2020, aiming to improve opportunities for disabled children and young people as they grow up and leave education. The Bill fell at the dissolution of Parliament in May 2021 but reintroduced in 2022.

The SQA signed an agreement with us in 2021 to improve its equality practices, complete outstanding equality impact assessments for its policies and practices and improve its approach to carrying out assessments for any new policies, in line with its obligations under the Public Sector Equality Duty (PSED) (EHRC, 2021).

Work

A Fairer Scotland for Disabled People: employment action plan, published in 2018, aims to halve Scotland's disability employment gap by 2038 (Scottish Government, 2018).

Progress by 2021 included:

- a plan to support more disabled people into Scottish Government jobs
- a pilot scheme to improve access to support for disabled people at risk of losing their job or recently unemployed, and
- resources to support improved knowledge and skills of the Scottish workforce around mental health improvement, self-harm and suicide prevention (Scottish Government, 2021c).

In 2022, a refreshed Fair Work Action Plan brought together the original fair work, gender pay gap and disabled people's employment action plans to take forward actions to tackle inequalities in disabled people's employment experiences and meet the overall goal of halving the disability employment gap (Scottish Government, 2022a).

Living standards

Social security and disability benefits

The Scotland Act 2016 gave the Scottish Government new powers relating to social security, including responsibility over certain disability benefits. The Social Security (Scotland) Act 2018 set out to deliver those benefits in line with the principles outlined in the 2016 Act, including that ‘social security is itself a human right and essential to the realisation of other human rights’.

Not all powers contained within the Act have been enacted.²⁴ There is no specified date for the sections not in force to be enacted, with the Act providing that they will come into force on ‘such day as the Scottish Ministers may by regulations appoint’.

The first change was to introduce the Carer’s Allowance Supplement, an extra payment to help carers in Scotland who get the UK-wide Carer’s Allowance. The Scottish Government has since proposed a new benefit to replace Carer’s Allowance, the Carer Support Payment, and published an updated social security programme business case confirming its pilot in 2022 and national launch in 2024 (Scottish Government, 2023a).

Social Security Scotland also delivers two forms of disability assistance:

1. Child Disability Payment (CDP) launched in November 2021 replacing Disability Living Allowance for Children. It is designed to mitigate some of the additional costs of caring for a disabled or terminally ill child or young person, and
2. Adult Disability Payment (ADP) launched in August 2022 replacing Personal Independence Payment (PIP). It is designed to support working-age people with extra costs incurred by living with a disability or long-term health condition.

It is too early to assess the new benefits’ effect on the living standards of disabled people and their households.

24 The Sections not yet in force include: the Pension Age Disability Payment to support disabled older people and remove the need for face-to-face assessment (likely to be enacted in 2025); the Cold-spell heating assistance; Employment-injury assistance; Housing assistance; sections relating to Discretionary Housing Payments; and Universal Credit: payment to joint claimants.

Housing

The Scottish Government issued guidance in 2019 requiring councils to set wheelchair-accessible housing targets based on relevant local evidence (Scottish Government 2019a).

The Scottish Government's 2021 housing strategy, *Housing to 2040*, contains a commitment to introduce building standards from 2025/26 to underpin the new Scottish Housing Standard to future-proof new homes for lifelong accessibility (Scottish Government, 2021e).

National Planning Framework 4, adopted in February 2023, includes a commitment to supporting housing development proposals for new homes that improve affordability and choice by being adaptable to changing and diverse needs and address identified gaps in provision (Scottish Government, 2022b). It identifies accessible, adaptable, and wheelchair-accessible homes as a priority.

In December 2021, the Scottish Government issued updated guidance on the Relevant Adjustments to Common Parts (Disabled Persons) (Scotland) Regulations 2020, which allow disabled people to make accessibility adaptations to their home where these are needed in common areas of the property (Scottish Government, 2021f).

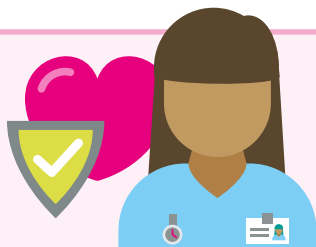
While these developments are welcome, various policy interventions have so far failed to achieve the recommendation in our 2018 inquiry report, *Housing and disabled people: Scotland's hidden crisis*, that the Scottish Government ensures all local authorities guarantee that a minimum 10% of new-build homes across all tenure types are built to a wheelchair-accessible standard (EHRC, 2018).

In early 2023, Glasgow City Council successfully appealed a court decision that it should adjust its practice of sourcing homeless accommodation from registered social landlords to avoid putting a respondent's disabled son at a substantial disadvantage due to not having his own bedroom. The council had said the family needed a five-apartment property to accommodate the son's additional support needs but it relied on registered social landlords for housing stock and, as larger properties were scarce, had provided a four-apartment property.²⁵ In upholding the council's appeal, the court said this was a matter of housing and homelessness law and not equality law.²⁶ It is understood the Supreme Court has been asked for permission to further appeal the court's decision.

25 *X v Glasgow City Council* [2022] CSOH 35.

26 *Glasgow City Council v X and Shelter, the National Campaign for Homeless People Limited* [2023] CSIH 7.

Social care



Accessible, good quality social care is essential for many disabled people to enable them to live their lives as they choose.

The sustainability of social care services in Scotland has been under pressure for many years, with financial strain, increasing demand and workforce issues the main challenges. The pandemic has exacerbated these pressures.

The Community Care (Personal Care and Nursing Care) (Scotland) Amendment (No. 2) Regulations 2018 extended free personal care to under-65s from April 2019. This means that any adult assessed by their local authority as requiring personal care will receive it free of charge, including support with personal hygiene, mobility, food preparation, dressing and getting in or out of bed.

In January 2023, the Supreme Court held that Glasgow City Council's charging policy for community care services, which allows only certain deductions when assessing the claimant's contribution, was not discriminatory under the Equality Act 2010. The court said local authorities should consider the expenditure that results from an individual's disability and make reasonable deductions when calculating any contribution, but that it was up to the individual to satisfy the local authority they had insufficient means, and it was not 'practicable' for them to pay.

In 2021 an independent review of adult social care recommended creating a national care service (Scottish Government, 2021d). The National Care Service (Scotland) Bill is currently in Parliament to do so.

The Court of Session overturned two decisions by local authorities to close adult care centres because they failed to carry out either an equality impact assessment or consultation with users' families.^{27,28}

27 *McHattie v South Ayrshire Council* [2020] CSOH 4.

28 *AB v Scottish Borders Council* [2022] CSOH 68.

Health

Mental health, learning disabilities and autism

In 2018, the Scottish Government commissioned an independent review of the inclusion of learning disability and autism in the definition of mental disorder in the Mental Health Act (the Rome Review). The review recommended that autism and learning disability should not be defined as forms of 'mental disorder' in mental health law (Rome et al., 2019).

In 2020, we started legal proceedings against NHS Greater Glasgow and Clyde (NHSGGC) and HC-One Oval Ltd, a chain of care homes, after discovering patients who were medically fit to be discharged from hospital but lacked capacity to make decisions about their personal welfare, were being transferred to and held in two care homes in Glasgow without consent or lawful authority.

We were concerned that this practice was unlawful, discriminatory and contrary to the UNCRPD and the European Convention on Human Rights (ECHR). The case was settled on the basis that NHSGGC ended its practice of transferring adults with incapacity without legal authority and HC-One Oval Ltd committed not to receive any more patients in this way. All the patients were lawfully discharged and NHSGGC worked constructively with us and the Mental Welfare Commission for Scotland to improve its practices (EHRC, 2020a).

In 2021, the 10-year Scottish Strategy for Autism (Scottish Government, 2011) concluded, and an independent evaluation was commissioned to explore its delivery, impact and lessons learnt that could inform future policy direction. The evaluation found that, despite creation of new and valuable resources, for many autistic people real change in service engagement and support to live productive lives was not evident (Scottish Government, 2021a).

In response, the Scottish Government provided £650,000 to pilot adult neurodevelopmental pathways in four NHS health boards to support the implementation of a single diagnostic pathway for autism and attention deficit hyperactivity disorder (ADHD).

The Scottish Government published Towards Transformation, its learning / intellectual disabilities and autism plan, in March 2021. It sets out 30 actions to enhance support and services and ensure the human rights of autistic people and people with learning / intellectual disabilities are respected and protected (Scottish Government, 2021b).

The Scottish Mental Health Law Review was established following the Rome Review. This was the first major review of mental health and capacity law in Scotland for over 20 years and aimed to improve the rights and protections of people affected by mental health, incapacity or adult support and protection laws.

Its final report set out an overarching commitment to human rights, UNCRPD and the Equality Act 2010 as well as individual recommendations. Scottish ministers are expected to respond to the recommendations in 2023, and legislative reform may follow.

To meet a commitment included in the Scottish National Party's (SNP) 2021 manifesto and subsequent programmes for government, the Scottish Government have committed to increased funding for mental health services. As part of Scotland's COVID-19 mental health transition and recovery plan, funding has been delivered through routes including the Communities Mental Health and Wellbeing Fund (for adults) and the Children and Young People's Community Mental Health and Wellbeing Joint Delivery Board (Scottish Government, 2020a).

Participation

We welcome the Electoral Commission's revised 2019 guidance on assisting disabled people, or people with temporary incapacity, to register to vote, which clarifies that a power of attorney can be used for voter registration in Scotland (EHRC, 2019; Electoral Commission, 2019).

In December 2021, the Scottish Government proposed a new data collection survey for the local authority elections in May 2022 (Scottish Government, 2021k). The Scottish Government gathered responses to the proposal and worked alongside COSLA, the Electoral Commission and the Electoral Management Board for Scotland to develop the local government candidate diversity survey, which included questions on most protected characteristics, including disability. All candidates standing for election were invited to take part, but the return rate was low, and it is difficult to draw conclusions from the data.

In February 2023, the Scottish Government announced that projects supporting people most at risk of social isolation and loneliness, including carers and disabled people, would receive funding to provide warm spaces, hot meals, group activities and fuel payments.

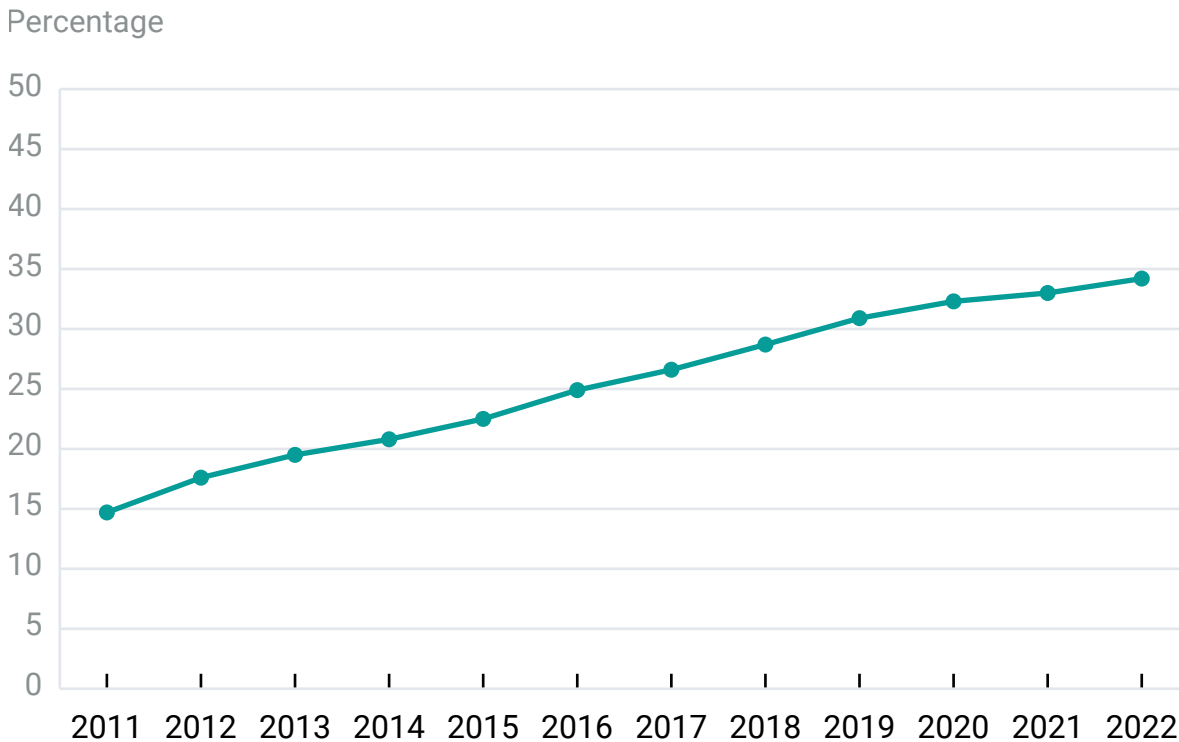
Organisations to receive grants include Befriending Networks and Glasgow Disability Alliance. The fund is currently limited to just under £1 million and it will run until 2026.

Outcomes

Education

In 2022, 34.2% of pupils on the school roll were identified as having additional support needs (ASN) (Scottish Government, 2023d). The proportion of pupils reported with ASN increased between 2011 and 2022 (Scottish Government, n.d.).

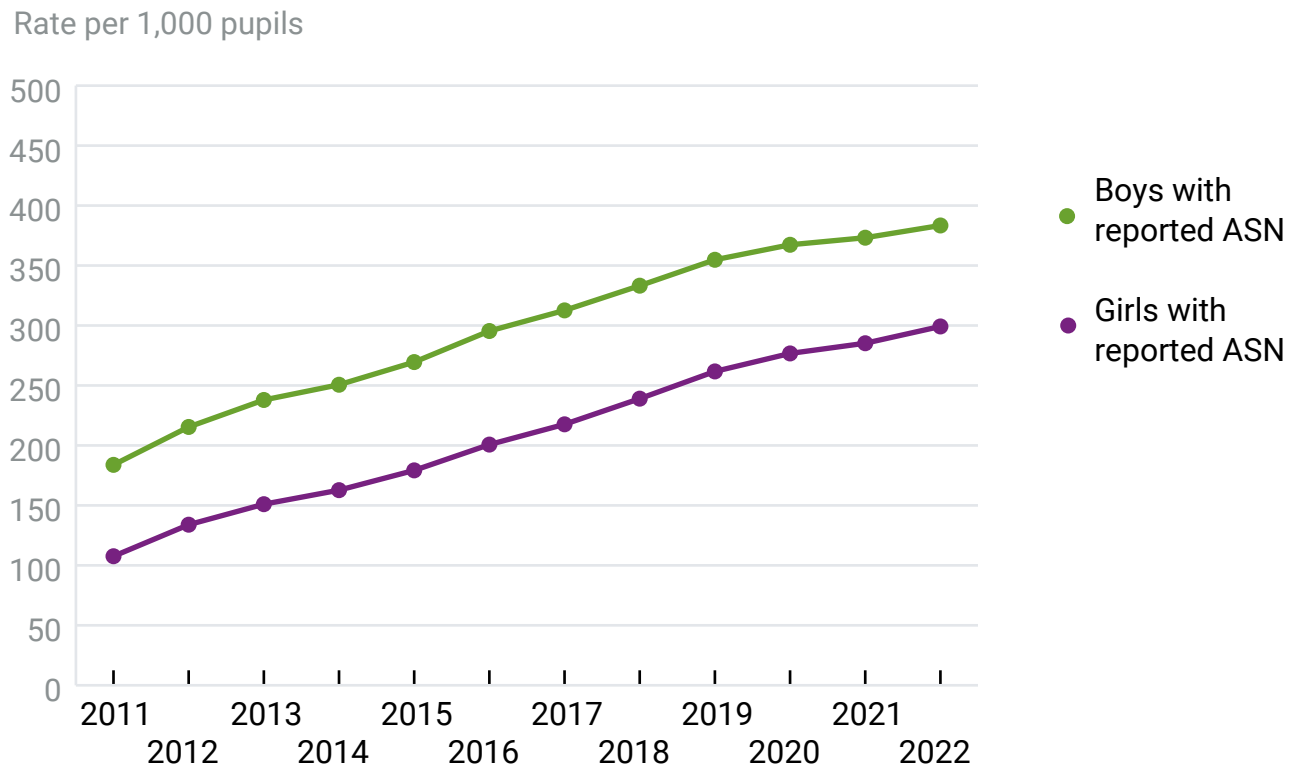
Figure 20: Percentage of pupils assessed as having ASN 2011–2022



(Source: Scottish Government)

Over this period, boys (57.2%) reported as having ASN at higher rates than were girls (42.8%) (Scottish Government, 2022f). The numbers of pupils assessed or declared as having a disability increased from 14,682 (21.9 per 1,000 pupils) in 2011 to 19,554 (27.7 per 1,000) in 2022. As with reported ASN, a higher proportion of boys were assessed or declared as disabled compared with rates for girls.

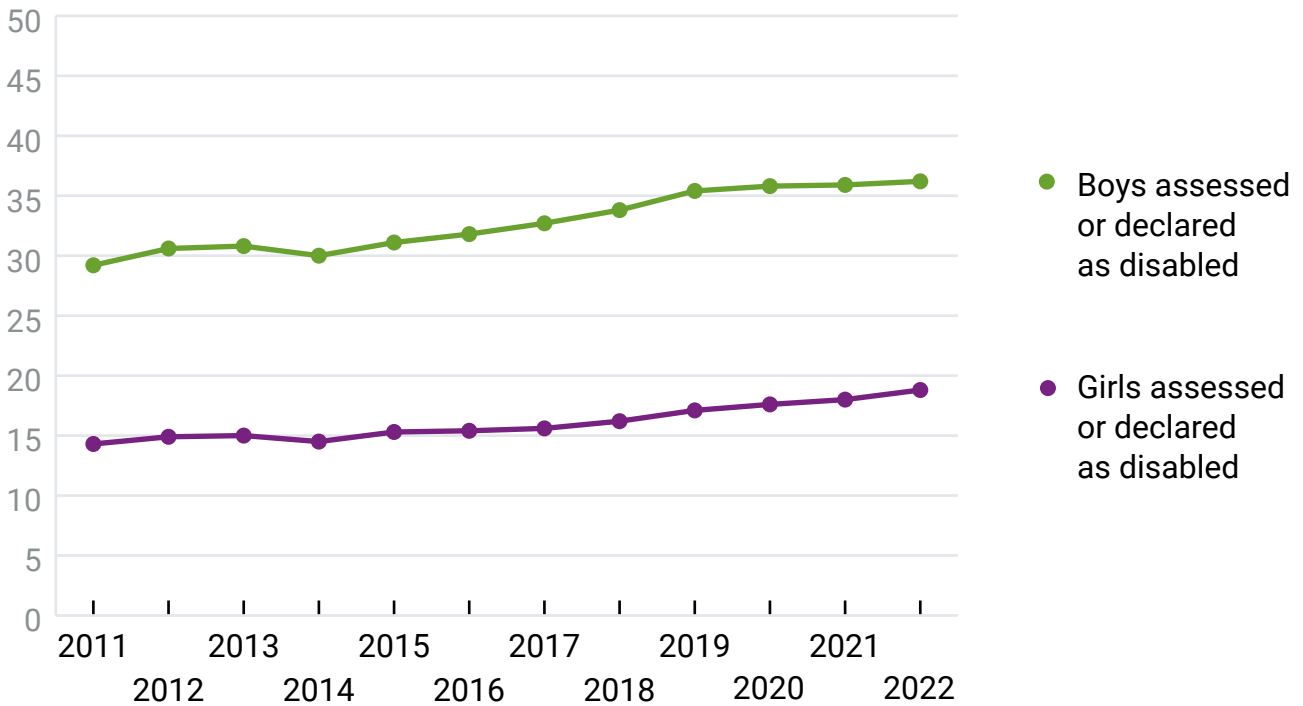
Figure 21: Pupils with recorded Additional Support Needs (rate per 1,000 pupils) by sex, 2011–2022



(Source: Scottish Government)

Figure 22: Pupils who are assessed or declared as having a disability (rate per 1,000 pupils) by sex, 2011–2022

Rate per 1,000 pupils



(Source: Scottish Government)

In the years prior to the pandemic (2016–2019), early years attainment improved among pupils both with and without ASN. However, analysis of Scottish Government data found that the proportion achieving the expected Curriculum for Excellence (CfE) level in four organisers (reading, writing, talking and listening) declined between 2018/19 and 2020/21 from 49.5% to 45.4% for pupils with ASN and from 78.6% to 73.4% for pupils without ASN. Our analysis of Scottish Government early years' attainment data shows female pupils with ASN outperformed male pupils with ASN in listening, talking, reading and writing, a constant trend since 2016/17.

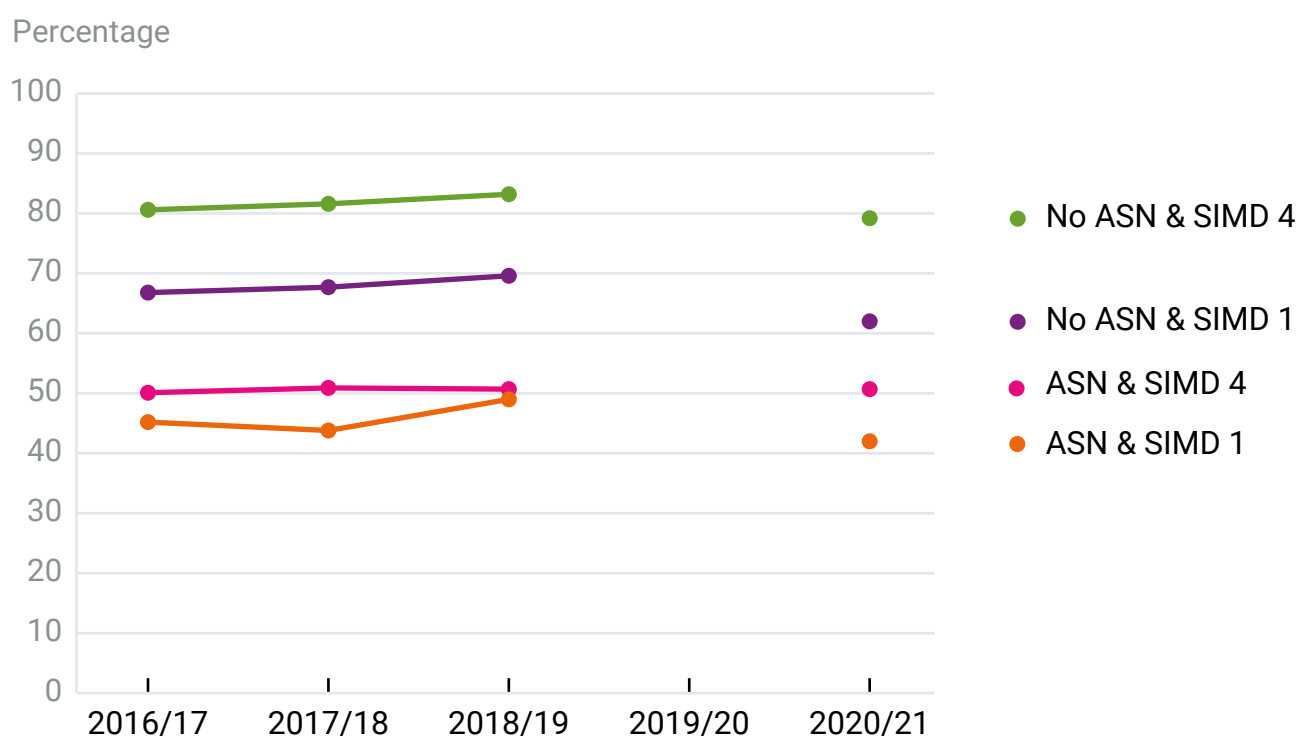
In 2021, pupils with ASN living in the most deprived quintile of Scotland (SIMD 1) were the least likely (42.0%) to achieve the expected attainment level in early years education. By contrast, 62.0% of pupils without ASN living in the most deprived areas achieved the expected level.²⁹ The gap in attainment was smallest between those with ASN living in

²⁹ When considering data by SIMD as a measure of multiple deprivation, it is important to note the data shows the difference between young people living in the most and least deprived areas. What SIMD data does not show is the difference between young people from poor or rich backgrounds.

Disability

the most deprived (SIMD 1) and less deprived (SIMD 4³⁰) areas (8.7 percentage points). Analysis found that pupils without ASN who live in the most deprived areas of Scotland outperform those with ASN living in the less deprived areas (SIMD 4) (50.7%).

Figure 23: Percentage of children in Primary 1 who achieved the expected Curriculum for Excellence (CfE) level in literacy and numeracy, by reported ASN and SIMD quintile status, 2016/17–2020/21

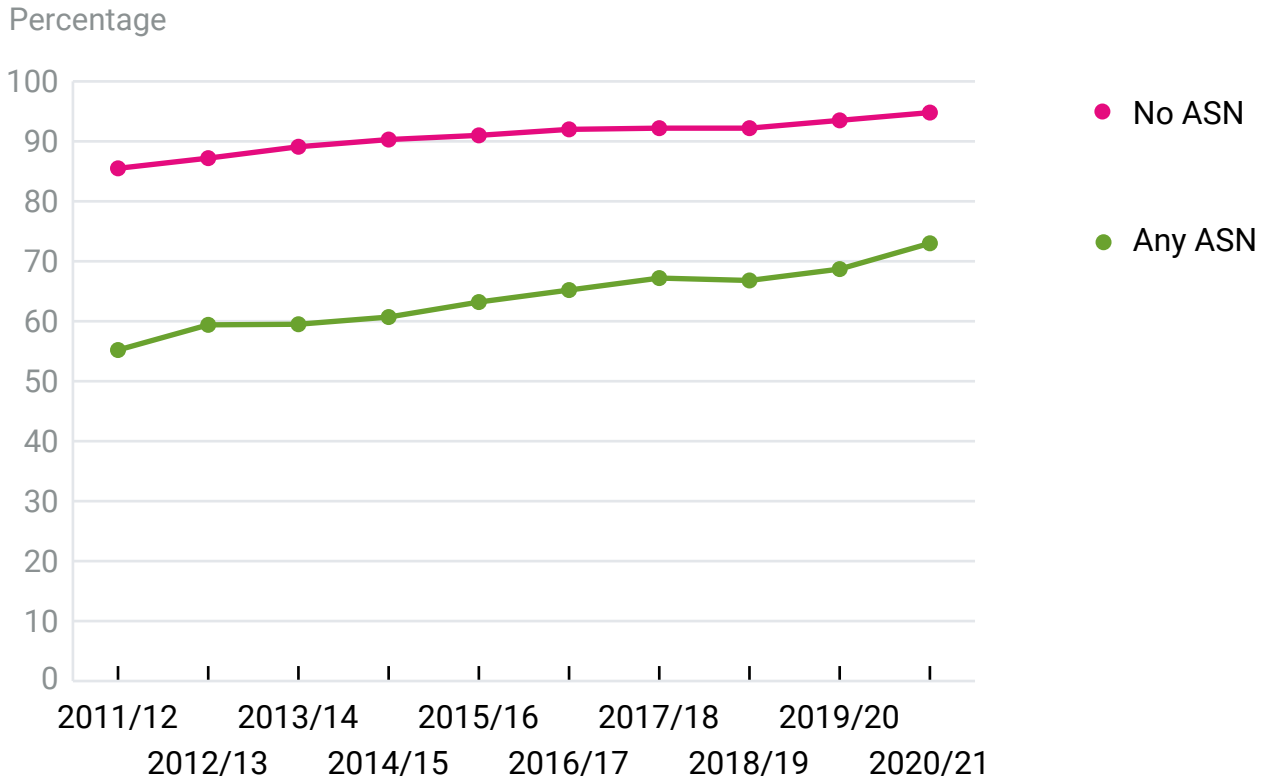


(Source: EHRC analysis of Scottish Government data)

From 2010/11 to 2020/21, there has been continual improvement in the attainment of school leavers with ASN and without ASN, but those without ASN still achieved higher results overall. Data collected in earlier years was derived from pupils in mainstream schools, excluding special schools, but in later years it was derived from pupils in mainstream and special schools. In 2020/21, 73.0% of pupils with ASN achieved one or more qualifications at SCQF level 5 or above, rising from 42.8% in 2010/11, while students without ASN achieving one or more qualifications at SCQF level 5 or above grew from 82.3% in 2010/11 to 94.8% in 2020/21.

³⁰ Figures for pupils from SIMD 5 (least deprived quintile) were suppressed due to small numbers.

Figure 24: Percentage of pupils with and without ASN achieving SCQF level 5



(Source: EHRC analysis of Scottish Government data)

We identified areas of improvement for pupils with specific conditions or impairments, including an increased proportion of students with dyslexia achieving one or more qualifications at SCQF Level 5, rising from 57.9% in 2010/11 to 81.7% in 2020/21. Despite significant improvement, pupils with dyslexia still have lower attainment levels compared with pupils with no identified ASN.

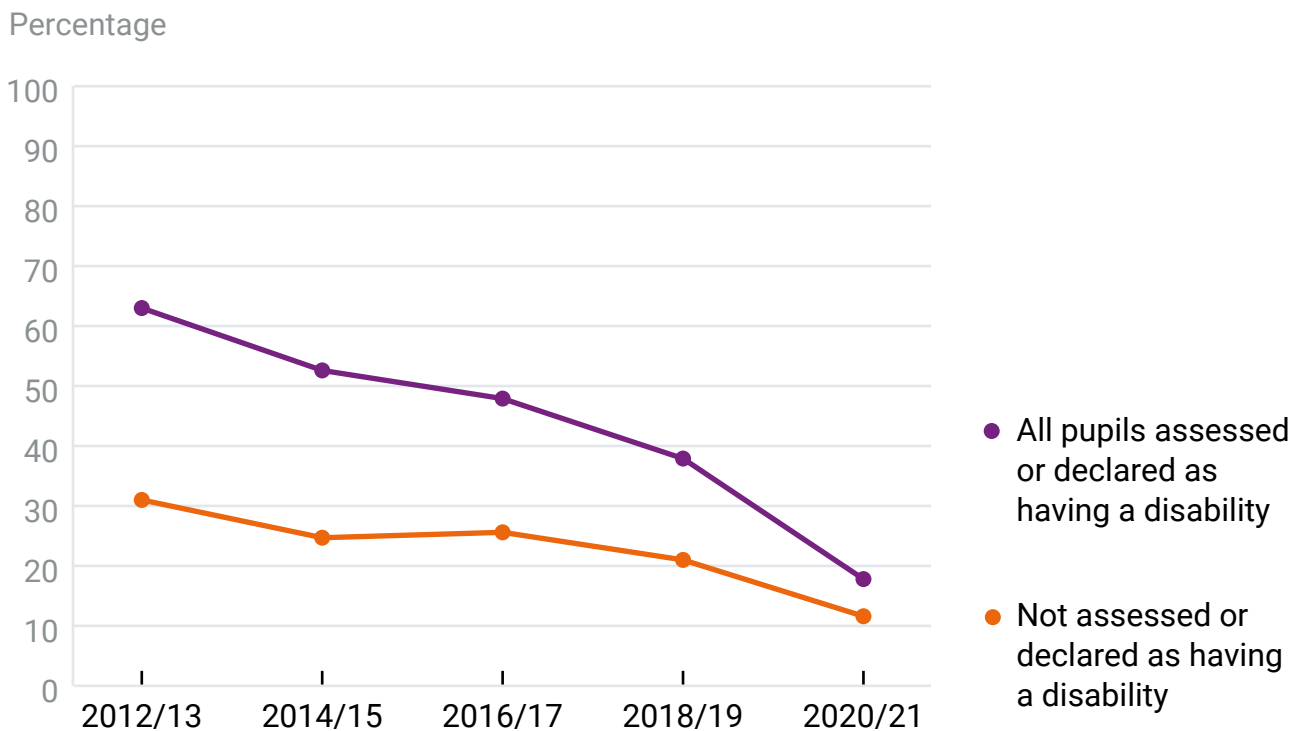
In 2020/21, the attainment gap between pupils with dyslexia and pupils with no identified ASN was 13.1 percentage points.

Exclusions

Though exclusion rates have declined across Scotland, in 2020/21 pupils with ASN (which includes pupils assessed or declared as having a disability) were excluded at a rate of 25.5 exclusions per 1,000 pupils. This is almost five times the rate for pupils without an ASN (5.3 exclusions per 1,000 pupils), but far lower than the 2010/11 rate of 121.3 per 1,000 and the 2016/17 rate of 66.6 per 1,000.

Between 2012/13 and 2020/21, the exclusion rate for pupils assessed or declared as having a disability declined from 63 per 1,000 pupils to 17.8 per 1,000 pupils. In the same period, the exclusion rate for pupils not assessed or declared as disabled also fell. However, pupils assessed or declared as disabled remained more likely to be excluded than those who were not (Scottish Government, 2022g).

Figure 25: Exclusions rate (per 1,000 pupils) by presence or absence of assessed or declared disability, 2012/13–2020/21



(Source: Scottish Government)

Positive destinations

There has been a rise in disabled young adults (aged 16–19) participating in education, training or employment. The participation rate among 16–19-year-olds identified as disabled increased from 86.3% in 2018 to 88.7% in 2022. The participation rate among those not identified as disabled was higher for all years between 2018 and 2022, though the participation gap narrowed over this period from 5.8 percentage points to 3.8 percentage points (Skills Development Scotland, 2022).

Work

Employment, unemployment and economic inactivity

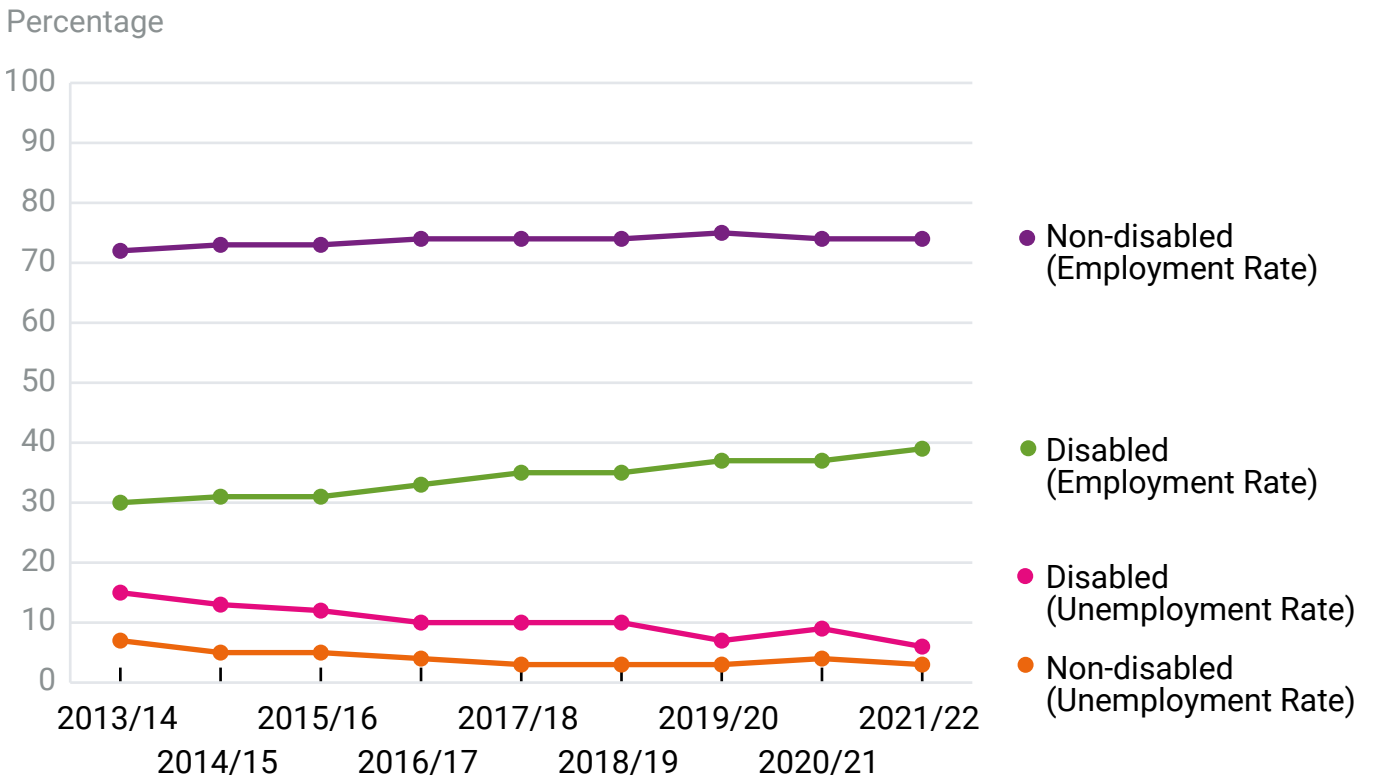
In 2019/20, disabled people in Scotland were more likely to be employed and less likely to be unemployed than in the previous year, but disabled workers were increasingly likely to earn a lower hourly wage and / or be in low-paid employment.



In 2019/20, 37.4% of disabled adults were employed compared with 74.6% of non-disabled adults.

This is a large disability employment gap, but it has narrowed since 2018/19. Between 2018/19 and 2019/20, there was an increase in the proportion of employed disabled people (2.2 percentage points) and a decrease in the proportion of unemployed disabled people (down 2.8 percentage points). There is limited data exploring employment outcomes by impairment or condition.

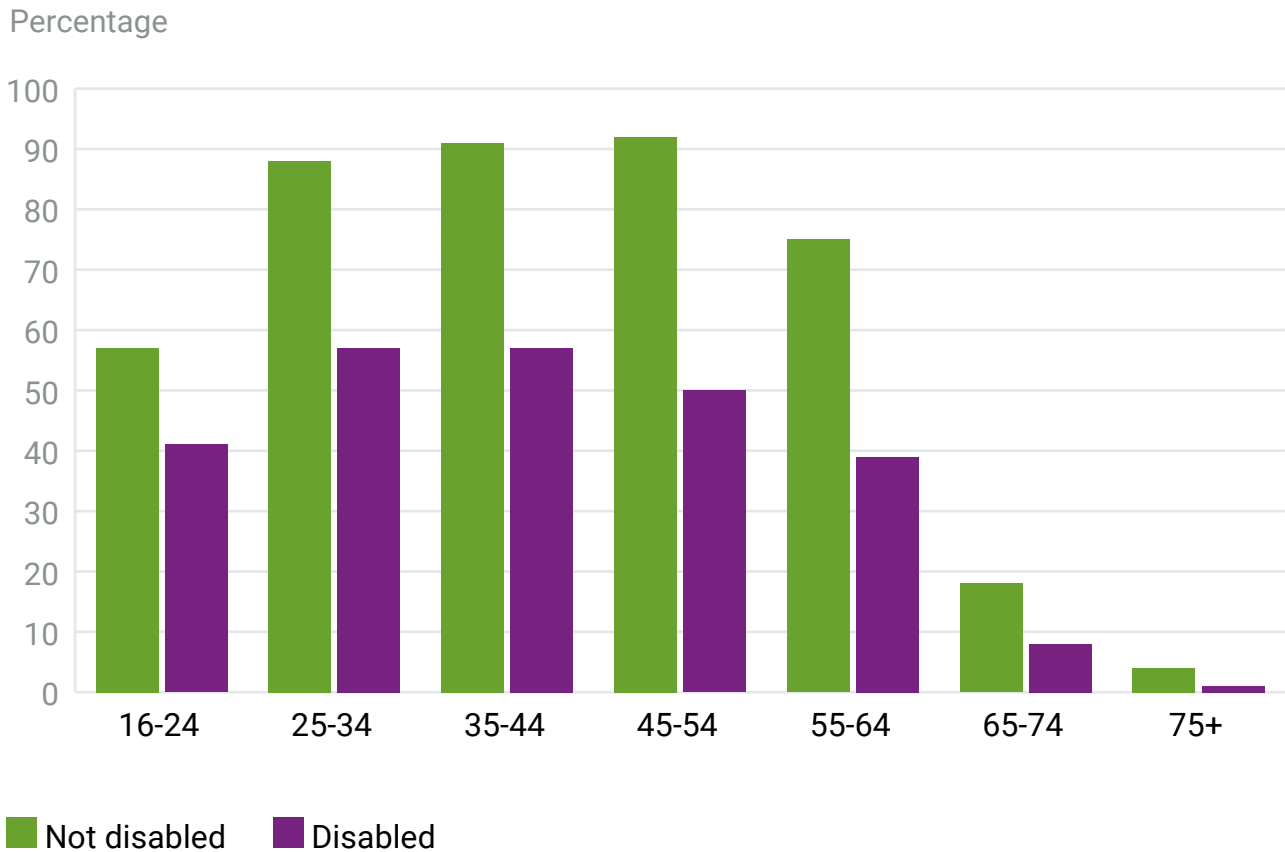
Figure 26: Disabled and non-disabled rates of employment and unemployment, Scotland, 2013/14 to 2021/22



(Source: EHRC analysis of Annual Population Survey)

In 2019/20, there were significant disability employment gaps for all age groups. The smallest employment gap was among people aged 16–24. However, this difference might be explained by more disabled and non-disabled people being in education (and therefore more likely to be economically inactive), compared with other age groups. When students are excluded from analysis, the disability employment gap for people aged 16–24 was of a similar size to that for several other pre-retirement age groups.

Figure 27: Employment rates for disabled and non-disabled groups by age (including students), Scotland, 2019/20



(Source: EHRC analysis of Annual Population Survey)

Unemployment rates were significantly higher for disabled people (6.9%) than for non-disabled people (2.7%) in 2019/20. However, the disabled unemployment gap narrowed by 1.8 percentage points between 2013/14 and 2018/19 and by a further 2.2 percentage points between 2018/19 and 2019/20. Between 2019/20 and 2021/22, the gap narrowed by a further 1.2 percentage points.

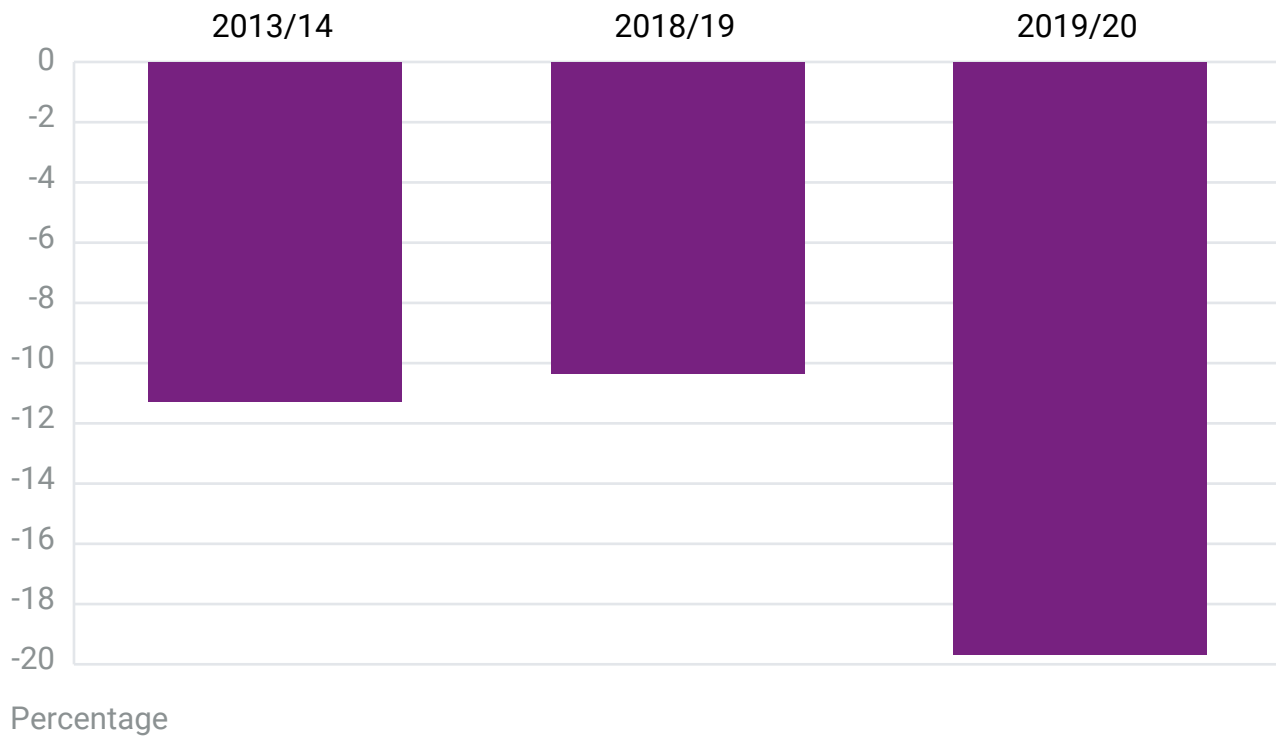
In 2019/20, disabled people were more likely to be economically inactive (60.0%) than non-disabled people (23.3%). However, analysis of Annual Population Survey (APS) data shows that over time disabled adults have become increasingly less likely to be economically inactive, while the rate of economic inactivity for non-disabled adults has not changed. This resulted in a narrowing of the economically inactive gap by 4.0 percentage points between 2013/14 and 2019/20.

Hourly earnings

Though more disabled people have moved into employment, occupational and earning gaps between disabled and non-disabled people have got wider.

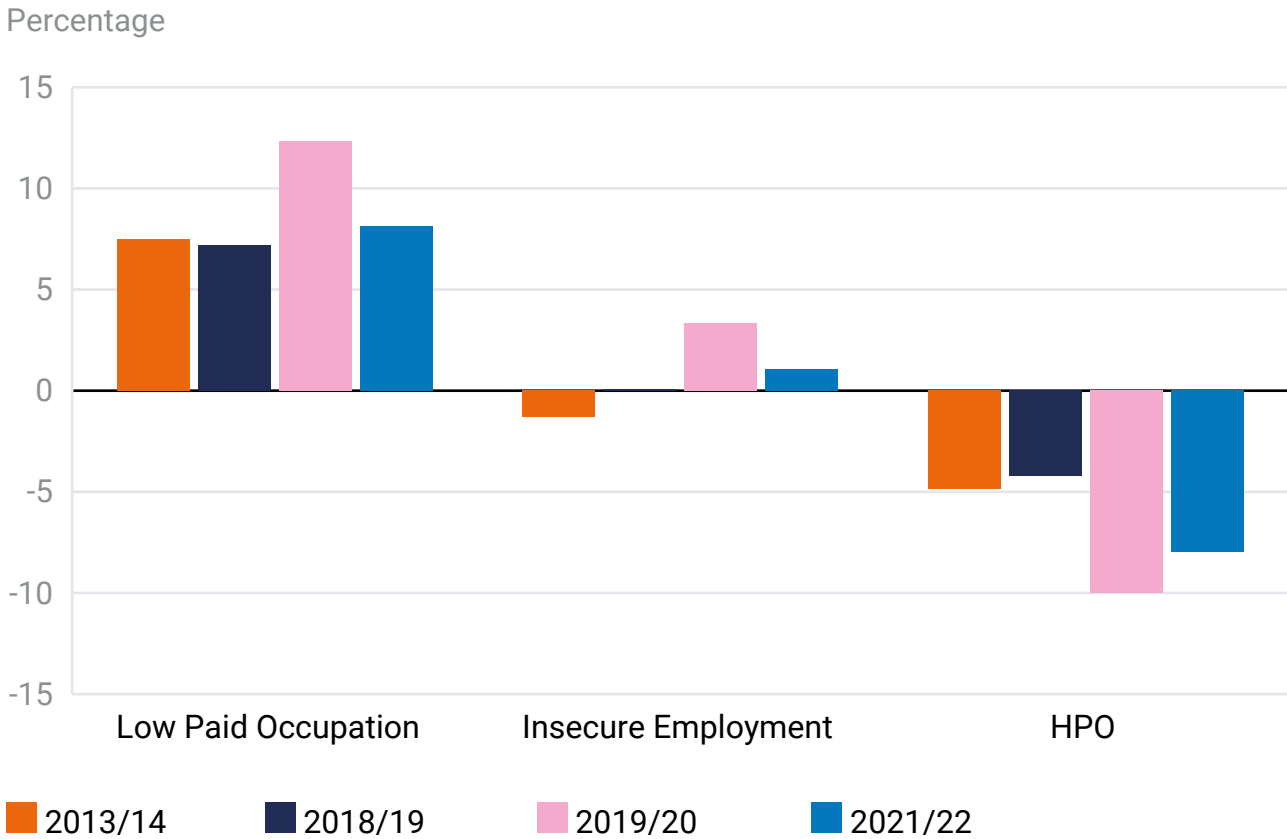
Between 2018/19 and 2019/20, disabled workers became more likely to be in low-paid occupations (LPO), insecure employment or earn a lower hourly wage and less likely to be in high-paid occupations (HPO).

Figure 28: Median hourly earnings disability gap (%), Scotland, 2013/14, 2018/19 and 2019/20



(Source: EHRC analysis of Annual Population Survey)

Figure 29: Low-paid occupation, insecure employment and high-paid occupation disability gaps (in percentage points), Scotland, 2013/14, 2018/19 and 2019/20



(Source: EHRC analysis of Annual Population Survey)

Workplace harassment

Disabled women have poorer experiences accessing work. They also have negative experiences when reporting sexist and sexual harassment in the workplace (Engender, 2022). Research participants said they felt the practicalities of needing support with certain tasks created power dynamics that were a barrier to lodging sexual harassment complaints. When they did complain, they experienced dehumanising and obstructive attitudes, including the perception that disabled women are asexual or should be grateful for unwanted sexual advances (Engender, 2022).

Apprenticeships

The proportion of disabled people starting Modern Apprenticeships was higher in the third quarter of 2022/23 (14.8%) than at the same point in 2021/22 (12.8%), though still below the pre-pandemic level of 15.1% in 2019/20 (Skills Development Scotland, 2023). Among 16–24-year-olds, there remains a gap in Modern Apprenticeship achievement between disabled and non-disabled people. In 2020/21 the Modern Apprenticeship achievement rate for disabled people aged 16–24 was 68.7% compared with 76.4% for those with no disability (Scottish Government, 2021I).

Living standards

Poverty, severe material deprivation and financial vulnerability

Despite some improvements in labour market participation, disabled people in Scotland continue to experience persistently higher levels of adult poverty than non-disabled people do.

Our analysis of the Family Resources Survey (FRS) shows that, between 2012/13 and 2019/20, the proportion of disabled adults in poverty increased (21.5% to 25.4%) yet decreased for non-disabled adults (17.3% to 15.3%).³¹

Poverty levels among disabled and non-disabled children were similar in 2015/16 and 2019/20, but our analysis of the FRS shows the proportion of non-disabled children in poverty increased between 2012/13 (22.3%) and 2019/20 (26.0%).³²

Scottish Government analysis of the FRS shows that children living in a household with a disabled household member were more likely to be in relative poverty after housing costs than were all children in 2019–2022.³³ 28% of children with a disabled household member were in relative poverty after housing costs compared with 24% of all children (Scottish Government, 2023c).

31 Analysis of the FRS ends at 2019/20 as data for 2020/21 are subject to additional uncertainty at this level.

32 Analysis of the FRS ends at 2019/20 as data for 2020/21 are subject to additional uncertainty at this level.

33 This three-year average excludes data collected during 2020/21.

Disability

Our analysis of the FRS found that severe material deprivation among disabled people has fallen, but the gap with non-disabled adults remains wide at 24.8 percentage points in 2019/20.³⁴ This decline may be due to the falling cost of essential items and the impact of policy interventions. This is measured in adults aged 16–59, excluding dependent children aged 16–19.



Households containing a disabled person are more likely to be financially vulnerable (meaning household savings would cover less than a month of income at the poverty line), particularly in recent years.

The proportion of disabled households who reported being financially vulnerable increased between 2016–2018 and 2018–2020 from 37% to 40%.³⁵ During the same period, the proportion of non-disabled households experiencing financial vulnerability declined from 29% to 25%, but over the longer term (since 2006–2008) financial vulnerability has decreased for both groups (Scottish Government, 2022h).

In 2018–2020, 5.7% of households with disabled members had unmanageable debt³⁶ compared with 3.2% of households where no one was disabled (Scottish Government, 2022h).

It is likely that the increased cost-of-living will affect forthcoming data on severe material deprivation and financial vulnerability. For example, in August 2022, 7 in 10 families in Scotland where someone is disabled had cut back on essential expenditure (JRF, 2022).

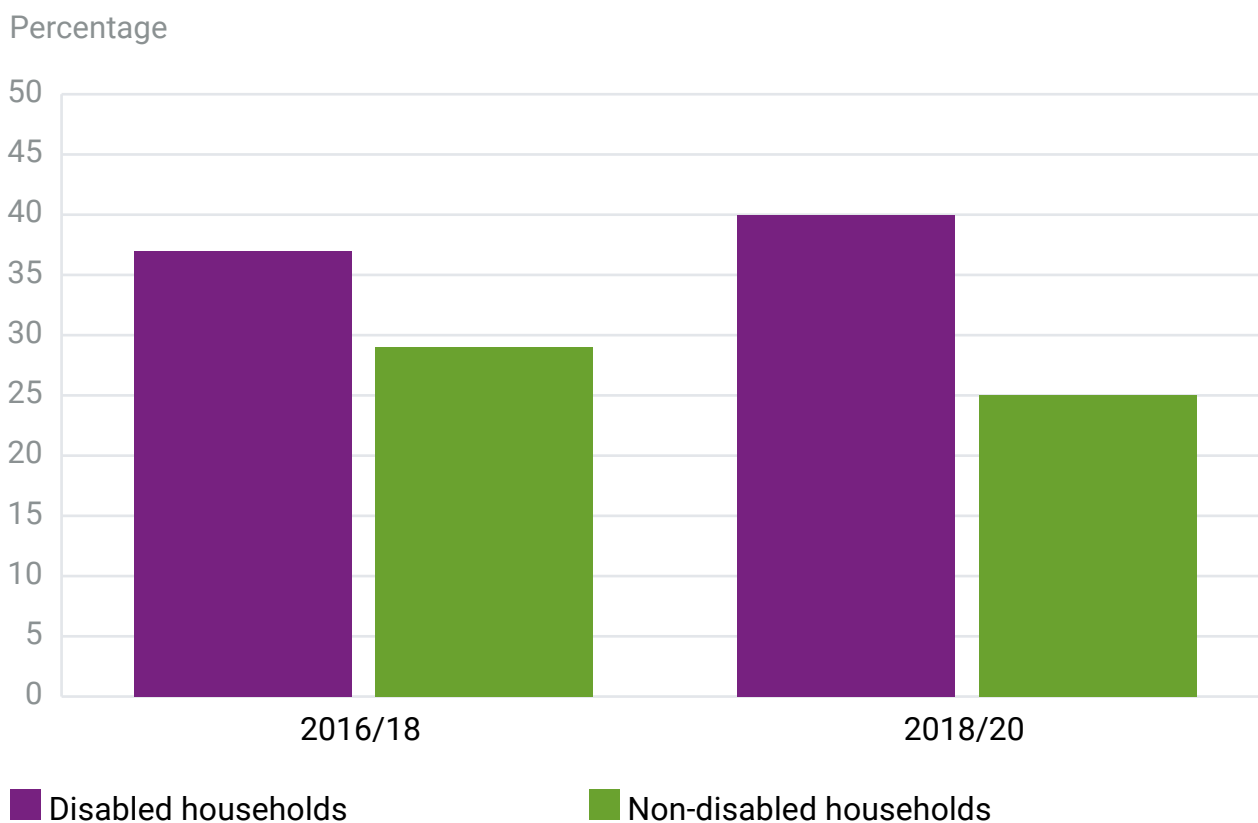
34 Analysis of the FRS ends at 2019/20 as data for 2020/21 are subject to additional uncertainty at this level. Several questions asked as part of the measure were also affected by legal restrictions.

35 Analysis of financial vulnerability and unmanageable debt excludes households north of the Caledonian Canal and the Scottish Islands.

36 A household is considered to have unmanageable debt if they have liquidity problems or solvency problems, or both. Liquidity problems mean people struggle with their debt repayments and are falling behind with paying bills. Solvency problems mean people have a large amount of debt and feel heavily burdened by it (Scottish Government, 2022h).

Disability

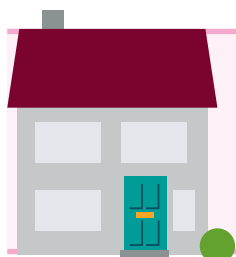
Figure 30: Proportion of disabled and non-disabled households who reported being financially vulnerable, 2016/2018 and 2018/2020



(Source: Scottish Government)

Housing

Home ownership contributes to total household wealth.



In 2018–2020, households with disabled members were less likely to own property (55%) than were those with no disabled members (71%).³⁷

³⁷ This analysis excludes households north of the Caledonian Canal and the Scottish Islands.

Disability

These levels of property ownership have remained broadly stable over time (Scottish Government, 2022h). This is corroborated by recent data (2020/21) from the Labour Force Survey of working-age households, which shows a similar gap between households with and without disabled members (ONS, 2022a).

Accommodation does not always meet the needs of disabled people. The proportion of households containing a disabled person requiring an adaptation to their home reached 53.6% in 2019, the highest level since 2011 (Scottish Government, 2022i).

Homelessness

In 2021/22, just over half of those assessed as homeless (52.1%) had at least one support need relating to: a mental health problem (28.8%), a learning disability (2.9%), a physical disability (5.9%), a medical condition (10.1%), drug or alcohol dependency (10.8%) or independent living skills (24.3%) (Scottish Government, 2022j).

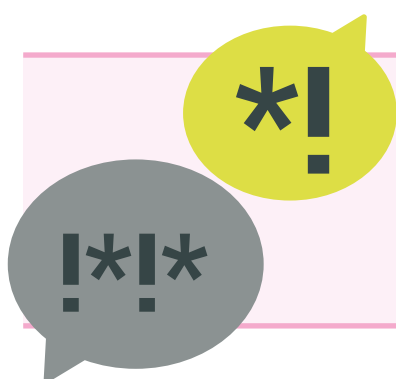
Social care

Disabled people are more likely to have both unmet care and support needs and to be unpaid carers. In 2021/22, people who did not get support with everyday living but felt they needed it were proportionally more likely to be disabled and limited a lot (8.7%) or a little (3.8%) by their disability compared with people without a disability (1.2%) (Scottish Government, 2022k). In 2019, among those aged 16+, 17% of people with a limiting longstanding illness provided regular help or care for any sick, disabled or frail person, compared with 16% of people with a non-limiting longstanding illness and 13% with no illness (Scottish Government, 2020d).

Justice

Hate crime

Disability-aggravated hate crimes recorded by the police have increased over time, accelerating in 2019/20 and reaching their highest recorded level in 2021/22, more than double the number recorded in 2014/15.

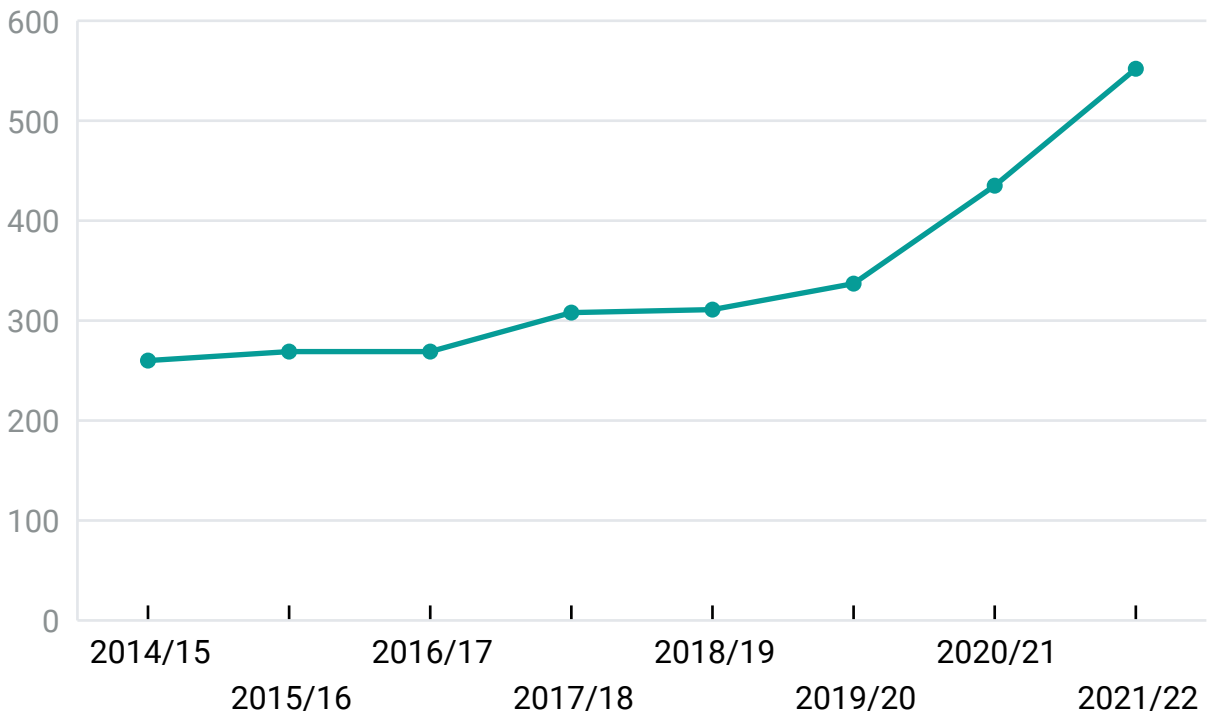


Of all disability-aggravated hate crimes recorded in 2020/21, 73% involved the perpetrator showing prejudice towards those with a learning disability.

15% of crimes involved the perpetrator showing prejudice towards those with a physical disability. In 12% of crimes, the perpetrator's actions did not include remarks directed at any specific impairment (Scottish Government, 2023b).

Figure 31: Disability-aggravated hate crimes recorded by the police, 2014/15 to 2021/22

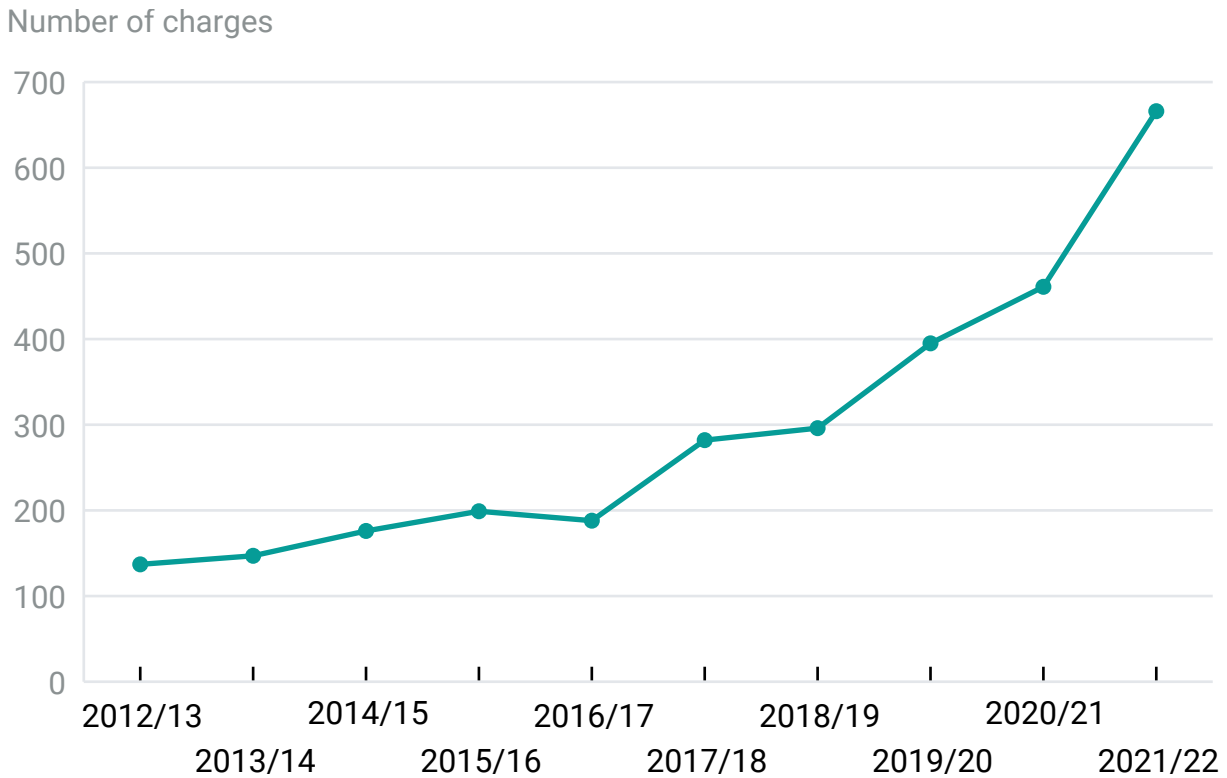
Number of disability hate crimes recorded by police



(Source: Scottish Government)

Charges for disability-aggravated hate crime have increased year on year (except for 2016/17) since legislation introducing this aggravation was introduced in 2010. In 2021/22, 666 charges were reported with an aggravation of prejudice relating to disability, 44% more than in 2020/21 (Crown Office and Procurator Fiscal Service, 2022).

Figure 32: Disability-aggravated crime charges reported 2012/13 to 2021/22



(Source: Scottish Government)

Confidence in the criminal justice system

Our analysis of the Scottish Crime and Justice Survey showed that in 2017/18, disabled people had less confidence in the criminal justice system and were consistently less likely to agree that it treats those accused of a crime as innocent until proven guilty (70.1%) compared with the views of non-disabled people (74.6%).

When completing an annual prisoner survey, an increasing proportion of prisoners reported a disability, rising from 34% in 2017 to 38% in 2019 (Scottish Prison Service, 2020). Despite this rise, accessibility of conditions of detention for people with physical disabilities varies between prisons (HMIPS, 2022).

Health

Reported good health

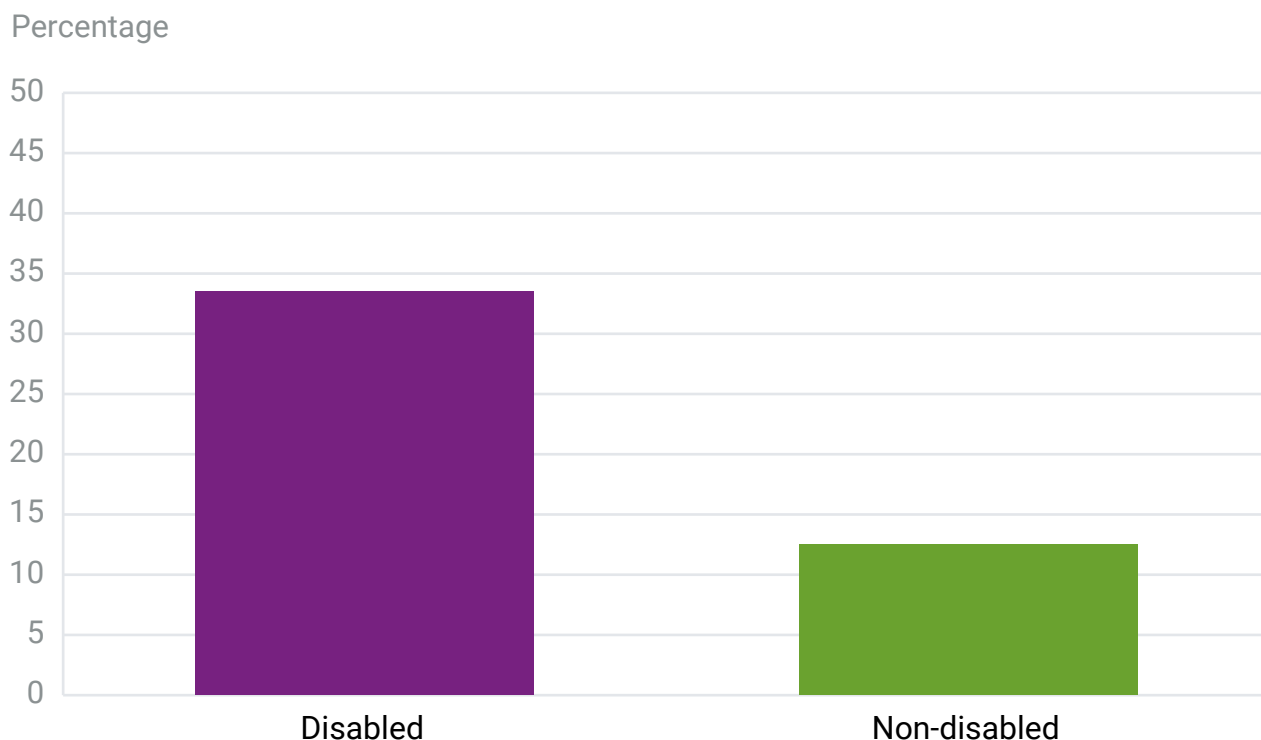
Our analysis of Scottish Health Survey data shows disabled people are less likely to report good health now than at the time of our last statutory review in 2018, though this varies by impairment type. The proportion of people with mental health and vision impairments reporting good health increased, but there were declines among all other impairment types.

Mental health

Our analysis of Scottish Health Survey data shows that roughly one in three disabled people reported symptoms of poor mental health in 2018 compared with 12.5% of non-disabled people. While levels of poor mental health symptoms have been relatively stable since 2010, there were increases in both disabled and non-disabled people reporting symptoms of poor mental health in Scotland from 2015 until the pandemic in 2020.³⁸ The increase was much larger for disabled people (7.4 percentage points) compared with non-disabled people (1.5 percentage points).

38 Measured using the General Health Questionnaire (GHQ-12).

Figure 33: Proportion of disabled and non-disabled people reporting poor mental health in 2018

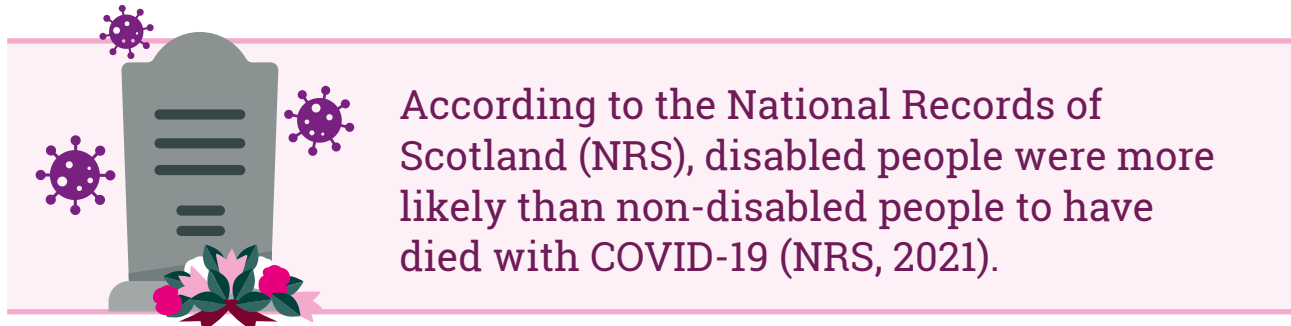


(Source: EHRC analysis of Scottish Health Survey)

Glasgow Disability Alliance (GDA), a disability-organisation, conducted research with over 5,000 disabled service users between March and July 2020 to highlight disabled people’s experiences during the pandemic. GDA reported that, during this period, 62% of disabled respondents were concerned about their mental health. Respondents with existing mental health conditions reported having their mental health care paused or disrupted, while others expressed fears about how the relaxation of laws around detention under the Mental Health Act would impact disabled people with mental health conditions (Glasgow Disability Alliance, 2020).

A review of the use of the Mental Health Act during the pandemic found there were more detentions in 2020/21 than in the previous five years. This suggests that there was a higher need for involuntary psychiatric care than before.

COVID-19



Between March 2020 and January 2021, deaths of disabled people accounted for 58% of deaths involving COVID-19 in the study population (4,333 of 7,490 deaths). Disabled women whose daily activities were limited a lot were 3.2 times more likely to die with COVID-19 than were non-disabled women. Disabled men whose daily activities were limited a lot were 3.0 times more likely to die with COVID-19 than were non-disabled men. Among disabled people whose daily activities were limited a little, there was a smaller yet still significant difference (1.8 times more likely to die with COVID-19 than non-disabled people) (NRS, 2021). These were slightly lower than in England, where women whose daily activities were limited a lot were 3.8 times more likely to die from COVID-19 than non-disabled women, and men whose activities were limited a lot were 3.1 times more likely to die from COVID-19 than non-disabled men (ONS, 2022b).

Participation

Voting and political participation

In the 2021 Scottish Parliament elections, disabled voters were less likely (93%) to be satisfied with the voting process than non-disabled voters (96%), with 87% of disabled voters finding it easy to complete and return their postal vote, compared with 97% of non-disabled voters (Electoral Commission, 2021).

Disabled voter satisfaction improved (to 96%) in the May 2022 Scottish council elections to reach a similar level to non-disabled voters. But disabled respondents were less likely (61%) than non-disabled voters (69%) to say that they had enough information on how to cast their vote (Electoral Commission, 2022).

Elected officials

There is no consistent or reliable data on the number of elected officials reporting disabilities. The Access to Elected Office Fund (Scotland) supported 54 disabled applicants in the May 2022 Scottish council elections; 48 of them became candidates and 22 were successfully elected (Electoral Commission, 2022). In comparison, 39 disabled applicants were supported in the 2017 Scottish local council elections and 15 were elected. The fund also supported 14 candidates during the 2021 Scottish Parliament elections (Scottish Government, 2021g).

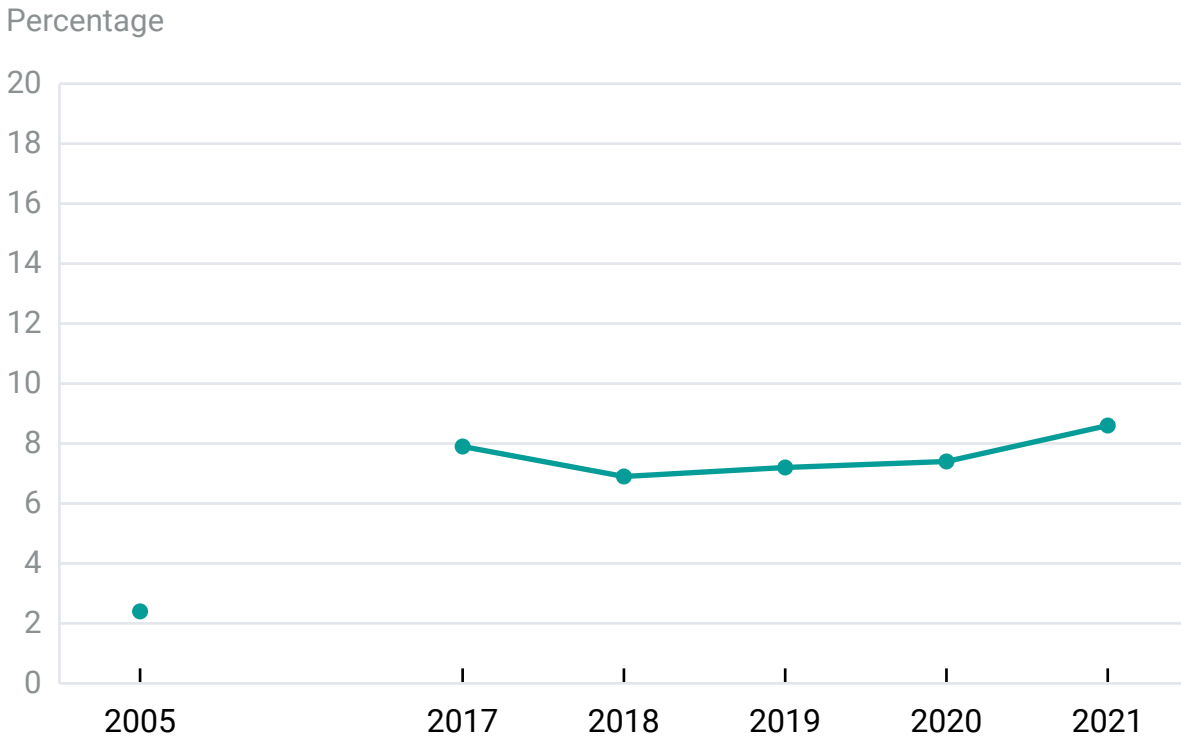
Public appointments

Disabled people continue to be under-represented in public appointments, but the situation is improving. Commissioner for Ethical Standards in Public Life in Scotland data shows that the proportion of public appointments of people declaring a disability rose to 8.6% in 2021 from 6.9% in 2018 (Ethical Standards Commissioner, 2022). However, this figure is still significantly below the 2014/15 level, when public appointments of disabled people peaked at 15.3% (Ethical Standards Commissioner, 2019).

The UK Judicial Attitude Survey (JAS) reports that only 8% of judges who took part in the 2020 survey declared a disability (Judiciary of Scotland, 2021).³⁹

³⁹ 79% of Scottish judges participated.

Figure 34: Proportion of board members (inclusive of chairs) who were disabled, 2005 and 2017–2021



(Source: Ethical Standards Commissioner)

Digital access

Analysis of the Scottish Household Survey 2019 revealed 71% of adults with some form of limiting long-term physical or mental health condition or illness reported using the internet. This was lower than for adults who reported some form of non-limiting condition or illness (90%) and those who had no reported condition or illness (94%) (Scottish Government, 2020c).

Culture and leisure

In 2019, attendance at and participation in cultural activities was higher among those with no long-term physical or mental health conditions than among those reporting such conditions (Scottish Government, 2020c).

Transport Scotland reported that those whose activities were limited due to a health condition were more likely to say that they rarely or never took part in certain leisure activities, including sports, clubs and evening social activities, and were also more likely to indicate that they or their child missed out on activities or opportunities (Transport Scotland, 2022).

In 2019, those with a long-term limiting condition were less likely to be physically active (54%) compared to those with no condition (88%) (Scottish Government, 2020c).

Recommendations

As noted above, the Scottish Government is in the process of reviewing the PSED in Scotland. In 2021, as part of this process, we argued that Scottish ministers should identify national equality outcomes that address inequalities, are clearly linked to the National Performance Framework (NPF), and to which other public bodies would contribute. In this way, equality outcomes should be seen as a means of contributing to the achievement of outcomes in the NPF.

The Scottish Government committed to doing so and further added that this would require the Scottish Government to 'ensure the national equality outcomes are measurable and link to the National Performance Framework' (Scottish Government, 2021m).

We welcome the Scottish Government's agreement to link equality outcomes to the National Performance Framework for consistency and coherence.

Our recommendations are designed to help the Scottish Government to set equality outcomes for all Scottish public bodies to use.

Our view is that Scottish Ministers should set themselves an overarching equality outcome to maintain oversight of progress on the National Equality Outcomes (NEO). Ministers should commit to developing a NEO Framework, which defines how the NEOs link to the NPF, set out which listed authorities should consider adopting each NEO, and set out core measurement criteria for each NEO.

11. The Scottish Government should set a NEO to reduce the education attainment gap between disabled and non-disabled pupils in early years, primary and secondary education.
12. The Scottish Government should set a NEO to address the causes of the higher likelihood of disabled students being excluded (including temporarily and informally) from education.
13. The Scottish Government should set a NEO to narrow earnings and employment gaps for disabled people, disaggregated by impairment, in collaboration with disabled people in line with Article 4(3) UNCRPD.
14. The Scottish Government should explore how to introduce mandatory disability employment and pay gap reporting, disaggregated by impairment where possible to avoid concealing important differences between groups.

Recommendations continued

15. The Scottish Government should set a NEO to reduce the proportion of disabled people in relative poverty.
16. The Scottish Government should set a NEO to address the unmet care needs of disabled people.
17. The Scottish Government should set a NEO to reverse the increase in disabled people reporting poor mental health.
18. The Scottish Government should set a NEO to address increasing levels of disability hate crime.
19. The Scottish Government should set a NEO to increase the representation of disabled people in public appointments.
20. The Scottish Government should set a NEO to ensure offline services meet the needs of disabled people who are digitally excluded.



Gender

reassignment

The Equality Act protected characteristic of gender reassignment refers to people who face different opportunities and challenges because they propose to undergo, are undergoing or have undergone a process to reassign their sex. Recent events and developments, including the COVID-19 pandemic, economic challenges, legal and policy developments have affected outcomes experienced by trans people. These are examined in this chapter.

Gender reassignment and the rights of trans people have come to the forefront in the past five years as a debate has unfolded relating to potential changes to gender recognition legislation. Since our last statutory review in 2018, there has been considerable debate and legal action to clarify the definition of sex in law.

Definitions

Our review uses the terminology of the source material when reporting on external research or data. As a result, this chapter may use different terms when referring to the protected characteristic of gender reassignment and to gender identity.

The terminology we use is outlined below.

Gender reassignment: A protected characteristic under the Equality Act 2010. Gender reassignment means ‘proposing to undergo, undergoing or having undergone’ a process to reassign one’s sex. To be protected from gender reassignment discrimination or harassment, a person therefore does not have to have undergone any medical treatment or surgery to change their birth sex to their preferred gender. A person can be at any stage in the transition process, and it does not matter whether they have applied for or obtained a gender recognition certificate.

Gender recognition certificate (GRC): A gender recognition certificate is a document confirming the change of a person’s legal sex.

Non-binary: A person who does not identify as entirely male or female.

Non-trans: Non-trans people (or non-trans men / non-trans women) are those whose gender identity matches their sex as recorded at birth.

Trans: Trans people (or trans men / trans women) are those with the protected characteristic of gender reassignment. The Equality Act 2010 uses the term ‘transsexual’ for individuals who have the protected characteristic of gender reassignment. Some people consider this term outdated, so the term ‘trans’ is used in this report to refer to a person who has the protected characteristic of gender reassignment. This does not generally include non-binary people, unless stated.

Key findings

- Many trans young people are bullied at school, with a self-selecting survey of LGBT young people conducted in 2022 finding that 57% of 526 trans young people reported experiencing transphobic bullying. However, reported confidence levels in reporting transphobia to school staff or authority figures have fallen.
- Trans and non-binary people are more likely to have mental health conditions and report higher levels of self-harm and attempted suicide than lesbian, gay and bisexual (LGB) people and the general population.
- The evidence suggests that trans and non-binary people face barriers when accessing general, specialised and gender-affirming healthcare.
- Waiting lists to access gender identity clinics and other gender-affirming care are growing.⁴⁰ In 2022, estimated waiting times for a first appointment at Sandyford Gender Identity Clinic in Glasgow was more than 44 months for adults. The long waiting times can have detrimental effects on people's mental health, including anxiety, depression, continued dysphoria, self-harm and suicidal thoughts.
- The number of transgender identity aggravated hate crimes recorded by the police tripled from 53 in 2014/15 to 185 in 2021/22. The proportion of trans people who are confident about reporting hate crime to the police has sharply declined.

40 The term 'gender-affirming care', in this context, refers to the process of treating trans people with issues of gender dysphoria or gender incongruence.

Data Considerations

The availability of robust, representative data on trans people in Scotland is an ongoing issue. It was not possible in this report to analyse large-scale national survey data by gender identity because:

- some surveys did not include questions on gender identity
- some surveys include questions on gender identity, but base sizes are too small for robust analysis, and
- the lack of data on the trans population means that samples could not be designed to be representative.

Though improvements have been made to some national surveys, the evidence in this chapter is mostly from self-selecting samples. As a result, there are fewer topics covered in this chapter than in other chapters where more data is available.

The Scotland 2022 census included a voluntary question (for those aged 16 or over) on trans status or history for the first time. When Scotland census results are published, they will provide the only census-based estimates on the size and locality of the trans population in Scotland.

Some policies and data reviewed for this report refer to the wider lesbian, gay bisexual and trans (LGBT) group and consider all these people's experiences collectively. On occasion the language in this chapter reports on LGBT people as a single group when it is not possible to identify specific findings about trans people. Policies and outcomes mainly affecting lesbian, gay or bisexual people are covered in the Sexual Orientation chapter of our report.

Policy and legal developments

Gender recognition reform

The Scottish Parliament passed the Gender Recognition Reform (Scotland) Bill in December 2022. The Bill sought to change the process for obtaining a gender recognition certificate (GRC). A GRC has the effect of changing someone's legal sex to that of their 'acquired gender'. The Bill removed and modified aspects of the existing process, as well as lowering the age at which someone can apply for a GRC from 18 to 16 years old. The Bill has not been made law because it was subject to an order by the Secretary of State for Scotland of the UK government preventing the Presiding Officer from submitting it for royal assent under section 35 of the Scotland Act 1998. This was on the basis that it could affect the operation of reserved legislation (the Equality Act 2010) outside Scotland.

In April 2023, the Scottish Government lodged a petition with the Scottish Court of Session, seeking a judicial review of the UK government's use of section 35 of the Scotland Act to stop the Bill going forward to royal assent and becoming law as the Gender Recognition Reform (Scotland) Act. The petition is scheduled to be heard by Lady Haldane at the Court of Session in September 2023.

Non-binary equality

In 2021, the Scottish Government set up a working group to explore ways to improve non-binary people's lives. The group's 2022 report made 35 recommendations covering issues including health, data, law, public services, sport and education, as well as possible future work in this area (Scottish Government, 2022a).

The Scottish Government responded by fully or partially accepting 24 recommendations, declining three and agreeing to further consider eight of them (Scottish Government, 2022b). It also committed to publish an action plan to progress this work by spring 2023.

Ending conversion practices

The Scottish Government's 2021/22 Programme for Government included a commitment to 'protect LGBT people from harm by banning the damaging promotion and practice of conversion therapy' (Scottish Government, 2021a). Conversion therapies, or practices, aim to change a person's sexual orientation or gender identity.

In October 2022, an expert advisory group recommended measures necessary to achieve such a ban (Scottish Government, 2022c). The Scottish Government has said it will consider the group's recommendations and introduce a bill to ban conversion practices by the end of 2023.

Education

In 2018, a working group of equality and education organisations made several recommendations to Scottish ministers on how to make Scottish education more inclusive of lesbian, gay, bisexual, trans and intersex (LGBTI) children and young people (Scottish Government, 2018). These included:

- new and updated guidance for teachers
- a review of age and stage-specific elements of the curriculum
- creation of new teaching resources, and
- new approaches to professional learning.

The Scottish Government accepted the recommendations. In 2021, it announced LGBT-inclusive education had been embedded across the Scottish curriculum, claiming that Scotland was the first country in the world to do this (Scottish Government, 2021b).

Health

In 2021, the Scottish Government published a strategic action framework to address increased demand and longer waiting times for NHS gender identity services (Scottish Government, 2021c). The framework made 17 commitments covering strategy and governance, service improvement and development, staff training and development, and data, research and evaluation. These include commitments to:

- increase central funding for gender identity services
- develop national standards, and
- incorporate gender identity services into national waiting time standards.

Justice

In early 2023, the Scottish Government updated its policy on managing trans prisoners while the Scottish Prison Service continues its broader review of trans prisoner management (Scottish Government, 2023a). The measures mean that no newly convicted trans person with any history of violence against women will be placed in a female prison, including female sections of prisons traditionally used to house men. In addition, no trans prisoners with a history of violence against women will be moved from a male prison to a female one (Scottish Government, 2023a).

Legal developments

Data collection

In 2021, the Scottish Government's Chief Statistician, supported by a group of experts (including us), produced guidance on collecting and publishing data relating to sex, gender identity and trans status (Halliday, 2021). This was in response to 'concerns about the collection and use of data by sex and gender'. The guidance identifies underpinning statistical principles, sets out definitions of key terms and highlights things to consider when collecting data, noting the desirability of consistency of data collection across Scotland and between nations.

A legal case challenged guidance issued by National Records of Scotland to accompany a question about respondents' sex in the 2022 census.⁴¹ The Court of Session Outer House found that there was no general rule or principle of law that a question as to a person's sex might only be properly answered by reference to the sex stated on the person's birth certificate or GRC. The court said the National Records of Scotland guidance merely acknowledged that some transgender people would not be answering the question falsely by stating their sex was other than the one recorded on their birth certificate and did not permit, sanction, positively approve or authorise unlawful conduct. This reached a different decision to similar case regarding the census in England and Wales and means that the definition used in the census in Scotland was potentially different to that used in the census in England and Wales.

41 Fair Play for Women v National Records of Scotland. [2022] CSOH 20.

Outcomes

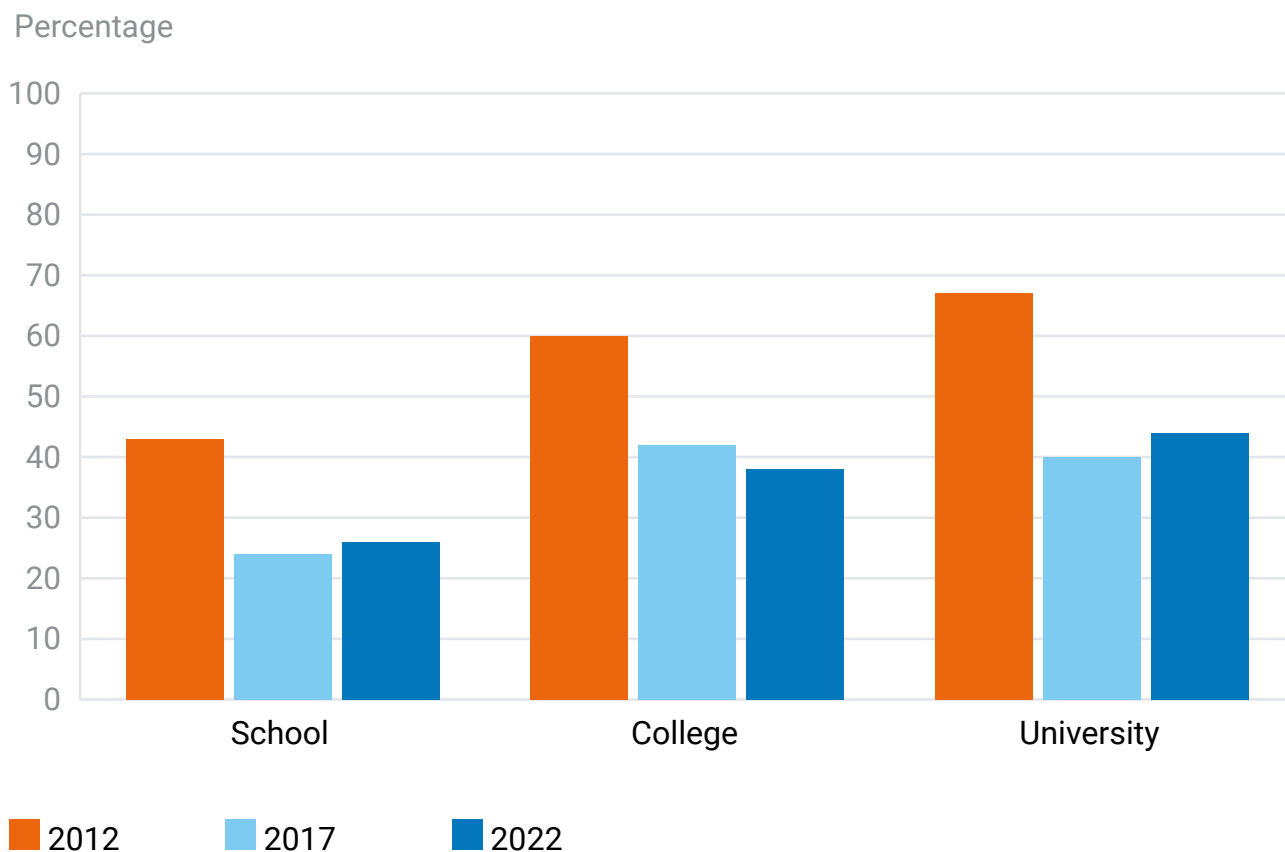
Education

There is limited data on gender reassignment and educational attainment. However, there is evidence on trans children and young people's experiences of bullying at school, college and university.

In a national survey of LGBT young people aged 13–25 in 2022, nearly half (49%) of the 1,279 self-selecting participants identified as trans (including non-binary) (LGBT Youth Scotland, 2022). This survey found 57% of 526 trans respondents reported experiencing transphobic bullying at school. A smaller proportion said they experienced bullying based on their gender reassignment at college (14%) and university (16%). The research found 19% of trans participants reported leaving education because of homophobia, biphobia or transphobia compared with 6% of non-trans lesbian, gay or bisexual respondents.

Confidence levels in reporting transphobia to staff or authority figures in education remain low among trans young people. The 2022 survey found trans respondents had grown less confident in reporting transphobia across all educational settings since a previous survey in 2012 (LGBT Youth Scotland, 2022).

Figure 35: Percentage of trans young people confident about reporting transphobia to people in authority in education, 2012–2022 (LGBT Youth Scotland, 2022)



(Source: LGBT Youth Scotland)

Work

There is limited data on gender reassignment and the labour market. The only available evidence, a survey of 65 trans people in 2021, found less than half of respondents (41%) felt their workplace was trans inclusive. Respondents were more likely to view their workplace as inclusive of lesbian, gay or bisexual identities (69%). Three in five respondents (60%) said they had experienced harassment at work that directly or indirectly related to their gender identity, but under half (41%) of these respondents had reported it to a manager or human resources staff (LGBT Health and Wellbeing, 2021).

Living standards

Analysis of a national survey of LGBT people in 2021, with a self-selecting sample of 2,358 respondents, found that one in six (18%) LGBT respondents had experienced food insecurity in the last 12 months, rising to one in five (20%) LGBT respondents aged under 50 (Leven, 2022).

This means they had been worried about running out of food because of a lack of money or other resources in the previous 12 months (Scottish Government, 2022d). Food insecurity was particularly likely among trans respondents, with 30% of trans men (which the survey refers to as trans masculine), 27% of non-binary people and 19% of trans women having experienced such concerns (Leven, 2022).⁴² While not directly comparable, 14% of all adults aged 16–44 experienced food insecurity in 2021 (Scottish Government, 2022d).

Health

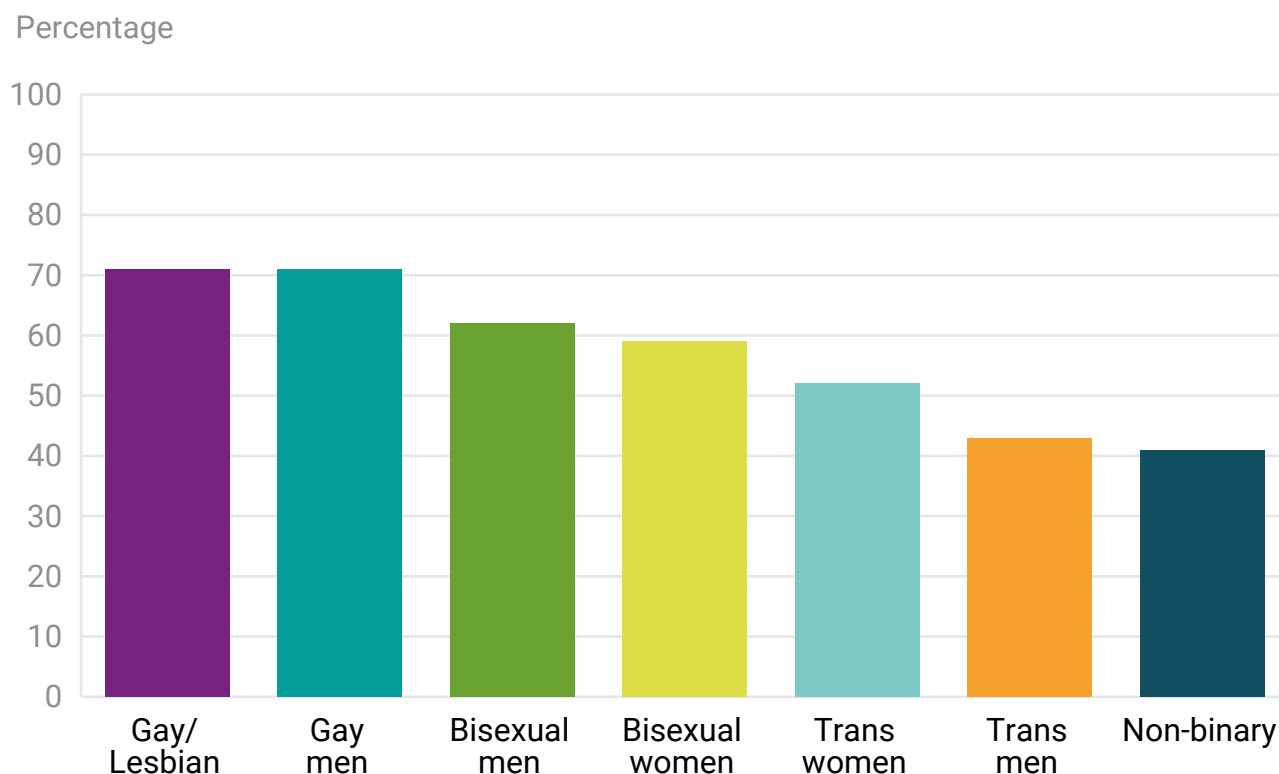
Trans people seem to experience worse health outcomes than lesbian, gay and bisexual people and have poorer health than the general population. While additional research is needed to confirm this in Scotland, the 2021 England and Wales census showed that some trans people report poorer health than non-trans people in other parts of Britain (ONS, 2023).

Only three in five (59%) LGBT (including non-binary) people aged under 50 who took part in a national survey said that their health was good or very good (Leven, 2022). Though not directly comparable, three in four adults (75%) in the wider population described their general health as ‘good’ or ‘very good’ in the 2021 Scottish Health Survey (Scottish Government, 2022d).

The proportion of people who rated their general health positively varied among LGBT groups but was considerably lower among trans respondents than lesbian, gay or bisexual respondents. Among trans people, non-binary people and trans men respondents were least likely to say their health was good or very good (Leven, 2022).

42 This is the terminology used in the source material and includes those who identify as male and trans, or either ‘trans men’ or ‘trans masculine’.

Figure 36: Proportion of LGBT+ adults who rate their health positively, by group



(Source: Leven, 2022)

Mental health and wellbeing

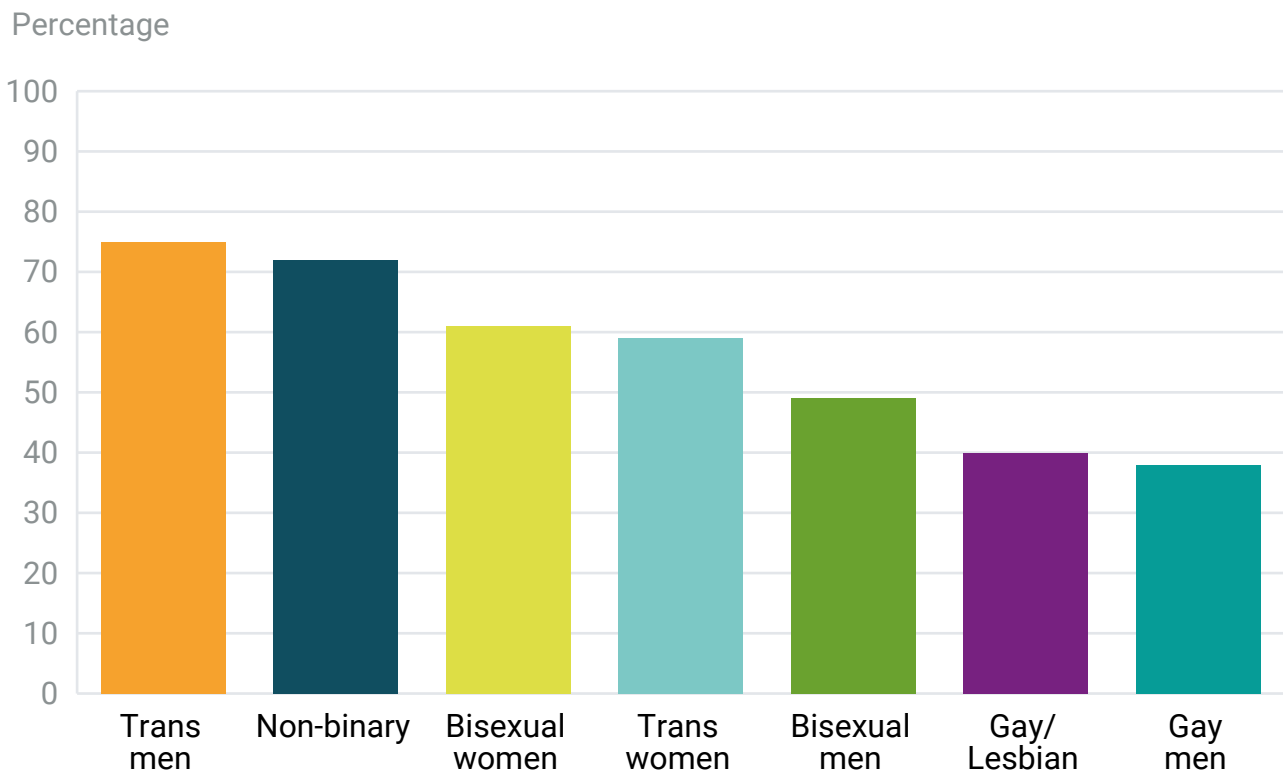
Only one in four (25%) LGBT participants in a national survey rated their general mental and emotional wellbeing positively (Leven, 2022). As with self-reported general health, responses varied considerably by LGBT group, with trans respondents less likely than lesbian, gay or bisexual respondents to rate their mental health positively. Fewer than one in five trans women (19%) said their mental and emotional wellbeing was good or very good and the proportion was even lower among trans men (12%) and non-binary respondents (9%) (Leven, 2022).

There is also evidence trans and non-binary people are more likely to have mental health conditions, to self-harm and to attempt suicide.

Gender reassignment

More than one in two LGBT respondents (54%) said they had experienced a mental health problem (such as depression, anxiety or stress). Of all groups, the highest prevalence of mental health conditions was among trans men (75%) and non-binary respondents (72%). Trans women (59%) also reported high levels of mental ill health, comparable with those reported by bisexual women (61%) (Leven, 2022).

Figure 37: Proportion of LGBT+ adults with a mental health problem, by group



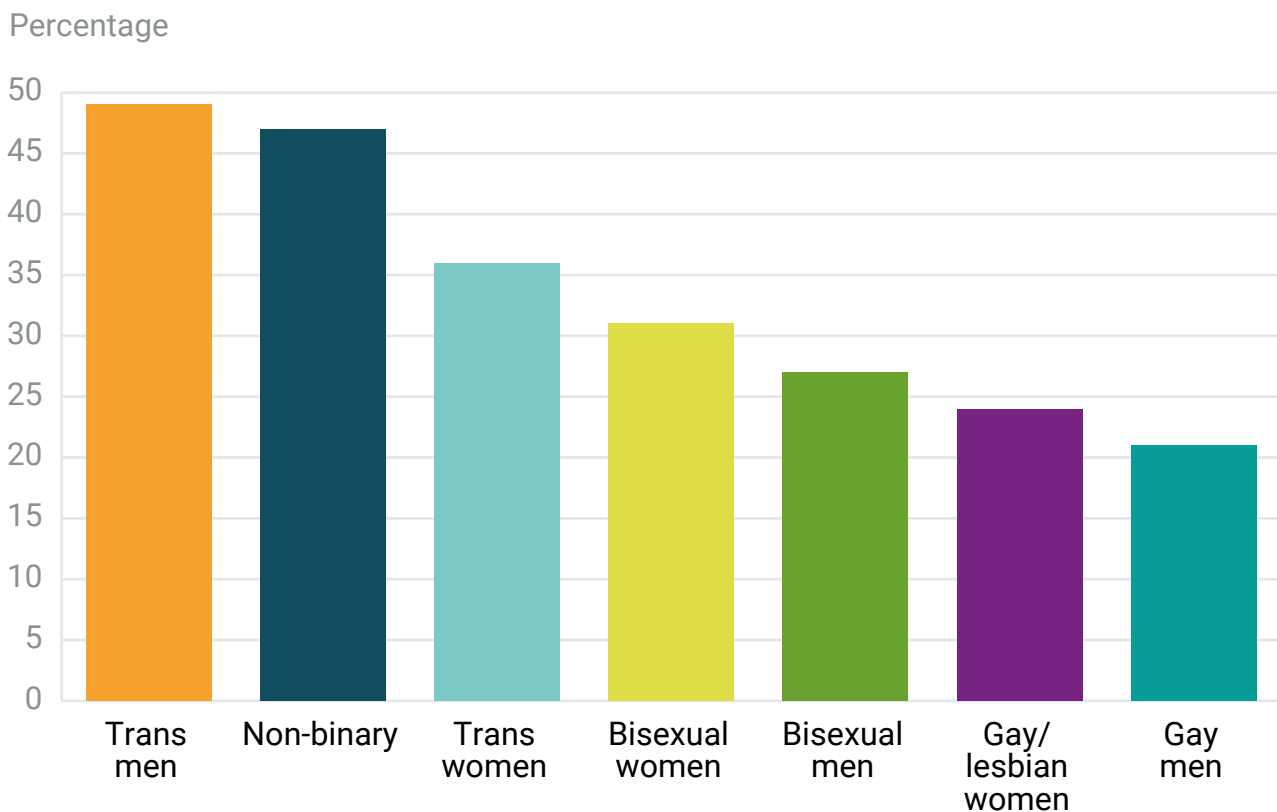
(Source: Leven, 2022)

High levels of reported self-harm and suicide attempts among trans and non-binary people are concerning. In the 2021 Scottish Health Survey, 10% of adults in the general population reported that they had self-harmed and 6% said they had attempted suicide (Scottish Government, 2022d).

Gender reassignment

Reported rates of self-harm and suicide attempts among respondents to a large LGBT health needs survey were higher among trans respondents. Well over half (58%) of respondents to the survey reported having self-harmed. Trans men (83%) and non-binary respondents (82%) had particularly high rates of self-harm. Around one in three (31%) of the 2,182 people who answered a question on whether they had ever attempted suicide said that they had. Suicide attempts were highest among trans men and non-binary respondents (Leven, 2022).

Figure 38: Proportion of LBT+ adults who report having ever attempted suicide, by group



(Source: Leven, 2022)

Sexual health services

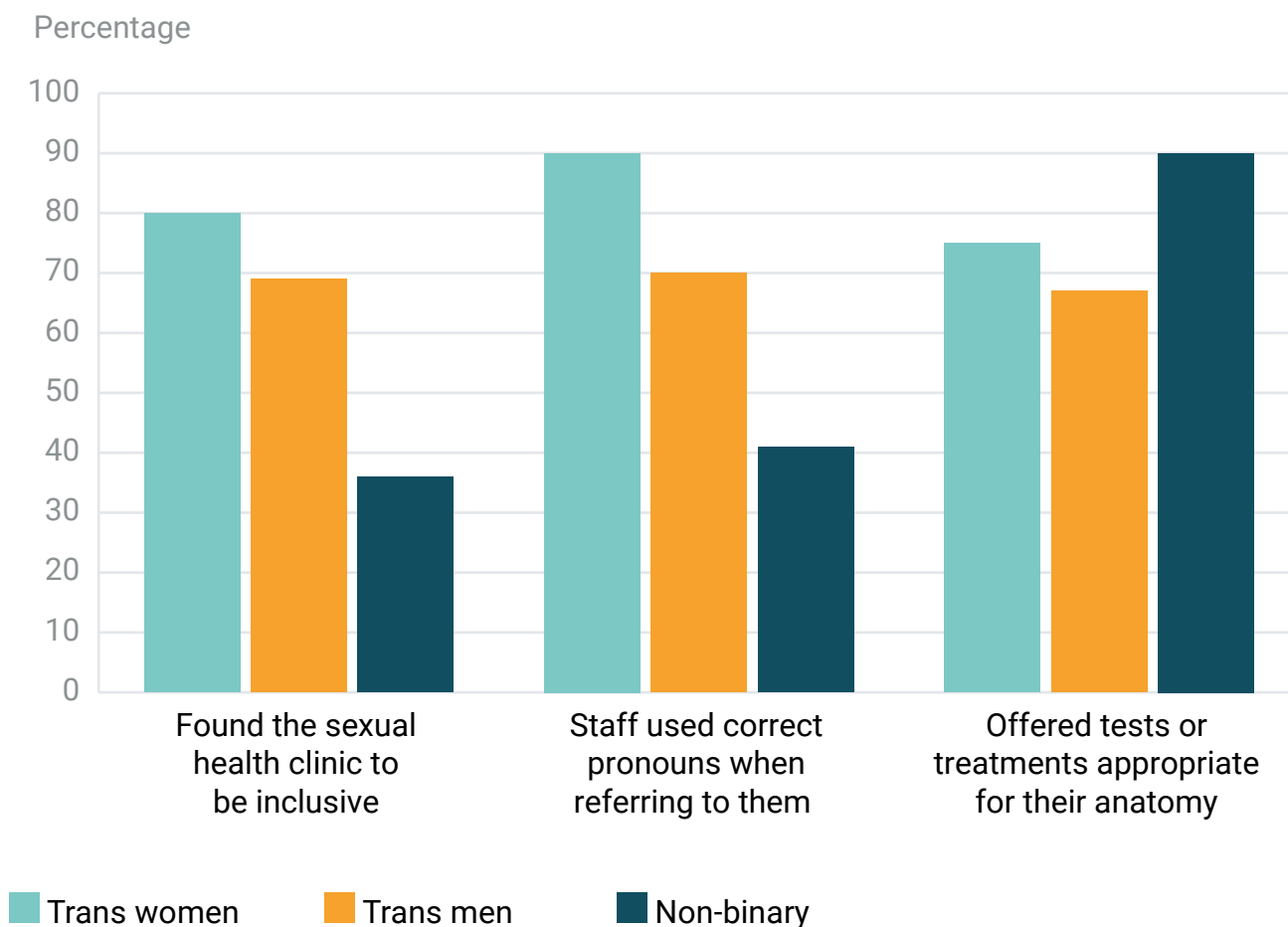
National research into trans and non-binary people's use of sexual health services in Scotland found that, when surveyed in 2019, 61% of the 289 respondents had not been to a sexual health clinic in the previous two years (Maund et al., 2020). When asked why, 24% of this group described fear and anxieties relating to their gender identity.

People who took part in the study said that they had difficulty interpreting and navigating gendered sexual health information and understanding individual levels of risk. They faced additional barriers including:

- experiencing misgendering from service providers
- a perceived lack of professional knowledge about trans people's sexual health needs, and
- limited access to reliable and accurate information.

Some barriers to access were found to be particularly acute for non-binary respondents. Non-binary respondents were less likely to feel sexual health clinics were inclusive of trans and non-binary people and to report that clinic staff used their correct pronouns. However, non-binary people were more likely to be offered tests or treatments appropriate for their anatomy (90%) compared with trans women (75%) and trans men (67%) (Maund et al., 2020).

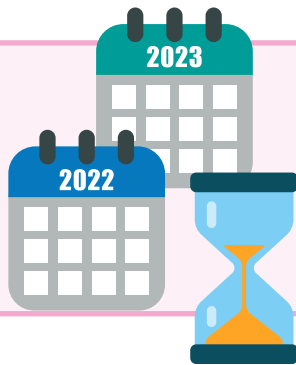
Figure 39: Proportion of trans and non-binary people who found sexual health clinics were inclusive and staff used correct pronouns in the previous two years



(Source: Maund et al.)

Gender identity clinics

There are four Gender Identity Clinics (GICs) in Scotland: in Glasgow (Sandyford GIC), Edinburgh (Chalmers Centre GIC), Inverness (Highland GIC) and Aberdeen (Grampian GIC). People wait a long time to be seen at GICs. This is a persistent and worsening issue. The average waiting time for a first appointment in 2016 was 260 days for adults and 314 days for young people (Thomson et al., 2018). Waiting times have increased since then because of growing demand for GIC services.



In 2022, the estimated waiting time for a first appointment at NHS Greater Glasgow and Clyde's Sandyford GIC was more than 44 months for adults.⁴³

At the time of our 2023 review, the Sandyford Gender Identity Service website stated that waiting lists were 'extremely long' and it was offering initial appointments to adults who had registered with the service in May 2018 (Sandyford Gender Service, n.d.).

Long waiting lists are an ongoing cause for concern due to the impact of waiting times reported by those trying to access services.

Those on waiting lists report experiencing anxiety, depression, continued dysphoria, self-harm and suicidal ideation due to the waiting times (Leven, 2022). Some trans participants in an LGBT health survey said they got into serious debt because they had paid for private treatment rather than face lengthy waits for NHS services. Others had self-medicated with hormones they bought online or abroad, risking their long-term health.

A large LGBT health needs survey found 15% of trans respondents who had been referred, or had self-referred, to a GIC had obtained non-prescribed cross-sex hormones online (Leven, 2022).

43 This figure is from National Gender Identity Clinical Network Scotland (NGICNS) waiting list and workload quarterly reports not accessible online but cited in the Non-Binary Working Group's report (Scottish Government, 2022a).

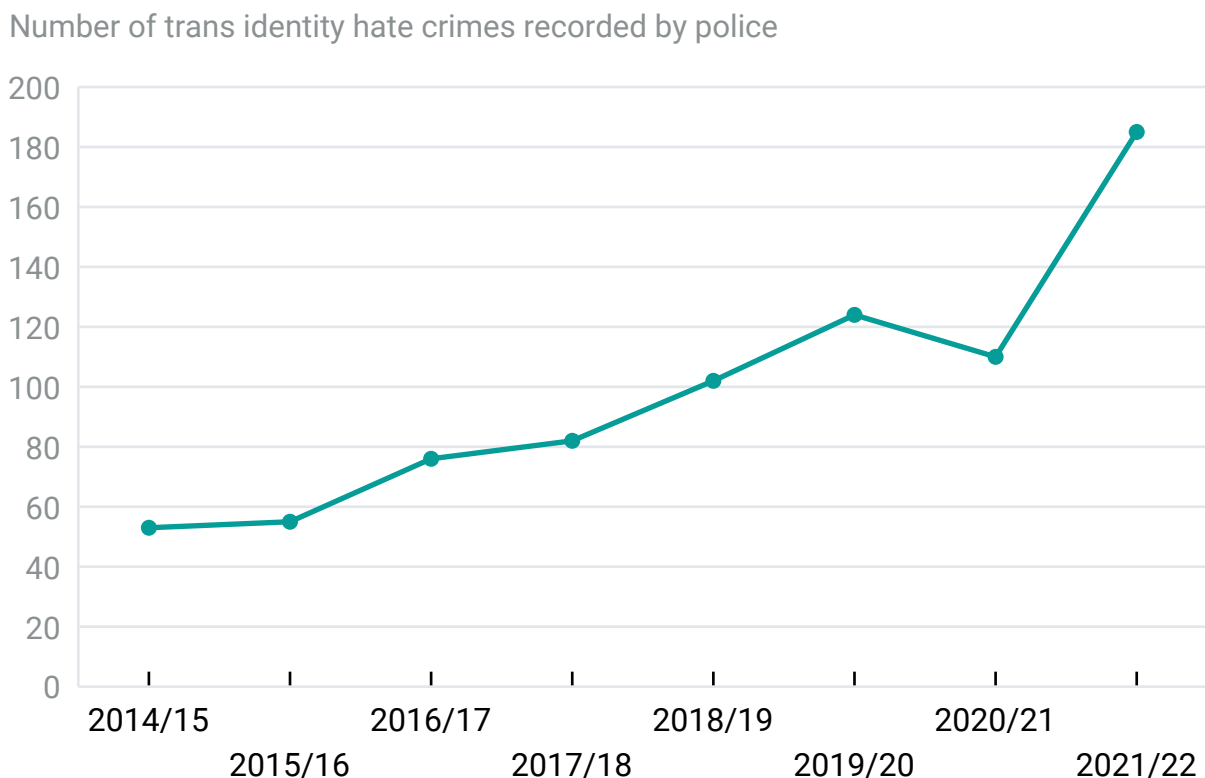
Justice

There were 15 known trans prisoners in the prison population in Scotland at the end of September 2022. 11 trans prisoners identified as trans women. Of these people, six were housed in the men’s estate and five were housed in the women’s estate. Among prisoners who identified as trans men, three were housed in the women’s estate. At the end of September 2022, there were also three people who identified as non-binary or gender fluid in the prison population (Scottish Prison Service, 2022).

Hate crime

The number of recorded trans identity hate crimes recorded by the police more than tripled, from 53 to 185, between 2014/15 and 2021/22 (Scottish Government, 2023b).

Figure 40: Number of trans identity aggravated hate crimes recorded by the police in Scotland, 2014/15 to 2021/22



(Source: Scottish Government)

Gender reassignment

There have been large increases in the number of charges brought against people for allegedly committing trans identity hate crimes, according to Crown Office and Procurator Fiscal Service (COPFS) data. In 2021/22, there were 84 charges for hate crimes aggravated by trans identity, up 87% from 2020/21 (COPFS, 2022). This is the highest number of charges reported since the legislation introducing this aggravation, the Offences (Aggravation by Prejudice) (Scotland) Act 2009, came into force in 2010.



Nearly half (49%) of the 593 trans young people aged 13–25 who took part in a national LGBT survey said that they had experienced a hate crime or hate incident in the past year (LGBT Youth Scotland, 2022).

When asked if they would feel confident reporting a hate crime to the police, only 12% of trans participants said that they would. This percentage has fallen sharply over the past decade, dropping from 48% of trans respondents in a 2012 survey.

A significant proportion of LGBT people are unhappy with the criminal justice system and how it deals with hate crime. An HM Inspectorate of Constabulary in Scotland (HMICS) thematic review in 2021 found that 48% of the 87 people who identified as LGBTQ+ (including asexual, pansexual, queer and other) in an online survey were dissatisfied with the wider criminal justice system in Scotland and its response to hate crime. Only 29% expressed some satisfaction (HMICS, 2021).

Participation

LGBT people generally report poor experiences on public transport, including feeling unsafe and experiencing bullying, discrimination and hate crime. A 2022 survey of LGBT young people aged 13–25 found just 40% of 602 trans respondents felt safe travelling on public transport, a drop from 52% of participants in a 2012 survey (LGBT Youth Scotland, 2022).

Recommendations

As noted in the chapter on developments affecting multiple groups, the Scottish Government is in the process of reviewing the PSED in Scotland. In 2021, as part of this process, we argued that Scottish ministers should identify national equality outcomes that address inequalities, are clearly linked to the National Performance Framework (NPF), and to which other public bodies would contribute. In this way, equality outcomes should be seen as a means of contributing to the achievement of outcomes in the NPF.

The Scottish Government committed to doing this and further added that this would require the Scottish Government to 'ensure the national equality outcomes are measurable and link to the National Performance Framework' (Scottish Government, 2021d).

We welcome the Scottish Government's agreement to link equality outcomes to the National Performance Framework for consistency and coherence.

Our recommendations are designed to help the Scottish Government to set equality outcomes for all Scottish public bodies to use.

Our view is that Scottish ministers should set themselves an overarching equality outcome to maintain oversight of progress on the National Equality Outcomes (NEO). Ministers should commit to developing a NEO Framework, which defines how the NEOs link to the NPF, set out which listed authorities should consider adopting each NEO, and set out core measurement criteria for each NEO.

21. The Scottish Government should set a NEO to reduce levels of gender identity motivated bullying in education settings. This should include making compulsory the recording of bullying incidents and any underlying prejudices, including details of any protected characteristics.
22. The Scottish Government should set a NEO to improve the experience of primary care among trans and non-binary people, and to improve the knowledge of health care professionals in dealing with trans and non-binary service users.

Recommendations continued

23. The Scottish Government should set a NEO to address the causes of the higher levels of poor physical and mental health experienced by trans and non-binary adults and improve data on access to different health care services by trans people, such as health screening, sexual and reproductive health or fertility services.
24. The Scottish Government should set a NEO to reduce waiting times for trans people to access Gender Identity Clinics, and improve the support for trans people on waiting lists who report experiencing a range of negative impacts.
25. The Scottish Government should set a NEO to address the causes of increasing levels of transgender identity motivated hate crime compared to other hate crimes.
26. The NRS and data producers should improve the collection, analysis and dissemination of data on gender reassignment developing methodologies to ensure robust analysis can be conducted.

Race

The Equality Act protected characteristic of race refers to people who face different opportunities and challenges because of their race, colour, nationality (including citizenship), ethnic or national origins. Recent events and developments, including the COVID-19 pandemic, the revival of the Black Lives Matter movement, economic challenges, and legal and policy developments have affected outcomes experienced by people based on their race, colour, nationality (including citizenship), ethnic or national origins. These are examined in this chapter.

Key findings

- Most ethnic minority groups perform better at school-leaving age than White Scottish pupils. In 2020/21, no defined ethnic group had a lower attainment level at SCQF Level 5 than White Scottish pupils. In this year, the best performing ethnic group was African, Black and Caribbean pupils, 93.9% of whom achieved one or more qualification at SCQF Level 5, 6.6 percentage points higher than the proportion of White Scottish pupils.
- Despite increasing employment levels, ethnic minority workers in Scotland on average experience both a lower quantity and poorer quality of work, with consistently lower median hourly earnings and higher levels of insecure work.
- Levels of poverty and child poverty among ethnic minorities in Scotland remain worse than for White British people. In 2019/20, 36.9% of ethnic minority adults were in poverty compared with 17.5% of White British adults.
- Racially motivated bullying in schools and race-related police-recorded hate crimes are still an issue. Between 2014/15 and 2020/21, there was an 18% fall in the number of police-recorded race hate crimes though race hate crime continues to be the most reported of all hate crimes.
- Ethnic minority representation in the Scottish Parliament has improved, reaching 4.5% after the 2021 Scottish parliamentary elections, but there is a mixed picture for public appointments.

Data Considerations

Due to low sample sizes, in some geographies and datasets, we have not been able to create robust estimates for all ethnicity categories in all datasets. When this is the case, we have aggregated ethnic categories with higher level categories to create more robust samples. In this chapter, data aggregation is used when the terms 'ethnic minorities', 'ethnic minorities (excluding White minorities)' and 'White minorities' are referenced.

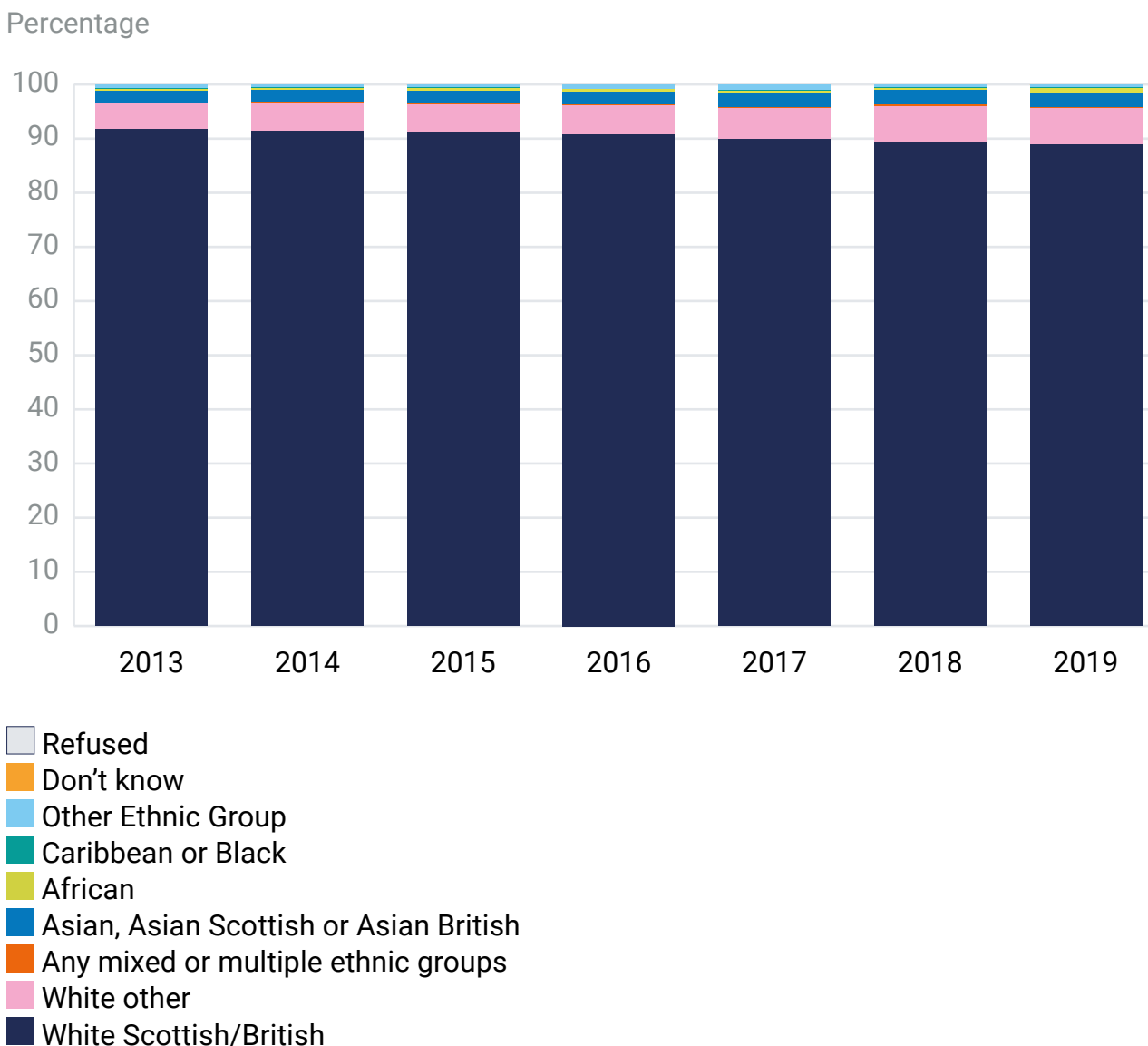
Ethnic minorities is a term used when data from all ethnic groups aside from White British is combined. When findings are more robust, we can break down ethnic minorities into White Minorities, which derives from all White groups other than from White British, and ethnic minorities (excluding White minorities) which derives from all non-White minority groups.

When findings for specific ethnic groups (e.g. Indian, White Irish) are robust, we report findings for these groups, in addition to reporting on aggregated measures. All findings reported are statistically significant. If an ethnic group is not reported on, this will likely be because the data is not significant. However, findings for some ethnic groups may still derive from relatively small sample sizes.

Demographics

Scotland's 2021 census was delayed until 2022 and no population data has yet been published. According to data from the Scottish Household Survey, between 2013 and 2019 there were fewer adults identifying as White Scottish or British. There have been increasing numbers of adults identifying as most other ethnic groups, including White Other, Asian, Asian Scottish or Asian British, and African (Scottish Government, 2020).

Figure 41: Ethnicity of adults in Scotland 2013–2019



(Source: Scottish Government)

Policy and legal developments

The Scottish Government set out its approach to issues of race in the Race Equality Framework for Scotland 2016–2030 (Scottish Government, 2016). The final report of its Race Equality Action Plan 2017–2020 (Scottish Government, 2021a) records actions across several relevant areas, particularly in relation to issues highlighted by the COVID-19. Actions in the Framework include:

- funding work to increase ethnic minority take-up of early learning and childcare provision
- publishing pandemic risk assessment guidance with ethnicity as a risk factor, and
- sustaining investment in Gypsy / Traveller accommodation.

The next long-term action plan to implement the framework is being developed.

In response to the disproportionate impact of COVID-19 on ethnic minorities and raised awareness of racial injustice in the wake of Black Lives Matter protests, the Scottish Government explicitly set about addressing longstanding structural racial inequalities.

It convened an Expert Reference Group on COVID-19 and Ethnicity (Scottish Government, n.d., a) then published the Race Equality Immediate Priorities Plan with the intention to deliver an equal and anti-racist recovery from COVID-19 based on the group's recommendations (Scottish Government, 2021b). These included actions to improve the evidence about ethnic inequalities in health and address immediate risks and systemic issues in corporate governance, education, fair work and housing.

A short-term, independent Anti-Racism Interim Governance Group to Develop National Anti-Racism Infrastructure (AIGG) was set up in April 2022 to recommend how to embed anti-racism in Scottish Government actions (Scottish Government, n.d., b). Its work was expected to conclude in May 2023 with the establishment of a permanent race oversight and governance body.

Longer-term actions arising from the Scottish Government's response are in progress and sustained effort will be required to deliver on these ambitions.

Education

An example used by the Scottish Government is the Anti-Racism in Education Programme (Scottish Government, n.d.,c). This adopts a 'wholeschool' approach to address curriculum reform, racism and racist incidents, workforce diversity and leadership and professional learning. As part of the approach, the Building Racial Literacy programme aims to address the 'race evasiveness' that limits educators' ability to be proactively anti-racist (Education Scotland, n.d.). Draft principles for an anti-racist curriculum articulate the importance of a curriculum that meaningfully recognises and fairly represents the diverse communities in Scotland.

In tertiary education, the Scottish Funding Council and QAA Scotland are collaborating on an anti-racist curriculum project (Advance HE, n.d. a). This builds on SFC's tackling racism on campus project (Advance HE, n.d. b) which developed resources to respond to the findings highlighted in our inquiry report on Tackling racial harassment: universities challenged (EHRC, 2019).

In addition to this, as part of its March 2020 Memorandum of Understanding with the Equality and Human Rights Commission (EHRC), the Scottish Funding Council (SFC) developed a framework to address persistent inequalities in higher and further education. The report 'Tackling persistent inequalities together', published on 18 January 2023, outlined persistent inequalities in the tertiary education system and asks institutions to address them by contributing to a set of National Equality Outcomes (NEOs) as part of their Public Sector Equality Duty (PSED) (EHRC, SFC, 2023).

Bullying

Research in 2015 from LGBT Youth Scotland and Scottish anti-bullying service respectme on prejudice-based bullying in schools (Lough Dennell and Logan, 2015) found that race was the most common factor identified by teachers in incidents of bullying. The Scottish Parliament's Equalities and Human Rights Committee expressed concerns about teachers' responses to prejudice-based bullying in schools (Scottish Parliament, 2017). Work by the Scottish Government and respectme (Scottish Government, 2017) has increased the national focus on prejudice-based bullying.

However, subsequent changes introduced by the Scottish Government to establish a ‘consistent and uniform approach to recording and monitoring of bullying incidents’ are voluntary (Scottish Government, 2018). These continue to produce incomplete data and inconsistencies in approach, according to the Coalition for Racial Equality and Rights (CRER) and HM Inspectors of Education (CRER, 2022; Education Scotland, 2023). We continue to recommend a mandatory national system.

Work

The Scottish Parliament’s Equalities and Human Rights Committee’s final report Race Equality, Employment and Skills: Making Progress? (Scottish Parliament, 2020) concluded that: ‘The ethnicity employment gap remains unacceptable and much more needs to be done to reduce the ethnicity pay gap and occupational segregation.’

In response, the Scottish Government published A Fairer Scotland for All: An Anti-Racist Employment Strategy (Scottish Government, 2022a), focusing on four areas:

- understanding the workforce through data
- acting on recruitment and representation
- driving cultural and attitudinal change, and
- fair work policy and legislation.

The strategy provides guidance for employers to create inclusive workplaces by developing an anti-racist culture; raising awareness of the harms of racism, including hate crime; and supporting anti-racist campaigns.

The Scottish Government states that it will develop employers’ capability and shape reporting requirements through the Public Sector Equality Duty review. This is intended to lead to positive change that will be monitored against its Race Recruitment and Retention Action Plan (Scottish Government, 2021e).

Living Standards

Gypsy / Travellers

As set out in the Scottish Government's Housing to 2040 vision (Scottish Government, 2021c), the Gypsy / Traveller Accommodation Fund is providing up to £20 million between 2021 and 2026 for local authorities to improve accommodation. Aberdeen, Clackmannanshire and Fife councils have received support from the fund to develop sites as demonstration projects in 2021–2023.

The Scottish Government developed an interim Gypsy / Traveller site design guide, working with local authorities and input from members of Gypsy / Traveller communities (Scottish Government, 2021d). This aims to improve the quality of new build and redeveloped sites to meet the needs of Gypsy and Traveller families, including children, older and disabled people, and to align with the principles of Housing to 2040, including accessibility and energy efficiency.

This work is a result of the joint action plan by the Scottish Government and the Convention of Scottish Local Authorities (COSLA), called Improving the lives of Scotland's Gypsy / Travellers: 2019–2021 (Scottish Government and COSLA, 2019). The implementation of this plan will be evaluated in 2023.



The action plan also focuses on improving educational outcomes for Gypsy / Traveller children through funding programmes and guidance, and by improving social care.

Justice

Hate crime

The Hate Crime and Public Order (Scotland) Act 2021 consolidates existing hate crime legislation and updates the list of characteristics protected under the Act to now include: age, disability, race, religion, sexual orientation, trans identity and variations in sex characteristics. The Act also provides for new ‘stirring up of hatred’ offences covering all characteristics protected in the updated legislative framework, complementing the existing offence of ‘stirring up racial hatred’ that has been part of Scottish criminal law since 1986. Enactment will take place when changes to the criminal justice system ICT infrastructure are in place.

The Scottish Government and Police Scotland have also developed the Hate Crime Strategy for Scotland (Scottish Government, 2023a) which sets out their priorities for tackling hate crime and prejudice in Scotland. The strategy was informed by the multi-agency Hate Crime Strategic Partnership Group and those with experience of hate crime.

Sheku Bayoh Inquiry

Sheku Bayoh, a Black man born in Sierra Leone, died in May 2015 after being restrained by police in Kirkcaldy, Scotland. In 2019, an independent public inquiry, chaired by Lord Bracadale, was set up to examine the events surrounding his death, the subsequent investigation and whether race was a factor (Sheku Bayoh Inquiry, n.d.). Evidential hearings began in May 2022. It is not possible to say how long the inquiry will take to complete and report its findings.

Participation

Museums

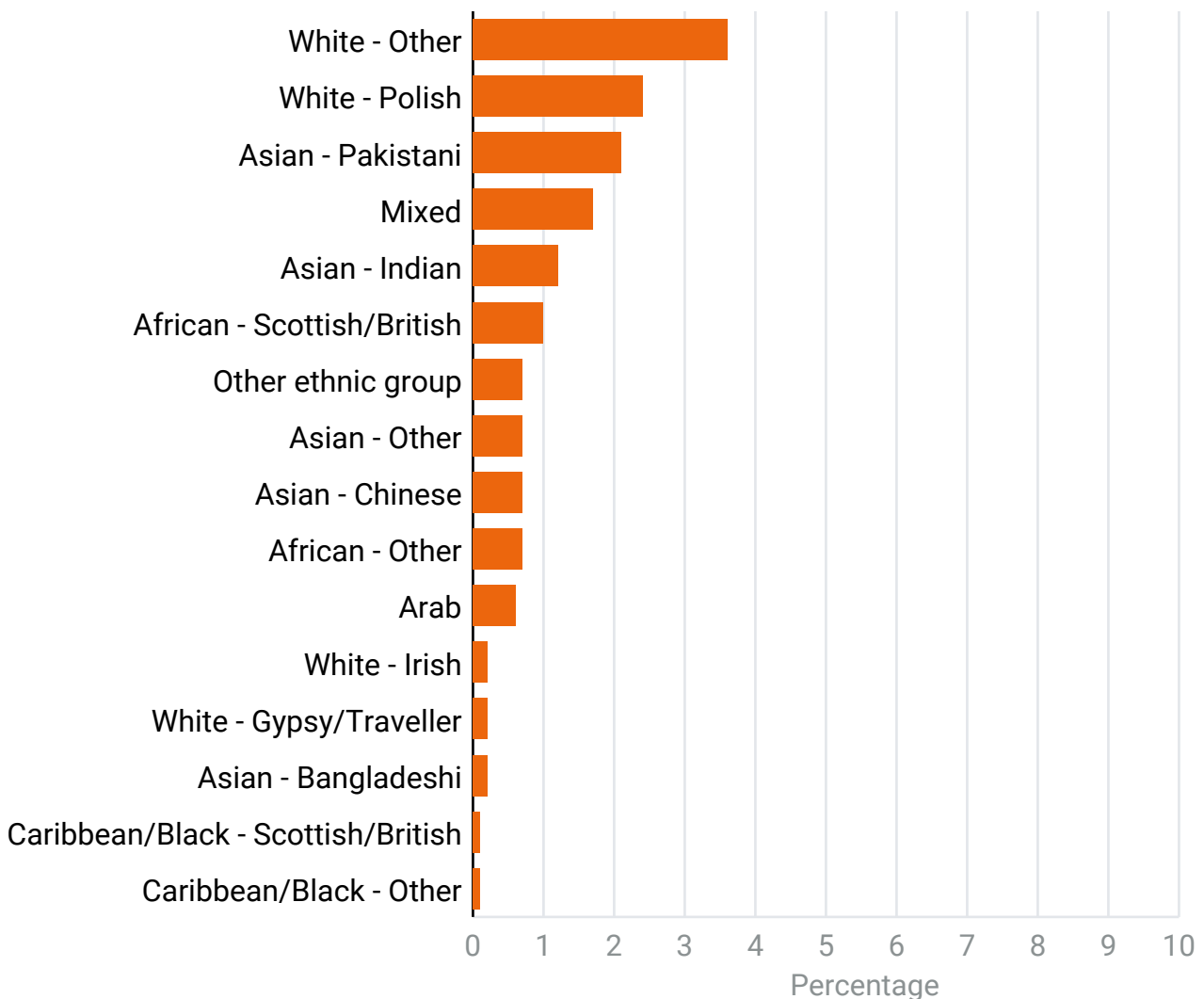
In 2021, the Empire, Slavery and Scotland’s Museums project, sponsored by the Scottish Government, coordinated a national consultation to establish public and expert perspectives on relevant issues. In 2022, it made recommendations on how Scotland’s involvement in empire, colonialism and historic slavery could be addressed using cultural education spaces, including museum collections (Museums Galleries Scotland, 2022).

Outcomes

Education

The 2022 pupil census found that 74.7% of pupils in Scotland identified as White Scottish, 6.5% as White Other British and 6.4% as another White ethnicity including Polish, Irish and Gypsy / Traveller. The census showed 2.1% of pupils identified as Asian Pakistani, 1.0% as African Scottish / British, 0.7% as African Other and 1.7% as Mixed (Scottish Government, 2023b).

Figure 42: Ethnic minority and White minority pupils, Scotland, 2022

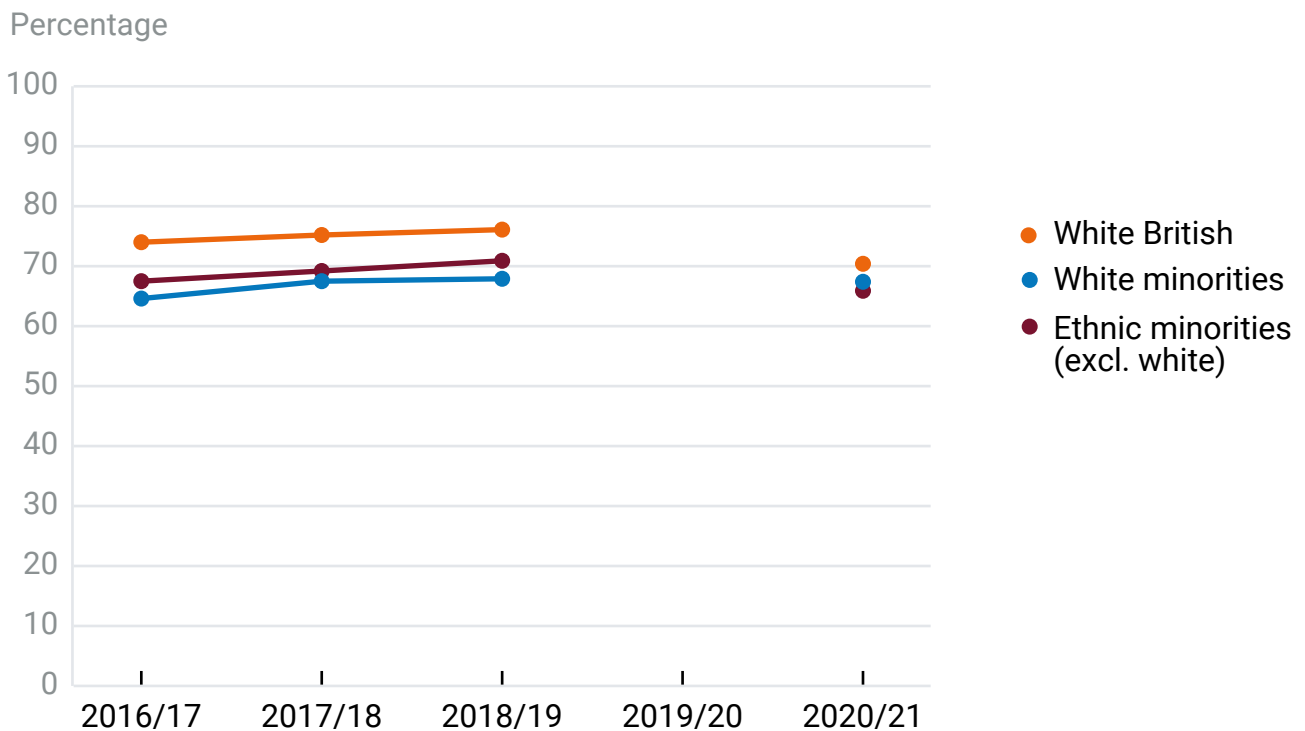


(Source: Scottish Government)

Early years

COVID-19 greatly affected the educational process in Scotland in 2019/20 and 2020/21. In early years’ education (ages 4–7), ethnic minority children and White minority children recorded lower attainment rates than White British children.⁴⁴ Analysis of Scottish Government data found that a higher proportion of White British pupils (70.4%) achieved the expected Curriculum for Excellence (CfE) level in 2020/21, compared with White minorities (67.4%) and ethnic minorities (excluding White minorities) (65.9%). However, there was a 5.7 percentage point drop in attainment for White British children between 2018/19 and 2020/21, while ethnic minority children saw a drop in attainment of 5.0 percentage points over the same period. White minority children’s attainment rate in 2020/21 (67.4%) was similar to that in 2018/19 (67.9%) (Scottish Government, 2022c).

Figure 43: Percentage of children in Primary 1 who achieved the expected Curriculum for Excellence (CfE) level in literacy and numeracy, by ethnicity, 2016/17–2020/21



(Source: EHRC analysis of Scottish Government data)

44 Due to small numbers ethnic groups have been aggregated, which may obscure differences between groups.

Race

In early years, among pupils living in Scotland's least deprived areas (as measured by SIMD ranking), White British pupils were the highest performers between 2016/17 and 2020/21. Our analysis of Scottish Government data found that in the most deprived areas of Scotland, ethnic minority pupils were less likely to achieve the required standard until 2020/21, at which point they overtook White British pupils.

Performance by all ethnicities varies across the SIMD quintiles.

Ethnic minority children living in the least deprived areas have been improving their performance at a faster rate than their White counterparts, though they saw a drop in attainment (as all groups did) in 2020/21, when 60.2% of them achieved the required CfE level compared with 58.0% of White British children who lived in the most deprived areas.

School-leaver attainment

Outcome trends shift when looking at school-leaving age attainment, when ethnic minority pupils consistently outperform White Scottish pupils. Our analysis of Scottish Government attainment data shows that, in 2020/21, 87.3% of White Scottish pupils achieved one or more qualifications at SCQF level 5 or above. No defined ethnic group performed worse than White Scottish pupils in this year, though the not disclosed / not known group had lower attainment rates (83.2%) than White Scottish pupils.



The best performers were African, Black and Caribbean pupils (93.9%) followed by Pakistani pupils (93.6%).

From 2011/12 to 2020/21, every ethnic group experienced an overall improvement in the proportion achieving one pass or more at SCQF Level 5 apart from Other Asian who saw a decline of 1.2 percentage points (from 92.6% in 2011/12 to 91.4% in 2020/21).

Our analysis of Scottish Government data found that this trend continues at SCQF Level 6. In 2020/21, most ethnic minority pupils performed better than their White Scottish peers at SCQF level 6 and above. The highest performers were Chinese pupils, with 94.7% achieving one or more qualifications at SCQF level 6 or above compared with 64.9% of White Scottish pupils achieving at or above the required standard. Every ethnic minority group apart from 'Other' and 'not disclosed / not known' performed better than White Scottish pupils.

From 2011/12 to 2020/21, every ethnic group saw an overall improvement in the proportion achieving one pass or more at SCQF Level 6 apart from 'Other ethnicities', who saw a decline from 73.1% in 2011/12 to 63.9% in 2020/21.

During this period, the attainment of African, Black and Caribbean pupils improved at a faster rate than all other ethnic groups, with 63.1% achieving one pass or more at SCQF level 6 or above in 2011/12 and 83.7% in 2020/21, a 20.6 percentage point increase.⁴⁵

The data in Scotland does not separately categorise ethnic groups to include Gypsy / Travellers. However, evidence shows that Gypsy / Travellers are a particularly marginalised group and have the lowest educational attainment rates of all ethnic groups in Scotland. They have the lowest school attendance rates of any ethnic group and the highest school exclusion rates. Both factors tend to affect attainment at school leaving age (Riddell, 2022; Robertson and McHardy, 2021).

45 Due to small population numbers the Scottish Government aggregates data from various groups so it is not possible to disaggregate data to understand if Black Caribbean pupils perform differently from African pupils.

Positive destinations

The proportion of school leavers in a positive initial destination⁴⁶ increased for most ethnic groups between 2019/20 and 2021/22. Among groups for which data can be reported, the highest proportion of school leavers in a positive initial destination were from the African, Black and Caribbean ethnic group (98.8%) (Scottish Government, 2023b). In 2022 the participation rate for 16–19-year-olds in education, training or employment was 3.3 percentage points higher among minority ethnic groups (95.5%) than among those identified as White (92.2%) (Skills Development Scotland, 2022).

Exclusion rates

Temporary school exclusion rates in Scotland have decreased overall, but there are still disparities across different ethnic groups. The number of pupils excluded is very small for some ethnic groups so these figures can vary significantly over time.

Gypsy and Traveller children continue to be excluded at much higher rates than young people from other ethnic backgrounds.

In 2020/21, Gypsy and Traveller children were excluded at a rate of 16.7 per 1,000 pupils, falling from 24.2 per 1,000 pupils in 2018/19. The exclusion rate among Caribbean and Black children at 9.7 per 1,000 pupils was also higher than the rate for White Scottish children (9.4 per 1,000 pupils), but this could be due to how the data was collected,⁴⁷ making the total number of Caribbean and Black pupils excluded appear higher (Scottish Government, 2022d).

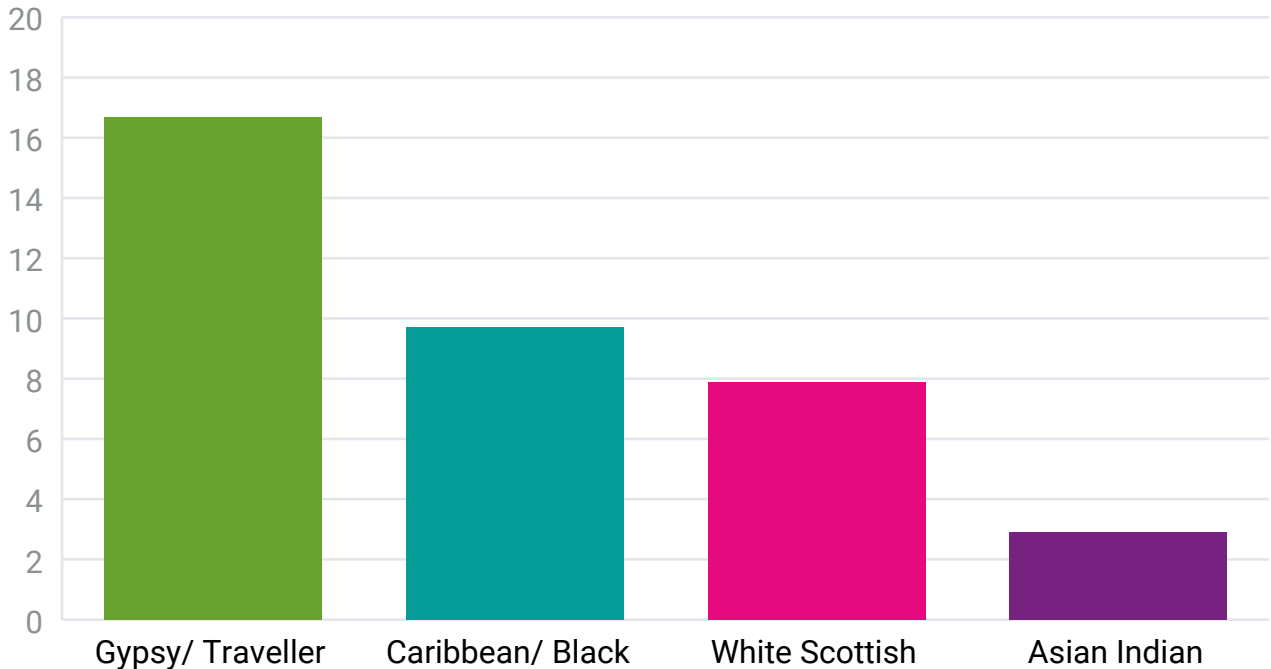
These are the only two ethnic groups that are excluded at a higher rate than White Scottish children. Other groups have far lower exclusion rates, including Asian Indian pupils at only 2.9 per 1,000 pupils (Scottish Government, 2022d).

46 Positive destinations include: higher education, further education, training, employment, voluntary work, activity agreement and personal skills development.

47 Pupils who were excluded from more than one school during the year may have had their ethnicity recorded differently at the different schools. In those cases they will be counted more than once. Given the small numbers of Caribbean/ Black pupils excluded (13 out of 1,347 pupils excluded), issues with recording ethnicity may have had more of an impact.

Figure 44: Exclusion rate per 1,000 pupils, by ethnic group

Rate per 1,000 pupils



(Source: Scottish Government)

Bullying

There continue to be issues in Scottish schools with racially motivated bullying, with analysis of 2020/21 local authority data showing the highest number of racially motivated bullying incidents reported in Scotland’s schools on record (since 2007/08).

This could be due to factors including increased awareness of the issue and better reporting, but the figures are still likely to be an understatement of incidences (CRER, 2022).

Post-compulsory education

Analysis of Annual Population Survey (APS) data found Black African people aged 16 and over were more likely (55.1%) to have a university or professional qualification in 2021 than any other ethnic group, and 29% of White Scottish adults had no university or professional qualifications.

Work

Higher levels of school-leaving attainment are not replicated in employment outcomes, as ethnic minority workers experience both a lower quantity and poorer quality of work.

Employment rates

Our analysis of APS data found that, in 2019/20, ethnic minorities (excluding White minorities) were no more or less likely to be in employment than White British people, but White minorities were more likely to be employed than the White British group. Between 2019/20 and 2021/22, the gap between White British and White minorities widened by a further 5.6 percentage points.

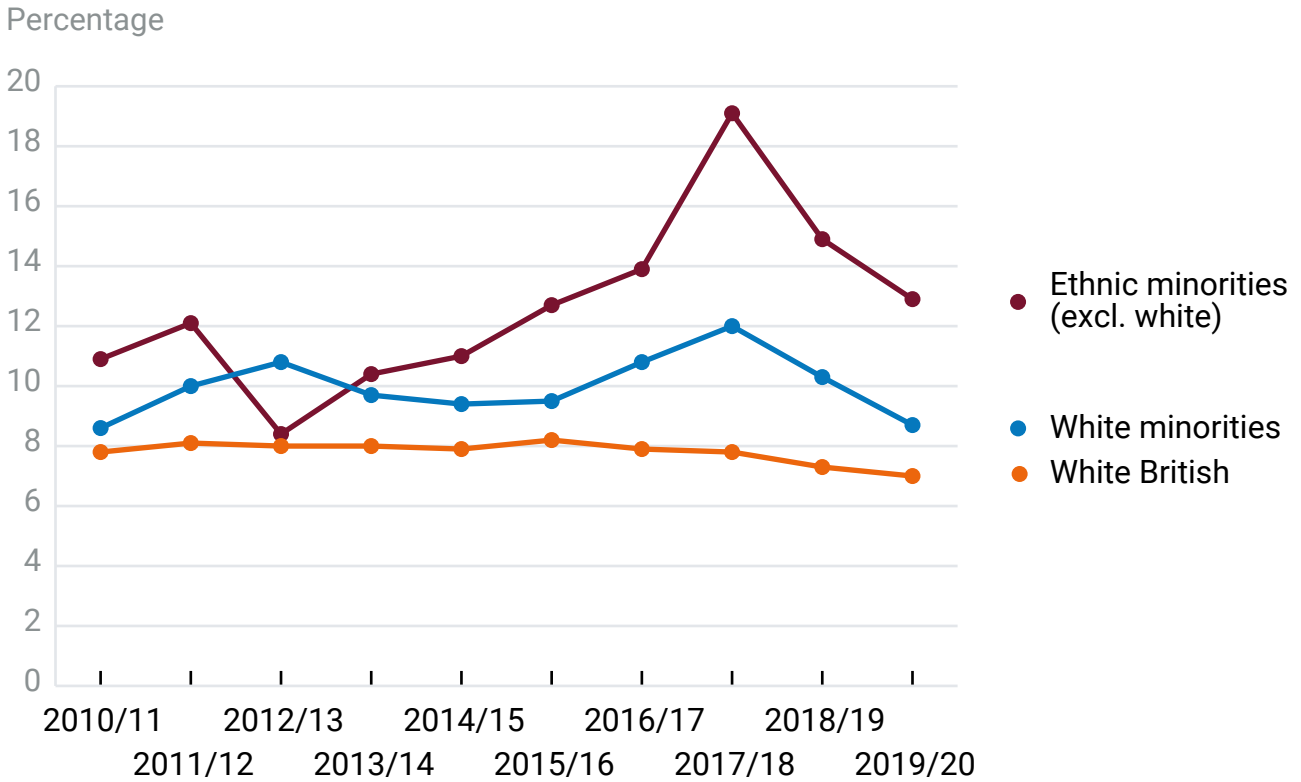
In 2019/20, ethnic minority adults were more likely to be unemployed and seeking work than White British adults (a gap of 2.2 percentage points). Between 2010/11 and 2019/20, unemployment rates have been declining for both White British and ethnic minority adults at similar rates. However, by 2020/21 there was no statistically significant gap between these two groups.

Insecure employment

Ethnic minority workers (excluding White minorities) were more likely to be in insecure employment in 2019/20 than White British workers by a statistically significant gap since 2015/16.

Insecure employment rates are similar for White minority and White British workers, though these have remained stable among White minorities, while White British rates have shown some decline. From 2012/13 to 2017/18, the proportion of ethnic minorities (excluding White minorities) in insecure employment increased but fell in 2019/20.

Figure 45: Proportion of adults in insecure employment by race, 2010/11 to 2019/20



(Source: EHRC analysis of Annual Population Survey)

Hourly earnings

Ethnic minority workers (including White minorities) consistently have lower median hourly earnings than White British workers and these were 12.4% lower in 2019/20. Though earnings have grown for both groups at a similar rate, the size of this pay gap has not changed over time.

Occupational segregation

Different ethnic minority groups are over-represented in both high and low-paid occupations. The proportion of Indian and White Irish workers in a high-paid occupation was higher than the proportion of White British workers consistently between 2011/12 and 2019/20.^{48,49} Ethnic minorities are more likely to be in a low-paid occupation than White British people in 2019/20, though the trend over time is inconsistent.

Workplace harassment

Ethnic minority women (not including White minorities) report negative experiences when reporting sexist and sexual harassment in the workplace.

Research into sexist and sexual harassment of women at work in Scotland found that some groups had particularly poor experiences, including ‘women of colour’ who said colleagues characterised and dismissed their complaints as ‘cultural gaps’ and shifted blame and responsibility onto the woman rather than the perpetrator.

They also stated that an over-representation of White people in decision-making positions of authority made it harder for them to report harassment. Fears about the impact of reporting harassment on their immigration status and livelihoods were further barriers to lodging a complaint (Engender, 2022).

Apprenticeships

The proportion of ethnic minority people starting Modern Apprenticeships in October to December of 2022/23 was 3.3%, 1.0 percentage points higher than it was in the same quarter in 2019/20 (Skills Development Scotland, 2023a). In 2021/22, the proportion of Foundation Apprenticeship starts at SCQF Level 6 self-identifying as minority ethnic was 7.5%, an increase of 2.6 percentage points since 2016. Since pilot Foundation Apprenticeships at SCQF Levels 4 and 5 were introduced in 2019, the proportion of minority ethnic starts has increased from 2.1% in 2019/20 to 2.7% in 2021/22 (Skills Development Scotland, 2023b).

48 Small sample sizes mean that not all ethnic groups can be broken out.

49 In 2015/16, White Irish and White British showed no significant difference in HPO rate. In all other years the difference was significant.

Living standards

Poverty

Ethnic minority adults remain more likely to be in poverty and have seen no improvement since our last report in 2018.

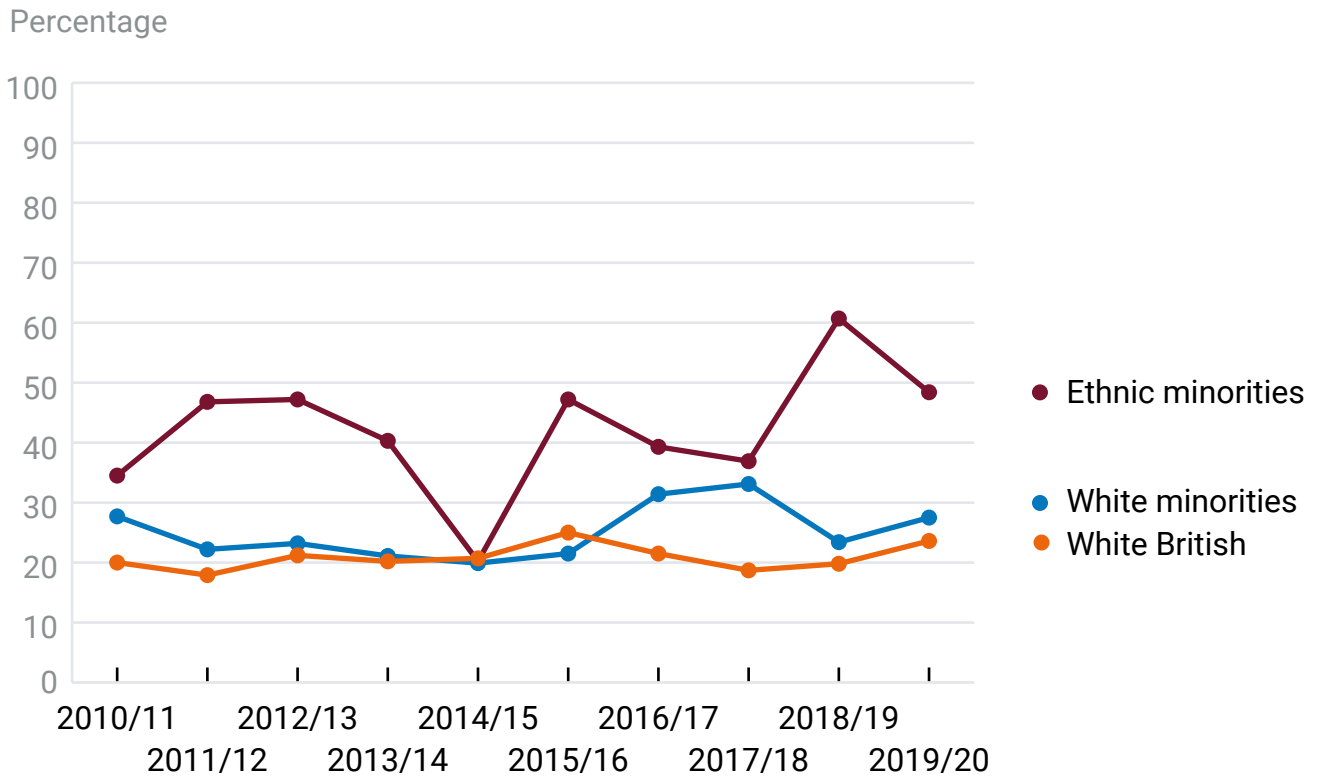
Our analysis of Family Resources Survey (FRS) data shows that, from 2010/11 to 2019/20,⁵⁰ poverty increased among White British adults (15.2% to 17.5%) and decreased among White minority adults (27.6% to 16.2%), with no significant change in poverty among ethnic minority adults (36.1% to 36.9%). Ethnic minority adults continued to experience higher poverty rates than White British adults in 2015/16 and 2019/20.

Due to small sample sizes, comparisons between annual estimates can be unreliable, but the findings reported here are corroborated by a five-year average (2017–2022) produced by the Scottish Government (2023c).

Our analysis of FRS data found that children from ethnic minority households experience persistently higher levels of child poverty compared to White British households and have no better outcomes in 2019/20 than they did in 2010/11. In this period, child poverty increased among White British households (20.0% to 23.6%), but there were no significant changes for White minority and ethnic minority households. Analysing a three-year average (2019–2022), the Scottish Government (2023c) also identified that ethnic minority households have a higher risk of being in child poverty.

50 Analysis of the FRS ends at 2019/20 as data for 2020/21 are subject to additional uncertainty at this level. Robust data at a further disaggregated level was not available.

Figure 46: Child poverty in Scotland, 2010/11 to 2019/20, by race of household reference person



(Source: EHRC analysis of Family Resources Survey)

Homelessness

In 2021/22, 9.9% of main applicants for homelessness support declared an ethnicity that was not White, the highest proportion on record (Scottish Government, 2022e). For some ethnic groups, the proportion of main applicants in 2018/19 and 2021/22 was higher than estimates of those populations in the 2019 Scottish Household Survey (Scottish Government, 2020), suggesting they may be over-represented in applications.

This assessment is corroborated by the findings of a review of ethnicity and homelessness conducted by the Coalition for Racial Equality and Rights (CRER), which show that Black and minority ethnic people are disproportionately represented within homelessness applications and assessments (CRER, 2023).

Social care

Perceptions of being treated with care and compassion have declined among some ethnic groups. Our analysis of Scotland's Health and Care Experience Survey shows that, between 2017/18 and 2019/20, the percentage of adult social care recipients from 'Mixed, multiple or other ethnic groups' who said that they were treated with compassion and understanding significantly decreased from 91.8% to 74.4%.

Health

Mental health

Ethnic minority communities are over-represented in mental health admissions. Analysis of Mental Welfare Commission for Scotland research reveals that, of detentions that took place in 2020/21, the proportion of detentions for people from ethnic minority groups was 6.0% for emergency detentions, 7.4% for short term detentions, and 7.6% for compulsory treatment orders.

In the period 2010/11 to 2020/21, when compared with the ethnic distribution of the general population, a higher proportion of detentions under the Mental Health Act were recorded for White Other, Black, Mixed or multiple ethnicities, and other ethnic groups (Mental Welfare Commission for Scotland, 2021).

Scottish Government-commissioned research exploring mental health, suicide and the experiences of 'adversely racialised' people⁵¹ in Scotland found that research participants placed significant emphasis on the effect of racism on exacerbating their mental health illnesses, increasing their propensity towards suicide (Jackson et al., 2022). They reported that racism played a role in challenging their sense of self and belonging, and undermining their capacity to manage stressful events in their lives. Participants said that they did not experience adequate support from healthcare providers after suicide attempts. Those who sought guidance on how to access mental health support believed that their GPs were not aware of the community organisations that ethnic minority patients could be referred to.

51 'Adversely racialised' people is a term used in the research. The OED defines this term as to define people who have been categorized by race.

Race

Some participants stated strongly that mental health organisations do not make enough effort to engage with racialised communities (Jackson et al., 2022).

Maternity services

There are various indications of the disparities experienced by ethnic minority women in maternity healthcare services, though in Scotland the data in this area is insufficiently disaggregated by race or ethnicity to be able to draw meaningful conclusions with regard to maternal mortality rates.

Localised academic studies point towards uneven provision of maternal care services, and women from ethnic minority backgrounds report discriminatory experiences and practices (John et al., 2021).

Justice

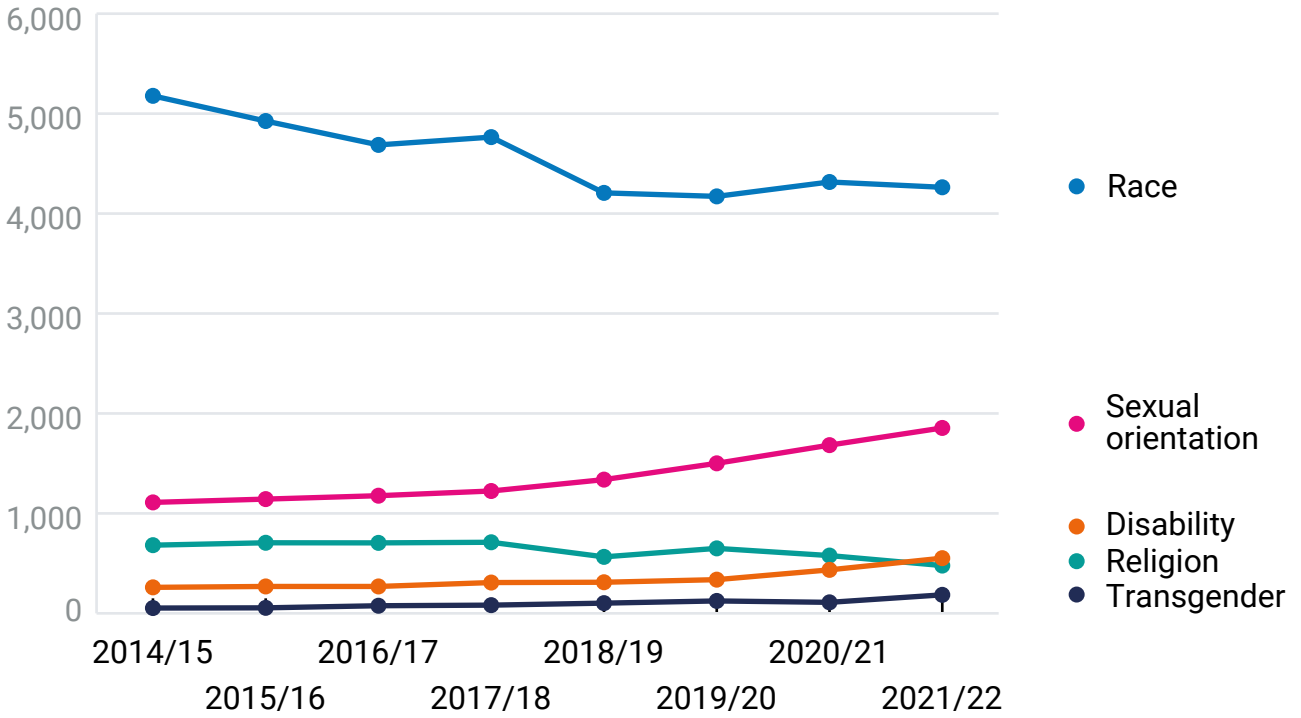
Hate crime

Police-recorded race hate crime in Scotland has declined over time. Between 2014/15 and 2020/21 there was an 18% fall in the number of race hate crimes recorded by police from 5,178 to 4,263 (Scottish Government, 2023d). The number of charges for racially aggravated hate crime has also declined, dropping by 7% over the past decade to a total of 3,107 charges in 2021/22. The number of charges has fluctuated in recent years but is currently 32% lower than the 2011/12 peak of 4,547 charges (Crown Office and Procurator Fiscal Service, 2022).

However, hate crime aggravated by race remains the most reported of all hate crimes. Most recorded race hate crimes included a prejudice towards Black or Pakistani communities. A Scottish Government study into the characteristics of police-recorded hate crime revealed that, in 36% of race hate crimes, the words or actions used by the perpetrator suggested an anti-Black prejudice. In 27% of cases, the prejudice was shown towards the Pakistani community (Scottish Government, 2023d).

Figure 47: Hate crimes recorded by the police, by aggravator, 2014/15 to 2021/22

Number of hate crimes recorded by the police



(Source: Scottish Government)

Prison and incarceration

The ethnicity of the prison population has remained largely unchanged over the past decade. In 2021/22, 94.9% of the average daily prison population self-identified as White. However, Scottish Government analysis of Scottish prison population statistics indicates that some ethnic minority groups experience higher incarceration rates (Scottish Government, 2023e).⁵²

In 2021/22, the estimated incarceration rate for people who identified as African, Caribbean or Black (8.2 per 1,000), Mixed or Multiple ethnicity (4.5 per 1,000) and Other ethnicity (7.2 per 1,000) were significantly higher than the incarceration rate of people who identified as White (3.2 per 1,000).

The estimated incarceration rate for people identifying as Asian, Asian Scottish or Asian British (2.4 per 1,000) was statistically lower. Other factors may have influenced these differences, such as socio-economic deprivation and different age profiles across ethnic groups, which were not accounted for in this analysis.

⁵² Measured as spending any time in prison, per 1,000 of the population.

Participation

Political representation

There have been improvements in representation of ethnic minority elected officials since 2016. Following the May 2021 Scottish parliamentary election, six (4.5%) of the 129 members were from an ethnic minority background including two women (Scottish Parliament, 2021). This is four more than in the 2016 Scottish Parliament. No ethnic minority MPs were elected to represent Scottish seats in the 2019 UK general election, but Anum Qaisar, a Scottish Pakistani woman, was elected as a Scottish National Party (SNP) MP in an April 2021 by-election (North Lanarkshire Council, n.d.). On 29 March 2023, Humza Yousaf MSP became the first ethnic minority First Minister of Scotland.

Public appointments

Data shows a mixed picture when it comes to public appointments. The proportion of publicly appointed board members identifying as Black or from a 'visible' ethnic minority increased for a second year to 3.7% by the end of 2021 (Ethical Standards Commissioner, 2022). An increasing proportion of applicants and appointments identify as Black or visible ethnic minority and 4.07% of members (excluding chairs) identify as Black or ethnic minority.

In the 2020 Scottish Judicial Attitude Survey, 'non-White' judges comprised 2% of the salaried judiciary who self-identified their ethnicity. This is a decline from 4% in 2018. Both surveys had a 79% response rate but slightly differing rates across posts (Judiciary of Scotland, 2021).

Physical activity

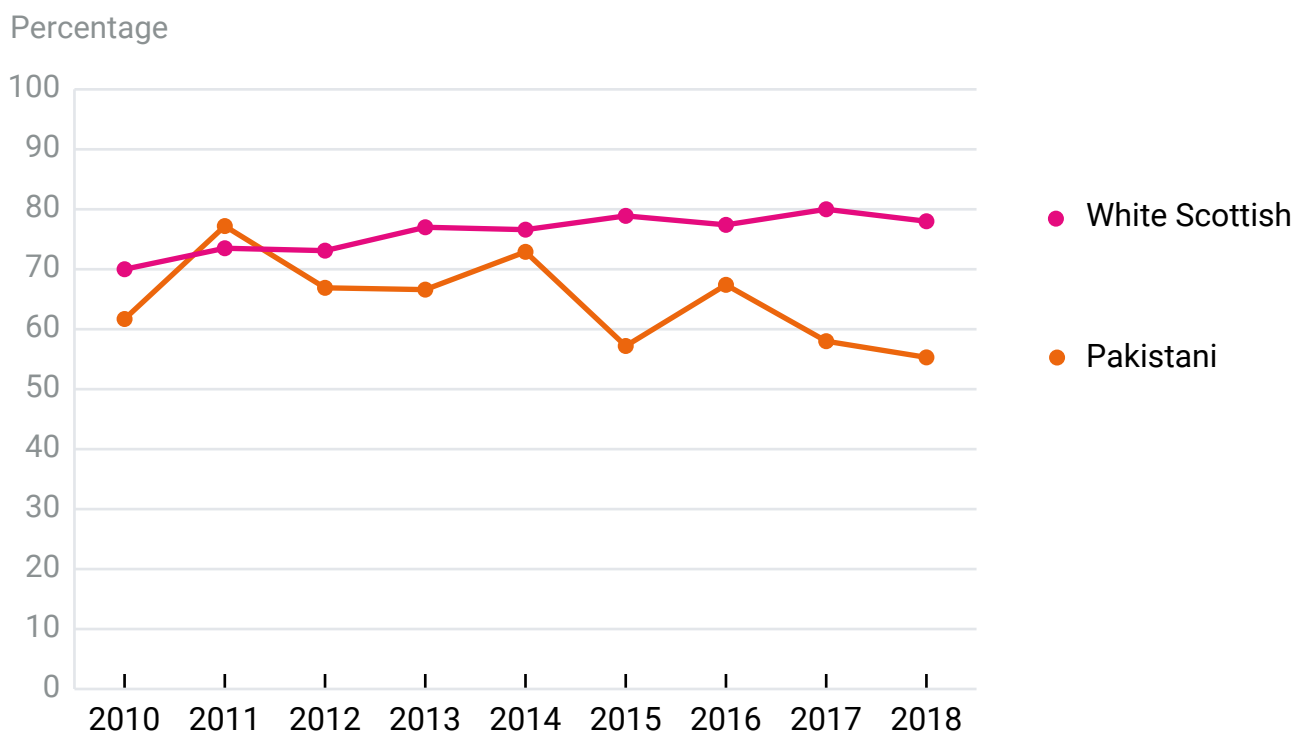
Among specific ethnic groups, the proportion of Pakistani adults who participate in sports has generally been lower than among White Scottish, White minority and other ethnic minority groups and fell between 2010 and 2018.



In 2018, 55.3% of Pakistani adults in Scotland participated in sports compared with 78.0% of White Scottish adults, a difference of 22.7 percentage points.

Our analysis of Scottish Government data also found that the difference in sports participation between White Scottish adults and Pakistani adults was statistically significant in both 2017 and 2018. There were no statistically significant differences in sports participation between other specific ethnic groups and White Scottish adults.

Figure 48: Proportion of adults who took part in sport or exercise over previous four weeks, by ethnic group, 2010–2018



(Source: EHRC analysis of Scottish Health Survey)

Recommendations

As noted in the chapter on developments affecting multiple groups, the Scottish Government is in the process of reviewing the PSED in Scotland. In 2021, we argued that Scottish ministers should identify national equality outcomes that address inequalities.

The Scottish Government committed to doing this and further added that this would require the Scottish Government to 'ensure the national equality outcomes are measurable and link to the National Performance Framework' (Scottish Government, 2021f).

We welcome the Scottish Government's agreement to link equality outcomes to the National Performance Framework for consistency and coherence.

Our recommendations are designed to help the Scottish Government to set equality outcomes for all Scottish public bodies to use.

Our view is that Scottish ministers should set themselves an overarching equality outcome to maintain oversight of progress on the National Equality Outcomes (NEO). Ministers should commit to developing a NEO Framework, which defines how the NEOs link to the NPF, set out which listed authorities should consider adopting each NEO, and set out core measurement criteria for each NEO.

27. The Scottish Government should set a NEO to address the lower levels of attainment and higher levels of exclusion experienced by Gypsy/Traveller children in education settings, compared with other ethnic groups.
28. The Scottish Government should set a NEO to reduce levels of racially motivated bullying in education settings. This should include making compulsory the recording of bullying incidents, including details of protected characteristics and motivations based on prejudice.
29. The Scottish Government should set a NEO to narrow the earnings gaps between ethnic minorities (including White minorities) and the White British population.

Recommendations continued

30. The Scottish Government should explore how to introduce mandatory ethnicity employment and pay gap reporting, disaggregated by census categories for ethnicity where possible to avoid concealing important differences between ethnic groups.
31. The Scottish Government should set a NEO to reduce the proportion of ethnic minority adults and children in relative poverty.
32. The Scottish Government should set a NEO to reduce the overrepresentation of ethnic minorities detained under the Mental Health (Care and Treatment) (Scotland) Act 2003.
33. The Scottish Government should set a NEO to address the causes of the overrepresentation of some ethnic groups (including White minority groups) among homelessness applications.
34. The Scottish Government should set a NEO to address the causes of the high levels of race motivated hate crime.
35. National Records of Scotland (NRS) and statistics producers should review their data collection and analysis to produce effective disaggregated analysis for all ethnicities and ensure improvement in data for those groups who often have samples too small for effective analysis, such as Gypsies, Roma and Travellers.



Religion or belief

The Equality Act protected characteristic of religion or belief refers to people who face different opportunities and challenges because of their religious or philosophical belief, including a lack of belief. Recent events and developments, including the COVID-19 pandemic, economic challenges, and legal and policy developments have affected outcomes experienced by people with the protected characteristic of religion or belief. These are examined in this chapter.

Data Considerations

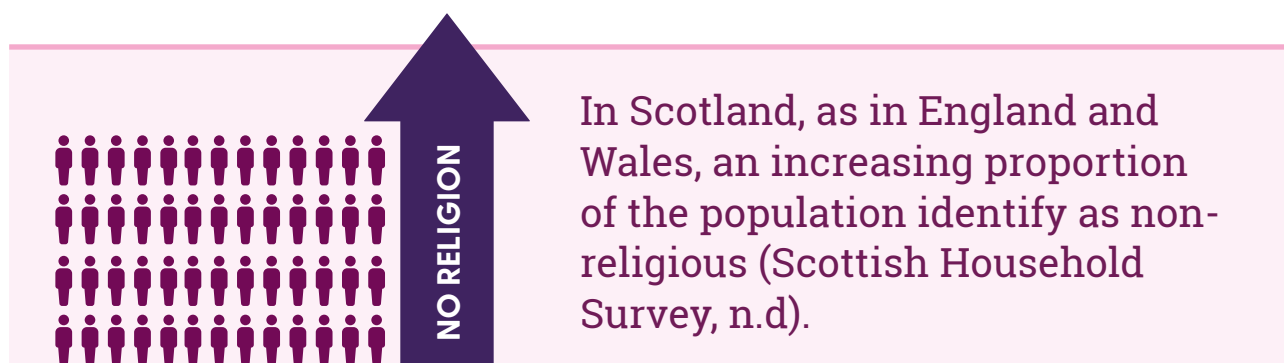
Due to low sample sizes in some geographies and datasets we have not been able to create robust estimates for all religion categories in all datasets. When this is the case, we have aggregated religious categories to higher level categories to create more robust samples. In this chapter, data aggregation is used when the term 'Religious Minorities' is referred to.

Religious Minorities is a term used when data from all religious groups, except for Christians and the 'No Religion' group, is combined. When findings for specific religious groups (e.g. Muslim, Hindu) are robust, we report findings from these groups, in addition to reporting on Religious Minorities as a whole. All findings reported are statistically significant. If a religious group is not reported on, this will likely be because the data is not significant. However, findings for some religious groups may still derive from relatively small sample sizes.

Key findings

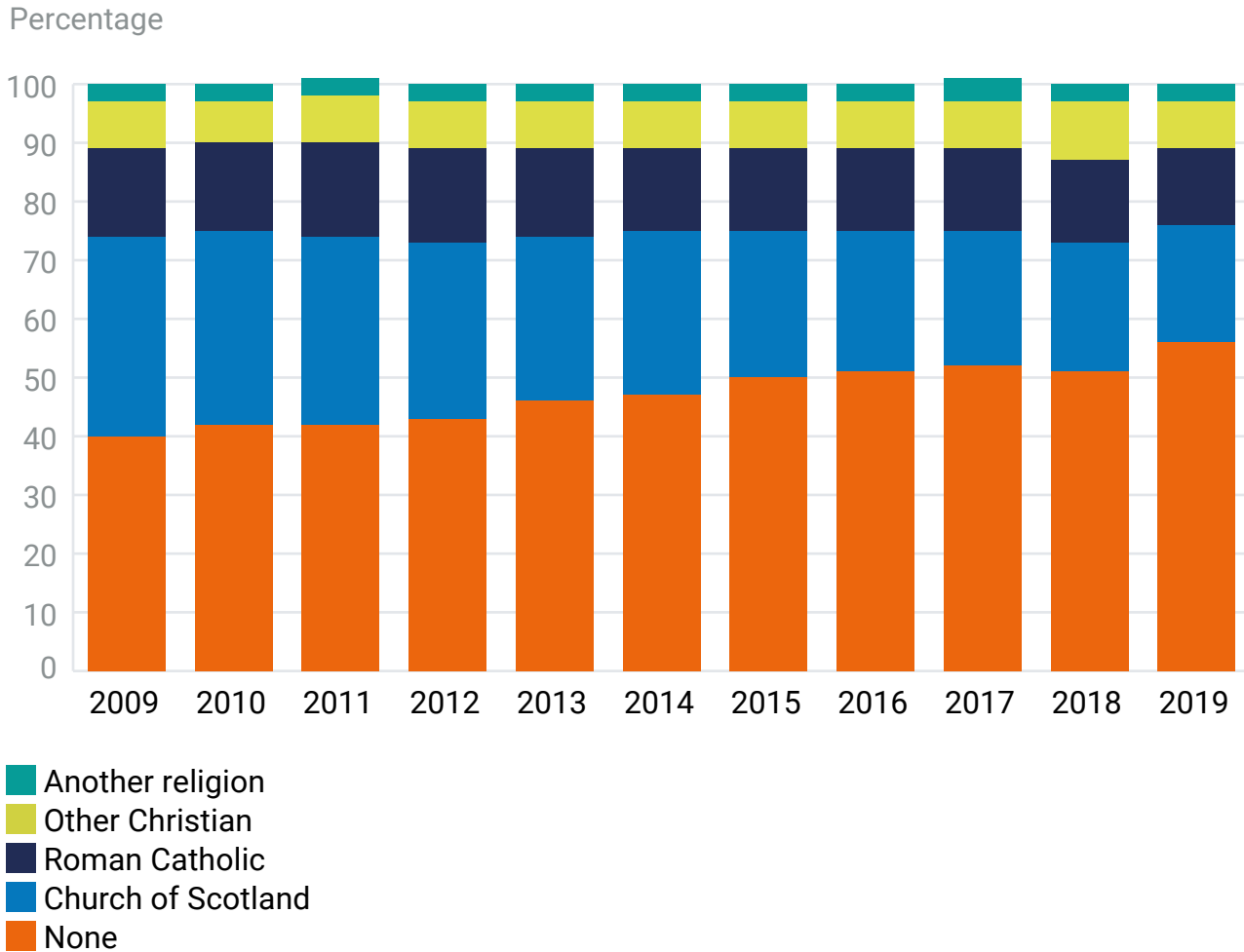
- Non-Christian religious minorities are less likely to be employed than those with no religion, with the employment gap particularly acute for Muslims. In 2019/20, 50.1% of religious minority adults were employed compared with 67.8% of non-religious adults. Only 45.2% of Muslim adults were employed in 2019/20.
- There has been growth in the proportion of Muslim workers in high-paid occupations, which is now significantly higher than those with no religion. Despite this, Muslims remain the religious group with the highest rates of poverty. In 2018/19, 62.7% of Muslim adults were in poverty, compared with 18.4% of non-religious adults.
- There has been a decrease in the number of religiously aggravated hate crime recorded by police in Scotland. Anti-Catholic prejudice was the most common form of prejudice expressed in religion hate crimes, with just under half of religiously aggravated offences motivated by anti-Catholic prejudice.
- Issues remain for some religious groups, specifically Muslim women, in engaging with mental health services.

Demographics



Religious data in Scotland often disaggregates the 'Christian' category into three: Church of Scotland, Roman Catholic and Other Christian. There are also increasing numbers of Scottish adults identifying as 'another religion' (Scottish Household Survey, n.d.).

Figure 49: Religious belonging of adults by year, 2009–2019⁵³



(Source: Scottish Household Survey)

The Pagan religion was included as a response option in Scotland’s census in 2022 for the first time. This request was supported by a number of stakeholders (Scotland’s Census, 2016). In the 2011 census, 5,194 people answered Pagan or a Pagan-related category to the religion question (Crowley, 2014). This is comparable to the number of people identifying as Jewish in 2011 (5,887 respondents).

⁵³ Due to rounding, columns may not add up to 100%

Policy and legal developments

The Scottish Government's faith and belief engagement strategy aims to build understanding and working relations with faith and belief communities (Scottish Government, 2023a). The focus is on facilitating innovative and collaborative engagement in policy development across government on issues of concern, including recovery from the coronavirus (COVID-19) pandemic, climate change, wellbeing, poverty, social isolation and loneliness, a ban on conversion practices, and gender recognition reform.

Justice

The Hate Crime and Public Order (Scotland) Act 2021 consolidates existing hate crime legislation and updates the list of characteristics protected under the Act to include: age, disability, race, religion, sexual orientation, trans identity and variations in sex characteristics. The Act abolished the common law offence of blasphemy, which had not been prosecuted in Scotland for more than 175 years.

In 2021, the Scottish Government, in partnership with Police Scotland, launched a Hate Crime Security Fund to reduce the vulnerability of places of worship to incidents of hate crime by enabling the installation of security measures (Scottish Government, 2021a).

The Scottish Government and Police Scotland have developed the Hate Crime Strategy for Scotland (Scottish Government, 2023b) which sets out key priorities for tackling hate crime and prejudice in Scotland. This strategy was informed by the multi-agency Hate Crime Strategic Partnership Group and the views of those with lived experience.

The Scottish Government has welcomed the 2021 report of the inquiry into Islamophobia in Scotland by the Cross-Party Group on Tackling Islamophobia (Hopkins, 2021).

Scope of protected beliefs

There have been significant developments in relation to the scope of protected beliefs, though many of these cases are from lower courts so will not be binding on future cases.

Beliefs found to be protected include:

- the belief that those with relevant skills should participate in the democratic process⁵⁴
- a belief that Scotland should be independent, on the grounds this belief was not just a preference for a particular party, the Scottish National Party (SNP), but a philosophical belief based on political theory,⁵⁵ and
- veganism, based on the claimant's evidence that it was intrinsic to their sense of identity.⁵⁶

Cases where beliefs have been found not to be protected beliefs include:

- support for a professional association football club,⁵⁷ and
- the belief that 'Scotland can only ensure social justice by remaining part of the UK as opposed to being independent', which was accepted to meet some of the required tests, but lacked the level of cogency, seriousness and cohesion to amount to a philosophical belief.⁵⁸

54 Scottish Federation of Housing Association v Jones [2022] EAT 114.

55 McEleny v Ministry of Defence [2018] ET/4105347/17.

56 Reilly v RT Management Bridgeton Ltd [2022] ET/4107984/20.

57 McClung v Doosan Babcock Ltd [2022] 8 WLUK 206.

58 Gibb v Dumfries and Galloway Council [2022] ETS/4100048/2022.

Restriction of services

In a case heard in 2022, the owner of an exhibition and conference venue was held to have discriminated because of religion or belief after terminating an agreement to hire out the venue in light of the customer's religious beliefs and those of its proposed guest speaker (an evangelical Christian).⁵⁹

In an employment tribunal case, a charity leased premises to the Stirling Free Church of Scotland. A director of the charity and elder of the church, who was an evangelical Christian with orthodox beliefs, was subsequently dismissed. It was found that the director had been subject to direct discrimination because of their religion or belief in relation to the unfair dismissal.⁶⁰ The charity also cancelled the lease and later settled a civil claim apologising for acting unlawfully.

59 Billy Graham Evangelistic Association v Scottish Event Campus Ltd [2022] SC GLW 33.

60 Ferguson v Kintail Trustees Ltd and MacPherson [2022] ETS/4103321/2020.

Outcomes

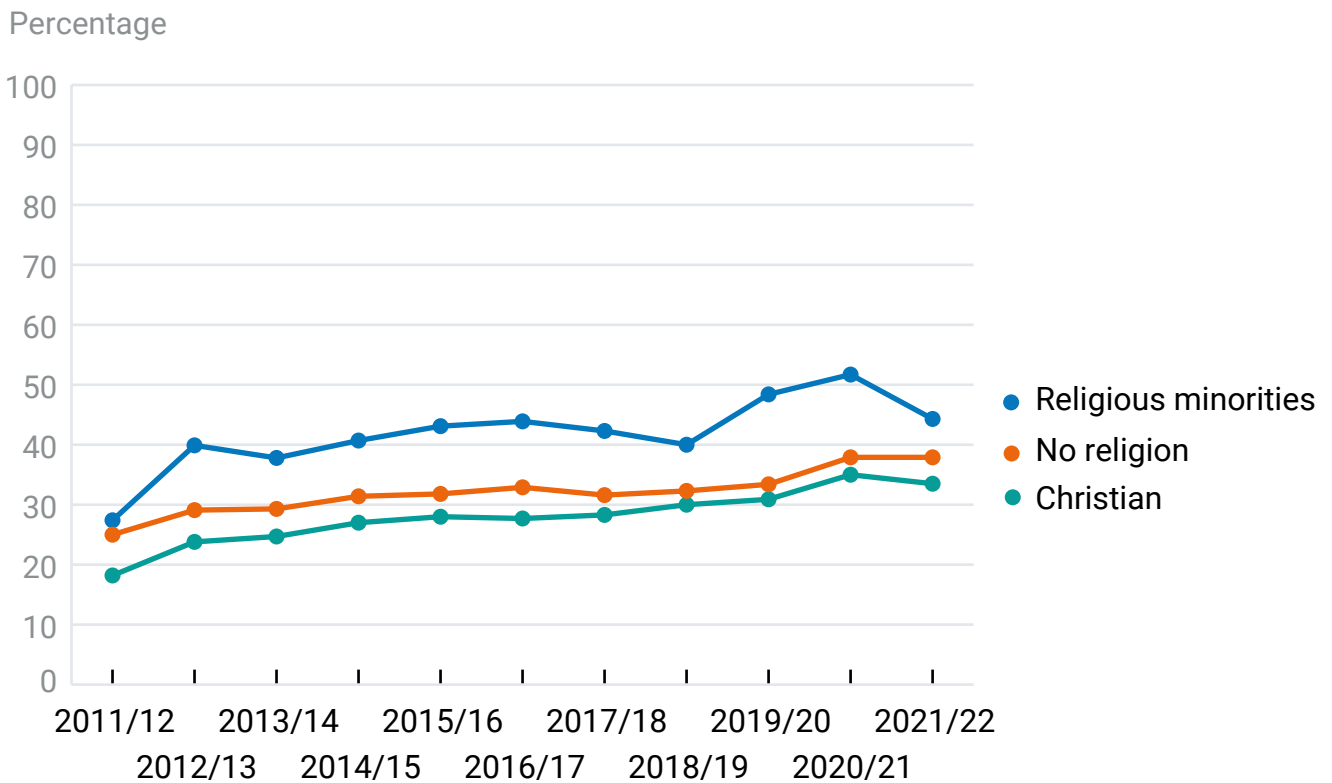
Education

As of April 2022, just under 85% of state-funded schools in Scotland were non-denominational, 14.6% were Roman Catholic and the rest were interdenominational, Episcopalian and Jewish (Scottish Government, 2022).

In 2021/22, 44.3% of religious minority adults in Scotland aged 25–64 held a degree-level qualification, compared with 37.9% of adults with no religion and 33.5% of Christian adults.

This marks the continuation of a long-term trend where religious minority adults have been more likely to hold a degree compared with Christian and non-religious adults. The difference in degree-level attainment between religious minority adults and adults with no religion has been statistically significant since 2012/13.

Figure 50: Proportion of adults aged 25–64 with degree-level qualifications, by religion, 2011/12–2021/22



(Source: EHRC analysis of Scottish Government data)

Religion or belief

Analysis of Annual Population Survey (APS) data found that the percentage of adults with degree-level qualifications increased across most religious⁶¹ and non-religious groups between 2011/12 and 2020/21, but attainment by Hindus and Muslims improved at a faster rate than that of Christians, Other Religion and those with no religion.

Analysis shows Hindus consistently have the highest proportion of adults with a degree. In 2011/12, 49.7% of Hindus aged between 25–64 had a degree compared with 25.0% of those aged over 25 with no religion, a difference of 24.7 percentage points. By 2021/22, 72.0% of Hindus reported having a degree compared with 37.9% who had no religion, increasing the gap between the two groups to 34.1 percentage points.⁶²

In 2011/12, 21.1% of Muslim adults aged 25–64 had a degree or equivalent qualification. By 2021/22, 42.9% of Muslim adults aged 25–64 had a degree-level qualification, a 21.8 percentage point rise over the decade.



No religious group had a smaller percentage of adults aged 25-64 with a degree than Christian in 2021/22.

APS data does not disaggregate the Christian category so there is no evidence to understand how Church of Scotland adults compare with Roman Catholics or those from other Christian denominations.

Islamophobia and bullying

Despite improvements in the proportion of adults with degree-level qualifications, there are indications that Islamophobia is impacting on educational outcomes of Muslims. Research undertaken for a cross-party inquiry into Islamophobia in Scotland revealed evidence that Islamophobia, including Islamophobic bullying and abuse, creates barriers in all tiers of education from nursery and school through to college and university. These barriers lead to social anxiety and a lack of attendance and performance (Hopkins, 2021).

61 We do not have data for Jewish and Sikh religious groups individually but they are included in religious minorities in the graph and text.

62 These differences are statistically significant, but the unweighted base for the Hindu group is very small.

Religious observance

Schools in Scotland are under a statutory duty to provide 'religious observance' to pupils with a focus on Christianity. Parents and carers have a right to withdraw their child from this, but the right to withdraw is not extended to children.

Together, an alliance of Scottish children's charities working to improve children's human rights, contend that this is a problem because religious observance becomes de facto compulsory if the child takes a different viewpoint from their parent or carer. Similarly, a child has no recourse if they wish to engage in religious observance but their parent or carer has withdrawn them (Together (Scottish Alliance for Children's Rights), 2023).

Work

Christians are less likely to be employed than people with no religious affiliation, but this difference may be influenced by the older age profile of the Christian group (ONS, 2011). Older people are less likely to be economically active, which could account for some of this employment gap. The gap between the no religion group and the Christian group is significantly reduced when workers over the age of 65 are excluded from the analysis (2.6 percentage points compared with 17.3 percentage points when including 65 and over, in 2019/20).



In 2019/20, 50.1% of religious minority adults in Scotland were employed compared with 67.8% of non-religious people.

Looking at religious minorities in more detail, Muslims had a particularly large employment gap, with just 45.2% of Muslim adults being in employment. Religious minority adults (and Muslim adults when considered separately) showed no change to their employment rates (or the employment gap with the no religion group) between 2010/11 and 2019/20.

Religious minority workers are also more likely to be in insecure employment, with 12.4% of religious minority workers in insecure employment in 2019/20, compared with 7.2% of non-religious workers. This gap between has not changed over time.

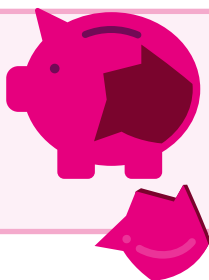
Religious minority workers are more likely to be in a high-paid occupation (HPO) than non-religious workers. In 2019/20, 40.9% of religious minority workers worked in an HPO compared with 29.9% of non-religious workers.

There has been strong growth in the proportion of Muslim workers in an HPO, from 30.7% in 2010/11 to 45.2% in 2019/20. In 2010/11, there was no significant difference between the likelihood that Muslims or non-religious workers would be in an HPO, but the rapid increase in the number of Muslims in HPOs created a significant gap between them and the no religion group by 2019/20. In contrast, religious minorities (as a whole) are showing no significant growth in the proportion of workers in an HPO.

Living standards

Poverty

Growth in Muslim adults with an HPO has not translated into overall higher living standards.



FRS analysis found poverty levels among Muslim adults increased from 39.6% to 62.7% between 2011/12 and 2018/19.⁶³

The poverty rate for Muslim adults has remained persistently higher than the rate for non-religious adults, which was 17.1% and 18.4% over the same period.

These trends are corroborated by Scottish Government analysis of the FRS using five-year averages to improve reliability. In 2017–2022, the poverty rate for Muslim adults was 63.1% (Scottish Government, 2023c).

⁶³ Data is not available after 2018/19 in this analysis.

FRS analysis showed that households headed by a Muslim adult were also more likely to experience child poverty than households headed by an adult with no religion in 2012/13, 2015/16 and 2018/19, the years for which data is available. In 2018/19, 61.0% of Muslim headed households were in child poverty compared to 23.9% of households headed by an adult with no religion.⁶⁴

Our analysis of FRS data found that, between 2011/12 and 2018/19, poverty rose among Christian adults from 14.0% to 16.4%. Severe material deprivation declined among Christian adults during this period from 16.4% to 11.2%, and for adults with no religion from 19.6% to 13.7%. This is measured in adults aged 16–59, excluding dependent children aged 16–19. Robust data was not available for other religious categories.

Social care

According to our Health and Care Experience Survey analysis, Christian adults are consistently more likely to agree that they are treated with compassion and understanding in the receipt of their social care compared with adults with no religion. For Christian adults, the proportion who agree that they are treated with compassion and understanding has fallen from 2013/14 to 2019/20.

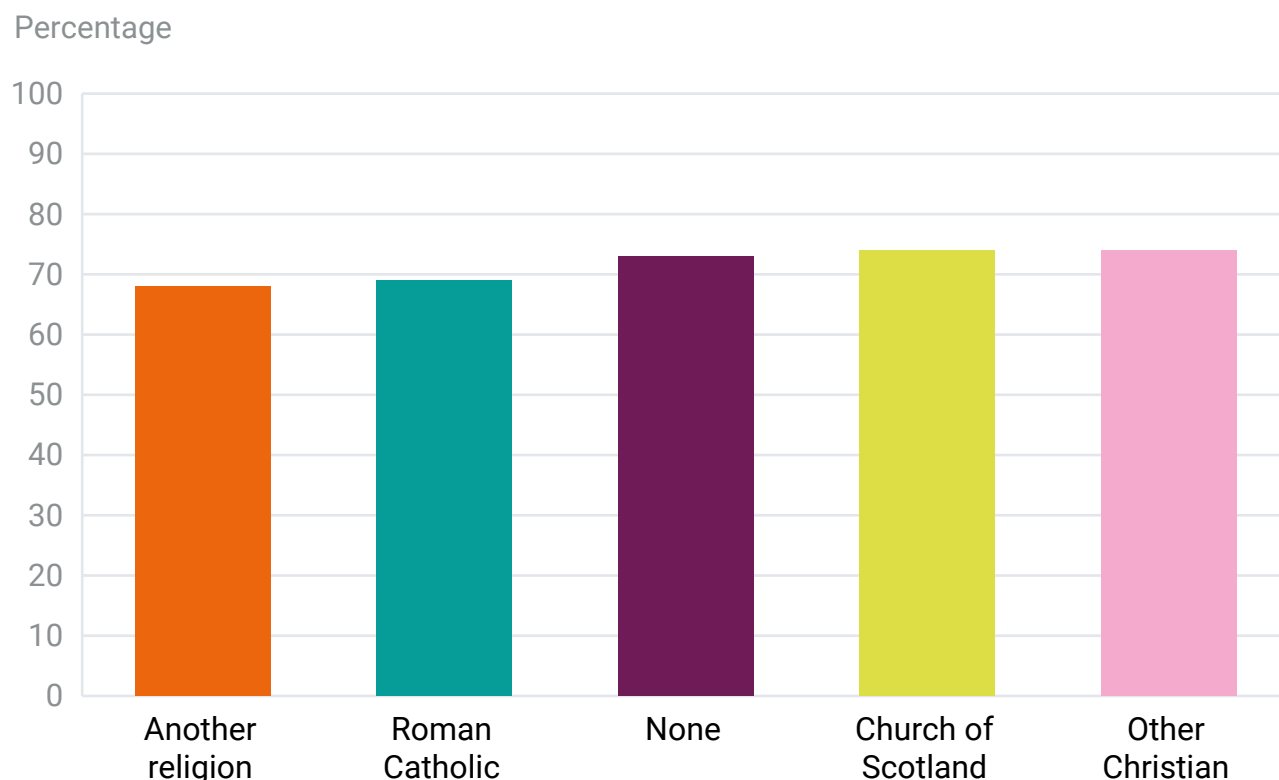
⁶⁴ Data is not available after 2018/19 in this analysis.

Health

Our analysis of pooled⁶⁵ Scottish health survey data between 2017 and 2019 found that Roman Catholics were significantly less likely to report good or very good health than those with no religion, once age differences had been taken into account.

Our model predicted that, among people aged 50, 72.7% of those with no religion would report good or very good health, compared with 68.8% of Roman Catholics.⁶⁶ As shown in Figure 51, those with an ‘other religion’ also reported lower levels of good and very good health though these were not significantly different.

Figure 51: Predicted probability of reporting very good or good health at age 50, by religion. Scottish Health Survey pooled 2017–2019



(Source: EHRC analysis of Scottish)

65 Pooled data combines data from distinct periods of time to allow for more in-depth analysis, enabling more robust population estimates.

66 These were calculated using marginal analysis with age and religion as predictors of good health. We produced margins at ages 20, 30, 40, 50, 60 and 70 but are reporting age 50 as this was closest to the mean age of Catholics in the sample.

Mental health

Our analysis of pooled data from the Scottish Health Survey 2017–2019 indicates that people from the Church of Scotland (at the rate of 14.5%) and other, non-Catholic, Christian denominations (at 13.5%) are less likely to report symptoms of poor mental health than those with no religion (of whom 18.1% do so).

In contrast, levels of poor mental health were not significantly different between Roman Catholics (18.9%), those with an 'other religion' (19.1%) and those with no religion.

Qualitative research exploring the relationship between mental health and the spiritual beliefs of Muslim women revealed evidence of barriers that participants experienced when engaging with mental health services, including anxiety over whether they would have to 'explain' their beliefs to medical practitioners due to a general lack of understanding of Muslim culture among health professionals (Gunson et al., 2019).

Analysis revealed a strong belief among female Muslim research participants that 'spirit possession,' an aspect of Muslim religious belief, can cause illness. The researchers concluded that the 'lack of fit' between 'Westernised' approaches to medicine and the language of spirit possession may contribute to the mental health of some Muslim women being adversely affected (Gunson et al., 2019).

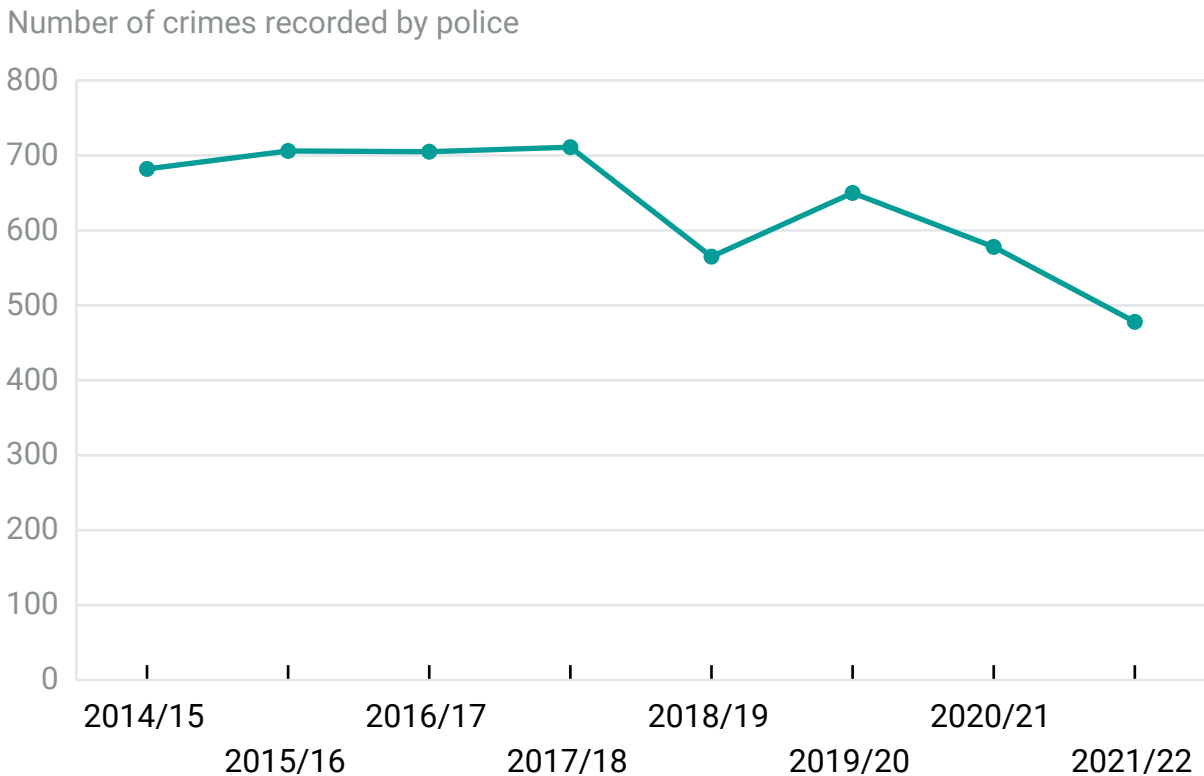
Justice

Hate crime

In 2021/22, there were 478 religion-aggravated hate crimes recorded by the police. This is the lowest number of religious hate crimes recorded since 2014/15 and marks a decline from a peak of 711 in 2017/18 (Scottish Government, 2023d).

Charges for hate crime with a religious aggravation have also fallen. There were 512 charges with a religious aggravation reported in 2021/22, 16% fewer than in 2020/21 (Crown Office and Procurator Fiscal Service, 2022).

Figure 52: Religion-aggravated hate crimes recorded by the police, 2014/15 to 2021/22



(Source: Scottish Government)

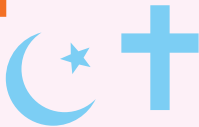
Anti-Catholic prejudice was the most common form of prejudice expressed in religion hate crimes in 2020/21, when almost one in two (47%) police-recorded hate crimes aggravated by religion involved prejudice towards the Catholic community (Scottish Government, 2023d).

Among anti-Catholic religious hate crime in 2020/21, 55% of victims were male or in all-male groups and 36% of victims were female or in all-female groups. 88% of alleged perpetrators were men or in an all-male group (Scottish Government, 2023d).

The proportion of police-recorded hate crimes showing anti-Catholic prejudice increased between 2018/19 (42%) and 2020/21 (47%). In contrast, the proportion of crimes showing anti-Islamic prejudice declined by 10 percentage points (from 26% to 16%). The proportion of crimes involving either anti-Protestant (from 12% to 16%) or anti-Judaism (from 7% to 9%) prejudices increased during this period (Scottish Government, 2021b; Scottish Government, 2023d).

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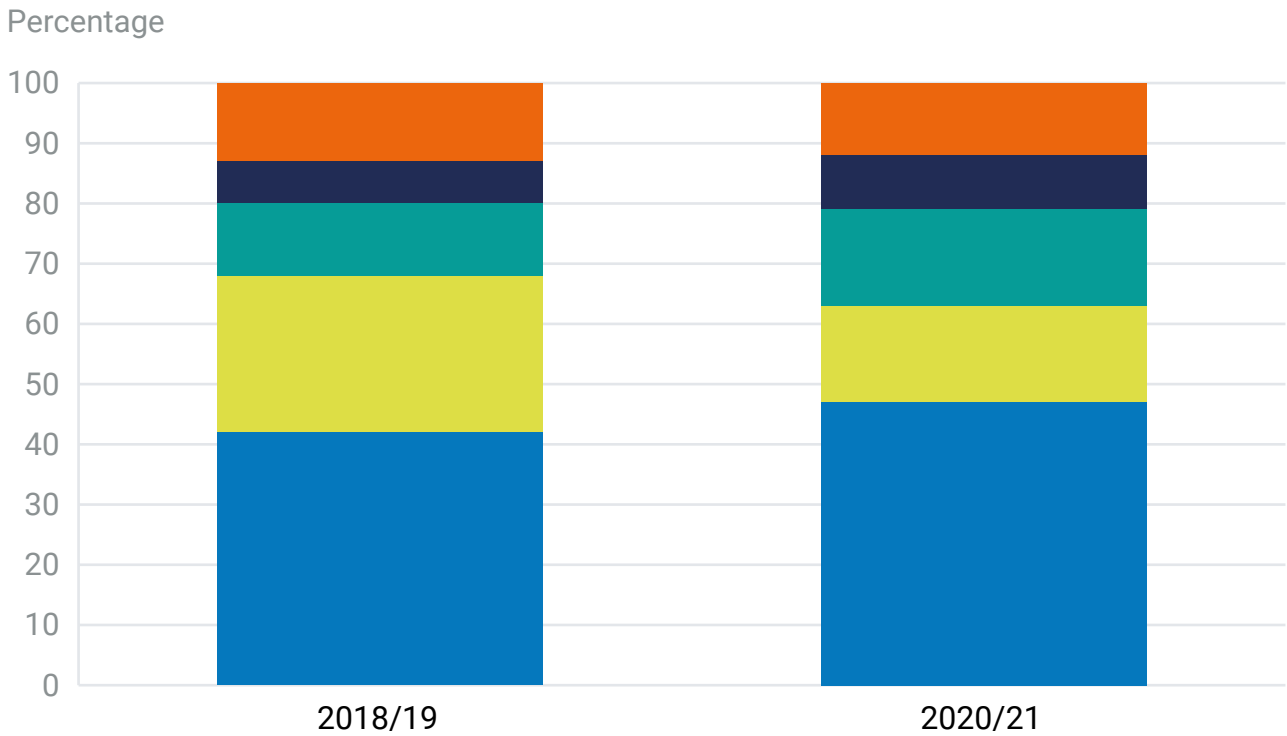
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The proportion of hate crimes showing anti-Catholic prejudice, Islamophobia and anti-Semitism are disproportionately large compared with the population identifying with these religions in Scotland.

For example, anti-Semitic hate crimes accounted for 9% of religious hate crimes recorded in 2020/21, despite just 0.1% of the Scottish population identifying as Jewish in 2011 (Scotland's Census, 2021).

Figure 53: Proportion of hate crimes recorded by the police, by religious prejudice shown, 2018/19 and 2020/21



- Other religion
- Judaism
- Protestantism
- Islam
- Catholicism

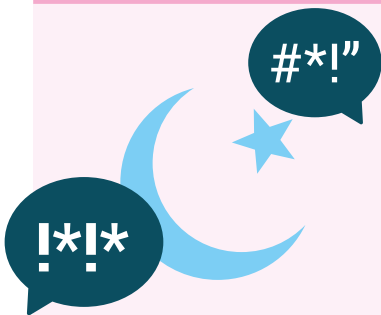
(Source: Scottish Government)

Hate crime data is unlikely to capture the full extent of religion-aggravated abuse and its disproportionate impact on certain groups with intersecting identities. Research undertaken for a cross-party inquiry into Islamophobia in Scotland revealed evidence that Islamophobia has a disproportionate impact on Muslim women (Hopkins, 2021). Respondents experienced abuse because they were wearing a hijab, including being pushed, sworn at and having their hijab pulled off.

Academic research into gendered Islamophobia in Scotland reveals evidence that young Muslim women are particularly marginalised and experience discrimination because of their intersecting sex, race and religious identities (Finlay et al., 2019).

Participation

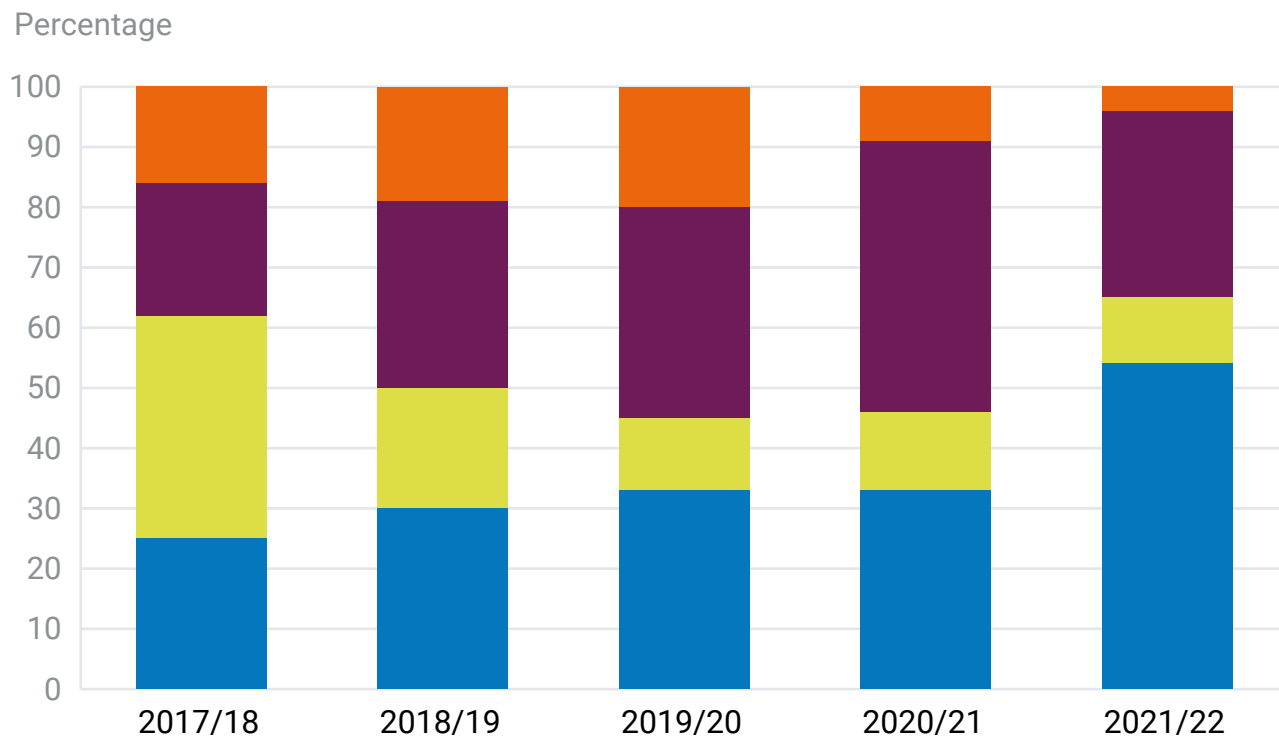
Prevent is a strand of the UK government's Counter-Terrorist Strategy, intended to 'stop people becoming terrorists or supporting terrorism' by tackling all forms of violent extremism and terrorism (Police Scotland, n.d.). In 2021/22, there were 91 Prevent referrals in Scotland, 92% for men. The biggest number of referrals were for individuals aged 15–20.



Of the 91 Prevent referrals in Scotland in 2021/22, 10 (11%) were for concerns relating to Islamic extremism, reflecting a decrease in referrals relating to Islamist extremism over time, from 37% in 2017/18.

The largest proportion of referrals was for concerns related to mixed, unstable or unclear ideology (54%). Referrals categorised as right-wing extremism (31%) have also increased (Police Scotland, 2023).

Figure 54: Types of concern for referrals to Prevent in Scotland, 2017/18 to 2021/2



- Other extremism
- Right-wing extremism
- Islamist extremism
- Mixed, unstable or unclear ideology

(Source: Police Scotland)

Recommendations

As noted above, the Scottish Government is in the process of reviewing the PSED in Scotland. In 2021, as part of this process, we argued that Scottish ministers should identify national equality outcomes that address inequalities.

The Scottish Government committed to doing so and further added that this would require the Scottish Government to 'ensure the national equality outcomes are measurable and link to the National Performance Framework' (Scottish Government, 2021c).

We welcome the Scottish Government's agreement to link equality outcomes to the National Performance Framework for consistency and coherence.

Our recommendations are designed to help the Scottish Government to set equality outcomes for all Scottish public bodies to use.

Our view is that Scottish ministers should set themselves an overarching equality outcome to maintain oversight of progress on the National Equality Outcomes (NEO). Ministers should commit to developing a NEO Framework, which defines how the NEOs link to the NPF, set out which listed authorities should consider adopting each NEO, and set out core measurement criteria for each NEO.

36. The Scottish Government should set a NEO to reduce levels of religiously motivated bullying in education settings. This should include making compulsory the recording of bullying incidents, including details of protected characteristics and motivations based on prejudice.
37. The Scottish Government should set a NEO to narrow the employment gap between religious minority adults (particularly Muslim adults) and non-religious adults.
38. The Scottish Government should set a NEO to address the causes of the higher likelihood of religious minority workers to be in insecure employment, compared with non-religious workers.
39. The Scottish Government should set a NEO to address higher rates of poverty experienced by Muslims.
40. The Scottish Government should set a NEO to reduce the disproportionate levels of religiously motivated hate crime, particularly hate crime motivated by anti-Catholic prejudice, anti-Semitism and Islamophobia.

Sex, including pregnancy and maternity, and marriage and civil partnership

The Equality Act protected characteristic of sex refers to people who face different opportunities and challenges because they are either a man or a woman. Since our last review, there has been considerable debate and legal action seeking clarification of the definition of sex in law. Recent events and developments, including the COVID-19 pandemic, economic challenges, and legal and policy developments have affected outcomes experienced by men and women in different ways. These are examined in this chapter.

This chapter also examines people who face different opportunities and challenges because they are married or in a civil partnership, or because they are pregnant, breastfeeding or have given birth.

Terminology considerations

This chapter deals with the policy and evidence of outcome the protected characteristics of sex. The Equality Act outlines that this is discrimination based on whether someone is a man or a woman. Many policies and research in Scotland refer to the inequalities experience between a man and women as differences of 'gender' such as 'gender equality' or 'gender pay gaps'. We have replicated the language of policies using this terminology, where appropriate, to avoid misinterpreting the intentions of the authors.

Key findings

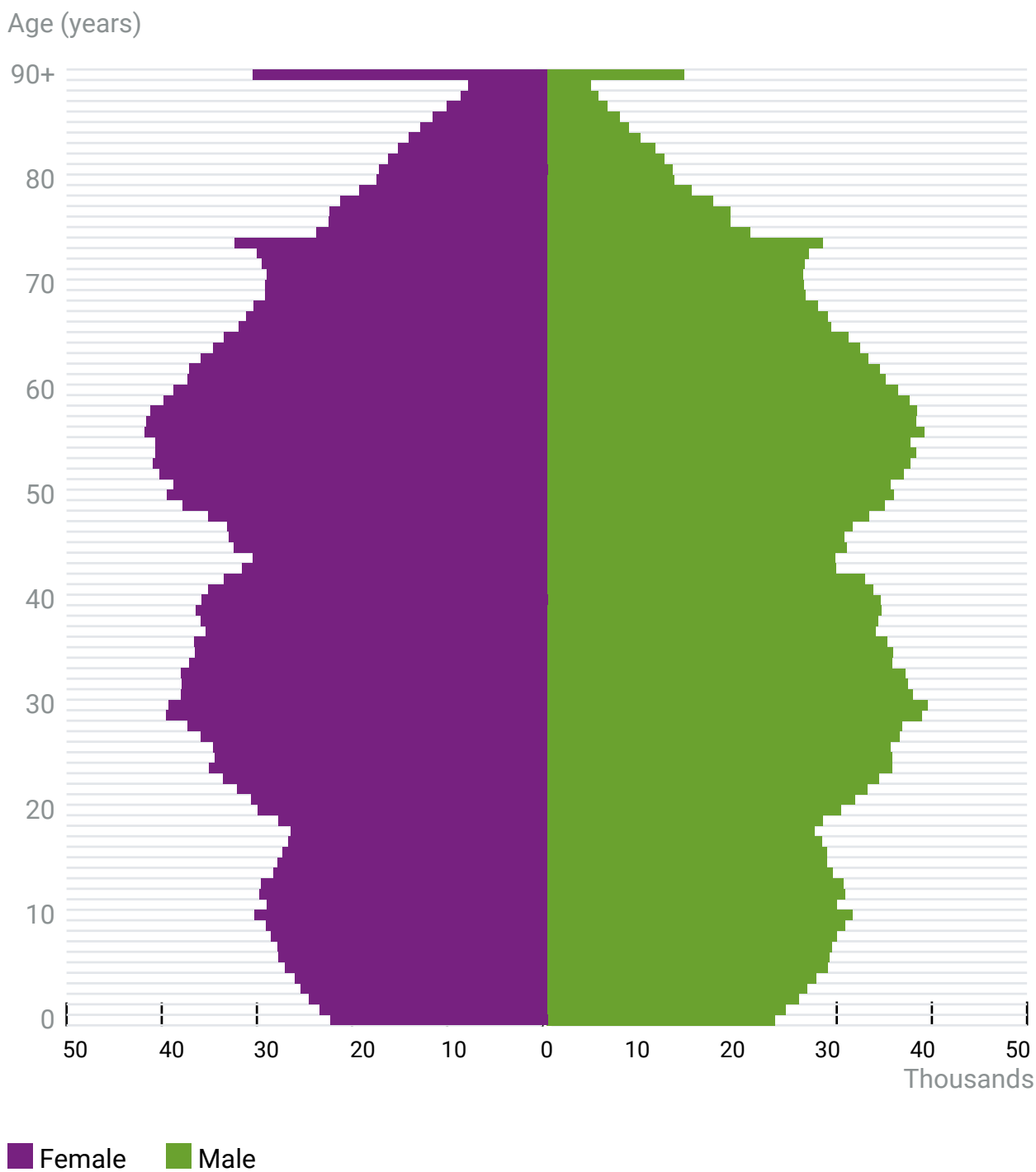
- Boys continue to underperform in early years, primary and secondary education compared with girls. Since 2016/17, there has been an attainment gap of around 8 percentage points between boys and girls in early years' education. Boys are also more likely to be excluded than girls. In 2018/19, the exclusion rate was more than three times higher for boys than girls.
- The employment and gender pay gap in Scotland has narrowed. In 2019/20, men's median hourly earnings were 14.4% higher than women's, compared with being 17.3% higher in 2010.
- The Scottish labour market continues to have high levels of sex segregation.
- Households headed by single women with dependent children, and single men without dependent children are most likely to experience poverty.
- Women are more likely to experience sexual and sex-based violence.
- There have been improvements in civic participation as women get closer to equal representation with men as elected officials and appointments to public boards.
- Men are far more likely to die by suicide than women. In 2021, 75.0% of people who died by suicide were men.
- 'Deaths of despair' (suicide, drugs, alcohol) are the leading cause of death among socio-economically deprived men aged 15–44.

Demographics

Scotland's 2021 census was delayed until 2022 and no population data has yet been published. The National Records of Scotland (NRS) published mid-2021 data as part of its planned publications, estimating the population of Scotland as 5,479,900 people, with 2,807,338 women (51.2% of the population) and 2,672,562 men (48.8%).

Scotland has an aging population, caused by people born in the post-war baby boom years of 1946 to 1964 getting older, the number of births dropping since the 1960s, and a higher life expectancy (NRS, 2022a). There is a higher ratio of women to men in older age, reflecting longer life expectancy for women. Life expectancy at birth for women born in 2019–2021 was 80.8 years compared with 76.6 years for men (NRS, 2022b).

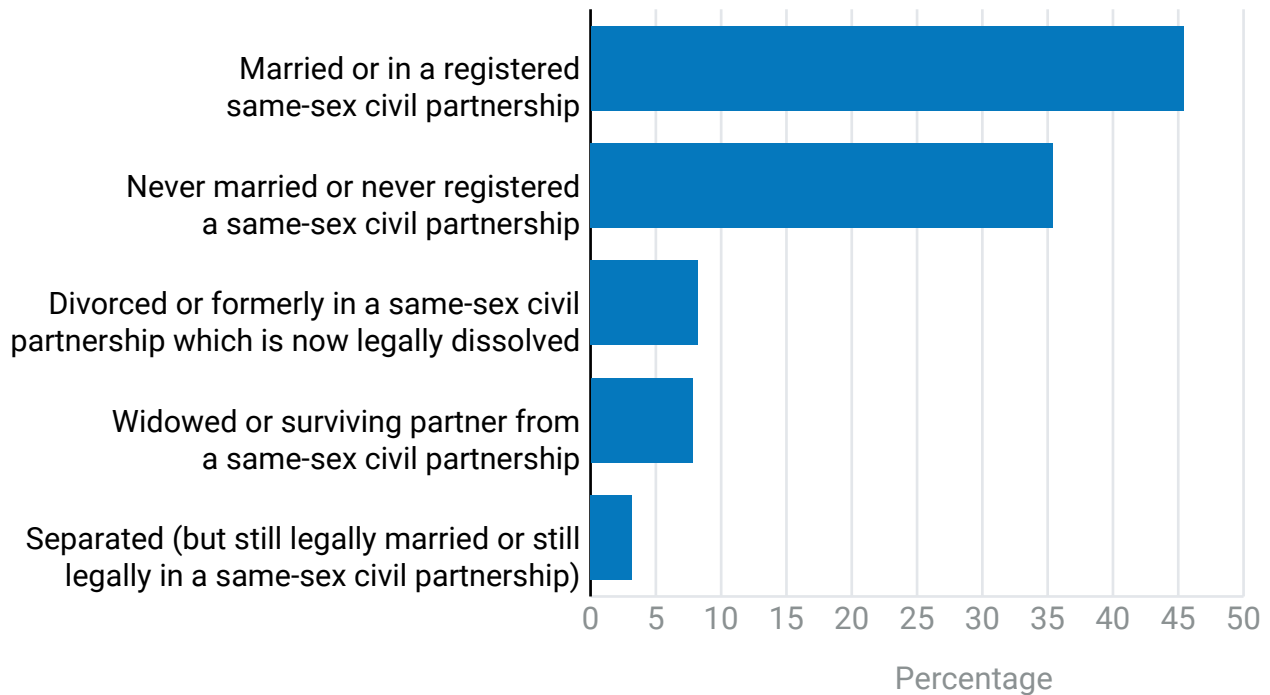
Figure 55: Population of Scotland, by age and sex, 2021 mid-year estimates



(Source: National Records of Scotland)

Marital status

Figure 56: Marital status of usual residents of Scotland aged 16 and over, 2011 census



(Source: National Records of Scotland)

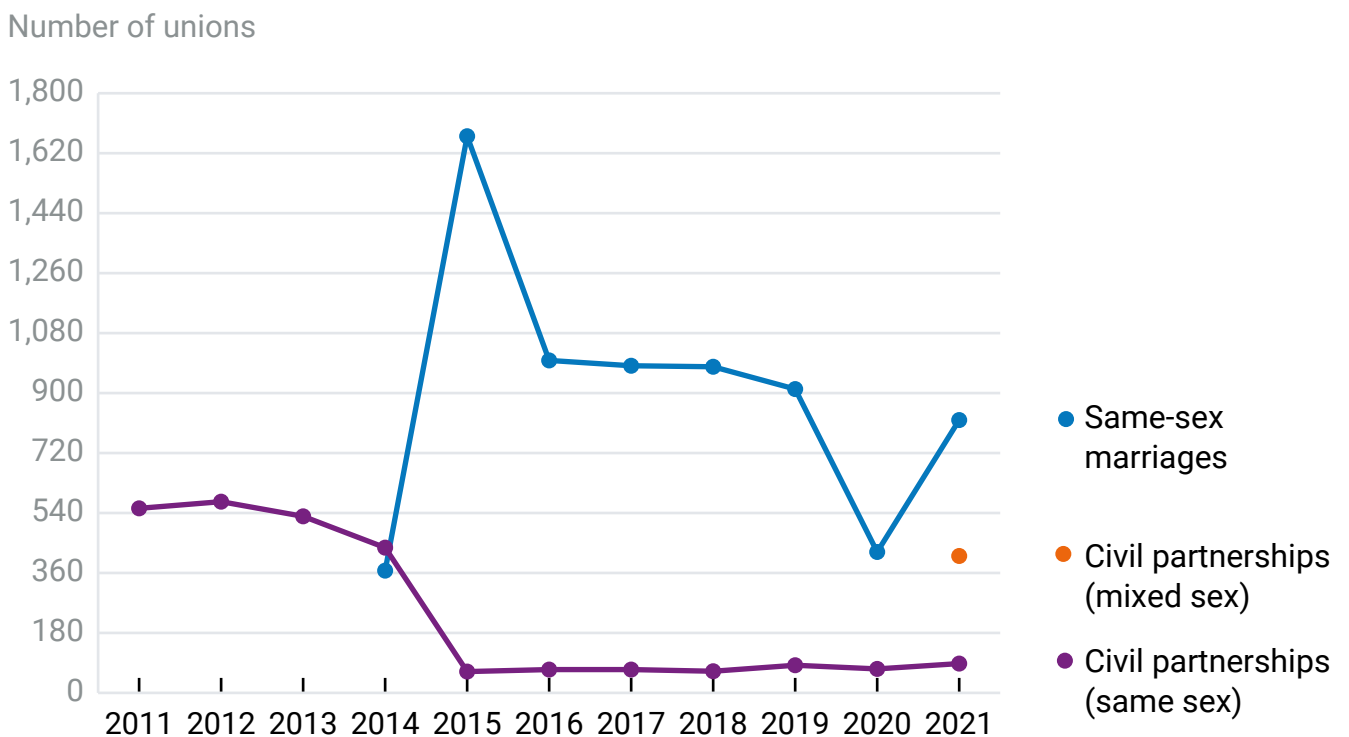
After being introduced in 2005, the number of civil partnerships in Scotland declined from a peak of 1,047 in 2006, with a significant drop in 2015, coinciding with marriage becoming available to same-sex couples in Scotland in December 2014. However, the introduction of mixed-sex civil partnerships in June 2021 had led to an increase in the number of couples entering civil partnerships. There were 499 civil partnerships in 2021, the highest number since 2013. 411 of the 499 civil partnerships registered in 2021 involved mixed-sex couples. Of those involving same-sex couples, 49 involved male couples and 39 involved female couples.

There were 24,284 marriages in 2021, of which 819 involved same-sex couples. This is more than double the number of marriages that took place in 2020 when the COVID-19 pandemic caused the closure of Registry offices between March and June 2020.

NRS analysis shows that, despite the increase from 2020 to 2021, the number of marriages in 2021 is historically low and marks a continuation of a downward trend seen in recent years.

NRS analysis also shows the average age of marriage has increased over time. In 2021 the average age of marriage was 34.8 years for men and 33.0 years for women (NRS, 2022c).

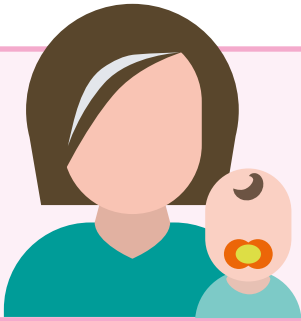
Figure 57: Civil partnerships and same-sex marriages, 2011–2021



(Source: National Records of Scotland)

Birth rates

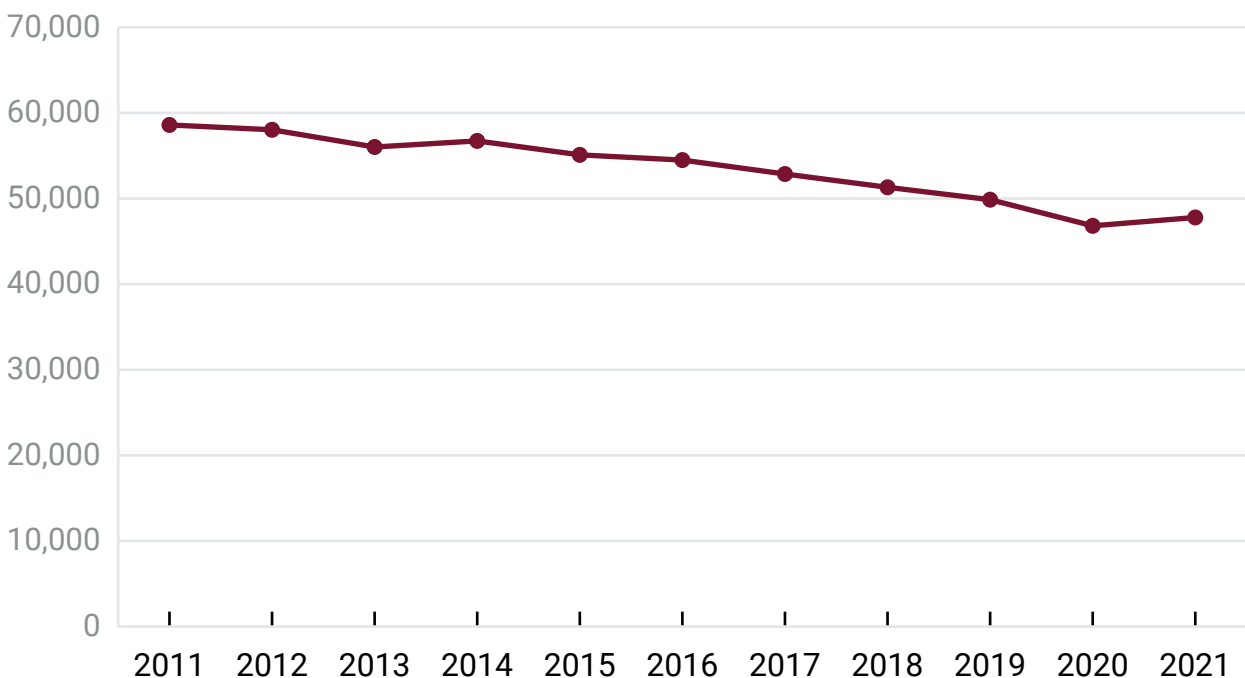
In Scotland, the birth rate declined overall between 2008 and 2020 but increased slightly in 2021. Despite this slight increase, the number of live births registered in 2021 (47,786) was the second lowest annual total since records began in 1855. Maternal age in Scotland is increasing.



In 2021, 59% of women were 30 or older at the time of giving birth, the highest proportion since reporting began in 1946–1950 (NRS, 2022c).

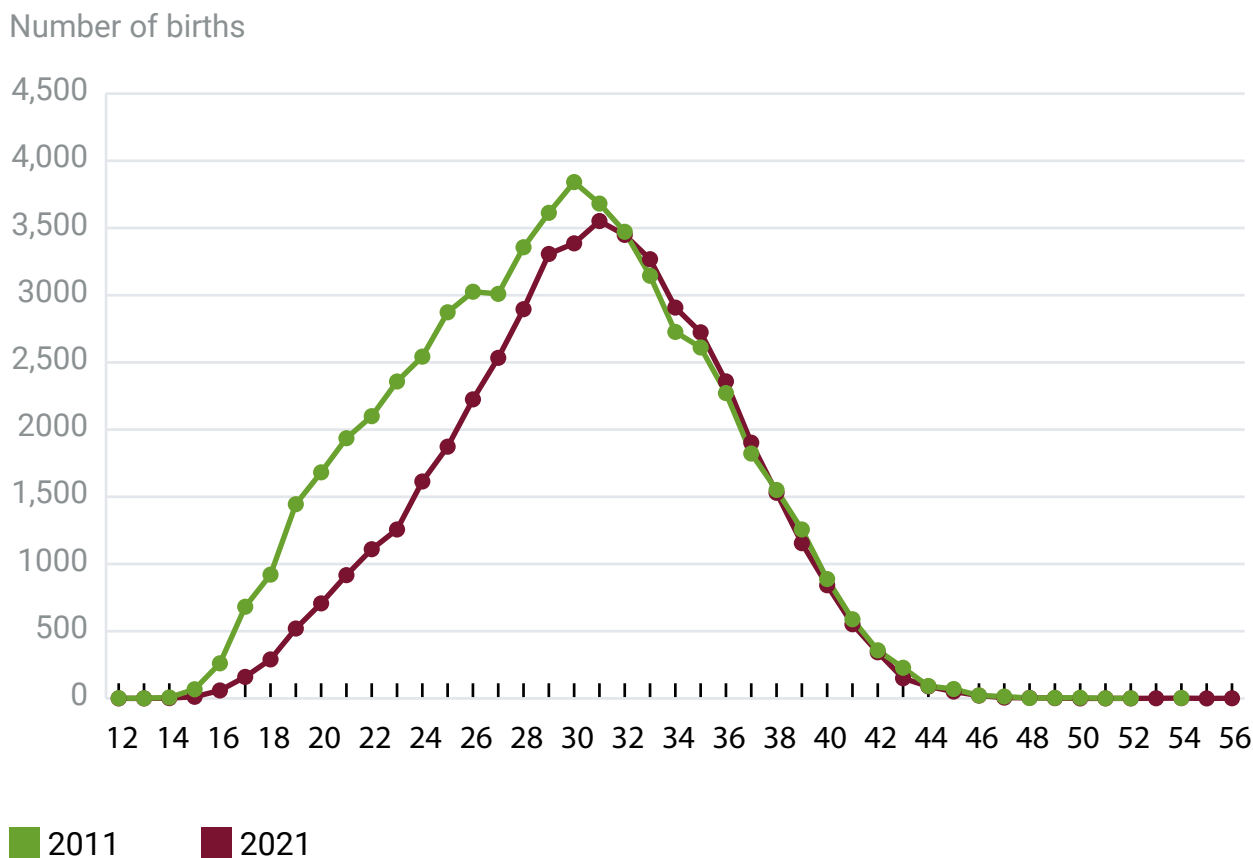
Figure 58: Births in Scotland 2011–2021

Number of births



(Source: National Records of Scotland)

Figure 59: Births by mother's age, 2011 and 2021



(Source: National Records of Scotland)

Policy and legal developments

National Advisory Council on Women and Girls (NACWG)

In 2017, the Scottish Government established the NACWG to provide independent strategic advice on measures to end sex-based inequality in Scotland. The Scottish Government committed to implementing several of the group's final recommendations (NACWG, n.d.), including to:

- integrate intersectional 'gender budget analysis' into the Scottish Budget process
- review the Public Sector Equality Duty (PSED) Scottish specific duties, and
- consider expanding the mandate of the Scottish Human Rights Commission.

Phase Two, launched in March 2022, will consist of the NACWG taking on a scrutiny role for three years to ensure the delivery of the recommendations (NACWG, 2021).

Education

In 2020, the Scottish Government established the Gender Equality Taskforce in Education and Learning with the aim of developing recommendations on how gender equality can be embedded in all aspects of learning. The taskforce's Theory of Change report (Scottish Government, 2022a) sets out its areas of focus and recommendations for future work, including programmes to enable educational leaders to tackle inequality. The taskforce is now focusing on the implementation of its recommendations.

The Gender Based Violence in Schools Working Group was also established in 2020 to inform the taskforce's work and develop a national framework to prevent and respond to harmful behaviour and sex-based violence in schools. The group's work is due to conclude in 2023.

Work

A Fairer Scotland for Women: Gender Pay Gap Action Plan (Scottish Government, 2019a) aims to reduce the pay gap between men and women and address labour market inequalities, including tackling workplace harassment and sexism. The plan committed the Scottish Government to further analysis on:

- the Scottish Budget's impact on gender
- improving the intersectional data available for the development of future national and local government policies, and
- the incorporation of women's equality into the Scottish social security charter (Social Security Scotland, 2019).

A refreshed Fair Work action plan (Scottish Government, 2022b) brought together the original Fair Work, Gender Pay Gap, and Disabled People's Employment action plans.

Support for workers and employers

The Women Returners Programme (Scottish Government, 2020) aims to help women to return to work after a career break by providing one-to-one bespoke support, advice and access to opportunities.

The Workplace Equality Fund, launched in 2018, offers financial support to Scottish employers who are trying to improve their outcomes for defined priority groups, including women workers, women returning to the workplace after a career break, workers experiencing sex-based violence and those experiencing symptoms of the menopause (Workplace Equality Fund, n.d.). In 2019/20, the fund distributed £800,000 to 24 organisations.

Legal powers

In a Supreme Court case in 2021, a woman in Scotland claimed that the UK government had failed to provide an effective remedy for harassment by her former employer on the grounds of sex, race and religion because it had failed to enact legislative provision enabling a Scottish employment tribunal to grant a warrant for an interim remedy to freeze the employer's bank account to protect funds to meet a financial claim.⁶⁷

The case clarified that the Court of Session and the Sheriff Court already have power to grant a warrant to provide interim security for a claim for discrimination or harassment that a worker has made to an employment tribunal. The Supreme Court did not agree that the UK government needed to provide an additional remedy.

Living standards

The Scotland Act 2016 gave the Scottish Government new powers relating to social security.⁶⁸ Social Security Scotland was established in 2018 and implements devolved social security policy areas.

In 2018, the Best Start Grant began taking applications in Scotland. It is made up of three payments:

- Pregnancy and Baby Payment replaced the Sure Start Maternity Grant in Scotland from December 2018. The change expanded the benefit by over £100 and broadened eligibility by not limiting the number of children supported and extending the application window.
- Early Learning Payment is a new payment with no UK equivalent that became available in April 2019. It is a payment of £252.50 to the parent or carer of a child aged between two and three and a half years to help with the costs of early learning, such as nursery.
- School Age Payment is a new payment with no UK equivalent that became available in June 2019. It is a payment of £252.50 to help with the costs of a child entering school.

67 *Anwar v The Advocate General for Scotland (representing the Secretary of State for Business, Energy and Industrial Strategy) (Scotland) [2021] UKSC 44.*

68 The Social Security (Scotland) Act 2018 set out to deliver social security benefits in line with the principles outlined in the 2016 Act, though not all powers contained within the 2018 Act have been enacted.

Health

The Women's Health Plan (Scottish Government, 2021a) sets out 66 actions aimed at ensuring that all women receive the best possible healthcare throughout their lives. The actions cover issues such as better mental health support, access to specialist menopause services and improving access to abortion and contraception. The first Women's Health Champion for Scotland was appointed in 2023 to help drive forward the actions in the Women's Health Plan (Scottish Government, 2023a).

'A Stronger and More Resilient Scotland: The Programme for Government 2022–23' (Scottish Government, 2022c) commits the Government to support an MSP in developing their Abortion Services Safe Access Zones (Scotland) Bill. This would introduce 'buffer zones' around healthcare settings that provide abortion services.

In December 2022, the Supreme Court ruled in favour of the competence of legislation introducing such buffer zones in Northern Ireland, paving the way for similar legislation in Scotland.⁶⁹

'Delivering for Today, Investing for Tomorrow: The Government's Programme for Government 2018–19' (Scottish Government, 2018) committed to expand the range of perinatal mental health support available to women, including increased counselling support for less acute issues and better specialist support for moderate to acute problems. The Perinatal and Infant Mental Health Programme Board was set up in 2019 to oversee significant investment in perinatal and infant mental health services across Scotland over four years.

Latest statistics on probable suicide in Scotland show that 75.0% of people who died by suicide in 2021 were men (Public Health Scotland, 2022a). Since the early 2000s, there has been a strategic plan in place in Scotland for suicide prevention to address high numbers of men dying by suicide. In 2022, the Scottish Government and the Convention of Scottish Local Authorities (COSLA) launched a new 10-year suicide prevention strategy, supported by an initial three-year action plan.

⁶⁹ Reference by the Attorney General for Northern Ireland – Abortion Services (Safe Access Zones) (Northern Ireland) Bill [2022] UKSC 32.

Justice

'Equally Safe', Scotland's strategy to eradicate violence against women and girls, was originally published in 2014 and has been updated several times. The most recent version (Scottish Government, 2022d) includes actions to invest £100 million over three years in frontline services with a focus on prevention of violence against women and girls (VAWG), as was committed to in 'A Fairer, Greener Scotland: Programme for Government 2021–22' (Scottish Government, 2021b).

The latest plan also contains actions to:

- raise awareness of so-called 'honour-based' violence
- implement a bespoke strategy for Police Scotland to tackle all forms of violence, abuse and intimidation of women and girls, and
- work with COSLA to encourage more women to stand for election.

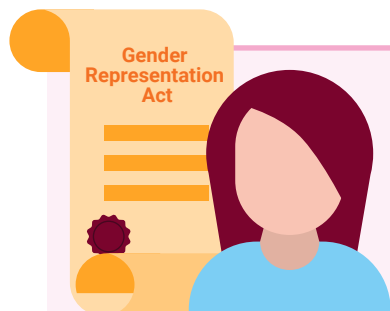
It is too early to determine the impact of the above actions.

The Independent Working Group on Misogyny and Criminal Justice's final report, *Misogyny – A Human Rights Issue* (Scottish Government, 2022e), recommended creating new criminal law provisions in four areas:

- a statutory aggravation to relate to misogynistic conduct where a crime such as assault, criminal damage / vandalism or threatening or abusive behaviour is aggravated by misogyny
- an offence of stirring up hatred against women
- an offence of public sexual harassment of women, and
- an offence of issuing threats of, or invoking, rape or sexual assault or disfigurement of women and girls online and offline.

A Stronger and More Resilient Scotland: The Programme for Government 2022–23 (Scottish Government, 2022c) committed to consult on the recommendations and progress them through a Misogyny and Criminal Justice Bill. The consultation on five new proposed criminal offences began in March 2023.

Participation



The Gender Representation on Public Boards (Scotland) Act 2018 aims to improve the representation of women in non-executive positions on public boards.

It introduced the 'gender representation objective' for women to make up 50% of non-executive board membership.

How the Act defined 'woman' was subsequently the subject of litigation. In the first judicial review of this Act in February 2022, *For Woman Scotland v Lord Advocate Court of Session Inner House*,⁷⁰ it was held that the definition adopted in the Act impinged on the nature of protected characteristics, which was a reserved matter. Section 2 of the Act, as originally enacted, defined 'woman' as including a person who had the protected characteristic of gender reassignment, within the meaning of section 7 of the Equality Act 2010, if the person was living as a woman and was proposing to undergo, was undergoing or had undergone a process, or part of a process, for the purpose of becoming female. The court found that changing the definitions of protected characteristics, even for the purpose of achieving a gender representation objective, was not permitted and in that respect the Gender Representation on Public Boards (Scotland) Act was outside the legislative competence of the Scottish Parliament.

The judgment on the second judicial review of the Act in December 2022 stated that, for the purposes of the Equality Act, sex is 'not limited to biological or birth sex, but includes those in possession of a GRC [gender recognition certificate] obtained in accordance with the [Gender Recognition Act 2004] stating their acquired gender, and thus their sex'. That judgment is currently under appeal.

⁷⁰ *For Women Scotland v the Lord Advocate and the Scottish Ministers* [2022] CSIH 4.

A cross-party group report, *A Parliament For All* (Scottish Parliament, 2023), suggests ways to strengthen the balance between the sexes in the Scottish Parliament. Its recommendations include:

- a ban on single-sex committees
- proxy voting for parental leave, illness and caring leave
- better equality data collection in terms of Members of the Scottish Parliament (MSPs) protected characteristics, and
- consideration of sitting times and their impact on full participation.

Legal meaning of sex

Court decisions

There has been significant litigation about the legal definition of sex and how this applies to people who are trans and who live and present in a sex which is different to that recorded at birth.

There have been cases in England and Wales and in Scotland on how trans people should answer questions about their sex in the censuses. The High Court in England found it strongly arguable that references to sex in census law are ‘to a person’s sex as recognised by law and not the sex with which the person identifies’. However, in a case brought to challenge the definition of sex in Scotland’s census, the Scottish Outer House found it was lawful to use a broader definition of sex to include ‘lived sex’.⁷¹

Proposed legislation

The Scottish Parliament has sought to legislate to make it easier for trans people to obtain a GRC to change their legal sex through the Gender Recognition Reform (Scotland) Bill. However, this has been subject to a legislative veto by the UK government on the grounds it would have an ‘adverse effect’ on the operation of equality law, which is a reserved (non-devolved) area.

71 *Fair Play for Women v National Records of Scotland* [2022] CSOH 20.

In April 2023, the Scottish Government lodged a petition with the Court of Session, seeking a judicial review of the UK government's use of section 35 of the Scotland Act to stop the Bill going forward to royal assent and becoming law as the Gender Recognition Reform (Scotland) Act. The petition is scheduled to be heard by Lady Haldane at the Court of Session in September 2023.

Marriage and civil partnerships

The Civil Partnership (Scotland) Act 2020 enables 'persons of different sexes to be in a civil partnership'.

This legislation followed a UK Supreme Court decision that previous arrangements, which did not allow such partnerships, were incompatible with Article 14 of the European Convention on Human Rights (ECHR), read with Article 8.⁷²

The Marriage and Civil Partnership (Minimum Age) Act 2022 increased the age of marriage and civil partnership from 16 to 18 years old in England and Wales, a change which the UK government said was aimed to protect children from forced marriage, which disproportionately affects girls. However, in Scotland, 16 years old remains the lower age limit of marriage and civil partnership. The Scottish Government have yet to announce any plans to progress legislation, despite calls from the Children and Young People's Commissioner Scotland (CYPCS) and others to raise the age to 18 years old (NICCY, CYPCS, CPC, 2022).

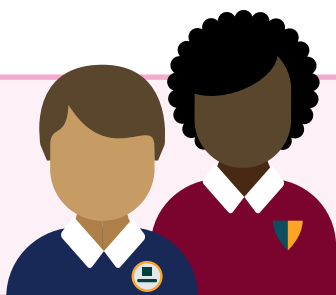
72 R (on the application of Steinfeld and Keidan) v Secretary of State for International Development (in substitution for the Home Secretary and the Education Secretary) [2018] UKSC 32.

Outcomes

Education

The COVID-19 pandemic severely disrupted education and its long-term impacts on educational outcomes remain to be determined. However, some trends identified in our last report, *Is Scotland Fairer?* (EHRC, 2018), have continued, particularly in relation to attainment levels and exclusions.

Attainment rates



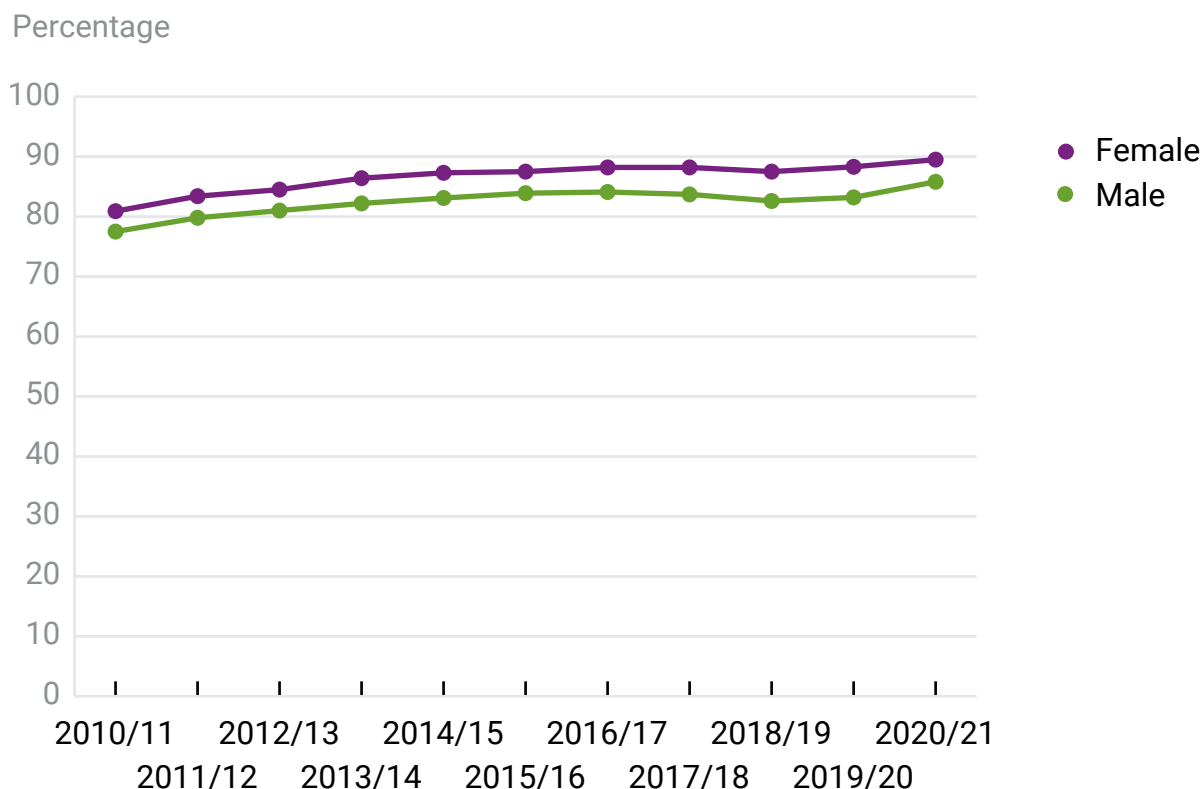
Girls consistently outperform boys academically in all areas, from early years to higher education.

Since 2016/17, there has been a positive trend of improvement in early years' attainment for both girls and boys, but the attainment gap has remained constant at around 8 percentage points. Among Primary 1 pupils, 73.7% of girls and 65.6% of boys achieved the expected Curriculum for Excellence (CfE) level in all four organisers in 2020/21. Scottish Government analysis of early years' education shows that, in 2020/21, girls outperformed boys in listening and talking, reading and writing.

The attainment gap continues at primary and secondary school level. Among primary school pupils, the largest difference in performance was in writing in Primary 7⁷³ with girls outperforming boys by 13 percentage points in 2021/22 (Scottish Government, 2022f). Analysis of Scottish Government attainment data found that, between 2010/11 and 2020/21, a greater proportion of girls than boys consistently achieved one or more pass at SCQF Level 5 or higher.

⁷³ The final year of primary school in Scotland. Primary 7 is equivalent to Year 7 in England and Wales.

Figure 60: Proportion of pupils achieving one or more qualifications at SCQF level 5, 2010/11 to 2020/21, by sex

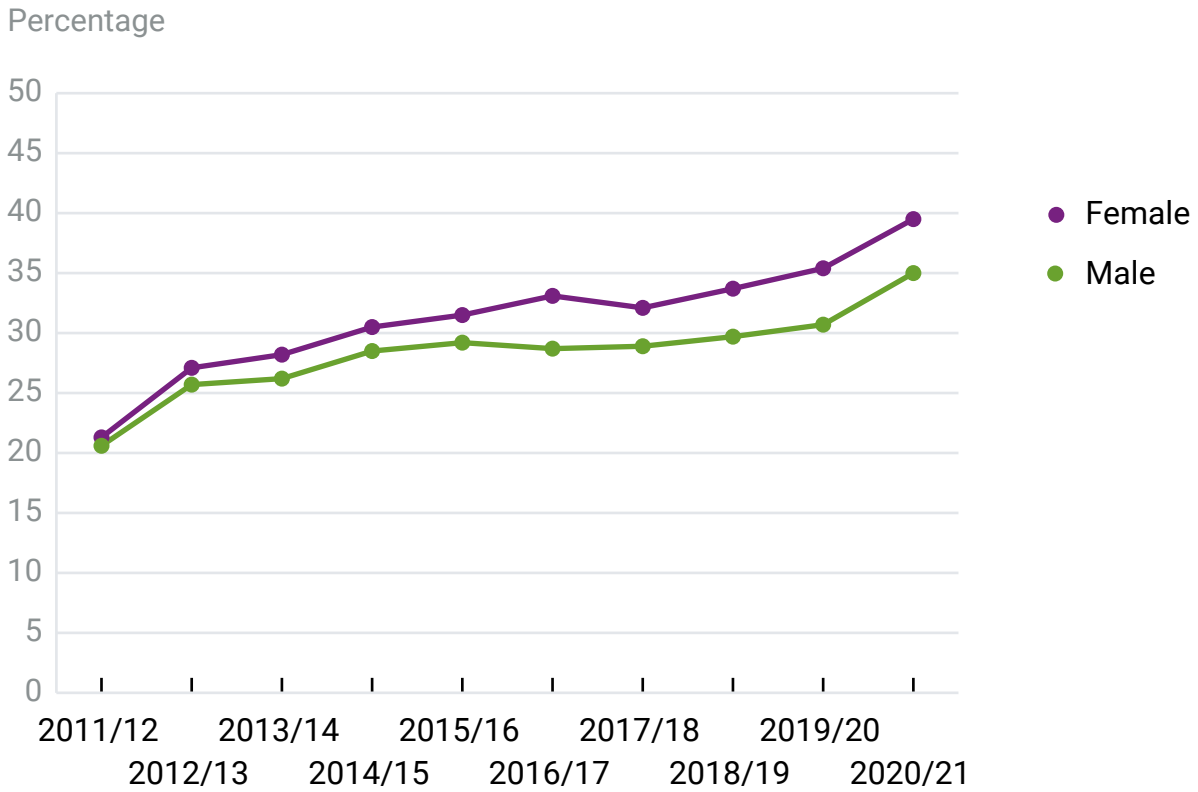


(Source: EHRC analysis of Scottish Government data)

At SCQF level 6 (Scottish Highers), the attainment gap between male and female pupils is even more pronounced. In 2020/21, 60.6% of boys achieved the required qualification at SCQF level 6, 10.9 percentage points lower than among girls (71.5%).

In higher education, there has been a steady increase in adults aged 25–64 having a degree. More women have degree qualifications than men and this gap is widening. In 2011/12, there was a 0.8 percentage point gap between the two groups, which widened to 4.5 percentage points by 2020/21. The gap between women and men with degree qualifications has been statistically significant since 2013/14.

Figure 61: Proportion of adults aged 25 and over with degree-level qualifications, 2011/12 to 2020/21, by sex

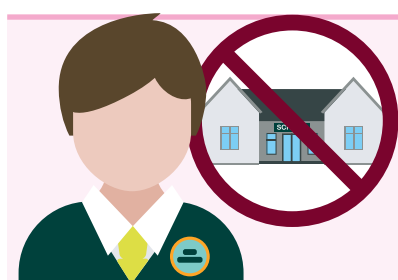


(Source: EHRC analysis of Scottish Government data)

Exclusions

Male pupils are more likely than girls to be at risk of exclusion. The group with the highest exclusion rate in 2020/21 was boys in special schools⁷⁴ (39.9 cases per 1,000 pupils),⁷⁵ followed by boys in secondary schools (33.0 cases per 1,000 pupils).

Male over-representation in exclusions is a consistent trend over time.



In 2018/19, the exclusion rate was more than three times higher for male pupils than female pupils (33.4 cases compared with 9.5 cases per 1,000 pupils).

Work

Employment before the pandemic

In Scotland, men are more likely to be employed than women.

In 2019/20, 55.5% of women were employed compared to 63.6% of men. However, between 2011/12 and 2019/20, the employment gap narrowed by 2.3 percentage points, as female employment rates grew faster than male employment rates.

74 These statistics relate to pupils in publicly funded special schools in Scotland. Statistics on exclusions of pupils in special schools that are members of the Scottish Council for Independent Schools are not collected by the Scottish Government.

75 There are currently 19 special schools in Scotland. These schools have been created to address the educational needs of those with severe learning difficulties for whom regular classroom education is not possible.

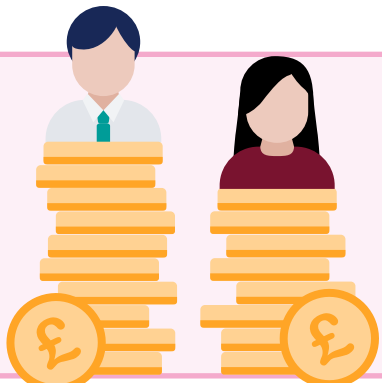
Employment during the pandemic

Scotland's employment gap between men and women was unaffected by the pandemic, as there was no significant change in the sex employment gap between 2019/20 and 2021/22.

However, research by advocacy organisations, Close the Gap and Engender, showed that some women experienced disproportionate job disruption and related financial implications during the pandemic. Intersectional analysis revealed that disabled and ethnic minority women experienced comparatively poorer outcomes than other women and men. During the pandemic, 39% of ethnic minority women lost working hours compared with 14% of White women. Disabled women were more likely to struggle to make ends meet (57%) than non-disabled women (35%), disabled men (46%) and non-disabled men (28%). Both ethnic minority and disabled women were significantly more likely to feel unfairly selected for furlough (Close the Gap and Engender, 2021).

Earnings

Men in Scotland are more likely to earn a higher hourly wage than women. APS analysis suggests that in 2019/20, men's median hourly earnings were 14.9% higher than women's, though APS analysis showed no significant change in the pay gap between 2010/11 and 2019/20. In contrast, the Annual Survey of Hours and Earnings (ASHE), a more accurate measure of the pay gap, shows that the pay gap between women and men has significantly narrowed between 2010 and 2019.



According to ONS analysis of ASHE data, in Scotland, men's median hourly earnings were 17.3% higher than women's in 2010. This gap narrowed to 14.4% by 2019/20 (ONS, 2022a; 2022b).

Analysis of pay gap statistics reveals the pay gap is largest for women aged 40 and over (Stockland et al., 2022). UK-wide longitudinal analysis suggests that pay gaps for older workers are strongly associated with child rearing. Evidence shows that gender pay gaps begin to widen in the years that follow the birth of a first child.

After having a child, women are significantly more likely than men to reduce their labour market participation by reducing their hours or having a gap in their employment. Reduced labour market participation then appears to have a long-term impact upon the earning potential for some women (Andrew et al., 2021).

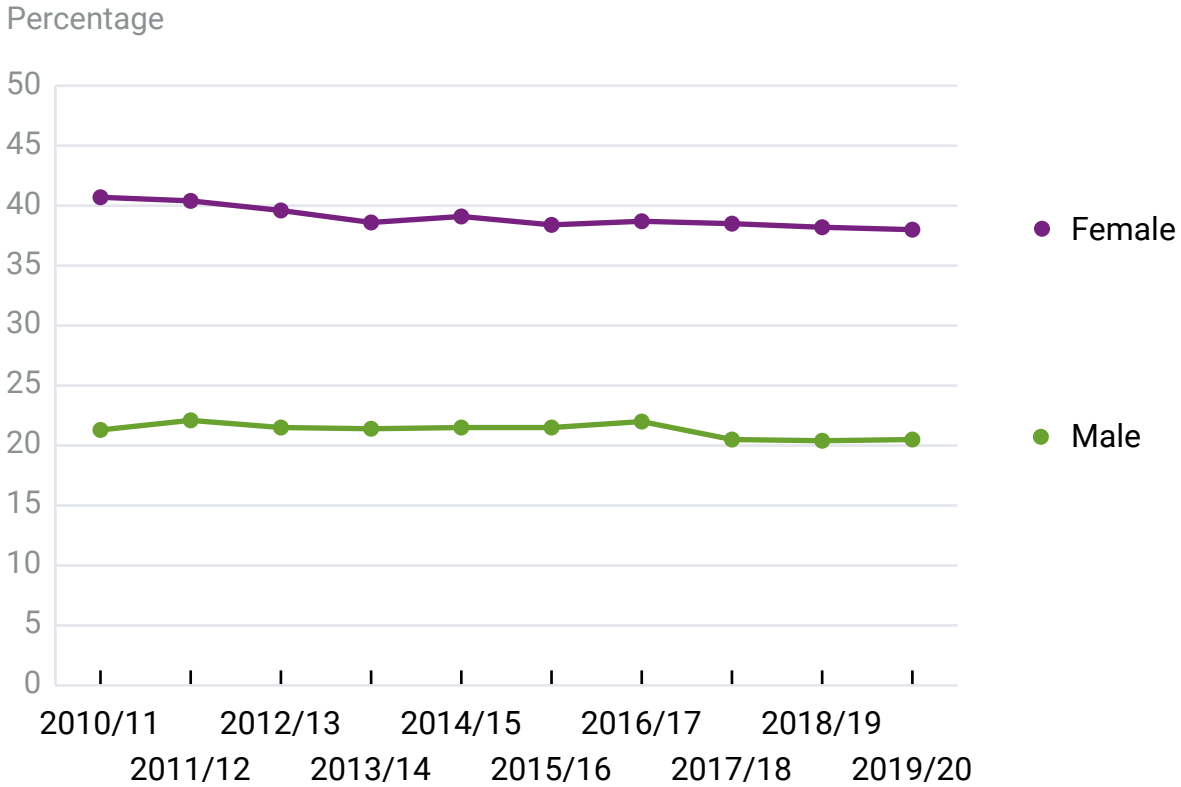
Aside from child-rearing, similar penalties may incur for other female caring responsibilities, as research shows that women are also more likely than men to act as carers for grandchildren and other adults (Scottish Government, 2021c; Stockland et al., 2022).

Child-rearing penalties in earnings may also come in the form of the choice of job or sector that women decide upon after having children. Evidence suggests that, when choosing a job, women are more likely than men to sacrifice wages in favour of a job which allows them the flexibility to accommodate their family commitments. This may lead women into jobs or sectors which are less well paid.

More generally, women are over-represented in occupational sectors which pay less. While some female-dominated sectors have lower than average pay gaps, such as caring, leisure and service (2.5% gender pay gap), analysis suggests that smaller pay gaps in certain sectors do not necessarily represent progress. Instead, differences in pay by sex are disguised by female occupational segregation, as women are concentrated in sectors of the labour market characterised by low pay (Close the Gap, 2022).

Analysis of APS data supports this view. In 2019/20, 38.1% of female workers were in a low-paid occupation (LPO) compared with 20.5% of male workers. However, since 2010/11, the gap between male and female rates of low-paid employment has narrowed, driven by a declining proportion of female workers in an LPO. This trend has accelerated over the past two years.

Figure 62: Proportion of adults in low-paid employment, 2010/11 to 2019/20, by sex

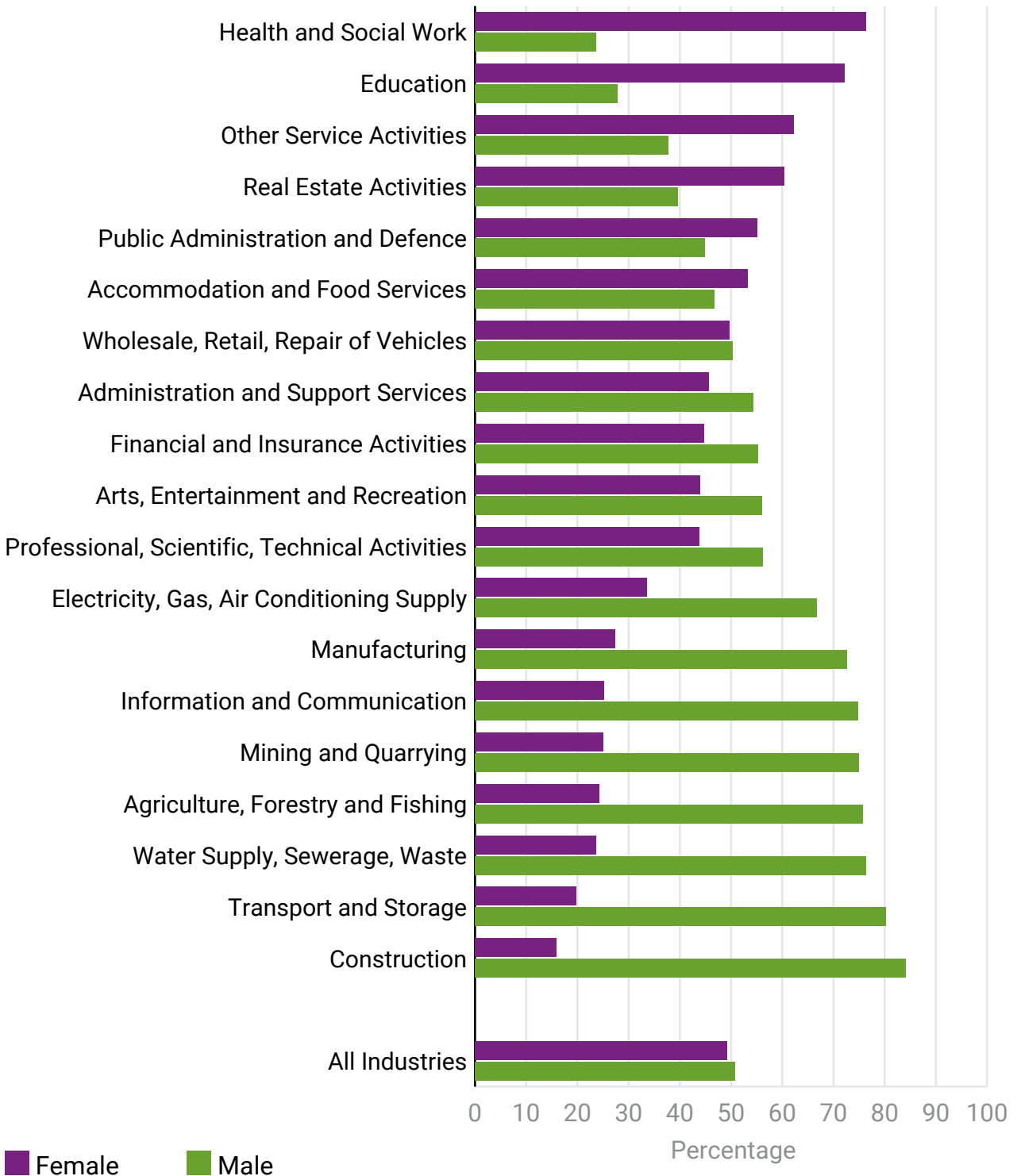


(Source: EHRC analysis of Scottish Government data)

Occupational segregation

The Scottish labour market continues to be typified by segregation by sex across industry sectors. Women made up 76.3% of the health and social care workforce in 2020/21, while the construction industry had the highest proportion of male workers (84.1%) (Scottish Government, 2021d).

Figure 63: Segregation across industry sectors, by sex⁷⁶



(Source: Scottish Government)

76 Estimates for the proportion of female workers in 'Water Supply, Sewerage, Waste', and 'Electricity, Gas, Air Conditioning Supply' categories were based on small estimates so have limited robustness.

Sex, including pregnancy and maternity, and marriage and civil partnership

Strong sex segregation in apprenticeships reflects the labour market. Male and female participation in Foundation and Modern Apprenticeships is still heavily concentrated in different occupational areas (Scottish Government, 2021e). Among Foundation Apprenticeships at SCQF Levels 4, 5 and 6, there continues to be significant sex segregation. This was particularly the case in frameworks such as Construction (95.1–97.2% of starts were by men in 2021) and Social Services (91.9–94.6% of starts were by women in 2021) (Skills Development Scotland, 2023a), mirroring sex segregation within the labour market.

Occupational segregation had disproportionate effects on women during the pandemic. Women were more likely to work in retail and hospitality, sectors with particularly high rates of furlough and redundancy that accounted for just under half (45%) of furloughed jobs, putting women at heightened risk of lost hours and earnings (Close the Gap, 2021).

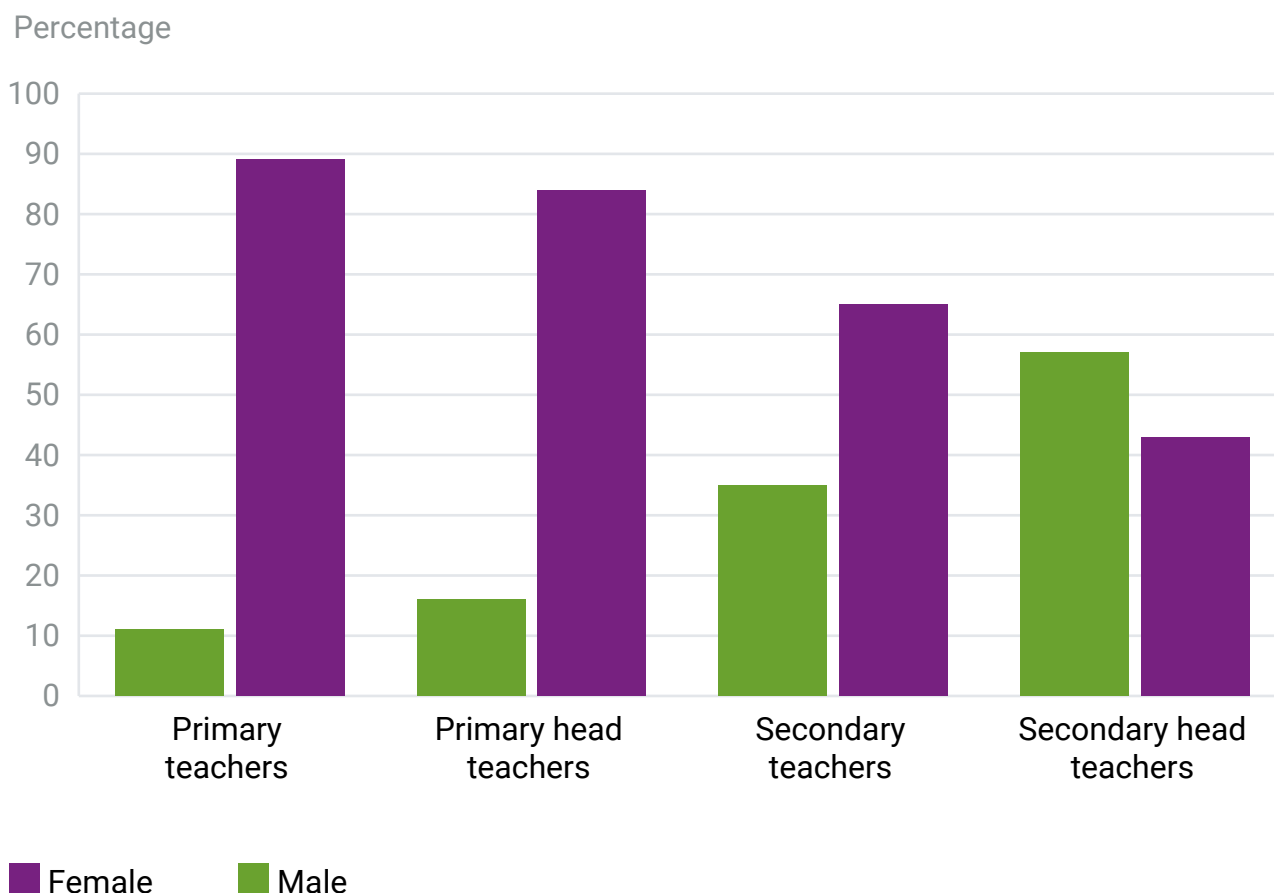
However, occupational segregation also impacted male labour market participation during the pandemic. Between 2019/20 and 2020/21, there were large decreases in employment in construction and manufacturing sectors (Scottish Government, 2021d). A 2020 survey of Scottish employers found that, alongside the hospitality sector, 21% of employers in the manufacturing sector had made or were about to make redundancies (Scottish Government, 2021f). The APS for 2020/21 showed that 72.6% of workers in this sector were male (Scottish Government, 2021d).

Women are over-represented in the teaching workforce but less likely to hold senior positions than men.



At primary level, 89% of teachers are women and 84% of head teachers are women. The difference is larger at secondary level, where women make up 65% of teachers but only 43% of head teachers (Scottish Government, 2022g).

Figure 64: Proportion of men and women in teaching, by education level and seniority



(Source: Scottish Government)

Apprenticeships

In April to December of 2022/23, 36.8% of Modern Apprenticeship starts were by women, 1.9 percentage points lower than in the same quarter in 2019/20 (Skills Development Scotland, 2023b). In 2021/22, 61.3% of Foundation Apprenticeship starts at SCQF Level 6 were by women, an 11.6 percentage point increase since 2016.

Since pilot Foundation Apprenticeships at SCQF Levels 4 and 5 were introduced in 2019 (in Hospitality, Construction and Automotive), most enrolments have been among male pupils. In 2021/22, 83.9% of enrolments at SCQF Levels 4 and 5 were by men (Skills Development Scotland, 2023a).

Workplace sexual harassment

Women continue to experience sexual harassment at work and barriers to reporting this. A self-selecting Scottish Trades Union Congress (STUC) survey found that 45% of the 633 women who responded had experienced sexual harassment at work (STUC, 2022), one in three of them within the previous year, and 40% of all respondents said that sexual harassment was an issue in their workplace. Women found significant barriers to reporting any harassment and 85% of those who experienced sexual harassment at work did not believe their complaint would be taken seriously or dealt with appropriately. Sexual harassment was more common in precarious, low-paying, public-facing and male-dominated industries (STUC, 2022).

Living standards

Women's generally unequal position in the labour market increases their likelihood of experiencing financial insecurity. This was highlighted during the pandemic.

Poverty and wealth

Scottish Government analysis of Family Resources Survey (FRS) data shows that relative poverty rates after housing costs are similar between men and women but differ when for different household types into account (Scottish Government, 2023b).

Their analysis shows that in 2019–2022, poverty rates were highest for single women with dependent children (36.2%) and single men without dependent children (35.6%), some 16 percentage points higher than for the total adult population. Poverty rates were also higher for single female pensioners (23.1%) compared to single male pensioners (17.9%), though both had rates higher than pensioner couples (11.1%).

Households headed by women are more likely to be financially vulnerable⁷⁷ than households headed by men, indicating that they have low levels of savings. The Scottish Government's Wealth in Scotland data shows that, in 2016–2018, 37% of female-headed households were financially vulnerable compared with 28% of male-headed households. In 2018–2020, the proportion of financially vulnerable households had fallen, though a sex gap persisted (Scottish Government, 2022h).

Figure 65: Proportion of households that were financially vulnerable in 2016–2018 and 2018–2020, by sex of household head



(Source: Scottish Government)

⁷⁷ Financial vulnerability means that household savings would cover less than one month of income at the poverty line.

Female-headed households are less likely to own property, a trend that has remained unchanged over time, according to Wealth in Scotland data.

In 2018–2020, 70% of male-headed households owned property, compared with 59% of female-headed households (Scottish Government, 2022h).

These outcomes also differ by household composition. Financial vulnerability (64%) was highest and home ownership (29%) was lowest among lone parents (Scottish Government, 2022a). Single parents are disproportionately female, with around nine in ten single-parent households in Scotland headed by women in 2022 (ONS, 2023). This data does not cover the period of increased cost of living.

Scottish Government analysis of FRS data found that levels of food insecurity were higher among women (10.9%) compared to among men (6.2%) in 2019–2022. The highest rates were among single women with dependent children (33.6%) and single men without dependent children (20.5%) (Scottish Government, 2023b).

Social care

Women are more likely than men to provide informal social care. In 2021, the Scottish Health Survey found that 18% of women aged 16 and over provided informal care, compared with 13% of men. Informal caring by both men and women is highest among those aged 55–64. In 2021, 27% of women and 23% of men in this age group were informal carers (Scottish Government, 2022i). Women are also more likely to be the recipients of care. In 2020/21, 61% of adult social care users were women (Public Health Scotland, 2022b).

Marriage and civil partnership

Poverty remains lower among married and widowed adults than among single, divorced or separated adults. In 2019–2022, 13.7% of adults who were married or in a civil partnership, and 16.6% of cohabitants were in poverty, half the rate of single (31.0%) and of divorced or separated adults (30.8%).

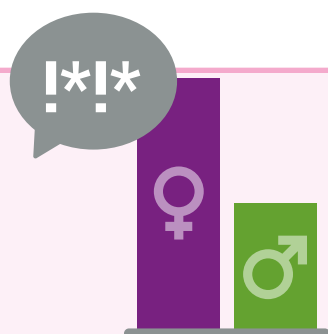
Child poverty was higher in single-parent households (38%) compared with children in other households (20%) (Scottish Government, 2023b).⁷⁸

Married and widowed households also have lower levels of financial vulnerability. Wealth in Scotland analysis shows that single, divorced or separated and cohabiting household heads were around twice as likely to be financially vulnerable in 2018–2020 as married or widowed households. Nearly half (48%) of single households were vulnerable and a fifth of married households (19%) were financially vulnerable (Scottish Government, 2022h).

Justice

Women continue to be more likely to experience sexual and sex-based violence than men.

Our analysis of the Scottish Crime and Justice Survey was not able to estimate the prevalence of rape offences in Scotland.⁷⁹ However, published analysis of Scottish Crime and Justice Survey shows that women are more likely to have experienced serious sexual abuse than men. In 2018/20, 6.1% of women had experienced a serious sexual assault since the age of 16, compared with 0.8% of men (Scottish Government, 2021g).



Women (21.2%) are almost twice as likely than men (11.2%) to have experienced partner abuse since the age of 16 (Scottish Government, 2021g).

⁷⁸ This three-year average excludes data collected during 2020/21.

⁷⁹ In our data tables, which focus on a single year of data, the standard errors are too large to accurately estimate the prevalence of rape offences in Scotland.

Crime recording

The number of police-recorded sexual crimes in Scotland has risen. The number of sexual crimes in the year ending December 2022 was 10% higher than in 2018, increasing from 13,335 to 14,640 crimes, including an 8% rise in recorded rape and attempted rape, from 2,351 to 2,530 (Scottish Government, 2023c).

Prison population

There is evidence that women are disadvantaged within the CJS.

In 2021/22, the average prison population in Scotland was 7,504, an increase from 2020/21 (7,339) but a decrease from 2019/20, before the pandemic (8,198) (Scottish Government, 2022j).

Though only 283 of the prisoners in 2021/22 were women, female prisoners may be particularly vulnerable. An academic study found that, in a representative sample of the female prison population, 78% of women had experienced a significant head injury and 40% had an associated disability (McMillan et al., 2021).

There are concerns about the general welfare of women in prison. Quantitative modelling of the prison population revealed that the estimated prevalence of long-term mental health conditions, self-harm and anxiety are all higher for women than for men (Scottish Government, 2022k). Despite this greater mental health need, female prisoners may be disproportionately affected by lengthy waits to access treatment. Inspections by HM Inspectorate of Prisons in Scotland (HMIPS) found that there are long waiting times to access mental health in-patient care in Scotland's prisons and that women are 'at the extreme end' of waiting times (HMIPS, 2022).

Women experienced disadvantages in other detention settings. An inspection of Dungavel Immigration Removal Centre in 2021 revealed that several detainees were men with a history of sexual violence towards women. Before the pandemic, these men were held in a separate unit with controlled access to common parts of the centre. The introduction of infection control arrangements meant that this was no longer considered practicable, and the men were introduced into the general prison population and for several months female detainees had to be continually escorted when moving around the site (HMIP, 2021).

Health

Mental health

The proportion of both men and women reporting symptoms of poor mental health increased between 2015 and 2018, though this increased faster for males. Our analysis of Scottish Health Survey data found that the proportion of men with symptoms indicative of poor mental health rose from 14.2% to 18.0% while the proportion of women with poor mental health increased from 16.9% to 20.6%.⁸⁰ In 2018, there was no significant difference in the prevalence of symptoms of poor mental health between males and females.

The Scottish Health Survey 2021 found that the prevalence of GHQ-12⁸¹ scores of four or more (indicative of a psychiatric disorder) increased between 2019 and 2021 for both men (by 5 percentage points to 20%) and women (by 5 percentage points to 24%) but were still higher for women (Scottish Government, 2022i).

Analysis of mental health inpatient care in 2020/21 found that 54% of patients were men, but that young women aged under-18 were over-represented, making up 65% of mental health inpatients (Public Health Scotland, 2021a).

Pregnancy

Socio-economic deprivation remains a predictor of teenage pregnancy. Those living in Scottish Index of Multiple Deprivation (SIMD) areas of highest deprivation had teenage pregnancy rates five times higher than those in the least deprived areas in 2020. However, Public Health Scotland data analysis shows that teenage pregnancy rates declined between 2011 and 2020, falling fastest in the most deprived areas to narrow the gap with the least deprived areas (Public Health Scotland, 2022c).

80 As measured using the 12-item General Health Questionnaire used to screen for mental health problems in patients.

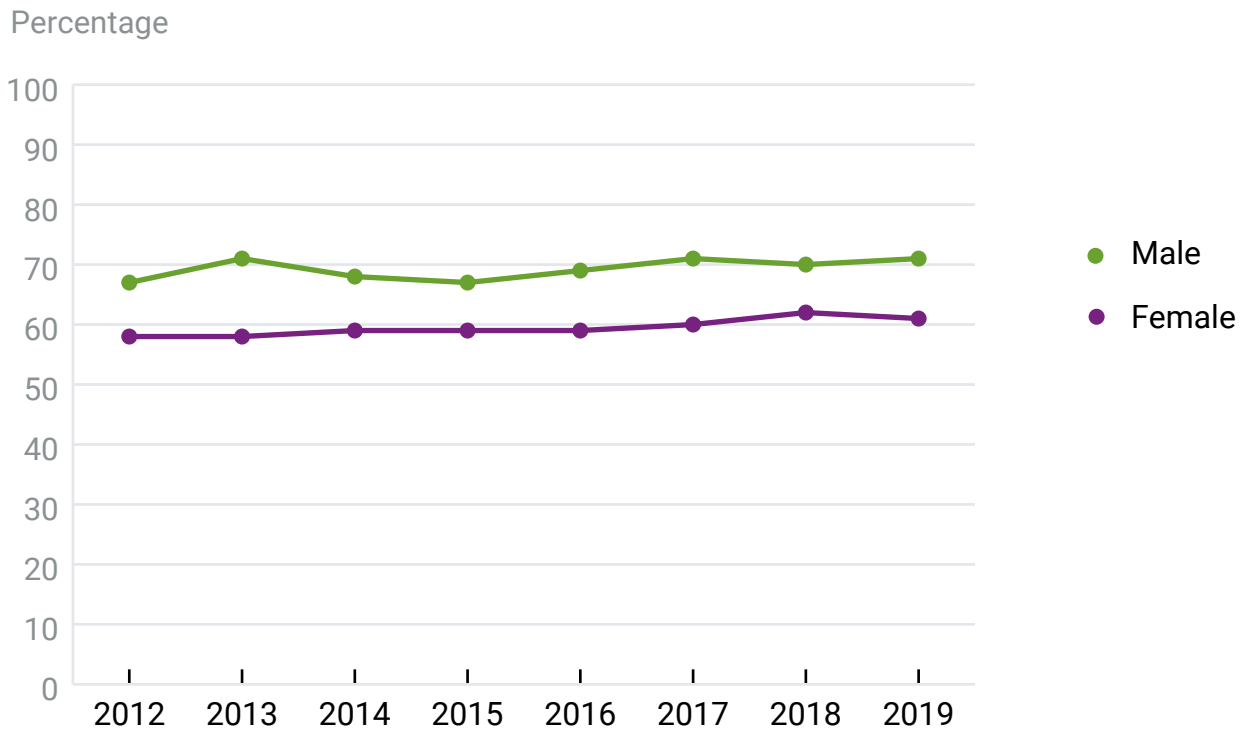
81 The 12-item General Health Questionnaire used to screen for mental health problems in patients.

Participation

Sports and physical activity

The Scottish Health Survey 2021 found that 69% of adults in Scotland met the guidelines for moderate or vigorous physical activity (MVPA). A higher proportion of men (73%) reported adhering to the guidelines than women (65%), reflecting a long-term trend (Scottish Government, 2022i).

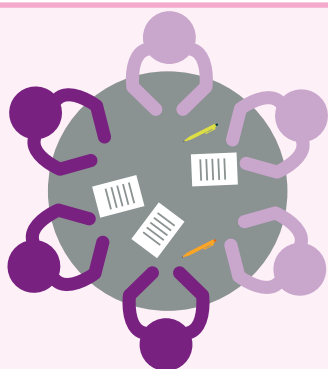
Figure 66: Proportion of adults who met the guidelines for MVPA, 2012–2019, by sex



(Source: EHRC analysis of Scottish Health Survey)

Elected roles and public appointments

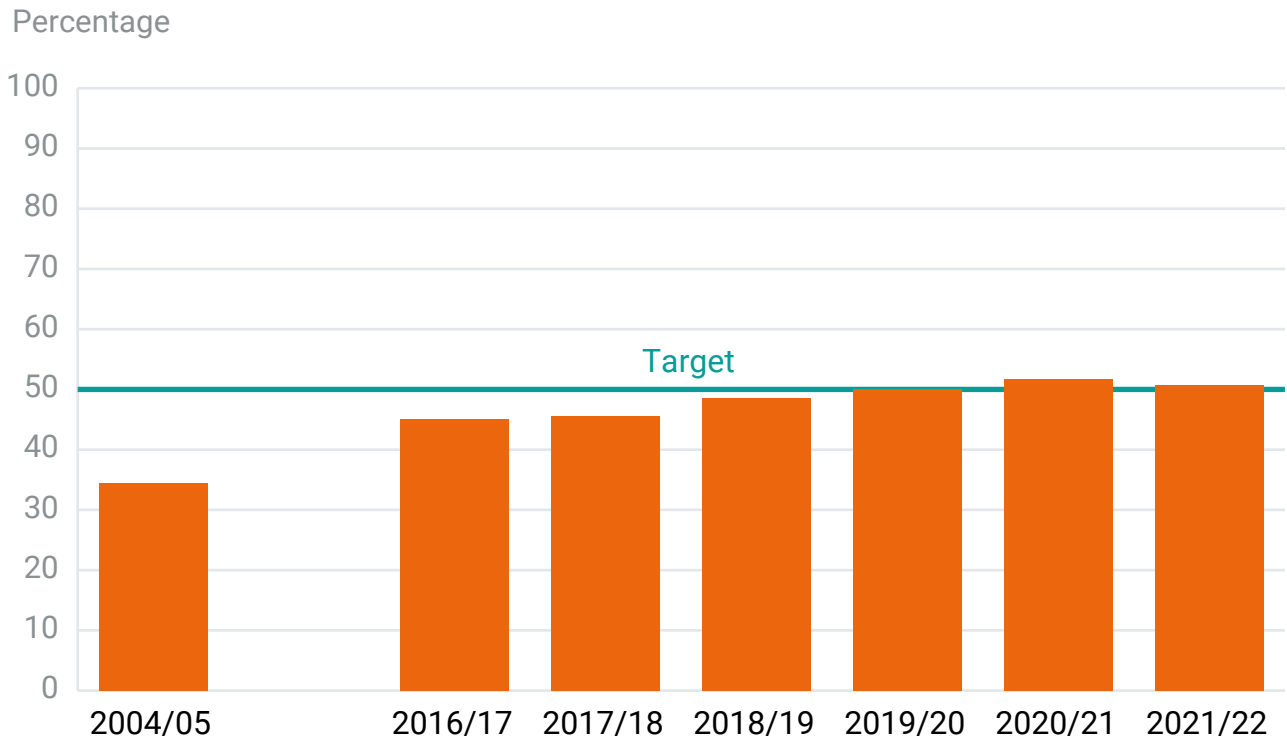
There have been improvements in civic participation as women get closer to equal representation with men as elected officials. In the 2021 Scottish parliamentary election, 58 female MSPs were elected, including the first ethnic minority women to be elected, Scottish Pakistani MSP Kaukab Stewart and Conservative MSP Pam Gosal (Scottish Parliament, 2021). This is the highest number of female MSPs to be elected, though women still only represent 45% of the total seats. Currently, 20 out of 59 Scottish MPs serving in the UK Parliament are female.



In 2021/22, 2020/21 and 2019/20, the proportion of women on public boards met the 'gender representation objective' of 50% set out in the Gender Representation on Public Boards (Scotland) Act 2018, reaching 50.8% in 2021/22.

This marks the continuation of a long-term trend of improvement in equal sex representation on public boards (Ethical Standards Commissioner, 2022).

Figure 67: Female representation on public boards



(Source: Ethical Standards Commissioner)

The Scotland Judicial Attitude Survey 2020 indicated that women were under-represented in all salaried judicial posts in Scotland (Judiciary of Scotland, 2021). The 2016 Judicial Diversity statistics showed that 25.2% of Scottish judges were women (Judiciary of Scotland, 2016) compared with 26.7% in 2022. Summary sheriff is the only role where women exceed 50% representation (Judiciary of Scotland, 2022).

Access to transport

Women are more likely to feel unsafe when using transport services than men.

Transport Scotland's Public Attitudes Survey found that 33% of women expressed concern about their personal safety on public transport, compared with 23% of men. A higher proportion of women (14%) than men (9%) had been the victim of harassment. Women, trans and non-binary people were all less likely than men to feel safe using a bus at night (Transport Scotland, 2022).

Men and boys

There are indications of acute crises for some men. Young and middle-aged men living in the most deprived areas of Scotland fare particularly badly for some health outcomes.

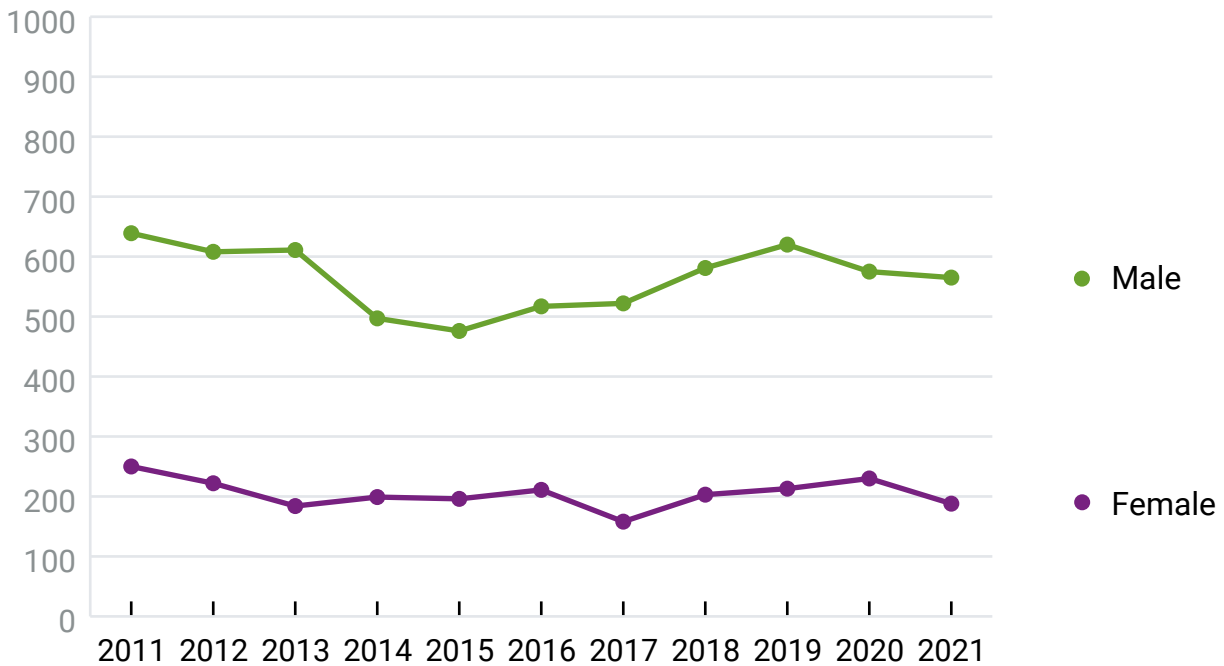
Health Foundation research revealed that socio-economically deprived men aged 15–44 are most at risk of ‘deaths of despair’ due to suicide, drugs or alcohol, which are the leading causes of death of men in this group and account for two-thirds of absolute inequalities in total mortalities in men of this age (Finch et al., 2023).

The male suicide rate is consistently higher than the female suicide rate. Analysis of the Scottish Suicide Information Database (ScotSID) shows that 73.2% of deaths attributable to suicide in 2011–2019 were among men, and 46% of these men were aged 35–54 (Public Health Scotland, 2021b).

In 2021, 75.0% of all probable suicides were male (Public Health Scotland, 2022a). This is a long-term trend. Since 1994, suicide rates among men have been between 2.6 to 3.6 times higher than among women (National Records of Scotland, 2022d). Male suicide rates in Scotland are higher than in England or Wales and this is a long-term trend.

Figure 68: Number of suicides registered in Scotland by sex, 2011–2021

Number of suicides



(Source: National Records of Scotland)

Socio-economic disadvantage is having a significant impact on outcomes for men. The probable suicide rate in the period 2017–2021 was over three times higher in the most deprived areas of Scotland than in the least deprived areas (Public Health Scotland, 2022a).

Analysis of statutory homeless data shows that there continues to be a higher proportion of homelessness applications from men. In 2020/21, 57.8% of applicants assessed as homeless were male, an increase on 2018/19 (53.4%) and 2010/11 (53.4%).

Analysis of health inequalities in Scotland found in 2015–2020 the healthy life expectancy of men living in the most deprived areas fell by almost five years to 45 years of age (Miall et al., 2022). The healthy life expectancy of men living in the least deprived areas is around 70 years.

Recommendations

As noted above, the Scottish Government is in the process of reviewing the PSED in Scotland. In 2021, as part of this process, we argued that Scottish ministers should identify national equality outcomes that address inequalities.

The Scottish Government committed to doing so and further added that this would require the Scottish Government to 'ensure the national equality outcomes are measurable and link to the National Performance Framework' (Scottish Government, 2021h).

We welcome the Scottish Government's agreement to link equality outcomes to the National Performance Framework for consistency and coherence.

Our recommendations are designed to help the Scottish Government to set equality outcomes for all Scottish public bodies to use.

Our view is that Scottish ministers should set themselves an overarching equality outcome to maintain oversight of progress on the National Equality Outcomes (NEO). Ministers should commit to developing a NEO Framework, which defines how the NEOs link to the NPF, set out which listed authorities should consider adopting each NEO, and set out core measurement criteria for each NEO.

41. The Scottish Government should set a NEO and work with Local Authorities to take effective action to improve boys' education attainment in early years, primary and secondary education.
42. The Scottish Government should set a NEO to monitor and reduce levels of misogyny and sex motivated bullying in education settings. This should include making compulsory the recording of bullying incidents, including details of protected characteristics and motivations based on prejudice.
43. The Scottish Government should set a NEO to address the causes of occupational segregation and the pay gap between men and women's median hourly earnings, including by addressing the causes of the disproportionately large pay gap for women aged 40 and over.

Recommendations continued

44. The Scottish Government should set a NEO to reduce the poverty rate among women, particularly for single mothers who are disproportionately likely to be in poverty.
45. The Scottish Government should set a NEO to address the causes of women's lower confidence in the criminal justice system, including determining whether this impacts on women reporting sexual crimes or domestic abuse to the police.
46. The Scottish Government should set a NEO to address the higher prevalence of mental health conditions among female prisoners, including reducing waiting times to access mental health in-patient care in Scotland's prisons.
47. The Scottish Government should set a NEO to address the fall in healthy life expectancy of men living in socio-economically deprived areas.
48. The Scottish Government should set a NEO to reduce the rate of suicide and other 'deaths of despair' (due to suicide, drugs or alcohol) among men.

Sexual orientation

The Equality Act protected characteristic of sexual orientation refers to people who face different opportunities and challenges because they have a sexual orientation towards their own sex, the opposite sex or to both sexes. Recent events and developments, including the COVID-19 pandemic, economic challenges, and legal and policy developments have affected outcomes experienced by people because of their sexual orientation. These are examined in this chapter.

Definitions

Sexual orientation: The Equality Act 2010 defines sexual orientation as a person's sexual attraction towards their own sex, the opposite sex or to both sexes.

A range of questions are used in different surveys to collect data on a person's sexual orientation. The UK government Statistical Service harmonised standards that underpin many national surveys, so respondents select a term that best describes how they think of themselves from a list provided. We have included terms used in various data sources and these may differ from source to source.

Key findings

- Many gay, lesbian and bisexual young people in Scotland experience homophobic bullying at school. A self-selecting survey of 1,279 LGBT young people in 2022 found that 70% of gay and lesbian participants had reported homophobic bullying at school and 58% of bisexual participants had faced biphobic bullying at school.
- Gay and lesbian adults have higher rates of employment than heterosexual adults.
- Bisexual adults are more likely to earn lower wages than heterosexual, gay and lesbian workers.
- Relative poverty rates are higher and increasing at a faster rate for lesbian, gay and bisexual adults than for heterosexual adults. In 2019–2022, 27% of lesbian, gay and bisexual adults were in poverty compared with 20% of heterosexual adults and 17% of adults who did not disclose their sexual orientation.
- Lesbian, gay and bisexual people, especially women and bisexual adults, experience worse physical and mental health and face barriers in using health services.
- The number of police-recorded hate crimes aggravated by sexual orientation increased by 67% between 2014/15 (1,110 crimes) and 2021/22 (1,855 crimes).

Data considerations

There is limited availability of robust, representative data reflecting the experiences of lesbian, gay or bisexual people in Scotland.

It was not possible for us to analyse national survey data by sexual orientation because:

- some surveys did not include questions on sexual orientation
- some surveys include questions on sexual orientation, but base sizes are too small for robust analysis, and
- samples could not be designed to be representative because of a lack of data on the population by sexual orientation.

Despite improvements to some national surveys, the evidence in this chapter has mostly been taken from self-selecting samples. This means that it covers fewer topics than other chapters where data was more available.

The Scotland 2022 census included a voluntary question on sexual orientation for the first time. When published, the Scotland census data will provide the first robust data on sexual orientation at a population level.

Some policies and data cover the experiences of LGBT people, so we occasionally report on LGBT as a single group when this cannot be separated into evidence specific to lesbian, gay and bisexual people. Issues particularly affecting trans people are addressed in the Gender Reassignment chapter.

Policy and legal developments

Education

In 2018, a working group of equality and education organisations made several recommendations to Scottish ministers on how to make Scottish education more inclusive of LGBTI children and young people (Scottish Government, 2018).

These included:

- new and updated guidance for teachers
- a review of age and stage-specific elements of the curriculum
- creation of new teaching resources, and
- new approaches to professional learning.

The Scottish Government accepted the recommendations. In 2021, it announced that LGBT-inclusive education had been embedded across the Scottish curriculum, stating that Scotland was the first country in the world to do this (Scottish Government, 2021a).

Civil partnerships

In June 2020, the Scottish Parliament passed the Civil Partnership (Scotland) Act 2020 to enable ‘persons of different sexes to be in a civil partnership’. The UK Supreme Court had ruled in a 2018 case that previous arrangements, which did not allow such partnerships, were incompatible with article 14 (prohibition of discrimination) of the European Convention on Human Rights when read with article 8 (right to respect for private and family life).⁸²

82 R (on the application of Steinfeld and Keidan) v Secretary of State for International Development (in substitution for the Home Secretary and the Education Secretary) [2018] UKSC 32.

Pardons for historical sexual offences

In June 2018, the Scottish Parliament passed the Historical Sexual Offences (Pardons and Disregards) (Scotland) Act 2018. The Act pardoned men convicted of historic offences involving consensual sexual activity between men that are no longer offences.

It provides a process for disregarding such convictions to stop them appearing in disclosure or barring checks (which would be discriminatory on the grounds of sexual orientation).

Ending conversion practices

The Scottish Government's 2021/22 Programme for Government included a commitment to 'protect LGBT people from harm by banning the damaging promotion and practice of conversion therapy' (Scottish Government, 2021b). Conversion therapies, or practices, aim to change a person's sexual orientation or gender identity.

In October 2022, an expert advisory group recommended measures necessary to achieve such a ban (Scottish Government, 2022a). The Scottish Government has said it will consider the group's recommendations and introduce a bill to ban conversion practices by the end of 2023.

Outcomes

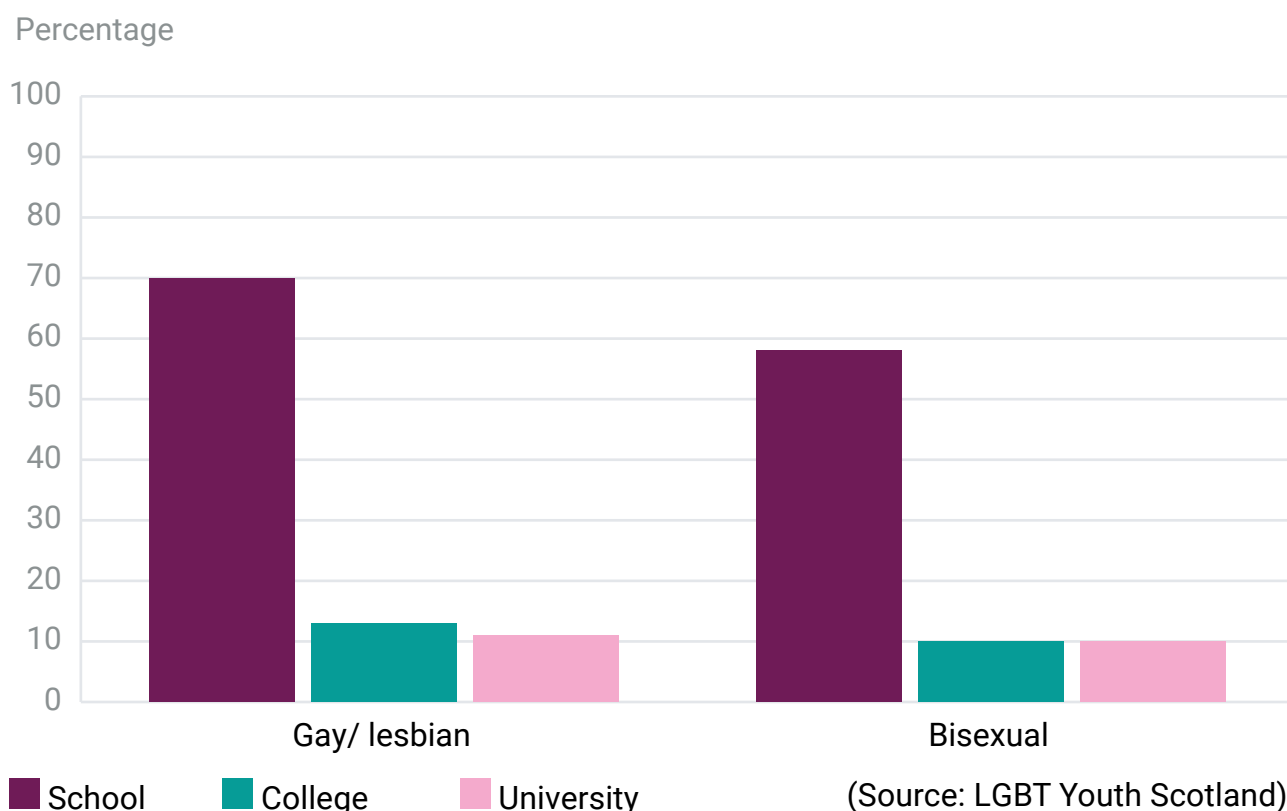
Education

There is limited data on sexual orientation and educational attainment as relevant information is not collected about children. However, there is evidence on the experiences of lesbian, gay and bisexual children and young people in relation to bullying at school, college and university.

A Scottish survey based on a self-selecting sample of 1,279 LGBT young people aged 13–25 found that 70% of gay and lesbian participants had reported homophobic bullying at school and 58% of bisexual participants had faced biphobic bullying at school.

A much smaller proportion (under 13%) said they had experienced bullying based on their sexual orientation at college or university (LGBT Youth Scotland, 2022).

Figure 69: Experiences of bullying at school, college and university, Scotland, by sexual orientation



Work

Our analysis of Annual Population Survey (APS) data shows and, between 2011/12 and 2018/19, gay and lesbian adults had higher employment rates than heterosexual adults overall, and in 2018/19 were significantly more likely to be employed. This employment gap between the two groups has remained consistent.

Bisexual people are more likely to earn lower wages. In 2018/19, bisexual workers' earnings were significantly lower than those of heterosexual, gay and lesbian people. This wage gap has been statistically significant since 2016/17.

Living standards

Poverty rates have increased among heterosexual adults, though severe material deprivation has fallen. Our analysis of Family Resource Survey (FRS) data shows that poverty significantly increased among heterosexual adults between 2011/12 and 2018/19, rising from 16.4% to 18.5%. At the same time, severe material deprivation fell significantly, from 19.6% in 2011/12 to 14.8% in 2018/19.⁸³ Severe material deprivation is measured in adults aged 16–59, excluding dependent children aged 16–19. Robust data was not available for other sexual orientations in this analysis.

Scottish Government analysis of FRS data shows that relative poverty rates (after housing costs) are higher for adults who identified as lesbian, gay, bisexual or something other than straight or heterosexual than heterosexual adults. Analysing three-year averages, in 2019–2022, 27% of adults who identified as lesbian, gay, bisexual or something other than straight or heterosexual were in poverty compared with 20% of heterosexual adults and 17% of adults who did not disclose their sexual orientation.⁸⁴

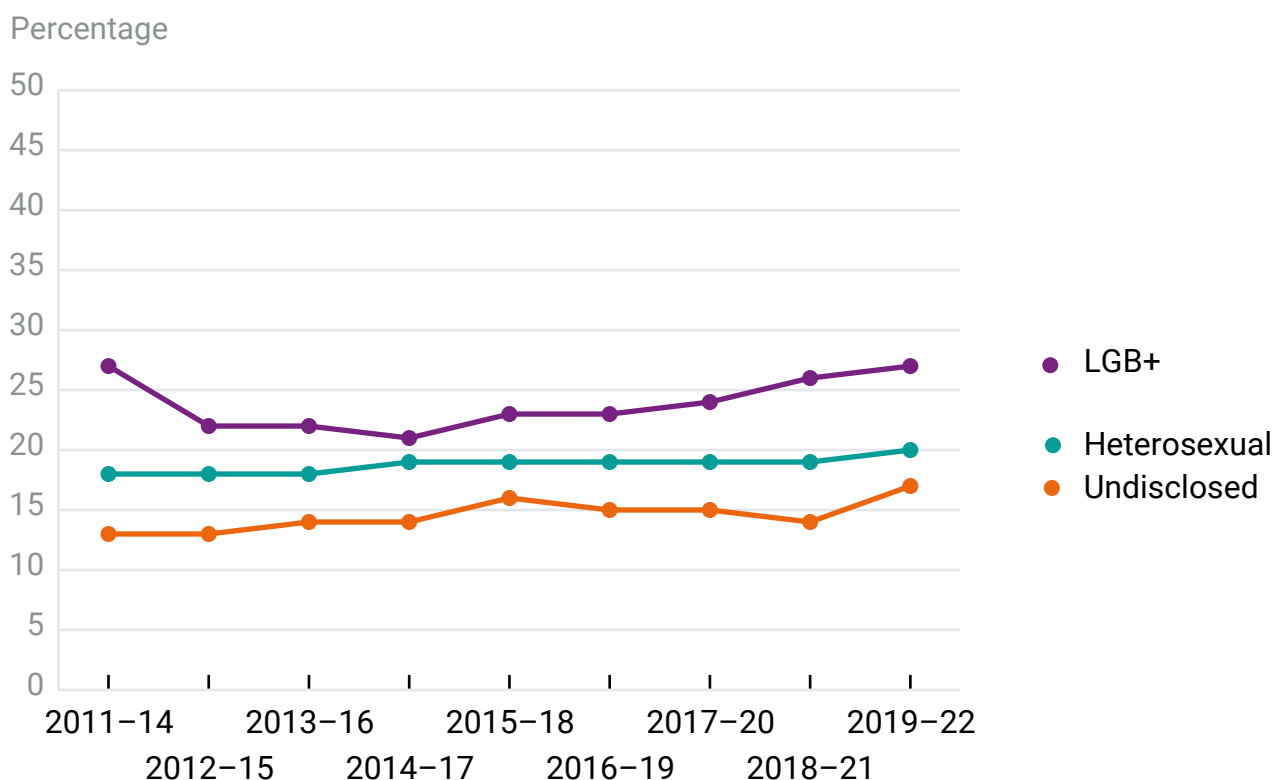
83 Data is not available after 2018/19 in this analysis.

84 The source noted potential issues with the data, stating 'there were too few LGB+ adults in poverty in the sample to produce a robust estimate of their population. Also, measurement uncertainty is quite wide for this group' (Scottish Government, 2023a).

Sexual orientation

Available evidence indicates that the poverty rate for adults who identify as lesbian, gay, bisexual or something other than straight or heterosexual has consistently been higher than that experienced by heterosexual adults (Scottish Government, 2023a).

Figure 70: Adult poverty by sexual orientation in Scotland, 2011–2022



(Source: Scottish Government)

Food insecurity is defined as a risk of, or lack of access to, sufficient, varied food in the last 30 days (Scottish Government, 2023a).

Scottish Government analysis of FRS data shows that 12% of for adults who identified as lesbian, gay, bisexual or something other than straight or heterosexual were food insecure in 2019–2022 compared with 7% of heterosexual adults and 6% of adults who did not disclose their sexual orientation.⁸⁵

⁸⁵ This three-year average excludes data collected during 2020/21. Shared households, such as such as a group of students, or other unrelated adults, were also excluded from the analysis.

Sexual orientation

Analysis of a national survey of LGBT people in 2021 with a self-selecting sample of 2,358 respondents found that bisexual women (18%) were most likely to have experienced concerns about running out of food due to a lack of money or other resources in the previous 12 months, with similar levels experienced by bisexual men, gay men, and gay or lesbian women (all 13%) (Leven, 2022).

There is no national data on the sexual orientation of people who use social care services, but there is evidence that adults who identify as lesbian, gay, bisexual or something other than straight or heterosexual are more likely than heterosexual adults to report an unmet need for help and support with everyday living.

In 2021/22, 2.3% of heterosexual adults said that they had not received any help or support with everyday living but needed it, compared with 3.1% of gay or lesbian adults, 6.3% of bisexual adults and 7.2% of adults identifying with another sexual orientation (Scottish Government, 2022c).

Lesbian, gay and bisexual social care users may require better targeted support than they currently receive. Small-scale research exploring LGBT people's experiences of Self-directed Support (SDS) found that some lesbian, gay and bisexual social care users were concerned that their personal assistants and care workers might not be accepting of their sexual orientation.⁸⁶ Other research participants found it difficult to find LGBT events and support groups (Self Directed Support Scotland and the ALLIANCE, 2020).

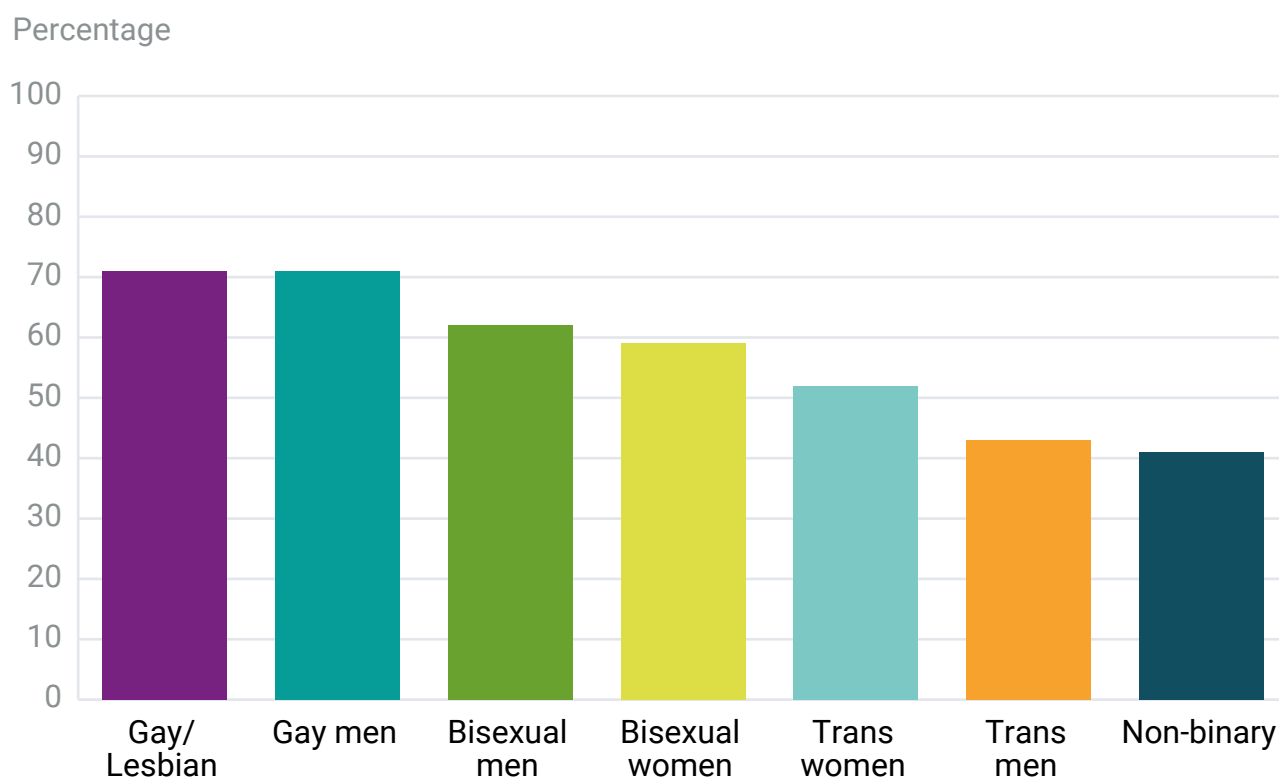
86 Self-directed Support (SDS) is Scotland's approach to social care. It is defined as 'the support individuals and families have after making an informed choice on how their Individual Budget is used to meet the outcomes they have agreed' (Self Directed Support Scotland and the ALLIANCE, 2020).

Health

Analysis of a national survey of LGBT people with a self-selecting sample of 2,358 respondents found only three in five (59%) respondents aged under 50 rated their general health as good or very good (Leven, 2022). Though not directly comparable, three in four adults (75%) who responded to the Scottish Health Survey 2021 described their general health as good or very good (Scottish Government, 2022b).

The proportion of LGBT survey respondents who rated their general health positively varied among lesbian, gay and bisexual groups. Gay men and gay or lesbian women were more likely to say their health was good or very good than bisexual and trans people (Leven, 2022).

Figure 71: Proportion of LGBT+ adults who rate their health positively, by group

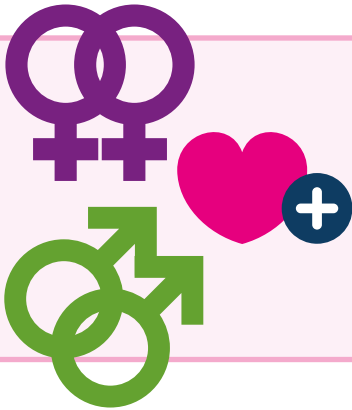


(Source: Leven, 2022)

Sexual orientation

Overall, more than half LGBT survey respondents (54%) said that they had mental health problems and only one in four (25%) rated their general mental and emotional wellbeing positively (Leven, 2022).

Responses varied considerably by LGBT group.

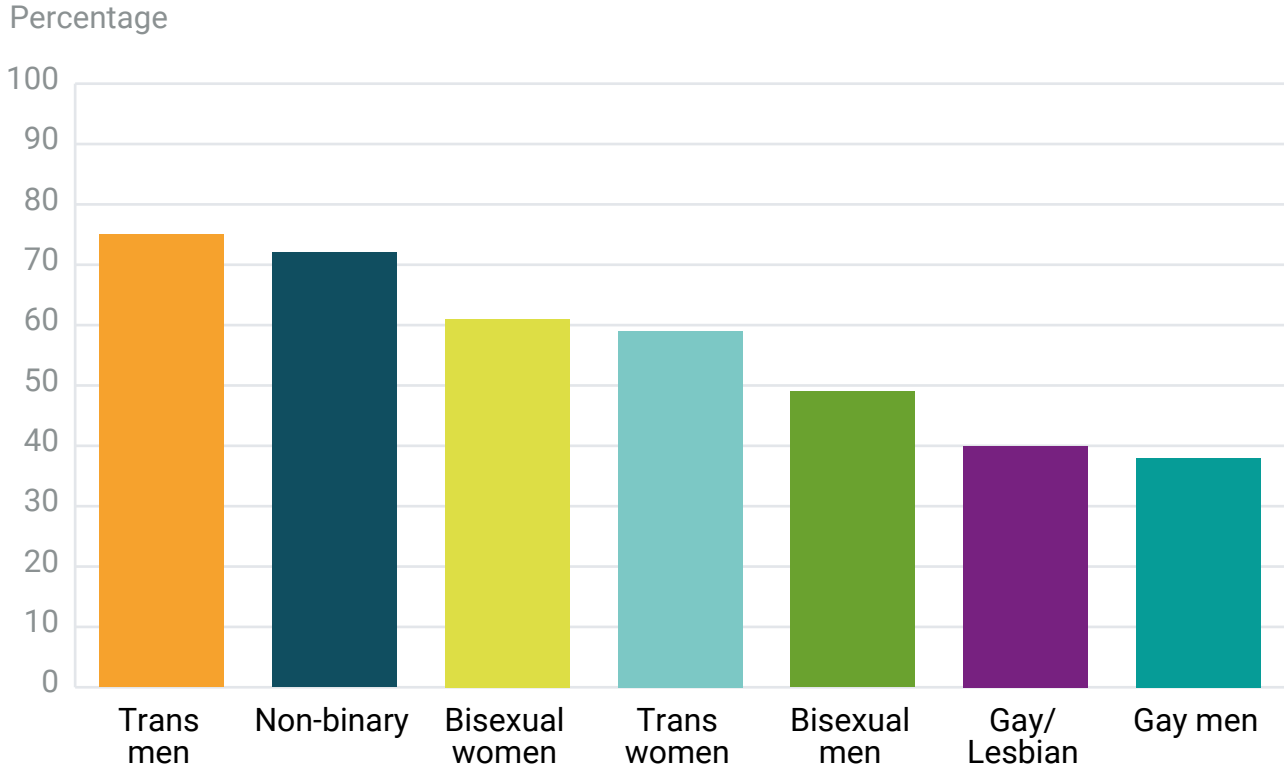


Gay men (37%) and gay or lesbian women (36%) were more likely to rate their mental and emotional health positively than bisexual men (29%) and bisexual women (24%).

Trans people were least likely to give a positive response (Leven, 2022).

The varied prevalence of mental health conditions (such as depression, anxiety and stress) among LGBT survey respondents further suggests that different lesbian, gay and bisexual groups experience different health outcomes. Bisexual women reported the highest prevalence of mental health conditions among lesbian, gay and bisexual respondents (Leven, 2022). Overall, more than one in two LGBT respondents (54%) said they had mental health problems. The 2021 Scottish Health Survey indicated that 22% of the population had symptoms of poor mental health using the GHQ-12 questionnaire. While this figure is not directly comparable, it indicates that LGBT people in Scotland experience higher levels of poor mental health than the population average (Scottish Government, 2022b).

Figure 72: Proportion of LGBT adults with a mental health problem



(Source: Leven, 2022)

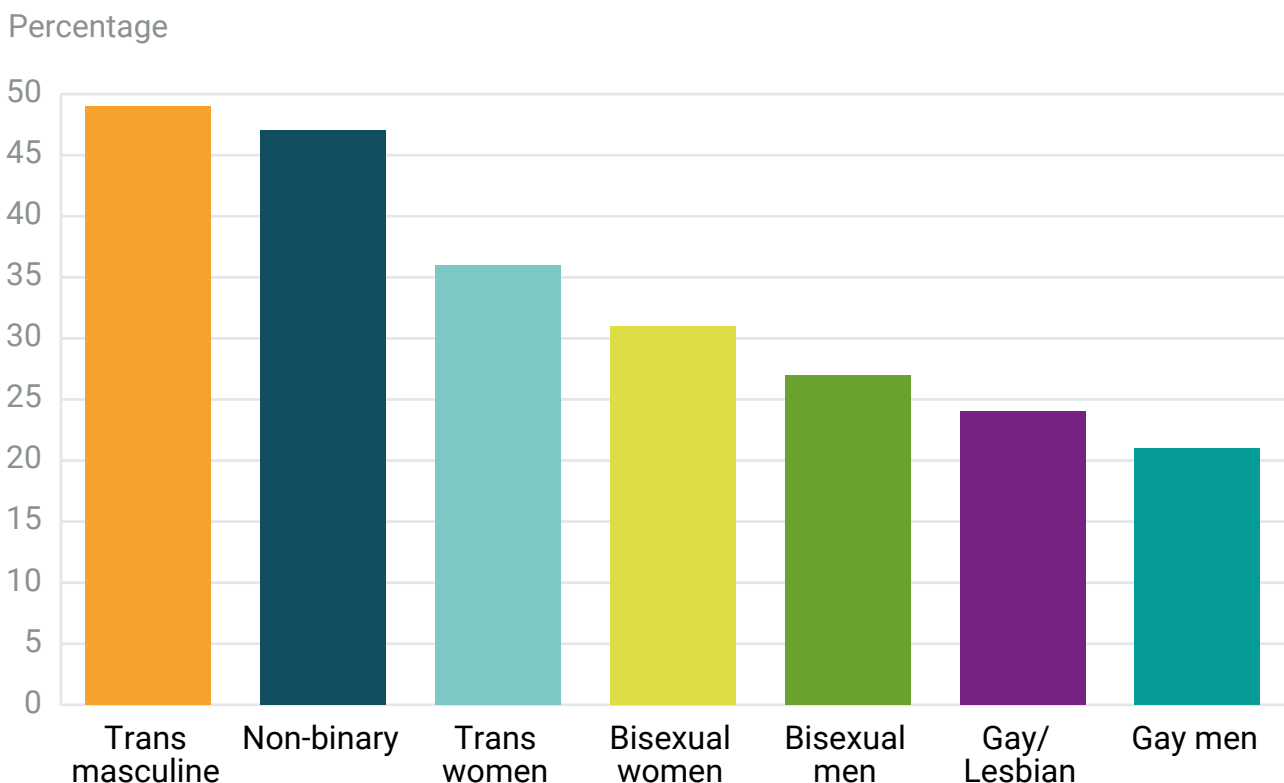
A growing number of lesbian, gay and bisexual people do not feel supported by mental health services. The proportion of LGBT young people (aged 13–25) who said they felt supported and / or respected by mental health services dropped by 19 percentage points between national surveys in 2017 (74%) and 2022 (55%) (LGBT Youth Scotland, 2022).

Sexual orientation

There are concerning high levels of reported self-harm and attempted suicide among lesbian, gay and bisexual groups. In 2021, 10% of adults among the general population said they had self-harmed and 6% reported attempting suicide (Scottish Government, 2022b). However, LGBT respondents reported much higher rates of both self-harm and attempted suicide. Out of 1,147 LGBT young people (aged 13–25) who responded to a survey question on mental health and behaviours, 43% said they had self-harmed (LGBT Youth Scotland, 2022).

In another national survey of LGBT people of all ages, 58% of respondents reported having ever self-harmed. Bisexual women had particularly high rates of self-harm (70%). Nearly one in three (31%) of 2,182 LGBT people who answered the survey question on suicidal thoughts and behaviours said that they had attempted suicide. Reported suicide attempts among lesbian, gay and bisexual people were higher for bisexual women and men than for gay / lesbian women and gay men (Leven, 2022).

Figure 73: Proportion of LGBT adults who report having ever attempted suicide, by group



(Source: Leven, 2022)

Sexual orientation

Experiences engaging with sexual health services varied. Male gay and bisexual participants in research into the health needs of LGBT people particularly praised dedicated sexual health services for men who have sex with men for offering informative, respectful and non-judgemental support (Leven, 2022).

However, gay and lesbian and bisexual women said they faced discrimination and barriers to using sexual health services. Research participants said that there was a lack of dedicated services for women who have sex with women. Gay and lesbian women said that health professionals saw them as 'low risk' and were reluctant to do full sexually transmitted infection (STI) screenings. Some bisexual women had experienced staff in sexual health clinics making biphobic assumptions that bisexual women were promiscuous and engaged in risky sex (Leven, 2022).

Of 460 LGBT survey respondents who had been for cervical screening and answered questions about it, 59% said they were 'out' about their sexual identity when they had their appointment. Almost one in 10 (9%) of who disclosed their LGBT status felt they were treated unfairly at their cervical screening because of it (Leven, 2022).

Justice

In 2021/22, more than a quarter (27%) of police-recorded hate crimes included a sexual orientation aggravator (Scottish Government, 2023b). Sexual orientation aggravated hate crime is the second most reported type of hate crime, and the number of recorded incidents has grown over time.



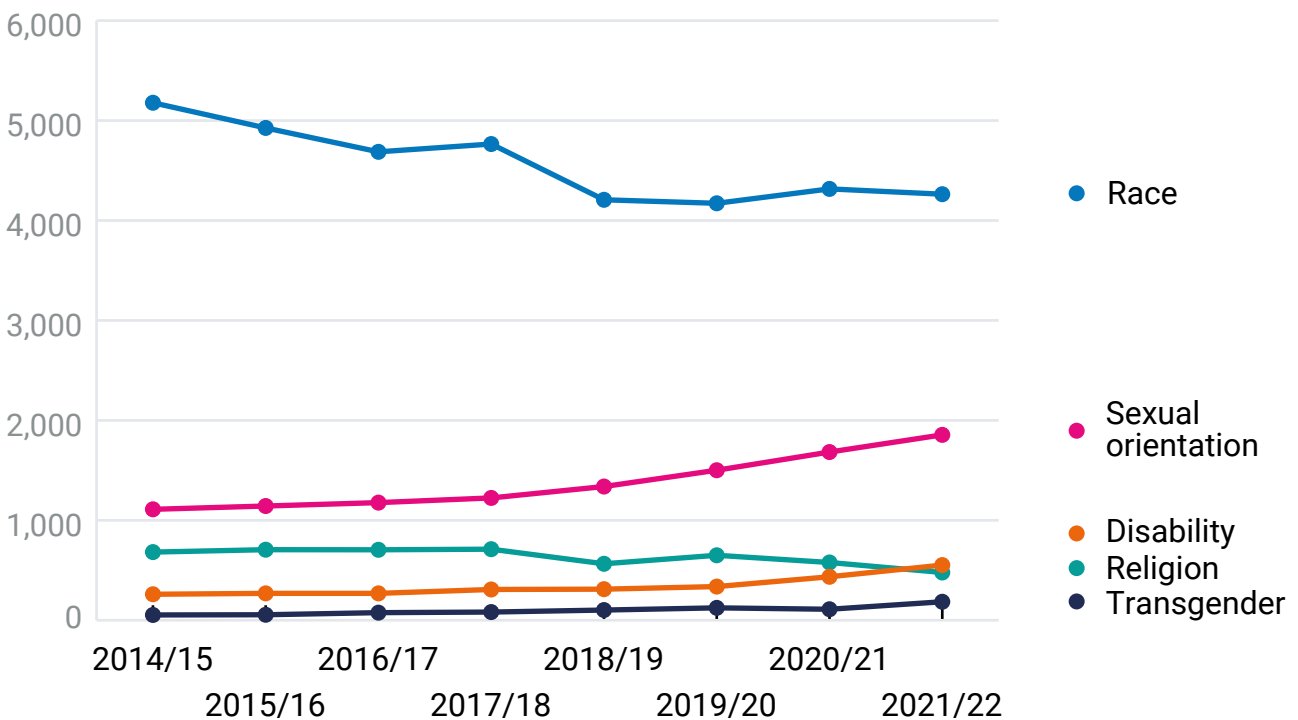
The number of recorded crimes with a sexual orientation aggravator showed a 67% increase between 2014/15 (1,110 crimes) and 2021/22 (1,855 crimes) (Scottish Government, 2023b).

Sexual orientation

Crown Office and Procurator Fiscal Service (COPFS) data on the number of hate crime charges involving sexual orientation found these rose to 1,781 in 2021/22, an increase of 10% from the previous year. This follows year-on-year increases in charges reported since the Offences (Aggravation by Prejudice) (Scotland) Act 2009 came into force in 2010, except for 2014/15 (COPFS, 2022).

Figure 74: Hate crimes recorded by the police in Scotland, by aggravator, 2014/15 to 2021/22

Number of hate crimes recorded by the police



(Source: Scottish Government)

The perpetrators showed prejudice against the gay community in 77% of hate crimes including a sexual orientation aggravator recorded in 2021/22 and against the lesbian community in 23% of such hate crimes. One in four victims of this form of hate crime experienced it in their workplace. Where victims were working at the time of the incident, 43% were employed in retail and service-related industries (Scottish Government, 2023b).

Sexual orientation

In 2020, HM Inspectorate of Constabulary in Scotland (HMICS) conducted a thematic review, including an online survey, into the standard of police investigation, procedures, policies and initiatives to respond to hate crime and encourage victims to report it. Fifty-eight (67%) of the 87 LGBTQ+ survey respondents (including those identifying as asexual, pansexual, queer and other) said they had ever been a victim of a hate crime, but only 22 (38%) of these had reported it to the police (or other authority) (HMICS, 2021).

The most common reason that respondents gave for not reporting an incident was a belief that their complaint would not be taken seriously (mentioned by 75% of respondents who were victims but did not report it). Nearly half (48%) of all 87 LGBTQ+ survey respondents were dissatisfied with the wider criminal justice system and how it deals with hate crime (HMICS, 2021).

Similarly, only 17% of LGBT young people (aged 13–25) who took part in a national survey said they would feel confident reporting a hate crime to the police if they experienced one. This percentage has declined sharply over the past decade, falling from 54% of respondents in a 2012 survey (LGBT Youth Scotland, 2022).

In 2020/21, 4% of police-recorded incidents of domestic abuse involved a victim and suspected perpetrator of the same sex (Scottish Government, 2022d).

A national survey of LGBT+ (including non-binary) people asked if they had ever been in an abusive relationship. A third of the 1,857 people who answered said they had. Among lesbian, gay and bisexual respondents specifically, bisexual women were most likely to report having experienced an abusive relationship (43%) (Leven, 2022).

However, only 17% of survey respondents who had been in an abusive relationship had managed to get any help or support. Further qualitative research found that victims of abuse in same-sex relationships said that there were not enough services to support sexual and domestic abuse victims except when abuse was by male perpetrators against female victims (Leven, 2022).

Participation

LGBT people report poor experiences on public transport in Scotland, including feeling unsafe and experiencing bullying, discrimination and hate crime.

Just 48% of 1,211 LGBT young people who answered a survey question said they felt safe travelling on public transport, a sharp drop from 79% of participants who said they felt safe in a 2012 survey (LGBT Youth Scotland, 2022).

An evaluation of Scotland's Young Persons' Free Bus Travel scheme found that those aged 16 and over who identified as lesbian, gay and bisexual were more likely (43%) to say that they had been bullied or harassed while travelling on buses at night than young people who identified as heterosexual (18%) (Transport Scotland, 2022). Analysis of hate crime data shows that 6% of sexual orientation hate crimes occurred on public transport in 2019/20 (Scottish Government, 2021c).

Recommendations

As noted above, the Scottish Government is in the process of reviewing the PSED in Scotland. In 2021, as part of this process, we argued that Scottish ministers should identify national equality outcomes that address inequalities.

The Scottish Government committed to doing so and further added that this would require the Scottish Government to 'ensure the national equality outcomes are measurable and link to the National Performance Framework' (Scottish Government, 2021d).

We welcome the Scottish Government's agreement to link equality outcomes to the National Performance Framework for consistency and coherence.

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Our view is that Scottish ministers should set themselves an overarching equality outcome to maintain oversight of progress on the National Equality Outcomes (NEO). Ministers should commit to developing a NEO Framework, which defines how the NEOs link to the NPF, set out which listed authorities should consider adopting each NEO, and set out core measurement criteria for each NEO.

49. The Scottish Government should set a NEO to understand the causes and reduce levels of sexual orientation motivated bullying in education settings, including by making compulsory the recording of bullying incidents, including details of protected characteristics and motivations based on prejudice.
50. The Scottish Government should set a NEO to address the higher rates of relative poverty experienced by lesbian, gay and bisexual adults compared to heterosexual adults.
51. The Scottish Government should set a NEO to address the higher levels of poor physical and mental health experienced by lesbian, gay and bisexual adults, including by improving data on access to different health care services by sexual orientation, such as sexual and reproductive health or maternity services, to meet the diverse needs of lesbian, gay and bisexual people.

Recommendations continued

52. The Scottish Government should set a NEO to address the causes of increasing levels of sexual orientation motivated hate crime compared to other hate crime.
53. The Scottish Government should set a NEO to ensure service provision to support lesbian, gay and bisexual victims of sexual violence and domestic abuse.
54. The NRS and data producers should improve the collection, analysis and dissemination of data on sexual orientation developing methodologies to ensure robust analysis can be conducted.

Key terms

Scotland Key terms

Acquired gender: This is the gender in which someone is living and identifies, where it is different from the sex recorded at birth. Legally, it can only be man or woman.

Additional support needs: In Scotland, the term additional support needs (ASN) is sometimes used as a proxy for disability in education. A child is said to have ASN if they need more or different support to what is generally provided in educational establishments to children of the same age. It is important to note that ASN does not only apply to children who have long-term learning difficulties or disabilities.

Adult poverty: For the purpose of our data analysis of the Family Resources Survey, poverty is defined as the percentage of all adults aged 16 and over living in a household with an income below 60% of the contemporary median, after housing costs. It excludes dependent children aged 16–19.

Child poverty: For the purpose of our data analysis of the Family Resources Survey, child poverty is defined as the percentage of children aged under 16 and dependent children aged 16–19 living in households with an income below 60% of the contemporary median, after housing costs.

Economic inactivity: People not in employment who have not been seeking work in the previous four weeks and / or are unable to start work in the next two weeks.

Employed, unemployed and economically inactive: Employed refers to those in work. Unemployed refers to those out of work but continuing to seek work. Economically inactive refers to those out of work and not seeking work, such as students or retirees.

Healthy life expectancy: Healthy life expectancy is an estimate of the number of years lived in 'very good' or 'good' general health, based on how people perceive their state of health at the time of completing the Annual Population Survey (APS). Healthy life expectancy is a three-year average.

Scotland Key terms

High-paid occupations: Employees or self-employed workers with main jobs as managers, directors and senior officials or in professional occupations.

Insecure employment: Employees whose main form of employment is either agency work, casual work, seasonal work, or another form of temporary work. It also includes employees or self-employed workers who are on zero-hour contracts, on-call working arrangements or are self-employed.

Looked after children: Under the Children (Scotland) Act 1995, 'looked after children' (LAC) are defined as those in the care of their local authority. In the data presented, looked after children includes those who were under the care of their local authority for both the full year and part of the year. The term 'children looked after' (CLA) is also used.

Low-paid occupations: Employees or self-employed workers with main jobs in: caring, leisure and other services; sales and customer services; elementary occupations.

Severe material deprivation: For the purposes of our data analysis of the Family Resources Survey, severe material deprivation is defined as not being able to afford four or more items from a list of nine items:

- holidays away from home at least one week a year not staying with relatives
- enough money to keep your home in a decent state of decoration
- household contents insurance
- saving of at least £10 a month
- replacing worn-out furniture
- repairing or replacing broken electrical goods
- money to spend each week on yourself, not your family
- keeping accommodation sufficiently warm
- keeping up with bills and regular debt payments.

It is measured in adults aged 16–59, which excludes dependent children aged 16–19.

Key terms

SIMD levels: The Scottish Index of Multiple Deprivation (SIMD) is a relative measure of deprivation based on the extent to which an area of Scotland is deprived across seven domains: income, employment, education, health, access to services, crime and housing. The most deprived areas are ranked SIMD 1. SIMD levels are calculated by quintile (SIMD 1 being the most deprived areas, SIMD 5 being the least deprived areas), or decile (SIMD 1 being the most deprived areas, SIMD 10 being the least deprived areas).

Special school: Special schools were created to address the educational needs of pupils with severe learning difficulties, for whom regular classroom education is not possible.

WEMWBS scores: The Warwick-Edinburgh Mental Wellbeing Scale (WEMWBS) measures trends in mental wellbeing for children and adults. Scores range from 14 to 70. Higher scores indicate greater wellbeing.

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