



Home Office

**REFORMING THE NOTIFICATION
REQUIREMENTS OF REGISTERED
SEX OFFENDERS (PART 2 OF THE
SEXUAL OFFENCES ACT 2003):
SUMMARY OF CONSULTATION
RESPONSES AND CONCLUSIONS**

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1. INTRODUCTION

BACKGROUND

A targeted consultation: 'Reforming the Notification Requirements of Registered Sex Offenders' was launched on 14th June 2011 and closed on 8th August 2011. The consultation was published on the Home Office website and announced in conjunction with a press release.

This was a targeted consultation which specifically sought views from interested parties who have expert knowledge and experience of the Sexual Offences Act 2003, including the application of the notification requirements contained in the Act and how this scheme operates within the broader Multi Agency Public Protection Arrangements (MAPPA) framework for managing sexual offenders in the community. The aim of the consultation was to inform decisions regarding reform of the notification requirements, and to ensure that the proposed changes will achieve, in a proportionate way, their intended purpose of strengthening the tools that the police have available, to protect the public from the risk posed by sexual offenders.

The consultation invited comments on four proposals that have been identified by key partners and experts as priority areas where action may be required to prevent offenders from seeking to exploit possible gaps in the system. These changes would require registered sex offenders to:

- notify the police of all foreign travel (currently only travel outside the UK for three or more days is required to be notified);
- notify weekly where they are registered as having 'no fixed abode' (i.e. where a registered sex offender has no sole or main residence and instead must notify the police of the place where they can regularly be found);
- notify the police when living in a household with a child under the age of 18; and
- notify the police of passport, bank account and credit card details

and provide the police with proof of identification at each notification.

The Home Office received over 60 responses from a broad range of partners and interested parties whose comments, opinions and suggestions have been considered in the development of this response. The responses represented both independent views and those submitted as a collective view of organisations, agencies and charities. They ranged from one line responses to full reports on the proposed reforms.

This document provides a summary of the consultation responses and findings and outlines the Government's next steps in relation to these proposals.

2. PROPOSAL 1: NOTIFICATION OF ALL FOREIGN TRAVEL

This section outlines our proposal to amend existing legislation which currently requires those subject to notification requirements to notify any travel outside the UK for 3 or more days. Revision of this condition would require notification to the police of all travel outside the UK, regardless of the duration of the trip.

SUMMARY OF RESPONSES:

There was strong support for this proposal. It was broadly felt that notification of all travel and the provision of a full travel itinerary would furnish the police with better intelligence to bolster their ability to manage individual offenders and safeguard vulnerable children. In light of the current ease of international travel, respondents suggested that the increase in intelligence gained by requiring notification of all foreign travel would enable the police to more pro-actively engage with international enforcement agencies. This would encourage and support the sharing of intelligence where deemed necessary and proportionate in order to manage the risk posed to children and vulnerable groups within the national and international community.

'The recommendation to introduce a requirement to notify the Police of all travel outside of the United Kingdom, regardless of the duration of the trip, is strongly supported. Indeed, it is absolutely fundamental if the child protection purpose of this notification requirement is to be achieved.'

(source: Association of Chief Police Officers lead on the Management of Sexual Offenders and Violent Offenders, ACPO)

This can only be a positive change and will deal with offenders deliberately avoiding monitoring by restricting the length of the travel. It will increase opportunities for contact with offenders and provide evidence for Foreign Travel Orders.

(source: Kent Police)

Respondents stated that, if a requirement to notify all travel were compulsory, registered offenders should be given the opportunity to give advance notification, potentially up to 6 months ahead, of planned trips to reduce the additional burden imposed on individuals by this requirement, for example for those who are required to travel frequently as a condition of their employment.

'I think it is important to allow for advance notification of trips for those who regularly travel for work or to see family/friends. It would be good to notify of multiple trips in one visit.'

(source: An individual subject to Notification Requirements)

Respondents also raised the issue of difficulties in providing advance notification of travel which arises as a result of an emergency. This point has been recognised and consideration is being given as to how provision for this should be made in the implementation of this proposal.

NEXT STEPS:

From the responses received, we are satisfied that this is a reasonable step to take which would enhance the ability of the police to target their resources effectively to safeguard vulnerable children overseas and to prevent individuals from exploiting this aspect of the system to cause further harm.

3. PROPOSAL 2: NOTIFICATION OF A PLACE OF RESIDENCE

This proposal would require registered sex offenders who are recorded as having no sole or main residence (no fixed abode) to notify on a weekly basis.

SUMMARY OF RESPONSES:

The proportion of offenders who would be affected by this proposal is small (it is currently estimated to be less than 1% of the registered sex offender population). There was strong support from respondents for a proposal to impose weekly notification for this group of offenders as it was widely agreed that such individuals were more likely to lead an unsettled lifestyle, with potential risks stemming from the police having limited information in relation to this group. The majority of respondents felt that this proposal would achieve the desired outcome of ensuring that the police are able to establish a comprehensive picture of the whereabouts of such offenders. This would enable them to manage more effectively the risk posed.

If the proposal is that (sic) a person who has neither a home in the United Kingdom nor a regular address of the type referred to, then we accept that there should be a requirement for more frequent notification than at present.

(source: The Council of H.M. Circuit Judges)

Given the link between instability, social exclusion, isolation and increased risk, weekly contact with the police appears to us to be a necessary requirement, not only in bringing some small remedy to the likely isolation but, more importantly, in sustaining the police's intelligence about the individual and enhancing risk assessments and risk management.

(source: Lucy Faithfull Foundation)

As part of the consultation, we also sought views on the appropriate frequency of notification and specifically whether weekly notification was proportionate and necessary to achieve the intended policy aim. A small

proportion of respondents questioned the need for notification to be weekly. However, a majority of practitioners clearly indicated that notification on a less frequent basis such as monthly would significantly undermine the effectiveness of the policy.

Some respondents also felt that this new requirement might help reduce the number of offenders who are claiming to be of 'no fixed abode' as a way of avoiding disclosing their actual address – by making it increasingly inconvenient for them to continue this tactic. A reduction in the number of police hours spent investigating the whereabouts of offenders whose location is unknown will be an additional benefit.

We entirely agree that weekly notification to the police in circumstances where the sex offender is of no fixed abode is an appropriate and proportionate requirement. We have little doubt that there will be a number of offenders who choose to claim to be of no fixed abode in order to avoid attention to any address where they are residing – not necessarily to do with intended further offending, but rather to avoid the additional intrusion into their lives that registration entails. So a level of inconvenience to expose and remedy this evasion is sensible.

(source: Lucy Faithfull Foundation)

It was suggested by some respondents that, although this requirement was necessary and the frequency of contact remained imperative, they did not feel that conducting a weekly interview of similar breadth to that undertaken at annual notification was necessary or proportionate. It was suggested that due to the frequency of notification, details may remain unchanged and a shorter interview would be sufficient for police to obtain the necessary intelligence and only undertake a more extensive interview where this is considered appropriate.

As set out within the consultation document, this provision would also bring this aspect of the scheme into line with the management of other serious offenders, and specifically provisions made under the Criminal Justice and Immigration Act 2008 in relation to individuals subject to Violent Offender Orders (VOOs).

NEXT STEPS:

It is considered that, based on the responses received, the introduction of a weekly notification requirement for this specific group is a necessary and proportionate measure to bring into force. We are content that this will achieve the intended aims of the Act and enable the police to undertake more effective management of offenders; it may also have the benefit of encouraging offenders who may be withholding information about a permanent address to provide this to the police.

4. PROPOSAL 3: NOTIFICATION OF RESIDENCE WITH A MINOR

As set out within the consultation document, there is no requirement under existing legislation for a registered sex offender to notify the police when they are residing or staying with a child under the age of 18. This was identified as a gap within the current system and as an area requiring reform.

SUMMARY OF RESPONSES:

Respondents were widely supportive of this amendment and agreed that it would ensure a more robust mechanism for the safeguarding of children.

This proposal would be a major step forward in ensuring that vulnerable children are not put at risk, because it would help the police to identify situations where intervention may be appropriate in order to protect children from abuse.

(source: NSPCC)

A number of responses expressed the need for clarification of the scope of this requirement and, in particular, the intended definition of 'residence'. Several respondents questioned the application of this new requirement in circumstances where an offender could not reasonably be expected to know that a child would be present or in the vicinity (for example, at hotels, hostels and B&Bs) and in turn the implications this would have on an individual offender's ability to lead a normal life. As this proposal is developed, we will consider how this can be implemented practically.

Fully support this proposal; however we would seek clarity on the definition of 'living'.

(Source: County Durham and Darlington Strategic Management Board)

The application of this requirement to all registered sexual offenders, as opposed to its specific application to those who have been convicted of offences against children, was questioned by a small number of respondents. There is not always a clear demarcation between the risk of harm posed

by an individual who has offended against adults and an individual who has offended against children. An offence by a person against an adult does not in all cases indicate that the offender poses no risk to children. This additional information will allow for the safeguarding of children generally whilst at the same time allow for an appropriate risk management plan to be put in place. Under the proposed requirement, where an offender notifies that s/he is living with a child, this will not necessarily preclude the offender from staying at this location but would ensure that, where necessary, appropriate action could be taken.

Some respondents raised the issue of youth offenders (under 18s) who become subject to notification requirements and how this reform would affect this specific group. It is accepted that they will be more likely to reside with child siblings and other individuals who may be under the age of 18, as well as participating in school and social events which could involve overnight stays. As outlined above, offenders will not automatically be precluded from residing with a child or be subject to increased home visits as a result of notification and current MAPPA guidance provides safeguards to ensure that youth offenders are not managed in a disproportionate way. The aim of this proposal is to enable agencies to prevent harm by assessing risk and implementing a management plan on that basis. As this policy is developed and guidance is drafted we will continue to work with partners to ensure appropriate safeguards remain in place and monitor any impact.

It would improve the safeguarding of children and young people; and enable sexual offender managers to make early referrals to Children's Social Care to reduce the likelihood of harm and ensure that the needs of the child or young person are prioritised.

(source: Head of Public Protection for West Midlands Police)

In principle, the overall objective of this proposal was supported by respondents. Partners from across government who are involved in the monitoring and enforcement of those subject to notification requirements have advised that the increase in available intelligence would enable more effective risk assessments. In turn, this would enable a more proactive approach to managing the risk, allowing for more informed and accurate risk assessments to be undertaken which are necessary when developing an appropriate risk management plan and deciding if the use of civil orders e.g. a Sexual Offences Prevention Order (SOPO) is appropriate.

Any SOPO has to be demonstrated to be necessary on the evidence available ... The risk assessment (and evidence) may well change over time. Without a positive obligation to notify all residence with children, the police will not be placed in an informed position so as to consider a SOPO or other form of immediate protective intervention.

(source: Association of Chief Police Officers lead on the Management of Sexual Offenders and Violent Offenders, ACPO)

NEXT STEPS:

In light of the responses received, we are content that notification of residence with a minor is an effective mechanism to manage the risk posed to children and to strengthen the ability of the police to effectively safeguard vulnerable children, and therefore is a necessary and proportionate measure.

5. PROPOSAL 4: NOTIFICATION OF PERSONAL/ IDENTIFICATION DETAILS

This section of the consultation outlined the proposal to expand the amount of information which must be provided on notification by requiring the provision of passport details, bank account and credit card details, and to present a valid form of identification at each notification.

SUMMARY OF RESPONSES:

There were a range of responses received in relation to this aspect of the consultation. Feedback acknowledged that, in principle the provision of these details strengthened the police intelligence, but a number of respondents expressed reservations specifically in relation to the provision of bank account and credit card details. Concerns included the security of this data as well as the impact of disclosing details of joint or business accounts.

It also gives a wide range of agencies potential access to personal data. Once started this data will likely grow over time and may not be stored securely or shared appropriately.

(source: anonymous)

This additional requirement would significantly enhance the ability of the police to promptly trace an individual who failed to comply with notification requirements, without the delays associated with current processes for tracking down this information through existing powers under the Police and Criminal Evidence Act 1984 and other legislation.

As set out within the consultation document, Scotland introduced mandatory notification of bank account and other details by virtue of the Sexual Offences Act 2003 (Notification Requirements) (Scotland) Regulations 2007. The police in Scotland have provided a number of anecdotal case studies which evidence where they have been able to use this information effectively, specifically to locate 'missing' (including 'high risk') offenders and bring them back within management.

There are robust arrangements in place in relation to data security on ViSOR, the database used by law enforcement agencies, and police, prison and probation staff, to store and manage information on a range of offender types, including but not limited to registered sex offenders. ViSOR is categorised as CONFIDENTIAL under the government protective marking scheme and as a result there are strict physical and technical security rules in place to keep the data secure and to ensure the confidentiality, integrity and availability of the data. Data protection is taken very seriously and as such all personnel who access ViSOR in any form must be vetted according to the current vetting standards. Moreover, the manner in which the police process any information of this kind after it is notified to them will be subject to the requirements imposed by the Data Protection Act 1998 and common law (including a requirement that the police act compatibly with article 8 of the ECHR).

Security of these details' the offender may have joint personal or business accounts'. Would it extend to all types of bank accounts such as savings accounts, including those where there is no linked debit card.

(source: anonymous)

Respondents sought further information in relation to the provision of joint and business accounts and the possible impact on third parties. All personal data stored on the ViSOR database is processed in accordance with the Data Protection Act 1998 (and therefore is unlikely to be information which can be disclosed under the Freedom of Information Act) and the common law (including in accordance with the ECHR), it cannot be automatically disclosed by the police to members of the public.

Respondents were broadly in agreement that the introduction of a requirement for registered sex offenders to provide passport

details and a verifiable (and valid) form of identification on notification was a reasonable and proportionate requirement.

We accept that where the offender does have a photographic identification document such as a passport, it would be appropriate to require the person to produce that on registration or renewal rather than use the procedure set out in Section 87 Sexual Offences Act 2003

(source: The Council of H.M. Circuit Judges)

On balance, and having taken into account the information set out within the responses received to the consultation, we consider that the requirement to provide bank account and credit card details and identification documents upon notification would not be a disproportionate interference with an individual's right to privacy given that the aim of this requirement is public protection and crime prevention.

NEXT STEPS:

We are satisfied that based on the responses received that the notification of personal/ identification details will enhance the ability of the police to manage offenders who may pose a risk to the public by seeking to evade notification requirements.

6. COMMENTS RECEIVED OUTSIDE SCOPE

The majority of comments received were directly related to the four proposals and any associated questions raised within the consultation document. However, a number of responses and comments related to matters outside the scope of this consultation exercise. Whilst we have not addressed each of these points within this summary document, all responses have been read and considered.

A number of respondents drew attention to section 84 of the Sexual Offences Act 2003 which requires an offender to notify the police within 3 days of having resided for 7 days at any premises the address for which has not already been notified to the police as their home or regular address. Some questioned whether there were any plans to review this section of the legislation in conjunction with this reform which aims at strengthening notification requirements.

We have consulted with ACPO on this matter and are satisfied that there is no evidence to suggest that this legislation is being widely misused. It is considered by both the Home Office and ACPO that the proposal to introduce a requirement for registered sex offenders to notify any residence (over any time period) with a child under the age of 18 will go a considerable way in tackling the risk posed by those who might seek to reside at a location for a short period of time to cause harm. This will help to further strengthen the police's ability to protect and safeguard children. Therefore, we have no current plans to reform this aspect of the legislation. In conjunction with ACPO, we will continue to review this position and the evidence available in the future.

A number of respondents also commented on the recent Supreme Court decision in *F & Thompson* which found that indefinite notification requirements without a right of appeal was in breach of Article 8 of the European Convention on Human Rights – the right to a private or family life. The Home Office has taken steps in response to this

ruling and has laid the proposal to make the Sexual Offences Act 2003 (Remedial) Order 2011, which will ensure that strict rules are in place for considering whether sex offenders who are placed on the register for life should be removed. The Home Office will consider the report of the Joint Committee on Human Rights¹ before laying the final draft Remedial Order before parliament.

Suggestions were received both from agencies and individuals subject to notification requirements regarding the most effective mechanism to manage an increase in the volume of notifications. It was suggested that the use of secure electronic notification system would be a beneficial tool in the effective management of notification requirements. Whilst we will continue to monitor the case for electronic notification, any amendment to this aspect of the legislation would require primary legislation and is not something that we propose to take forward at this time.

1. The Joint Committee on Human Rights report was published on 13th October 2011 and is available to view on www.parliament.uk

7. OVERALL CONCLUSION

We would like to take this opportunity to thank all respondents who have contributed to this consultation. We will continue to engage with partners as we move forward with this reform and its implementation.

The Home Office has carefully considered all of the comments made in response to this consultation and in light of the views expressed will seek to implement each of the four proposals. This reform is very much intended as a mechanism to strengthen and address potential gaps within the current system. It is believed that these four proposals achieve a fair balance between increasing public protection and the rights of individuals subject to notification requirements. It is considered that these amendments to existing legislation will give the police the appropriate tools to ensure that they are able to do their job of protecting the public by providing effective management of sexual offenders living in the community. These changes will provide the police with vital intelligence which will allow them to take action where appropriate to prevent further harm.

The Home Office will seek to implement these changes through secondary legislation by virtue of powers under the Sexual Offences Act 2003 to make regulations which would be subject to the affirmative resolution procedure. It is envisaged that subject to parliamentary business, the legislative amendments will be in force across England and Wales in summer 2012.

An Impact Assessment will be published on the Home Office website in tandem with this document.

APPENDIX A

Consultation document.

<http://www.homeoffice.gov.uk/publications/about-us/consultations/notification-sex-offenders/>

APPENDIX B

The consultation received a number of responses from stakeholders and interested parties. These included:

- **Policing Agencies** including: Police Forces, Constabularies, ACPO, MAPPA coordinators and Probation officers
- **Individuals** including: those with a personal/ family related interest in the Notification Requirements as well as those with an academic interest
- **Legal professionals** including: National Bench Chairmen’s forum, London Criminal Courts Solicitors Association, LCCSA, Council of HM Circuit Judges, retired QC.
- **Charity and Voluntary groups** including: NSPCC, Barnardos, Lucy Faithfull Foundation, ECPAT UK, World Vision UK, Children and families across borders, Diocese of Oxford,
- **Lobby/Activist/Pressure groups** including: UNLOCK, FACT,
- **Government partners** including Children’s Commissioner for Wales

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