

NORTH LANARKSHIRE COUNCIL

SOCIAL WORK DEPARTMENT

Social Work Committee : 6th October, 1998.	Subject :
From : Jim Dickie, Director of Social Work Prepared by : John S Scott, Principal Officer, Criminal Justice	Criminal Justice Services : Sex Offender Act - Revised Guidance

1. PURPOSE OF REPORT

1.1 The purpose of this report is to :

- Seek the approval of the Committee to forward the attached comments to the Scottish Office, concerning draft consolidated guidance in relation to the Sex Offender Act 1997.

2. BACKGROUND

2.1 The Sex Offender Act gave the police responsibility to hold a register of sex offenders who had committed a range of specified sexual offences. The Act was followed by a separate document offering guidance to various agencies who could be involved in the assessing and management of sex offenders. This included the Police, Social Work, Health Service and the Scottish Prison Service. This guidance was considered to be confused in certain areas and to fail to cover a number of important matters. Following this comment, the Scottish Office agreed to draft a consolidated guidance for all agencies., and this has now been circulated to interested parties for comment.

2.2 Other publications which are relevant to note in relation to the consolidated guidance are :

- The McManus Report, which reported on the case of Stephen Leisk, by Aberdeen City Council Social Work Department. This was previously reported to Committee.
- 'A Commitment to Protect' - a report by the Chief Inspector of Social Work into the management of sex offenders in Scotland. This was previously reported to Committee, and comment made to the Scottish Office.

3. CONSOLIDATED GUIDANCE - MAIN ISSUES AND COMMENT

3.1 The points listed below have been noted in the guidance :

3.2 Clarification is provided that the Police will undertake, with the support of other agencies, principally Social Work, risk assessment, not only on those subject to registration under the Act, but also for those convicted, but not registered, and for those who are suspected of committing sexual offences. This provides a clearer framework for the coordination of work, clarifying responsibility for those not subject to registration.

This measure is welcomed, and will increase protection for the community.

- 3.3 The responsibility of the police to undertake periodic checks to ensure that the offender is still at the registered address is included in the guidance. Minimum standards for levels of contact, review of cases, and timescales for the recording of multi agency meetings are not laid down, and it is proposed that national procedures should be established.

- 3.4 There is a disparity in guidance to hospitals from that offered to other agencies. Hospital managers are not required to notify the Police when a registrable offender leaves hospital, either on a permanent basis, or for temporary leave. This will principally apply to psychiatric hospitals. The Scottish Prison Service is not required to notify the Police of temporary leave of less than 14 days.

In the interests of public safety, it is proposed that hospital managers should be required to notify the Police of all discharges from hospital, and that both hospitals and the Scottish Prison Service should be required to notify the Police of periods of leave of less than 14 days.

- 3.5 The role of Housing Departments is not sufficiently considered in the circular. Housing have a crucial role to play in providing information to help assess risk, need to have ongoing information to consider risk when rehousing other vulnerable individuals or families, and in supporting Social Work in identifying suitable accommodation for offenders.

It is proposed that the role of Housing be considered in the guidance, with Housing taking its place with Social Work and the Police as one of the three key agencies in the effective management of sex offenders.

- 3.6 No comment is made in the guidance regarding the Government's response to 'A Commitment to Protect.' This document considers the structure of supervision of sex offenders subject to statutory orders, and the omission of a section concerning the ongoing supervision and management of sex offenders is disappointing and renders the guidance incomplete.

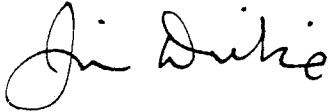
It is proposed that the Scottish Office incorporate a section on the supervision and management of sex offenders in the final guidance.

- 3.7 To date, inter agency work and increased involvement with offenders has been managed with no increase in resources. The further development of practice will demand additional provision from the Scottish Office.

4. RECOMMENDATION

4.1 The Committee is asked to:

- Note the comments above.
- Approve the detailed comments appended as suitable to forward to the Scottish Office.



Jim Dickie
Director of Social Work

August 31st 1998

For further information contact John S Scott, Principal Officer, Criminal Justice (01698 332029)

NORTH LANARKSHIRE COUNCIL

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Guidance on Sex Offender Orders

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**May 1998**

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The Social Work Department welcomes the opportunity to comment on the Draft Guidance on Sex Offender Orders, issued by the Scottish Office for consultation, in conjunction with Draft Guidance on Anti Social Behaviour Orders. The comments offered have been prepared in conjunction with the Housing Department.

Comment was previously made on the proposals for the establishment of Community Protection Orders, now called Sex Offender Orders, and this is borne in mind in relation to the Draft Guidance.

The following comments are offered :

- **Those against whom orders can be made**

It is positive that orders can be made against those convicted prior to the legislation, and against those who were under 16 at the time of conviction, subject to clear evidence that the Sex Offender Order is merited due to current behaviour.

Gaps remain, however, as the guidance does not include those convicted e.g. in relation to breach of the peace, or murder, where there was a sexual element to the crime. This omission remains a significant gap in all recent legislation. Those who admit or are found responsible for sexual abuse, in child protection proceedings, but not prosecuted in a criminal court, are also omitted. Again, this is a significant gap.

- **What sort of behaviour?**

The guidance defines what is not applicable rather than what is. It is important that in the final guidance, a clearer picture is given of the kind of behaviour which might be applicable e.g. spending considerable time around areas where access to children is available (when the individual has shown a previous record of offending associated with this behaviour). It is acknowledged, however, that there is a need to maintain flexibility for the Police and Courts in making use of the legislation.

- **Action for police**

This section seems satisfactory, as it provides guidance on a range of possible action, in conjunction with other agencies to deal with the situation constructively, without recourse to seeking an order.

Clearer guidance should be offered in relation to any terms of the order which might be sought. It may be, for example, that a prohibition to stay away from a particular location / establishment will prove ineffective as the offender might move his / her attention somewhere else. Consideration in the guidance of the relative value of specific or general prohibitions is essential to maximise the impact of the order.

- **Court proceedings**

No comment

- **Appeals**

It is positive that the order will remain in force pending any appeal.

- **Registration**

The requirement that any offender made subject to a Sex Offender Order be required to register with the Police is a positive development.

- **Monitoring**

The process of monitoring orders is particularly difficult, and more detailed guidance on the standard of scrutiny envisaged, is required.

It is important that the degree of risk posed by the offender is kept under review and the multi disciplinary consultation, noted in the Guidance, is supported.

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# **NORTH LANARKSHIRE COUNCIL**

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## **Response to Revised Guidance on the Sex Offender Act 1997**

**September 1998**

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## 1. INTRODUCTION

North Lanarkshire Council is pleased to be able to comment on the draft consolidated guidance, issued by the Scottish Office in July 1998. The Council believes that it is vital to ensure that guidance offered in relation to the Sex Offender Act, and in relation to the management of offenders not subject to the provisions of the Act need to be clear and unambiguous, and to offer a platform on which effective inter agency work can be established within each local authority area.

While arrangements for inter agency practice vary from local authority area to local authority area, the Council is concerned to ensure that the safety of the community is maximised, and that there is established a consistent, effective platform for the assessment, monitoring and supervision of offenders, which will have the confidence of the public.

The draft consolidated guidance is seen as a positive document which clarifies a number of areas, and assists local authorities to clarify their roles within the increasingly close partnerships which are developing between the agencies involved in this work. There are, however, some concerns. Both are considered below.

## 2. COMMENT ON GUIDANCE

### Section 1 - The Sex Offenders Act 1997

The Council has already commented on the terms of the Act and expressed concern at the categories of offenders who pose a risk to others, but do not come within the terms of the Act. It is hoped that these issues will be addressed through legislation in the future. In relation to the guidance itself, the Council has no specific comment to make, but notes the comments of the Police regarding the omission of the offence of indecent exposure from Schedule 1 to the Act.

### Section 2 - The Court Service

This section of the guidance seems to adequately address the responsibilities of the Court Service.

### Section 3 - The Police Service

The Council welcomes clarification at Paragraph 5 that the Police will undertake periodic checks to ensure that the offender is still at the registered address. This is of course happening in practice but required clarification in the guidance. It is surprising to note, however, that there is no guidance laid down regarding the minimum required frequency of contact, review of management arrangements, and timescales for provision of written records of meetings. It is suggested that minimum standards be established and incorporated into the guidance. Such procedures should be established on a national basis.

The Council is concerned at the lack of clarity in Paragraph 6 regarding the scope of consultation with 'other relevant agencies' when the Police have become aware of the registration requirements of an offender. This section requires greater definition within the guidance to specify what constitutes assessment and what constitutes disclosure.

The Council considers that the Scottish Prison Service should give notice of release of offenders subject to registration to match the notifications provided in relation to offenders being released on licence.

#### **Section 4 - The Scottish Prison Service**

To maximise public safety, the Council considers that the Scottish Prison Service should notify the Police of the release of relevant offenders on all occasions. This should include periods of release of less than 14 days.

#### **Section 5 - Local Authorities**

Guidance in this section is mostly clear, with the exception of Paragraph 7 which refers to the responsibility of local authorities, after a child has left secure accommodation, to notify 'subsequent community based placements that the child is subject to a notification requirement under the Act' This is potentially confusing in relation to disclosure of information. It requires to be clarified whether community based placements are those managed by Social Work only or may include services provided by other agencies, and whether this responsibility conflicts with that of the Police to manage information and disclose when appropriate.

Within local authorities, Housing have a key role to play in providing or finding suitable accommodation for offenders. The issues which arise will have to be considered in a wider framework which considers the conflict between the duty of care to the individual and the safety of the community, legislation in relation to anti social behaviour, and the introduction of anti social behaviour orders.

The role of Housing will include :

- Providing relevant information to Police and Social Work which contributes to the assessment.
- Considering risk when housing other vulnerable individuals or families.
- Dealing with anti social behaviour.

It is the view of the Council that the role of Housing is key to effective multi disciplinary practice, that they should be considered an equal partner with Police and Social Work, and that the guideline should include comment on their role in providing and maintaining information which is relevant to Police and Social Work in monitoring and supervising offenders.

The role of Housing in relation to sex offenders is considered in greater detail in the paper prepared by the Association of Directors of Social Work in conjunction with the Chartered Institute of Housing - 'The Housing of Sex Offenders.' This paper should be considered in the further development of the guidance.

#### **Section 6 - Hospitals**

Some elements in this section of the guidance seem to maintain a different stance to the purpose of the legislation in maximising public safety, and to guidance issued to other agencies.

It is suggested in this section that hospital managers need not automatically notify the Police of the discharge of a registrable offender, while Social Work, for those on statutory orders, and the Scottish Prison Service are required to do so. The legislation has the effect of making the interests of the sex offender subordinate to the interests of the community. This section should be changed to ensure that registrable offenders being discharged from hospital are subject to the same controls and notification processes as those dealt with by other agencies.

To maximise public safety, the Council supports the view that hospital managers should notify the Police of the release of relevant offenders on all occasions. This should include periods of release of less than 14 days.



## Section 7 - Risk Assessment

The Council welcomes the inclusion of guidance on those convicted but not registered, and on those who are suspected of sexually abusing others. This will provide a clearer framework for the coordination of work, and will increase protection for the community.

The guidance in Section 7 appears to assume that sex offenders are all male. This is the case for the majority, but it should not be assumed to be so in all cases.

As noted earlier, it is the view of the Council that due to the roles played, assessment should include Police, Social Work and Housing as equal partners, contact with any other local authority department or agency being considered only when demanded by the particular circumstances of the case.. It would be helpful if the final guidance provided a clearer picture of the definition of disclosure. Is contact by the Police with another local authority department or another agency to obtain information to be classed as disclosure, or part of the normal assessment process?

Social Work holds a great deal of personal information about individuals, including third party information provided for other purposes e.g. previous psychological, psychiatric or education reports. Currently, Social Work is restricted in its use of third party information. The guidance comments at Paragraph 5 that Social Work should share any relevant information about the offender with the Police. Guidance is required regarding the status and management of relevant third party information held by Social Work.

In Paragraph 11, it is stressed that assessment is a collaborative effort. This will be the case when Social Work holds information about, or is actively involved with the individual. It is not clear from this paragraph, however, whether it is envisaged that Social Work should become involved in the assessment of individuals not already known to the authority concerned. If so, considerable additional resources would have to be made available to make this possible.

Paragraph 25 refers to the provision of information about risk to the court or Reporter to the Children's Hearings, when providing reports. The Council would like to raise a number of points with regard to this paragraph.

- Provision of information about risk is a routine matter in many areas of Criminal Justice or Child Protection Social Work. Greater definition is needed in the guidance, however, regarding the provision of information in this context, as much of the information will be based on Police intelligence rather than witnessed directly by Social Work.
- It seems self evident that an offender who refuses to comply with the terms of the Act should be considered to be a high risk. The provision of additional information seems superfluous to the decision of the Procurator Fiscal.
- Social Work does not routinely have access to the written risk assessment prepared by the Police following assessment. For this paragraph to have a consistent impact, guidance to the Police needs to be included regarding the sharing of written records.

### Other comments

The circular which accompanied the revised guidance refers at Paragraph 1 to the Government producing revised and consolidated guidance .....together with the implications of the recently published report .....A Commitment to Protect.'

It is disappointing and striking to note that the revised guidance, in fact, contains no reference to 'A Commitment to Protect' or to include any section on the views of the Scottish Office regarding the ongoing management of offenders subject to statutory orders. It is anticipated that the response to the consultation exercise on 'A Commitment to Protect' will be included as guidance in the final version.

The successful implementation of arrangements to effectively assess and manage sex offenders in the community will depend on there being a clear understanding of the respective roles and responsibilities at all levels. Joint training is essential for the agencies involved. The guidance should consider this issue.

In view of the conclusions of the McManus report and the development of increased inter agency collaboration, there is already considerable pressure on Social Work resources. Further development will depend on the allocation of additional resources.