

NORTH LANARKSHIRE COUNCIL

SOCIAL WORK DEPARTMENT

TO: Social Work Committee	Subject:
FROM: Jim Dickie Director of Social Work	Crime & Disorder Act 1998
DATE OF COMMITTEE: 24 November 1998	
REPORT AUTHOR: John Scott Principal Officer, Criminal Justice	
REF: JD/JS	

1. PURPOSE OF REPORT

The purpose of the report is to :

- Inform the Committee of the contents of the Act.
- To seek approval for the submission of comments to the Scottish Office on guidance for the introduction of Sex Offender Orders, one of the measures introduced in the Act.

2. BACKGROUND**2.1 Crime and Disorder bill**

The Crime and Disorder Act was recently passed by Parliament and contains separate measures for England and Wales and for Scotland. During the passage of the Bill through Parliament, comment was sought from Local Authorities on various proposals contained in the Bill. These included the establishment of Sex Offender Orders, the establishment of Anti Social Behaviour Orders, and draft guidance in relation to each. These matters were earlier reported to Committee.

2.2. North Lanarkshire

Within North Lanarkshire, the Social Work Department has assumed lead responsibility for matters concerning sex offenders, and the Housing Department for matters associated with anti social tenants and anti social behaviour.

3. CONTENTS OF THE ACT

The following measures, relevant to Scotland, have been included in the Act.

3.1 Sex Offenders

A number of measures associated with developing controls over this group of offenders have been included in the Act.

3.1.2 Sex Offender Orders

The Act introduces Sex Offender Orders. The Act enables a Chief Constable to apply to a Sheriff for a sex offender order, in circumstances where it is considered that the offender's behaviour is such that others are placed at risk. This may for example include an offender loitering around areas where children congregate. The Police will have responsibility for oversight of the order, but will require to work in close cooperation with Departments of North Lanarkshire Council as is appropriate.

The Scottish Office have provided guidance on the use of Sex Offender Orders, and have asked local authorities for comment. Comment was earlier provided on a draft guidance circular. Comments from North Lanarkshire Council on the revised guidelines are attached for consideration by the Committee.

3.1.3 Extended Supervision

Where a sex offender is convicted on indictment, the Act empowers a court, where it is necessary to protect the public from serious harm, to impose, in addition to a sentence of imprisonment, a period of post release supervision, to a maximum of ten years.

3.2 Anti Social Behaviour

The Act introduces Anti Social Behaviour Orders to the range of provisions available to deal with individuals who display anti social conduct. Local Authorities are empowered to apply for orders on any person over 16 who has acted in an anti social manner. The order can prohibit the subject from continuing behaviour, detailed in the order, which has caused distress to others.

As noted earlier, the Housing Department take lead responsibility for matters associated with anti social behaviour and will be reporting to the Housing Committee, in this cycle, on guidance received from the Scottish Office in relation to Anti Social Behaviour Orders.

3.3 Race Related Crime

The Act creates a new offence of racially aggravated conduct. In addition, the Act requires the court to treat a racial element to any crime, where proved, as an aggravation which will be taken into account when sentencing.

3.4 Offending associated with the use of Drugs

The Act introduces a new type of statutory order - a Drug Treatment and Testing Order - for offenders where misuse of drugs is a contributory factor in offending behaviour. The order provides for supervision of the individual by an officer of the local authority, normally a social worker, concurrent with a requirement that the individual will submit to drug treatment and testing under the direction of a treatment provider, normally the Health Board.

Drug Treatment and Testing Orders will initially be made available on a pilot basis in Scotland. It is not yet known in which areas the Scottish Office will pilot this provision.

3.6 Violent Offenders

The Act makes available to courts extended supervision for violent offenders sentenced to a period of imprisonment of more than 4 years. The period of post release supervision can extend to 5 years.

4. IMPLEMENTATION OF THE ACT

Dates for full implementation of the Act are not known at present. As noted, Drug Treatment and Testing Orders will be implemented on a pilot basis, and the Scottish Office have only just announced that Anti Social Behaviour Orders will be implemented from April 1st 1999.

5. IMPLICATIONS FOR NORTH LANARKSHIRE

North Lanarkshire will require to work in close cooperation with the Police in relation to the provisions associated with anti social behaviour and sex offenders.

In earlier consultation documents, the Scottish Office indicated that the costs of implementing Anti Social Behaviour Orders will be self financing due to a redirection of effort and existing resources. There will be additional costs associated with the extended supervision of sex offenders and violent offenders which will be reflected in bids for funding through 100% funding for criminal justice services.

6. RECOMMENDATION

The Committee is asked to :

- Note the measures contained in the Act.
- Approve comments on the guidance associated with Sex Offender Orders for submission to the Scottish Office.



Jim Dickie
Director of Social Work

November 17th 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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October 1998

The Social Work Department welcomes the opportunity to comment on the Guidance on Sex Offender Orders, issued by the Scottish Office for consultation

Comment was previously made on the proposals for the establishment of Community Protection Orders, now called Sex Offender Orders, and on an earlier draft of the guidance. These are borne in mind in relation to the current 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 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. North Lanarkshire supports the importance of effective cooperation between the agencies involved.

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. Within North Lanarkshire, arrangements have been established between the Local Authority and Police to undertake assessment of risk and to review cases on a regular basis. This work relates to those subject to registration, in terms of the Sex Offender Act, and is moving towards implementation of assessment and review arrangements for the wider group of offenders and suspected offenders, envisaged in the draft consolidated guidance on the Sex Offender Act.