

To: SOCIAL WORK COMMITTEE		Subject: SCOTTISH EXECUTIVE GUIDANCE ON THE ORDER FOR LIFELONG RESTRICTION
From: DIRECTOR OF SOCIAL WORK		
Date: 24 TH AUGUST 2006	Ref: JS/BC	

1. PURPOSE OF REPORT / INTRODUCTION

- 1.1 To advise Committee of the Scottish Executive guidance on the Order for Lifelong Restriction (OLR).

2. BACKGROUND

- 2.1. Following the recommendation of the Expert Panel on Sex Offending (The Cosgrove Report) and the report of the Committee on Serious Violent and Sexual Offenders, chaired by Lord McLean, Part 1 of the Criminal Justice (Scotland) Act 2003 introduces new provisions for the sentencing and treatment of serious violent and sexual offenders who may pose a continuing danger to the public.
- 2.2. The Criminal Justice (Scotland) Act 2003 established the Risk Management Authority (RMA) and created a new sentence for the High Court, the Order for Lifelong Restriction (OLR). The Act also created special procedures for risk assessment leading up to the making of an OLR.
- 2.3. The Act also sets out the requirements for the preparation, implementation and updating of Risk Management Plans in relation to the OLR.
- 2.4. The OLR is a form of life sentence. It differs from a discretionary life sentence or a long determinate sentence in that there are bespoke risk assessment procedures before sentence that can be imposed by means of a Risk Assessment Order and there will be specific arrangements put in place for life long, multi-agency management of the offender.

3. PROPOSALS / CONSIDERATIONS

- 3.1 The report from the Scottish Executive gives detailed guidance on the Order for Lifelong Restriction (OLR) and highlights the responsibilities of agencies involved from the pre-sentence assessment stage, through the custodial and pre-release stage to the return to the community and post custody supervision.
- 3.2 The guidance is designed to provide practitioners with an understanding of the Order for Lifelong Restriction, how it is applied and the associated special procedures for risk assessment leading up to an Order for Lifelong Restriction. Practitioners include the Crown Office, other legal practitioners, the police, Scottish Prison Service and social workers as examples.
- 3.3 The OLR has been introduced to deal with high risk offenders.

- 3.4 The OLR sentence is available to the High Court from 20th June 2006 and as this new sentence is only available to the High Court, it is only available for the most serious sexual or violent offences.
- 3.5 The process enables the offenders risk to be assessed by the way of a Risk Assessment Order, which will determine whether the risk criteria is met, before consideration of the new sentence.
- 3.6 A thorough risk assessment will be carried out by a specially trained assessor who has been accredited by the Risk Management Authority.
- 3.7 A Risk Assessment Report will be presented to the Court, and an OLR will be imposed, only where the court considers the statutory criteria to have been met.
- 3.8 In respect of Mentally Disordered Offenders special provisions apply. Depending on the outcome of the risk assessment and relation to the mental disorder, the Court could impose a mental health disposal. Alternatively they could impose an OLR combined with a Hospital Order.
- 3.9 It is important to note that not all serious violent and sexual offenders dealt with by the High Court will be the subject of a Risk Assessment Order and not all those who will be, will meet the criteria for an OLR.

4. FINANCIAL / PERSONNEL / LEGAL / POLICY IMPLICATIONS

- 4.1 The introduction of the Order for Lifelong Restriction will not have immediate significant implications for Local Authority Justice services.
- 4.2 The Local Authority will continue to provide a Social Enquiry Report to the Court, and will become more involved in the assessment process. In relation to very high risk offenders, Social Work is currently committed to multi-agency planning and delivery of service.
- 4.3 The main impact on Social Work resources will be recognised when a significant number of these disposals are made.

5. RECOMMENDATIONS

5.1 Committee is asked to:

- i) Note the content of this report.
- ii) Request the Director of Social Work to report back to Committee on the progress of this new Court disposal.



Jim Dickie
Director of Social Work
10th July 2006

For further information on this report please contact Mary Fegan, Head of Service TEL: (01698) 332001 or Jim Scullion TEL: (01698) 332040.

A copy of the report is lodged in the members library.