

From: [REDACTED]
Community Safety Unit
16 June 2017

Cabinet Secretary for Justice

**ABUSIVE BEHAVIOUR AND SEXUAL HARM (SCOTLAND) ACT 2016 -
COMMENCEMENT – OPTIONS**

Purpose

1. As requested by the Cabinet Secretary on 22 February, to present possible options on the proposed commencement of sections 10 to 40 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 ("the 2016 Act"), relative to the introduction of Sexual Harm Prevention Orders (SHPOs) and Sexual Risk Orders (SROs) and to seek ministerial views on which option to pursue.

Priority

2. Routine.

Background

3. Work has been on-going to commence sections 10 to 40 of the 2016 Act, which received Royal Assent on 28 April 2016. This would introduce new preventative orders, SHPOs and SROs in Scotland. These orders were introduced in England and Wales on 8 March 2015 and are fully enforceable in Scotland.

4. [REDACTED]

Options

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Recommendation

12. The Cabinet Secretary is invited to note this submission and consider the options as presented and indicate which should be explored further.

[REDACTED]
Community Safety Unit
Ext. [REDACTED]

16 June 2017

Copy List:	For Action	For Comments	For Information		
			Portfolio Interest	Constit Interest	General Awareness
Minister for Community Safety and Legal Affairs Lord Advocate Solicitor General	«text»	«text»	«text»	«text»	X X X

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DG Learning and Justice
DSF Director of Safer Communities
PS/Courts
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] COPFS
[REDACTED] SCTS
John McFarlane
Communications Justice

«text»

From: [REDACTED]
Sent: 01 May 2019 17:16
To: Cabinet Secretary for Justice
Cc: [REDACTED] Communications Justice; [REDACTED]; [REDACTED]; Nicolson S (Stuart) Special Adviser; [REDACTED]; [REDACTED]; McFarlane J (John)
Subject: RE: For clearance - Media query: SHPOs - The Sun

Thanks [REDACTED]

I will send on to the journalist now.

[REDACTED] | Newsdesk
Scottish Government, St Andrew's House
e: [REDACTED]@gov.scot
t: [REDACTED] | m: [REDACTED]
www.gov.scot | @ScotGov

From: [REDACTED] On Behalf Of Cabinet Secretary for Justice
Sent: 01 May 2019 17:16
To: [REDACTED]; Cabinet Secretary for Justice [REDACTED]
Cc: [REDACTED]; Communications Justice [REDACTED]; [REDACTED]; Nicolson S (Stuart) Special Adviser [REDACTED]; [REDACTED]; McFarlane J (John) [REDACTED]
Subject: RE: For clearance - Media query: SHPOs - The Sun

Hi [REDACTED]

Thanks – Mr Yousaf has seen and is content to clear.

Thanks,

[REDACTED]
Office of Humza Yousaf, Cabinet Secretary for Justice

Scottish Government, Room 1W.11, St Andrew's House, Regent Road, Edinburgh, EH1 3DG | [REDACTED]
CabSecJustice@gov.scot | www.gov.scot |

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From: [REDACTED]
Sent: 01 May 2019 15:38
To: Cabinet Secretary for Justice <CabSecJustice@gov.scot>
Cc: News Desk <Newsdesk@gov.scot>; Communications Justice [REDACTED]

[REDACTED]; Nicolson S (Stuart) Special
Adviser <Stuart.Nicolson@gov.scot>; [REDACTED]
[REDACTED]; McFarlane J (John) <[REDACTED]>
Subject: For clearance - Media query: SHPOs - The Sun

Journalist [REDACTED] has been in touch with Comms over the past few weeks asking for further information about SHPOs and our engagement with the UKG to get these in place. He asked about whether we would introduce these new orders in Scotland without UK reciprocity, while we await action from the UKG.

We provided some initial background and factual information to address his enquiry, as agreed with policy colleagues and issued on SpAd clearance, but the journalist is pressing for further information. I'd appreciate clearance from the Justice Secretary on the lines below as agreed with policy and SpAds. These reiterate the points already made to the journalist.

A Scottish Government spokesperson said:

"Legislation to enable enforcement across the rest of the UK is needed to ensure that monitoring any augmented regime remains as robust as possible.

"Without action to legislate by the UK Government, even an order with a residency condition would not be enforceable in other jurisdictions just across the border from Scotland, thereby creating a weakness when we are focused on a system that can strengthen arrangements across these islands.

"The current arrangement means that the preventative orders available in Scotland continue to be enforceable in other UK jurisdictions. We will commence these orders as soon as the UK Government passes the appropriate legislation. Until that time the current arrangements of MAPPAs and available court orders, provide the most robust, well-understood and enforceable regime for keeping people safe."

Background:

SOPOs are one of a range of measures to manage the risks posed by RSOs, and these existing Orders provide police with the ability to apply and monitor a range of conditions, such as electronic tagging, curfews and restrictions to manage behaviour.

The reoffending rate amongst this cohort compared to other categories of offender is low; In 2017/18, less than 0.9% of RSOs went on to reoffend.

Thanks
[REDACTED]

[Redacted]

From: [Redacted]
Sent: 12 April 2019 07:50
To: [Redacted]
Subject: Fw: Sexual Harm Prevention Orders and Sexual Risk Orders.

For info - to see the request re the Victoria Atkins (?) letter has been dealt with for now. John will pick up with Cab Sec.

Sent from my BlackBerry 10 smartphone.

From: McFarlane J (John) <John.McFarlane@gov.scot>
Sent: Thursday, 11 April 2019 14:55
To: [Redacted]
Subject: RE: Sexual Harm Prevention Orders and Sexual Risk Orders.

Thanks.

From: [Redacted]
Sent: 11 April 2019 14:52
To: McFarlane J (John) <[Redacted]>
Subject: FW: Sexual Harm Prevention Orders and Sexual Risk Orders.

Is this the kind of thing you were thinking of? Do you want to pick this up with Cab Sec in terms of whether this is the right tone, and how this might be used? Let me know if you want me to do anything.

[Redacted]

The Scottish Government is committed to ensuring that our public protection arrangements are robust and responsive to the level of risk an individual may pose. The existing Sexual Harm Prevention Orders do that by providing the police with an active and practical response to managing risks posed by certain sex offenders.

To simplify and rationalise the current system of civil orders which protect the public from sexual harm, this Government legislated for the introduction of Sexual Harm Prevention Orders and Sexual Risk Orders in Scotland in 2016. Until there is legislation in place which allows these orders to be enforced across all parts of the United Kingdom, we are unable to commence their use. It would be completely irresponsible to do so.

We have repeatedly asked the UK Government to amend the necessary reserved primary legislation which would allow us to commence these orders. Despite requests, the UK Government have refused to provide a timetable as to when they will do this.

From: McFarlane J (John) <John.McFarlane@gov.scot>
Sent: 10 April 2019 11:29
To: [Redacted]

Cc: [REDACTED]
Subject: RE: Sexual Harm Prevention Orders and Sexual Risk Orders.

Thanks. Can lines be prepared.

From: [REDACTED]
Sent: 10 April 2019 10:36
To: McFarlane J (John) <[REDACTED]>
Cc: [REDACTED]
Subject: FW: Sexual Harm Prevention Orders and Sexual Risk Orders.

Hi John,

You will wish to note the attached Ministerial 'reply' to Mr Yousaf's December letter.

Would you have a view, in terms of next steps?

[REDACTED]
Community Justice Division
Room GWR, St Andrew's House, Edinburgh
Scottish Government

From: [REDACTED] > On Behalf Of Cabinet Secretary for Justice
Sent: 03 April 2019 10:57
To: [REDACTED]
Cc: Cabinet Secretary for Justice <CabSecJustice@gov.scot>
Subject: FW: Sexual Harm Prevention Orders and Sexual Risk Orders.

Good morning all

I think this may be for your area. If not please let me know.

The Cabinet Secretary has received correspondence from Victoria Atkins MP, Minister for Crime, Safeguarding and Vulnerability and Minister for Women, in relation to the Home Office's plans to bring forward legislation to enable the introduction of Sexual Harm Prevention Orders and Sexual Risk Orders in Scotland. The Cabinet Secretary had written to Ms Atkins in December asking for a timetable of the Home Office's plans and this is Ms Atkins response. I will pass to the Cabinet Secretary to note but I'd be grateful for any advice on how to proceed.

Kind regards

[REDACTED]
[REDACTED]
Office of Humza Yousaf, Cabinet Secretary for Justice

Scottish Government, Room.1W.11, St Andrew's House, Regent Road, Edinburgh, EH1 3DG | [REDACTED]

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From: Minister for Safeguarding <MinisterforSafeguarding@homeoffice.gov.uk>
Sent: 02 April 2019 18:59
To: Cabinet Secretary for Justice <CabSecJustice@gov.scot>
Subject: RE: Sexual Harm Prevention Orders and Sexual Risk Orders.

Hi [REDACTED]

Thank you for your email below. With my apologies for the delay – please find attached response from Minister Atkins.

Kind regards,

From: [REDACTED] On Behalf Of CabSecJustice@gov.scot
Sent: 21 December 2018 13:13
To: Minister for Safeguarding <MinisterforSafeguarding@homeoffice.gov.uk>
Cc: CabSecJustice@gov.scot
Subject: Sexual Harm Prevention Orders and Sexual Risk Orders.

PS/Minister for Safeguarding,

Please find attached a letter from Humza Yousaf MSP, Cabinet Secretary for Justice, in relation to Sexual Harm Prevention Orders and Sexual Risk Orders.

Regards,

[REDACTED]
Office of Humza Yousaf MSP, Cabinet Secretary for Justice
[REDACTED]

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