



BRIEFING PAPER

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Registration and Management of Sex Offenders

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Summary

Part 2 of the *Sexual Offences Act 2003*¹ provides various measures that enable the police in England and Wales to monitor and manage sex offenders living in the local area.

Notification Requirements: The “sex offenders register”

Certain sex offenders are required to notify the police of personal information such as their name, address and bank and credit card details, and to update the police whenever this information changes. The police record of this information is commonly referred to as the “sex offenders register”. There is no general public access to the “sex offenders register”. The child sex offender disclosure scheme allows parents, carers and guardians to formally ask the police to tell them if someone has a record for child sexual offences.

The notification requirements are imposed automatically on offenders convicted of certain offences in the UK, but can also be imposed by way of court order on offenders convicted overseas. The notification requirements are imposed for a fixed or indefinite period, depending on the sentence received. The penalties for breaching notification requirements range from a fine to imprisonment for up to five years.

Those offenders subject to an indefinite notification period can apply to the police for a determination that they no longer pose a risk and should no longer be on the register. The earliest point at which such an application can be made is 15 years after the date of the offender’s first notification (or eight years, for those aged under 18 when convicted).

Sexual Harm Prevention Orders and Sexual Risk Orders

There are other civil orders available to manage sex offenders and those who pose a risk of harm: Sexual Harm Prevention Orders (SHPOs) and Sexual Risk Orders (SROs). These orders can place a range of restrictions on individuals depending on the nature of the case, such as limiting their internet use or preventing travel abroad. The penalties for breach range from a fine to imprisonment for up to five years.

These orders have replaced, in England and Wales, the civil orders that were previously available (namely Sexual Offences Prevention Orders, Foreign Travel Orders, and Risk of Sexual Harm Orders).

¹ The relevant provisions for a Sexual Harm Prevention Order on conviction are now found principally in [Part 11 Chapter 2](#) of the Sentencing Code contained in the *Sentencing Act 2020*

1. Legislative background

The police have always kept records of people's convictions, for both sexual and non-sexual offences. However, Part 1 of the *Sex Offenders Act 1997* introduced a new requirement for certain convicted sex offenders to register with the police for a set length of time. Registered individuals had to provide the police with their name, address and date of birth; they were then required to notify the police of any changes to their name or address so that police records could be kept up to date.

The notification requirement could last either indefinitely or for a specified number of years, depending on the sentence imposed on the offender. The police record of these notifications has been commonly referred to as the "sex offenders register" since notification requirements were introduced. There is no general public access to the "sex offenders register". The [child sex offender disclosure scheme](#) allows parents, carers and guardians to formally ask the police to tell them if someone has a record for child sexual offences.²

Following a review of the 1997 Act, it was repealed and replaced by the *Sexual Offences Act 2003*, Part 2 of which introduced more stringent notification requirements.³ The 2003 Act also introduced a number of new civil orders for dealing with sex offenders, for example by prohibiting travel abroad in certain circumstances. The *Anti-social Behaviour, Crime and Policing Act 2014* repealed and replaced these civil orders with new ones.

² Gov.uk, [Find out if a person has a record for child sexual offences](#)

³ For details of the review, see: Home Office, [Consultation Paper on the Review of Part 1 of the Sex Offenders Act 1997](#), July 2001; and Home Office, [Protecting the Public: Strengthening protection against sex offenders and reforming the law on sexual offences](#), Cm 5668, November 2002. [Library Research Paper 03/62](#) provides further background to the 2003 Act.

2. Notification requirements: the “sex offenders register”

2.1 Relevant offenders

Anyone convicted of any of the sexual offences listed in Schedule 3 of the *Sexual Offence Act 2003* is automatically subject to the notification requirements in the 2003 Act, meaning they must notify their local police force of their name, address and certain other personal details.⁴ Such individuals are referred to in the 2003 Act as “relevant offenders”.

The notification requirements are an automatic consequence of a conviction for a Schedule 3 offence: the court has no discretion over whether or not a relevant offender should be subject to the notification requirements, and a relevant offender has no right of appeal against being made subject to the notification requirements.⁵

The Schedule 3 list of offences currently includes, among others:

- rape;
- assault by penetration;
- sexual assault if:
 - where the offender is under 18, they have been sentenced to imprisonment for a term of at least 12 months; or
 - in any other case, the victim was under 18 or the offender has been sentenced to a term of imprisonment, detained in a hospital or made the subject of a community sentence of at least 12 months;
- sexual assault of a child under 13, if the offender is 18 or over or has been sentenced to imprisonment for a term of at least 12 months;
- certain child sex offences committed by adults;
- certain child sex offences committed by children or young persons, if the offender has been sentenced to imprisonment for a term of at least 12 months.

As the above list indicates, age and sentence thresholds have been applied to some of the offences to ensure that only the more serious levels of offending will trigger the notification requirements.

⁴ The automatic requirements also apply to those cautioned, found not guilty by reason of insanity, or found to be under a disability and to have done the act they are charged with: subsequent references in this briefing to “convicted” or “conviction” should be taken to include these disposals.

⁵ Note that the offender may, of course, still be entitled to appeal the relevant conviction that triggered the notification requirements. If the conviction is successfully overturned on appeal the associated notification requirements will fall away.

2.2 The notification period

The period of time for which a relevant offender is subject to the notification requirements varies according to how the offender was dealt with in respect of the relevant offence. Again, the court has no discretion over the length of the notification period for any particular offender, and the offender has no right to appeal for a shorter period.

A summary of the notification periods set out in the 2003 Act is provided below:

Disposal	Notification period
Prison sentence of 30 months or more (including life)	Indefinite
Admission to a hospital subject to a restriction order	Indefinite
Prison sentence of more than 6 months but less than 30 months	10 years
Prison sentence of 6 months or less	7 years
Admission to a hospital without a restriction order	7 years
Caution	2 years
Conditional discharge	Duration of the conditional discharge
Any other disposal (e.g. a community punishment or fine)	5 years

Where an offender is under 18 on the “relevant date”,⁶ the notification periods of ten, seven, five and two years are halved.

2.3 Indefinite notification periods: the review mechanism

A relevant offender who is subject to an indefinite notification period may, so long as they are not subject to a sexual harm prevention order or an interim sexual harm prevention order,⁷ (or a sexual offences prevention order or an interim sexual offences prevention order), apply in writing to their local chief constable for a determination that they should no longer be subject to the notification requirements.

The earliest point at which such an application may be made is 15 years from the date on which the offender made their first notification to police. This period is reduced to 8 years if the offender was under 18 on the relevant date.⁸

⁶ The “relevant date” will usually be the date of conviction or, for Schedule 3 offences that have sentencing thresholds, the date on which that threshold is met (i.e. the date of sentencing).

⁷ As described in section 4 of this briefing

⁸ See footnote 6 for the meaning of “relevant date”

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The police will determine the application by reference to the matters listed in section 91D of the 2003 Act,⁹ which include:

- any information provided to the police by the probation and prison services;
- the risk of sexual harm posed by the offender and the effect of a continuation of the indefinite notification requirements on the offender;
- the seriousness of the offence(s) that led to the offender being made subject to notification requirements;
- the period of time that has passed since he or she committed the offence(s);
- whether the offender has previously failed to comply with their notification requirements;
- the offender's age, both at the time of the review application and at the time the offence was committed;
- any submissions or evidence from the victim; and
- any convictions or cautions the offender has received for other sexual offences listed in Schedule 3 to the 2003 Act.

If the chief constable determines that the offender should no longer be subject to the indefinite notification requirements, then the offender ceases to be subject to these requirements as of the date on which they receive notice of the police determination.

If the chief constable determines that the offender should continue to be subject to the indefinite notification requirements, then they must provide the offender with a statement of reasons for the determination and inform them of their right to appeal. The offender may appeal by making an application to a magistrates' court within 21 days of the date on which they received notice of the determination.

An offender who is unsuccessful in their application for review cannot reapply to the police immediately. Instead they must wait a minimum of eight years before they are eligible to reapply. The police can extend this minimum period to up to 15 years in cases where they consider that the risk of sexual harm posed by an offender is sufficient to justify a continuation of notification requirements beyond a further eight years.

For detailed guidance on the review mechanism, please see Home Office, [*Guidance On Review Of Indefinite Notification Requirements Issued Under Section 91F Of The Sexual Offences Act 2003*](#), 2012.

Information for victims regarding the review mechanism is provided by the Home Office and the National Police Chiefs' Council in a leaflet [*Sex Offender Notification Requirements: Review Mechanism, What are my rights as a victim?*](#), July 2017.

⁹ Inserted by the *Sexual Offences Act 2003 (Remedial) Order 2012* (see below)

The introduction of the review mechanism

The 2003 Act as introduced did not include any review mechanism for relevant offenders subject to an indefinite notification period. Such offenders therefore had no opportunity to make representations at some future date that they no longer presented a risk to the public and should be removed from the register.

In 2008, this lack of review mechanism was challenged in the High Court by two people subject to indefinite notification periods, who argued that it was incompatible with their right to privacy under article 8 of the *European Convention on Human Rights* (ECHR).¹⁰ The court held that indefinite notification periods with no possibility of review **did** represent a disproportionate interference with article 8 rights, particularly in relation to young offenders. It therefore made a declaration of incompatibility (under section 4 of the *Human Rights Act 1998*) between the ECHR and indefinite notification periods with no prospect of review.¹¹

The Home Office appealed to the Court of Appeal but was unsuccessful. The Home Office then appealed to the Supreme Court but again unsuccessfully: the appeal was dismissed unanimously.¹²

To remedy the declaration of incompatibility, on 14 June 2011 then Home Office Minister Lynne Featherstone announced a proposal for a draft Remedial Order to be issued under section 10 of the *Human Rights Act 1998*.¹³

The draft Order was reviewed by the Joint Committee on Human Rights. It considered that it would not remedy the declaration of incompatibility unless it was amended to include a role for an independent tribunal: as a minimum this would involve giving offenders the full statutory right to appeal the outcome of the police review to the High Court.¹⁴ It also recommended that the Order should make clear that the review of notification requirements would involve “an assessment of whether the impact on the individual applicant for review of continuing notification continues to be justified and necessary in light of the risk they pose to the public”.¹⁵

In its response to the Committee’s report, the Government indicated that it would accept a number of its recommendations:

- The express inclusion of the test which the police must apply when determining an application for review;

¹⁰ [R \(on the application of F & Another\) v Secretary of State for the Home Department](#), [2008] EWHC 3170

¹¹ *Ibid*, at para 33

¹² [R \(on the application of F & Another\) v Secretary of State for the Home Department](#) [2010] UKSC 17 at para 57. A press summary of the decision is also available: [Supreme Court, Press Summary, 21 April 2010](#)

¹³ [HC Deb 14 June 2011 c63WS](#). See [Draft Sexual Offences Act 2003 \(Remedial\) Order 2011](#) for the full text of the draft order.

¹⁴ Joint Committee on Human Rights, [Proposal for the Sexual Offences Act 2003 \(Remedial\) Order 2011](#), 13 October 2011, HL Paper 200/HC 1549, paras 27 to 30

¹⁵ *Ibid*, paras 37 to 38

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- The introduction of a right of appeal to the courts from the police determination; and
- A duty on the Secretary of State to issue statutory guidance to the police in relation to the process for the determination of reviews.¹⁶

The Home Office laid a revised draft Order before Parliament on 5 March 2012, which incorporated these recommendations.¹⁷ The Committee published a second report, in which it accepted that the draft Order was now sufficient to remedy the declaration of incompatibility.¹⁸

The revised Order was subsequently approved by both Houses¹⁹ and was enacted as the [Sexual Offences Act 2003 \(Remedial\) Order 2012, SI 2012/1883](#). It came into force on 30 July 2012. The Order inserted new sections 91A to 91G into Part 2 of the 2003 Act, which set out the new review mechanism.

2.4 Information to be notified

The 2003 Act requires a relevant offender, within three days of the “relevant date”,²⁰ to make an initial notification to the police setting out specified information.

A relevant offender must also notify the police of any subsequent changes to the information provided in their initial notification within three days of the change having occurred.²¹ Notifications of changes may also be made in advance (for example where an offender knows they will be moving house), in which case the offender must specify the date of the expected change.

In addition to the initial notification and notification of any relevant changes, relevant offenders are also obliged to reconfirm the details provided on initial notification on a regular basis. A relevant offender with a sole or main residence must re-notify the police of the details they provided on initial notification within 12 months of the last time they were required to notify. The last time of notification may have been the initial notification itself, the most recent notification of a change in details or the most recent annual re-notification. Where a

¹⁶ Home Office, [The Government Response to the Nineteenth Report of the Joint Committee on Human Rights, Session 2010–12 HC 1549](#), Cm 8293, March 2012, para 5

¹⁷ [HC Deb 5 March 2012 cc52-3WS](#). See [Draft Sexual Offences Act 2003 \(Remedial\) Order 2012](#) for the full text of the revised draft.

¹⁸ Joint Committee on Human Rights, [Draft Sexual Offences Act 2003 \(Remedial\) Order 2012: second Report](#), HL Paper 8/HC 166, 28 May 2012

¹⁹ [HC Deb 27 June 2012 c382](#) and [HL Deb 5 July 2012 cc875 to 891](#)

²⁰ See footnote 6 for the meaning of “relevant date”. When determining the three day period, time when the offender is in custody, serving a sentence of imprisonment, detained in a hospital or outside the UK is to be disregarded. Such offenders must, therefore, make their initial notifications within three days of their release from custody, imprisonment or hospital, or their return to the UK.

²¹ As is the case for initial notifications, when determining the three day period, time when the offender is in custody, serving a sentence of imprisonment, detained in a hospital or outside the UK is to be disregarded.

relevant offender has no sole or main residence they must re-notify each week.

The information that must be notified to the police and kept updated includes:

- date of birth;
- national insurance number;
- name on the relevant date (i.e. the date of conviction, caution etc.) and the date of notification, and any other names used on either of those dates;
- home address on the relevant date and the date of notification. This means the offender's sole or main residence in the UK, or where the offender has no such residence, the location of a place in the UK where they can regularly be found;
- the address of any other premises in the UK at which, at the time of notification, the offender regularly resides or stays;
- passport, bank account and credit card details (including joint and business accounts); and
- details of any residence with a child.

The requirements for an offender to provide passport and bank account details, to notify the police when they reside or stay with a child under 18 and for offenders with no sole or main residence to re-notify weekly, were added by regulations in 2012, following a Home Office consultation.²² The [Sexual Offences Act 2003 \(Notification Requirements\) \(England and Wales\) Regulations 2012, SI 2012/1876](#) came into force on 13 August 2012.

2.5 Travel notification requirements

Relevant offenders (in England and Wales) who intend to travel outside the UK are required to give the police advance notification.²³

A travel notification must include (amongst other things) details such as anticipated dates of departure and arrival, the destination country (or countries), the identity of any carrier(s) used to depart from and return to the UK or to travel to any other point of arrival, and accommodation arrangements.

Please note that the travel notification requirements do not in themselves **prevent** a relevant offender from travelling overseas; prohibitions on travel are instead dealt with by foreign travel restrictions contained within Sexual Harm Prevention Orders and the Sexual Risk Orders (see section 6 of this briefing).

Until 2012, a relevant offender who intended to leave the UK for a period of less than three days did not have to give the police advance notification of that intention. However, in June 2011 the Home Office consulted on replacing this with a stricter requirement for relevant offenders to notify the police of **any** intended travel outside the UK,

²² See: Home Office, [Reforming the Notification Requirements of Registered Sex Offenders \(Part 2 of the Sexual Offences Act 2003\): A Targeted Consultation](#), June 2011 and [Reforming the Notification Requirements of Registered Sex Offenders \(Part 2 of the Sexual Offences Act 2003\): Summary of consultation responses and conclusions](#), March 2012

²³ Section 86 of the 2003 Act and the [Sexual Offences Act 2003 \(Travel Notification Requirements\) Regulations 2004, SI 2004/1220](#)

regardless of the length of the trip.²⁴ The change was implemented with effect from 13 August 2012 by the [Sexual Offences Act 2003 \(Notification Requirements\) \(England and Wales\) Regulations 2012, SI 2012/1876](#).

2.6 Young offenders: parental directions

Where a relevant offender is under 18, a court may direct that the offender's obligations to comply with the notification requirements are to be treated as obligations of the offender's parent (or other person with parental responsibility for the offender). The parent must ensure that the offender attends at the police station with them whenever the parent makes a notification.

The court can make a parental direction when it convicts the offender of the relevant offence, when it imposes a notification order (see section 3 of this briefing) or following an application from the police. The direction takes immediate effect and applies until the offender turns 18, or for such shorter period as the court may direct. There is no requirement for the parent to consent to the direction being made.

The parent, the offender or the police may apply to the court for an order varying, renewing or discharging a parental direction. A variation may be required where, for example, the parent subject to the direction dies, divorces or moves away. A discharge may be required where the parent no longer has control of the offender and is unable to ensure that he or she attends at the police station whenever the parent makes a notification.

2.7 Breach of the notification requirements

A person commits an offence if he or she fails, without reasonable excuse, to comply with any of the notification requirements (including travel notifications or parental directions where relevant). It is also an offence to notify the police of any information which the offender knows to be false.

The offence is committed on the first day on which the offender fails to comply with the relevant notification requirements and continues for as long as the failure to comply persists. The offender cannot be prosecuted more than once for the same breach, however long it continues. The penalties for breaching notification requirements range from a fine to imprisonment for up to five years. The Sentencing Council has issued a [guideline for breach of notification requirements](#).

²⁴ Home Office, [Reforming the Notification Requirements of Registered Sex Offenders \(Part 2 of the Sexual Offences Act 2003\): A Targeted Consultation](#), June 2011 and Home Office, [Reforming the Notification Requirements of Registered Sex Offenders \(Part 2 of the Sexual Offences Act 2003\): Summary of consultation responses and conclusions](#), March 2012

3. Notification Orders

The notification requirements described in section 2 of this briefing only apply **automatically** to offenders convicted, cautioned etc. in the UK. However, British and foreign nationals convicted of similar sexual offences overseas can also be made subject to the notification requirements by way of a notification order.²⁵

Applications for notification orders are heard by magistrates' courts and can only be made by police chief constables in respect of an individual residing in that chief constable's police area, or who the chief constable believes is in (or intending to come to) their police area. Home Office guidance explains that the police decision to apply for an order will be based on intelligence that a relevant individual is in, or intending to come to, the UK and is likely to remain resident:

Such intelligence could come from a variety of sources. For example:

- A British citizen is being released from custody overseas, after conviction for a sexual offence, and the authorities in the relevant country or the diplomatic service are organising return to the UK.
- A British citizen is returning to the UK after receiving a caution for a sexual offence overseas. During his dealings with the authorities in the foreign country, he was assisted by the authorities overseas or the diplomatic service.
- A British citizen is being repatriated to a UK prison to serve his sentence received overseas for a sexual offence.
- Authorities in the UK have been informed by a foreign country that one of their citizens, who has previous convictions for sexual offences, is intending to come to the UK.
- An individual comes to the attention of the police, and on investigation of his criminal history it becomes apparent that he has convictions for relevant sexual offences overseas.²⁶

3.1 Conditions

A chief constable can apply for an order if it appears to them that, with respect to the individual who will be subject to the order, the following conditions are met:

- under the law in force in a country outside the UK, the individual has been convicted for a "relevant offence"²⁷ (whether or not he or she has been punished for it);

²⁵ The provisions relating to notification orders are set out in sections 97 to 103 of the 2003 Act

²⁶ Home Office, [Guidance on Part 2 of the Sexual Offences Act 2003](#), September 2018, p57

²⁷ A "relevant offence" for the purpose of a notification order is an act which constituted an offence under the law of the country in question, and which would have constituted an offence under Schedule 3 of the 2003 Act had it been committed in the UK. Any thresholds set out in Schedule 3 (relating to, for example, age and sentence) must also be met.

- the individual received the conviction:
 - on or after 1 September 1997;
 - before 1 September 1997 but had yet to be dealt with in respect of the offence; or
 - before 1 September 1997 but was on that date (and in respect of the offence or finding) subject to imprisonment, a community order, supervision, or detention in a hospital under the law of the country in question; and
- the equivalent notification period that would have applied to the individual had the offence been committed in the UK would not have expired.

If the three conditions above are met, the court **must** make a notification order in respect of that individual; there is no requirement for the chief constable seeking the order to demonstrate that an order is necessary to protect the public from harm, or that the individual poses a risk to the public. This is intended to replicate the automatic imposition of notification requirements on relevant offenders convicted in the UK.

3.2 The notification period

An individual who is made subject to a notification order must make his initial notification within three days of the date on which the notification order was served. The length of the individual's notification period will be determined by reference to the notification period for the equivalent sentence or disposal had the offender been convicted by the UK courts.²⁸ The notification period will be deemed to have started on the date of conviction, caution etc., even where the notification order is not imposed until some years later.²⁹

3.3 Appeals and breaches

An individual can appeal to the Crown Court against the making of a notification order. There is no right for the police to appeal against a decision not to make a notification order.

A notification order makes the recipient subject to the same notification requirements as if they had been convicted of a relevant offence in the UK. The consequences of breaching the notification requirements are therefore the same as those set out in paragraph 2.7 of this briefing.

²⁸ See paragraph 2.2 of this briefing

²⁹ Home Office, [Guidance on Part 2 of the Sexual Offences Act 2003](#), September 2018, p56

4. Sexual Harm Prevention Orders

Sexual Harm Prevention Orders (SHPOs) enable restrictions to be placed on the behaviour of certain sexual or violent offenders. An SHPO can either be imposed by the court at the same time as it deals with the offender, or by a magistrates' court at a later date following an application from the police or National Crime Agency (NCA).³⁰

SHPOs are not limited to offenders convicted of any of the sexual offences listed in Schedule 3 to the 2003 Act; they can also be imposed on offenders convicted of any of the violent offences listed in Schedule 5 to the Act, which include murder, manslaughter and burglary. However, an SHPO may only be made where it is necessary for the purposes of protecting the public from **sexual** harm, so it is not possible to take out an SHPO in relation to a violent offender if there is only a risk of the offender committing a **violent** offence.

Before making an SHPO, the court must be satisfied that is necessary to make such an order for the purpose of

- protecting the public, or any particular members of the public, from sexual harm from the individual who will be subject to the SHPO, or
- protecting children or vulnerable adults generally, or any particular children or vulnerable adults, from sexual harm from the individual who will be subject to the SHPO outside the United Kingdom.

4.1 SHPOs imposed on conviction

The court may impose an SHPO on an individual at the same time as it sentences them following their conviction for an offence listed in Schedule 3 or 5 of the 2003 Act. The court may make an SHPO at this stage of proceedings of its own volition; no application is required, although the prosecutor may wish to invite the court to consider making an SHPO in appropriate cases.

4.2 SHPOs imposed on application by the police or National Crime Agency

A magistrates' court may also grant an SHPO following an application from

- a police chief constable in respect of an individual residing in that chief constable's police area, or who the chief constable believes is in (or intending to come to) their police area, or
- the Director General of the National Crime Agency

A chief constable or the NCA must be satisfied that the following two conditions are met before applying for an SHPO:

³⁰ The relevant provisions are set out in sections 103A to 103K of the 2003 Act. These provisions were inserted by the *Anti-social Behaviour, Crime and Policing Act 2014*. The relevant provisions for an SHPO on conviction are now found principally in [Part 11 Chapter 2](#) of the Sentencing Code contained in the *Sentencing Act 2020*.

- the individual in question is a “qualifying offender”, meaning they have been convicted of an offence listed in Schedules 3 or 5 to the 2003 Act, or of an equivalent offence overseas;³¹ and
- since the “appropriate date”,³² that individual has acted in such a way as to give reasonable cause to believe that it is necessary for an SHPO to be made.

4.3 Effect of an SHPO

An SHPO prohibits the relevant individual from doing anything described in the SHPO. The prohibition either lasts for a fixed period of not less than five years (as specified in the SHPO) or until further order.

The only prohibitions that may be included in an SHPO are those necessary for the purpose of protecting the public in the UK, or children or vulnerable adults abroad, from sexual harm perpetrated by the individual. An order may, for example, prohibit someone from undertaking certain forms of employment such as acting as a home tutor to children. It may also prohibit the offender from engaging in particular activities on the internet.

If the individual subject to the SHPO is not already subject to the notification requirements described in section 2 of this briefing, the SHPO will have the automatic effect of making them subject to the notification requirements. An individual who is already subject to the notification requirements, but whose notification period would otherwise have expired during the term of the SHPO, will remain subject to the notification requirements for the duration of the SHPO.

4.4 Appeals and breaches

Both the police and the individual are entitled to apply to the court to vary, renew or discharge an SHPO. The individual may also appeal against the making of an SHPO, either in the same way as an appeal against conviction (in respect of an SHPO imposed by the court on conviction) or to the Crown Court (in respect of an SHPO imposed following an application by the police).

Breach of an SHPO without reasonable excuse is a criminal offence. The penalties for breach range from a fine to imprisonment for up to five years. The Sentencing Council has issued a guideline: [Breach of a sexual harm prevention order](#), effective from October 2018.

³¹ Note that a “qualifying offender” does not have to be a person who is already subject to the notification requirements described in section 2 of this briefing.

³² The “appropriate date” means the date or (as the case may be) the first date on which the qualifying offender was convicted.

5. Sexual Risk Orders

Sexual Risk Orders (SROs) can be used to impose prohibitions on an individual who has done an act of a sexual nature as a result of which there is reasonable cause to believe that it is necessary to make an order to protect the public from harm. There is no requirement for the individual to have actually been convicted of any offence.³³

5.1 Conditions

A police chief constable or the Director General of the NCA may apply to a magistrates' court for an SRO. A police chief constable may apply in respect of an individual residing in that chief constable's police area, or who the chief constable believes is in (or intending to come to) their police area.

The police or NCA may apply for an SRO where an individual has done an act of a sexual nature which suggests that they pose a risk of harm to the public in the UK or children or vulnerable adults abroad.

The court may grant an application for an SRO if it is satisfied that it is necessary for the purpose of protecting the public in the UK or children or vulnerable adults abroad from harm from the individual concerned. There is no need for that individual to have a prior conviction for a sexual offence; the Home Office guidance therefore includes details of the risk assessment process the police should undertake:

Only the police or NCA are able to make an application for an SRO. The assessment process to be undertaken by the police will need to consider the degree of risk that the individual poses at that time. It is suggested that, where appropriate, the assessment should be carried out in consultation with other relevant agencies, such as the national probation service, social services and other child protection agencies. However, because a SRO may be sought in relation to a person without a previous criminal conviction (unlike the Sexual Harm Prevention Order), consideration may need to be given to using an external independent risk assessor.

The key factor in assessing whether an SRO is necessary is whether or not an individual's actions indicate that they present a risk of harm to the public in the UK or children or vulnerable adults abroad.

Assessment of risk

Assessment of how an individual's safety can best be assured should be informed by consideration, where relevant, of:

- The nature of the behaviour giving rise to concern and any pattern associated with this behaviour. This may include behaviour that will always be wrong (for example, sending children indecent images), as well as behaviour that is not wrong by itself but may become so because of the intentions (such as spending time with children alone). Of potential relevance to this would be associates, previous

³³ SROs are provided for in sections 122A to 122K of the 2003 Act, inserted by the *Anti-social Behaviour Crime and Policing Act 2014*

complaints to the police, Child Abduction Warning Notices, and informal warnings.

- The nature and extent of the potential harm.
- An assessment of the accuracy and currency of the information about the individual (including an assessment of the status of those expressing concern and their reasons for doing so).
- The current circumstances of a potential subject and how these might change including employment, training, housing, who he lives with and where, any addictions, health problems etc.
- Whether, in appropriate cases, the child, vulnerable person, or other witness would be required to or able to give evidence.
- The relevance of any previous convictions, cautions, reprimands, or final warnings.
- Compliance or otherwise with any previous sentences, court orders or supervision arrangements (this does not necessarily have to be in relation to a sexual offence).
- Compliance or otherwise with therapeutic help and its outcome.³⁴

5.2 Effect of an SRO

An SRO prohibits the relevant individual from doing anything described in the order. The prohibition either lasts for a fixed period of not less than two years (as specified in the order) or until further order. The only prohibitions that may be included in an SRO are those necessary for the purpose of protecting the public in the UK or children or vulnerable adults abroad from harm from the offender individual. Examples may include prohibitions on contact with a particular child (in person or over the internet) or on visiting a particular place at which the individual has previously engaged in sexual conduct towards a child.

The individual cannot be compelled to undertake any positive actions, such as counselling or other assessments; any such actions would have to be on a purely voluntary basis.

5.3 Appeals and breaches

Both the police and the individual are entitled to apply to the court to vary, renew or discharge an SRO. The individual may also appeal, to the Crown Court, against the making of an SRO or an order renewing, varying or discharging an order.

Breach of an SRO without reasonable excuse is a criminal offence. The penalties for breach range from a fine to imprisonment for up to five years. A conviction for breaching an SRO will also render the individual subject to the notification requirements set out in section 2 of this briefing. The obligation to comply with the notification requirements will remain in place for the duration of the breached SRO. If the

³⁴ Home Office, [Guidance on Part 2 of the Sexual Offences Act 2003](#), September 2018, pp47-48

individual proceeded to breach the notification requirements this could, in turn, attract the penalties described in paragraph 2.7 of this briefing.

6. SHPO/SROs: Foreign travel restrictions

Both an SHPO and an SRO may contain foreign travel restrictions where this is necessary for the purpose of protecting children or vulnerable adults abroad.³⁵ Restrictions may include prohibitions on travelling to:

- any country outside the UK named or described in the order;
- any country outside the UK, other than a country named or described in the order; or
- any country outside the UK.

Where the order prohibits travel to all countries outside the UK, the individual will be required to surrender their passport at a police station.

Foreign travel restrictions contained within either an SHPO or an SRO may have a maximum duration of five years. If an individual continues to pose a risk, the police may apply to the court for the SHPO or SRO to be renewed.

³⁵ The *Anti-social Behaviour Crime and Policing Act 2014* repealed the separate Foreign Travel Orders and provided instead for foreign travel restrictions within SHPOs and SROs

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