

Northern  
Ireland  
Office

# Consultation on the Mentally Disordered Offenders Victim Information Scheme

Criminal Justice Reform & Delivery Division  
Massey House  
Stormont  
BELFAST  
BT4 3SX

November 2007

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## **Victim Information Scheme**

### **1. Background**

The information scheme for victims of mentally disordered offenders marks the provision of a new and statutory service aimed at informing victims about their case and offering them an opportunity to let their voice be heard when considering applications for leave of absence or for the discharge of mentally disordered offenders.

As part of the increased effort to place victims of crime at the heart of the criminal justice system a number of victim information schemes have already been introduced to provide information for victims of prisoners and offenders who have been placed on probation.

The Mentally Disordered Offenders Victim Information Scheme will see this service extended to victims of offences committed by mentally disordered offenders. The Information Scheme is a statutory scheme made under section 46 of the Domestic Violence Crime and Victims Act 2004.

### **2. Who is eligible for the Scheme**

A victim may be eligible to participate in the Scheme if:

- He or she is the victim of the offence for which the mentally disordered offender was convicted;
- He/she is not the victim but is the next of kin; is an immediate family member, or has a civil relationship with someone who has died as a result of the crime; or
- He/she is acting on behalf of a victim when that person is unable to act on their own behalf. This would include a close family member or legal guardian on behalf of a child; or, for example, a carer acting on behalf of an ill or incapacitated person. Someone acting on behalf of a victim may be required to provide the written consent of the victim where that is possible and/or appropriate.

### **3. Mentally Disordered Offenders**

The scheme will only apply in cases where a conviction has been obtained after commencement of the scheme and the court dealing with the offender makes them subject to a hospital order with a restriction order; or where an offender is given a transfer direction and a restriction direction while he/she is serving a sentence of imprisonment in respect of an offence.

The scheme will apply only to mentally disordered offenders hospitalised in Northern Ireland.

### **4. Hospital Order with Restriction Order**

Under article 44 of the Mental Health (Northern Ireland) Order 1986, the Crown Court or Court of Appeal may, where an offender is reported to be suffering from one of the defined forms of mental disorder, order their admission to and detention in a hospital for treatment. When such an order, known as a hospital order is made and it appears that there is a risk of the offender committing further offences if in the community, the court may also impose a restriction order for the protection of the public from serious harm. The restriction is usually for an unlimited period, although it may be fixed.

The main effect of this restriction order is that the patient may not be allowed leave outside the hospital or be transferred to another hospital without the authority of the Secretary of State, and may not be discharged from hospital except by the Secretary of State or a Mental Health Review Tribunal.

A hospital order with restriction order may also be made in respect of a person charged with an offence before the Crown Court who is found unfit to plead the charge or not guilty by reason of insanity.

### **5. Transfer Direction and Restriction Direction**

Where a prisoner is sufficiently mentally disordered to require hospital admission the Secretary of State may make a transfer direction under article 53 of the Mental Health (Northern Ireland) Order 1986 for a serving prisoner to be moved and detained in a specified hospital. The Secretary of State may add a restriction

direction which has the same effect as a restriction order, except that the restriction direction will expire at the end of the offender's sentence. This ensures that the offender is not discharged without reference to the Secretary of State.

## **6. What information can be made available?**

Under the scheme, victims of mentally disordered offenders, who wish to, may receive information about:

- The granting of leave of absence to the offender;
- The discharge, conditional or absolute of the offender; and
- Any relevant conditions which the offender is subject to.

## **7. What Representation will the victim have?**

### Leave of absence

Leave of absence for restricted patients is granted for a number of reasons. It may form part of a patient's rehabilitation or may be on compassionate grounds. Victims will now have the opportunity to contribute to the consideration of the granting of leave of absence.

If a victim chooses to receive information they will be notified when a leave of absence is being considered and will be given the opportunity, to submit views in writing on the effect that the offenders leave would threaten their safety or adversely affect their well being. The victim's views will be taken into consideration as part of the assessment process and the victim will be notified of the outcome.

### Discharge

There are two stages of discharge – conditional and absolute.

- Conditional discharge is where a restricted patient is discharged from hospital subject to conditions but with the restriction order still in place. The patient is liable to recall under this order.
- Absolute discharge – where neither conditions nor liability to recall exist.

When an offender is being considered for discharge victims will be given the opportunity to provide their views (in writing) to the Secretary of State and the Mental Health Review Tribunal on the conditions which the offender might be subject to upon release. The NIO will notify the victim of the outcome.

The offender will be notified if a victim chooses to make representation and will be entitled to see the victim's comments. Views from victims will be submitted in writing and will focus on the effect the offender's leave will have on their safety or well being. These views will be shared with the offender however the offender will know only the victim's name.

## **8. Safety Considerations**

Safety considerations underpin the entire process and before any information is provided to a victim we will check that a number of important safeguards have been satisfied. These include checks to ensure that:-

- the identify of the victim and the legitimacy of their interest in an offender has been validated by police;
- the release of the information will not threaten the safety of any person; and
- the release of information will not constitute an unwarranted interference with the rights or health of the mentally disordered offender.

Participation in the Mentally Disordered Offender Victim Information Scheme is entirely voluntary. It is for the victim to choose if they wish to obtain information about an offender and/or contribute to the process of granting leave of absence and discharge. Victims will not receive information that they do not want to know. Victims may change their mind and opt out of the scheme at any time. Other than being offered access to the scheme, victims will not be sent unsolicited information.

## The Consultation Process

### 9. Purpose of this Consultation

The purpose of this consultation is to seek views from all interested parties on the proposed information scheme for victims of mentally disordered offenders in Northern Ireland. All views are welcome however we would particularly appreciate your thoughts on the following questions:-

Those eligible for the scheme

- Is the definition of eligible victims appropriate?
- Are there any other individuals who victims might wish to act on their behalf?

Victim Representations

- Are victims content with the arrangements to make their views known to the offender?
- Would the procedure of disclosing victim's views to the offender present any difficulties, problems or barriers for either the victim or the offender?

Safety considerations

- Do you agree with the safety considerations built into the process?
- Are there any further measures we should consider to ensure that neither the victim nor the offender is placed in danger by the release of information?

Voluntary support groups

- What role might voluntary or victim support groups play?

Providing information

- How might we best advertise or promote awareness to ensure victims and mentally disordered offenders are aware of the scheme?

Views are also welcome on the implications of the proposals on equality of opportunity for all groups specified under Section 75 of the Northern Ireland Act 1998.

## **10. Consultation Code of Practice**

The NIO follows the Cabinet Office code of practice when we consult with the public. The NIO Equality Scheme also contains specific obligations relating to consultation on the impact of proposed policies on the promotion of equality.

The Cabinet Office guidance contains six key consultation criteria:-

- Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy. [Criterion 1](#)
- Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses. [Criterion 2](#)
- Ensure that your consultation is clear, concise and widely accessible. [Criterion 3](#)
- Give feedback regarding the responses received and how the consultation process influenced the policy. [Criterion 4](#)
- Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator. [Criterion 5](#)
- Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate. [Criterion 6](#)

## **11. Equality Considerations**

As a public authority under Section 75 of the Northern Ireland Act 1998, the NIO is required to have due regard to the need to promote equality of opportunity:

- Between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- Between men and women generally;
- Between persons with a disability and persons without; and
- Between persons with dependants and persons without.

This legislation requires us to consider whether any policy has a differential impact upon the relevant groups, the nature and extent of that impact and whether such impact is justifiable. This Scheme has been the subject of an equality screening exercise. A copy of the screening document is attached.

Your comments are welcome on the equality implications of the scheme, particularly with regard to the following questions considered during the NIO Screening process:-

- Is there any evidence of higher or lower participation or uptake by different groups in relation to the scheme within any of the nine categories?
- Is there evidence or indication that different groups have different needs, experiences, issues and priorities in relation to the scheme?
- Is there an opportunity to better promote equality of opportunity or better relations by altering the policy or working with others in Government or the larger community?


## **12. Duration of Consultation**

In line with guidance from the Cabinet Office this consultation will run for a period of 12 weeks from 26 November 2007. All responses should therefore be submitted by 5pm on 18 February 2008. Comments are welcomed by post, e-mail or text phone and responses will be acknowledged on receipt.

### **13. Responding to this Consultation**



For queries and responses to the consultation on the Information Scheme please contact:-

Northern Ireland Office  
Criminal Justice Reform & Delivery Division  
Massey House  
Stoney Road  
Belfast  
BT4 3SX  
E-mail: [susan.nicholson@nio.x.gsi.gov.uk](mailto:susan.nicholson@nio.x.gsi.gov.uk)

 Telephone: 028 90 527142  
 Text phone: 028 90 527668

If you have any queries or concerns about the way in which the consultation has been handled please contact the NIO Consultation Co-ordinator at the following address:

Donna Knowles  
Equality Branch  
Central Management Unit  
Northern Ireland Office  
Room 14  
Stormont House Annexe  
Stormont Estate  
Belfast  
BT4 3SH  
E-mail: [donna.knowles@nio.x.gsi.gov.uk](mailto:donna.knowles@nio.x.gsi.gov.uk)

 Telephone 028 90 527015  
 Text phone: 028 90 527668

#### **14. Alternative Formats**

An electronic version of this document is available on the NIO website [www.nio.gov.uk](http://www.nio.gov.uk). Hard copies will be posted on request. The text phone contact details are provided above.

Copies in other formats, including Braille, large print, computer disk etc may be made available on request. Please let us know if you need copies in an alternative language or format.

#### **15. Confidentiality of Responses**

The NIO will publish a summary of responses following the completion of the consultation process. Unless individual respondents specifically indicate that they wish their response to be treated in confidence, their name and the nature of their response may be included in any published summary of responses. Respondents should also be aware that the NIO's obligations under the Freedom of Information Act may require that any responses, not subject to specific exemptions in the Act, may be disclosed to other parties on request.

# NIO POLICY EQUALITY SCREENING FORM

## PART I

### SCOPING THE POLICY

#### 1. Title of policy

**Mentally Disordered Offenders Victim Information Scheme**

#### 2. Brief description of policy. Do any other policies interact with this policy?

The Mentally Disordered Offenders Victim Information Scheme is a statutory service aimed at informing victims about their case and offering them the opportunity to let their voice be heard when considering applications for leave of absence or for the discharge of mentally disordered offenders

As part of the increased effort to place victims of crime at the heart of the criminal justice system a number of victim information schemes have already been introduced to provide information for victims of prisoners and offenders who have been placed on probation. This scheme will see a similar service extended to victims of offences committed by mentally disordered offenders.

It is a statutory scheme made under section 46 of the Domestic Violence Crime and Victims Act 2004.

#### 3. Aims of policy

- to provide information to victims when the offender is being considered for leave of absence from the hospital
- to provide information to victims when the offender's discharge is under consideration
- to allow victims the opportunity to express their views when leave or discharge is considered.

*It is essential that all the aims of the policy be clearly and fully defined.*

## **PART I**

### **4. Who is responsible for devising and delivering the policy?**

The Criminal Justice Directorate in the NIO led this policy initiative with advice from a group of representatives from the Northern Ireland Prison Service, the Police Service NI and the Department of Health and Social Services and Public Safety (DHSSPS).

The NIO will be responsible for the administration of the Scheme, and providing information awareness sessions for DHSSPS Responsible Medical Officers, relevant operational healthcare and social services staff and PSNI staff prior to the commencement of the Scheme.

### **5. Are there any linkages to NI Departments or NDPBs in relation to this policy/legislation? How are these interfaces managed?**

Linkages within the scheme include:-

Department of Health Social Services and Public Safety  
Northern Ireland Prison Service  
Police Service Northern Ireland

These agencies have been consulted and involved in the development of the new scheme and on the changes which need to be in place to ensure the operational delivery of the scheme.

### **6. Who is the policy/legislation likely to impact upon? What data is available to facilitate the screening exercise?**

#### **The scheme is likely to have an impact on the following:**

- The general public
- Victims
- Future Mentally Disordered Offenders

Although the scheme is not retrospective, to facilitate the screening exercise we looked at the existing mentally disordered offender's population. We presently have 43 active cases. This includes 35 restricted patients in hospital in Northern Ireland and 8 on conditional discharge with restrictions still in place. Eight restricted patients from NI are held in hospital in GB where the scheme will not apply.

## **7. Who will implement the policy?**

### **Police Service Northern Ireland**

PSNI will inform victims of the existence of the Victim Information Scheme and verify the victim's identity.

### **Northern Ireland Office**

The NIO will administer the scheme and liaise with victims to ensure they receive information on offender's leave applications and discharge. The NIO will ensure the victims representations are considered prior to approval of requests for leave of absence and during the hearing by the Mental Health Review Tribunal. The NIO will inform victims of the outcome.

### **DHSSPS**

Responsible Medical Officers will provide information on the scheme and any victim representations to offenders and inform the NIO of applications for leave of absence.

### **Mental Health Review Tribunal**

Representations from the victim will be made available for consideration during Tribunal hearings.

### **Mental Health Commission**

The Mental Health Commission is responsible for the care and treatment of patients.

### **Victim Support**

Victims Support will provide information to victims on the scheme if requested.

## PART II

### 2. SCREENING ANALYSIS

**1 Is there any evidence or indication of higher or lower participation or uptake by different groups? If so, please indicate below.**

CATEGORY	Yes Offenders	No	Don't Know
Gender	Men		
Sexual orientation		X	
Religion		X	
Political opinion		X	
Disability (physical and learning)	Mentally disordered offenders		
Race or ethnic origin (includes Travellers)		X	
Age		X	
Dependant responsibilities		X	
Marital status		X	

Please give reasons for your answer, including sources of data used.

We considered the proposals for potential differential impact on any of the groups identified in section 75 of the Northern Ireland Act 1998.

#### **Offenders**

The mentally disordered offender population in Northern Ireland is very small however looking at the statistics most of the offenders are male and by definition all the offenders have a reported mental disorder.

#### **Victims**

The scheme is available for all victims of mentally disordered offenders. Participation in the Mentally Disordered Offender Victim Information Scheme is entirely voluntary. It is for the victim to choose if they wish to obtain information about an offender and/or contribute to the process of granting leave of absence and discharge.

Safeguards have been built in for both victims and offenders. Before anyone is registered into the scheme their application will be validated Views from victims will be submitted in writing and will focus on the effect the offender's leave will have on their safety or well being. These views will be shared with the offender however the offender will know only the victim's name. No contact details will be provided. No information will be released that would threaten the safety of anyone. Victims will be informed when a period of release has been granted along with any relevant general conditions imposed however they will not be told of specific release dates, or locations.

**2. Is there any evidence or indication that different groups have different needs, experiences, issues or priorities in relation to the particular policy?**

• **VICTIMS**

<b>CATEGORY</b>	<b>Yes</b>	<b>No</b>	<b>Don't Know</b>
Gender		X	
Sexual orientation		X	
Religion		X	
Political opinion		X	
Disability (physical and learning)		X	
Race or ethnic origin (includes Travellers)		X	
Age		X	
Dependant responsibilities		X	
Marital status		X	

Please give reasons for your answer, including sources of data used:

The scheme is intended to provide victims of mentally disordered offenders with information and an opportunity to have their views expressed when considering leave of absence or the discharge of the offender.

Victims of a crime where the offender has been sentenced to imprisonment already benefit from a similar scheme operated by the Northern Ireland Prison Service ([www.prvis.gov.uk](http://www.prvis.gov.uk)). Where an offender receives a non custodial supervised sentence victims can opt to join the information scheme operated by the Probation Board for Northern Ireland (<http://www.pbni.org.uk/victims>). The scheme that the NIO is developing now extends the service to include victims of mentally disordered offenders.

Not all victims will wish to participate in the scheme however it is for the victim to choose if they want to. Registration is entirely voluntary. Victims may change their mind and opt out of the scheme at any time and they will never be sent any unsolicited information. If victims prefer they can nominate a representative to receive information on their behalf.

## PART II

### 3 Is there an opportunity to better promote equality of opportunity or better community relations by altering the policy or working with others in Government or in the larger community?

CATEGORY	YES	NO	DON'T KNOW
Gender		X	
Sexual orientation		X	
Religion		X	
Political opinion		X	
Disability (physical and learning)		X	
Race or ethnic origin (includes Travellers)		X	
Age		X	
Dependant responsibilities		X	
Marital status		X	

Please give reasons for your answer, including sources of data used:

The NIO will be working with DHSSPS, Victim Support NI and PSNI to deliver this service to victims.

## PART II

- 4 Equality Commission guidance states that the screening process should include pre-consultation with those who may be affected by the policy. Have consultations with relevant groups, organisations or individuals indicated that the policy may create problems, which are specific to them?**

CATEGORY	YES	NO	DON'T KNOW
Gender		X	
Sexual orientation		X	
Religion		X	
Political opinion		X	
Disability (physical and learning)		X	
Race or ethnic origin (includes Travellers)		X	
Age		X	
Dependant responsibilities		X	
Marital status		X	

Please give reasons for your answer, and details of any consultations that have taken place:

The Probation Board for Northern Ireland and the Northern Ireland Prison Service previously consulted prior to the introduction of their victim information schemes. Respondents welcomed the establishment of the schemes as an opportunity to empower victims through the provision of information. Respondents confirmed the importance of providing victims with a choice to participate or not or to have a representative receive information on their behalf.

The NIO will consult on the Mentally Disordered Offenders Victim Information Scheme, including this screening exercise and views on equality considerations will be invited.

**It may be that a policy has an adverse differential impact on certain people in one or more of the categories as a consequence of targeting or affirmative action to combat an existing or historical inequality. If this is the case, please give details below and contact the Equality Unit if you are in doubt:**

**Not applicable to this policy**

## PART III

### EQUALITY IMPACT ASSESSMENT RECOMMENDATION

Equality impact assessment procedures are confined to those policies considered likely to have significant implications for equality of opportunity.

**1 If screening has indicated that a policy is having an adverse differential impact, how would you categorise it?**

**No adverse differential impact identified.**

Significant impact	Low impact
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**2 Do you consider that this policy needs to be submitted to a full equality impact assessment?**

<b>YES</b>	<b>NO</b>
	✓

If NO but the policy has an impact, please give reasons for your recommendation:

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**3. What data do you believe may be required to ensure effective monitoring of the policy in the future?**