



Northern
Ireland
Office

MENTALLY DISORDERED OFFENDERS VICTIM INFORMATION SCHEME

SUMMARY OF RESPONSES TO CONSULTATION

**Criminal Law Branch
Criminal Justice Policy Division
Massey House
Stormont
BELFAST
BT4 3SX**

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Summary of responses to the Mentally Disordered Offenders Victim Information Scheme

Background

The Northern Ireland Office (NIO) consultation on the Mentally Disordered Offenders Victim Information Scheme was launched on 26 November 2007 and concluded on 18 February 2008. The consultation was on the introduction of a Victim Information Scheme for victims of offences committed by mentally disordered offenders.

A copy of the consultation paper may be found on the NIO website using the following link

http://www.nio.gov.uk/consultation_on_the_mentally_disordered_offenders_victim_information_scheme.pdf .

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 69A of the Justice (Northern Ireland) Act 2002 as amended by section 46 of the Domestic Violence Crime and Victims Act 2004.

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.

This document summarises the responses received and sets out how the NIO intend to proceed in relation to the Mentally Disordered Offenders (MDO) Victim Information Scheme.

Summary of Responses

The NIO received a total of 6 responses to the consultation. Some comments were on the proposed scheme as a whole, while others engaged with specific proposals.

General Responses

All the responses welcomed the introduction of an information scheme for victims of mentally disordered offenders. Specific comments included the following:

- Public protection is a key consideration in the work of all criminal justice agencies. Providing victims of mentally disordered offenders with the opportunity to express their views about proposed leave or discharge and taking information provided into account in the decision making process will only serve to strengthen that process.
- Public protection and safety of the community is the core aim of all the agencies involved in managing offenders. Victims' rights are viewed as paramount and it is important as part of any recovery or rehabilitation of victims to have their voice heard.
- The scheme should apply in cases where a conviction has been obtained and a psychiatric disposal has been granted by way of a Hospital order or Transfer Direction Order with Restriction. Such disposals are necessary not only for the protection of the public but also to maximise the opportunity of effective treatment and rehabilitation of the mentally disordered offender.
- The introduction of the scheme should serve to enhance the experience of victims of crime who come into contact with the criminal justice system by the provision of timely, case related information at their request. It will complement the other two victim information schemes already in existence.

Those eligible for the scheme

One response asked for further consideration of those eligible to participate in the scheme. Suggestions included extending the scheme to apply other victims associated with the offender and to witnesses.

- In terms of the definition of eligible victims, consideration should be given to including other victims associated with the offender who may have interest in their release/discharge, for example a victim in another trial which may have collapsed or charges were dropped during the criminal justice process.
- Witnesses who have given evidence at the trial may also have legitimate reasons for wishing to participate in the scheme, and therefore should also be eligible.

Government Response

The Domestic Violence Crimes and Victims Act 2004 inserted an amendment to the Justice (Northern Ireland) Act 2002 to introduce this statutory scheme. Eligibility for the scheme is set out in this legislation which states that the scheme will be available to persons defined as ‘victims of the offences in respect of which the determinations were made’. It would therefore, not be possible for us to extend the scheme to include witnesses or other victims associated with the offender from a previous prosecution or where the offender was not found guilty.

Victims' Representations

All the responses supported the proposal for victims to express their views in writing however there were some questions raised around the procedures involved with the disclosure of these views.

- The information shared by the Scheme is important for victims, such as the discharge of an offender from hospital or his/her leave arrangements, which may impact on the victim's emotional or psychological well being. Consideration of the victim's views on such decisions will advance the decision making process itself as well as strengthen the outcomes reached on a range of issues that may impact upon the victims and their families. The opportunity for victims to submit their views is a welcome feature and the arrangements proposed are fully endorsed.
- The scheme as proposed presents a comprehensive opportunity for victims to be kept informed and to make appropriate representation concerning temporary or permanent discharge of relevant offenders.
- The requirement of the NIO to disclose any written representations made by the victim to the offender may have a serious impact on the take up of the scheme by people. Victims and bereaved families may experience stress or fear that their written submissions may be shared with the offender particularly if the offender is returning to live locally. In addition they may have concerns around the offender's treatment of the information and how confidential it may remain.

Some questions were posed from one respondent on the process involved in identifying the victim and validating the victim's objections to discharge.

- How does the managing body intend to harvest the initial information identifying victims – from PSNI, NI Court Service, NIPS, through Causeway and will any of these bodies have a significant role in the day to day administration of the scheme?
- What safeguards will be implemented to validate victim's objections to discharge and protect the offender against malicious representation?

Government Response

Safeguards have been built in for both victims and 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. Victims will not receive information if they do not want to. Victims may opt out of the scheme at any time. Views from victims will be submitted in writing and although they will be shared with the offender no contact details will be provided. No information will be released which might threaten the safety of anyone.

Safeguards to validate the identity of victims and to guard against malicious representation will operate in a similar way to the two victim information schemes which already exist within the Prison Service and Probation Board.

The NIO will be working in partnership with PSNI, the NI Court Service and NIPS to ensure the successful operation of the scheme. PSNI, in particular, will have a significant role in the administration of the scheme as they will be asked to validate the victim's identity and the legitimacy of their interest in an offender's leave arrangements and discharge.

Notification of scheme

Three of the responses highlighted the importance of reflecting upon existing best practice, the important role of victim support organisations and the need to promote and raise awareness of the scheme.

- Direct contact with the victim or the victim's representative by the scheme provider rather than through a third party is likely to lead to greater take up of the service. Examples of a successful direct approach to victims can be found in the work of Victims' Care Units in England and Wales and also in the operation of the Youth Conference Service.
- While numbers of mentally disordered offenders subject to hospital orders in Northern Ireland are low it is important to reflect upon best practice to ensure that as many victims as possible benefit from the scheme.
- We recommend both the criminal justice agencies' and the Health Department's promotion of this scheme and active participation in advancing its awareness with both victims and mentally disordered offenders.
- Information on the scheme could be provided individually when the offender s given a transfer direction. Patient advocacy groups, victim support groups, Mental Health Review Tribunal and Mental Health Service should be informed prior to any changes in the law.
- For some victims the fear of the offenders will be such that expressing their views in writing, knowing that these will be shared with the offender, may not be possible. The role of support organisations is a crucial one in this regard.
- Voluntary agencies have a role to play to ensure that the needs of victims are met and that all people affected by crime are supported.
- Voluntary agencies have a role to play in providing emotional support and practical help to anyone who requires information or assistance with the proposed scheme.

- Schemes based solely on the provision of an information leaflet will experience low take up; the scheme will require co-operation between criminal justice and voluntary agencies to ensure that all eligible victims receive timely and appropriate information and have access and support before, during and after participation in the scheme.

Government Response

The successful operation of the scheme will be dependent on co-operation between criminal justice and voluntary agencies. The Government confirms that promotion of the scheme will be important and prior to commencement of the scheme will be offering to provide information awareness sessions for operational healthcare and social services staff, members of the Mental Health Review Tribunal and staff from victim support organisations.

Due to the relatively small number of offenders who receive a Hospital Order with Restriction Order or who later require hospital admission from prison it should be possible to ensure that information for victims is readily available. To raise awareness the scheme will be launched with a publicity campaign involving the distribution of posters and leaflets around certain key places such as court buildings, police stations, libraries, health centres etc.

Safety Considerations

Three responses agreed that participation in the scheme should be entirely voluntary and confirmed that the safety considerations which have been built into the proposed scheme provide adequate protection for the interests of both the victim and offender.

- Considerations of safety issues underpin this process and we support the necessary steps recommended to safeguard the victim in reducing risk and protecting the public.
- The issue of choice in the receipt of information encourages empowerment of the victim. The scheme highlights the importance of choice in obtaining information, placing the victim's rights as pivotal to the process while respecting the rights and health of the mentally disordered offender.
- We agree that it is important that the safety of all parties is taken into consideration in the development of the policy and procedures in relation to this scheme.

There was concern expressed from two respondents regarding the impact the disclosure of victims views might have on the offender and how the victim might need additional information to assist with understanding the rationale for release.

- Individuals suffering from a severe mental illness can, even with optimal treatment, continue to suffer from thought disorders where they can misinterpret communications. The disclosure of the victim's view may, in some cases, raise the future risk of to the victim. Disclosure may also have an adverse effect on the mental health of the mentally disordered offender. Who has responsibility for informing victims about pending leave or discharge arrangements? We assume that it would be the responsibility of the NIO. This is particularly relevant for patients who are on transfer directions without restrictions.
- The disclosure of information to the victim about the mental health state of the offender is one way of assuaging their anxiety about leave

and discharge arrangements. To inadvertently create a scenario, through lack of disclosure, whereby the victim believes the offender is on leave or discharged home in the same condition as when they committed the offence would only contribute to their fears. Facilitating the victim to voice their fears but not informing them of the rationale for the outcome, may compound their status as a victim, particularly if they perceive their input has carried no weight. The sharing of information in line with data protection legislation, and the management of risk, is a complex task and open to challenge. Who will be charged with administering the process, the mental health services or the Northern Ireland Office?

Government Response

A key aspect of the scheme is to ensure that the release of information will not threaten the safety of either the victim or the offender or constitute an unwarranted interference with the rights or health of the mentally disordered offender.

The NIO, working closely with relevant operational health care staff, will be responsible for informing victims about leave or discharge arrangements. Views from the victim will be submitted in writing and will focus on the effect the offender's leave might have on their safety or well being. Any views submitted will be subject to the overarching requirement of safety or well-being. This applies equally to the patient/offender and provision will be subject to having no adverse effect on the person's physical or mental health. Medical advice and professional assessment will play an important role in this process.

The NIO will also be responsible for informing the victim of any relevant conditions made regarding leave or discharge. Information provided will focus on the victim's safety and well being. While we will indicate where appropriate, information on relevant conditions and ensure that views are based on thorough medical assessments, we will not provide the

victim with any personal information on the offender's treatment or medical condition.

Equality Screening

There were no equality concerns raised. One response made the following comment:

- The scheme recognises differences and promotes equality of opportunity for victims and offenders and is an appropriate addition to current victim schemes.

Additional Queries

Offenders hospitalised outside NI

- Victims of mentally disordered offenders who are not hospitalised in Northern Ireland, for example in cases where there are no facilities to meet the needs of the offender in Northern Ireland, are to be excluded from the scheme and we would request the NIO to consider how the victims of these people will be informed about their exclusion and how their needs and safety considerations can be met.

Government Response

When a victim applies to participate in the scheme and the offender is held in facilities outside Northern Ireland, the NIO will advise the victim of this and liaise with the relevant jurisdiction to ensure the victim is informed if the offender returns to Northern Ireland.

Consultation

- Have voluntary groups and mental health advocacy groups been consulted as part of the consultation process?

Government Response

Voluntary groups and mental health advocacy groups were invited to respond to the consultation. Notification of the changes proposed was advertised on the NIO website and a list of organisations contacted directly is included at Appendix 1.

Information following discharge

- If a victim chooses to make representation objecting to a proposed discharge and after all checks are satisfied the decision to discharge is made, will the offender be subjected to any post discharge risk assessment and the victim apprised accordingly?

Government Response

There are two stages of discharge – conditional and absolute. Conditional discharge is where a restricted patient is discharged from hospital with a restriction order still in place. A conditional discharge will be made where it is considered appropriate for the protection of the public. The patient is liable to recall under this order and victims who opt into the scheme will be advised if this occurs.

If the offender receives an absolute discharge where neither conditions nor liability to recall exist the victim will not receive any further information.

The Way Forward

Having considered the responses from the consultation exercises it is our intention to now bring forward legislation and a draft statutory instrument will be laid before Parliament under the negative resolution procedure.

A copy of the draft Statutory Instrument is attached to this report and it is our intention that this will come into effect in September 2008.

LIST OF BODIES CONSULTED

Criminal Justice Agencies

Probation Board for Northern Ireland
Police Service Northern Ireland
Northern Ireland Prison Service
Northern Ireland Court Service
Public Prosecutions Service Northern Ireland
Youth Justice Agency

District Councils

Health and Social Services Board

Eastern Health and Social Services Board
Northern Health and Social Services Board
Southern Health and Social Services Board
Western Health and Social Services Board

Health and Social Care Trusts

Belfast Health & Social Care Trust
Northern Health & Social Care Trust
Southern Health & Social Care Trust
South Eastern Health & Social Care Trust
Western Health & Social Care Trust

Mental Health Review Tribunal for Northern Ireland

NI Government Departments

Office of the First Minister and Deputy First Minister

Department of Agriculture and Rural Development

Department of Culture, Arts and Leisure

Department of Education

Department for Employment and Learning

Department of Enterprise, Trade and Investment

Department of the Environment

Department of Finance and Personnel

Department of Health, Social Services and Public Safety

Department for Regional Development

Department for Social Development

NI Political Parties

Representative Organisations

Age Concern

Amnesty

AnMuniatober

Barnardos

Belfast Medical Association

Chinese Welfare Association

Coalition on Sexual Orientation

Committee on Administration of Justice

Community Development and Health

Community Foundation

Community Relations

Confederation of Community Groups

Deaf Youth

Disability Action

Equality Commission Northern Ireland

Extern

Falls Community Council

Fermanagh Women's Group
Gay Lesbian Youth
Gingerbread
Help the Aged
Human Rights
ICC
Include Youth
Interfaith
Islamic Centre
Law Centre
Law Commission
Mandarin Speakers
MENCAP
Mental Health Commission
Methodist Church
Multi cultural Resource Centre
NI Association for Mental Health
NI Community Relations Council
NI Housing Executive
NI Human Rights
NI Muslim Families
NI Pakistani Association
NIACRO
NICCY
NICEM
NSPCC
Office of the Oversight Commission
Policing Board
Polish Welfare
Presbyterian Church
Prison Fellowship
Prison Reform Trust
Quakers Service
Queer Space

RNIB

RNID

Save the Children

Victim Support NI

Victim and Survivors Trust

Women's Aid

Youth Council for NI

Youth Forum

Youth Net