

PROTECTING CHILDREN: GUIDANCE ON THE IMPRISONMENT AND PREPARATION FOR RELEASE OF SCHEDULE 1 OFFENDERS

1. INTRODUCTION AND BACKGROUND

1.1 This circular sets out procedures to assist local authorities, the Scottish Prison Service, and other agencies to work together to protect children when a person sentenced to imprisonment for an offence listed in Schedule 1 of the Criminal Procedure (Scotland) Act 1995 is released. Certain of the procedures also apply to prisoners charged with such an offence. If there is considered to be a continuing risk to a child or children, the procedures may also now apply to persons sentenced to or remanded in custody for an unrelated offence who have previously been imprisoned for such an offence.

Although primarily for social workers and prison staff, the circular also extends to the responsibilities of procurators fiscal, court clerks, and the police. Its layout follows the various stages in the criminal justice process, from appearance in court to release from custody. The guidance supersedes circulars SWSG 11/94 and SPS 60/94. A summary of the main responsibilities of chief social work officers, community based criminal justice and children and families social workers, prison social work units, prison governors, procurators fiscal, and sheriff clerks is attached at Appendix 1.

Related guidance

1.2 The guidance links with and should be used in conjunction with a number of other relevant circulars and documents of guidance. These include:

- 'The Sex Offenders Act 1997 - Guidance for Agencies'; Crown Copyright, 2000
- Circular No SWSG 14/98 (social work guidance on extended sentences for sexual and violent offences)
- The Children (Scotland) Act 1995, Regulations and Guidance: Volume 1 'Support and Protection for Children and their Families
- 'Protecting Children - A Shared Responsibility - Guidance on Inter-Agency Collaboration' (The Scottish Office, 1998)
- National Objectives and Standards for Social Work Services in the Criminal Justice System;
- 'It's everyone's job to make sure I'm alright' - Report of the Child Protection Audit and Review, The Scottish Executive, Social Work Services Inspectorate, 2002
- Service, Care, Support, and Accommodation for Mentally Disordered Offenders in Scotland: Care Pathways Document - The Scottish Executive Health Department 2001

- Throughcare Provision for Long Term Prisoners and Prisoners Subject to Supervised Release Orders; Circular SEJD 12/2002.

1.3 The offences included in Schedule 1 of the Criminal Procedure (Scotland) Act 1995 are listed at Appendix 2. Since 1994 when the previous Schedule 1 circular was issued, the police and local authorities have introduced specific protocols, procedures and practices for assessing, registering and managing sex offenders in the community and for supervising serious sexual and violent offenders. These may at times overlap with the procedures outlined here. However because this guidance gives primary emphasis to child protection, it complements rather than supersedes other such guidance and procedures on the management and supervision of high-risk offenders.

Definitions

1.4. In the context of this document a **child** is a person under the age of 16 except in two specific cases (see below and in appendix 1). A **relevant offence** is any offence set out in Schedule 1 of the Criminal Procedure (Scotland) Act 1995. These include any offence under Part 1 of the Criminal Law (Consolidation) Scotland Act 1995; any offence under Sections 12, 15, 22 or 33 of the Children and Young Persons (Scotland) Act 1937; any other offence involving bodily injury to a child under the age of 17; any offence involving the use of lewd and libidinous practice or behaviour towards a child under 17. The **appropriate local authority** may be any one or more of the following, depending on the circumstances of the case;

- the area in which the prisoner's own children are living;
- the area in which the child or children previously offended against is/are living; and
- the area to which the prisoner is to be released and will register with the police if required to do so.

Principles

1.5. This guidance is informed by the following principles:

- the welfare of the child is paramount and overrides all other considerations;
- wherever possible, a balance should be struck between protecting children and respecting the rights and needs of parents, families, and offenders. If there is a conflict, the interests of the child must come first;
- all Schedule 1 prisoners should be subject to an initial and ongoing assessment of the extent and seriousness of the risk they may constitute to children on their release;
- all Schedule 1 prisoners should be offered access to programmes to help them reduce the risk they pose to children on release; and

- all information about possible dangers to children should be available to governors, the parole board, and relevant local authorities.

Who do these procedures apply to?

1.6. These procedures apply to all prisoners whose current custodial sentence is for a relevant offence against a child. Some also apply to prisoners on remand who are either accused or convicted of such an offence. Where concern about a possible continuing risk to children is registered, some or all may also now apply to prisoners sentenced to or remanded in custody for an unrelated offence who have previously been imprisoned for a Schedule 1 offence. The procedures cover both adult prisoners and young offenders whether they are released unconditionally at their normal release date or are being considered for conditional release.

1.7. Prisoners who argue that they have been wrongly classified as Schedule 1 offenders should be advised to take the matter up with their legal representatives. If they argue that the nature of the offence is not sufficiently serious for the procedures to be implemented, they should be told that they can make representations to the relevant chief social work officer.

The implications of Schedule 1 status

1.8. Schedule 1 status has the following implications for prisoners:

- relevant local authority departments will keep a record of their status;
- they will be asked to co-operate with relevant agencies to assess and reduce the likelihood of future harm to children;
- information about their conviction may be disclosed to other agencies on a 'need to know' basis;
- in most circumstances their record will prevent them from gaining paid or voluntary work with children
- if they plan to stay in or regularly visit a household where children live this may be grounds for informing another person who holds parental responsibility.
- children who are members of any such household may be referred to the reporter to the children's panel on the grounds that they may be in need of compulsory measures of care; and
- they may be the subject of an exclusion order.

Confidentiality

1.9. Prisoners cannot expect that the normal conventions regarding confidentiality will apply to information that suggests they may be a risk to others or to themselves. This kind of information will be shared with other organisations on a 'need to know' basis when it is necessary for:

- Promoting the safety of a child or children;
- Promoting the safety of vulnerable people;
- Promoting the safety of staff; and
- Promoting the safety of the prisoner.

When to implement these procedures

1.10. It may not be necessary to implement the full procedures for every prisoner convicted of or remanded for a Schedule 1 offence.

1.11. Full procedures must always be implemented:

- where the prisoner is currently remanded or serving a prison sentence for a sexual offence against children;
- for an offence where the behaviour and surrounding circumstances suggest that the prisoner is likely to constitute a risk to children generally or to a specific child;
- when the prisoner is subject to statutory supervision on release.

1.12. An example of an offence resulting in a current remand/sentence which may not require full implementation would be a Schedule 1(d) offence involving physical assault between young people of a similar age.

1.13. Decisions not to implement the procedures can only be made with as full information as possible about the nature and circumstances of the offence. The prison social worker must also consult with relevant colleagues in the field about any risk to a child. The decision not to implement the procedures must be approved by the prison-based social worker's line manager and the reasons recorded in the file.

1.14. Community based social workers and other relevant professionals should inform the prison social work unit if they think that a prisoner who they know is being held for an unrelated offence but who has previously been imprisoned for a Schedule 1 offence continues to pose a possible risk to children. In these cases, prison social work staff should assess the seriousness of any continuing risk, taking into account the nature of the offence, how long ago it was committed, and the views of criminal justice, children and families, and other relevant staff. The decision not to implement the procedures should be approved by the prison social worker's line manager and the reasons recorded in the file.

1.15. Prisoners cannot be compelled to engage in any assessment and related treatment programme to address their offending or issues associated with it although there is a clear expectation that they should. It should be explained to them that whether they have

participated will be a factor when they are considered for any form of discretionary release and before normal release.

2. IDENTIFYING CASES

2.1 Arrangements have been made for procurators fiscal staff to include the victim's age on the complaint or indictment in all relevant offences involving a victim aged under 16 years and to draw the attention of sheriff clerks to other cases which currently constitute Schedule 1 offences. Where a Schedule 1 conviction occurs, court staff mark the warrant of committal in all such cases which result in a remand or custodial sentence with the phrase “**NOTE TO SOCIAL WORK UNIT - OFFENCE(S) AGAINST CHILD(REN)**”. The warrant and a copy of any social enquiry report must be sent with the offender to the receiving prison. Within 5 working days the sheriff clerk or clerk of justiciary must also forward additional information where this has not been sent with the warrant. This will include, in every case, a copy of the relevant parts of the complaint or indictment and, where available, psychiatric or other reports. These documents should be sent, marked clearly for the attention of the prison social work unit. This information will inform the assessment of risk and should only be shared with others on a need to know basis. It will help the prison-based social worker make initial contact with a convicted prisoner with the fullest available information about the precise nature of the offence and the prisoner’s circumstances.

2.2 Crown Office and the Scottish Court Service continue to examine the case reporting and registration process with a view to examining the viability of automating the identification and “flagging” of such offences/charges within the respective databases. Whilst there is no compatible electronic solution available at this time, future IT developments should increase the ability to monitor and improve information flows in cases such as those detailed in Schedule 1.

2.3. These procedures, if rigorously implemented, should ensure that Schedule 1 prisoners are identified at the point of admission to prison. Lapses may however be identified at a later stage, for example through contact from a social worker who has known the prisoner previously. When this happens, the governor should check the warrant of committal and, if it does not refer to a child victim, seek written clarification from the sentencing court about the nature of the offence. If this confirms that the individual is a Schedule 1 prisoner the procedures set out in this circular will apply. In order to quantify the extent of these lapses, governors must notify the SPS social work adviser of every case identified in this way in writing.

3. REMAND

Convicted remand prisoners

3.1 When a person is convicted of a Schedule 1 offence and remanded for reports the following procedures will apply:

- the governor must ensure that the prison social work unit is notified within two working days;

- the SER author must contact the prison based social worker to obtain any relevant information about the offender to be included in the report;
- the SER author must make sure, when interviewing the prisoner, that h/she fully understands the implications of Schedule 1 status;
- the report must provide an initial assessment of the risk the prisoner poses to the current victim or victims and to other children.

3.2. The SER author, having consulted the social worker responsible for the care of any child victims, should let the prison based social worker know about any restrictions regarding the prisoner's access to children. This information should be passed on to the hall/visits manager/supervisor who is the person responsible for ensuring that these are followed and proper records kept.

3.3. If a community based colleague learns that an individual who has previously served a custodial sentence for a Schedule 1 offence has been convicted for an unrelated offence and remanded for sentence, h/she should contact the relevant prison social work unit straight away and pass on any information about the nature of the risk the offender poses. Most helpful are the most recent risk assessment and details of any restrictions which continue to apply to contact with children.

3.4. The prison based social worker should pass on information about the offender's previous Schedule 1 status to the appropriate prison manager to check with and, if necessary, enter into the SPIN system. The unit should also pass on any information about visiting restrictions to the hall/visits manager/supervisor who will be responsible for ensuring that these are followed and proper records kept.

Unconvicted remand prisoners

3.5. Although these procedures are intended primarily for convicted prisoners, they may also apply, because of the public protection issues involved, to persons remanded in custody who are charged with a Schedule 1 offence or who are known to have previously served a sentence of imprisonment for a Schedule 1 offence.

3.6. When a person charged with a Schedule 1 offence is remanded in custody, the social worker dealing with the victim may contact the social work unit, particularly if plans for protecting the child are based on the premise that the individual concerned is in custody. In such cases the prison social worker should establish what restrictions apply to the person's contact with children and pass this information on to the hall manager/supervisor.

3.7. If a community based colleague knows that a person who has previously served a sentence of imprisonment for a Schedule 1 offence has been remanded, h/she should contact the prison social work unit straight away and pass on any information about the nature of the risk the person may pose. Most helpful are any recent risk assessments and details of any restrictions continuing to apply to the person's contact with children. This information should be passed on the hall manager/supervisor

Contact with the prisoner

3.8. In each of the above circumstances the prison social worker should contact the prisoner and offer help with any problems arising from the remand. It is possible that this contact will form a basis for continuing work, in prison and in the community. In the case of convicted prisoners, the prison social worker should check that the prisoner understands the implications of being a Schedule 1 offender.

Release on bail

3.9. If a remand prisoner is subsequently released on bail, the hall manager/supervisor must tell the prison social worker straight away. The prison social worker must then make immediate contact with the social work service in the area to which the prisoner is bailed to let the appropriate staff know the prisoner has been released.

3.10. If the decision to release the prisoner is taken outside the office hours of the prison social work unit, the hall manager must contact the local authority out of hour's team for the area to which the prisoner is returning.

3.11. If a remand prisoner subsequently receives a community disposal, the court social worker must make sure that information about his circumstances is given to the relevant child protection staff.

4. SENTENCE

Prisoners serving a sentence for a current Schedule 1 offence

4.1 When person sentenced to imprisonment for a current Schedule 1 offence is received into prison, prison governors must make sure that the prison social work unit is notified **within two working days** and that a copy of any SER is made available.

4.2 The prison social worker should interview the prisoner **within 5 working days**. If the prisoner has been convicted of a sexual offence he/she will have been told at court about the requirement to register with the police on release and the reasons for this. However these may need to be re-stated and the full implications of being a Schedule 1 offender explained. In the case of other prisoners, what it means to be a Schedule 1 offender should also be explained, along with the procedures that apply and the reasons for them. Prisoners should be helped to understand that the primary purpose of the measures is to ensure that any risks to children arising from their behaviour and circumstances can be addressed.

4.3. If the prisoner is to be released on any form of statutory supervision, the social worker should explain the purposes of supervision and the requirements of the licence or order. If there is no statutory supervision, the prisoner should be told that h/she is entitled to help, including help with accommodation, from his/her local criminal justice social work service.

Assessment and planning

4.4 As soon as possible after the prisoner's admission following conviction, the prison based social worker must complete an initial assessment of the extent to which the prisoner is likely to present a continuing risk to children both during his/her imprisonment and on release. Another aim is to assess the prisoner's willingness to co-operate with any course of action and take part in any intervention programme available in prison that will help reduce that risk. For this, social workers must have accurate information about the charges proved or admitted in court, and any other relevant information that was available to the court including the SER. If this information is insufficient, the prison social worker may decide to delay or limit contact with the prisoner until it is obtained.

4.5 In the case of sex offenders, prison based social workers should be alert to the possibility that a multi-disciplinary child protection investigation/assessment may have been completed or planned before the offender was received into custody. When prisoners have physically abused or neglected a child, prison based social workers should also establish whether a risk assessment was carried out at that time or subsequently. They should therefore liaise closely with colleagues in the community who may have been involved with the case at an earlier stage or who may currently be working with the victim/s and/or the prisoner's family. In doing this they should access the available information about risk, for example any multi-disciplinary assessment/investigation.

4.6 If a prisoner is moved to another establishment during the course of the initial assessment, the social work unit should forward any relevant information to the receiving prison social work unit. This unit should, wherever possible, complete the assessment and pass on all the relevant information. If the assessment has been completed before the transfer, it should be forwarded to the receiving prison social work unit. This unit is responsible for reviewing and, if necessary, updating this assessment and for revising the action plan. If the assessment has not been completed or reviewed and a related action plan drawn up, this should be done within one month of the transfer. Governors should be aware of the possibility that work with Schedule 1 prisoners may be in progress and take this into account wherever possible when planning to transfer or release prisoners

Carrying out risk assessments and developing action plans

4.7. Assessing risk is now the responsibility of a number of agencies including local authority criminal justice social work services, SPS and the police. When Schedule 1 prisoners are received into prison, prison social work has lead responsibility for carrying out the initial assessment of risk to children (incorporating, where appropriate, information from other sources), and drawing up and updating an action plan.

4.8. Assessing the risk of re-offending and harm to others is now an established part of criminal justice social work practice. Guidance produced by the Social Work Services Inspectorate (Management and Assessment of Risk in Social Work Services) offers a general framework for assessing both the risk of re-offending and the risk of harm to others (RA1-4). Other more specialist tools currently in use by social workers, the police, and prison psychologists include Matrix 2000 (risk of re-conviction in both sexual and violence cases), Tayprep 30 (sex offender reconviction) and HCR 20 (risk of reconviction in cases of violent offending). Each of these tools also helps in the assessment of clinical need as an aid to the development of an intervention strategy.

4.9. The prison social worker has lead responsibility for developing an action plan together with prison staff. The services identified in the action plan may include;

- offence focussed work with an individual;
- offence focussed work in a group;
- work with offender's families;
- work to address substance misuse problems;
- preparation for employment;
- exploration of accommodation plans;

4.10. These services may, in consultation with the prison social worker, be delivered by any member of the prison staff and by outside agencies. The plan should also identify what, in addition, may need to be done in the community to address child protection issues.

4.11. If the prisoner declines to participate in work to address offending and assist resettlement, a date should be set for a review when the issue should be re-visited. Advice should also be sought from the relevant local authority. In these cases, the action plan will, in the first instance, be limited to child protection issues.

4.12. Working with Schedule 1 prisoners should be a feature of strategic plans in all establishments holding such prisoners.

4.13. When to intervene is a matter for careful consideration taking account of a number of factors. These include sentence length and date of release, length of stay in the establishment, and the type of programme. For indeterminate sentence prisoners, the timing must be realistic in relation to the prospect of release, although account should be taken of the prospect of release once the punishment component in the sentence has been served. For sex offenders, who may be less amenable to treatment, it may make sense to begin at a fairly early stage. In each case, the main purpose is to maximise the impact of the service. It is critically important that prisoners should be allowed to complete programmes they have started before any transfer to another prison.

4.14. Prison social workers have a responsibility to pass on relevant information about the prisoner to field social workers where it has a bearing on risk management. It is therefore very important that other staff keep them up to date about the prisoner's conduct and progress whilst undertaking any programme.

4.15. In line with any requirements of accreditation, any programme the prisoner undertakes should be properly monitored and evaluated.

Prisoners currently serving a sentence for an unrelated offence but with a previous prison sentence for a Schedule 1 offence

4.16. The information that a prisoner serving a sentence for an unrelated offence has previously served a prison sentence for a Schedule 1 offence may become known in a number of ways. These include at the court appearance, during the preparation of an SER, from information supplied by a children and families social worker, and from the SPS Spin system when the offender is received into prison.

4.17. When this information does become known, the social work unit has lead responsibility for undertaking an initial assessment to decide if the procedures should apply. The critical issue for this assessment is whether a continuing risk to children justifies application of the procedures. Reaching this decision is likely to involve consultation with other prison staff as well as colleagues in the community. It may also involve the use of one or more of the risk assessment tools referred to earlier in this guidance. Prisoners may feel that applying the procedures to them again is not fair. It will therefore be important to explain to them that Schedule 1 status is not bound by time and may apply for as long as it is judged that there may be a continuing risk to a child or children.

4.18. The decision not to apply the procedures should be taken in consultation with child protection services and approved by the prison social worker's line manager. The reasons should be noted in the case file.

5. RELEASE PLANNING: PREPARATION AND PROCEDURES

5.1. The importance of preparation and planning for release cannot be over-emphasised because of the part it plays in protecting previous and potential child victims. It involves;

- joint planning by prison and community based criminal justice social workers and other relevant agencies to develop appropriate risk management strategies for release;
- joint working at both management and service delivery levels between child protection and criminal justice social work staff;
- the involvement of prisoners in community based programmes and services which can assist them to control their behaviour on release;
- a thorough knowledge of the relevant national standards.

Conditional release

5.2. Conditional release refers to the release of prisoners under any one of the following:

- parole licence
- non-parole Licence
- life licence
- supervised release order
- extended sentence
- Any other form of licence or supervision including statutory aftercare for young offenders

5.3. In these cases, prison managers will, wherever possible, notify the prison social work unit at least 4 months in advance of the first possible release date.

Parole, Non Parole, Life Licence, and Supervised Release Orders

5.4. Circular SEJD 12/2002 sets out new arrangements to allocate a community based supervising officer at the outset of a prison sentence for all prisoners in the above categories **including those who are Schedule 1 offenders**. This means that the allocated supervising officer will be able to play an active role in the procedures set out above to assess risk and need and to develop and implement a related action plan.

5.5 When a Schedule 1 prisoner is being considered for release on parole, non parole or life licence, the Parole Board will require reports from both the prison social worker and the allocated supervising officer. These should address any identified risk to children and how these can best be managed. In forming their views about risk and preparing their reports, the prison social worker and the allocated supervising officer should liaise closely with prison service staff and community based child protection social workers. They should comment on whether any additional conditions should be attached to the licence as a means of managing identified risks more effectively.

5.6. The parole unit will normally request reports at least four months in advance. When a prison social work unit receives a request it must forward the relevant parts to the allocated supervising officer. H/she should already know the relevant background and have up-to-date information about the prisoner's home circumstances and progress whilst in prison.

5.7. Prison social work units must notify the relevant local authority criminal justice social work service of the outcome of the Parole Board's considerations as soon as possible after the hearing.

Extended Sentence

5.8. Schedule 1 prisoners subject to extended sentence will also have a supervisor allocated at the beginning of their sentence. Circular SWSG 14/98 sets out in detail the way in which planning and preparation for release should be approached.

All prisoners released on statutory supervision

5.9. For any prisoner subject to statutory supervision, the decision about a firm release date will trigger action to notify child protection services of the prisoner's impending release. At this stage, notifications in the format appended (form T/CCP) must be sent to the appropriate local authority which will be one or more of the following:

- The area in which the prisoner's own children are living;
- The area in which the child or children previously offended against is/are living; and
- The area to which the prisoner is to be released and will register with the police if required to.

5.10. Before release, the prison social worker together with the appropriate prison staff member must schedule a meeting between the prisoner and the allocated supervising officer to review progress and finalise plans for supervision and resettlement in the community.

Unsupervised access to the community during sentence

5.11. There are times when serving prisoners are allowed unsupervised access to the community. These include:

- unsupervised external work or training placements;
- home leave;
- open conditions;
- compassionate release on health grounds;
- unsupervised visits.

5.12. Permission for unsupervised access to the community will depend on an assessment of risk and, in making this decision, governors will consider the information held or obtained by the prison based social work unit as well as other available information. If the prisoner is subject to supervision on release, the prison social work unit will seek the views of the allocated supervising officer using the standard letter appended. This applies to home leave, and to any planned period of unescorted leave for example, a work placement. It is important that prison and community based staff share all the available and relevant information about risk

Unconditional release

5.13. Wherever possible, the prison social work unit must notify the relevant local authority criminal justice service four months before the prisoner is due to be released. In the case of prisoners serving 8 months or less, notifications should be prepared as soon as possible after the prisoner's admission. Notifications should use the standard letter appended and should include the following additional information;

- a report prepared by a prison social worker which includes a risk assessment, information about the prisoners release plans and any other relevant information for example psychological, medical, or psychiatric reports;
- a copy of any SER or other information provided to the court;
- details of any related previous convictions.

5.14. If the prisoner is homeless or refuses to say where he plans to live, the prison social worker must inform the local authority area where the prisoner's offence was committed and any other local authority with which the prisoner is thought to have connections. This should take the form of a standard letter inviting the local authority to make contact with the prison social worker for further information. A standard letter format is appended (Appendix 4).

5.15. Prison social workers should offer all Schedule 1 prisoners help to prepare for release including the opportunity to make contact with a community based criminal justice social worker and other agencies or individuals who may assist resettlement in the community. Schedule 1 prisoners not subject to statutory supervision are high priority for voluntary aftercare.

Changes in circumstances-all prisoners

5.16. Prison social work units should inform the relevant local authority criminal justice and children and families services immediately if the nature of any information about the prisoner or his circumstances changes significantly, particularly if h/she intends to change address.

5.17. Where it is known that the offended against child or children are moving or have moved to another local authority area, the new local authority must be informed and given all the relevant information. This will enable the authority to investigate the changed living arrangements.

5.18. If the prison social work unit is the first to learn about the move it must contact the authority from which the children have moved or are believed to be moving to. That authority must investigate the information and, if it is confirmed, pass on the necessary documentation to the new authority. This authority must investigate the new living arrangements and assess the extent of any continuing risk to the child or children.

Notifying the reporter

5.19. The prison-based social worker must make sure that a copy of the release notification is sent for information to the reporter for the area in which the relevant local authority is situated.

The need for a case conference

5.20. Once a local authority is notified it should investigate whether any identifiable child or children may be put at risk when the prisoner is released. If this is possible, there may be a need for a case conference and for action plans to help reduce the identified risk or risks.

6. SCHEDULE 1 OFFENDERS AND THE ROLE OF CHILDREN AND FAMILIES SERVICES IN THE COMMUNITY

6.1. Although this guidance is primarily about steps to be taken following sentence, local authority children and families services, together with other agencies, must also ensure that all the necessary steps are taken to protect children throughout the various stages of the criminal justice process. This requires close co-operation between criminal justice social work and children and families managers and practitioners. (See 'Protecting Children-A Shared Responsibility, HMSO 1998' and 'It's everyone's job to make sure I'm alright' Scottish Executive SWSI 2002)

Key Tasks

6.2. A number of key tasks are outlined below relating to Schedule 1 cases as they proceed through the criminal justice process.

6.3. The children and families worker must, wherever possible, find out the circumstances of the alleged offence to assess the extent of the current or future risk to the child victim and any other children with whom the alleged offender has been in contact.

6.4. The children and families worker must notify the relevant prison social work unit as soon as he/she learns that an alleged offender has been remanded in custody. If this information first reaches a service manager (for example via the police), he or she should pass it on to the prison in the same way.

6.5. The prison based social worker should, wherever possible, contact the prisoner to see if h/she would like help with any problems or difficulties resulting from the remand. The contact also offers an opportunity to explain the steps which children and families services are required to take where allegations of this kind are made. Handled sensitively, this contact may form the basis of continuing work, either in prison or in the community if the prisoner is found guilty.

6.6. If the accused is convicted and remanded for reports, the social worker preparing the SER must include in the report an initial assessment of the risk the offender poses to current victims or other children. To assist this assessment, he or she should ask the prison social work unit for any relevant information they have obtained from the offender or a third party.

6.7. If the offender is imprisoned for a Schedule 1 offence and the child concerned is the subject of child protection procedures, the children and families worker must keep the prison social worker fully informed about the circumstances of the child and family. This should help ensure that the realities of the child's situation and the perspectives of the child and other family members are taken into account in direct work with the prisoner. The children and families worker should also ensure that the prison social worker is invited to contribute, either in person or in writing, to any child protection case conference or other statutory review concerning the child or children.

6.8. In cases of intra-familial abuse the children and families worker is responsible for assessing, in consultation with the child and other family members, what is in the child's best interests with regard to ongoing contact with the prisoner. Where contact continues, the children and families worker must ensure that it is sanctioned within the child's child protection plan and that it in no way jeopardises the child's welfare. If necessary, the local authority should use the appropriate legal channels to control and limit access to the prisoner. If the child is the subject of a supervision requirement, alterations to arrangements for access must be agreed by a children's hearing.

6.9. When the local authority receives a pre-release notification, children and families services must decide if any further steps are needed to protect a child or children, including registration. To decide this, it may be necessary to convene a case conference.

6.10. When a prisoner is returning to the community under a form of statutory supervision, the criminal justice social worker supervising the offender must liaise closely with children and families services. H/she must attend at least one pre-release meeting convened by the prison social worker and also attended by any other relevant members of the prison staff.

7. THE CHILDREN'S HEARINGS SYSTEM

7.1. The children's hearings have an important part to play in protecting children who are the subjects of abuse or alleged abuse resulting from a Schedule 1 offence. If local authorities receive information about a child or children suggesting they may be in need of compulsory measures of supervision as a consequence of such abuse, they should initiate enquiries and, if they think compulsory measures of care may be needed, send all the relevant information to the reporter.

7.2. If the child or children are already the subjects of a supervision requirement, an assessment should be made as to whether to convene a review hearing.

7.3. If it is decided to refer the case to the reporter or to convene a review hearing, the child's or children's social worker(s) must tell any prisoner who is the parent of the child or children. They must also let the prison based social worker know.

SUMMARY OF RESPONSIBILITIES

APPENDIX 1

1 PROCURATOR FISCAL

- 1.1 To include the victim's age on the complaint or indictment in all relevant Schedule 1 offences (2.1).

2 SHERIFF CLERK

- 2.1 Following a Schedule 1 conviction - to mark the warrant of committal in all cases which result in a remand or custodial sentence (2.1).
- 2.2 To forward any additional information to the receiving prison within five working days, marked for the attention of the prison social work unit (2.1).
- 2.3 To provide clarification on the nature of possible Schedule 1 offences which were not highlighted at the time of admission, if requested to do so by governors. (2.3).

3 PRISON GOVERNOR

- 3.1 To notify the prison social work unit within two working days of the admission of any person convicted of a Schedule 1 offence, including those remanded for reports (3.1: 4.1).
- 3.2 To ensure that relevant information is passed to the prison social work unit (4.1).
- 3.3 To ensure that visiting arrangements for individual prisoners take account of any restrictions which relate to contact with children and that appropriate records are kept (3.4: 3.6).
- 3.4 To advise prison social work units, or the appropriate out of hours service, immediately if a Schedule 1 offender is released on bail (3.9: 3.10).
- 3.5 To take account of the ongoing work with Schedule 1 prisoners when planning the transfer of prisoners (4.6).
- 3.6 To ensure that prison staff keep the prison social work unit up to date about the conduct and progress of Schedule 1 prisoners (4.14).
- 3.7 To alert the prison social work unit to the admission of a prisoner who has previously served a prison sentence for a Schedule 1 offence (4.16).
- 3.8 In the case of Schedule 1 prisoners who are to be released conditionally, to notify the prison social work unit, wherever possible, at least four months in advance of the first possible release date (5.3).

- 3.9 To take account of information held by prison social work units when making decisions about permitting unsupervised access to the community by Schedule 1 prisoners (5.11).
- 3.10 To ensure that work with Schedule 1 offenders is a part of the establishment's strategic plan (4.12).

4 LOCAL AUTHORITY CRIMINAL JUSTICE - PRISON SOCIAL WORK UNIT

- 4.1 To make contact and offer assistance to convicted remand prisoners and to unconvicted remand prisoners who have been referred for child protection reasons (3.8).
- 4.2 To pass on to the appropriate prison manager any information on restrictions which apply to a prisoner's contact with children (3.3).
- 4.3 Where remand prisoners are bailed, to make immediate contact with the local authority to which he/she is returning (3.9: 3.10).
- 4.4 To interview convicted prisoners within five working days of admission and ensure that the prisoner understands the implications of being a Schedule 1 offender and is aware of any statutory supervision requirements (4.2: 4.3).
- 4.5 To complete an initial risk assessment on convicted prisoners as soon as possible after admission (4.4).
- 4.6 In the case of a prison transfer, to ensure that all relevant information is passed to the receiving establishment (4.6).
- 4.7 To develop an action plan for work with convicted Schedule 1 offenders and review this (4.9).
- 4.8 To undertake an initial risk assessment when advised that a prisoner who is serving a sentence for an unrelated offence has a previous prison sentence for a Schedule 1 offence, (4.17).
- 4.9 To ensure that reports to the Parole Board address any identified risk to children (5.5).
- 4.10 To notify relevant local authorities of the impending release of a Schedule 1 prisoner (5.8: 5.12: 5.13).
- 4.11 To provide Governors with information on the risk posed by a Schedule 1 offender when unsupervised access to the community is being considered (5.1).
- 4.12 To provide assistance to Schedule 1 offenders to prepare for release (5.14).
- 4.13 To inform the relevant local authorities of any change in circumstances relating to Schedule 1 prisoners (5.15 - 5.17).
- 4.14 To notify the Reporter of the risks of a Schedule 1 prisoner (5.18).

5 CHIEF SOCIAL WORK OFFICER/COMMUNITY BASED SOCIAL WORKERS

- 5.1 To inform prison social work units if they think that a prisoner held for an unrelated offence poses a risk to children (1.14).
- 5.2 To pass on information to the prison social work unit of restrictions relating to a prisoner's contact with children (3.2).
- 5.3 To provide details of any risk assessments that have been carried out (3.3).
- 5.4 To ensure that reports provided to the Parole Board address the level of risk to children (5.4).
- 5.5 On receipt of notification that a Schedule 1 offender is to be released, to investigate whether any child or children will be put at risk and develop an action plan to help to reduce identified risks (5.19).
- 5.6 To ensure that the prison social work unit is kept up to date about any developments relating to children subject to child protection procedures (6.7)
- 5.7 To attend a pre-release meeting when a Schedule 1 prisoner is to be released on statutory supervision (6.10).

SCHEDULE 1 OF THE CRIMINAL PROCEDURE

(SCOTLAND) ACT 1995

(OFFENCES AGAINST CHILDREN UNDER THE AGE OF 17 YEARS
TO WHICH SPECIAL PROVISIONS APPLY)

1. Any offence under Part 1 of the Criminal Law (Consolidation) (Scotland) Act 1995.
 - * *Incest (Section 1)*
 - * *Intercourse with a step-child (Section 2)*
 - * *Intercourse with a person in a position of trust with child under 16 (Section 3)*
 - * *Unlawful sexual intercourse (or attempted intercourse) with a girl under the age of 16 (Section 5)*
 - * *Indecent behaviour towards a girl aged between 12 years and 16 years (Section 6)*
 - * *Procuring (unlawful sexual intercourse or for the purpose of prostitution (Section 7(1))*
 - * *Procuring by threats etc (Section 7(2), (3))*
 - * *Abduction of a girl, or unlawful detention with intent to have sexual intercourse (Section 8)*
 - * *Permitting a girl under the age of (a) 13 and (b) 16 to use premises for sexual intercourse (section 9)*
 - * *Causing or encouraging the seduction or prostitution etc of a girl under the age of 16 years (Section 10)*
 - * *Allowing a child (aged between 4 years and 15 years) to be in a brothel (Section 12)*
 - * Procuring, or being a party to the commission of a homosexual act in certain circumstances (victim under 16) (Section 13)

2. Any offence under sections 12, 15, 22 or 33 Children and Young Persons (Scotland)

Act 1937.

* *Cruelty to persons under 16 (Section 12)*

* *Causing or allowing persons under the age of 16 to be used for begging (Section 15)*

* *Exposing children to severe risk of burning (Section 22)*

* *Prohibition of persons under 16 taking part in performances endangering life or limb (Section 33)*

3. *Any other offence involving bodily injury to a child under the age of 17 years.*

4. *Any offence involving the use of lewd, indecent or libidinous practice or behaviour towards a child under the age of 17 years.*

Chief Social Work Officer
Chief Probation Officer
Director of Social Services

Dear

Re: (Name, address and dob of prisoner)

The above named, who has been convicted of an offence against a child, is being considered for discretionary release for the purposes of *(insert of discretionary release)*.

I would be grateful if you could arrange for the preparation of a home circumstances report which, in addition to the assessment required by the National Standards for Throughcare, also provides information on the extent to which children would be placed at risk by the proposed release.

Yours sincerely

FORM T/CCP Chief Social Work Officer

Dear

Re: (Name and dob of prisoner)

The above named prisoner, who has been convicted of an offence against a child(ren), is due to be released from *(name of establishment)* on *(date of release)*. He/she has not indicated where he/she intends to live on release. If he/she presents in your area, or comes to the attention of your staff in any way, further information on the risks he/she is considered to pose to children can be obtained from *(name of social worker and contact details)*.

Yours sincerely

Senior Social Worker

To: Chief Social Work Officer

From: Prison Based SW Unit Address

**CHILD PROTECTION: PREPARATION FOR RELEASE OF OFFENDERS
CONVICTED OF OFFENCES AGAINST CHILDREN**

NOTIFICATION OF RELEASE

Name of Offender

Date of Birth

Offence(s)

Sentence

Court

Date of Sentence

Address on release

In accordance with the arrangements outlined in the Circular (and the corresponding circulars in England, Wales and Northern Ireland), I have to notify you that the above named offender is due for release on **(date)** and intends to reside at:

The purpose of this notification is to allow the Social Work Department, as the department in whose area:

Please tick appropriate box

- a The prisoner's own children are living
- b The child(ren) previously offended against is/are living
- c The prisoner intends to reside on release

to take any action which may be necessary to reduce the risk of children arising from the offender's release.

To assist your assessment and decisions, I attach the following information:

Please tick appropriate box

- a Prison based Social Worker's Report
- b Copy of SER
- c Details of related previous convictions
- d Other available reports

The following Social Work Departments are also known to be involved and are being notified *(insert local authority, reason for consultation and names and addresses of children where appropriate)*:

1	
2	
3	

Name of Prison Based Social Worker

Date