

INFORMATION SHARING STEERING GROUP

CONCORDAT

SHARING INFORMATION ON SEX OFFENDERS



March 2005

CONCORDAT: SHARING INFORMATION ABOUT SEX OFFENDERS

INTRODUCTION

1. Public protection depends upon the effectiveness not only of individual agencies but also the extent to which agencies work together and share information. This Concordat represents a positive commitment from the agencies noted below to share information about sex offenders within a nationally agreed framework for safeguarding the safety of the public.

BACKGROUND

2. This Concordat stems from the work of the Expert Panel on Sex Offending. The Panel recognised that a large number of agencies, including the police, prosecutors, courts, prison service, criminal justice social work, as well as housing, health and education authorities play a role in managing the risk posed by sex offenders. The Panel concluded that these agencies (working with voluntary sector partners) have a duty to deliver the safer environment which communities expect and deserve but that there is a tendency for individual agencies to focus their attention on improving their internal procedures. This results in gaps in the system which sex offenders can exploit.

3. The Panel therefore called for a programme of action where:

- Agencies and organisations who work with sex offenders work together to overcome the risks which sex offenders present.
- Each organisation has a clear understanding of its own role and responsibilities in relation to sex offenders.
- Institutional barriers which prevent a more effective co-ordination of practices and integration of services are tackled, and
- The practical and operational difficulties which exist are addressed.

4. In 2003, the Solicitor General convened an Information Sharing Steering Group (ISSG) with the following remit:

- To ensure the efficient and effective flow of information between the key agencies involved in the management of sex offenders by developing protocols, guidance and strategies. These will address where necessary, issues of confidentiality and data protection in a way which underpins the improved multi-agency arrangements endorsed by the report of the Expert Panel on Sex Offending "Reducing the Risk".
- To achieve agreement of the relevant agencies on the group to implementation of its work through appropriate consultation.

5. ISSG has met on 12 occasions since 2003, and has considered each of the recommendations relating to information sharing made by the Expert Panel. This Concordat and its associated guidance is a direct response to Recommendation 64, which states:

“Protocols to provide a framework for information sharing and joint working should be developed. These should draw on the best examples of current good practice and should be kept under review to ensure that they do not degrade and become less useful over time. The development of these protocols should involve liaison with relevant voluntary organisations.”

6. Since 2001, a number of bilateral and multi-lateral protocols have been developed to manage the flow of information between agencies involved in the criminal justice process. These protocols, however, cover only some areas, and generally only some agencies in each area. It is important that the right information is available at the right time to enable all agencies to assess and manage risk effectively and to protect the public.

7. Information sharing in relation to sex offenders is central to public protection and public reassurance. Information can be shared for a wide range of reasons, some of which are summarised below:

- For the prevention, detection and reporting of crime
- For the prosecution of offenders
- To inform the court about possible sentences
- To assess the risks and needs of prisoners
- To facilitate rehabilitation or intervention both in prison and in the community
- To determine an offender’s suitability for parole
- To assess and manage risk
- To develop management plans for offenders to ensure the safety of the community
- To protect children
- To protect offenders
- To track offenders
- For research, monitoring and statistical purposes
- To assess disclosure requirement by chief constables under the Sexual Offences Act 2003

8. The agencies which have signed this Concordat have, therefore, come together to agree a set of principles and working arrangements which will improve their systems and procedures to ensure that public safety is given the highest level of priority through ensuring that **all** relevant information is shared.

9. The Management of Offenders (Scotland) Bill, introduced in the Scottish Parliament in March 2005 will strength the system further. It contains provisions which provide the police, local authorities and the Scottish Prison Service with a statutory function to establish joint arrangements for assessing and managing the risk posed by sex offenders, including the sharing of information. In addition, these 3 principle authorities will act in co-operation with other specified agencies in carrying out this function. Subject to Parliamentary approval, this will result in a more formalised and structured approach in line with the commitments set out in this Concordat.

THE BASIS OF THE CONCORDAT

Legal Basis of the Concordat

10. The purpose of this Concordat is to facilitate the lawful sharing of information between agencies. The Concordat (and its annexes), however, have no legal standing. It is a basic tenet of this Concordat that all agencies, and all staff of these agencies, and any actions, must comply with existing legislation. A summary of relevant legislation is contained in the Guidance on the Development of Protocols, in order to assist professionals in their understanding of what they can and cannot do, but it remains the responsibility of each individual agency to establish the legal basis for its actions.

The Agreement to Share Information

11. The Agencies listed below agree the following:

- To work together to manage the risk to the public posed by sex offenders.
- To share any information about sex offenders necessary to ensure that this objective is achieved, while ensuring that the rights of individuals are protected.
- To presume that all relevant information will be shared where it is legal to do so.
- To ensure that information is gathered and managed in a way which facilitates sharing.
- To comply explicitly with the IS CJIS Data Standards where these are relevant.
- To comply with other agreed data standards (where relevant).
- To comply with the National Standards set out in Annex 2.
- To use the common definitions of terms set out in Annex 3.
- To take such steps as are necessary to ensure that information is collected, held and exchanged in a manner which is secure and conforms with relevant legislation, including the provision of training to staff (whether directly employed, or employed by a third party)
- To facilitate links to other relevant legal and administrative frameworks (for example Community Planning, Community Safety and Child Protection).

12. The agencies listed below also agree the following:

- To develop detailed protocols to manage the flow of information about sex offenders between partner agencies.

Agencies Covered by the Concordat

13. The agencies covered by this Concordat are:

- Scottish Executive
- ACPOS on behalf of Scottish Police Forces

- Local Authorities (including CoSLA, ADSW, ADES, ALACHO and SOLACE)
- Scottish Prison Service
- Scottish Court Service
- The Risk Management Authority
- State Hospital
- District Courts Association
- Scottish Children’s Reporter Administration
- Crown Office and Procurator Fiscal Service
- Parole Board for Scotland
- NHS
- Voluntary Sector [representative of the voluntary sector forum]

14. Third parties contracted to any of the signatories should also be made aware of the terms of this Concordat.

The Scope of the Information to be shared

15. The Concordat covers all information shared in relation to sex offenders which occurs at any point, broadly from the reporting of an offence to the management of an offender in the community following liberation. The information exchanges covered by this Concordat are summarised in Annex 1.

Nature of the Information to be shared

16. Information about sex offenders and sex offending exists in various forms. This Concordat is taken to cover personal information, whether or not this information is sensitive under the terms of the Data Protection Act 1998, and depersonalised and non-personal information (or aggregate) information. The Concordat is also taken to cover such information regardless of the form in which it is held. Although the presumption of sharing is accepted by all the signatories, it remains the responsibility of each agency to assess whether, under the terms of relevant legislation, information can, in fact, legally be shared.

MANAGEMENT ARRANGEMENTS

17. This Concordat will be managed by the National Advisory Body to be set up under the Criminal Justice Plan (December 2004)

Lead Officers

18. For the purposes of enquiries about this Concordat, a list of lead officers is attached at Annex 4.

Implementation

19. The date of implementation of this agreement is 14 March 2005.

Review

This agreement will be reviewed on the following dates:

- ¹⁴ September 2005
- ¹⁴ March 2006
- ¹⁴ March 2007

The Concordat will be reviewed annually thereafter. Notwithstanding these dates, any signatory can instigate a review of any aspect of the Concordat.

A formal evaluation of the Concordat will be undertaken not later than 14 March 2007.

ANNEX 1 : INFORMATION EXCHANGES COVERED BY THIS CONCORDAT

The overview below describes the main information exchanges covered by this Concordat. All exchanges are assumed to be two way.

Various Agencies to Police

Prior to submitting a report to the Procurator Fiscal, police may request and receive information from a variety of agencies. (A circular covering these exchanges is currently being updated by the Police Division of the Scottish Executive Justice Department).

Police to Procurator Fiscal

Information in relation to the prosecution of alleged offenders is passed from police to the Crown Office / Procurator Fiscal Service.

Police and Procurator Fiscal to Scottish Children's Reporter Administration and social work services

Information is passed to SCRA in relation to both children who are perpetrators of crime, and who are victims of crime. Information is also passed to SCRA in relation to children who are at risk. Aspects of this information can also be shared with social work services

Procurator Fiscal to Courts

Information relating to the prosecution of alleged offenders is passed between Procurators Fiscal and courts. This encompasses both courts managed by SCS and by local authority District Courts.

Procurator Fiscal to Defence Agents

Information may be passed by the Procurator Fiscal to defence agents, although this exchange is clearly beyond the scope of this concordat.

Scottish Children's Reporter Administration to Sheriff Courts

In certain circumstances, information is passed from SCRA to Sheriff Courts in relation to proof hearings.

Sentencing

A range of information is gathered from social work or health sources on behalf of the court in order to inform the disposal. These reports (for example Social Enquiry Reports) become the property of the court.

Courts to SCRO (whether directly or via police forces)

Court disposals are passed to SCRO. In most cases, these are passed directly, but in the case of some smaller district courts, these are passed via the police.

SCRA to SCRO

In some instances, information is passed from SCRA to SCRO.

Courts to SPS, the State Hospital and Social Work Services

On sentence, information relating to the disposal is passed by the court to SPS (in the case of custodial sentences), the State Hospital (in relation to disposals under the Mental Health Act) or Social Work services (in the case of community disposals). The trial judge's report (where relevant) is passed to the Parole Board and to the Life Sentence Review Division of the Scottish Executive by SCS. Reports are passed to SPS by the Scottish Executive for life sentence prisoners, prisoners on extended sentences and children convicted on indictment, but for determinate sentence prisoners, reports are passed directly to SPS by SCS (although this is currently under review).

SPS and Social Work processes while in custody / Social Work processes during sentence

Information is exchanged between SPS and prison and community-based social work services and the police while an offender is held in custody, in relation to, for example, temporary release. Information may be exchanged between social work services and voluntary organisations (or others) where a community disposal is imposed. Information may also be exchanged with health services.

The State Hospital, SPS, other health and social work services

Exchanges of information both where an individual remains with the State Hospital or where he or she is transferred to SPS custody would be encompassed by this Concordat.

SPS and the Parole Board for Scotland

SPS is charged with preparing parole dossiers on all offenders eligible and wishing to be considered for parole. Parole dossiers typically include information drawn from SPS, social work and health sources.

Pre-liberation, liberation and supervision in the community

A range of agencies are involved in the preparation of offenders for liberation and their management in the community. This should also be taken to include the preparation for release of those detained at the State Hospital. Information passes between the agencies for the purposes of risk assessment, management and monitoring. A range of non-criminal justice agencies, such as health and housing may also be involved. Broadly, the exchanges covered would include the following agencies:

- SPS
- The State Hospital
- Police
- Social work services
- The Risk Management Authority

- Housing services, including social landlords
- Education services (including schools, further and higher education)
- Health services
- Voluntary agencies (both at their own hand and as subcontractors to any of the services set out above)

ANNEX 2 : NATIONAL STANDARDS

Standard 1: Policy and Procedures

Agencies have written policies and procedures in place, supported by robust systems and structures to collect, store and ensure the effective handling and transfer of information with timed targets for the speed of transfer.

- Policies and guidance set out the principles and reasons for information sharing
- The statutory authority and obligations for sharing information on sex offenders are included in the written procedures
- A senior member of staff provides leadership and takes responsibility for high level decisions on the release of information, including decisions not to share which should be subject to audit
- There are clear instructions, regularly updated, on how the arrangements operate within the organisation
- Timed targets are set for the transfer of information and performance is monitored on a regular basis
- There is a procedure for ensuring that accurate records are maintained and processes are proofed for security integrity
- Rules for recording, managing and deleting information are in place.

Standard 2: Processes for Managing the Partnerships and Flow of Information

Agencies and staff are clear about the information to be transferred and received and the agencies with whom it can be shared.

- Local protocols are agreed with partner agencies and reviewed at regular intervals
- Rules are in place to establish which agency owns the data at each stage in the process
- A checklist is maintained of the information to be transferred at each stage, to whom and the timescales for doing so
- A checklist is maintained of the information to be received at each stage, from whom and the timescales for doing so
- The rules are set out for disclosing information to other public bodies
- Systems are in place to ensure that the process of transferring information to partners is secure.

Standard 3: Management of People

Staff are aware, knowledgeable and skilled in the information sharing principles and process, recognising their own needs and those of their partners.

- Staff roles and responsibilities are clearly set out in job descriptions
- Suitable training and supporting written material including checklists are provided for staff
- Staff participate in joint training with other agencies to develop shared understanding and effective communication.

Standard 4: Performance Monitoring

- Agencies have performance monitoring and reporting mechanisms in place, including an internal quality assurance process.

ANNEX 3 : AGREED DEFINITION OF TERMS

Signatories to this Concordat have agreed to use the following terms defined with reference to the ViSOR system.

Primary designations

Registered Sex Offender – this being an offender that has been convicted of an offence that requires them to register under the Sex Offenders Act 1997 or the Sexual Offences Act 2003 or by the granting of a civil order which imposes such a requirement.

Non Registered Sex Offender – this being an offender who has been convicted of a sex offence, as determined by the Criminal Justice and Court Services Act 2000 or the Sexual Offences Act 2003 which does not carry a registration requirement, but have received the appropriate sentence.

Violent Offender – an offender that has been convicted of a violent offence as determined by the Criminal Justice and Court Services Act 2000 and has received the appropriate sentence or, as identified under Schedule 15 of the Criminal Justice Act 2003 having received the appropriate sentence.

Dangerous Offender – this being an offender, with the relevant offence, who is demonstrating behaviour that is deemed to pose a significant risk of harm to the public.

Potentially Dangerous Person – this being a person, without a conviction or a relevant offence, who is demonstrating behaviour that is deemed to pose a significant risk of harm to the public.

Secondary designations

These terms form a core dataset on sex offenders (and violent offenders), and any national or local additions to this should be implemented so as to protect the integrity of these categories.

The following sub-categories of **Registered Sex Offender** have been agreed. These should only be used in a way which allows the primary designation of Registered Sex Offender to be readily identified. The agreed subcategories are:

- Registered Sex Offender – Currently registered
- Registered Sex Offender – Required to register but has not yet done so.
(This would include those serving a prison sentence who would be required to register on release.)

The following sub-categories of **Non Registered Sex Offender** have been agreed. These should only be used in a way which allows the primary designation of Non Registered Sex Offender to be readily identified. The agreed subcategories are:

- Non Registered Sex Offender – Not required to register
- Non Registered Sex Offender – Previously registered but the period has expired.

ANNEX 4 : DESIGNATED LEAD OFFICERS

Scottish Executive Justice Department	
Risk Management Authority	
ACPOS on behalf of Scottish Police Forces	
Scottish Prison Service	
Scottish Court Service	
Crown Office and Procurator Fiscal Service	
Parole Board for Scotland	
Scottish Children's Reporter Administration	
NHS	
The State Hospital	
Voluntary Sector Forum	
COSLA	
ADSW	

ADES	
ALACHO	
SOLACE	
District Courts Association	