

Rehabilitation of Offenders Act 1974 – Consultation Paper

Appendix B

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RESPONDENT INFORMATION FORM

Please Note this form **must** be returned with your response to ensure that we handle your response appropriately

1. Name/Organisation

Organisation Name

Victim Support Scotland

Title Mr Ms Mrs Miss Dr Please tick as appropriate

Surname

Merrin

Forename

Nicola

2. Postal Address

15/23 Hardwell Close

Edinburgh

Postcode EH8 9RX

Phone 0141 404
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Email
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3. Permissions - I am responding as...

Individual / Group/Organisation

Please tick as appropriate

(a) Do you agree to your response being made available to the public (in Scottish Government library and/or on the Scottish Government web site)?

Please tick as appropriate

Yes No

(c) The name and address of your organisation **will be** made available to the public (in the Scottish Government library and/or on the Scottish Government web site).

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(b) Where confidentiality is not requested, we will make your responses available to the public on the following basis

Please tick ONE of the following boxes

Are you content for your **response** to be made available?

Please tick as appropriate

Yes **No**

Yes, make my response, name and address all available

or

Yes, make my response available, but not my name and address

or

Yes, make my response and name available, but not my address

(d) We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?

Please tick as appropriate

Yes

No

CONSULTATION PAPER QUESTIONS

Questions – Rehabilitation of Offenders Act 1974 – Consultation paper

QUESTION 1

Do you agree with the proposal that the scope of the new legislation should be increased from 30 months?

Yes No

Victim Support Scotland recognises that having to disclose a criminal record can act as a barrier to desistance from crime by limiting access to such things as employment and training. Our perspective mirrors that of a Victim Support user: “if you can stop people reoffending and give them a reason to carry on then you are hopefully helping yourself in the long run”¹.

VSS therefore believes it to be in the interest of victims and witnesses for people who have been convicted of an offence to no longer have to disclose their previous criminal activity after a suitable period of time has elapsed. This should enable their reintegration into society and increase the chances of them desisting from committing further criminal acts.

We note that in addition to allowing more people with previous criminal activity to be able to move away from their past, the proposals are aimed at simplifying the legislation and increasing levels of understanding. This is particularly important for victims of crime, as many do not understand how the legislation works in practice, and whether their offender is required to disclose their conviction.

QUESTION 1a

If you have answered yes, should the scope be;

48 months longer than 48 months shorter than 48 months

In setting the scope of the legislation, Victim Support Scotland recognises the advantages of consistency with other criminal justice structures. Increasing the sentence length to 48 months would create a simple rule that all long-term prisoners would always have to disclose their conviction, whilst all short-term prisoners and offenders given non-custodial disposals would no longer be required to disclose their conviction after a specified period of time has passed.

We note that the sentence length categories for the proposed rehabilitation periods include ‘over 30 months and up to 48 months’ and ‘over 48 months’. This suggests that some long-term prisoners will be protected by the Act (those given a 48 month sentence) while others are not (those given over 48 months). For clarity and consistency, we would like to see the period at which protection from the 1974 Act ends to be set at 48 months; this would mean that *all* long-term prisoners would always have to disclose their conviction.

¹ Victim Support (2010, p.27), ‘Seeking the views of victims and witnesses’.

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QUESTION 2

Do you agree that the length of the rehabilitation period should be determined by whether an individual gets a custodial sentence, a non-custodial sentences or an alternative to prosecution ?

Yes No

We believe that this approach to defining rehabilitation periods is reasonable and easy to understand.

QUESTION 3

Do you agree with the proposal that no ATPs should be self-disclosed by a person in circumstances when a basic disclosure check is requested?

Yes No

Victim Support Scotland believes that this would simplify the legislation, in contrast to the current system in which alternatives to prosecution are split into two categories with different rehabilitation periods. We would however look for assurances that alternatives to prosecution would continue to be restricted to low-level, first-time offences.

QUESTION 4

Do you agree with all the proposals to reduce the time periods for disclosing non-custodial sentences as set out in Table A?

Yes No Some but not others

No comment.

QUESTION 4a

If no, do you think all the rehabilitation periods should be shorter or longer than proposed?

Shorter Longer

No comment.

QUESTION 4b

If shorter, what lengths of time would you like to see?

N/A

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QUESTION 4c

If longer, what lengths of time would you like to see?

N/A

QUESTION 4d

If some but not others, what sentences are you referring to and what lengths of time would you like to see?

N/A

QUESTION 4e

Do you think it is still appropriate for the rehabilitation periods to be halved when the person committed an offence under the age of 18?

Yes No

We note the particular importance of enabling young people who have committed crime to move away from their criminal past, and so agree that the current approach for halving the rehabilitation periods for when a person commits an offence under the age of 18 should be maintained.

QUESTION 4f

If no, please provide details below.

N/A

QUESTION 4g

Do you have any other comments/views in relation to the proposed rehabilitation periods for non-custodial sentences?

For many victims of crime and members of the general public, sentencing is a complex and misunderstood process. Victims are frequently unaware of the sentence that has been passed in their case, and most crucially, do not have an accurate perception of what the sentence will mean in practice.

Victim Support Scotland believes that it is essential that victims are provided with the sentencing information in their case, including an explanation of how the sentence will be practically implemented (for example, when the offender may be first eligible for parole or temporary release). This information should also include the disclosure requirements for the offender(s) involved, as specified through the Rehabilitation of Offenders Act. For victims, this would facilitate a better understanding of the

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sentence passed and its consequences for the offender.

Information on the disclosure requirements for offenders should also be made publically available in an easily accessible format to increase the general public's awareness on this issue. This information should be provided alongside an explanation of the rationale behind the legislation regards reducing reoffending.

QUESTION 5

Do you agree with all the proposal that the rehabilitation periods for custodial sentences should be reduced as set out in Table B?

Yes No Some but not others

QUESTION 5a

If no, do you think all the rehabilitation periods should be shorter or longer than proposed?

Shorter Longer

N/A

QUESTION 5b

If shorter, what lengths of time would you like to see?

N/A

QUESTION 5c

If longer, what lengths of time would you like to see?

N/A

QUESTION 5d

If some & not others, what sentences are you referring to and what lengths of time would you like to see?

N/A

QUESTION 5e

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Yes No

We note the particular importance of enabling young people who have committed crime to move away from their criminal past, and so agree that the current approach for halving the rehabilitation periods for when a person commits an offence under the age of 18 should be maintained.

QUESTION 5f

If no, please provide details below.

Please refer to our answer to question 4f.

QUESTION 5g

Do you have any other comments/views in relation to the rehabilitation periods for custodial sentences? For example, do you think there should be more distinct sentence ranges within which distinct rehabilitation periods operate?

N/A

Victim Support Scotland feels that there must be a balance between the resettlement of offenders and the protection of the public. While ensuring that as much as possible is done to help offenders move away from their previous criminal activity, it is crucial that victims, children and vulnerable adults are protected from harm as far as is practicable.

We therefore welcome the fact that the proposals within the consultation do not apply to any of the categories of employment and proceedings where the normal rules under the 1974 Act do not apply and as such, disclosure is required when a conviction becomes spent. We feel that the Protecting Vulnerable Groups (PVG) Scheme, which was set up under secondary legislation of the 1974 Act, provides additional protection of vulnerable groups within our society from those who may wish to use their positions to prey on vulnerable people. We note that victims of crime themselves can be classed as vulnerable due to their experiences.

As an organisation providing a service to vulnerable groups, Victim Support Scotland acknowledges the importance of ensuring the protection of these groups through the necessary checks. As such, we have ensured that all of our volunteers and staff who provide a direct service to people affected by crime are members of the PVG scheme.

End of Questionnaire